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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

SENATE—*Tuesday, March 12, 1996*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we thank You for all of our faculties. But today, we praise You especially for the gift of hearing. Help us never to take for granted the amazing process by which sounds are registered on our eardrums, and carried through the audio nerve to our cerebral cortex to be translated into thoughts of recognition, comprehension, and response. Through this wondrous gift we can hear the spring songs of robins returned, majestic music of a sonata, loved one's words of love and hope, and the truths of Your own Word in the Bible as they are read or proclaimed from across the reaches of time. But most importantly, You have given us listening hearts to hear what You have to say to us through the guidance of the Holy Spirit.

Today, we dedicate our physical and spiritual hearing systems to listen more attentively to You and to each other. Forgive us when we are so occupied with what we want to say that we do not listen. Often we do not hear each other because we have prejudged what he or she will say. And there are times when we are so intent on doing our own will without consulting You and listening to Your whisper in our souls. We say with Samuel, "Speak Lord, Your servant is listening." In the name of Him who taught us both to listen and to pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT.

SCHEDULE

Mr. LOTT. Mr. President, there will be a period for morning business until the hour of 10 a.m. today, with Senators permitted to speak for up to 10 minutes each, except for the following: Senator FEINSTEIN of California for 15 minutes.

At the hour of 10 a.m., the Senate will resume consideration of the continuing resolution and the pending amendment offered by Senator DASCHLE. Under the previous order, at 2:15 p.m. today, there will be two consecutive rollcall votes. The first will be on invoking cloture on the D.C. appropriations conference report, to be followed by a vote on cloture on the motion to proceed to the Whitewater extension resolution. Following those votes, the Senate will resume consideration of the continuing resolution. Therefore, additional votes are expected throughout the day. Also, the Senate will recess from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet.

It is still hoped we can reach agreement for consideration of the small regulatory relief bill during the session today. We will make an effort to proceed on that legislation. We hope we can consider it before the week is out. It has broad bipartisan support. I believe it was reported unanimously from the Small Business Committee. I have had indications from Senators on both sides of the aisle that they would like to see this legislation moved, although there is some resistance to it, still holding out hope we can move on the broader regulatory reform. That would be ideal. But I still do not see much real hope that can be accomplished, so I would not want us to further hold up good legislation on which we do have agreement. So we will be seeking to move that legislation before the week is out.

Mr. President, I ask unanimous consent that I be heard as in morning business for the next 5 minutes.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

COMPLETE THE APPROPRIATIONS PROCESS

Mr. LOTT. Mr. President, I was shocked last week to read a headline in one of the local publications that the President was threatening to shut down the Government again. That was the headline: "Clinton Threatens Government Shutdown."

It shocked me because I knew that, at that very time, the Senate Appropriations Committee was working on this omnibus appropriations bill, and it was reported out of committee by a broad bipartisan vote with only two Senators voting against the action by the Appropriations Committee.

This legislation does include funds for the rest of the year for the five appropriations bills that have not yet been signed into law, two of which have not yet passed the Senate. Those two are the Labor-HHS-Education bill and the conference report on the District of Columbia appropriations bill, which is being held up because some Members do not want poor students in the District of Columbia to have access to vouchers. The omnibus bill also includes three other appropriations bills that have been vetoed by the President.

So there are five of them. Obviously, everybody from the District of Columbia to the Interior Department would like to get this process completed.

In the Appropriations Committee, they also included emergency funds for the disasters that we have had in the past few months across this country, and they included funds for the United States peacekeeping effort in Bosnia. All in all, the bill goes more than halfway to meet the requests by the President for additional funds. Keep in mind, the President continues to ask for more money. That is what is at stake here: He wants more money to spend—always more money to spend. While we are trying to impose some reasonable restraints on the spending of the Federal Government in the nondefense discretionary areas, he continues to ask for more money, $8 billion more than was included in our earlier legislation. But this omnibus appropriation includes a $4.7 billion move toward what the President has asked for, in the form of a contingency fund that

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

the President could spend after agreement is reached for countervailing savings in entitlement programs. More than half a loaf in any process is a major concession. And yet, we are being told that is still not good enough.

This legislation includes approximately $166 billion for these five bills and the nine departments that are covered by the bill. I repeat, $166 billion. And yet, for an additional $3 billion, the President says he will veto the whole thing. I do not think that makes sense. When the Senate is offering $166 billion, is the President really going to veto this legislation and shut down the Government to force us up to $169 billion?

I do not think that is the way to begin this process. Let us keep the rhetoric cool. Let us go forward with this bill. Let us consider the amendments that will be offered, and I am sure there will be a few—I hope only a few, not many. We can, hopefully, get it completed today, and it will go to conference between the House and the Senate.

The House has added, I believe, $3.3 billion in additional funds; the Senate has added $4.7 billion. The administration will be involved, and in the conference that will ensue, hopefully an agreement can be reached quickly on the conference report. That way we can send this legislation down to the President, and he can sign it before the deadline of Friday midnight. Then the affected departments and agencies can know what they can count on for the rest of this year.

Or, if we run out of time or if difficulties are encountered, we will still have the option of passing a short-term continuing resolution, merely continuing current law but with reduced funding. Those options are out there. We should do our job, and we should do it without the threat or the intimation that, if we do not do it just the way one side or the other wants it, then there is going to be another veto fracas.

I remind my colleagues that the veto threat came from the President last week, and it came because he wants $3 billion more added to a $166 billion bill. I do not think that makes good fiscal sense, and I hope we will take calm and deliberative action to complete this legislation either today or as soon as possible tomorrow.

Mr. President, I yield the floor.

RESERVATION OF LEADERSHIP TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 10 a.m., with Senators permitted to speak for up to 10 minutes each, with one exception: Senator FEINSTEIN will be recognized to speak for up to 15 minutes.

THE UNITED STATES-SAUDI ECONOMIC PARTNERSHIP

Mr. LIEBERMAN. Mr. President, the economic and security partnership between the United States and Saudi Arabia is vital to both nations. Strong business ties are a key element of this partnership.

Saudi Arabia is America's leading supplier of oil, while American technology is important to the efficient development of Saudi oil reserves. America's substantial imports are offset by more than $6 billion dollars' worth of exports to Saudi Arabia each year, principally of manufactured goods. American firms have played an important role in the development of Saudi Arabia's modern defense, transportation, and communications infrastructure. My own home State of Connecticut enjoys a healthy trade relationship with Saudi Arabia, particularly in the area of aircraft engines and spare parts. When I visited Saudi Arabia a few years ago, I experienced first-hand the hospitality and cooperation which characterizes business as well as political dealings between Americans and their Saudi partners.

A recent special edition of Middle East Insight was devoted to the six decades of business partnership between the United States and Saudi Arabia. I would like to share with my colleagues an article by Prince Bandar bin Sultan bin Abdulaziz, Ambassador of the Kingdom of Saudi Arabia to the United States. As most of my colleagues know, Prince Bandar has been a friend of the United States for a long time. He has represented Saudi Arabia with dignity, energy, and intelligence. And he has contributed to a better understanding of the United States in Saudi Arabia. I am pleased to provide this short article for my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Middle East Insight]

PARTNERS IN COMMERCE

(By H.R.H. Prince Bandar bin Sultan bin Abdulaziz)

Earlier this year, we marked the fiftieth anniversary of the historic meeting between King Abdulaziz Al-Saud and President Franklin D. Roosevelt aboard the USS Quincy on the Great Bitter Lake. We celebrated this as the occasion that launched the special relationship between the Kingdom of Saudi Arabia and the United States of America. That meeting, however did not occur in a vacuum. More than a decade before, King Abdulaziz had signed the first oil concession with an American oil company. The ensuing activities, culminating with the discovery of oil in commercial quantities in 1938, began to lay the foundation of friendship and cooperation that made the historic meeting between the two great leaders possible.

The Saudi-American relationship began with commerce and, more than six decades later, commerce remains one of the binding forces that tie our two countries together. American companies were there in the beginning, helping to build not only the world's largest oil industry, but the infrastructure, support systems, and educational institutions that go with it.

Over the years, the business and economic relationship between our two countries has broadened and strengthened in parallel with the political friendship. The United States has been Saudi Arabia's number one trade and investment partner for most of the past forty years. Even in more trying times, American business has stayed true to this partnership. More recently, even at personal risk, American companies and their employees stood together with us as we faced a grave challenge from Iraq during Desert Shield and Desert Storm. In a sense, that effort was the largest of many joint ventures between our two countries. The successful cooperation of our soldiers was in no small part made possible by the decades of friendship that preceded it.

Modernization requires adaptation. With determination, commitment, and confidence in our ways, Saudi Arabia has taken control of its own destiny and adapted to the requirements of a 21st century economy. We have reduced our reliance on oil by diversifying into new industries that are driven by the private sector. American companies have been there, as they were at the beginning, to provide the technology and know-how to develop the industries of the future. They have found the Kingdom to be a friendly, stable, and profitable place to do business.

Anyone who doubts the strength of the Saudi-American business partnership has only to look at the more than $15 billion in two-way trade between the two countries. This year alone, more than $12 billion in major airline, telecommunications, and power projects have been awarded to American companies, tens of thousands of Americans live and work in the Kingdom through hundreds of joint ventures; and tens of thousands of Saudis have lived, worked, and studied in the United States, and have brought back with them the best that America has to offer, while maintaining a steadfast allegiance to their own land, religion, and values.

The Saudi-American business partnership has deep roots and is sure to remain a vital element in the overall US-Saudi relationship. Two people who work so closely together toward the common goals of security, prosperity, and economic advancement will surely remain friends, and partners, far into the future. In celebrating this friendship, remember its beginnings in our shared commitment to open markets, free enterprise, and the private pursuit of opportunity to the benefit of both our peoples.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

Mr. LEAHY. Mr. President, I would like to take this opportunity to thank Senator BOND and Senator MIKULSKI for including funding for the Community Development Financial Institutions [CDFI] Fund in the fiscal year 1996 omnibus appropriations bill.

The CDFI Fund is a key priority for President Clinton. Its inclusion in title I indicates an honest effort by Senator BOND and Senator MIKULSKI to address the President's concerns by providing real dollars for the programs important to the administration. If more disagreements had been resolved with this level of cooperation and compromise, we would be debating a bill today that the President would be eager to sign.

President Clinton and Vice President GORE campaigned in 1992 to create a new partnership with the private sector to revitalize economically distressed communities. The President and Vice President spoke passionately about their vision for supporting local community development banks. After the election of 1992, both Republicans and Democrats in the last Congress turned the President's vision into ground-breaking legislation that created the CDFI Fund. The legislation passed the Senate unanimously and was approved by a 410-to-12 vote in the House.

Unfortunately, previous fiscal year 1996 appropriation bills terminated the CDFI Fund before even giving this program a chance to succeed. That was a shortsighted mistake, and one that this bill corrects.

The fund is a small but very innovative program. For a modest $50 million budget, the fund has the potential to make a significant impact in distressed communities.

How would CDFI succeed in areas where more traditional financing has failed?

The fund would create a permanent, self-sustaining network of financial institutions that would be dedicated to serving distressed communities. These financial institutions include a fast-growing industry of specialized financial service providers—community development financial institutions. The fund would also provide incentives for banks and thrifts to increase their community development activities and invest in CDFI's.

The CDFI Fund's initiatives would be an innovative departure from traditional community development programs because they leverage significant private sector resources. The Department of Commerce estimates that every $1 of fund resources would leverage up to $10 in non-Federal resources. And these locally controlled CDFI's would be able to respond more quickly and effectively to market-building opportunities than traditional community development organizations.

I would like to share with you two examples from my own State of the potential benefits of the CDFI program. The Vermont Development Credit Union [VDCU] is an innovative depository institution providing counseling-based financing and other banking services to moderate and low-income Vermonters since its inception in 1989. Located in Vermont's only Enterprise Community, the credit union is uniquely positioned to provide credit to the State's neediest residents. VDCU is applying for CDFI funding to help them make long-term loans for affordable housing, expand small business lending, and develop partnerships with other service providers to find creative solutions to community development financing.

Another Vermont organization hoping to participate in the CDFI program is the Vermont Community Loan Fund [VCLF]. This statewide nonprofit community development financial intermediary has been providing flexible financing and technical assistance to low-income Vermonters for almost a decade. Financial assistance from the CDFI Fund will allow the VCLF to make long-term loans for affordable housing, undertake new initiatives such as lines of credit for nonprofit organizations, and develop a viable small-scale equity product for Vermont's smaller businesses.

Access to credit is a significant hurdle for low-income Vermonters and small business start-ups in rural areas. The Vermont Development Credit Union and the Vermont Community Loan Fund have proposals that would address these needs in many parts of Vermont. All that is lacking is the capital that the CDFI program can provide.

The CDFI Fund is an idea that could bring real growth and improvements to our most disadvanted communities. I congratulate Senator MIKULSKI and Senator BOND on giving the program the chance to succeed.

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100 YEARS OF EXCELLENCE IN EDUCATION

Mr. HOLLINGS. Mr. President, last week, South Carolina State University and the city of Orangeburg celebrated 100 years together. I would like to take a few moments to reflect upon this university's contributions to South Carolina and to the Nation. As remarkable as its history has been, we find, on its centennial, that S.C. State is creating an even greater story to be told in the future. For it is the products of this university, in the form of its graduates, that have made and continue to make tremendous contributions to our society. And it is the graduating classes to come that will carry the legacy into the next century.

For many years, S.C. State has been a focal point of African-American education in South Carolina. The school has served as a cultural nursing ground for African-Americans inside and outside the State of South Carolina. Through its fine academic tradition and strong sense of community, it has nurtured both the intellects and the self-confidence of its students. In the beginning, the college was established as a State supported institution under the system of segregation. Sixty years later, it was to produce a student body which stood at the vanguard of the civil rights movement. As Christine Crumbo of The State writes, "They have always been the children of tradition, the students of South Carolina State. And the breakers of tradition."

The college opened its doors on September 27, 1896. Both of them. Its campus consisted of only two buildings, neither of which was furnished with electricity or plumbing. However, the school had plenty of what was essential: students. The original enrollment was approximately 1,000 people ranging from kindergarten to college level, and, unlike other State colleges, S.C. State was coeducational from the start. A great deal of credit goes to Thomas E. Miller, the school's first president and founding father, who fought to establish the school. He left his political career to dedicate his time and his vision to creating an independent Colored Normal Industrial Agricultural and Mechanical College.

The college started out with an emphasis on agriculture. About 80 percent of the first year's students came from farm families. Though the agriculture school was phased out in 1971, it still houses the headquarters for the 1890 Research and Extension Program. This serves farmers in the spirit of the old curriculum, incorporating such branches as The Small Farmer Outreach Training and Technical Assistance Project. Today, South Carolina State has a strong liberal arts and business concentration.

Over the past 100 years, South Carolina State has gained a reputation for producing alumni of high caliber who go on to distinguish themselves in their communities, and throughout the Nation. From teachers to professional football players, from actresses to scientists, S.C. State graduates have made their mark. They are ministers, community leaders, lawyers, and college presidents; for every aspect of public life, there is an S.C. State graduate excelling in it. Included among its ranks are our own Congressional Representative JAMES E. CLYBURN; Chief Justice Ernest A. Finney, Jr., the first African-American man to serve as a State supreme court justice; and Marianna White Davis, the first African-American woman to serve on the State Commission on Higher Education. In fact, one will notice a lot of firsts among the graduating classes of S.C. State. These men and women make the most of the knowledge and self-confidence that their educations instill in them and go on to affect change in this country. At South Carolina State, the students feel a part of something that extends back to their ancestors and forward to the next generation. I commend the efforts of the faculty and administration of S.C.

State to continue its tradition of excellence, and I salute the university's independent spirit. I wish them another successful 100 years.

CONDEMNATION OF CHINESE MISSILE TESTS IN THE TAIWAN STRAITS

Mr. PELL. Mr. President, we are currently in the middle of a very tense period in the relationship between the United States, the People's Republic of China, and Taiwan. Military tensions, in particular, are rising. Last week, China began a week-long series of ballistic missile tests and announced it will conduct an additional set of live fire military maneuvers as well. I urge China to cancel these tests and maneuvers. Together they constitute the fourth set of major military exercises the People's Liberation Army has undertaken in the straits since last July. They are provocative, destabilizing, and only damage China's image in the eyes of the world.

There is no reason to disbelieve China's public claim that it is not planning an actual attack on Taiwan at this time. But I do not believe that these are merely routine military maneuvers, as Chinese officials have portrayed them. These tests, and the military exercises that preceded them last year, are clearly meant to intimidate the people of Taiwan in the run-up to the first fully democratic presidential election in the history of Chinese civilization. But the escalation in both scope and nature of this week's exercises raises the risk that conflict could start through miscalculation or accident. It is essential that all parties work to prevent an armed conflict that no one wants.

Chinese Premier Li Peng stated in a speech to the National People's Congress that the Taiwan issue was an internal affair and warned other countries not to interfere. In this regard I support the long-standing United States position that the issue of reunification be handled by the Chinese people on both sides of the straits, but that policy was founded on the understanding that the question of Taiwan would be resolved peacefully. When the leadership in Beijing threatens to use force against Taiwan, it challenges that understanding and Beijing itself creates an international issue. Beijing must understand that the United States does not view Chinese threats toward Taiwan as an internal Chinese affair. The United States has a strong interest in peace and stability in the Taiwan Straits. It has a strong interest in the continued prosperity of the region—Taiwan is the world's 14th largest trading economy and the 7th largest United States trading partner. These exercises are disrupting shipping and continued military maneuvers will inevitably make investors and traders think twice about doing business in the region.

China has repeatedly sought to be considered a responsible member of the world community in a number of international fora. But if it wants the international respect it feels it deserves, it must follow that community's norms of behavior. Threatening Taiwan is not acceptable to that community. Beijing should stop these missile tests and military maneuvers and re-open talks with Taiwan through its own Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation. Negotiations between these two entities were successful in resolving a number of issues between Beijing and Taipei before China cut them off last year. China should again use these talks, and not the military, to persuade the people and the Government on Taiwan.

KELLY McCALLA, SOUTH CAROLINA'S 1997 TEACHER OF THE YEAR

Mr. HOLLINGS. Mr. President, I am delighted to congratulate Kelly McCalla on being named the 1997 Teacher of the Year for the State of South Carolina. For 11 years, Ms. McCalla has dedicated herself to educating the young people of Greenwood in her own inimitable style. She is an inspiration to anyone who aspires to do a job well and win the respect of others.

As a teacher of science at Oakland Elementary School, Kelly McCalla engages students' minds and imaginations. As a member of the community, her contributions are vast. Whether organizing special youth events through her local church or participating in summer Bible School, Ms. McCalla contributes to local children's education outside the classroom as well. She is active in other programs that benefit the community at large such as Meals on Wheels, programs for needy children, and caroling at a local nursing home.

Obviously, she is willing to teach by example the importance of being involved in the community.

The award for South Carolina Teacher of the Year is given to educators who are representative of the many excellent teachers across the State, and it is clear that Ms. McCalla is worthy of this title. Said State Superintendent of Education Barbara S. Neilsen, "The State selection committee saw the same magic in Kelly McCalla that her students do."

These days, with everyone worrying about children's education, not just in terms of school but in terms of moral values, it is truly a pleasure to be able to honor someone like Kelly McCalla. She is instilling in her students something more than a knowledge of science, she is showing them how to love learning and to be involved, caring, decent people. And that is something that only a gifted educator can do. I send her my congratulations, my thanks, and my best wishes in the future.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET DOWNPAYMENT ACT, II

The PRESIDING OFFICER. The Chair lays before the Senate, H.R. 3019.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Daschle (for Harkin) amendment No. 3467 (to amendment No. 3466) to restore $3.1 billion funding for education programs to the fiscal year 1995 levels.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 3467

Mr. WELLSTONE. Mr. President, I rise to speak on behalf of an amendment that a number of us have introduced which adds back $3.1 billion to education programs to restore education funding to fiscal year 1995 levels.

Mr. President, I will summarize. This amendment restores funding for the following programs: Goals 2000, title I, safe and drug-free schools, charter schools, vocational and adult education, educational technology, Head Start, dislocated workers, adult training, school-to-work, summer jobs for youth, and one-stop career centers.

Mr. President, as the minority leader pointed out yesterday, we have offsets for this increased funding. Mr. President, let me, first of all, say to my colleagues, and especially to my very good friend, the chairman of the Appropriations Committee, whom—you do not call people heroes unless they truly are, and he is to me, one of the great Senators in the history of the country. I really believe it was a terrible mistake for the House of Representatives to send over a continuing resolution with these very deep cuts in education.

Mr. President, as I think about where we are in the country right now, it seems to me that people in our Nation are saying very clearly that they care about opportunities. They worry about their children, and they want all of God's children to have opportunities. Mr. President, I just think that slamming the door of opportunity for children is a huge mistake. I think that some of the discussion about children of the next generation—absolutely, we need to pay the interest off on the debt. But you do not save the children of the next generation by savaging the children of this generation.

Mr. President, I think that as we look at where we are in the country and where we need to go together, Democrats, Republicans, Independents, you name it, each and every time, I would emphasize a good education as a foundation of it all—for welfare reform, for reducing poverty, for a stable middle class, for economic performance, for a functioning democracy; each and every time, I would say you need to emphasize a good education and a good job.

Mr. President, I have tried to be an education Senator. I spend time, about every 2½ or 3 weeks, at a school in Minnesota teaching. I was a teacher for 20 years. I have to tell you that the shame of all of this is that, for some reason, we have not looked very carefully—or at least the Gingrich-led House has not—at what these cuts will mean in human terms. I will not even give you the statistics, Mr. President. But I will tell you this: If I was to just take the title I program in my State of Minnesota, which is a \$13.5 million cut right now in this continuing resolution, the very negative effects this will have on children is absolutely unbelievable.

We want children at a young age to be wide-eyed. We want them to be experiencing all of the unnamed magic in the world before them. We want them to be nurtured. We want them to be encouraged. What do we do with title I money in Minnesota? Talk to the teachers and talk to the parents—the title I parents in Minneapolis-St. Paul. What do we do? We give kids at the elementary school level one-on-one—I know you, Mr. President, are very committed to children—one-on-one instruction.

I met a mother yesterday. She said, "My son was a slow reader falling behind, not doing well. From title I he received that special attention, one-on-one instruction, through some additional teachers and teacher assistants. He is now a seventh grader in junior high school, and he is a straight-A student. I come here today to tell you that if not for title I, I do not know where he would be."

Title I money is not just a bureaucratic program. It works. I was at a school, Jackson Elementary School in St. Paul, with a wonderful principal, Louis Mariucci, which is a great hockey name in Minnesota from the Iron Range. He is committed to the inner-city school, and they are doing well. The students have high achievement levels. It is diverse. It is rooted in the neighborhood.

When I was meeting with a class of third graders and then a class of fourth graders, I asked these kids how many languages are spoken at home. In one class there were three different languages spoken in the homes, and in another class there were four different languages. Then I met with the parents later on from the Hmung community and the Laotian community.

Mr. President, we say we want the parents to be involved. Well, there were two young people who are translators. They are proud because they could use their ability. They were bilingual to help other kids that were younger. They had graduated from college. There are jobs for them. The parents could participate. I could understand what they were saying to me as a Senator. The teachers could and do understand what I was saying.

Mr. President, that is funded out of title I money. That school, Jackson Elementary School, which is an outstanding success, does not know where it is going to be next year because of these deep, draconian, mean-spirited cuts in funds which provide opportunity for our children. Mr. President, is this not shortsighted?

Other examples: Meet with some of the teachers that are title I teachers. They will tell you about the ways in which that money is used for literacy training for adults, the parents, so that they can be involved. They talk about ways in which parents are involved in the kids' education. In school after school after school, whether it is Minneapolis-St. Paul, whether it is Rochester, whether it is Fergus Falls, whether it is Bemidji, whether it is Duluth, whether it is the Iron Range, over and over and over again there are success stories where this title I money was used to provide kids from difficult backgrounds, kids who were disadvantaged, with the additional one-on-one support they needed in reading or mathematics so they could do well at the elementary school level and then go on and do well in school. And we are going to cut this program? What kind of distorted priorities are these?

Mr. President, I wish every one of my colleagues was on the floor right now, especially on the other side. Little kids do not understand budgets. Little kids do not know what "continuing resolution" means. Little kids do not know what the "Congressional Budget Office scoring" means. Little kids in Minnesota, Massachusetts, Oregon, Ohio, and all across this country do not understand why they cannot receive help to be better readers. Do my colleagues have any answers for them? They do not understand the budgets. They do not understand why they do not get any help. They do not know why they are not getting help so they can do better in reading classes. They do not know why they are not getting any help so they can be better in mathematics. They do not know why they are not receiving help.

Mr. President, a definition from an elementary school student on leadership—I say this to my colleague from Massachusetts. I think he fits this definition. An elementary school student's definition of "leader." "A leader is someone who gets things done to make things better." "A leader is someone who gets things done to make things better." Kids know what is right, and I say to my colleagues that they know what is wrong. We should not kid ourselves. To cut title I money from my State of Minnesota, or any other State, to shut off children from the opportunities they need, from the support they need so they can reach their full potential, is not right.

Leaders are Senators who get things done to make things better. This amendment that restores some funding for educational opportunities for children gets things done to make things better.

Cameron Dick, from South Minneapolis, testified last week in a hearing. Cameron Dick had dropped out of school. He is a native American. He was "going nowhere." But the School-to-Work Program saved him. Working with the American Indian Opportunities Center, he now goes to school, has a job, sees the connection between his schooling and a work opportunity, and in his spare time—you will love this—he tutors other children.

I met a young woman yesterday in St. Paul, MN. I am embarrassed; I forget the last name. The first name is Erika. She is a Hispanic woman who came to Minnesota from California. She has lived in some communities with some very difficult circumstances. She had dropped out of school for several years and then went back to school in the School-to-Work Program at Humboldt High School on the west side of St. Paul and found herself an apprenticeship program with a business, began to study accounting, now has a job, is proud of her work, makes a decent income, and is now going to go on and pursue higher education.

These are not the programs we ought to be cutting. I mean, what is the House of Representatives trying to say to people in this country? "We will not shut the Government down, but the price we exact for not shutting the Government down is to cut Pell grants or to cut Head Start or to cut low-interest Perkins loan programs or cut vocational education or cut title I or cut safe and drug-free schools. These are not the priorities of people in this country.

Mr. President, I believe that this debate on this amendment to restore $3 billion in funding for children for education and for opportunities is one of the most important debates that we are going to have. This is all about who we are as Senators, whom we represent, what values we believe in, and what our priorities are.

I say to some of my colleagues, especially on the House side, that your agenda is too harsh, your agenda is too extreme, and it is a profound mistake for us to begin to divest from children.

It is a profound mistake for this Nation to abandon children. It is a profound mistake for this Nation to move away from providing opportunities for children.

I will conclude. Little kids do not understand budgets. Little kids do not understand why we cannot help them. Little kids who are trying hard do not understand why we cannot help them do better in school. And that is exactly what we ought to be doing because this is the very essence of the American dream.

There is a former teacher from Northfield, Joanne Jorgensen, who is visiting with me today with her husband, Paul, who is an education professor at Carlton College. Much of politics is personal. Our daughter, Marsha, when she was in elementary school at least up through around fifth grade I would say, was put in a lot of the lower classes. No matter what we call those classes, "blackbirds" or "redbirds," everybody knows who are the students that are not doing well. Some of the other kids were calling her a "retard," and as parents it was painful to see your own little girl or to see any little girl or any little boy not feel good about himself or herself, but this was our daughter. Then Joanne Jorgenson became the teacher, and Joanne Jorgenson said to Marsha, "Marsha, you are not stupid. You can draw. You are an artist. Marsha, you are not stupid. You can write poetry. You have rhythm. Marsha, you are a smart little girl. You are not dumb. You can do well."

Now be a proud Jewish father. By the time Marsha finished high school, she was a great student and she went on to the University of Wisconsin-Madison, top Spanish student and she is a great Spanish teacher at the high school level. She is a public schoolteacher. I do not know whether she would have been able to do that were it not for Joanne Jorgenson. This is the kind of support that we give students. And Marsha did not come from some of the difficult background circumstances that a lot of the students come from that are able to receive the support they need from title I or vocational education or school-to-work Programs or, for God sake, the Head Start Program. The Head Start Program is what we say it is. We have decided as a nation that we are going to give certain kids a head start.

This is a profound mistake. Do not divest from children. Do not divest from education. Do not divest from opportunities for children. Our amendment restores this $3 billion, and we should do so.

Mr. President, my final point. My final two points, and I promise my colleagues only two points. Point No. 1. I do not want to stand out on the floor of the Senate and argue for this amendment just on the basis of reducing violent crime. I can think of a million reasons why we should invest in education for children beyond that. But I will tell you one thing. Investing in children when they are young and making sure they have the educational opportunities beats the heck out of having to spend money on prisons.

There is a judge, Rick Solum—and maybe my colleagues have heard the statistic before. I have only seen one report on this and maybe it is not corroborated. It is a startling statistic. In Hennepin County, he tells me there is a high correlation between high school dropouts and incarceration, winding up in prison, and cigarette smoking and lung cancer. If the statistic is true, and the judge says it is, that tells a very large story.

I also know, Mr. President—and I try not to do this top-down or outside-school-in—I spend time in schools, Jill and I spend time with street kids, with homeless kids, with at-risk youth, with youth workers, and all of them say the same things: Senators, you have to give these kids positive things to do. You have to give them opportunities.

It starts when they are young. We are never going to stop this cycle of violence by just building prisons. We have to make sure our children in this country, all the children in this country, have hope, have a future that they can believe in, have goals, and have the ability to be able to live for their own dreams. That is what these educational programs mean.

This amendment restores the funding. We should have the support for this amendment, and I look forward to the final vote. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I rise in strong support of our education amendment, to restore the funding for some of the very basic and fundamental education programs to reaffirm this country's commitment to investment in the young people of our country in the limited but important way in which the Federal Government works in partnership with the States and local communities.

We will have an opportunity to vote on this measure, and I should like to underscore a few of the principal reasons why this issue is of such importance and to review very briefly with the Senate why we are where we are at the present time.

We should understand at the very beginning what is in the legislation and what is not in the legislation. And nothing is clearer than to look at the legislation itself in the final general provisions on page 780. Section 4002 says:

> No part of any appropriation contained in this title shall be made available for obligation or expenditure nor any authority granted or be effective until the enactment into law of a subsequent act—

I mention that again for emphasis.

> of a subsequent act entitled "An Act Incorporating an Agreement Between the President and Congress Relative to Federal Expenditures in Fiscal Year 1996 and Future Fiscal Years."

This title may be cited as, "The Contingency Appropriations Act of 1996."

This is the Contingency Appropriations Act. It is important as we start the debate that we listen to many of our very good friends who say, "Well, we have really restored a great deal of education funding in this program so that parents should not worry, teachers should not worry, school boards should not worry because we have restored the money, perhaps not all of the money that we would have liked to have done, but, Senator, we have a difficult financial situation and education has to take the hit like anything else."

I would differ with that and say as to the proposal in the budget, the Republican budget, which provides the tax breaks for wealthy individuals ranging from some $240 billion, or the revision down, one of the proposals, to $178 billion, can you not give us $4 billion of the tax break that is going to go to the wealthiest individuals and fund these essential education programs because, my friends, basically what they are saying is that to be effective there is going to have to be a subsequent act, and that act is going to have to pass the House of Representatives and the Senate of the United States. That is not going to be a reflection of the will and desire of some of our Republican friends who are strongly committed to education. This legislation is very clear in that there is going to have to be action in the House of Representatives and the Senate of the United States in order for any of the provisions in here to be effective.

That is not satisfactory. Effectively this comes back now to the question of priorities. Are we going to say we will not even seek any restoration of funding for education until we are going to get the tax breaks for the wealthy individuals? That is effectively what this provision says. You will not hear a lot of people talking about it. You will not hear a lot of people saying, "Well, look, my Republican friends want that big tax break for the wealthy; can't we take $4 billion off there and just put it right in here on education."

You will not hear a lot of people saying, "Yes, that is the way to do it." That is not the proposal before us. So we have a measure that says, all right, we are going to put in some real money and we are going to put it in now. We are going to put it in education. We are going to support the school boards, the parents, the teachers who are meeting all over this country even while we are in here this morning with their pencil and paper wondering what they are going to be able to do for the children of this country over the next fiscal year.

That is happening in every city and town in my State and in every other State. I will come back to that in just a moment.

Mr. President, are these programs really worthy of support? I think we have to be able to justify the particular programs that are going to be added to.

We have the Goals 2000 Program that had strong bipartisan support in the last Congress, Republicans and Democrats alike basically accepting what the Governors had agreed to in Charlottesville that said one of the most important elements in education is raising the bar and the challenge to the young people of this country. They will be able to measure up, if we establish some increased academic challenges to the young people.

That is exactly what Goals 2000 is meant to do, not at the State level but at the local school levels. It is meant to get the funding into schools, get parents involved, get the business community involved, teachers involved, and begin to establish the higher standards for the young people.

Those standards are voluntary and have been worked out in some important areas; for example, in math and in science. A number of communities have accepted those particular standards, and do you know what? The latest review shows there is a measurable improvement in the young people who have been challenged by those standards in math and science. It is beginning to move. The challenges are out there. There is an increase in academic achievement and accomplishment.

The bipartisan Democratic and Republican Governors who supported the concept of the Goals 2000 is beginning to work, but not according to this budget. We are cutting back on those Goals 2000 programs so that thousands and thousands of schools will not be able to provide the same opportunities for those children. We are not doing anything about the tax breaks, but we are cutting back on Goals 2000.

We had lengthy debates last year about the effectiveness of the title I program: Should we pull out students to be able to participate in the title I program? If they are not pulled out, are the students missing more than if they stayed in that class? Should we not have perhaps the opportunity to have greater flexibility at the school level?

We had days and days of hearings on that and hours and days of debates in the House and Senate. Many, many good ideas were put forward by parents to try and help and assist those who have some disadvantage in terms of their past educational achievement. In many instances, they were not able to get into the Head Start Program or they need that extra help and assistance in literacy, in confidence-building skills, in the basic elements of decent education.

Do you know what has happened to that? That was cut back initially by almost 1 million children. Now 700,000 will not participate in that program which makes such a difference.

Mr. President, in talking to Mayor Menino in Boston 2 days ago, he said that 14 out of the 78 different programs in the city of Boston are now going to have to be cut out for those schoolchildren.

The Safe and Drug-Free Schools Program—this is a beauty. By 57 percent, it slashes the drug abuse and violence prevention programs for 40 million youth—40 million youth. It cuts back on the help and assistance to the school systems of our country for safe and drug-free schools.

Maybe many of our Republican friends are going to be able to respond to what I heard from the assistant district attorney, Mr. Gittens who is a deputy DA in Suffolk County in Boston who I heard on Friday afternoon and who also happens to be head of the school committee. He is head of the school committee and a prosecutor, and he asked me a very basic question and one which I would like to address to those who want to cut this program. He said: "Do you know when the increase in juvenile violence takes place, Senator? Do you know what time? You can almost set a stopwatch by it. When the schools close down."

We should be surprised by that? In the afternoons is when the principal increase in juvenile crime occurs.

What are these programs? Many of them in the Safe and Drug-Free Schools Program go for dispute resolutions. We have a number of schools in my own city of Boston that have enacted that program, and they have seen a dramatic reduction in tension in the schools for a whole range of different reasons.

We have these voluntary programs in the city of Boston for kids who are the most vulnerable children in our communities to get involved, and it is vastly oversubscribed—vastly oversubscribed. There is strong support from the district attorneys.

Meanwhile, in another part of our governmental body, we are cutting off and censuring Colombia to show how tough we are on crime and substance abuse and, at the same time, we are prepared to cut back on programs that reach out into those communities and make a real difference for children. Mr. President, 57 percent of the children.

While I was having meetings out in the community on Friday afternoon, we heard from so many of the ministers in Boston talking about the summer jobs for youth. The 12-, 13-, 14-year-old kids, again, some of the most vulnerable, are talking to their teachers now: "Is that summer job going to be out there?" "Will I be able to have that employment that I had last year?" "You know, we want to do something, we want to make something of ourselves." And I tell them that this Republican Congress has zeroed their program out.

Mr. President, it makes no sense. If you talk to some who are involved in the program, they say those kids at the end of the summer, if they go the whole summer, may make $900. They say you cannot believe the difference it makes in their attitude when they come back to school after they have been participating in that program. Their whole attitude changes about themselves, about their school, about the importance of schools, about staying out of gangs and staying out of trouble. Well, $867 million is cut out.

What are we going to tell the 1,200 schoolchildren in Boston who otherwise would have been participating in this program, in close collaboration with the private sector that works very closely in the administration of that program, uses that as a principal source for trying to bring young people back into the private sector for training and doing evaluations? It has been a very, very important program, not only in the major cities—in Lawrence, New Bedford, Worcester, Springfield, and many of the other cities.

Also, there has been a $137 million reduction in Head Start. We have been around for years. We saw a significant increase under President Bush in the Head Start Program. Then we had some questions about what was happening to the quality of the Head Start Program. So we revised that with strong bipartisan support. I do not think there were three Members of the U.S. Senate who voted against restructuring of the Head Start Program and the increase in the funding for that program, because it only reaches about 35, 40 percent of the children who are eligible for that program. But nonetheless, they are cutting back that program, a program that helps develop confidence-building skills for young people.

And the work goes on. The Dislocated Workers Assistance Program, there is a 29-percent cut. It excludes 157,000 workers who have lost their jobs from programs that teach them new skills.

At the same time, I was reading in this morning's Washington Post an article by James Glassman which talks about provisions that we have considered in the Judiciary Committee under immigration. Some of us, including myself, do not believe that we ought to fire American workers who are qualified to permit American companies to hire foreigners who have no better skills or equal skills and then drop their cost in wages. So you have American workers who have lost their jobs, the company has lower wages, they compete with American firms, and those firms go out of business. But at the same time, we will have a chance to debate those issues later on.

The point that Mr. Glassman makes is:

> Also, many of the best U.S. jobs go begging, simply because we don't have workers smart enough to fill them. In an extensive new study for Empower America, Stuart Anderson reports that 16 large, high-tech companies alone had 22,000 job openings in January.

That is 22,000 jobs. What do those people need? Some training, so that they are going to be able to be productive, useful members of this society and provide for their families. What does this program do? It cuts out the dislocated worker assistance to be able to give those skills to American workers so that they can get those jobs.

Are we missing something here, Mr. President? Are we going to say to those workers who are dislocated, with all of the phenomenon that is taking place in terms of the requirements in the job market, without the kind of training that should be provided by the companies and corporations of America—only a handful of them do; they should be commended for doing it, but only a handful of them do—and then on the one hand say, here are thousands and thousands of jobs that are here, and in the same proposal cut back on the dislocated worker assistance?

Mr. President, one of the most important, innovative programs that we passed—again, with strong bipartisan support. We had Republican Governors who have testified in favor of this very exciting program, the former Governor from the State of Maine. Also, we have in the State of Michigan, the School-to-Work Program to try to reach out to the three out of four high school students who do not go on to college but go on into the employment market.

Let us show some consideration for those kids. Let us not just have them every time go on out to McDonald's. Let us try to give them some opportunity of getting on a path that can give them some hope in terms of the future. That is what the School-to-Work Program is about, and it is successful, Mr. President. But we have now a cut in that program that was passed on.

So, Mr. President, we will hear later on about, "Well, we will be able to deal with some of these issues, perhaps, a little later on." We are halfway through or more, certainly, in terms of the planning and programming for the school year.

Let me just mention quickly what is happening out there in the various school boards. I have a deputy superintendent in Worcester, MA, who told me planning next year's budget in the midst of the Federal budget confusion is like reading tea leaves in the middle of an earthquake. Worcester loses $2 million in Federal funding. More than 4,000 students will lose access to support services. Title I will be cut by $1 million. That translates into 700 fewer students. That is $1 million, with 700 fewer students being served, and the layoff of 16 teachers.

In Ayer, MA, they depend on the Federal impact for 23 percent of its budget. The picture is stark. If the Federal funding impasse is not resolved by April 22, they will close the schools 2 months earlier this year.

You have heard about stories in Newport News where they were cutting back on heating for 2 hours in the schools, cutting back heating in a program that we refuse to address. We have the issue of increased tax breaks, and they have cut back heating in the public schools of the country. You wonder why we are putting this legislation out here and why we are demanding that we have a debate and a focus on this.

In Chicago, the chaos caused by the budget impasse will move from the central office to teachers and parents and schools. March 18—next week—the district's budget director has to tell each school the size of their budget for the next year—by the middle of May, local school councils, made up of teachers, parents, community members, and the principals, must submit it for approval—next week. But they will have the assurances of the Contingency Appropriations Act of 1996 to help them out. What does that mean?

The uncertainty about Federal support for education will cause Chicago to waste valuable time deciding how to allocate a lump sum that could change at any time. They will be forced to assume the worst. Chicago schools will lose nearly 20 percent of their budget, or $40 million. That means laying off 600 teachers. The district will have to deny extra help in math and reading to 43,000 students.

Mr. President, this would be bad under any circumstance, but it is particularly bad now. Why? Because of the demographics of this country, we have increased the total number of students anywhere from 3 to 5 million in our schools. Just to keep even with 1995 figures in support, we would need 50,000 additional teachers—50,000 additional teachers—just to keep the pupil-teacher ratio, we would have to add those. We would have to increase the funding.

We are not even asking to increase it. We are just trying to get back to 1995. So you are starting off with 50,000 less teachers than you would need if you are going to be where you should be in 1995. And with the loss of funding of the other program, you lose another 50,000.

Mr. President, that is a matter, I think, of national urgency. I think it is a matter of national crisis. It is a reflection of national priorities, whether we are really serious. If we cannot find the way and the means to try to at least make sure that we are going to do what we did in 1995, let alone try to meet responsibilities in the areas of new technologies to help and assist students, which we should be doing, if we are, as an institution, so bound by procedures that in a $1.7 trillion budget we are not able to find those funds, it is a fierce indictment.

Mr. President, the list goes on. I just want to say, Mr. President, that I do not believe, and I think most Americans do not believe, that education is a contingency as a priority for this country. School boards cannot write their school budgets with contingency moneys. They cannot hire teachers with contingency money. They cannot buy books and pencils and computers for their students with contingency money. They need real numbers now to write their budgets for the coming year. This bill leaves school districts stranded in confusion and uncertainty once again. That is the reason why this amendment which we offer to restore the education funding is so necessary.

Education is not a contingency for the American people. It is not a contingency for the millions of schoolchildren today who will enter the work force in the 21st century. If our commitment to education is real, we should fund it with real money. I urge my colleagues to support the education amendment in the pending appropriation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I will just take a couple minutes, I say to my colleague from Pennsylvania. If he is getting ready to speak, I will just take probably 2 or 3 minutes. If not, I will take a little more time. Might I ask my colleague if he is ready to speak now? I had an opportunity to speak. I will be very brief.

Mr. SPECTER. I thank my colleague from Minnesota for his inquiry. I am ready to speak, but I have no objection to his taking 2 or 3 minutes. I will be here all day.

Mr. WELLSTONE. Mr. President, I thought I would supplement earlier remarks that I made on the floor when proposing our amendment, along with the Senator from Massachusetts.

I'd like to take a closer look at these education cuts. Look at this chart for a moment—Goals 2000 is cut by $82 million; that is a 22-percent cut. This slashes school improvement efforts in over 2,000 schools, serving over 1 million children. Title I, $679 million; denies 700,000 disadvantaged children crucial reading and math assistance.

I tried, Mr. President, to give examples, many examples from my State, about what an important program this is. I will repeat what I said earlier: Little kids do not understand all this budget language and do not understand why we cannot help them be better readers and help them do better in school. I also want to provide information that has been given to me by Ms. Susie Kay, an outstanding teacher at the H.D. Woodson Senior High School in the District of Columbia. Mr. President, for examples of what education cuts mean to students, we need go no further outside this Chamber than a couple of miles away, to Ms. Kay's classroom. She writes:

> Our students are not born criminals; they are not lazy or stupid. They just want, and so deserve, the same chances that this country is supposed to guarantee all its citizens. The last thing that they need is to be set back by further budget cuts in education, cuts which would only serve to discourage students and the teachers committed to helping them beat the odds. H.D. Woodson literally survives from the assistance that the Title I Program provides. To cut any further into our resources would be nothing short of criminal. We should be doing everything we can to help them. Too many people ask me why I continue to teach. * * * I respond * * * how can you not?

I ask that Ms. Kay's eloquent and impassioned statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. The Safe and Drug Free Schools Program is cut by this omnibus appropriations bill a total of $266 million. That is a 57-percent cut. This omnibus bill slashes drug abuse and violence prevention programs for over 40 million young people. Mr. President, you have certainly taken a real leadership role in this area. The only thing I say is that I am immensely impressed not based upon debate on the floor of the Senate, not based on abstraction, but visits to schools at the mentoring programs, at the counseling programs, and really the success of the Safe and Drug Free School Program in doing everything we can to try and address what I think is apparent, the huge problem of substance abuse.

Head Start Program, $137 million cut; denies 50,000 children services that help them become ready to learn. Now, Mr. President, again I remind my colleagues that the Head Start Program, which has overwhelming support in the country, does just what the title says it does. That is, gives children who come from families in very difficult circumstances, very tough backgrounds, a head start. I have taught Head Start mothers; I have taught and worked with Head Start families. There are two things that are very important about the Head Start Program: First, we better invest in children when they are young. That is what you have to do. That is what this program is about. The second thing is the involvement of the parents, and the education of their children. What are we doing cutting the Head Start Program? Does anybody think that is what people voted for in 1994?

Summer jobs for youth, cut $867 million—I did not talk about that before—100 percent they want to eliminate it, preventing 673,000 high school students from gaining valuable work experience.

Mr. President, I will just tell you right now that those publicly elected officials that are more down in the trenches—the commissioners, the school board members, the city council people, the mayors, and I do not mean just in our large cities but I mean in greater Minnesota as well—they will tell you that they have a tremendous amount of fear, I think is the right word, about this extreme House effort, this extremist agenda, of eliminating summer jobs programs for youth. What we want to do is get our young people involved with work. We want them to feel good about themselves. We want them to have these opportunities. This is a critically important program. What are we doing eliminating it?

Mr. President, $362 million for dislocated workers assistance, a 29-percent cut, excluding 150,000 workers who have lost their jobs, in programs that teach new job skills.

Mr. President, every day we are reading about downsizing and restructuring—which is euphemism for some of the large companies in this country—large multinational corporations just firing people. What are we doing cutting a program that provides people who maybe are middle aged who have been working hard all their lives who thought if they did work hard all their lives they would have secure employment, what are we doing cutting a program that provides the dislocated workers with some assistance to make a transition back into the workplace? Did anybody hear a hue and cry from people in 1994 that the kind of change they were voting for was to cut dislocated workers assistance or summer jobs for youth? Finally, Mr. President I talked about this earlier, school to work is cut $55 million—a 22-percent cut, curtailing efforts of 27 States, including Minnesota, to provide students the skills they need to get a good job. Mr. President, I heard the other day in a hearing from the business community that supports it, from labor that supports it, from youth workers that support it, from teachers that support it, and maybe most important of all, from young people, for whom this has made all of the difference in the world.

Mr. President, the definition for family security in Minnesota is to focus on a good education for our children and our grandchildren and to focus on educational opportunities and job opportunities. Mr. President, good family values is to invest in children. Good family values is to invest in educational opportunities. Good family values is to make sure that children can have dreams and can fulfill their dreams. Good family values is to give children hope. Good family values is to give kids a lending hand when they need it. Good family values is to give children the careful consideration and nurturing and support they deserve to do better in reading, to do better mathematics. Good family values is to make kids feel good about themselves. Good family values, Mr. President, is to understand that education and educational opportunities are the essence of the American dream.

This is one of the most important amendments, I think, that has been proposed on the floor of the Senate in my 5 years in office. I am very proud to be a Senator that brings this amendment to the floor, and I hope we will restore this funding. I have said it 10 times on the floor of the Senate. I will say it an 11th time and then be done. Now that I have grandchildren, I see these little children—they surprise me because our children are all 30, 26 and 23; I hope I have that right. Now three grandchildren. I see these kids. It is incredible. Every 15 seconds they are interested in something new. They can be in the same room and they can come back weekend after weekend and they always find something new. Those children are experiencing all the unnamed magic of the world. You take that spark of learning and you ignite it and it takes a child from any background to a life of creativity and accomplishment; you throw cold water on that spark of learning and that is the cruelest thing you can do as a Senator, as a government, as a country, as a society.

By trying to enact the deepest cuts we have ever had in education as the price for not shutting the Government down—that is precisely what the Speaker and other Members of the House who support this have sent over to the U.S. Senate—an effort to pour cold water on this spark of learning is unconscionable, unacceptable, and Senators should vote for our amendment to restore this funding. I yield the floor.

EXHIBIT 1

My name is Susie Kay and I have been a 12th-grade American government teacher at H.D. Woodson Senior High School for the past five years. I am one of four non-minority teachers at Woodson, which has a 100% African American student population. H.D. Woodson is a D.C. Public High School, located in the inner city, east of the Anacostia River.

Teaching at Woodson has been a powerful experience, and, while often disheartening, my days are filled with constant inspiration and small miracles. The noted education writer Jonathan Kozol has put my Woodson experiences in chilling perspective. He writes in *Amazing Grace*, "No viable human society condemns its children to death. Yet, through public policy and private indifference, we have guaranteed that our poor inner city children will lead lives stunted by heartbreak, violence and disease." He continues, ". . . that each casualty, part of the beauty of the world is extinguished, because these are children of intelligence and humor, of poetic insight and luminous faith."

The story of the inner city and its youth is all this and infinitely more. It is a tale of survival, not only from a culture of economic despair and hopelessness, where too often nothing seems to change, but survival against the temptations of "easy money" in an area where there are virtually no available jobs or means of "legal employment." It is a tale of survival amidst drug dealings and drive-by shootings and too often its innocent casualties . . . "dreams deferred." Mostly, it is a story of the survival and triumph of the human spirit through resilience and finding hope in even the darkest corners. Our students want to survive, and they want to succeed, despite the multitude of odds against them. My friends hear all of my stories day after day; it is a world so foreign to most of them, in fact to most people in this country, and one which too many people don't want to be bothered with. It can be symbolized in the paradox of Washington, D.C., this glorious, powerful city, where blocks separate these two worlds. My students do not feel the same reverence and respect for our government that I was taught growing up, but rather an alienation, abandonment, and disillusionment of it. I must say that it is often difficult to blame them for this.

From what I have witnessed, those students that make it have truly survived against the odds. Many of their obstacles are so seemingly insurmountable, that there is an unwritten creed that making it to graduation day alive is, in itself, a victory. Death is a culture in the inner city, and one that is prevalent. One of the most incredible aspects of these children's lives is the amount of death that they must constantly deal with, and the accompanying complacency and acceptance of it. Every Monday brings with it a new list of immediate family members and close friends who have either been killed or died because of the critical lack of available medical attention. This year alone, I have attended the funerals of three of my graduating 1995 seniors. They were all bright and beautiful young people, rich with intelligence and talent. This is not a sane way to grow up, nor is it conducive to a clear mind ready to begin the school day. Too many of our students come to school weary from sleepless nights spent worrying about things that citizens of this country, the richest country in the world, should not have to worry about. Will I have a place to live this week-end? Will that next stray bullet come through my bedroom window? Where will my next meal come from? As if teachers don't have enough to worry about, feeding, clothing, and sheltering our students with our own money has become routine. It is just part of the job. For the past three weeks one of our students has been homeless. A few teachers and myself have spent a great deal of time feeding, sheltering and locating suitable housing for this young man. It has been frustrating, but as always, we have been inspired by his determination to get through this. And once the students do beat the odds and arrive at school safely, what awaits them? Too often they face deplorable physical conditions and severe lack of supplies and resources (yes this does include text books). They face no heat in the winter and no air conditioning in the sweltering warmer months of May and June. School should be a haven and a refuge from the ills of the outside world; instead it is a place where even the presence of metal detectors and too few security guards can only do so much to keep our children safe.

We read daily about the lack of supplies, money and resources in the District of Columbia Public Schools. I am sure this is a story that is repeated in inner city school districts throughout the country, but these stories only scratch the surface. The reality is much worse, in fact tragic. Many classes did not have books until November of this year. Until recently, there was only one copying machine for use by the entire faculty, and now budget cuts have eliminated the repair of that machine. We were often relegated to using a hand-crank, 1950's style ditto machine located in the women's bathroom or expending our own funds to purchase copies of materials at Kinkos or Staples. Most teachers spend an average of $500–700 per year on supplies that are taken for granted in suburban schools through this country. Even the most basic supplies are now elusive . . . pencils, paper . . . what's left? It is impossible to teach effectively without spending our own money.

We are often inundated with news about teachers who have given up . . . burned out . . . who are apathetic . . . who simply do not care. This is not a fitting description of so many of my colleagues at H.D. Woodson. Certainly it does not bespeak the endless hours of work done by teachers who increasingly are being called upon to fill so many abdicated roles in their students lives. It is not an accurate description of Barbara Birchette, the lead teacher of the accelerated charter school at D.H. Woodson, the Acaademy of Finance and Business. She daily and tirelessly performs the job of an army battalion. Nor does it describe Kenneth Friedman, the English teacher to whom students know they can go to be fed and so much more . . . nor Coach Bruce D. Bradford, the swimming coach who continuously teaches his students invaluable life lessons. The names and stories of dedicated teachers are endless. We daily confront multiple obstacles and see them as challenges to be surmounted, while fighting off the temptation to give up. Our reward is our students . . . it certainly is not monetary.

The H.D. Woodson Swim Team placed 2nd in the DCIAA Championship over the past week-end . . . an amazing feat considering that we had no water in the swimming pool this entire season. Due to budget cuts, the necessary pool repairs have not been made. I guess there is nothing like dry land workouts for a swim team. Congress could learn a lot from our Woodson swimmers . . . how to do more with less. The Woodson Warriorsharks epitomize how success in these circumstances is still possible. So many of these students are the most creative, determined and loving people that I have ever met in my life. In spite of the odds, they desperately want to make it, and many miraculously do. In spite of the constant reinforcement of messages, both subliminal and blatant, our society, our government, our country is saying to these children that they are not valued as much, or deserving as much, as our (other) children. It is a race issue. It is a social class issue, and, if not quickly addressed, we will all suffer in the end. For those who think that this is not their problem, I say to you, you can run, but you cannot hide.

For many of my 17-year-old seniors, I am one of the few white people with whom they have had a daily relationship. Their experience with my race has often been either nonexistent, negative or at the very least, confusing. I am constantly faced with the challenge of answering logical questions that have no reasonable answers—at least ones which I find satisfactory as I face into the eyes of these children. Why do white people cross the street and hold their purses close and follow us around stores as if we are all criminals? Why do white people look at us with such anger and fear? Why does our government seem not to care about us? These are good kids growing up in a cruel world. Yet I'll say it again. The story is in the miracle . . . the thirst for knowledge and the will to survive.

I have made a point of exposing my students to my friends and to their jobs as lobbyists, hill-staffers and lawyers in the hopes that stereotypes will be dispelled on both sides . . . they always are. One of the largest voids in these students' lives are contacts and positive exposure to people beyond their immediate community. We all know it's who you know, and by no fault of their own, those connections are just not there. It does not take a congressional study to understand this simple philosophy of how so many of these kids are sent off into the world to complete with those who have been economically and academically advantaged, equipped to succeed. Our students are not born criminals; they are not lazy or stupid. They just want, and so deserve, the same chances that this country is supposed to guarantee all of its citizens. The last thing that they need is to be set back by further budget cuts in education, cuts which would only serve to discourage students and the teachers committed to helping them beat the odds. H.D. Woodson literally survives from the assistance that the Title I Program provides. To cut any further into our resources would be nothing short of criminal. We should be doing everything we can do help them. Too many people ask me why I continue to reach and care about these kids. I respond . . . how can you not?

Mr. LEVIN. Mr. President, I am a proud cosponsor of the pending amendment because I feel that education is so critical to this country's future. The worst thing we can do, the worst thing we can do when we look at budget priorities, is to make the kind of cuts in education programs that are proposed to be made for next fall and for the fiscal year that we are debating. These are the largest cuts in education programs in this Nation's history.

By the way, the same day that we made a $3 billion cut in education programs on an annualized basis, the cuts which were contained in the interim funding bill that we are now operating, $7 billion was added to the defense budget for items not requested by the Pentagon.

Within 2 hours we had two votes in this body. One of the votes passed a continuing resolution, interim funding, with cuts in education programs, cuts in title I programs that provide teachers, for math and science, for most of our school districts, cuts in Head Start programs, cuts in loan programs for colleges, cuts in the School-to-Work Program, which is a new form of vocational training education and is working so beautifully in our high schools; a 17-percent cut we had in the title I program; and a 22-percent cut in school-to-work.

Within 2 hours of that vote, which cut $3 billion in education, which represents the future of this Nation, we adopted a defense authorization bill that added $7 billion for items that the Pentagon did not ask us to add—ships and planes, mainly—and which the President did not request. Those are not the priorities that the people of this Nation want.

The cuts in education are proposed at a time when a recent NBC News/Wall Street Journal public opinion poll says that 92 percent of all Americans believe that the Federal Government should spend the same or more on education; 92 percent of our people do not want us to cut education.

The continuing resolution and the appropriation bill before us now makes historic cuts in education. These are cuts in programs that are working. We are not talking about cuts in programs that are not working. These are cuts in programs that are having a positive impact on the lives of people, according to, I think, all the authorities that I can talk to.

I have traveled around my home State of Michigan for the last month talking to parents, educators, and students. I asked them to talk to me about school-to-work, and to tell me what difference the School-to-Work Program means in their lives. And I am told what that program means in the lives of students.

We finally have a School-to-Work Program where the business community is involved in education. The business community is designing the curricula in the high schools that will provide students with schools that the business community can use.

Finally, we have a true marriage between business and education to provide real-world skills with real-world technologies. What do we do? There is a proposed cut in the School-to-Work Program of 22 percent. This is a program that is working. This is not a program that is floundering, a program that is wasteful.

When you travel around our States—and I can only speak for my State, but I go to school after school after school, from one part of my State to another, just on the School-to-Work Program. Another group of visits was on the title I program. These are programs where the Federal Government is making a positive difference. These are not wasteful programs. This is not where there is waste, fraud, and abuse, where we ought to be active. These are programs where we are making a positive contribution to the lives of students and to the future of this Nation, and it is proposed that we cut these programs by a historic amount of $3 billion, and where the American people have told us in public opinion polls, in our mail, phone calls, and in our visits, that education is a very big priority for them. They believe these programs are making a difference.

These college loan programs are making a difference. Head Start, we know, makes a difference in the lives of students. Only half of the students now eligible for Head Start get Head Start. Only half. That is all the funding that is available. So instead of increasing Head Start, we have an appropriation bill before us which reduces Head Start.

Now, in addition to the huge cuts that this bill would make in education and that our amendment would restore, that the Harkin amendment would restore, we have another problem, which is that the appropriation proposal before us causes local school districts tremendous uncertainty because the proposal before us says that there is a contingency fund, and if that contingency fund is funded, then they are going to get one level of funding, and if it is not funded through some budget agreement between the Congress and the President, then it is not going to be funded.

How do we expect school districts to be budgeting for next fall when we have, as part of their funding level, a contingency fund which nobody has any idea whether or not it is going to be funded? These are administrators of schools. They have responsibilities to people—to our children, in the case of high schools and elementary and intermediate schools, and colleges, in the case of college students. They have responsibilities to plan a budget.

The appropriation bill before us says, well, some of these cuts you are talking about maybe will be restored. If the President and the Congress get together on a budget deal, then there is going to be a higher level of funding, and those $3 billion in cuts you are talking about will not happen. They cannot budget that way. It is not a responsible way to budget. So right now, as they are budgeting for the fall, trying to figure out whether they have to lay off title I teachers, and they are trying to figure out whether they will have to terminate school-to-work programs, this new form of vocational education training, which, as I said before, finally marries the business community with our schools in the most creative kind of partnership, that I have seen in education. We have business people in our schools working together on a curriculum that will provide skills for students that are needed by business.

Mr. President, I have been in room after room with business people and students together in my State of Michigan, where the business people tell me that when these kids complete this course, this School-to-Work Program, when they learn these skills and when their attendance record is what it has to be under this program, and when they do all the things required of them, they will have a job with me. When you look at a room full of kids and when they are told by business people, "When you complete this course in this high school, when you graduate this School-to-Work Program, you have a good-paying job with my company," that is real, and that is happening in the school-to-work world. That is what is proposed for a cut, unless, of course, there is a contingency fund that is funded.

But school districts cannot budget on that basis. They have to figure out now whether or not next fall they are going to have to reduce their School-to-Work Program, or whether they are going to have to lay off title I teachers. These are real budget decisions, and they should not be left up in the air the way this proposal does.

The bill includes significant funding cuts in some of the most proven education programs that we have. As I said, school-to-work initiatives are cut by 22 percent. We ought to be increasing school-to-work. It is a tremendous success. Goals 2000 is reduced by 22 percent; Perkins low-interest college loans is cut 37 percent; State student incentive grants is cut 50 percent; the title I skills program is cut by 10 percent; Head Start is cut by 4 percent; funding is eliminated altogether for the summer jobs program. This program has a direct affect on thousands of young people who otherwise are going to be without work and in the streets. It affects their education because many of these jobs are directly connected to whether or not they are in school or not.

As I have said, Mr. President, my reaction to these cuts is not just based on some philosophical belief that I hold deeply that education is the key to our future. It is based on personal experiences and traveling around my home State of Michigan.

(Mr. KYL assumed the chair.)

Mr. LEVIN. Let me give some examples of some of the comments of the various educators and people relative to these cuts.

Larry Campbell, the superintendent of the St. Joseph County intermediate school district said this:

> It is difficult for me to fathom proposed cuts in Federal education funds for title I, Goals 2000, school-to-work, and safe and drug-free schools. I am deeply distressed at the prospect of losing $265,600 in title I Federal funding for schools in St. Joseph County. This will have a profound affect on our ability to educate children, especially those with the greatest need.

Mrs. Jean Sawaski, the vice president of the Wakefield Township school board of education says:

> I am deeply distressed at the prospect of losing $93,300 in title I Federal funding for schools in Gogebic County. Please consider the impact of these cuts to education.

David Defields, the superintendent, and Mary Stessard, the director of programs and instruction of the Coloma community schools, in a February 15 letter, said to me:

> In Berrien County we are projected to lose $1.1 million in title I funds alone, at a time when teachers have begun to accept the research on how children learn, have invested much time in professional development and are excited about new teaming efforts to get it right the first time. You folks are asking us to cut back and curtail the momentum. It is all very discouraging for educators. Many at-risk students will lose services. We are willing to tighten our belts. However, we hear that on the same day that a budget cut of $3 billion from education funding is proposed, an increase for the defense budget of $7 billion is proposed. Is providing contracts for the defense manufacturers more important than the education of our children?

Mr. Richard van Haaften, superintendent of the North Branch Area School, said:

> I am very concerned about possibly losing $350,000 in title I Federal funding for schools in Lapeer County. A loss of revenue of this magnitude will have a significant impact on our ability to educate children with the greatest need.

Marilyn Phillips, Principal of Beetle Lake Elementary School in Battle Creek, talks about real children where title I has made a difference in their lives. She says:

> I wish you could see how title I funds have helped so many students in our school. We have an excellent early intervention program for our kindergarten, first- and second-grade students which will have to be curtailed if you reduce funding for next year. For instance, Caitlin, a first-grader who was not succeeding in kindergarten, is now a fluent reader in the first grade because of the extra help given her through title I funding. Adam, Travis, and Mark, and so many others have been helped, too. Won't you please think about the importance of good education for this generation of children?
>
> Won't you please think about the importance of a good education for this generation of children?

Superintendent of the Detroit Public Schools, Dave Snead, told me:

> The elimination of the Summer Youth Program is short-sighted and sacrifices our ability to teach skills related to the work ethic, economic independence, and self-sufficiency. Reduction of funding for Head Start, Title I, School-To-Work, and Safe and Drug-Free Schools shortchanges students most in need of assistance. The proposed cuts must not stand.

Well, if these cuts do become law—and, if we do not correct them through the pending amendment—our Nation is going to face the largest cut in education funding in our history. Over $3 billion will have been taken from America's schoolchildren, and the loss of the investment in their futures will have harmed us all.

So, Mr. President, President Clinton has said he will not sign this bill in its present form. And he should not. But it should not get to him in its present form. The Senate should adopt the pending amendment which should restore educational funding to at least last year's level, and we should not rob our children of their future, which is what we do when we cut education programs which are working.

I want to close with that thought because a lot of us in this body have gone after programs which do not work. We spend a lot of time trying to reduce programs which should either be eliminated or be reduced. That is true of many programs. And that is the responsibility which we have, and which some of us have tried to carry out. But these programs work, and we have to make a distinction between programs which work and programs which do not. When we have a title I program which is working, when we have school-to-work, and vocational education programs that are working, Head Start programs that are working, we should be finding ways to increase the availability of these programs.

We should be making college more available to students—not less. We are in the midst—and have been for about 20 years—of a real economic crunch on the average American family. It is something which we have been concerned about and have tried to turn around for a long time. We know that there is a direct relationship between how much education you have and what your lifetime earnings are going to be. It may not be true in every case. But it is true in most cases. The more education that you have the greater the likelihood is that you are going to have a better income for your whole life. We know it statistically. And what we also know is that the relationship is closer than it has ever been. To put it another way, the gap in income between those that have education and those that do not is growing.

When we are in a situation—I think it is a deeply troubling situation—when that average American family has seen stagnation in its income, when that average American family is working longer hours, because they are, or more hours put in per family to earn either the same amount, or less, in real terms after inflation and after taxes, it seems to me that we have to look for ways that we can turn that around where we can again see real growth in family incomes.

One of the ways to do that—and there are many—but one of the ways to do it is a proven way of increasing educational opportunities for the breadwinners of those families. We know it as certain as we are standing here; that, if we can increase educational opportunities for people, there is a strong likelihood—not a 100 percent likelihood but a strong likelihood—that they will be better off economically through their lifetime. Knowing that, why in Heaven's name we would be proposing historic cuts in education programs is beyond me. When we are struggling to find ways to improve family income to finally get it back into a growth mode, under this a appropriations bill—unless it is amended—we would be making reductions in one of the ways that we can be enhancing family income.

Our families are not only working longer hours, they are more productive than they have ever been. Our productivity as a people has gone up dramatically.

So the families of America are working more hours, are more productive than ever, and yet family income is stagnant. Median family income in America has actually gone down over the last 20 years. It is a situation which has troubling—indeed, tragic—overtones. And what we must do is continue to seek ways that we can reverse that situation. We must look for ways to improve the standard of living of average American families. And the worst thing we can do—the last thing we ought to do—is to be cutting the education programs which can help families, and help future families earn more.

So I hope that we will be adopting the amendment before us. I hope that we will restore not just in a contingent way, or in a hypothetical or possibly a theoretical way but that we will actually restore funds which have been cut from some very vital education programs.

I again am proud to be a cosponsor of the pending amendment and hope that it passes with an overwhelming vote of the Senate.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my capacity as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, I have been struggling to meet the requirements of these three important departments in a way to present on the floor of the Senate a bill which can pass and will be signed by the President. There is an open question as to whether there can be passage of a bill by the Senate on a 51 majority vote on the declaration of an emergency without having offsets so that we reach the objective of a balanced budget, which is the objective articulated by the Congress as well as the President.

It has been this search for offsets which has occupied me for many weeks up to this instant. This morning I was on the phone trying to reach Chief of Staff Leon Panetta, with whom I have talked about these offsets again and again and again. We are still struggling to find those offsets, because if we do not find those offsets there is a real threat that there will be a stalemate again between the Congress and the President which will lead to a closing of the Government, which I think has been cataclysmic and would be even more so if it happened again.

That is not something I am saying for the first time in this Chamber, on March 12, today. I said that back on November 14, on the second day of the first closing of the Government because of my view that if we are going to have political gridlock, we ought to find a way to carry forward and crystallize the issue for the November elections and then take it to the American people as to whether they prefer the approach of the Congress or prefer the approach of the administration.

So as we have had these continuing resolutions late last year and again early this year, I have been talking to the administration's chief negotiator, Mr. Panetta, to try to find out the offsets. I wrote to Mr. Panetta back on February 20 of this year. I will read the first paragraph.

> DEAR LEON: I called again this morning to try to find out from you the possible offsets to add approximately $3.3 billion for appropriations for my subcommittee on Labor, Health and Human Services and Education. As you know, when we talked the week before last you expected to be able to identify those offsets by last Tuesday. When I caught up with you on Friday, you thought the offsets could at least be identified by today.

We had scheduled a hearing for the three Secretaries for February 21, which was deferred in the absence of those offsets, and we finally had those hearings trying to get the priorities from those top administration officials a week ago today, on March 5. I had actually gone to Wilkes-Barre, PA, on February 16 in the hope that I would see Mr. Panetta. I could not reach him on the phone. He was traveling with the President. I got to Wilkes-Barre, PA, when the President was scheduled to inspect flood damage with a number of Pennsylvania officials from the Pennsylvania congressional delegation and the Governor. I found Mr. Panetta was not there, so I had a chance to talk to the President about this issue.

President Clinton said to me that he had discussed this offset question with Mr. Panetta and that offsets had been identified. I asked the President what they were, and he did not have the specifics at that time. But we are still in search of those offsets.

The bill which passed the Appropriations Committee provided an additional $3.3 billion for these three departments. The amendment which has been offered by Senator DASCHLE reduces that figure and calls for additions of $3,098,637,000. In working with Senator HARKIN, who is the ranking Democrat on this subcommittee, in what was virtually an all-night session—Bettilou Taylor nods in the affirmative—we have been able to come up with offsets of $2,634,239,000. And in my efforts to reach Mr. Panetta again this morning, talking to Miss Barbara Chow of his office, talking about offsets perhaps from extending current fees of the Nuclear Regulatory Commission, there is a question as to whether that fits into this year or not.

When my colleagues from the other side of the aisle have been talking about the importance of education, I will not take a back seat on education funding to anybody in this Chamber or anybody in this Congress or anybody in this country. The education issue was very heavily stressed in the Specter family when I was growing up because my parents had so little of it. Both immigrants, my mother only went to school through to the eighth grade; my father had no formal education; but my brother, my two sisters and I have been able to share in the American dream because of educational opportunity. And I am determined to see that for America today and for America tomorrow.

There is another public policy consideration. Equality is in the eye of the beholder in how we get there. And that is the commitment which the Congress has made to a balanced budget, which the President has agreed to. That is why we are searching for these offsets. When comments are made about grandchildren, I concur totally on educational opportunity. But I am also concerned about not paying our bills that we run up on a credit card today, as we have for so many, many years with a national debt which exceeds $5 trillion and annual deficits which exceed $200 billion. So that is what we are struggling to do.

Comments were made about summer jobs. One of the Senators on the other side of the aisle said that he talked with the assistant district attorney in Boston who pointed out that crime increased when school closed. I do not know why you have to talk to anybody special to find that out. I was an assistant district attorney many years ago. The city of Philadelphia has a lot of similarities to Boston. And I saw that when school was out crime went up, and I did not have to find that out that particular summer. It was the summer of 1960 when I saw that.

I have been as concerned as my colleagues on both sides of the aisle about summer jobs, and the add-backs which are in the committee report provide for $635 million for summer youth jobs, which is what President Clinton had asked for in the add-back request.

When there is talk about the importance of school-to-work by my colleagues on the other side of the aisle, I agree with that, too, and we have added back in the bill currently pending from the committee $182 million for school-to-work programs, which is the President's request.

When you talk about the vital factor of title I compensatory education, again we have met the President's request on the add-backs putting in $1,278,887,000 billion.

So that we are struggling to find enough money in offsets which will enable us to proceed, to maintain the objective of a balanced budget by having offsets. It is something which Leon Panetta is committed to do, searching for offsets. I repeat the quotation of the President when I talked to him in Wilkes-Barre on February 16 that there were offsets and we are still trying to identify them. And this business about an emergency, if that is sufficient to avoid a 61-vote determination, that all anybody has to do in any amendment which is offered by any Senator is to say it is an emergency situation.

The logic is that if it is determined to be an emergency by the President and by the Congress, then that is an emergency and it is an exception to the Budget Act. But the question remains as to what kind of a vote it is which determines whether there is such an emergency.

There are extensive parliamentary considerations as to the ruling of the Chair and overturning the ruling of the Chair by a majority vote, and I would like to see us not engage in that kind of parliamentary maneuvering. I would also not like to see us engage in jeopardizing portions of this bill which provide for emergency relief for the terrible floods which ravaged my State of Pennsylvania and many, many other States.

That is why I am hopeful that we can come to terms and find the necessary offsets so that we maintain the commitments which I think, realistically stated, remain on both sides of the aisle to balance the budget and not to undercut that, but where we do add to education and summer jobs and school-to-work programs, programs that I totally subscribe to, that we do so in a way which comports with our responsibility on a balanced budget and meets that with offsets.

At this point, I am going to continue my work on the offsets. That concludes the essence of what I have to say. I know of no other Senator seeking recognition, Mr. President, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I come here as an original cosponsor of the

Daschle-Harkin education amendment. With this amendment, we have the opportunity to answer a daunting question for school administrators, teachers and parents across the country: How much does this Congress value education?

With this amendment, we can make the right choice. By passing it, we can prove to our children and their teachers that Congress will back up its words extolling the virtues of a good education with actions that will provide a good education.

This amendment does not represent empty promises. It brings education funding back to last year's level and is paid for with real spending cuts, not with the fund contingent on some uncertain future event.

Last week, the Appropriations Subcommittee for the Departments of Labor, Health and Human Services, and Education heard from the Secretaries of these agencies. As a member of that subcommittee, I was stunned by the extent that education and job training programs have been hampered by the sharp cuts in the current continuing resolution and by disruptive Government shutdowns.

Despite these warnings, the Appropriations Committee reported a new continuing resolution containing over $3 billion in cuts to education and job training resources. My own State of Wisconsin will be hit with a $20 million cut in education, including almost $1.5 million less for Goals 2000, $2 million in vocational education cuts, $4.5 million in cuts to the Safe and Drug-Free Schools Program, and a debilitating $12 million cut in title I, which is the money that goes to our most disadvantaged young students.

Supporters of this continuing resolution will argue that there is over $3 billion in education money provided, contingent upon Congress passing entitlement reform. Mr. President, school administrators cannot bank on some unknown budget breakthrough that may happen in 2 or 3 weeks or perhaps not even at all. I hope we do get a breakthrough on a budget deal, but these school officials need to make budget decisions for the coming school year right now.

Let us present our school officials, our parents and their children with real solutions and not illusions. Our amendment takes the education priorities identified under the contingency account and pays for them right now. Real offsets are provided for real restorations in the title I program, school to work, drug-free schools, Goals 2000, higher education and Head Start.

Mr. President, no one believes that balancing the budget is easy, but people do question the priorities of the 104th Congress. People do question why the Pentagon was given $7 billion in spending it did not even ask for or need when, in fact, education is slated for huge cuts. People do question why we would shortchange education when noncontroversial offsets exist to pay for continuing funding at last year's level.

I am a strong advocate of balancing the budget. To get to that goal, I know we have to consider cuts in programs that we all support, and I am willing to do so in every area, except in core education programs.

Reducing our spending on education is perhaps the most unbalanced and unfair act that this Congress can take. We have already saddled our children with Government debt topping $5 trillion. It is unconscionable at the same time to take away the tools that will allow them to earn money to pay off that debt.

When I ran my own business, Mr. President, the people I hired were the best people with the best education. What was true for our chain of stores at that time is true in the national and international marketplaces as well. Study after study has shown that the wages and quality of life of workers are directly related to their educational achievement. In the international economic arena, the country with the best educated work force will inevitably get the high-paying, high-technology jobs in the future.

To leave the next generation with huge debts is disgraceful. To leave them with an education deficit as well, I believe, is criminal. Skimping on education funding runs counter to almost every stated goal of this Congress. How can we reach a sustained balanced budget without giving the next generation the tools that they need to grow the economy? How can we reform welfare into a work program without giving our young people the skills they need to get and hold good jobs? How can we address the income disparity in our country if we deny students the quality education that will allow them to improve their standard of living?

I believe that our choice today is stark. We want to give our children the education they need to keep this country's economy healthy and to keep their standard of living decent. I hope that the Senate will make the right choice—to choose the future and pass the Harkin education amendment. Thank you, Mr. President.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, while the distinguished Senator from Wisconsin is on the floor, I would appreciate it if he would be willing to have an exchange of views and respond to a question or two on some of the statements which he just made.

Mr. KOHL. Go right ahead.

Mr. SPECTER. At the outset, I express my admiration for the work that the Senator has done. We have worked very closely together on a number of committees, including the Terrorism Subcommittee. I note his comments and concern, which I have heard before, about the balanced budget.

When the Senator says that there are offsets, it is my analysis, backed by staff, that the amendment offered by Senator DASCHLE does not have offsets for the full amount of $3,098,637,000. In the efforts which Senator HARKIN and I have made to try to find offsets, we have come to a figure of $2,634,239,000.

There is, in Senator DASCHLE's amendment, a provision for a declaration of emergency which seeks to take this amendment out of the provisions of the Budget Act requiring 60 votes. A concern that I have is that we will structure a bill here which will not be acceptable to both the Congress and the President.

We will have another closure of the Government if we send to the House of Representatives a bill which is based on the emergency determination without offsets. I think it is not highly probable—it is virtually certain it will be rejected and we are not going to have this issue resolved. I very much lament the fact that we are here on March 12, looking at a March 15 deadline.

I have spoken earlier, before the Senator came to the floor, about the efforts I had made with Mr. Panetta in trying to get this matter resolved earlier, and calls going back over several months, and referencing a letter I had written him about that. So that, if faced between the choice on finding hard budget offsets which come to, say, roughly $2.63 billion, what would the Senator's response to that be, contrasted with the pending amendment?

Mr. KOHL. Yes. It is my understanding that the offsets for the education amendment are not controversial and they were agreed upon during previous budget negotiations and have been scored by the CBO. What I have is $1,359,000,000 from the privatization of the uranium enrichment offset, $1,320,000,000 from extending the NRC commission fees, and $292 million from the sale of the strategic petroleum reserve.

So those are the offsets that have been agreed upon and have been scored. So I am satisfied and comfortable that we are not only adding back, as you point out, over $3 billion in education funding, but we are also providing an equivalent amount of cuts.

Mr. SPECTER. The facts that I have differ to some extent of significance. What we have come to in offsets of $2,634,000,000 is $1.3 billion, where I agree, as to the sale of the Uranium Enrichment Corporation. Then there is $292 million from the sale of oil from the strategic petroleum account and $526 million from the FAA rescission, $159 million of unobligated balances from Pell grants, and $166 million from unused budget authority in the committee allocation, $200 million in year-round youth training, which is back to the fiscal year 1995 level, and $25 million from the unemployed trust fund.

I think it is useful to talk about these in specifics so that our colleagues who may be watching will have some of the specifics. But with respect to the Nuclear Regulatory Commission, I had thought when I called Mr. Panetta this morning and finally talked to Ms. Barbara Chow—and she brought up the subject—that would be more than enough, $1.3 billion. But there are no savings from that account until 1999. I think that is why Senator DASCHLE has inserted in this amendment the emergency provision, which he hopes will take his amendment out of the limitations of the Budget Act.

So, I guess my question would be, or the point of discussion really, not so much a question, but debate as a dialog on where we are heading here, that if those offsets do not exceed $2.634 billion, you do not really get the $3.09 billion that Senator DASCHLE wants. And we look to send a bill to the House of Representatives which will be tough enough to get if there are hard offsets.

What would Senator KOHL's response be?

Mr. KOHL. Well, I think that we are debating whether or not the offsets that I have offered are legitimate. I think for the most part they are. They are legitimate, I think, to the extent that we are missing, perhaps, just a relatively small portion to get to $3.1 billion. I think we need to work a little harder to get there, because it is a question of priorities.

If we do not feel the priority, then we will not find it. You never do. You have to feel the priority, or those of us who feel strongly about it feel strongly enough so that we feel we have to fund those offsets so that we can in fact make this priority one of educational needs a reality and not find a way to not accomplish it.

Mr. SPECTER. Mr. President, I agree totally——

Mr. KOHL. I did offer, as I say, something like $3 billion, very close to $3 billion, in cuts that have been debated and agreed upon. This Uranium Enrichment Corporation cut from extending the Nuclear Regulatory Commission fees, and the $292 billion from the sale of the strategic petroleum reserve, this totals up to $3 billion, very close to the $3.1 billion we are talking about in terms of education.

Mr. SPECTER. The problem is the $1.3 billion from the Nuclear Regulatory Commission is not realizable until the year 1999. But I agree with what Senator KOHL said about working hard to try to find them. But if we do not find them, I do not believe it is realistic to send to the House legislation which is based upon anything but hard cuts which come within the timeframe that we are talking about here.

I thank my colleague for engaging in this discussion.

Mr. KOHL. I thank my colleague.

Mr. KERRY. Mr. President, if I could just pick up where the colloquy between the Senator from Wisconsin and Pennsylvania left off, I would like to emphasize what I think is the most important point, which is that over the 7-year period there is a sufficient offset. The Senator from Pennsylvania is correct that you do not get it every single year and you do not have it necessarily in the up front, but we are talking about a 7-year budget, and over that 7-year budget there is a sufficient offset.

Now, if there is not, assume for the purposes of argument there is not, my question to the Republicans is: Are we going to offer that as a show stopper, or are they prepared to put the money where their rhetoric is and, in fact, fund education to the level that it ought to be in this country?

Now, if there are not sufficient offsets, are we being told by the Republicans that out of a $1.5 trillion budget, $1.3 trillion or so of which is actually revenue funded, we cannot find a sufficient amount of money to guarantee that the disadvantaged school communities in this country will get funded? That Head Start will be funded? That school to work is going to be funded? That summer jobs are going to be funded?

Look, this is a statement about priorities. There has been no trouble funding the B-2 bomber in the year 1996; there has been no trouble funding the freedom-to-farm bill, which finds an extraordinary amount of money being given away to the mining interests in this country, extraordinary amount of money being given away to the timber industry, extraordinary amount of money being given away to people to not grow crops. So we are going to pay people in America not to grow a crop, but we are not going to pay people in America to grow a child? Unbelievable choice of priorities. Unbelievable choice of priorities. Pay people not to grow something out of the ground, but do not pay for this kid that is already alive that needs Head Start, hot lunches, or decent education? That is the choice on the floor of the U.S. Senate.

The Senator from Tennessee, Senator THOMPSON, the Senator from Arizona, Senator MCCAIN, Senator FEINGOLD, and I were able to identify 60 billion dollars' worth of cuts that we thought were pretty reasonable that we could come to. Now everybody here will agree they are reasonable, but it certainly is fairly indicative of something, that the Senator from Arizona, a Republican, the Senator from Tennessee, a Republican, two divergent areas of the country for Democrats, the State of Wisconsin and Massachusetts, could all agree on 60 billion dollars' worth of cuts.

What kind of things did we find? We found the closing of the Uniformed Services of the University of Health Sciences, increasing the burdening sharing of the Republic of Korea, terminating the advanced neutron project, consolidating and downsizing overseas broadcasting by capping our funding to Radio Free Europe to perhaps only $75 million per year, putting other fiscal restraints on it, eliminating certain travel authorizations, reducing some of our export enhancement program for corporations that make millions of dollars.

We have people in the U.S. Senate who a few weeks ago voted to continue to fund extraordinary amounts of money to multimillion-dollar corporations making a profit, to help them sell their products overseas. How do you balance the equities of funding a profitmaking American corporation to sell its product overseas but not fund a nonprofitmaking entity that is trying to raise our kids for the future here in this country? I think the choice is very, very clear.

I said yesterday in my comments on the floor and I repeat again, obviously money is not the whole solution. We all understand that. Clearly, we need reform in our school systems. We need testing. We need to know when a student gets a diploma they can actually find the Capital of the United States on a map or recite the basics of American history, or do basic math. Regrettably, we have people in America who are content to pass kids on from one grade to the other without even an assurance that they can do that. That is disgraceful. That ought to change. A large part of that is a matter of personal accountability within the school system. But there is not any one of us who has not traveled to school systems in our States where they do not have computers, where they are not wired to the network, where they do not have state-of-the-art laboratories for science, where they do not have language laboratories, where they do not have modern reference books for their libraries, where their libraries do not even stay open, where the whole school shuts at 2:30 in the afternoon.

Mr. President, it seems to me that if we are going to talk about values in the United States of America we ought to start living them here on the floor of the U.S. Senate in our votes. This is a value-oriented vote.

What is extraordinary to me in this measure is that children in the United States are being held hostage to the whole budget process. This is a game that is being played; one more political game. What is the game? The game is that all of this money that is being talked about as an add-back is not an add-back at all. It is a contingency. It is going to be there if something else happens. It is not going to be there because we think our kids need it. It is not going to be there because it absolutely ought to be there, and schools ought to be able to plan on what they will spend next year. It will be part of the great political game in Washington because the section in the bill that does the add-backs, section 4002, says none of this money can be spent, even if we pass this today, unless there is a future agreement that is passed between the President and the Congress regarding all of the fiscal years of the budget agreement.

In other words, we could pass this today and some people can go home and say, "Aren't I terrific, because we just added back money to education," but it will not be added back at all unless Medicare is cut, Medicaid is cut, taxes are cut to the level that the House of Representatives is currently holding everybody hostage to. That is not serious legislating, Mr. President.

What we have done is offer an amendment that is real, that offers real money, that brings us back not to the level that many of us in the U.S. Senate think we ought to be back to with respect to spending on education, but at least gets us back to hold us harmless from last year.

It is a tragedy that in the United States of America, recognizing what is happening to our workers, recognizing what is happening to the whole workplace where people's ability to be able to get ahead is tied to their ability to get an education, where countless numbers of our workers now are the victims of the downsizing and of this new information age that we live in, where people are working harder and harder and harder just to pay the bills and to make ends meet, here we are debating add-backs that do not even get us to last year's level of commitment to education. It is astonishing, absolutely astonishing.

There is not an educator in America who will not document the need to have sufficient basic skills to be able to move into the information world. All of us are on the floor constantly talking about the virtues of technology. You look at the entire history of this country from World War II, 75-plus percent of the productivity increases in America since World War II have come from advances in technology. Every one of us understands that in order to continue to compete to advance our productivity we will continue to diminish the labor of human hands in the workplace.

Now, if we are going to increase that labor with respect to services or with respect to the new technologies, people have to have the skill level. Mr. President, they are not getting it in our school system in America today sufficiently. They could. Let me share quickly an experience from a school in Boston. This came to me from the principal of the school, Thomas Gardner School. He wrote and said,

> The staff and the parents of the Thomas Gardner School were devastated to learn recently that the title I funding for 1996/1997 school year will be taken away as a result of Federal funding cuts. After working so diligently in implementing an Inclusion Program at the school and receiving the Boston School Improvement Award in the Fall of 1995 for being the second most improved school in the city, it is a rude and sad awakening to all of us that with the loss of our Title I Grant, our efforts to establish a superior educational environment may have been in vain.
>
> Without the $213,000 that we received this year from Title I, two full-time and one part-time teacher will not be with us next year. The loss of these teachers will result in our having to relinquish the Inclusion Program which has been so successful and return to the traditional classroom setting. This will seriously disturb our school climate, ultimately reducing our students' self-esteem which we at the Gardner School have worked so hard to increase. This will also gravely affect the students in our Bilingual Program because we are losing both a literacy and an English as a Second Language teacher. Not only will the students suffer with the loss of the program but this will also cause low morale amongst the staff. Since my announcement of this tremendous loss of money, I can already see that there is an air of dismay and anxiety in the building because a number of staff members are wondering if they are going to be displaced. This affects teaching and learning because it breaks the spirit of the school community—the teachers, the parents and the students.
>
> Our new computer system, which was funded by Title I money, helped us accomplish a very difficult task during the 1994/1995 school year. During that year there was a significant rise in the Metropolitan Achievement Reading/Math Percentile test scores. With this success, we planned to move forward with Title I money so that every classroom at the Gardner School would have Computer Assisted Instruction next year.
>
> The teachers and parents of the Gardner School and the other 22 Boston schools which stand to lose a total of 3.5 million dollars in Title I funding next year, strongly protest the insensitive and unjustifiable cuts in Title I funding proposed by Congress.

Mr. President, that is one example. I know that can be replicated in schools all across this country. But what really leaps out at me here, above all, is this contradiction: "During that year, there was a significant rise in the Metropolitan Achievement Reading/Math Percentile test scores."

That is what we are trying to achieve, what we are talking about, what we are struggling about. They had planned to put it in every classroom. That is what we are talking about. Every classroom in America ought to have this. We ought to want to do that before we build the next bomber, before we put out the next set of missile systems, or whatever it is. We ought to want every classroom in this country—and we ought to make a commitment—to have that computer capacity. We know it is more than just computers. It is guidance counselors, books, the whole atmosphere of the school, its safety, its drug-free schools. Why are we cutting drug-free safe schools by 57 percent? That was the original effort. Now the Senator will come back and say we are going to add back that money. As I pointed out, it is not a real add-back, unless we get all the other cuts that will come with the rest of the budget agreement. So we are holding children and the education goals of this country hostage to the politics of Washington. They do not come first; the politics are coming first.

Let me share another quick letter. This is from the mayor of the city of Boston:

> I am writing to alert you to an urgent situation facing economically disadvantaged youth next summer—the elimination of the Federally-funded summer jobs program for 1996.
>
> As you may know, funding for the Summer Youth Employment and Training Program was eliminated in both the Senate and House appropriations bills for 1996—

Why would we eliminate them? What is it that sets a priority in the first place to eliminate this? Why is our time being consumed to come back here and have to struggle to put back into a bill money for summer jobs for youth? What U.S. Senator believes that kids are better off wandering around the streets of our country in the dead of night in the summer because they have not had a constructive day? Who believes that? Why was it taken out in the first place? Why are we struggling to do that here at the last moment?

Well, maybe it ties everybody up and it ties up the energy of the Senate. But it is surely not a great statement about the priorities of this country. The mayor writes:

> In Boston, as across the nation, the JTPA IIB program provides constructive activities for young people and keeps them from idling in the streets during the hot summer months. Through the program, thousands of young people gain work experience, build academic and employment skills, and earn money through service at neighborhood-based community organizations and downtown government agencies.
>
> The program also includes specialized units emphasizing life skills, academics and the arts, and tailored efforts for young people with special needs, including employment for deaf/hard of hearing youth; English as a Second Language instruction for refugee/immigrant youth; and counseling for court-involved youth.

Mr. President, we have a provision in our Tax Code that encourages companies to take a deferral and reduce their taxes for moving their jobs overseas. Here we are fighting to put back money at the expense of that program so kids right here at home can have a job during the summer. That is a pretty fundamental choice.

Let me share one last example of what is at stake here. This information comes to me from New Bedford, MA, one of the highest unemployment sectors of Massachusetts, perennially, which has been hard-hit now by the loss of industrial jobs and jobs in the fishing industry.

There is a program there that started, a Head Start program in New Bedford. It has been about a year going on.

It actually has a two-part program called People Acting in Community Endeavors. In 1994, because of the capacity to do this inexpensively and keep the administrative costs down and run a whole program, they bought a building, in order to create a second outreach program of Head Start for kids who need it. And 294 children are participating in the New Bedford Head Start program as of a year and a half ago. That program provides nutrition and educational services to a multicultural community. Now we learn, according to the budget cuts that have been proposed here, that there will be a 50-percent reduction in that funding, which adds to their now $6.5 million debt and to other cuts in the CDBG title I. So you are not only going to wind up laying off teachers, you are going to wind up cutting the program.

Mr. President, it just does not make sense. I know there are colleagues of mine on the other side of the aisle, like the Senator from Vermont, Senator JEFFORDS, and others, like the Senator from New Hampshire in the chair, who care enormously about education, who are committed to this. I do not think that the U.S. Senate should have that hard a time finding a way, out of this $1.5 trillion budget, to guarantee that we provide what is needed, not what we sort of want to find to provide, but what the country desperately needs in order to be able to provide structure for these kids. We cannot just come to the floor of the U.S. Senate and be bombastic about illegitimacy, births out of wedlock, and run around saying how the values of the country are imploding and then forget that the three great teachers of values are the schools, parents, and religion.

There are too many kids today who grow up without contact with any one of those. It is no wonder that we have sociopaths raised in this country who are prepared to shoot another human being just to wear their Levi jacket or their Reebok sneakers. If we are going to be real in our talk about how you inculcate values into young human beings, let us recognize the lessons of what taught all of us.

Let us affirm some structure in those children's lives. Let us somehow find a way in the Senate to guarantee that the 36 percent of all the kids in America who are born out of wedlock are going to somehow find some teacher in their life, a mentor, one-on-one, some outreach, some affirmation that will give them an opportunity to believe that they too can make it in this country because, if we do not do that, it is an absolute certainty that we will continue to fill our jails, our substance abuse programs, our shelters, and we will continue to bemoan the loss of the country that all of us care about and want to have.

That is what is at stake in this debate. That is what this amendment is about. And I hope we can find it in ourselves to strip away the politics, to strip away the sort of the scorecard, if you will, of who wins and loses. We all win. We all win. Most importantly, the children of America will win, if we can find a way to sufficiently guarantee the resources for our education system are adequate. I hope we are going to do that today.

Mr. President, I ask unanimous consent that the two letters I used be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOSTON PUBLIC SCHOOLS,
THOMAS GARDNER SCHOOL,
Allston, MA, March 12, 1996.

The staff and the parents of the Thomas Gardner School were devastated to learn recently that the Title 1 funding for the 1996/1997 school year will be taken away as a result of federal funding cuts. After working so diligently in implementing an Inclusion Program at the school and receiving the Boston School Improvement Award in the Fall of 1995 for being the second most improved school in the city, it is a rude and sad awakening to all of us that with the loss of our Title I Grant, our efforts to establish a superior educational environment may have been in vain.

Without the $213,000 that we received this year from Title I, two full-time and one part-time teacher will not be with us next year. The loss of these teachers will result in our having to relinquish the Inclusion Program which has been so successful and return to the traditional classroom setting. This will seriously disturb our school climate, ultimately reducing our students' self-esteem which we at the Gardner School have worked so hard to increase. This will also gravely affect the students in our Bilingual Program because we are losing both a literacy and an English as a Second Language teacher. Not only will the students suffer with the loss of the program but this will also cause low morale amongst the staff. Since my announcement of this tremendous loss of money, I can already see that there is an air of dismay and anxiety in the building because a number of staff members are wondering if they are going to be displaced. This affects teaching and learning because it breaks the spirit of the school community—the teachers, the parents and the students.

Our new computer system, which was funded by Title I money, helped us accomplish a very difficult task during the 1994/1995 school year. During that year there was a significant rise in the Metropolitan Achievement Reading/Math Percentile test scores. With this success, we planned to move forward with Title I money so that every classroom at the Gardner School would have Computer Assisted Instruction next year.

The teachers and parents of the Gardner School and the other 22 Boston schools which stand to lose a total of 3.5 million dollars in Title 1 funding next year, strongly protest the insensitive and unjustifiable cuts in Title I funding proposed by Congress. We urge everyone who agrees that funding for education is the most valuable investment we can make today to join our protest.

CATALINA B. MONTES, Ed. D.,
Principal.

BOSTON CITY HALL,
Boston, MA, December 14, 1995.

Hon. JOHN F. KERRY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KERRY: I am writing to alert you to an urgent situation facing economically disadvantaged youth next summer—the elimination of the federally-funded summer jobs program for 1996.

As you may know, funding for the Summer Youth Employment & Training Program (JTPA-IIB) was eliminated in both the Senate and House Appropriations Bills for 1996, while the new workforce development legislation will go into effect at the earliest on June 1st, 1997. This situation leaves the summer program unfunded in 1996.

Your strong support has helped counter efforts to reduce and eliminate the summer youth program in the past, and again your help is needed to preserve this important opportunity for young people.

In Boston, as across the nation, the JTPA IIB program provides constructive activities for young people and keeps them from idling in the streets during the hot summer months. Through the program, thousands of young people gain work experience, build academic and employment skills, and earn money through service at neighborhood-based community organizations and downtown government agencies.

The program also includes specialized units emphasizing life skills, academics and the arts, and tailored efforts for young people with special needs, including employment for deaf/hard of hearing youth; English as A Second Language instruction for refugee-immigrant youth; and counseling for court-involved youth.

Operated by Action for Boston Community Development, Inc. over the past three decades, the program has provided thousands of low-income youth with their first work experiences and has strengthened hundreds of community-based organizations throughout our neighborhoods. Over the past few years, the integration of education into the program has reinforced the connection between school and work that has been missing from the academic experience of so many of our young people.

As the budget reconciliation process goes forward, please support the restoration of the summer jobs program for 1996. Thank you for your efforts on behalf of the young people in our communities who need and deserve a chance to work and learn during the summer.

Sincerely,

THOMAS M. MENINO,
Mayor of Boston.

Mr. DODD. Mr. President, I rise today in strong support of this amendment to increase real education funding for our Nation's children.

Over the past year, this Congress has eliminated billions of dollars for educating America's young people. And this CR would continue that process by slashing $3 billion from vital education programs. This moves us toward the single largest cut in education spending in our Nation's history.

And, there are real children behind these cuts: $137 million would be slashed from Head Start, affecting more than 20,000 3- and 4-year-olds; $679 million would be cut from math and reading programs, affecting 700,000 children; $266 million cut from the Safe and Drug-Free School Program; affecting 23 million kids.

And all funding for summer youth jobs would be cut, leaving half a million American teenagers with nothing to do this summer.

In my State of Connecticut, $9 million in Federal education funding will be lost. And most of those cuts come in the title I program, which provides remedial education for thousands of Connecticut's poorest and most disadvantaged children.

These cuts make it near impossible for schools and colleges across this country to plan ahead.

School districts do not know how many new teachers or new aides to hire. Educators are faced with appalling choices—which programs and what children will receive meager Federal benefits.

And all this comes at a time when public schools are making real progress in solving the myriad problems that face them; at a time when a good education is more essential than ever to guarantee our children the ability to compete in the global economy.

But instead of increasing funding, or at the least, maintaining current levels, this Congress is intent on pulling the rug out from underneath America's children.

This CR would wreak severe havoc on America's schools, on America's education programs, and most of all on America's children.

This is no way to run the Government and this is no way to balance the budget.

CUTS ARE NOT BACKED UP WITH REAL MONEY

To add insult to injury, while the majority party claims they are adding back funds for education, there is little real money in these appropriations.

These add backs are conditional on the Congress and the President agreeing on future cuts in Medicare and Medicaid and other essential programs; the same cuts that we haven't been able to agree upon over the past year.

So the only way we could increase money for education is by taking desperately needed funds away from America's most vulnerable citizens, the elderly and children. It is like robbing Peter to pay Paul and it is unacceptable.

This is the ultimate example of smoke and mirrors. The Republicans go to the voters and say "We're serious about education," when in fact they provide hardly any real money to fund Federal education programs.

The Democratic amendment proposes real offsets and real spending cuts that would allow Congress to maintain its commitment to education.

This is the real way to balance a budget, by matching spending increases with real spending cuts.

THE GOP BALANCED BUDGET STRATEGY

To be honest, I have given up trying to understand the rationale of the majority party's budget cutting strategy.

First, they shut the Government down, costing the taxpayers over a billion dollars.

Then they continue this dangerous and chaotic policy of haphazardly passing CR after CR, all of which cut desperately needed funds for education, technology and crime programs, the environment, and the list goes on and on.

Now, realizing the folly of their ways, realizing that the American people don't want these draconian spending cuts, realizing that they cannot blackmail President Clinton into accepting their demands, the majority party proposes to restore a fraction of education funding—that is conditional on cutting money for essential programs that serve America's youngest and oldest citizens.

This is a foolhardy and dangerous approach, particularly in the face of earlier budget agreements, passed in a bipartisan manner, to protect education as a national priority.

All Americans can agree on the enormous importance of education for the future of our children, our families, and our country.

In fact, a recent Gallup Poll showed 75 percent of Americans support expanding Federal aid for education.

We must draw a line against these cuts in education and give our children the educational opportunity they need to succeed.

Mr. KERREY. Mr. President, I rise as a cosponsor of the Daschle-Harkin amendment. This amendment adds back $3.1 billion for vital education programs such as title I, Head Start, School-to-Work, and Education Technology.

I have often said that children will do as we do and not as we say. If we want our children to value learning and discovery, we just value them as well and demonstrate by our actions here in the Senate that we are willing to invest in their education and their futures by providing the money necessary to ensure a quality learning experience for all our children.

Recent polls show that education is a national priority among all Americans. These polls reflect what I have been hearing from Nebraskans—that Americans want their tax dollars to go to a strong education system—a system that will work for all its citizens. They are willing to spend more if they get more for their money. We must be willing to invest in education and spearhead a national commitment to achieve results in every school, rich and poor.

As I examine the programs that will receive additional funding under this amendment, I am struck by the fact that these dollars will be providing opportunities for our young people to do exactly what we all as parents admonish them to do—prepare themselves to live meaningful and productive lives. Under this amendment, we add back money to Head Start to enable our youngest citizens to enter school prepared to learn; to title I to allow our economically disadvantaged youth the opportunities afforded more affluent students; to vocational, school-to-work and summer jobs for youth programs to train, and educate our young people for the future workplace; and to technology programs such as STAR schools to provide exciting resources for all our students regardless of geographical limitations.

All of these programs are vital to my State of Nebraska, as they are in States throughout our country. I hear daily from Nebraskans who are concerned about the cuts to education being considered by Congress. They understand the serious budget considerations with which we are faced. However, they urge us to set our priorities in much the same way they prioritize their own budgets, and to secure our future by investing in our youth.

To those who argue that money will not solve our schools' problems, I will counter that we should put real money on the line here, not just spare change. It is past time for us to stop wishing our schools get better and start doing something about it. We are losing too many of our young people of all economic backgrounds to drugs, despair, and underachievement. We must be willing to invest in education just as we have been willing to invest in our national defense when our Nation's security has been at stake, because in a very real sense, our national security is at stake here.

Mr. President, as is so often the case when we are fighting for increased funding for discretionary programs such as these, it is becoming more and more difficult to secure the dollars necessary to make a difference. I am convinced that unless we are willing to commit to reforming our entitlement system, we will be unable to adequately fund vital education programs such as these.

I urge my colleagues to support the Daschle-Harkin amendment. By doing so, we will demonstrate our commitment to our children and their future.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I have listened very carefully to the very eloquent statements of my colleagues on the other side of the aisle with respect to education. There is nothing that I disagree with.

I ask my colleagues on the other side of the aisle to remember that the first vote this afternoon will move us from the macro responsibilities we have with respect to education to the micro responsibility we have for the District of Columbia. I hope when the fourth cloture vote comes up, on the D.C. appropriations bill, that my colleagues on the other side of the aisle will remember their responsibilities to the education of the children of Washington, DC, and will express that same compassion and vote for cloture so that we can move that conference report, which will do so much for the children of Washington, DC, on to the President.

I want to remind everyone that we are coming to a crisis point. First of all with respect to the budget of the District of Columbia as they are fast approaching the point of bankruptcy, and will reach it very quickly, if we do not pass that bill. That bill is locked up because we are arguing about a small provision included in the conference agreement that deals with education on a very controversial issue. But one which has been worked out between the House and Senate conferees which allows the District of Columbia, if they so desire, to have a very small voucher program for the purposes of allowing kids to have an option of the school that they will attend. It is done in a way that is only a local decision. It is not anything which has been characterized on the other side as shoving it down the throats of the people of DC.

So I urge you to keep in mind that we have this responsibility and that we are now over halfway through the school year. If we do not do something quickly, we will lose the whole school year. In fact, we will be into the next school year as far as planning goes and the inability to really enact anything which will help those kids.

So I urge you to use compassion and express it today in the vote for the District of Columbia in order for those young people to get the tremendous advantages that will occur by virtue of the reform which is contained in that package. Do not deny the city the opportunity to start its education reform over one issue which has become a national symbol, for what reason I do not know because it has nothing to do with what would be a federally-imposed voucher system on a community, or a State, or the country.

I urge you, please, when that vote comes up, vote for cloture today. Otherwise, we are going to find ourselves embroiled in even a greater conflict over the same DC appropriations bill in the large omnibus appropriations bill we are considering. The simple way to get out of the mess is to vote for cloture, and to get the DC bill out so we do not have to have the fight within the comprehensive package which is facing us today.

So, Mr. President, I again urge all of my colleagues to support the cloture motion which we will be voting on as soon as we come out of our weekly Tuesday luncheons.

Mr. President, I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I want to speak briefly—about 10 minutes—about where we are on this piece of legislation, and then later in the day I will be offering an amendment relative to the amendment offered by the Democratic leader.

We have heard a great deal of discussion from the other side of the aisle. We have heard from both Senators from Massachusetts, from the Senator from Minnesota, and I believe the Senator from Michigan. There must be something about States that start with the letter M. But we have heard a great deal from the other side of the aisle about how, if we do not proceed on this course, if we do not add in this additional $3 billion-plus into—I guess it may be more than that—education, that all sorts of disaster and plague will occur with the educational system of the United States.

One must ask the question, how can that sort of representation be made in light of the history of the educational experience over the last 15 to 20 years? We know, I think, as a country because we have seen—and we have had enough experience with it now over the last 15 to 20 years—that putting more into education is not necessarily the way to resolve the underlying problem in education. Yet, there is no question that more money in some instances significantly improves education. Take, for example, title 94–142, the IDA accounts for handicapped disability education. Yes, there is no question, to put more money into those accounts would certainly assist us in helping those individuals to be educated. It would take the pressure off our local school systems. Later in the day maybe I will even offer an amendment that will try to address that.

But the concept generally of putting more dollars into education will improve education is, I think, one that has been fundamentally disproved. There is study after study. In fact, the University of Rochester reviewed something like over 400 different studies and concluded after looking at those 400 different studies that there is very little correlation between the significant increase in dollars spent on education and the improvement in education.

If we look at the academic performance of our students over the last 10 to 15 years, where we have seen a significant decline in our students' ability to score well in internationally evaluated exams, especially in the math-science area, while at the same time we have seen a significant increase in dollars in education, I think we must conclude that there is very little direct correlation between the amount of money you spend and the type of education you get. Yes, there is a correlation, but it is not a formula that says 1 equals 1—for every new dollar you spend in education you get an equal increase in quality. In fact, the formula for increasing and improving education is much more complex than that, and it involves, I think, primarily maintaining individual and parental involvement in education, maintaining local control over education, especially at the principal level and at the teacher level, with parent input, and allowing the school systems to have an activist approach from the community rather than have them told how to educate their children by either the State government or the Federal Government.

Buried within this amendment is the funding, of course, for Goals 2000, which takes us in exactly the opposite direction from local control, the basic theory of Goals 2000 being that there should be a national agenda, a national curriculum in fact designed to control the manner in which local education is delivered and which as a practical matter would probably be the most single debilitating event in the panoply of debilitating events that have impacted our education system were it carried to its true goals and fruition, which is basically to have a nationalization of the education curriculum in this country. So not only do we not necessarily get better education by spending more dollars in some instances, but in this instance by spending more dollars we get worse education because what we are going to get is more Federal control over education and the loss of local control which is, I happen to think, the essence of good education.

But the real core problem here is not the application of these dollars. It is the illogic of putting forward the increase in these dollars while at the same time being unwilling to face up to the underlying threat to our students which far exceeds anything else that they may be threatened by relative to their future which is the deficit of this country and the fact that we are passing on to the next generation of Americans who are today in school a Nation which is fiscally bankrupt.

We hear from the other side that, well, if we will just put more money into that program and more money, and give me another program and put more money into that program, and give me another program and put more money into that program, we will correct all the ills of our society and manage this country in a much more efficient way, which begs the fundamental question of, who is going to pay for all this that is being spent? Who is going to pay for all these additional dollars that are being spent?

I would be willing to consider the amendment brought forward by the Senator from South Dakota, the Democratic leader, if he and his party and his President at the same time had the responsibility to come forward and say, well, we are going to pay for this by controlling those discretionary accounts in the Federal Government which are driving us into these tight fiscal times. I would be willing to consider it under those terms. But we hear nothing from the other side. In fact, we have heard a rejection from the other side of any attempt to try to bring under control those functions of the Federal Government, specifically the entitlement programs, which are forcing us to contract our ability to spend moneys in the area of education that we might otherwise wish to spend. In fact, the irresponsibility of the other side is so excessive now that you have the President of the United States, having once agreed to welfare reform, which is one of the core entitlements which we should be getting under control, now rejecting a plan which was passed out of this Congress, this House of the Congress by 87 votes in favor of it. While the President at the same time has claimed that this was going to be the essence of his Presidency, or an essence of his Presidency, that he would reform welfare as we know it, change it fundamentally, now he has rejected a plan which once he accepted and which the Senate accepted by an 87-vote majority.

Then we have the same administration and the leadership on the other side of the aisle rejecting a plan brought forward by the Governors of the States, all 50 Governors in unison, saying let us use this as a way to bring under control this entitlement program, welfare. They are rejecting that program. And then when the Governors came forward as a unified body, all 50 Governors, Democrats and Republicans, and said let us correct the entitlement program, Medicaid, once again we hear from the other side of the aisle, no, we cannot do that because we will be giving up control here in Washington; we will be giving it back to the Governors; we cannot afford to do that so we are not going to correct that.

When you have the trustees of the Medicare trust fund coming forward and saying, if you continue to spend money the way you are spending money today, the Medicare trust fund is going to go bankrupt in the year 2002—now it is going to be bankrupt in the year 2001—trustees who were appointed by the President of the United States who serve in his Cabinet, you have the President of the United States and the other side of the body walking away from that issue as if it does not exist, either turning a blind eye to that problem and not being willing to address that problem or wishing to use the politics of fear and scare tactics against senior citizens in alleging that any proposal to address fundamentally the improvement in Medicare is a proposal to undermine the quality of Medicare. It is totally inappropriate for the administration and the other side of the aisle to say that.

So where are the proposals from the other side which would bring under control that function of the Federal Government which is going up at such a rate that it is leading the Nation into bankruptcy and is forcing us to have to limit our capacity to put funds into those accounts which many of us feel we might like to do such as special education in the area of IDA, 94-142, or chapter 1, which is also a good program. Where is the other side in coming forward with proposals on the entitlement accounts, because until they come forward with proposals on the entitlement accounts, they have no credibility on this issue.

When they bring forward an amendment which simply says spend the money and uses some fallacious offsets, when they bring forward such an amendment and at the same time fail consistently to address the underlying problem which is driving the fact that we do not have the resources necessary to address accounts which we think are appropriate in the discretionary side of the budget because of the rate of growth of entitlements, then they have no credibility.

That is what I find disingenuous in the arguments from the Senators from Massachusetts, Minnesota, and Michigan because there appears to be no program that they are not willing to spend more money on, but there appears to be no proposals to bring under control those programs which are bankrupting this Government and our children's future, which is what it comes down to as the bottom line, of course. Passing on to our children a finer education is something we all wish to do. There are ways to improve our educational system, and money does not happen to be the only way to do that. But there are things we could do here at the Federal Government level that would obviously improve our children's educational system. But passing on to our children a better education system is going to do very little good for them if at the same time we pass on to them a Nation that is bankrupt, where their opportunities for prosperity are dramatically limited because their Government was irresponsible and unwilling to address the core problems of expenditures growing so fast that they were outstripping the country's capacity to fund them, such as the entitlement programs of Medicare, welfare, and Medicaid.

So when the other side comes forward with these proposals, I think you have to take them with a grain of salt. You have to recognize that this is an election year; that they are going to continue to propose ideas to spend money without being accountable until they feel that they have identified all constituencies necessary to build the voting majority. But I hope the American people will be a little more sophisticated; that they will understand this issue is about how you make the Federal Government responsible, how you pass on to our children not only excellent education but a chance for a prosperous and fulfilling lifestyle, and that that second part of the exercise involves addressing the issues of how this Government spends its money in the entitlement accounts, something about which, unfortunately, the other side of the aisle has decided to bury its head in the sand and the President of the United States has decided to join them.

I thank the Chair for his courtesy. I note the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold that suggestion?

Mr. GREGG. Yes.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. GREGG. I withdraw my suggestion.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until 2:15 p.m. today.

Thereupon, at 12:29 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS).

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture on the conference report to accompany H.R. 2546, the DC appropriations bill.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 2546, the D.C. Appropriations bill:

Bob Dole, Trent Lott, Jesse Helms, Phil Gramm, Judd Gregg, Dirk Kempthorne, Strom Thurmond, Olympia Snowe, Bob Smith, Dan Coats, Larry E. Craig, John Ashcroft, Thad Cochran, Jon Kyl, Mark Hatfield, Robert F. Bennett.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 2546 be brought to a close? The yeas and nays are ordered under rule XXII, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 44, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—56

Abraham
Ashcroft
Bennett
Bond
Bradley
Breaux
Brown
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bryan
Bumpers
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 44. Three-fifths of the Senators not having voted in the affirmative, the motion is rejected.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under rule XXII, the clerk will now report the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Trent Lott, Jesse Helms, Phil Gramm, Judd Gregg, Dirk Kempthorne, Strom Thurmond, Jim Jeffords, Olympia Snowe, Bob Smith, Dan Coats, Larry E. Craig, John Ashcroft, Thad Cochran, Jon Kyl, R.F. Bennett.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate be brought to a close? The yeas and nays were ordered under rule XXII.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 53 and the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might be permitted to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, today we have seen what is the first of probably a number of votes to attempt to curtail the filibuster against moving forward with the Whitewater investigation.

Let us be clear and set the record straight. I have offered publicly, and I offer again on the Senate floor, an opportunity to answer the question of whether or not the committee is looking to continue the investigation into the political season and to do so by incorporating an indefinite time agreement. I can state, we are willing to limit—not that I am happy about it—since the setting of arbitrary time limits, as stated by the former Democratic majority leader, Senator Mitchell, is a mistake. Senator Mitchell came to this conclusion to prevent the possibility of lawyers from stalling and keeping matters from coming forth. However, recognizing that we are in a unique situation, this Senator has indicated before and I indicate publicly now that we would be willing to terminate the committee's work, even if it is not finished, within 4 months. It will take us, I believe, at least that period of time since there is a trial which is taking place right now in Little Rock, AR. There are witnesses who are unavailable to us who are testifying there. I believe that their presence, at least the opportunity to attempt to bring them forward, is important.

Mr. President, let me quote something. Let me read it to you.

> No arguments about politics on either side can outweigh the fact that the White House has yet to reveal the full facts about the land venture, the Clintons' relationship with Mr. McDougal's banking activities, Hillary Rodham Clinton's work as a lawyer on Whitewater matters, and the mysterious movements of documents between the Rose Law Firm, various basements and closets, and the Executive Mansion. The committee, politics notwithstanding, has earned an indefinite extension. A Democratic filibuster against it would be silly stonewalling.

That is what we have seen today. Every single Democrat came in here and voted to stonewall at the direction of the White House.

Let us not make any mistakes about who is calling the shots here. It is the White House. Now, that is not a statement in terms of the stonewalling or being silly. That is a quote from the New York Times—the New York Times. They are certainly not an organ or a mouthpiece of the Republican Party.

Let me quote today's Washington Post—today's Washington Post:

> Lawmakers and the public have a legitimate interest in getting answers to the many questions that prompted the investigation in the first place and those that have been raised in the course of it by the conduct of many administration witnesses . . . If Democrats think that stalling or stonewalling will make Whitewater go away, they are badly mistaken. The probe is not over, whether they try to call it off or not.

Now, that is the Washington Post today, certainly not a mouthpiece of the Republican Party.

Let me read to you from the current issue of Time magazine, just a small part.

> The question of whether specific laws were broken should not obscure the broader issue that makes Whitewater an important story. How Bill and Hillary Clinton handled what was their single largest investment says much about their character and integrity. It shows how they reacted to power, both in their quest for it and their wielding of it. It shows their willingness to hold themselves to the same standards everyone else must—whether in meeting a bank's conditions for a loan, taking responsibility for their savings, investments and taxes, or cooperating with Federal regulators. Perhaps most important, it shows whether they have spoken the truth on a subject of legitimate concern to the American people.

That was written by James Stewart, a Pulitzer Prize winning journalist. Mr. Stewart has just written a major book, "Blood Sport," about the Clintons' investment in Whitewater.

I come right back to the final question: What are my friends afraid of? What is the White House afraid of? Why are they reluctant to allow the committee to conclude its work? What are they hiding from the American people?

I believe that the American people have a right to these answers. No amount of criticism as it relates to what the committee has done to date will obfuscate the fact that they are continuing to stonewall. It is not silly. It is incorrigible. It is wrong. And it does not bring credit to this institution or to either political party or to the process.

Once again, I lay forth the opportunity to settle this so that we do not have to have speeches and debates and say that we can conclude the committee's work in 4 months.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority manager of the bill is recognized.

Mr. SPECTER. I thank the Chair. Mr. President, I have sought recognition to outline a second-degree amendment which will be offered——

Mr. DODD. Will my colleague yield at this point? Can we get 5 minutes to respond, on this matter that has been raised for the purpose of debate, for the ranking minority member, appropriate to give him a chance to respond to Senator D'AMATO?

Mr. SPECTER. I would yield for that purpose on a unanimous-consent request that when the response is concluded I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maryland is recognized for 5 minutes.

Mr. SARBANES. I thank the Chair.

Mr. President, I am going to be very brief.

It would be expected that the assertions would be made that have just been made. The fact is that Senator DASCHLE offered a perfectly reasonable proposal with respect to this inquiry dealing with Whitewater, and that was to provide an extension into early April. The inquiry was supposed to end at the end of February. That was provided for in the resolution which the Senate passed. The reason that was done was in order to keep this inquiry out of the election year so it would not be subject to a public perception that it was being carried on for political reasons.

Now, that concern paralleled a concern that was expressed by the Republican leader, Senator DOLE, in 1987, when the Iran-Contra inquiry was undertaken. That was in a Congress controlled by Democrats. It was an inquiry into the activities of a Republican administration. There were Democrats who wanted to carry it on indefinitely through the election year. Senator DOLE, at that time the minority leader, was very insistent that it would have a fixed timeframe that would keep it out of the election period. The Democratic Senate responded to that and, in effect, agreed that the inquiry would be brought to an end in the latter part—in fact, in the fall—of 1987, and later we moved that date up in order to keep it even more out of the election year.

Now, Senate Resolution 120 provides that the two leaders should get together and discuss any proposal for extending the committee, and I think that ought to be done.

The proposal before us is for an indefinite time period. The proposal which my colleague from New York has just put forward, the 4-month proposal, is virtually the equivalent of an indefinite time period. I think there needs to be some reasonableness here, and I think the reasonableness was reflected in the proposal put forward by Senator DASCHLE, the minority leader, which would have provided that the committee could continue its work into early April and have a month after that in order to do its report.

Now newspapers across the country are beginning to editorialize about this matter. These are newspapers "outside of the beltway" raising questions. For instance, the Tulsa paper says:

> How far must taxpayers go? How much must they pay to keep this charade going? The vote in the Senate to extend the investigation probably will be along party lines. If it does, the extra $650,000 should come from the coffers of the Republican party, not from the taxpayers. It is the Republicans, not the taxpayers, who stand to benefit. The Whitewater probe is shaping up to be the longest, most costly fishing trip in American history.

These are not my words. I am now quoting what is being said out across the country. Of course, what that does, it substantiates the observation I made that if this thing is prolonged through the election year, it will be increasingly perceived as a political endeavor and it will lose its credibility as a consequence, or even further lose its credibility.

The Milwaukee paper said:

> Last week, Senator Moseley-Braun asked a good question of Senator D'Amato, chairman of the Senate committee that is investigating the Whitewater affair. Could these hearings, she asked wearily, go on into perpetuity? Although D'Amato was really at a loss for words, he could not provide a satisfactory answer to that question, but somebody should.

They then go on to make the point that this thing has been dragged on long enough.

The Sacramento Bee headline said, "Enough of Whitewater."

> Senator Alfonse D'Amato, the chairman of the Senate Whitewater Committee and chairman of Senator Bob Dole's Presidential campaign in New York, wants to extend his hearings indefinitely, at least one presumes until after the November elections. In this case, the Democrats have the best of the argument by a country mile. With every passing day, the hearings have looked more like a fishing expedition in the Dead Sea.

Now, Senator DASCHLE, I thought, made a very accommodating proposal. There has been nothing back from the other side to which one can attach the rubric of reasonableness. It seems clear to me that as long as they continue to press for an indefinite period or something that is virtually equivalent to it, we ought to resist it because it simply makes it more transparent that this is a political exercise.

Mr. DODD. Will my colleague yield?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. The Senator's time——

Mr. DODD. Mr. President, might I ask unanimous consent for 2 additional minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I will seek the floor in my own right. I wish to just make a comment here in responding to the suggestion of our colleague from New York that the Democrats here voted against an open-ended $600,000 appropriation hearing process because of the White House pulling strings. No one suggested that our Republican friends who voted unanimously to continue this were somehow having strings pulled at all, nor would I make that suggestion.

But certainly the fact that at this juncture we find ourselves in a stalemate ought to suggest, particularly when you consider it was only a few short months ago that this body voted almost unanimously for these hearings to be conducted—this was not a partisan issue. As in most cases, it was bipartisan to get this underway. It was almost unanimous, I believe.

Mr. SARBANES. Ninety-six to three.

Mr. DODD. Ninety-six to three, in fact, for the resolution to terminate the hearings, to call for the termination on February 29. It is unfortunate we have come to this where you have a request unprecedented in the annals of Congress—unprecedented, Mr. President—for an open-ended hearing with an additional $600,000. That brings the pricetag of this investigation to in excess of $30 million in this country.

That is the reason people are upset, frankly, that kind of open-ended appropriation, no end in sight and, of course, no substantiation of any unethical or illegal behavior. When you add that to the fact that we have had virtually no hearings occurring on major issues affecting people's lives in this country, like Medicare, Medicaid—we are going to have an extensive debate on education today; we are going to be cutting $3 billion in education programs—there were hardly three or four hearings on all of education, as the Presiding Officer knows.

Yet, we had 50 hearings on White water and 10 or 12 hearings on Waco and Ruby Ridge and almost none on education, none on Medicare, none on health, and you want to know why people are angry? That is why they are angry in this country.

We spoke up and said, "Look, 5 weeks, $185,000." That is plenty of time to complete this process. We are not saying stop it today. We are saying take another 5 weeks and wrap up the business of this committee. That is a reasonable, reasonable proposal, and I think it is regrettable we have a position taken of 4 months now which takes us virtually into September—when we eliminate the August recess—September, October, a handful of days before the election.

It is patently political. It is so transparently political that an infant can see through it, and most of the American people have. That is why we object to this request of an open-ended proposal with $600,000. I hope that the majority Members, at least some of them, will step forward and offer to sit down and resolve this matter so we can get the work done and not allow it to spill over into the campaign.

I thank my colleague from Pennsylvania for providing us some time.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority manager of the bill is recognized.

Mr. SPECTER. I thank the Chair. Mr. President, as I had started to say earlier before yielding to my distinguished friend from Connecticut, I did not know he was going to mention Ruby Ridge, or I might not have yielded to him. What is wrong with Ruby Ridge?

Mr. DODD. I just say to my colleague, I think there is a value in having those hearings. My colleague did a good job. My point is, if you do it to the exclusion of other hearings, then it seems to me we are off on the wrong track. My colleague did a good job.

Mr. SPECTER. I thank my colleague for that comment.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, as I said, I had sought recognition to talk about a second-degree amendment, which shortly will be offered on behalf of myself and Senator HARKIN, which has been crafted very carefully after very, very extensive discussions among many parties. I thank the distinguished chairman of the committee, and I thank the distinguished chairman of the Budget Committee, Senator DOMENICI, for his cooperation. I thought we might save some time by talking about the amendment for a few minutes while some final language change is being incorporated to accommodate some concerns which have arisen.

There had been extensive discussion yesterday and today—I did not hear it yesterday because I was traveling in my home State of Pennsylvania—but I heard the discussion this morning about the need for education. I think there is a consensus in America about the importance of education, about the priority of education and about our doing everything we possibly can to stretch Federal dollars as far as we can along the education line. I know that is something the distinguished Presiding Officer, the Senator from Vermont, feels very strongly about.

What we have done is structured an amendment with offsets, where we preserve the balanced budget so that we do not encumber future generations with more deficit spending. The amendment, while raising funds for education, job training, and head start, which is a very high priority, obviously, second to none—but it also is offset so as not to encumber future generations with our spending money that they have to pay for—another high priority also second to none. These are very top priorities.

What we are submitting is an amendment in the second degree which will provide additional funding for education, Head Start and job-related issues.

We have heard from many, many mayors and many, many commissioners in local government. A comment was made this morning about summer jobs being a very important anticrime program, which is widely recognized, not really disputed at all. This amendment would add $635 million for Summer Youth Employment Programs in the Department of Labor, a high priority item.

We are adding $333 million in additional funds for the Dislocated Worker Retraining Program, which brings the total to $1.2 billion, a very, very important item in an era where there is so much downsizing, where we have seen so many layoffs, we have seen so much anxiety in America, and people in the prime of their working lives losing their jobs which they have held for 10, 15, 20, 30 years but still with many good years ahead of them. So the Dislocated Worker Retraining Program will have that additional funding which also impacts upon base closures, something which is very important to my State and very important all over the country.

We are adding $182 million in additional funds for the School-to-Work Program jointly administered by the Departments of Labor and Education. This brings the School-to-Work Program to a total of $372 million.

We are adding $137 million to restore fully the Head Start Program for the 1995 level. We will be adding $60 million in additional funds for the Goals 2000 program, bringing the total in the bill to $350 million. This is a matter which has produced some controversy, but I think that ultimately we may be in a position to eliminate strings so that we do not have the objection of too much Federal intervention and too much Federal control.

I personally believe that education ought to be left to the local level, but the idea of standards and goals is one which has great merit. Those standards and goals can be figured out at the local level; they do not need to come from Washington.

The Secretary of Education has testified of his willingness on behalf of the administration to give up some of the bureaucracy and some of the councils. Last September, the subcommittee had a hearing on Goals 2000, where we listened to people who were opposed to the program and might even be able to strike an accommodation of the disparate points of view by eliminating some of the Federal strings. Perhaps if the States do not wish to take Goals 2000 money, as some have so stated, that the funds might go directly to the local level.

We will be adding $814.5 billion in additional funds for title I Compensatory Education for the Disadvantaged Program, bringing the total to $7.3 billion. This is a very, very healthy, substantial contribution to that very important program.

We will add $200 million to the Drug Free Schools Program, bringing the total in the bill to $400 million. We would have liked more, but that is a very substantial increase.

And $10 million in additional funds has been added for the educational technology program, bringing the total in the bill to $35 million; $82.5 million in additional funds for vocational educational basic grants, bringing the total in back to last year's level.

If the Chair will indulge me for one moment, I have an additional item which I would like to comment upon.

We have added an additional $32 million in State student incentive grants program and with respect to the Perkins loans, an additional $58 million has been added, bringing the total to $158 million. We have worked this out as we have proceeded to try to get all of these items in order, Mr. President.

We have offsets which we have worked out for some $1.3 billion in the sale of the U.S. Enrichment Corporation, and $92 million from the sale of oil from the strategic petroleum reserve oil, $616 million from the FAA rescission, $159 million from unobligated balances in the Pell grant program, $166 million of unused budget authority in left in the committee allocation, $200 million in year-round youth training, and $25 million in the unemployed trust fund, AFDC jobs rescissions.

I want to thank my distinguished colleague, Senator HARKIN, for his cooperation, and thanks especially to the staff who worked around the clock last night, and counsel, for drafting, producing this bill, really, at the very last minute.

I think I am in the position now with the final additions having been made, Mr. President, to send this bill to the desk—before doing so, I want to add one addendum. That is that Senator HARKIN and I have discussed our agreement, having crafted this as carefully as we have, to try to accommodate education, that this accommodates the total program and if there are any other amendments—any Senator can offer any amendment at any time—that Senator HARKIN and I are unified in opposing any additional amendments.

It is always easy to add money, which we would all like to do, but without offsets it is impossible to do. And we have added as much as we think can be done. So that our agreement is that this is an excellent appropriations bill for education, and we are going to stand behind it. And that is it. If any additional amendments are offered, Senator HARKIN and I are unified in our determination to reject them because this is a comprehensive bill.

AMENDMENT NO. 3473 TO AMENDMENT NO. 3467

(Purpose: To revise provisions with respect to the Departments of Labor, Health and Human Services, and Education)

Mr. SPECTER. Mr. President, on behalf of Senator HARKIN and myself, I send this second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself and Mr. HARKIN, proposes amendment numbered 3473 to Amendment No. 3467.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. SPECTER. A summary has been given. I now yield to my distinguished colleague from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The minority manager is recognized.

Mr. HARKIN. I again want to express my appreciation to Senator SPECTER for his leadership in this area and for working not only with me personally but our staffs working very closely together to craft this amendment.

This really does bring us to the point—maybe it is not all of what every one of us wants. I mean, we never get that around here, but at least it fills the need for getting the money out now to the school districts so that they know what to do next year.

For summer youth, there are all the things that Senator SPECTER spoke about that we have to get through. We have the offsets to pay for it.

Again, I want to thank Senator SPECTER for all of his diligent work in this. I want to again join Senator SPECTER in thanking our staffs. I know they worked long hours in putting these numbers together and working with Senator DOMENICI and Senator HATFIELD and Senator BYRD on our side. So I think it is a well-crafted amendment, and I agree with Senator SPECTER that it deserves the support from both sides of the aisle.

Mr. President, let me just in way of talking about this amendment talk a little bit about the past weekend in Iowa. Right now all of the basketball tournaments are taking place in the State. There is a lot of anxiety about who is going to win and who is going to lose. I would like to deviate a little bit, if I could, from the debate on this amendment, just for a moment, Mr. President, to recognize the newly crowned State champions in what we call the premier high school tournament in Iowa, the annual Girls State Basketball Championships. Winfield-Mount Union in class 1A, Sibley-Ocheyedan in class 2A—I saw that; it was a great game—Carroll in class 3A, and that was also a great game that I got to see. I missed the last game because I was not there for it, but it is my alma mater, West Des Moines Dowling girls, who won the State championship in class 4A.

So I just want to say to all the teams that competed in the tournament, congratulations on your accomplishments, and to the winners, congratulations on winning.

I might add, this week the best high school boys basketball teams make their annual trek to Des Moines for the final winner tournaments for the boys basketball games. So, again, there is a lot of anxiety in the State right now about who is going to win and who is going to lose.

But I must say, Mr. President, the anxiety extends well beyond the gymnasium. In school after school in Iowa and across this country, school administrators and school boards are worrying about which teachers will lose their jobs and which students will not get title I reading assistance. They are contemplating what vocational education activities will go by the wayside and how to deal with the cuts for the safe and drug-free schools program.

The list goes on. In January, I worked as a title I teacher at Johnson Elementary School in Cedar Rapids. I learned firsthand the value of title I, and my concern about the cuts were heightened.

Late last month this article appeared in the Cedar Rapids Gazette: "6 Schools to Lose Remedial Reading: Cedar Rapids District Sites Expected $350,000 Cut in Federal Funds."

Mr. President, if we do not pass this amendment to that Senator SPECTER and I have joined on, if we do not pass this, nine teachers in Cedar Rapids will lose their jobs; 350 students who need extra help with reading at six elementary schools in Cedar Rapids will not get it next year.

In Council Bluffs on the other side of the State, five teachers will lose their jobs, 113 fewer students will be helped. Of equal concern is the fact that the district will lose the investment they made to train three teachers in reading recovery, a short-term, intensive, one-on-one teaching technique that is showing great promise of quickly bringing first graders up to grade level in reading.

The Iowa Department of Education estimates that across the State 7,300 fewer students will get title I assistance and 200 teachers will be laid off if this amendment is not adopted.

This scenario will be repeated in every State and school district across the country. Secretary Riley estimates that 40,000 teachers will be laid off nationwide as a result of the $1.1 billion cut in title I.

Mr. President, the sixth national education goal calls upon us to ensure that by the turn of the century every adult American will be literate and will possess the knowledge and skills necessary to compete in the global economy. But the deep cuts in job training programs will not lead us toward this goal. It signals a fast retreat.

Next year, without this amendment, funding for dislocated worker training will be cut by 29 percent, and summer jobs for youth is totally eliminated. These cuts could not come at a worse time. You can hardly pick up a newspaper or turn on the evening news without seeing yet another story about worker dislocations caused by downsizing.

Last year, Federal JTPA funds assisted 105 workers who lost their jobs at Tyson Foods in LeMars, IA, and 85 individuals formerly employed by MCI in Sergeant Bluff, IA. The planned cuts in retraining for dislocated workers means next year 300 fewer Iowans will benefit from such assistance.

However, the number of worker dislocations has not abated in my State. FDL Foods has announced layoffs in Dubuque and Eveready Battery is closing its plant in Red Oak, IA. Unfortunately, with cuts of this magnitude in job training, many of these people will not get the assistance they need.

Mr. President, the bill before the Senate restores many of these cuts, but only if we pass some other bill in the future to pay for them. That is the underlying bill. That is a mistake. Schools cannot budget based on a contingency. School districts need to know now what they will receive next fall. In Iowa, the final deadline for making decisions on teacher hires is April 30, but many districts are already making those decisions. Without a firm commitment now, across the country thousands of teachers will get the pink slip for next year.

Mr. President, we should pay for this up front, not based on some contingency that might happen, but pay for it now. That is what this compromise bipartisan amendment does that Senator SPECTER and I are introducing. Again, Senator SPECTER and our staffs have worked long and hard to craft this compromise. It is certainly not everything that I would like or anyone else would like, but it is a giant leap from where we are. The offsets were difficult to come by this late in the fiscal year, but we did it. I wish we could do more, but I believe this is an honest and reasonable effort to avoid devastating cuts in education and job training. I urge all of my colleagues to support it.

Mr. President, Iowa's schools stand to lose almost $12 million in education funds next year. Title I will fall by $8.6 million. These cuts would be devastating to my State. Those are not my words. In a February 27 news article announcing the plan to cut title I from Cedar Rapids' Van Buren School, this is what the school's principal, Mary Lehner, had to say: "It's just going to be devastating for kids. I am very concerned about those students who need the extra help with those reading skills."

These concerns are not only being expressed by school officials but by business owners. Mr. President, I got an interesting letter here from a business owner in Carroll, IA, Mr. Tom Farner, of the Farner-Bocken Co. It is interesting what he said:

> It has come to our attention that the Federal Government is planning to cut title I Reading Program by 17 percent. We feel this will hurt the quality of our labor force not only for the State of Iowa but in the Carroll region. Our business does not require a lot of skill but it does demand for our employees to be able to read picking labels and invoices.

Mr. President, I ask unanimous consent this letter from Mr. Tom Farner be printed in the RECORD, along with other pertinent correspondence from Iowa constituents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FARNER-BOCKEN CO.,
Carroll, IA.

SENATOR HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: It has come to our attention that the Federal Government is planning to cut the Title I Reading Program 17%. We feel this will hurt the quality of our Labor Force not only for the State of Iowa but in the Carroll region. Our business does not require a lot of skill but it does demand for our employees to be able to read picking labels and invoices.

Our company is a part of a food buying group called Pocahontas Foods with companies all over the United States. I just attended a show in Colorado Springs where the owners of the companies got together to discuss issues and problems that we face in our industry. One of the main problems talked about was the percentage of errors on orders that are delivered to customers. They were discussing that their percentage rate was around 70–75% and that 80% was great. Our companies percentage rate is between 80–85%. This demands the skills of people to read labels, invoices, etc.

Reading is a very essential tool for people to survive in today's fast growing world and economy. Let's not jeopardize our children's future by cutting back on Title I.

Please vote no to cutting back Title I.

Sincerely,

TOM FARNER.

CARROLL, IA,
February 26, 1996.

SENATOR TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: It has come to our attention that the Federal Government is planning to cut the Title I reading program by 17%. This will mean drastic cuts in our local program. This also means a reduction of teachers, not as many students in need of reading assistance will be served. To me, this makes no sense. Why cut back on education when Title I has a proven track record? What will this mean for our students? I am a second grade teacher in a Catholic School near Carroll. I also have a son in the Title I program. I see the benefits on both sides, as a parent and a teacher. These teachers are so very good at what they do; each student is made to feel a success! Why make these children pay for these cutbacks? Because, ultimately, that is what will happen. If they do not get the help they need when they're young, you will be investing in them in the future in welfare and other government programs. Please, save yourself the money now and do not cut back on education. It is our future and your future that you are playing with. Thank you for your consideration.

Sincerely,

MARY ANN BRINCKS.

CARROLL, IA,
February 20, 1996.

DEAR SENATOR HARKIN: I am writing to you in regards to the proposed funding cuts to the Title 1 Program. As a Title 1 teacher, I personally witness the value of this program and I encourage you to vote against the proposed cuts.

In our Title 1 program students are given individual, small-group instruction. These are the kinds that would fall through the cracks if not given the extra reading instruction with a reading specialist. So many of these kids' parents are "too busy" to spend the extra time at home.

I realize that Title 1 funds are under question as to whether or not the funds are being used properly. I can tell you that in our school district the Title 1 program is using the funds very wisely. We have six teachers who serve approximately 190 students at 5 buildings. If the proposed cuts were to take effect, 60 students would not receive the help they need.

I sincerely believe that this proposed cut would turn a nation of readers into a society of illiterate children. Please vote "no" for the proposed budget cuts!

Sincerely,

KATHY BEHRENS.

FLOYD, IA,
February 26, 1996.

TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR MR. HARKIN: I am writing in regard to the government plan to cut funding for the Title 1 program for our schools.

As a parent of a son with a learning disability, I have learned over the past five years how important this program is. My son, with the help of this program is finally gaining the confidence to reach out and set his goals high—not to accept this disability as a life sentence, but to overcome it.

I have spent years telling my son that this learning disability is not his fault—that everyone learns differently and that the extra help he needs is available to him.

Please do not let him or his future or our countries future down. There MUST be another place to make a cut back.

Remember—a learning disability does not discriminate—it could affect your family too—a son, a daughter or maybe a grandchild.

Please reconsider and keep my son's future bright. Do not add to his burden. His future is in your hands.

Thank you for your time. Your help in this matter is greatly appreciated.

Sincerely,

LINDA WETTER.

CLINTON, IA,
February 25, 1996.

Senator TOM HARKIN,
Des Moines, IA.

DEAR SENATOR HARKIN: I am writing this letter as a concerned parent and teacher, regarding the cuts in Title I funding. I cannot believe that the government would even consider cutting the funds of such a beneficial program.

As a Reading Recovery Title I Teacher, I believe that many disadvantaged children would not make it in the regular classroom without the support of the Title I teacher. I can think of one family in particular that I have dealt with personally. One brother is in third grade and did not receive the benefits of Title I in the early grades. Now as a third grader, he is being tested for special education. I am serving his first grade brother in my Reading Recovery program and can see that he is making tremendous gains—he's reading. I believe that the Title I program has saved him from special education, and will help him to live a better life. How many other lives has Title I changed?

I know I speak for many parents and teachers when I say that we would really appreciate your support in seeing that the funding is not cut for the Title I program.

Sincerely,

CYNTHIA S. CRAMER,
Title I Teacher.

Senator HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: It has come to my attention that the Federal Government is planning to reduce the Title I reading program funds. As a mother of a student who has participated in this program in 1995, I am asking you to please reconsider this action.

This intervention program in 1st grade has helped my child considerably with his reading capabilities. Because of the program, he is able to keep up in his current class without continued help. I know the program gave him a positive attitude toward school and has helped his self esteem. With a good start in the early years, all children will benefit tremendously in the future. Our children are the future!

Please reconsider the cut in funds for the Title I reading program. It has been a valuable asset to our son and to our school.

Sincerely,

LOIS M. BEHRENS,
Mother.
JOHN E. BEHRENS,
Father.

CARROLL, IA,
February 21, 1996.

DEAR SENATOR HARKIN: My name is Renee Genter and I am the mother of a title one reading student. Recently I was informed the Federal Government is planning to cut back 17% of our local schools reading program, which is very upsetting to my husband and I. We are the parents of four wonderful little boys who unfortunately have problems with reading. Our oldest child who is eight years old has struggled with reading since he started school. About two years ago we were introduced to the title one reading program and it has been a life saver to our son. At one point he was feeling different from the other children in his class and now he is able to read in the same level as his classmates, which has done wonders for his self-esteem. Knowing that some of our other children will have the same problems and knowing that the program may be canceled makes me wonder what are we to do about extra help for them. I am writing in hopes that the Government will change its plans for cutting back on such a great program. I know I am not alone on these feelings. Parents and our school programs are our only help for our children and their children. Thank you for taking the time to read my letter. I hope we can make a difference. Our children are depending on us.

Sincerely,

RENEE GENTER.

CARROLL COMMUNITY SCHOOL DISTRICT,
Carroll, IA, February 13, 1996.

DEAR BUSINESS LEADER(S): It has come to our attention that the Federal Government is planning to cut the Title I reading program 17%. This will mean drastic cutbacks in our local program, both in the public and parochial schools. The equivalent of two teachers may need to be cut, which will mean we will not be able to serve the number of students we have in the past. It will be unfortunate if some students in need of reading assistance could not be served due to lack of funding. We, as educators, are very aware of the importance of having employees in your business with good reading skills. We believe our program can help accomplish that.

As a business person in this community, we are asking you to send a short note to the legislators who represent you. You might want to mention how Title I can benefit your business and your concern about what will happen if such drastic funding cuts occur.

The legislators and their addresses are:

Senator Harkin, U.S. Senate, Washington, D.C. 20515

Senator Grassley, U.S. Senate, Washington D.C. 20515

Rep. Tom Latham, House of Representatives, Washington, D.C. 20515

Thank you for your efforts in this matter. Unless we voice our opinions, this funding cut will be passed. We are sure that you feel as we do—Our children and their futures are very important!

Sincerely,

TITLE I STAFF.

Mr. HARKIN. Mr. President, it is not just the teachers who are saying this, but business people say they need people who can read. Although they may not need highly skilled people, at least they have to be able to read and understand.

Mr. President, our amendment will provide the offsets to pay for the increases in education and training programs recommended by title IV of this legislation. Again, we believe we have to provide for these now, not at some possible point in the future, as is in the underlying bill. The last thing we need to do is get mired down in the same old stuff that has already shut down the Government twice before.

I urge my colleagues to support this amendment, to match the desire to avert the education cuts with the resources to make sure the cuts will not happen. We need to make sure that the add-ons are paid for now so that teachers will not lose their jobs, children will continue to get title I services, and workers will get the training assistance they need to remain competitive.

In closing, Mr. President, I want to thank Senator SPECTER for his work in this area and thank our staffs for putting this together. No one likes to make cuts, but we have made these offsets, and I believe the offsets are good and the money will go to all of the things that Senator SPECTER mentioned: Summer youth employment program, dislocated workers, school to work, Head Start, Goals 2000, of course title I, which I talked a lot about, drug-free schools, educational technology, Perkins loan and SSIG for higher education.

Mr. President, I ask unanimous consent that Senator WELLSTONE be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Iowa for his comments. I believe this is a well-crafted bill that accommodates education while maintaining the balanced budget principle. As Senator HARKIN has pointed out, people now in school districts know what they can do by way of planning if this finally becomes law.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Ms. MOSELEY-BRAUN. Mr. President, the need to balance the Federal budget must be driven by more than just numbers; it must also reflect sound priorities. Our budget must not only be fiscally responsible; it must also reflect the priorities of the American people.

A survey conducted in January found that 82 percent of Americans oppose cutting education spending.

A different poll in January found that 67 percent of voters rank the quality of education in public schools as their top priority.

Last year, 75 percent of Americans polled said that aid to education should be expanded.

Unfortunately, the omnibus appropriations bill before us today does not reflect these priorities. It makes more than $3 billion in Federal education and job-training programs—programs that provide opportunities for America's children and students—contingent on a future budget agreement. The bill essentially says to our children and students: Your education will be a priority later—maybe.

The Daschle-Harkin amendment doesn't wait—because today's children will grow up regardless of whether or not there is a budget agreement, and tomorrow's economy will not be any kinder to them if there is not.

It is easy to understand why so many Americans make the quality of education one of their top priorities. Education is related in a positive way to almost every index of domestic and social well-being.

The average earnings of a college graduate are 75 percent higher than those of someone with only a high school education, and 150 percent higher than the earnings of a high school dropout.

Sixty-two percent of small children whose parents have not completed high school live in poverty. By contrast, only 4 percent who have at least one parent with a high school diploma live in poverty.

More than 80 percent of prison inmates are high school dropouts.

The American people place such a high priority on education because education is an essential investment in our future. A quality education has always opened the door to the American dream—the chance to achieve as much as your ability, talent, and brains will take you.

Education is much more than a private benefit to individual students. Education funding is an investment in America. Quality education affects the entire community, and it is as much a part of our national defense as any missile system. As Laura Tyson said, a country's people are its most precious resource.

Yet, under this bill, if the contingency funds do not become available, the bill:

Cuts the Safe and Drug-Free Schools Program—which helps to provide a safe environment conducive to learning—by almost 60 percent;

Cuts the Title I Program—which provides basic assistance to low-income children and school districts—by 10 percent;

Cuts Goals 2000—which helps fund innovative, locally driven efforts to raise the quality of education—by 22 percent.

The bill also targets programs that make it possible for more Americans to afford a higher education. Without the contingency funds, the bill cuts the Pell Grant Program by 6 percent, the Perkins loans by 37 percent, and the State student incentive grants by 50 percent.

The cost of college has risen more than 230 percent in the last 15 years.

Yet, according to the Department of Labor by the year 2000, 52 percent of all new jobs will require more than a high school education. Diminishing access to higher education is not one of the priorities of the American people, and it should not be one of the priorities of this Congress.

This bill also cuts billions from programs that provide young people with summer employment and job training, and that help prepare dislocated workers for new careers. Without the contingency funds, this bill cuts the JTPA Program by 25 percent, training for dislocated workers by 29 percent, and the summer jobs program by 100 percent.

Education and job training programs are about knowledge, about competitiveness, and about being able to adapt to a changing economy. I am reminded of a quote from one American philosopher, who wrote: "In times of change, learners inherit the Earth, while the learned find themselves beautifully equipped to deal with a world that no longer exists."

The Daschle/Harkin amendment reflects that philosophy by truly putting the $3.1 billion for education and job training back into the budget.

Thirty-five percent of the American people believe that education funding should be Congress' No. 1 legislative priority. Let us not let them down—or the 82 percent who oppose education cuts period—by failing to enact this amendment.

Mr. BINGAMAN. Mr. President, I rise in support of the Harkin education amendment. This amendment aims to restore funding for the Department of Education, and for all education and training to fiscal year 1995 levels.

This amendment is fully paid for. It adds back funds to the fiscal year 1996 appropriations with offsets scored by CBO. This amendment, unlike the Republican addbacks, do not depend on future contingencies at an unspecified time in the future of a congressional-Presidential agreement on an overall budget. This will allow schools, now in the process of planning their budgets for next year, to know the funding level for which they can budget.

The amendment represents addbacks that both parties agree to: $151 million for education reform; $1,279 million for title 1; $208 million for school improvement programs; $82 million for adult and vocational education; and $10 million for education research and statistics. This will provide funds for Goals 2000; title 1; safe and drug-free schools; charter schools; vocational and adult education; education technology; Head Start; dislocated workers; adult training; school-to-work; summer jobs for youth; and one-stop career centers.

The Harkin amendment would maintain the fiscal year 1995 level of $18.4 billion for Department of Education funding except Pell grants, and funds for Pell grants, including the fiscal year 1995 surplus carried forward to fiscal year 1996, would also remain level.

This amendment maintains fiscal year 1995 levels of funding for education by identifying offsets, not by adding anything to the deficit.

These addbacks support programs needed by everyone, and especially those in New Mexico. Title 1 supports teaching basic reading and math skills to disadvantaged students. Every school district in New Mexico would be hurt if these funds are not restored. Albuquerque public schools alone would lose almost $2 million if House cuts are not restored.

Education reforms funds support school-industry cooperation in developing programs that teach students going directly to work from school those skills they need to perform a job; and Goals 2000 supports professional development and raising standards of literacy to internationally competitive levels. The grant awards in New Mexico for these programs have provided great local control and pride and initial signs of success. Vivian LaValley of Bernalillo High School was here last Thursday describing her School-to-Work Program and it was very impressive.

The need for such Federal support is sorely felt both by my constituents and other leaders across the country. In 2 weeks Lou Gerstner of IBM and Gov. Tommy Thompson of Wisconsin will host the Nation's Governors and business leaders in an education summit to discuss the need for education standards and technology. The addbacks provided in this amendment provide States and communities the resources they need to pursue these efforts as they see fit.

For the last 6 years the Federal Government, on a bipartisan basis, has increased funding for education each year. Congress was right to do so. As our future depends increasingly on the competitiveness of our work force in the global economy, improving our education performance and investing in education should be top U.S. priorities. Unfortunately this amendment does not increase funding for education. But it does provide at least level funding for education.

Mrs. MURRAY. Mr. President, I rise in support of the Daschle-Harkin amendment restoring funds cut from education. This amendment stands for something; it stands for a continuing commitment to learning for all Americans.

One program the amendment would restore is the School-to-Work Program. I would like to tell you how this program has helped one student in my State to turn her life around and avoid the effects of violence.

Mr. President, we all hear about the epidemic of violence in America. The people most affected by this epidemic, and the people who sometimes end up contributing to the problem, are our young people. Too frequently, a young American's world of love, tenderness, and growth is replaced by a world of hate, abuse, and death.

The homicide death rate in Washington State has more than doubled since 1970, for children between 15 and 19 years old. Significant numbers of younger children are also becoming victims of homicide in recent years.

Juvenile drug and alcohol offenses have declined in my State since 1991, but were too high to start with. Violent crimes are on the rise among youth, and more young people are being incarcerated than ever before.

Mr. President, I want to make sure we do not misplace the blame for this epidemic, however. Adults are the ones capable of making the changes that will prevent adult violence and child abuse.

Adults are also capable of preventing youth violence. Young people tell me: Adults don't seem to care about them; they don't have access to youth activities; they can't get summer jobs; adults don't set a good example for kids; adults don't encourage positive behaviors—so young people get attention by exhibiting bad behavior.

This should not be allowed to happen, because it has an immediate effect on the lives and psyches of our young people, and a longer term effect on the economy and social fabric of our Nation.

The good news is: Adults can do something about these problems, and adults set good examples every day. Just being willing to talk with, and listen to, young people is a great start.

Last week, as part of his ongoing response to this problem for young people, the President hosted a White House Leadership Conference on Youth, Drug Use, and Violence. He brought together people from around the country to talk about problems and solutions for today's youth.

Mr. President, one of the people in attendance at the conference was a former high school dropout from Washington State, who has turned her life around through a program in vocational skills training.

This young woman is named Jessica Shillander. She spent her young life in a two-parent family, but later experienced a difficult family breakup. After this happened, this soon got very difficult for Jessica, and she had to prove how capable and resilient she really is—a thing we shouldn't ask from any child in America.

Jessica was kicked out of her mother's home as a seventh grader. Not surprisingly, she almost immediately got involved with gangs, drugs, and an abusive boyfriend almost twice her age.

Jessica dropped out of school, and if it were not for the help of caring adults, and a special program funded with Federal School-to-Work funds, she would not be the success story she is today.

However, due to a dropout retrieval program run by the New Market Vocational Skills Center in Tumwater, WA, Jessica started having success in school.

At New Market, Jessica felt the support from adults which allowed her to improve her academic and job skills. Thanks to the program, Jessica has almost graduated. She has turned away from violence.

She is now working a paying job as a student advocate, and looks forward to a career helping young people. Last week she spoke to applause at the White House Conference, letting adults and youth learn from her story.

This dropout retrieval program would not be possible without Federal School-to-Work funds. Run through the vocational skills centers in Washington State, the program is unique in the country. High school dropouts—kids from lower- and middle-class working families—get special assistance to get them involved in instruction which is relevant to their lives.

If they need help with transportation, or child care, or just need someone to care enough those first few days back at school to give them a wakeup call or see that they get an alarm clock or work clothes—the help is there.

And, like most Americans, these young people respond well to high expectations and a caring attitude—they need less help as they become more confident in their own abilities. These programs have an average placement rate of 90 percent—either in jobs, higher education, or the military.

At a time when our world is more complex than ever, when all employees, young or old, are finding the working world more difficult, when all schools need to be more relevant, Congress is about to cut the very School-to-Work funds that make Washington's School-to-Career program possible.

Here's Jessica's reaction: "School-to-work transition needs to begin as early as kindergarten, to help all students find value and self-worth. I want all students to have this opportunity."

Mr. President, I just held four children's forums in my State, in Yakima, Vancouver, Spokane, and Tacoma. In every one of these meetings, adults and young people came out in the winter weather to confirm that all schools need to be more relevant, and that School-to-Career programs are exactly the kind of thing this country needs more of.

But, instead, we are here today debating an amendment to restore these funds after they have been cut. This is folly. We must invest in our future, not bankrupt it. The Daschle-Harkin amendment will restore School-to-Work funds for programs like the one that helped Jessica.

I believe, as did President Franklin Roosevelt, that "The only real capital of a nation is its natural resources and its human beings." America cannot continue to act like a business having a fire sale, we must continue the investments which will give our country a future. Education is paramount among these. I want my colleagues to support the Daschle-Harkin amendment in this light.

Mr. GRAMS. Mr. President, I wish to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER

Mr. GRAMS. Mr. President, I wanted to say how disappointed I am that the Senate failed in a vote a few minutes ago to end the filibuster of our resolution to continue the Whitewater hearings.

The question before the Senate today should have been whether or not we would authorize additional funding for the continued investigation into Whitewater. Unfortunately, the current filibuster that is underway prevents us from even considering this question or voting on either the resolution or the Democratic alternative.

I recognize that some of our colleagues who have not closely followed the course of this investigation could reasonably believe that enough time and money has been spent on the matter, and under ordinary circumstances, they might be right.

Should we not have the opportunity to openly and honestly debate—and vote—on this issue? We may have disagreements over the need to continue the Whitewater investigations, but shouldn't those disagreements be argued and resolved in the light of full public scrutiny? I believe they should.

Unfortunately, that is not the situation we face today. But that should not come as any surprise; after all this filibuster simply follows the course of action directed by the White House.

Whatever its motivation, the White House has refused to fully cooperate with this investigation. For months, they have delayed the production of documents, presented witnesses who exhibit suspiciously selective memories, and raised dubious questions of privilege in order to withhold potentially damaging evidence. All for the purposes of downplaying the significance of Whitewater and running out the clock on this investigation.

Let us review the facts. Nine people have been convicted for crimes relating to Whitewater, and seven more—including Arkansas Governor Jim Guy Tucker and the Clintons' business partners, Jim and Susan McDougal whose trial has begun in Little Rock—are currently under indictment.

The President and the First Lady have both been compelled to testify separately before grand juries on the subject of Whitewater.

Yet, the White House still refuses to make full, prompt disclosures in response to our requests. And in those refusals rest the real Whitewater scandal.

Just as important as the actual and alleged crimes committed in Arkansas during the 1980's is the potentially criminal coverup going on in the White House today.

Our chief frustration centers around the stark difference between the claims the First Family makes in front of the cameras and the actions taken by the White House behind closed doors.

The President and the First Lady have repeatedly pledged full cooperation with this investigation, but as a Washington Post editorial puts it, "they have a weird way of showing" that cooperation.

It has been clear from day one that a concerted and coordinated effort has been made on the part of the White House, associates of the President, and Clinton appointees to thwart the work of the special committee.

You can think of Whitewater as a jigsaw puzzle with a timeclock—a puzzle that did not come in a box or with a picture to work from. You begin assembling the scattered pieces, but when you think you are done, something does not seem quite right.

Maybe it is the holes at the edges of the puzzle or the extra pieces you are holding that don't seem to fit anywhere. With time ticking away, you look around to see if anything is missing, when you find them in someone else's hands.

And as all the pieces begin to fit together, you still have no idea what you'll end up with, but you realize that the puzzle is bigger than you had ever imagined.

It sounds incredible but look at the obstacles we have had to face.

Withheld records. Last summer, the committee requested the phone records of Margaret Williams and Susan Thomases for the time period immediately following the death of Vince Foster. By December, we had received them, but only after making four separate requests and issuing a subpoena.

The records detail a phone tree between Williams, Thomases, and the First Lady on the night of Foster's death, leading to the removal of documents from Foster's office. But it took months to get them.

Last minute surprises. On November 3, Deputy White House Counsel Bruce Lindsey was deposed by the special committee. Not until the eve of his deposition did Lindsey supply the committee with Whitewater documents, and then, 12 days later, discovered another 80 pages of information.

With this new information, the special committee decided to depose Mr. Lindsey again, when, surprise, he once again provided additional documents on the eve of a deposition.

And just a few weeks ago, when we least expected it, boom—more documents from Bruce Lindsey.

Missing and redacted notes. On February 7 of this year, the White House released a redacted version of notes taken by then-White House Communications Director Mark Gearan from Whitewater response team meetings led in 1994 by White House Deputy Chief of Staff Harold Ickes.

But only on the day of Gearans' deposition was the unredacted version released—3 days before Gearan was scheduled to testify. When questioned, Gearan gave little explanation for why these, shall we say, colorful notes were not turned over in response to a committee subpoena for Whitewhater documents issued over 3 months ago.

Overlooked documents. Upon receiving confirmation from the Gearan notes about Ickes' role in Whitewater, the committee requested any additional notes that might have been taken by Ickes.

Sure enough, less than 48 hours before Ickes was scheduled to testify, over 100 pages of notes and documents appeared on our doorstep, accompanied by the dubious explanation that the documents were mistakenly overlooked.

To top if off, how can one forget the long delayed discovery of Mrs. Clinton's billing records in the White House book room. Coincidences? Hardley.

The White House knows exactly what it is doing, Make no mistake about it.

Publicly, they claim to be the most forthcoming administration in history. And they point to the tens of thousands of pages of documents they have turned over as evidence.

Only after you leaf through the piles, and see first hand the fragments, the redactions, and the irrelevant information the White House has provided do the pieces of the puzzle begin to fit together in the image of a stone wall.

I've often compared it to looking for a needle in a haystack—the trouble is, when we ask for the needle, the White House gives us the haystack. And now, they want to say "Times up. We win."

Mr. President, when we started this investigation, our purpose was to examine the reasons for the taxpayer-financed $60 million failure of one Arkansas savings and loan. But what we have uncovered, in Washington and in Arkansas, is enough to make any ethical person cringe—and still, many questions remain.

It is these findings and unresolved questions which lead me to wonder why our Democratic colleagues have chosen to filibuster this investigation, rather than let us gather the facts and complete our job.

There has already been a great deal of speculation in the public's eye over issues related to Whitewater and the death of Vince Foster. We cannot afford to leave these questions—or to give the American people reason to doubt the integrity of our efforts.

Mr. President, we have a choice. We can either continue our investigation and get to the bottom of this whole affair or we can give up. We can begin dismantling the White House's stone wall piece by piece or we can throw our hands up in the air and allow the Senate to become just another part of a potential Whitewater coverup.

Mr. President, we cannot allow that to happen.

We have a responsibility to uncover the truth to every taxpayer whose hard-earned dollars bailed out Madison Guaranty, to every citizen who questions the honesty and integrity of their Government, to every American who believes in the saying, long forgotten in Washington, about "the truth, the whole truth, and nothing but the truth."

If it takes us days, weeks, or months to wipe the Government clean from the tarnish of Whitewater, then that is what we must do. The Senate cannot continue to wash its hands of this responsibility. The investigation must continue. If it takes us days, weeks, or months to wipe the Government clean from the tarnished Whitewater, then that is what we must do. The Senate cannot continue to wash its hands of this responsibility. The investigation must continue.

Now, I know my colleagues argue many points, but I believe they ignore the merits. They argue time and money, but they ignore the facts. They say, "What is the big deal about Whitewater?" But, again, they ignore the fact that nearly two dozen friends and associates of the Clintons have become casualties of Whitewater being sent back home in disgrace, charged or convicted of crimes related to Whitewater, or even worse.

And, also, they charge that the investigation is political, but they ignore the fact that it would be more political to end this investigation without getting the answers. It is political, but the politics are being played by the White House and our Democratic colleagues in not allowing this investigation to continue. If there is nothing to fear, why not get the job done and put it behind us?

Thank you very much, Mr. President. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3473

Mr. DASCHLE. Mr. President, I commend the distinguished Senator from Iowa and the distinguished Senator from Pennsylvania for their work in bringing us to this point on one of the most important aspects of this omnibus appropriations bill, the education amendment. Yesterday we offered an amendment with an expectation that we could restore full funding to the 1995 level. This legislation does that. There was some miscalculation as to the funding level required to bring us to fiscal 1995 levels for title I. As I understand it, the question relating to how much funding would be required to do just that has been resolved.

I am satisfied that this does restore the fiscal 1995 level for title I, as well as for the other educational priorities identified in the underlying amendment. So, clearly, this agreement is a very significant development. It ought to enjoy the support of both sides of the aisle. I hope we can get unanimous support for it. It removes what I consider to be one of the most important impediments to bringing us to a point where we can get broad bipartisan support for final passage of this bill.

So, again, I thank the leadership of the Senator from Iowa, and certainly the Senator from Pennsylvania. I hope that all of our colleagues can support it. I hope we can work together on a bipartisan basis to reach similar agreements on other outstanding differences related to this legislation, including funding levels for the environment, crime, and technology. We also need to remove the contentious riders the House included in their version of the bill. I believe that if we did that this afternoon, we could put this bill on the President's desk before the end of the week and, at long last, resolve the many problems we have had with these appropriations bills.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 84, nays 16, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—84

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grassley
Harkin
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone
Wyden

NAYS—16

Ashcroft
Coats
Craig
Faircloth
Gramm
Grams
Gregg
Hatch
Helms
Inhofe
Kempthorne
Kyl
McCain
Murkowski
Smith
Thompson

So, the amendment (No. 3473) was agreed to.

AMENDMENT NO. 3467

The PRESIDING OFFICER. The question is on agreeing to the Daschle amendment No. 3467, as amended.

So the amendment (No. 3467), as amended, was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today in support of Senator HATFIELD's proposal in the omnibus bill before us to remove restrictions on U.S. funding of international family planning. These restrictions are part of the foreign operations bill which was folded into the last CR. Senator HATFIELD's initiative is a necessary and welcome step: necessary because the restrictions risk the lives and health of women and children in the developing world; welcome because the United States should not be forced by these ill-conceived restrictions to abdicate its proven leadership in international family planning.

Voluntary efforts to limit population growth must remain a principal priority of U.S. foreign assistance. The failure to fund adequately international family planning efforts in the developing world has dire consequences. The restrictions currently on the books will result in 4 million unwanted pregnancies in developing countries. Of these unwanted pregnancies, an estimated 1.6 million will end in abortions. Thus, these restrictions have as a direct and alarming consequence a result contrary to their purported purpose of trying to minimize abortions. The restrictions do not decrease abortions, they increase them. Other statistics speak for themselves. In Russia, a lack of family planning services has made abortion the chief method of birth control. The average Russian woman has four abortions over her lifetime. In countries with effective family planning, though, such as Hungary, abortion rates have dropped dramatically.

But this debate is not just about abortion. A lack of adequate family planning and population efforts leads directly to a severe degradation of the lives and health of mothers and children. U.S.-funded programs, rather than promote abortion, seek to promote safe contraception, thus allowing women to space their pregnancies, a step crucial to the health of the mother and the survival of the child. If the CR funding restrictions are left in place, 8,000 more women will die in pregnancy and childbirth, including from unsafe abortions, and 134,000 more infant deaths will occur. Inadequate family planning also contributes to dangerous strains on already heavily taxed environments, while unbridled population growth has a serious impact on education efforts in countries where money for such programs is scarce. Such a strain on education is an indirect cost of these restrictions, but one with dire long-term consequences.

It is worth emphasizing that prohibitions on U.S. funding for abortions have been on the books since 1973.

USAID has consistently sought to prevent abortions by offering viable alternatives, alternatives available only through adequate education. AID's programs are widely recognized as the most efficient and effective population planning programs in the world.

These shortsighted restrictions endanger the long-term goals of improving the lot of women and children in the developing world, with potentially catastrophic results.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Christian Science Monitor of February 9, 1996.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL EFFORT TO CURB GLOBAL ABORTION MAY BACKFIRE

(By George Moffett)

WASHINGTON.—A CONGRESSIONAL move to limit abortion and family planning may have a dramatic unintended consequence: It could actually cause the global abortion rate to rise.

Encouraged by the Christian Coalition and anti-abortion groups, Congress last month made deep cuts in United States funds for family-planning programs abroad. But demographers, and even some anti-abortion activists, are warning that the cuts for family planning will lead to more unintended pregnancies—and that more, not fewer, abortions are likely to result.

"We embraced the probability of at least 4 million more abortions that could have been averted if access to voluntary family-planning services had been maintained," Sen. Mark Hatfield (R) of Oregon told his Senate colleagues this week. "These numbers are as disturbing as they are astounding, particularly to those of us who are faithfully and assertively pro-life."

The US has been barred from funding abortion services overseas since 1973. But anti-abortion activists in the US urged Congress to cut support for family-planning programs concerned that such programs indirectly promote abortion.

"Population control that has to do with education and the use of contraceptives was not the issue," says Rep. Sonny Callahan (R) of Alabama, chairman of the House Appropriations subcommittee that deals with foreign aid. "The issue is trying to stop the US from providing any money that might be used for abortions."

"Our concern is that services for abortion are being provided by family-planning agencies," adds a spokesman for the Christian Coalition, based in Chesapeake, Va.

Lawmakers trimmed funding for population assistance by 35 percent in a foreign-aid bill that was incorporated into a "continuing resolution" to keep the federal government running until mid-March.

In addition to budget cuts, the legislation imposes unprecedented restrictions on family-planning programs funded by the US Agency for International Development (AID), AID is now barred from obligating any money before July 1 and only small monthly parcels thereafter process that leaves only 14 percent of the amount appropriated in 1995 available for use in fiscal year 1996, and which, AID officials complain, will confound the process of long-term planning.

Republican sources on Capitol Hill say cuts in family-planning funds are part of an across-the-board drive to reduce federal spending. As for restrictions on how the money is spent, says one House source, they reflect the new balance of power in the 104th Congress in favor of those who believe that family-planning agencies promote abortion—a charge family planning advocates hotly deny.

Family-planning advocates cite evidence indicating that cuts in family-planning services will lead to sharp increases in abortion. They point to Russia, where the absence of family-planning services has made abortion the chief method of birth control. The average Russian woman has at least four abortions over a lifetime.

"The framers of the family-planning language in [the continuing resolution] ensured, perhaps unintentionally, that the gruesome experience of Russian women and families will be replicated throughout the world, starting now," Senator Hatfield says.

Conversely, where family-planning services have been introduced, as in Hungary, the abortion rate has dropped dramatically.

Some 50 million couples around the world now use family-planning services paid for by US government funds. The one-third budget cut could mean one-third that number, or 17 million couples, will lose access to family planning. If funds are not found from other sources, according to projections by Population Action International, a Washington-based advocacy group.

"More than 10 million unintended pregnancies could result annually," says Sally

Ethelston, a spokeswoman for the group. "That could mean at least 3 million abortions, at least half a million infant and child deaths, and tens of thousands of maternal deaths."

Without family-planning services, more pregnancies will occur among younger women, older women, and women who have not spaced pregnancies by at least two years, which is considered the minimum time needed to protect the health of mother and child.

The US has taken the lead since the 1960s in funding family-planning programs in poor nations. Since then, global contraceptive use has risen fivefold; fertility (the average number of children born to a woman during her reproductive years) has dropped by one-third; and the rate of global population growth has begun to slow.

Even so, the world grows by 1 million people every 96 hours, and the populations of most poor nations are projected to double within 20 to 30 years. AID officials say the cuts will retard the incipient family-planning movement in Africa, where population growth is fastest. "If this proves to be something that does increase abortion, we'd take another look at our position," says the Christian Coalition spokesman.

Mr. JEFFORDS. I urge my colleagues to support lifting these restrictions on programs with vital U.S. interests. I yield to the Senator from South Carolina.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 3474 TO AMENDMENT NO. 3466

(Purpose: To provide funding for important technology initiatives with an offset)

Mr. HOLLINGS. Mr. President, I have an amendment at the desk and ask, on behalf of myself, Senator DASCHLE, Senator KERRY, Senator LIEBERMAN, Senator BINGAMAN, Senator ROCKEFELLER, Senator LEAHY, Senator LAUTENBERG and Senator KERREY, the clerk to please report it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] for himself, Mr. DASCHLE, Mr. KERRY, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. KERREY proposes an amendment numbered 3474 to amendment No. 3466.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HOLLINGS. Mr. President, this is the technology amendment. I ask unanimous consent that I be able to yield to the distinguished Senator from California, who wishes to make a brief statement as in morning business.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair, and I particularly thank Senator HOLLINGS.

Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of S. 1607 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HOLLINGS. I have been informed by the Parliamentarian, since the Daschle education amendment has passed, that the present amendment on technology needs to be conformed. I ask unanimous consent the Parliamentarian conform it in accordance with the Daschle amendment in the bill as it now appears.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, this amendment restores funding for five important technology programs that are significant investments in our country's future. They focus on three critical areas: Economic growth, education, and cost-effective environmental protection. The spending we propose in this amendment is fully offset, and the Congressional Budget Office has scored that offset at providing more than is needed for the programs we restore.

The distinguished Senator from Iowa has been the principal sponsor also of the offset, which deals with accelerated collection by the Federal Government. We, as cosponsors, are indebted to him for his leadership. Otherwise, the distinguished Senator from Maryland, Senator MIKULSKI, has really led the way for our Environmental Protection Technology Program.

Specifically, the amendment invests five important technology programs. It restores funding for four of them: A $300 million add-back for the Department of Commerce's Advance Technology Program, which contracts with industry to speed the development of new breakthrough technologies; $32 million more for the Telecommunications and Information Infrastructure Assistance Program at the National Telecommunication and Information Administration; an additional $4.5 million for the Technology Administration at the Department of Commerce, including $2.5 million to honor commitments under the United States-Israel Science and Technology Commission; and a $62 million addition for the Environmental Technology Initiative at the Environmental Protection Agency, an important effort to develop innovative and cost-effective ways to protect the environment. These add-backs total $398.5 million.

In addition, the amendment specifies that $23 million that is already in title I of the committee amendment is to go to the Education Department's Technology Learning Challenge Program. These five programs promote innovative new technologies—technologies, Mr. President, that can improve schools, protect the environment at lower cost, and create new industries and jobs to replace employment lost through never-ending downsizing and layoffs. We must invest now to benefit from those new technologies tomorrow. This amendment does that job.

The amendment fully offsets these add-backs through a provision that would significantly improve the collection of delinquent Federal debts. It puts the squeeze on deadbeats who have not repaid money owed to the Federal Government. The Congressional Budget Office has scored this provision as raising $440 million in fiscal year 1996—more than enough to cover the add-backs.

Mr. President, I want to turn first to investment in new job-creating technologies. I particularly want to focus on the Advanced Technology Program at the Department of Commerce. The Advanced Technology Program contracts with companies on a cost-shared basis to speed the development of new breakthrough technologies that offer great promise for the Nation but are too untested for the regular marketplace to fully fund. Just as other Federal research and development programs work through companies to develop the technologies needed for Government missions such as defense and space, the Advanced Technology Program works with companies in support of the critical Federal mission of promoting long-term economic growth and job creation.

The amendment now before the Senate provides $300 million for the ATP. The $300 million level is significantly below the $341 million available for the program just last year in 1995. Currently, H.R. 3019 provides no 1996 funds for this important program, although the committee amendment's unfunded title IV would provide $235 million to support existing awards.

Mr. President, I want to talk about several points in this important program.

First, we are talking here about jobs. The Advanced Technology Program supports a vital mission of Government—promoting long-term economic growth. The voters know that America faces tough economic times. Foreign competition remains fierce, American companies continue with never-ending downsizing, and voters are understandably anxious and upset. It is ironic indeed that the Government spends billions in research and development dollars each year for defense security, but we are still debating the R&D efforts to promote economic security.

Increasingly, new industries, jobs, and wealth will go to those who are fastest at developing and then applying new technologies. And if we are to save as many jobs as possible in existing industries, they too need to be technologically competitive. The ATP works to turn promising laboratory ideas into practical breakthrough technologies—technologies that the private sector itself will develop into new products and processes. And, we hope, technologies that American companies and American workers will turn into products before our overseas competitors do so.

The Federal Government has long worked with industry to speed the development of important new technologies. Industry-government partnerships helped start entire U.S. industries—from the telegraph and agriculture to aircraft and biotechnology to computers and the Internet. These government investments paid off enormously for the Nation and its workers.

We won the race to develop those technologies. But will we win others? I started the ATP because I saw our competitors overseas moving to develop and commercialize American ideas before we could, in areas such as superconductivity.

And the race continues. Numerous small ATP winners tell us that their foreign competitors are often no more than 12 to 18 months behind them. This is not surprising. While American firms have difficulty getting private capital for long-term research that will not pay off quickly, other governments invest heavily in programs to support civilian technology. This year, the Japanese will spend $1.4 billion on national technology research programs for industry. The European Union is investing $14.4 billion over 5 years in 20 specific areas of research and technology, and individual European governments are investing additional R&D amounts to help their economies.

With the fall of the Berlin Wall and the explosive growth of foreign technology programs, we need not only Defense Department research programs but also economic growth programs such as the ATP. And given the economic insecurity facing the country, we should increase the ATP, not cut it. We need to help American industry accelerate the development of new technologies, new industries, and new jobs. If you want to let other countries win the technology race, then kill the ATP.

Second, Congress has a serious obligation to honor our commitments to companies and workers in ongoing ATP projects. The pending bill acknowledged this when it included $235 million in the unfunded title IV of the bill. I commend Chairman HATFIELD for including that provision. He put that in so that if Congress can find the money, then fiscal year 1996 commitments to some 200 current multiyear projects will be kept. Our amendment has an actual offset for that $235 million, as well as enough additional money to have a small new ATP competition in fiscal year 1996. Not passing our amendment will, in fact, abruptly reduce the ATP from its fiscal year 1995 level of $341 million to a fiscal year 1996 level of zero—a draconian move that will hurt companies across the country. It will particularly hurt the 100 companies in 25 States that won awards in fiscal year 1995 and now need fiscal year 1996 funding to continue their multi-year projects. These companies have hired staff and committed their own matching funds.

Third, I want to emphasize that over the years the ATP has actually enjoyed strong bipartisan support. The law creating the program passed during President Reagan's second term, and the ATP received its first funds during the Bush administration. Mr. Bush's Commerce Department wrote the rules for the ATP, and did a good job. President Bush himself requested budget increases, and in 1992 14 Republican Senators on a defense conversion task force endorsed it. See "Report of the Senate Republican Task Force on Adjusting the Defense Based," June 22, 1992.

Unfortunately, in 1994 politics intruded because some Senators worried that ATP grants might be made in a political fashion. But this is the purest program you will find. Expert panels make the decisions—not the Secretary of Commerce, not the White House, not any Member of Congress. Several States that have no Democratic Senators or Governor do very well under the ATP, including Texas and Pennsylvania. The ATP now supports 276 research projects around the country, involving 757 research participants in 41 States. The ATP is not porked, has never been porked, and is not used for partisan purposes.

Fourth, the ATP is not corporate welfare. This program is not a handout to deadbeats. The purpose of the ATP is not to subsidize companies but to contract with the best companies to develop technologies important to the Nation as a whole. Companies also pay half the costs, hardly welfare. Moreover, no ATP funds are ever used to subsidize product development in companies; it supports only development work up to basic prototypes. More than half the awards go to small firms or joint ventures led by small firms.

Fifth, both the ATP itself and the larger principle of industry-government technology partnerships enjoy solid support and excellent evaluations. In terms of industry's views, I want to quote first an important July 1995 policy statement by the National Association of Manufacturers (NAM) about technology partnership programs in general:

> The NAM believes that the disproportionately large cuts proposed in newer R&D programs are a mistake. R&D programs of more recent vintage enjoy considerable industry support for one simple fact: They are more relevant to today's technology challenges * * * In particular, partnership and bridge programs should not be singled out for elimination, but should receive a relatively greater share of what federal R&D spending remains. These programs currently account for approximately 5 percent of federal R&D spending. The NAM suggests that 15 percent may be a more appropriate level.

Groups explicitly endorsing the ATP include the Coalition for Technology Partnerships, a group of over 100 companies and other research organizations, and the Science and Technology Working Group, representing over two dozen scientific and engineering societies and other organizations. These groups see the ATP as an important investment in America's future prosperity and strength.

In addition, the General Accounting Office [GAO] has conducted two reviews of the ATP in the past year. Despite some assertions to the contrary, they speak highly of the program. GAO found that the ATP had succeeded in encouraging research joint ventures, one of its purposes; that ATP winners did indeed often have trouble getting private funding because the research was too far from immediate market results; and even those companies that would have continued their research without ATP awards would have done so much more slowly or at a lower level of effort.

A January 1996 report conducted by Silber and Associates provided further positive comments from industry. Of the companies surveyed, many maintain that the ATP has been the lifeblood of their company's innovative research efforts, permitting them to venture into arenas new to U.S. industry.

Sixth, while the ATP is still new, it already has generated some real technical successes—successes that in the years ahead will create jobs and broad benefits for our Nation. Later, I will submit for the RECORD a detailed list of accomplishments, but for now I want to mention three particular cases.

With help from ATP, Aastrom Biosciences of Ann Arbor, MI, has developed a prototype bioreactor that can grow blood cells from a patient's own bone marrow cells. In 12 days, the bioreactor will produce billions of red and white cells identical to the patient's own—cells that then can be injected into the patient to boost the immune system. The benefits from this system will be astounding. Now that the basic technology has been proven and patented, Aastrom has received $20 million in private funds to turn the prototype into a commercial product.

With ATP help, the Auto Body Consortium—consisting of eight auto suppliers, with support from Chrysler, General Motors, and the University of Michigan—have developed a new measurement technology to make assembly-line manufacturing more precise. The result will be better fit-and-finish in car production, resulting in lower manufacturing costs and lower car maintenance costs. The new system is now being tested.

Diamond Semiconductor of Gloucester, MA, used its ATP award to develop a new, risky technology for helping to reliably use much larger semiconductor wafers—the slices of silicon on which computer chips are built. Diamond Semiconductor's equipment can be used to make 12-inch wafers, holding many more chips than the old 8-inch wafers. Now that the technology is proven, a much larger company, Varian Associates, has invested in turning this system into a commercial product.

Finally, there is one other key point. The President supports this program and opposes any effort to abruptly terminate it. It is a fact that when he vetoed the earlier fiscal year 1996 Commerce, Justice, State conference report he cited two main reasons—cuts in the COPS Program and elimination of the ATP. ATP funding is needed in order to get the President's signature and get on with finishing appropriations bills for this current fiscal year. The sooner we resolve the ATP issue, the sooner we get on with solving this protracted budget impasse.

Mr. President, the ATP is one of our most investments in long-term economic growth and jobs. For that reason, we need to pass the pending amendment and fund the ATP.

INFORMATION INFRASTRUCTURE ASSISTANCE

Mr. President, this amendment also adds $32 million to the current bill's $22 million for fiscal year 1996 funding for NTIA's Telecommunications and Information Infrastructure Assistance Program [TIIAP]. The fiscal year 1995 figure was $42 million.

TIIAP is a highly competitive, merit-based grant program that provides seed money for innovative, practical information technology projects throughout the United States. TIIAP helps to connect schools, libraries, hospitals, and community centers to new telecommunications systems. Examples include connecting schools to the vast resources of the Internet, improved health care communications for elderly patients in their homes, and extending emergency telephone service in rural areas. Projects are cost shared, and have yielded nearly $2 of non-Federal support for every Federal dollar spent. Many of the awards go to underserved rural and inner-city areas.

In fiscal year 1995, NTIA received 1,811 applications, with proposals from all 50 States, and was able to fund 117 awards.

With the recent enactment of the Telecommunications Act of 1996, more communities that ever will be faced with both new information infrastructure challenges and opportunities. Schools, hospitals, and libraries all need help hooking up and applying this technology to their needs. The money this amendment would provide for fiscal year 1996 will enable dozens of additional communities to connect to, and benefit from, the new telecommunications revolution.

TECHNOLOGY ADMINISTRATION

Our amendment also would add $4.5 million to the $5 million that H.R. 3019's title I provides to DOC's Technology Administration [TA] appropriations account. Of that additional amount, $2 million will help TA and its Office of Technology Policy [OTP] maintain its role in coordinating the new-generation vehicle project, organizing industry benchmarking studies, and serving as the secretariat for the United States-Israel Science and Technology Commission. The other $2.5 million is for a new activity endorsed by the Committee amendment's title IV—actual joint projects between the United States and Israel in technology and in harmonizing technical regulations so as to promote high-technology trade between the countries.

ENVIRONMENTAL TECHNOLOGY AND EDUCATIONAL TECHNOLOGY

Mr. President, I will let others speak in greater detail about two of the programs covered in this amendment—environmental technology and educational technology. But I want to mention them briefly here.

The amendment contains a $62 million add-back to support activities under the EPA's environmental technology initiative [ETI]. The program has two main purposes—to help accelerate the development, verification, and dissemination of new cleaner and cheaper technologies, and to accelerate efforts by EPA and state environmental agencies to rewrite regulations so that they do not lock in old technologies. Innovative environmental technologies offer a win-win opportunity—high levels of protection at lower costs for industry. In the process, we also can help a growing U.S. industry that exports environmental protection technology and creates jobs here at home. The $62 million will help with these important activities.

In the case of educational technology, title I of the committee amendment to H.R. 3019 already provides additional funds for educational research and technology, and I commend members of the Appropriations Committee for that step. Our amendment would simply clarify that of those funds now in title I of the bill, $23 million is for the highly regarded technology learning challenge grants.

This is a competitive, peer-reviewed program. Under this program, schools work with computer companies, software companies, universities, and others to develop innovative software and computer tools for improving basic classroom curricula. The challenge grants are seed money for alliances of educators and industrial partners to develop new computer applications in reading, writing, geometry and other math, and vocational education. In short, we are developing new ways to use computers to improve learning.

In the first competition, held last year, the Education Department received 500 proposals and was able to make only 19 awards. Clearly, there are many more outstanding, valuable proposals out there. The $23 million of fiscal year 1996 funding would allow more of these important projects.

THE OFFSET: IMPROVED DEBT COLLECTION

Before concluding, Mr. President, I want to mention briefly the offset that this amendment provides to pay for these technology program add-backs. As mentioned, CBO has scored this proposal as providing $440 million in fiscal year 1996 funds, more than enough to offset the $389.5 million in add-backs included in the amendment.

The offsetting funds come from a upgraded Federal process, created in this amendment, for improving the collection of money owed to the Government and for denying certain Federal payments to individuals who owe such money to the Government. In short, we will not give certain Federal payments to people who are delinquent in paying their debts to the Government, and we will give Federal agencies new authority to collect such debts.

The Government estimates that the total amount owed to the Government—including both nontax debt and tax debt—in 1995 was a staggering $125 billion. The Internal Revenue Service already has authority under law to withhold Federal tax returns for delinquent Federal debts, and the Treasury Department's Financial Management Service may hold back certain nontax Federal benefits for delinquent Federal debts.

So far, the Treasury Department has collected over $5 billion in bad debt through reductions—offsets—in Federal tax credits. But there is a larger problem. Many other Federal agencies do not have the resources to invest in debt collection, or their mission does not include debt collection, or they face too many restrictions in using the available tools. On March 22, 1995, the President's Council on Integrity and Efficiency, which is composed of agency inspectors general, reported on the need for a Governmentwide system of reducing Federal payments to delinquents.

Based on this problem, legislation has been proposed by a bipartisan group of legislators, acting with the support of the administration. In the House, the main bill is H.R. 2234, the Debt Collection Improvement Act, introduced by Congressman HORN, Congresswoman MALONEY, and others. The Senate companion bill is S. 1234, introduced by our distinguished colleague from Iowa, Senator HARKIN. Finally, a version of this proposal was included in the House version of last year's budget reconciliation legislation, H.R. 2517. So this idea of improving Federal debt collection enjoys strong bipartisan support.

As included in our amendment, the debt-collection proposal has several key provisions. First, the Treasury will be able to reduce certain Federal payments to individuals who owe the Government money. Veterans Affairs benefits would be exempt from this offset process. Other benefit payments such as social security, railroad retirement, and black lung payments will reduce after a $10,000 combined annual exemption. Other agencies can cooperate in this process by giving information to the Treasury regarding delinquent debt, although steps will be taken to protect the legitimate privacy of individuals.

Second, Federal agencies will have access to the computerized information and can dock the pay of Federal employees who owe the Government money.

Third, people who have delinquent Federal debts will be barred from obtaining Federal loans or loan guarantees.

Fourth, the Social Security Administration, the Customs Service, and the legislative and judicial branches of the Federal Government will be authorized to use debt collection tools, such as credit bureaus and private collection agencies.

Mr. President, this is a sound proposal for collecting money from deadbeats and docking their Federal payments until they pay the funds they owe. It is fair, and it simply improves the process for carrying out debt-collection authorities agencies already have.

CONCLUSION

Mr. President, America's success at home and abroad is like a stool that rests on three legs. First, our strength and success depend on our military power, which is now undisputed in an age where we are the world's only superpower. Second are our values, of family and country. They are strong and can be stronger still. The third leg, though, is our economic strength. And here we face serious challenges. As the New York Times has recently documented, too many Americans live with growing economic insecurity. Layoffs abound, and many of the jobs that once went to Americans have gone overseas.

Accelerating the development of new high-technology industries and jobs is not a complete solution. We also need a vigorous trade policy to pry open foreign markets and reduce unfair dumping of foreign products. We need better education and training for all Americans. We need to make real progress, not phony progress, on the Federal deficit, so that interest rates can fall further.

But technology policy is one key step in national economic recovery and strength, and the four programs this amendment supports are key parts of an effective, nonporked national technology policy. We know that earlier technology cooperation between industry and Government has helped create entire American industries—from agriculture to aircraft to computers and biotechnology. Much of Government's support came through the Defense Department, which was appropriate during World War II and the cold war. But now the Berlin Wall has fallen, and now our Nation's greatest challenge is economic, not military. We therefore need to strengthen civilian programs to stimulate technologies important to the civilian economy and civilian jobs. To do less is to condemn our Nation and its workers in the long run to second-rate status and more, not less, economic insecurity.

For these reasons, I urge our colleagues to pass this important amendment.

Mr. President, at this point I want to make a few additional points about the importance of technology and the Advanced Technology Program in particular. To begin with, we must remember that our strength as a Nation is like a three-legged stool. We have the one leg—the values of the Nation—which is unquestionably strong. We have sacrificed for the hungry in Somalia, for democracy in Haiti, for peace in Bosnia. We have the second leg, Mr. President, of military strength, which is also unquestioned. But the third leg—that of economic strength—has become fractured over the past 45 years in the cold war—intentionally, if you please, because we sacrificed to keep the allies together in the cold war. So we willingly gave up market share trying to develop capitalism not just in Europe, but particularly in the Pacific rim, and it has worked. The Marshall Plan has worked. With the fall of the Berlin Wall, however, now is the time to rebuild the strength of our economy.

Our problem is, right to the point, that you can willingly—for national defense, military security—conduct research without any matching funds whatever. You can go right to the heart of it and give out the money. But all of a sudden, Mr. President, when we come to the matter of economic security—which is really the competition now in global affairs—we hear criticism even though the ATP requires matching funds, a dollar of private money for every dollar of Government money we expend. The law requires 50 percent from industry. The track record is 60 percent of the money by industry itself. Yet when they come with it, all of a sudden we hear talk about pork.

Let me take up the matter of pork because that is the reason we are into this particular dilemma. The program at hand is working in most of the 50 States with hundreds of different contracts awarded. They are awarded over for 3- and 5-year periods, and they have led into commercialization, which we will soon touch upon.

Senator DANFORTH and I set this up in the late 1980's. I was chairman of the Commerce Committee at that particular time. We wanted to make sure, back in 1988—the Trade Act of 1988 is where it was added—we wanted to make sure that it would not be exactly what is it accused of being today, namely, pork. So we set down various guidelines in the particular measure itself, and it was implemented in a very, very successful way by, I should say, President Bush's administration. No. 1, the industry has to come and make the request. It is not the Government picking winners or losers. It is the industry picking the winner. They have to come with at least 50 percent of the money.

Thereupon, the experts in technology and business, including retired executives selected by the Industrial Research Institute, have to peer review the particular proposals. Mr. President, they have to look it over and make sure that the submission would really pass muster. I know it particularly well because my textile industry came with a request for computerization that they thought was unique. But it did not pass muster and was not given the award. They do not have an Advanced Technology Program award. Incidentally, I guess they heard ahead of time about my discipline of not making any calls. I never made a call to the White House or anybody in the Commerce Department in favor of any proposal. I would rather, at the markup of the appropriations bill, have turned back efforts on the other side of the Capitol to try to write in these particular projects.

So we have protected the authenticity of the program as being nonpork. Thereupon, having passed peer review, highly ranked proposals have to go to a source selection board. The source selection board are civil servants, as we all know, of no political affiliation. On a competitive basis, they make the decision, not Secretary BROWN, not President Clinton, not Senator HOLLINGS, or any other Senator or Congressman, but, rather, that is the way these awards have been made. There have been no violations of it. We are proud of its record. That is why it has the confidence of the National Association of Manufacturers. That is why it receives the endorsement of the Council on Competitiveness, and every particular industry group you can possibly imagine have come forward and said this is the way to do it. That has to do with the pork part. The other part with respect to the long-range financing for long-term technologies has to be understood.

Back at that particular time, when we were writing the legislation years ago, Newsweek reported an analysis predicting that maintaining the current hands-off policies toward industry and research, namely, the matter of commercialization of our technology, could cause the United States to be locked into a technological decline. They said, and I quote, that it would add $225 billion to the annual trade deficit by the year 2010 and put 2 million Americans out of work.

There are various other articles we had at that particular time, and witnesses. I quote particularly from Alan Wolff:

> In 1990, a Wall Street analyst commented to a group of U.S. semiconductor executives that the goal of people investing in stocks is to make money. That is what capitalism is all about. It is not a charity. I can't tell my brokers, "Gee, I am sorry about your client, but investing in the semiconductor industry is good for the country." While the individual was stating a truth, obviously, he was touching on a fundamental dilemma confronting U.S. industry today in light of the investor sentiment expressed above. How is a company to maintain the level of investment needed to remain competitive over the long term, particularly if there is no prospect of a short-term or short-run payoff, or foreign competition has destroyed the prospect of earning a return on that investment?

That is the points that answers a charge sometimes made with respect to two recent GAO reports. Critics of the Advanced Technology Program quote GAO's statement where it said that half of those who had been given awards, when asked if they would have continued their research without the awards, said they would have continued. But by way of emphasis, these critics do not mention the next GAO finding, namely, that none of them said they would have ever continued as quickly or with the same degree of investment. With Government assistance, they are able to expedite their research and therefore have been able to meet the foreign competition. But note that GAO reported that half the winners said they would not have continued their research without Government assistance. They would have abandoned it.

We would have lost valid, good research projects without this Advanced Technology Program. I think the emphasis should be made at this particular time that GAO has made a favorable report, and that the program is doing exactly what was intended to do. It confronts exactly the particular dilemma we find ourselves in with respect to the operation of the stock market. It can go up 171 points one day and come back 110 points the next day. They look for short-term turnarounds and everything else of that kind, and does not focus on the long-term, including long-term technologies. That is why the working group headed by the distinguished Senator from New Mexico, Senator BINGAMAN, calls for the various securities law reforms. So we can do away, perhaps, with the quarterly report and actually meet the long-term investment competition that we confront, particularly in the Pacific rim.

Again, I want to emphasize that expert panels make the decisions, not the Secretary of Commerce. Several States that have no Democratic Senators or Governor do very well in the ATP, including Texas and Pennsylvania. The Advanced Technology Program now involves some 760 research participants. It supports 280 projects around the country and in some 41 States.

The Advanced Technology Program is not corporate welfare. It is not a handout to deadbeats. The purpose of the Advanced Technology Program is not to subsidize companies but to contract with the best companies to develop technologies important to the Nation as a whole. Companies must pay, as I pointed out, at least half of the amount when they come and may apply to the Advanced Technology Program. The ATP itself is the larger principal of industry-Government technology partnerships which enjoy solid support and excellent evaluations.

In terms of industry's views, I want to quote first an important July 1995 policy statement by the National Association of Manufacturers:

> The National Association of Manufacturers believes that the disproportionately large cuts proposed in newer R&D programs are a mistake. R&D programs of more recent vintage enjoy considerable industry support for one simple fact: They are more relevant to today's technology challenges. In particular, partnership and bridge programs should not be singled out for elimination, but should receive a relatively greater share of what Federal R&D spending remains. These programs currently account for approximately 5 percent of Federal R&D spending. The National Association of Manufacturers suggest that 15 percent may be a more appropriate level.

The figure we have in the particular amendment is $41 million less than the fiscal year 1995 level—$131 million less than the original 1995 level that existed before rescissions. We propose that there be a cut, not even a freeze. Of our $300 million, we are trying to bring up some $235 million to honor commitments to projects that have already received their awards and now need to complete them. We do not want to cut them off in half completion.

Let me commend the distinguished chairman of our Appropriations Committee, Senator HATFIELD of Oregon, in realizing and confronting this problem. He did not have the money. He put the $235 million in title IV, but he said, "Look, if we can possibly find the money in offsets in title IV, then this should be completed." It is not a way for the Government to do business and build up the confidence that is so much besieged this day and age. The Government is trying to build up these partnerships and work together in research with industry and with the college campuses. It is wrong to take valid programs that have no objection to them, no pork, no waste, fraud, and abuse, and only tremendous success, and then come with a fetish against them because they appear as pork to some on the other side of the Capitol, and then to walk lockstep like it is part of a contract.

We had, in qualifying this program, by way of emphasis, a series of hearings back in the 1980's. We also had soon after that particular time the Competitiveness Policy Council, with many members appointed by President Reagan. He appointed the former head of the National Science Foundation, Erich Bloch, who was designated chairman of the Council's Critical Technologies Subcouncil. They endorsed the ATP.

I ask unanimous consent that the critical technology subcouncil listing of these outstanding individuals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPETITIVENESS POLICY COUNCIL

CRITICAL TECHNOLOGIES SUBCOUNCIL, 1993

Chairman Erich Bloch, Distinguished Fellow, Council on Competitiveness.

David Cheney, Staff Director.

MEMBERSHIP

Eleanor Baum, Dean, Albert Nerken School of Engineering, Cooper Union.

Frederick M. Bernthal, Deputy Director, National Science Foundation.

Sherwood L. Boehlert, U.S. House of Representatives.

Michael G. Borrus, Co-director, Berkeley Roundtable on International Economics.

Rick Boucher, U.S. House of Representatives.

Lewis M. Branscomb, Professor, Harvard University.

Daniel Burton, Executive Vice President, Council on Competitiveness.

Dennis Chamot, Executive Assistant to the President, Department of Professional Employees, AFL–CIO.

John Deutch, Professor, MIT.

John W. Diggs, Deputy Director for Extramural Research, Department of Health and Human Services.

Craig Fields, President and CEO, MCC.

Edward B. Fort, Chancellor, North Carolina Agricultural and Technical State University.

John S. Foster, Consultant, TRW, Inc., and Chairman, Defense Science Board.

William Happer, Director, Office of Energy Research, U.S. Department of Energy.

Joseph S. Hezir, Principal, EOP Group, and former Deputy Assistant Director, Energy and Science Division, OMB.

Richard K. Lester, Director, Industrial Performance Center, MIT.

John W. Lyons, Director, National Institute for Standards and Technology.

Daniel P. McCurdy, Manager, Technology Policy, IBM.

Joseph G. Morone, Professor, Rensselaer Polytechnic Institute, School of Management.

Al Narath, President, Sandia National Laboratories.

Richard R. Nelson, Professor, Columbia University.

William D. Phillips, Former Associate Director of Industrial Technology, Office of Science & Technology Policy.

Lois Rice, Guest Scholar, Brookings Institution.

Nathan Rosenberg, Director of Program for Technology & Economic Growth, Stanford University.

Howard D. Samuel, President, Industrial Union Department, AFL–CIO.

Hubert J.P. Schoemaker, President and CEO, Centocor, Inc.

Charles Shanley, Director of Technology Planning, Motorola Inc.

Richard H. van Atta, Research Staff Member, Institute for Defense Analyses.

Robert M. White, Under Secretary for Technology, U.S. Department of Commerce.

Eugene Wong, Associate Director of Industrial Technology, Office of Science & Technology Policy.

Mr. HOLLINGS. Mr. President, in August 1992, we also had the National Science Board itself. I will read a couple of things and not put it in its entirety into the RECORD, which we would be glad to do. But the National Science Board concluded:

> Stronger Federal leadership is needed in setting the course for U.S. technological competitiveness. Implementation of a national technology policy, including establishment of a rationale and guidelines for Federal action, should receive the highest priority. The start of such a policy was set forth 2 years ago by the President's Office of Science and Technology Policy, but more forceful action is needed by the President and Congress before there is further erosion in the United States technological position.

They made the recommendation to expand and strengthen the Manufacturing Technology Centers Program, the State Technology Extension Program, the National Institute of Standards and Technology, and I quote, "Further expand NIST's Advanced Technology Program." That was very important, therefore, the National Science Board and its findings at that particular time.

Going back to 1987 for a moment, Mr. President, we led off our original series of technology hearings that year with the distinguished entrepreneur, technologist, professor, industrial leader, dean at the University of Texas Business School, Dr. George Kosmetsky, who had helped create the Microelectronics Technology and Computer Corporation down in Austin, TX. We followed his testimony with the Council on Competitiveness.

I will read just part of a Council on Competitiveness statement written not long after that particular time.

> The United States is already losing badly in many critical technologies. Unless the Nation acts today to promote the development of generic industrial technology, its technological position will erode further, with disastrous consequences for American jobs, economic growth, and national security. The Federal Government should view support for generic industrial technology as a priority mission. It is important to note that this mission would not require major new Federal funding. Additional funds for generic technology programs are required. Other Federal R&D programs, such as national prestige projects, should be redirected or phased in more slowly to allow more resources to be focused on generic technology.

Of course, Mr. President, these themes were included and touched upon in our hearings and legislation, and we have been more or less off and running since then.

We have, finally, by way of endorsement, the Coalition for Technology Partnerships. It has over 130 members, a combination of companies, trade associations, different companies themselves, such as the American Electronic Association, and several universities that work with industry on ATP projects.

Mr. President, I ask unanimous consent to have printed in the RECORD at this particular point a letter from the Coalition for Technology Partnership along with the listing of membership.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITION FOR
TECHNOLOGY PARTNERSHIPS (CTP),
Washington, DC, July 6, 1995.

HON. ERNEST F. HOLLINGS,
Russell Senate Office Bldg.,
Washington, DC.

DEAR SENATOR HOLLINGS: The undersigned members of the Coalition for Technology Partnerships respectfully ask for your support of the Advanced Technology Program (ATP). We understand that the Senate Commerce, Science, and Transportation Committees will be marking up the FY Department of Commerce Authorization bill in late July. We are concerned by the House Science Committee and the House Appropriations Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee vote to eliminate the ATP and are writing to outline our views on this essential program.

The Coalition for Technology Partnerships applauds your efforts to cut the federal budget deficit and to streamline the federal government, but we caution against sacrificing technology partnerships, such as the ATP, that are essential to our international competitiveness.

The ATP has enjoyed wide-spread industry support and participation. The basic mission of the ATP is to fund research programs with a significant potential for stimulating economic growth and improving the long-term competitiveness of U.S. industry. The ATP is already achieving this goal, by cost-sharing research to foster new innovative technologies that create opportunities for world-class products, services and industrial processes. ATP research priorities are set by industry. The selection process is fair, and based entirely on technical and business merit. Half of all ATP awards and joint ventures go to small business directed partnerships. Today, as indication of the success of this program, quality proposals in pursuit of ATP funds far outstrips available funds.

The real payoff of the ATP is the long-term economic growth potential for the companies involved with the program, and the creation of new jobs. The ATP is a model of industry/government partnerships which benefits the nation as a whole, again by leveraging industrial capital to pursue new technologies. Without ATP, these technological opportunities would be slowed, or ultimately forfeited to foreign competitors more able to make key investments in longer-term, higher risk research, such as is the focus of ATP.

We urge you to adequately fund the Advanced Technology Program as you begin mark-up of the authorization bill. The ATP is essential, cost effective and timely for the economic growth of our country. Please contact either Taffy Kingscott at 202/515-5193 or Tom Sellers at 202/728-3606 if you have any questions or if we can be of any assistance.

COALITION FOR TECHNOLOGY PARTNERSHIPS

The Coalition for Technology Partnerships has been formed by a group of small, medium and large businesses, trade associations and technical societies on the principle that technology partnerships between government and industry reflect the realities of today's budget climate and technology development mechanisms.

Advance Circuits, Inc.
Advanced Machining Dynamics.
Aerospace Industries Association.
Air Conditioning & Refrigeration Institute.
Alaska Technology Transfer Assistance Center.
American Electronics Association.
American Concrete Institute.
Amoco Performance Products, Inc.
Andersen Consulting.
Aphios Corporation.
Apple Computer.
Applied Medical Informatics (AMI).
Arizona State Univ.-College of Engineering & Applied Science.
Armstrong World Industries, Inc.
Array Comm., Inc.
Atlantic Research Corporation.
Babcock & Wilcox.
BioHybrid Technologies Inc.
Biotechnology Industry Organization.
Brunswick Composites.
CALMAC Manufacturing Corporation.
The Carborundum Company.
Clean Air Now.
CNA Consulting Engineers.
Coal Technology Corporation.
Columbia Bay Company.
Council on Superconductivity.
Cubicon.
Cybo Robots, Inc.
Dakota Technologies, Inc.
Dell Computer.
Diamond Semiconductor Group.
Dow Chemical Company.
Dow-United Technologies Composite Products, Inc.
Dragon Systems, Inc.
DuPont.
Edison Materials Technology Center.
The Electorlyser Corporation.
Energy BioSystems Corporation.
Erie County Technical Institute.
Fairfield University-Center for Global Competitiveness.
FED Corporation.
Foster-Miller, Inc.
FSI Corporation, Inc.
GenCorp.
GeneTrace Systems Inc.
Hercules, Inc.
Higher Education Manufacturing Process Applications Consortium.
Honeywell Inc.
IBM Corporation.
I-Kinetics.
Institute for Interconnecting & Packaging of Electronic Circuits (IPC).
Intermagnetics General Corporation.
Intermetrics, Inc.
Intervac, Vacuum Systems Division.
ISCO, Inc.
Joint Ventures Silicon Valley.
Kaman Electromagnetic Corporation.
Kopin Corporation.
Light Age, Inc.
Material Sciences Corp.
Matrix Construction & Engineering.
Maxoptix Corporation.
Merchant Gasses-Praxair, Inc.
Merix Corporation.
Mocropolis Corporation.
Milwaukee School of Engineering.
Molecular Tool.
Moog, Inc.

MRS Technologies, Inc.
MultiLythics, Inc.
Murray, Scher, & Montgomery.
Nanophase.
National Coalition for Advanced Manufacturing.
National Semiconductor.
National Storage Industry Consortium (NSIC).
National Tooling & Machining Association.
Nelco International Corporation.
New Mexico Technology Enterprises Division.
Norfolk Shipbuilding & Drydock Corporation.
North Carolina Industrial Extension Service.
Ohio Aerospace Institute.
Optex Corporation.
The Pennsylvania State University.
Philadelphia College of Textiles & Science.
Photonics Imaging.
Physical Optics Corporation.
Planar Systems.
Praxair, Inc.
PS Enterprises.
Real-Rite Corporation.
Rensselaer Polytechnic Institute.
Rosemount Aerospace, Inc.
Sagent Corporation.
Semiconductor Equipment and Materials International.
SI. Diamond Technology, Inc.
Silicon Valley Group.
Silicon Video Corporation.
Society of the Plastics Industry, Inc.
Solar Engineering Applications, Corp.
Solarex.
South Bay Business Environmental Coalition.
Spectrian, Inc.
Suppliers of Advanced Composite.
Materials Association.
System Management Arts.
TCOM LP.
Technology Service Corporation.
3M.
Tektronix, Inc.
Texas Instruments.
Third Wave Technologies, Inc.
Thomas Electronics.
Tissue Engineering, Inc.
Touchstone Technologies.
Trans Science Corp.
Trellis Software & Controls, Inc.
TULIP Memory Systems, Inc.
United States Advanced Ceramics Association.
University of Pittsburgh.
University of South Florida.
UES, Inc.
United Technology Corporation.
Vysis, Inc.
Watkins-Johnson, Inc.
West Virginia High Tech Consortium.
West Virginia University.
XXsys.

Mr. HOLLINGS. Mr. President, I think I have covered some of the highlights. The real problem that we have here is, in essence, that now everyone is on the hustings out on the campaign trail talking technology, jobs, talk, talk. What we would hope is that the President would want to walk here this afternoon and that we could get an agreement not to increase ATP funding this year, not even have a freeze, but let us continue with these particular projects now ongoing and now starting to pay off, with the companies having done their fair share. The program has seen a substantial cut, but let us not have total elimination—where we have good industries working in partnership with the Federal Government successfully—and not cut them off halfway through a particular endeavor.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I appreciate the long and tireless commitment of the Senator from South Carolina to this issue, certainly items such as the Hollings Centers for Excellence, which involves working with industry and the Government in attempting to disseminate knowledge on how to better manufacture, and on which he has, appropriately, his name. But this proposal which he has brought forth today has a number of fundamental flaws.

The first flaw is that it has not been scored by CBO, so we really do not know how much it costs. The second flaw is that it does not seem to be offset. The third flaw is to the extent it is offset, the offset has not been scored. To the extent it is offset by the terms of the amendment itself, no offset occurs with this coming fiscal year.

So to the extent that this amendment generates costs this coming year, there is no offset. So it adds to the deficit.

In order to get around that, the Senator from South Carolina has invoked the emergency clause. The emergency clause was not, I do not think, ever conceived of to be used for the purposes of funding what amounts to corporate welfare. That is what this is. You know, a lot of people are walking around here saying "corporate welfare, corporate welfare," looking for the face of corporate welfare. This is the face of corporate welfare. The emergency clause is for floods and other crises of significant proportions which are inordinate and which are unusual and which we need to respond to because there is an emergency.

But what we have here is a desire by the Senator to fund an undertaking which the committee decided not to fund, and in so doing he would be violating the budgetary rules because it would add to the deficit this year. In order to avoid a point of order, he has claimed it as an emergency.

I know, as many people know, that technology is an important part of our economy and that it creates a lot of jobs, especially in my part of the country, but I do not think that the Federal Government going out and picking winners and losers in the field of technology represents an emergency under any definition of what an emergency is. Even if you could agree with this program, the program itself has some very severe, fundamental flaws because it is a picking of winners and losers by the Government, for which the Government has never been very good at picking winners and losers in the area of technology. And I point out a large number of very significant failures of the Government in deciding where the appropriate technology of the time should be, such as the Synfuels Program, such as the Clinch River breeder reactor. And the list goes on and on.

But, even if you were to give the Government some credibility and the ability to go into the marketplace and pick winners and losers, which I happen to think is foolish on its face, but even if you were to give it that credibility, you could under no circumstances—under no circumstances—conceive of that as an emergency. That is like saying whether we lay out a four-lane highway or a two-lane highway determines an emergency. This is the business of the Government. This is the ordinary and common business of the Government. And to claim it as an emergency is, on its face, farfetched and hard to accept.

So just on the technical grounds that this clearly is not an emergency and therefore should not be raised to the level of an emergency—if we are going to do that, we might as well fund all functions of Government as an emergency and just ignore the concept of the deficit, ignore the concept of fiscal responsibility as put upon us by the Budget Act. On those grounds, I am going to strongly oppose this amendment.

I also happen to oppose it on substantive grounds in that I think this program is of questionable value. Let me list a few things here that have been funded under this program. I suspect they are good programs, but I want you to ask, are these emergencies? These are almost all experimental undertakings. We do not know if they have any commercial use at all. We do not know if anybody is going to benefit from them at all except people who happen to be doing the work and get paid. It is like going down to your local technology company and saying, "Hey, we will hire a few folks for you to do this project."

Is that an emergency? I hardly think so. Let me list some of these things: a Nobel x ray source for CT scanners; a flexible, low-cost laser machine for motor vehicle manufacturing; an ultra-high-performance optical tape drive using a short wavelength laser; adaptive video coding for information networks; and the list goes on and on and on—real-time micro-PCR analysis systems. Is it an emergency that we fund real-time micro-PCR analysis systems? Has this Government come to the point where that is defined as an emergency? I really have to say that, on the face of it, this is a bit hard to talk about with a straight face.

AMENDMENT NO. 3475 TO AMENDMENT NO. 3474

Mr. GREGG. So, I am going to send an amendment in the second degree which strikes chapter 3, which is the emergency language of this amendment, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 3475 to amendment No. 3474.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike chapter 3 of the pending amendment in its entirety.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Massachusetts.

Mr. KERRY. Mr. President, the manager is rising. I do not want to be——

Mr. HOLLINGS. Mr. President, I ask the Senator to let me answer two or three points that I think should be clarified.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. With respect to emergency, I thought, Mr. President, that coming out of New Hampshire, my distinguished colleague would understand small business. I traveled that State extensively. If you have 20 or 30 employees and you have received a grant and you put up half the money and you are halfway through the particular project still soliciting finance on the open market and you have every promising indication that that is going to happen, and then all of a sudden the Government cuts it off and you know already from the very beginning that you had a need that could not be answered by normal banking sources, you are under an emergency.

It is not an emergency because of any particular technology. It is an emergency because of the situation facing these small companies. The Senator addresses his comments with respect to the technology. I am talking about $235 million needed to maintain contracts that have already been awarded after going through all of this, getting the financing, setting up the operation, getting half way through and then facing a cutoff. That is an emergency. But the emergency designation in my amendment is not necessary, in a sense, because we do have a favorable offset and scoring, Mr. President. When the Senator says it is not scored, let me say that on March 12, today, we have a memorandum from John Righter of the Congressional Budget Office, on: "The scoring of the Debt Collection Improvement Act of 1996, chapter 2, of a proposed amendment to H.R. 3019." I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 1996.

MEMORANDUM

To: Patrick Windham, Senate Committee on Commerce, Science, and Transportation.

From: John Righter, Congressional Budget Office.

Subject: Preliminary scoring of the "Debt Collection Improvement Act of 1996," Chapter 2 of a proposed amendment to H.R. 3019.

As you requested, I have prepared a preliminary estimate of the budgetary impact of the Debt Collection Improvement Act of 1996, a chapter within a proposed amendment to H.R. 3019, as provided to CBO on March 8, 1996. I estimate that the proposed legislation would reduce direct spending by about $525 million over the 1996–2002 period and would increase revenues by about $24 million over the same period. The following table provides my year-by-year estimates.

IMPACT OF DEBT COLLECTION IMPROVEMENT ACT OF 1996 ON DIRECT SPENDING AND REVENUES

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Changes in direct spending:[1]							
Estimated budget authority	−440	−20	−10	−10	−15	−15	−15
Estimated outlays	−440	−20	−10	−10	−15	−15	−15
Additional revenues:							
Estimated revenues	0	3	3	3	3	6	6

[1] Under the Federal Credit Reform Act of 1990, the budgetary impact of a modification that alters the subsidy cost of existing direct loans or loan guarantee is calculated as the estimated present value of the change in cash flows from the modification. This amount is recorded in the budget in the year in which the legislation is enacted. Consequently, savings in direct spending for the existing loans and guarantees under federal credit programs affected by this proposal are shown in fiscal year 1996. In addition, the legislation would affect direct spending in future years by reducing the subsidiaries for mandatory loan programs by use of new collection authorities present in the proposal.

Changes in Direct Spending. The seven-year totals in estimated savings in direct spending include about $475 million for new and enhanced offset authorities, including the authority to offset a portion of Social Security Administration, Railroad Retirement Board, and Black Lung payments for recipients who are delinquent on a debt owed to the federal government and who are scheduled to receive more than $10,000 in federal benefit payments over a 12-month period. For example, assume an individual currently is delinquent on an education loan and is also expected to receive $12,000 in Social Security and other federal payments over the next 12 months. Under the proposed language, Treasury could offset as much as $166 of each monthly Social Security payment and transfer this money to Education in partial satisfaction of the recipient's delinquent loan. (The $166 results from dividing 12 into $2,000, which is the amount the recipient's total federal benefits exceeds the $10,000 exemption.)

The seven-year totals also include about $15 million for the removal of limitation on the collection of delinquent debts by the Social Security Administration and the U.S. Customs Service, as well as about $5 million for the expanded use of nonjudicial foreclosure of federal mortgages. The Rural Housing and Community Development Service at the Department of Agriculture and the Small Business Administration could use the latter authority to shorten their foreclosure process by about 6 to 12 months, thus decreasing their holding costs.

In addition, I estimate that the bill would reduce the projected subsidy cost for mandatory loan or loan guarantees that would be made in future years by about $30 million for the 1997–2002 period.

Additional Revenues. Additional revenues would result from adjusting the value of existing civil monetary penalties for changes in inflation. The bill would provide for an initial adjustment of no more than 10 percent within six months of enactment, with subsequent adjustments to occur at least once every four years.

Previous Estimate. As part of the President's plan to balance the budget, CBO provided an estimate of the Debt Collection Improvement Act of 1995 on December 13, 1995. CBO has provided estimates of other debt collection initiatives; however, the language in the President's Balanced Budget Act of 1995 is closest to the proposed amendment to H.R. 3019.

For the President's plan, CBO preliminarily estimated that the debt collection provisions would reduce direct spending by about $550 million over the 1996–2002 period, or about $65 million more than this estimate. The reduced savings result from the use of different sets of economic assumptions. For the President's plan, CBO was directed to revise and update its economic assumptions, which yielded a higher present value for the increase in collections of credit debt. For the proposed amendment to H.R. 3019, I have used the economic assumptions that underlie the Budget Resolution for Fiscal Year 1996, as required by law. Because the projected rate for marketable Treasury securities is higher in the economic assumptions used for the budget resolution, the present value of the collections is lower.

Please do not hesitate to contact me at 6–2860 if you have any questions.

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, they have: "Changes in direct spending, estimated budget authority, minus $440 million; estimated outlays, minus $440 million." So it has been scored, and the offset does produce real savings.

Now, we are back to the old wag, Mr. President, of winners and losers and winners and losers and winners and losers in the Government. Earlier, I tried to emphasize this issue in the most courteous fashion, but I will have to do it in the most direct fashion. Let me refer specifically to a key report, and I read this and quote it exactly, Mr. President: "Report of the Senate Republican Task Force on Adjusting the Defense Base, June 25, 1992," by Senator WARREN RUDMAN, Senator HANK BROWN, Senator WILLIAM COHEN, Senator JOHN DANFORTH, Senator PETE

Domenici, Senator Orrin Hatch, Senator Nancy Kassebaum, Senator Trent Lott, Senator Richard Lugar, Senator John McCain, Senator John Seymour, Senator Ted Stevens, and Senator John Warner.

I read from page 24:

> The task force endorses two programs of the National Institute of Standards and Technology as important to the effort to promote technology transfer to allow industries to convert to civilian activities. These programs are the Manufacturing Technology Program and the Advanced Technology Program.

Now, Mr. President, the distinguished leadership over on my chairman's side of the aisle did not get into that litany then about picking winners and losers. Making that claim is pollster politics and pap. That is nonsense. It is not picking winners and losers. When we had the semiconductor problems and put in Sematech, it was not winners and losers. Industry came back in there. Then we get to the aircraft industry; we get to agricultural technology; we have the telecommunications technology. We can go right on down the list where Government has worked successfully in partnership, and we do not hear about picking winners and losers. And now here in the Advanced Technology Program comes the industry itself working with the Government, and using political statements to the effect of winners and losers and pork they just present symbols and labels and hope to kill the program that way. That is not debating it on its merits. The task force of my distinguished friends on the other side of the aisle, a dozen of them, found it was very, very important, including the majority leader. And it has not changed a bit. It is being administered properly, and no one contests that. No one wants to talk of the merit of the program or something that ask whether anything may have gone awry. They still want to use the symbols.

I yield the floor.

Mr. KERRY. Mr. President, I wish to join my colleague from South Carolina in supporting his amendment, and I regret the characterizations of my friend from New Hampshire, the southern portion of which certainly has a significant amount of technology companies that are in partnership with the Federal Government.

It seems to me the arguments that are made by the Senator from New Hampshire fundamentally avoid the reality that we confront in the marketplace and that our companies are confronting in the marketplace today. It would be nice if we could just sit here and say the Government should not be involved in this or that and proceed along. But the reality is that the governments of every country against which we compete are deeply involved in major commitments to science, to technology, to research, to development, and even carry those commitments way out into the marketplace in order to effect pricing and the marketing of the products that come out of their companies. We are not living in a sort of pure Adam Smith world where everybody can sit around and say, gee, the Government should not be doing this, should not be doing that.

Every government of every industrialized country in the world is engaged in what most of us would consider to be unfair trade practices in subsidizing their companies' efforts to penetrate the market of one country or another.

We know that our own marketplace, as efficient as it is—and it is efficient, it is brilliant—but even in its brilliance, our marketplace does not always respond in the ways that we would like it to or as rapidly as we might like it to in the development of new products. In fact, from the great expenditures on defense of the late 1950's and on, we have seen a remarkable number of purely Government-created markets emerge, Government-created products emerge: Teflon, Gortex, digitalization, the Internet.

Here we are with the Internet itself, the fastest growing market in the United States today. Some 30 million people have access to it, and it is growing at 300,000 people a month. Who created it? The Government. The Government was able to create it because the Government was able to leverage investment or make a fundamental primary investment that no private dollar was willing to do because of the risk level.

Every one of us knows that in the capital markets of the United States, we have a relatively small amount of money that goes into pure venture capital. The last time I looked, which was some time ago, it was somewhere in the vicinity of $30 billion or so. That venture capital pool often does not go for some of the job-creating efforts that are critical on the cutting edge of technology.

Mr. President, I think we have learned enough in the last few years about our need to try to build the partnership, if you will, to guarantee that we are on the cutting edge of certain technologies. We saw that in the early 1980's. I can remember when we were deeply committed to energy and certain kinds of environmental research. We actually went so far—we, I was not in the Senate then—but the Senate went so far and we as a Nation went so far as to create the Energy Institute in Colorado. Professors literally gave up tenure at certain universities and went out to Colorado and invested in the notion that the United States of America was committed to major energy research.

What happened? Along came Ronald Reagan and a different attitude about Government involvement in energy. So we pulled the plug on the research institute. People were thrown back out into the street, and, lo and behold, what happened? The Japanese and the Germans picked up the leadership in photovoltaics and renewable energy resources, and all of a sudden, in the post-cold-war era, as the prior Communist bloc countries suddenly wake up to what they have done to the Danube River or to the region around Kijev where you can pick up ashes in your hand and there is not a living bush within a mile of their powerplants, they suddenly said, "We have to do something about this."

Where do they go? Not to the United States, because the United States had lost the technology lead. So they go to Germany and they go to Japan and they buy from them. Whose workers wind up benefiting?

That is a clear lesson, Mr. President.

What I am suggesting is this is not an enormous boondoggle or giveaway. This is a program that is set up with peer review. It is a highly competitive grant structure. It is one where there has to be some likelihood of a frontier that is going to provide new jobs under the definition of the critical technologies that most countries have recognized as critical technologies.

Lester Thurow, one of the eminent scholars and thinkers of Massachusetts at MIT, recently noted that we are living in an age where industrialized nations like the United States are not going to achieve economic growth by conquering new lands or amassing greater natural resources, or even through further revolutions in technology necessarily, which are the traditional pathways that countries have taken to greatness. He said we are going to have to do it by investing in human capital.

American business has demonstrated an impressive ability to develop new products and to invest in the technology that is needed to give us those new products. But the record of investing in workers has fallen far short of what is necessary to maintain the leadership position in today's global environment.

Mr. President, if we look at these add-backs, what we see is a combination of the best of both worlds: An effort to try to invest in technology and an effort to try to invest in human capital.

Let me just quickly underscore a couple of those areas, if I may.

Mr. President, the Council on Competitiveness finds that a 10-percent increase in workers' education levels yields almost a 9-percent gain in workplace productivity, more than twice the rate of run for the same investment in tools or in machinery. Every year of postsecondary education or training boosts the lifetime earnings of an individual by 6 to 12 percent.

So here we are wrestling in this country with the problem of diminished earnings of 80 percent of America—80 percent of America—that has not had an increase in their take-home household income in the last 13 years. We know you can have a 6 to 12-percent increase by investing in their skill levels in the transfer of technology to human beings. That is what the Senator from South Carolina and I and others are trying to do here.

In Massachusetts, we have been able to have about one-third of our work force employed in these kinds of endeavors, and we find that they are always more productive and they always pay higher wages.

Let me give you an example, perhaps, Mr. President. The ATP, the Advanced Technology Program, and the NTIA grants and the EPA envirotech and educational technology programs that would get an add-back under this make a direct difference in the lives of our citizens.

The Advanced Technology Program, for instance, helped Dr. Richard Yohannis of Data Medic in Waltham, MA, to create an automated medical data gathering and processing system that will improve the quality of care at Boston Children's Hospital and reduce at least $560,000 of administrative costs.

Private banks and venture capital groups would not finance this idea. So without the ATP's matching support, Dr. Yohannis' idea simply would not have become a reality. With it, we save $560,000 and we create jobs and provide better health care.

Another example: The National Telecommunications and Infrastructure Assistance Program is helping Massachusetts Information Infrastructure to begin to wire schools and libraries and local government entities to the information superhighway. NTIA now has more than 80 matching grant requests pending from equally deserving groups in the State of Massachusetts. Without the NTIA's support, the 352 MII sites around Massachusetts would simply still be on the waiting ramp on the information highway.

Now I ask a simple question. We just overwhelmingly adopted an amendment to raise the level of education in this country. Here is a grant that links those schools and our students in their math and science capabilities to the information highway, to the future, to jobs and to the world. I think that is an emergency.

The only reason it is required to be treated as an emergency is because our friends on the other side of the aisle, most of them, do not think it is an emergency and do not want it at all. And instead of having a 50-vote decision on the floor of the Senate, which is what you get by defining it as an emergency, they want it to be 60 votes, so the hurdle is harder to get over.

This is not a fight over defining an emergency. It is not a fight over pork. It is a fight over the priorities of this country and whether or not we ought to be making a more significant commitment to science and to technology.

The Hollings amendment, gratefully, would secure a critical commitment to technology.

Let me give one last example. There are global demands for pollution control, for waste disposal and remedial cleanup goods and services ranges from about $200 to $300 billion. Here is a $200 to $300 billion market waiting for us.

In Massachusetts alone, the environmental industry is more than 1,500 companies employing about 55,000 people, and it generates more than $5.5 billion in sales.

But some of their efforts simply cannot be engaged in without the leverage of these dollars, either from a basic venture capital basis or banking basis or from fundamental risk taking in the marketplace.

It seems to me, Mr. President, that it is extraordinarily valuable for this country to encourage and leverage the transition of our workplace. When 40,000 workers are downsized from AT&T, and those workers find it difficult to find the same level of paying jobs and they wind up driving taxicabs or doing things at a whole different level than they were trained for, we do not just lose their technical skill, we lose their commitment, we lose their morale, we lose the fabric of our communities.

It seems to me that nothing should gain a greater focus from the U.S. Senate except for education as a whole than the effort to transfer science from the laboratory to the marketplace, to take it from laboratory to shelf as rapidly as possible.

This effort has proven its ability to do that. It is not pork. It is a fundamental commitment of this country to science and to technology itself. And I hope colleagues will join together in adding back this critical funding.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in strong support for this amendment. I listened carefully to my colleague from Massachusetts and I agree with him completely. I will confine my remarks to the Advanced Technology Program, the ATP.

I have risen on this floor many times to talk about the importance of research and the importance of moving research into industry and then into use—that is, the importance of development, and the importance of Government's role in areas where private capital is not available even though maybe it should be.

I urge my colleagues to increase our investment in the ATP because that is what it is, an investment. And it is an investment that will yield a high return in high-wage jobs and in long-term economic growth.

We need a well-balanced Federal R&D budget. We need a Federal R&D budget that, of course, is strong in defense research, but not just defense, which seemed to dominate research for many years. We need strength also in civilian research, in basic research, and in applied research. And applied research includes the development of high-risk, high-payoff civilian technologies.

We know that new technology accounts for one-half of long-term economic growth. I repeat that. We know that new technology accounts for one-half of the long-term economic growth of this country.

We know that workers in high-technology industry are better paid than the average worker, in fact, on the average, 60 percent better paid. We know that past public investment, in semiconductors, in computers, in advanced materials, and in other technologies have paid for themselves many, many times over.

These technologies have been at the heart of our economic expansion. We know that the private sector is cutting back on long-term R&D in favor of shorter term, more product-oriented work.

In 1989, I proposed legislation to create what I called the ACTA, Advanced Civilian Technology Agency. It was going to be a counterpart to DARPA, the Defense Advanced Research Project Agency.

The purpose of ACTA was to help put U.S. industry on an even footing with competitors who had the benefit of teaming with their Governments.

Team Japan and Team Germany, for example, ensure that their companies quickly develop, produce, and market new products. They use tools ranging from R&D tax credits and low-interest loans to research consortiums. There is no single, magic silver bullet.

Congress decided against a new agency and instead created the Advanced Technology Program, ATP, within an existing agency. NIST has managed the ATP, I think by any measure, in an exemplary fashion. But now, after 6 years, some of my colleagues want to kill this promising young program, without, I think, even understanding what it is they are killing.

I think it would be very short-sighted to kill a program just as it is starting to have an impact. We have two recent studies of the ATP program. And they agree that the program has stimulated companies to join together, to collaborate, to form strategic alliances.

These partnerships are not easy for companies because they fear the loss of intellectual property rights, the loss of trade secrets, and the loss of control overall. But ATP has catalyzed changes in corporate behavior that could have profound effects on future R&D. The studies also agree that ATP has speeded up research, cutting months off of the R&D cycle. Global competition in high technology moves at a fast pace. And months can be critical sometimes.

Let us be clear on one thing—this is not just a Government program. ATP is industry-led. Industry picks the technologies. Industry puts up 50 percent or more of the resources. Industry takes the biggest risk. And to call this corporate welfare or picking winners and losers is just know-nothing nonsense. People who have claimed that have not looked at the program, or do not know what they are talking about, or have some other agenda, because this is not corporate welfare or picking winners and losers.

ATP helps fund precompetitive research—research that lies in the gap between basic research and commercial development. ATP focuses on high-risk potential breakthroughs, technical know-how that will benefit industry across the board, that will boost national competitiveness and that will improve our lives.

ATP partners with companies in 31 States. That shows how widespread it is, 31 States. The companies are working on quicker and easier genetic diagnostic tests, for instance, much smaller computer chips, better materials for fiber optics and more. You say, are these things important? Of course they are. And they can be multiplied over and over. We could have a whole list here today. Those are just three examples.

In my State of Ohio, for example, companies with ATP help are working on 15 different projects ranging from high-temperature, high-pressure tolerant enzymes for the chemical food and diagnostic industries to gene therapy for the treatment of cardiovascular disease.

Most of the projects are geared to moving U.S. manufacturing well into the 21st century. There are projects on ceramics, composites, long optical polymers, metal powders, superabrasives and extremely precise measuring technologies—all in the areas of breakthroughs that would have an enormous impact on our society and on our industry.

Let me take as an example the first of these—ceramics. People say, "ceramics." They think of dishes and things that you hold water in, vases, things like that. But if we make a major breakthrough in high-temperature ceramics, so that we could coat turbine blades, or the inside of high-temperature engine chambers, we could raise operating pressures and temperatures. That would let us make far more efficient use of fuel. We could have smaller turbines and engines. We could make electric cars much more practical than they are now, when we have to store energy in lead acid batteries.

If we made a breakthrough in ceramics, we make a whole new industry possible. Breakthroughs in ceramics make breakthroughs possible in engines and electric cars and a whole host of things. Each one of the technologies that I mentioned can have that kind of serendipitous effect on new industries and new research in our country.

These and other technologies that industry is developing with the help of ATP—not directly, but with the help of ATP—will not only create jobs and enhance productivity, but will make life healthier and the environment cleaner at much lower cost. We are just starting to see the benefits of the ATP in jobs and technologies coming to market.

Some of our friends on the other side speak of the need to tear programs out by their roots. That was one of the statements I heard the other day. For programs like ATP and for programs to bring educational technology to our students, that is a prescription for an economic wasteland. It will be an economic disaster if we start tearing programs like this out by their roots. We should, instead, be nurturing these programs so that we and our children and our grandchildren can enjoy their fruits.

Mr. President, the United States has grown to what it is today mainly because we have been a research-oriented nation and a curious people, a people willing to put money into inquiring into the unknown. We have moved into leadership in the world because of that type of curiosity, curiosity that has been exhibited by our companies, by our colleges, by our universities, indeed, by the Federal Government, in taking the lead in these areas.

If there is one thing this Nation should have learned throughout its history, and I think we have learned, it is that money spent on research almost always pays off beyond anything we see at the outset.

How can we not approve ATP? By my reckoning we should be expanding it further rather than considering cutting it out.

In closing, Mr. President, I urge my colleagues to support this amendment. I hope it passes for the good of this country and for the future of this country.

AMENDMENT NO. 3475 WITHDRAWN

Mr. GREGG. I ask unanimous consent that the yeas and nays be vitiated and that my amendment to strike be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3475) was withdrawn.

Mr. GREGG. Mr. President, I ask that the yeas and nays be ordered on the underlying amendment of the Senator from South Carolina.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I continue my opposition to this amendment. I do not think ATP is a program we can fund at this time. I think we should go with the initial proposal.

Mr. HOLLINGS. There are various Senators that wanted to be heard. I have agreed with the distinguished chairman, Senator GREGG, we ought to move as expeditiously as possible to a vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I rise in strong support of the Senator from South Carolina's amendment to restore funding for high-technology programs. I am proud to cosponsor this amendment to restore about $400 million to these critical investments. This amendment is fully offset and will not add to the deficit.

Unfortunately, the current bill cuts programs like the Advanced Technology Program that invest in our future. Some in this Congress are trying to abolish these high technology programs to claim they have ended a unnecessary, big-Government bureaucracy. Nothing could be further from the truth.

These high technology programs are more than necessary in today's world. They are essential.

The world has shrunk because of advances in technology and telecommunications.

Today, Americans do not just compete with each other, they compete with Japanese, Germans, New Zealanders, and the other citizens of our global economy. To meet the demands of this new world, we must develop and improve our expertise and infrastructure in advanced technology.

Moreover, these high-technology programs are not big Government.

Because these technology programs provide Federal seed money, private companies and public players have come together to form community-based projects. Many of these projects must have matching funds from the private sector. This requirement had led to innovative networks with groups that have never worked together before. There is no Government redtape restricting these partnerships. Instead, Government seed money is making these partnerships happen.

We should be promoting programs that foster these advanced technology initiatives. And that is exactly what this amendment does. For instance, this amendment adds $32 million in funding for the Telecommunications Information and Infrastructure Administration Program [TIIAP].

In today's world of innovative telecommunications, this program helps us keep up with this constant change. TIIAP develops partnerships with local governments, schools, hospitals, libraries and the business community to increase access to advanced information and communications.

Let me describe just a few of these innovative partnerships from around the country that have gotten off the ground because of TIIAP's help:

Youth service organizations in New Haven, CT and East Palo, CA are working together to link teenagers in the two cities to keep them off their streets and in their schools;

Physicians from big city medical centers in North Carolina are working together with rural hospitals to provide video teleconsultations and diagnostic images for emergency care;

And in my home State, Castleton State College has led a consortium of representatives from the private sector, local government and education to develop a telecommunications plan for west-central Vermont.

An TIIAP planning grant will bring these Vermonters together to develop a high-capacity telecommunications infrastructure to overcome the problems caused by their 15 local dialing areas.

TIIAP is about finding new ways to learn, to practice better medicine, and to share information. It spurs the growth of networks and infrastructure in many different fields of telecommunications with only a small Federal investment. It is essential and innovative.

This amendment also restores $62 million to the Environmental Protection Agency's Environmental Technology Initiative. This initiative supports private sector research and development that protects our environment and generates innovative products for the emerging environmental technology marketplace. This technology has the potential to create thousands of jobs by developing new ways to clean up polluted areas across the country.

For example, an EPA-supported technology was recently developed in Vermont for the ecological treatment of wastewater. Living Technologies and Gardiner's Supply in South Burlington, Vermont are on the forefront of a new technology that treats wastewater through a series of biological processes. The Environmental Protection Agency has played a fundamental role in joining quality environmental policy with good economics.

Mr. President, advanced technology will be the key to our educational and economic success in the remainder of this decade and into the next millennium. We must keep our commitment to master technology or we will be mastered by it. I urge my colleagues to support this amendment to restore vital funding for advanced technology programs.

Mr. LIEBERMAN. Mr. President, I rise in support of my friend Senator HOLLINGS and praise him for proposing this technology amendent which I have cosponsored along with my colleagues minority leader DASCHLE, Senators KERREY, BINGAMAN, ROCKEFELLER, and KERREY. This amendment strives to preserve research programs in technology, education and the environment which are investments in our future. Cuts in research and development, R&D are bad for America's future. Now is not the time to pull out of federal investments in these programs, including the Advanced Technology Program [ATP] and Technology Administration [TA], National Telecommunications and Information Administration [NTIA] which have a significant impact on high-wage jobs and maintaining U.S. leadership in the global economy. Now is the time to protect our investments, maintain our strong base, and build upon technology infrastructure so that America will remain an economic world leader.

Commerce's Office of Technology Policy recently issued a report which states:

> Although the federal Advanced Technology programs represent only a small fraction of the federal R&D budget, they leverage money in the public and private sectors, causing an economic impact far larger than that suggested by the program budgets alone. Moreover, they are the only mechanisms focused specifically on providing a bridge between the federal R&D investment and the efforts of the private sector to remain globally competitive. These relatively small investments in federal partnerships play a central role in increasing the efficiency of government mission research and safeguarding the country's prosperity."

An essential part of improving economic growth is technological change. A recent Council of Economic Advisors report tells us that half or more of the Nation's productivity growth in the past half century has been from technological innovation. Looking at a 15-year curve, the U.S. had growth in private sector R&D every year until the 1990's. That growth wasn't huge—we were way behind the rate of growth of competitor nations, but we had such a big lead after WW II that we could tolerate lower growth for awhile. But since 1991, the private sector has annually been cutting R&D spending. This year, the American Association for the Advancement of Science estimates that Congress is implementing a 30-percent cut in Government non-defense R&D. For the second year in a row the United States placed first in the World Competitiveness Report in 1995, Japan, top-ranked in 1993, fell to fourth and Germany to sixth. But when you look into the fine print of the report, it isn't so rosy.

The United States ranks only 9th in the people category because of its 30th place showing on adequacy of its education system. The report also found the United States 40th in vulnerability to imports, was 40th in gross domestic savings, and it deteriorated to 29th in public funding of nondefense R&D.

We clearly lead the world in the mixed blessing of downsizing and have garnered major productivity gains as a result. But disturbing long-term economic warning signals remain despite all the profit-taking of the past 5 years. This is particularly true when you look at one of the basic long term building blocks of economic growth: research and development.

What are our foreign competitors doing? You guessed it. Japan has announced plans to double its R&D spending by 2000; it will actually pass the United States in nondefense R&D in total dollars not just share of GDP. This is an historic reversal. Germany, Singapore, Taiwan, China, South Korea, India are aggressively promoting R&D investment. Our lead in R&D has been our historic competitive advantage. If these trends continue, that lead will shrink. Competing advanced economies will be the winners if we cut technology programs that improve Government's efficiency and the taxpayer's return on investment.

To keep building and renewing our economy, we have to keep investing in it. The numbers here are so bad they should be giving us fits:

We have a 20-year downward trend in investment as a share of gross domestic product—we're at 11.2 percent for 1995, behind 47 competitor nations.

The net national savings rate, which factors in government deficits, averaged 2.07 percent as a percent of GDP from 1990 to 1994, compared to the 8.11 percent average in the 1960's. The household savings rate last year, which doesn't include the Government deficit, is down to 4.6 percent; Japan's is 14.8 percent, France's is 14.1 percent, and Germany's is 12.3 percent. Obviously, our overall investment rates are related to our R&D investment rate.

If you divide Government spending into investment and consumption categories, Government investments—items like education, R&D, and infrastructure—are increasingly dwarfed by major increases each year in entitlement consumption spending. Federal non-defense investment in the 1960's in these three categories was 23 percent of its outlays; it is now less than half that. These numbers tell us that we're slowly disinvesting in our economy. They tell us we may be starving our long term growth.

I would like to focus on the programs that are victims under the proposed Appropriations bill we seek to amend, the Advanced Technology Program [ATP] and the Technology Administration [TA], the National Telecommunications and Informations Administration [NTIA], education technology and environmental technology.

ATP—Investments in technology are investments in our future. ATP was enacted during the Bush administration to address technical challenges facing the American industry. Industry has already begun to benefit from this public-private partnership which aims to accelerate development of high-risk, long-term technologies. The nature of the marketplace has changed, and technological advances are a crucial component in maintaining our stature in the new world marketplace. Product life cycles are getting more and more compressed, so that the development of new products must occur at a more and more rapid pace. The market demands products faster, at higher quality and in wider varieties—and the product must be delivered "just-in-time". ATP funding is not a substitute for research investments that industry would have otherwise used for R&D.

This program has attracted top-notch small-to-medium size companies who have lauded ATP. In an independent study, Semiconductor Equipment and Materials International [SEMI], an association comprised of 1,400 small companies that manufacture materials and equipment for the semiconductor manufacturers, found that 100 percent of the companies who participated in ATP rated it very favorably. Nearly two-thirds of the companies surveyed by Industrial Research Institute, an association of over 260 research companies who account for 80 percent of industrially-performed R&D in the U.S., only a small number of which have received ATP awards rated ATP with very high marks.

The impact of the partnership activities amongst Government, industry, and academia is significant and far-reaching, according to a Silber and Associates study which interviewed every ATP industrial participant. I would like to share with you some of the company responses:

> We would not have done this research without the award. It absolutely enabled us. . . .
>
> We consider ATP a multiplier—by investing $3 million we gain access to $15 million worth of technology. . . .
>
> We particularly like that it wasn't a grant, but a match. This eliminated companies who just wanted a government subsidy . . . promotes putting your money where your mouth is. We're seriously committed and have already invested $2 million.
>
> ATP money encouraged us that a little company like us can be taken seriously. . . .
>
> Leverage reduces cost and risk. . . .
>
> Collaborations, cooperation, and learning to operate in a consortium with competitors were key outcomes. . . .

ATP has clearly acted as a catalyst to develop new technologies and to foster ongoing joint ventures within the industrial R&D. Clearly, we should continue to support this program and restore $300 million for it as proposed in this amendment.

TA—Cuts in Commerce's Technology Administration will severely handicap our government's ability to assess and strengthen the technology efforts of the American industry. How can we expect to improve U.S. economic competitiveness if we squeeze the ringmaster who oversees and assesses an important part of the U.S. R&D investment? TA requires an additional $2 million above the $5 million slated in the Conference report to peer review critical programs such as the clean car initiative, also known as the partnership for the new generation of vehicles, and to perform comprehensive competitive studies for many industrial sectors such as the chemical, semiconductor, banking and textile industry.

NTIA—The National Telecommunications and Information Administration's Telecommunication's and Information Infrastructure Assistance Program [TIIAP] serves a very important purpose in connecting public libraries, schools and hospitals to state of the art telecommunications services and the Internet through its highly competitive cost-shared grant program. Last year, only 117 awards for 1800 applicants were given—that is fewer than 1 out of 15. To cut these programs that are in very high demand and essential in promoting education, reducing health care costs and providing more jobs is very short-sighted. The amendment restores $32 million which will enable TIIAP to provide 100–150 new awards. TIIAP programs are not a free ride and demand high community involvement to be successful.

I strongly support investments in education technology which will inspire our children to enhance their creativity and reading and math skills using the innovative tools of Internet. The Environmental Technology Initiative will secure a cleaner and brighter America for our children and grandchildren with lighter, more fuel efficient cars and innovative pollution control technologies.

To summarize, continued U.S. government investment in R&D is critical at a time when our competition is increasing its R&D support. The cuts in ATP, NTIA, TA and education and environment technology are unfounded and simply serve to starve our long-term prospects of developing high-wage jobs and maintaining U.S. leadership in the global economy.

Now is not the time to drop out of the global R&D race and shift toward a path toward technology bankruptcy. As I stated before, the American Academy for the Advancement of Science has estimated that if current congressional spending trends continue, our Government will be cutting this R&D investments by almost one-third over the next few years. Defense R&D will be cut deeper than that. Our amendment attempts to correct that error in some critical program areas. I urge my colleagues to support this amendment.

Mr. BOND. Mr. President, I rise in opposition to the Hollings amendment. The amendment includes $62 million for EPA's environmental technology initiative, a program which the conference agreement on the VA–HUD bill sought to reduce funding for, in order to fund higher priority EPA programs.

During consideration of the fiscal year 1996 VA–HUD bill last fall, not a single member raised concerns about the reduction to this program in the committee markup, on the floor, or in conference on the legislation.

This program was initiated by President Clinton 3 years ago, and a total of $100 million has been appropriated for the first 2 years. What has the program accomplished? Not a whole lot as far as I can tell.

We have funded energy efficient housing conferences, lighting research centers' education of electric utilities about the benefits of energy efficient lighting, and marketing programs to increase the purchase of energy efficient lighting products.

Mr. President, what the environmental technology program has amounted to is corporate pork. Mr. President, we cannot afford this sort of corporate subsidy.

These sort of activities are not geared to ensuring the U.S. gains a strong foothold in the market for environmental technology, as the administration has claimed.

I should also add that the budget request for this program has quadrupled from $30 million in fiscal year 1994 to $127 million in fiscal year 1996. Much of that funding has been passed through from EPA to other agencies—NIST, DOE, agencies which have their own budgets for technology activities. This, at a time when the administration claims it cannot find funds to set drinking water standards for cryptosporidium or control toxic water pollutants.

Given the importance of ensuring that EPA's limited resources are spent on those activities resulting in the most direct and significant gains to environmental protection, additional funding for this program above the $10 million available in this bill is not acceptable.

Mr. BINGAMAN. Mr. President, I rise in support of the Hollings technology programs amendment. I want to commend the Senator from South Carolina for his consistent advocacy of these programs for the entire 13 years I have had the honor to serve in this body. It is disheartening for some of us to find all of these programs so out of favor with many of our majority colleagues.

Mr. President, as we prepare for the challenges and opportunities of the 21st century, these technology programs are among the last programs we should be sacrificing to balance the budget. I have given many speeches over the last year about how misplaced our priorities are when we prepare to slash our civilian research and development programs by one-third by 2002. And we are doing this at the same time the Pentagon is planning to slash research and development spending by 20 to 25 percent in real terms in the same time period. These next few years will be the first time since World War II that this Nation will simultaneously cut both civilian and defense research.

Four years ago this body knew that that was the wrong thing to do. We expected cuts in defense research spending as a result of the end of the cold war. But both the Rudman and Pryor task forces and the Bush administration in 1992 advocated increases in civilian research spending to compensate for the declines in defense research and to keep pace with the investments other nations were making in civilian research. There was a consensus then that the Advanced Technology Program was a program that needed to be expanded to provide opportunities for firms to do precompetitive research, a term that President Bush coined, in a cost-effective manner.

The reason that we had that consensus then was that the Senator from South Carolina had designed the ATP Program with the help of Republican Senators like Warren Rudman. He had ensured that awards would be made on the basis of merit pursuant to competition and that industry would play a major role in selecting areas for competition. He had ensured that there would be cost sharing from industry, so it was not just Government saying these technologies were worthy of further development. The firms themselves were putting their money at risk. Out of these Government-industry partnerships the Senator from South Carolina expected to see real innovation. He expected these partnerships to bridge the gap between basic research at which we excel as a nation and product development which the private sector should fully fund. All the reports we have received tell us the program is doing just that. And yet it is on the chopping block.

The same could be said for the other programs supported by the Hollings amendment. All had bipartisan origins. All are designed to provide real leverage for Federal funds by fostering partnerships and requiring cost sharing. They are precisely the sort of programs we should be expanding as we approach the 21st century. Instead, we are forced into a debate on terminating them.

Mr. President, I am going to close by displaying two charts which I have used before over the past year on the Senate floor. The first shows Federal civilian research as a percentage of gross domestic product. In the next few years that spending is headed toward a half-century low. Is that how we should be building a future for our children and grandchildren?

The second chart compares our Federal civilian research spending with that of the Japanese Government. Very soon, if not this year then in the next few years, Japanese Government research and development investments will exceed our own. That is a nation with half our population and half our wealth. How long will we as a nation be able to live off our previous research investments?

Mr. President, study after study has shown that Federal civilian research investments since World War II have paid for themselves many times over. We need to sustain that investment as we head into the 21st century, particularly since we will continue to cut defense research investments in light of the end of the cold war. The Pentagon is planning to make greater use of our civilian research programs to meet its needs at the same time we are cutting civilian research.

The Senator from South Carolina is making a stand for some of our best civilian research investments. He stands in a bipartisan tradition of supporting civilian research that goes back to Presidents Truman and Eisenhower and clearly included President Bush. He stands against what one columnist, E.J. Dionne, Jr., in today's Washington Post called the "smash-the-state" revolutionaries, who want to demolish essentially all Government programs.

Government can work and has the capacity to make investments that do great good for this country. Our research investments have been in that category for decades. They are Government at its best, building a better future for our children. I urge my colleagues to stand with the Senator from South Carolina in support of these research programs. Please vote for the Hollings amendment.

Mr. KERREY. Mr. President, I support the Hollings-Daschle technology amendment, which I am pleased to cosponsor. In particular, this amendment adds $32 million for the Telecommunications Information and Infrastructure Assistance Program [TIIAP] under the National Telecommunications and Information Administration [NTIA], which I strongly support.

When TIIAP was slated for elimination in the fiscal year 1996 Commerce-Justice-State-Judiciary appropriations bill (H.R. 2076), I offered an amendment with Senators SNOWE, DASCHLE, LEAHY, LIEBERMAN and JEFFORDS that restored $18.9 million for this valuable program. The motion to table my amendment was defeated overwhelmingly by a bipartisan vote of 64 to 33, reversing a death sentence for a competitive, merit-based program that empowers people by linking rural and underserved communities to advanced telecommunications technologies.

Mr. President, the Federal seed money from TIIAP is generating partnerships and matching investments that are helping communities in my State of Nebraska and across the Nation join the information revolution. In Beatrice, NE, which previously had no meaningful way to communicate electronically, a TIIAP grant is funding the Beatrice Connection. Beginning next month, the Beatrice Connection will link the entire community—its public schools, library, community college, city government, and residents—using a metropolitan area network [MAN] and wireless communications. In Lincoln, NE, TIIAP is empowering people through InterLinc, which provides dial-up, toll-free Internet access to low-income, ethnically diverse, and rural areas of Lincoln and its surrounding rural communities. InterLinc also provides on-line access to Government agencies, thus permitting citizens greater ease in using Government services.

Information and communications are fast becoming the keys to economic success in this country and around the world. By the 21st century, these industries will represent close to one-sixth of the world economy. Yet according to a recent study, by the year 2000, 60 percent of jobs in this country will require skills held by only 20 percent of the population. Our kids will not be able to compete with a software programmer in New Delhi or Tokyo if they do not have access to computers and the Internet.

Currently, however, many communities do not have access to advanced information or communications either at home, in the local school, or the local library. I receive numerous letters and telephone calls from Nebraskans, particularly from educators and health care practitioners, who want affordable access to Internet and other advanced telecommunications resources. According to NTIA, this lack of access is most pronounced in rural and inner city communities, which could spell disaster for the future of many youths.

TIIAP is specifically designed to connect these communities to the kinds of information they need to find educational opportunities, job training, new employment, and better medical care.

TIIAP grants are bridging information gaps for children from farming communities, who are downloading images of the planets and exchanging e-mail with space scientists. Emergency room doctors in remote rural areas are using computer networks and video imaging to consult with specialists in major medical centers to diagnose injuries and deliver life-saving care. And teachers are upgrading their skills by taking advanced courses through the Internet without leaving their school building. TIIAP provides seed money for everything from computer links to professional development to advanced software.

Many innovative projects would never get off the ground without the assistance provided by this program. TIIAP represents the best Federal investment we can make in this area—it is oriented toward the future, it is highly competitive, and every Federal dollar is matched by one or more private dollars. Grants totaling $24.4 million in 1994 generated $40 million in matching funds to support projects in health care, education, economic development, infrastructure planning, and library services.

Mr. President, the constant fight to fund TIIAP shows how difficult it is becoming to make investments in the United States as entitlement programs continue to grow and consume large portions of the Federal budget. I am committed to reforming entitlements precisely because, if we fail to do so, programs like TIIAP and others funded by the Hollings-Daschle amendment will become a memory.

The amendment which I am cosponsoring today would fund 100 additional TIIAP awards in fiscal year 1996, connecting more schools, libraries, and public health facilities to telecommunications technology. I urge my colleagues to vote for the Hollings-Daschle amendment, to ensure that major portions of our country are not left out of the information age.

Mr. LEVIN. Mr. President, I support the Hollings amendment that would restore funding for key industry and technology programs that provide high-wage jobs for American workers.

This appropriations bill would make short-sighted cuts to programs that build American industry, increase exports, and promote American jobs. In the final analysis, these cuts would damage the long-term economic prospects of American families.

The cuts I am talking about target the Department of Commerce, which opponents label as unimportant to the country. In fact, the Department of Commerce is a Federal agency that works day in and day out to help keep American businesses one step ahead of foreign rivals in an era of increasing competition. It is the agency that supports the kind of cutting-edge technologies crucial to U.S. businesses winning the international trade wars and capturing markets for U.S. manufactured goods at the dawn of the 21st century.

If we abandon our support for research and development in this time of expanding global markets, we will find ourselves fighting an uphill battle for economic security in the years ahead. Not only are these cuts penny-wise and pound-foolish, they sacrifice our economic future for meager budget savings.

This bill would hold important programs hostage by making their funding contingent on a budget agreement between the President and Congress. The contingency would require the passage of a separate bill necessary.

The bill would withhold funding for the Advanced Technology Program, or ATP, which promotes research in cross-cutting technologies that are too long term in payoff for private firms to pursue alone. The enabling technologies developed under this program help American firms compete in fast-paced international markets. Other governments are far more aggressive in funding technology.

Some of my colleagues have called the Advanced Technology Program corporate welfare, but that misses the point that the real benefactors are American workers who will profit from high-technology and high-wage jobs. The ATP is a forward-looking cost-effective investment in America's technology base essential to our long-term economic growth. To abandon it as this bill does is a mistake and a blow to American competitiveness.

The ATP is a young program, but early results show that it's working. The Autobody Consortium from my home State of Michigan, for example, used an ATP grant to develop a new measurement technology that has led to dramatic improvements in reliability and performance of American cars. The technology is giving us a leg up on foreign automakers. That means that we'll sell more cars and create more high-paying jobs for American workers.

The Hollings amendment would rescue ATP funding from the proposed contingency fund so that ATP's important work can continue uninterrupted. It would also provide funds to allow ATP to support new research rather than only fund ongoing research.

Another short-sighted measure of this bill is the grab of funds set aside for the National Institute of Standards and Technology's lab modernization effort. NIST provides basic infrastructure for the whole gamut of this country's industries by developing state-of-the-art measurement technologies. The current facilities at the Institute are almost 40 years old and in desperate need of renovation or replacement. Without new facilities, NIST risks becoming technologically obsolete and unable to continue its world-class research efforts.

While this bill restores half of the funds taken in an earlier Senate version, it still takes back too much from the moneys set aside for the NIST modernization effort. It also penalizes an agency that showed initiative and restraint by husbanding these funds over the years to make physical plant investments. Why should any agency save money when accumulated savings are snatched back and years of planning demolished?

The ATP and NIST modernization effort are just 2 examples of many cuts in critical industry and technology programs. Other examples include the Telecommunications and Infrastructure Assistance Program, that provides seed money to connect our schools to the Internet, and the Environmental Technology Initiative at EPA, that supports cost-shared development of innovative pollution-control technologies.

It is wrong to cut cost-effective R&D programs to achieve minimal budget savings. If our primary goal in balancing the budget is long-term economic growth, then we should safeguard initiatives that will help us reach that objective. The programs cut in this bill are precisely the kind that will promote long-term economic growth, by giving American firms the technological edge they need to build exports, increase profits, and create high-wage jobs.

We are cutting our investment in industry and technology at the same time our competitors are stepping up their efforts. A recent report by the Council of Economic Advisers [CEA] showed that the United States invests far less in technology and trade than our primary competitors. In fact, over the last two decades, the United States has increasingly lagged behind both Germany and Japan in nondefense R&D expenditures as a percentage of GDP. We currently rank dead last among our major trading partners in spending to build exports.

And the news gets worse, Mr. President. The CEA report further reveals that the congressional budget resolution may slash Federal civilian R&D spending by almost 30 percent by the year 2002. In contrast, the Japanese Government plans to double its R&D investment by the year 2000. Even though the United States has traditionally spent a lower percentage of GDP on R&D than its competitors, it has always been first in absolute expenditures. In the near future even this will change. By 1997, the Japanese Government will actually spend more on R&D, in total dollars, than the United States.

The proposed cuts to the Commerce Department budget are bad for the country and bad for my home State of Michigan. Michigan is the third largest exporting State behind California and Texas. Last year, $35 billion in exports, almost all from manufactured goods, supported about 500,000 Michigan jobs. Thousands of Michigan companies benefit from the industry and technology support programs administered by the Department of Commerce.

Many of those companies have written to me to offer their enthusiastic support for the Advanced Technology Program and other Commerce Department initiatives.

"NIST has a tradition of being a positive contributor to the competitiveness of U.S. industry and the ATP program is an excellent example of how the Federal Government can help," wrote Perceptron, a small, high-technology company in Farmington Hills.

"With an expanding global economy and increasing challenges facing U.S. companies, U.S. businesses today have a critical need for assistance from the U.S. Department of Commerce to enter and successfully compete in world markets," wrote the S.I. Company of Ann Arbor.

The Commerce Department "has concentrated on helping small- and medium-sized firms export. These are the same companies that have driven our surge in exports and our growth in employment. Are we trying to 'kill the goose that lays the golden egg'?" wrote Keesee and Associates of Birmingham.

Mr. President, if we choose to turn our backs on technology at this critical juncture, we weaken the prospects for a more productive, more prosperous America. I hope the Senate will adopt the Hollings amendment.

Mr. HARKIN. Mr. President, I strongly support passage of the Hollings amendment. We need to keep our Nation on the cutting edge in technology and the amendment helps to do that. It helps businesses bring creative ideas into the international marketplace. It promotes finding more efficient technologies to reduce environmental problems and it helps educational institutions provide the tools they need to teach our children with the latest computer technology.

I want to particularly note the debt collection provisions contained in the amendment. Because of those provisions, CBO has scored the amendment as fully paid for. The debt collection provisions are complicated. But, its goal is very simple: The Government needs to systematically do a better job of collecting the money that is owed to it. And, it does a pretty poor job of doing that now.

Many may not like the debt collector. But, if the Government does not collect, other taxpayers must make the payment instead. That is not fair. The United States has billions of dollars in uncollected debts. School loans unpaid, businesses that did not pay back the SBA, farmers who did not pay their loans, all kinds of debts. Yet, the Government is writing checks to some of those same people month after month for various payments anyway. The Government is making new loans on top of the old ones. And, those who do not pay, usually suffer no damage to their credit ratings.

Under this measure, that changes. First, the collection of bad debts are more centralized and given to staff who focus on collecting those debts, including when necessary private attorneys. Second, the Government can start garnishing most kinds of Government payments. Third, the Government is not going to make new loans or loan guarantees to those who don't pay their debts. Fourth, the Government is going to act like most businesses and will pass the information on to credit agencies. Fifth, the Government is going to be able to more efficiently forclose on property. And, the measure provides for a lot of other provisions that makes it more likely that different parts of the Government will work together to make collecting bad debts a priority.

The amendment also makes these methods available to collect delinquent child care payments. Few causes are more significant to the cause of children living in poverty and women going on welfare than the failure of parents to support the child. And, I very strongly feel that the Government should do more in that area.

Mr. GREGG. Mr. President, I suggest we go to vote.

VOTE ON AMENDMENT NO. 3474

THE PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Burns
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NAYS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Breaux

So the amendment (No. 3474) was rejected.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Nevada is recognized.

Mr. REID. Mr. President, without losing my right to the floor, I would like to yield to my friend from New Hampshire.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NOS. 3476 AND 3477 TO AMENDMENT NO. 3466

Mr. GREGG. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. LAUTENBERG, for himself, Mr. HOLLINGS, and Mr. KERRY, proposes an amendment numbered 3476 to amendment No. 3466.

The Senator from New Hampshire [Mr. GREGG], for Mr. REID, proposes an amendment numbered 3477 to amendment No. 3466.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3476

At the appropriate places in Title II of the Hatfield Substitute amendment, insert the following new sections:

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Federal Bureau of Investigation's efforts in the United States to combat Middle Eastern terrorism, $7,000,000, to remain available until expended: *Provided*, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: *Provided further*, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget Act and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Office of Foreign Assets Control's efforts in the United States to combat Middle Eastern terrorism, $3,000,000, to remain available until expended: *Provided*, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: *Provided further*, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget Act and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency

Deficit Control Act of 1985, as amended, is transmitted to Congress.

AMENDMENT NO. 3477

(Purpose: To amend title 18, United States Code, to carry out certain obligations of the United States under the International Covenant on Civil and Political Rights by prohibiting the practice of female circumcision)

At the appropriate place under the heading of "General Provisions" at the end of the bill, insert the following new section:

SEC. .(a) This section may be cited as the "Federal Prohibition of Female Genital Mutilation Act of 1996".

(b) Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights and secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmation power under section 8 of article I of the Constitution, as well as under section 5 of the Fourteenth Amendment to the Constitution, to enact such legislation.

(c) It is the purpose of this section to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties for the performance of female genital mutilation.

(d)(1) Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to be come such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end of the following new item:

"116. Female genital mutilation.".

(e)(1) The Secretary of Health and Human Services shall do the following:

(A) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(B) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(C) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(2) For purposes of this subsection, the term "female genital mutilation" means the removal of infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

(f) Subsection (e) shall take effect on the date of enactment of this Act, and the Secretary of Health and Human Services shall commence carrying out such section not later than 90 days after the date of the enactment of this Act. Subsection (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the first amendment is the Lautenberg-Hollings amendment which has been cleared on both sides. The amendment would provide $7 million for the FBI and $3 million for Treasury to combat Middle Eastern terrorism. Funds would only be available if and to the extent the President designates such an emergency.

The second amendment is the Reid amendment dealing with female genital mutilation. It has been cleared on both sides.

I ask unanimous consent that both amendments be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, both amendments are agreed to.

So the amendments (Nos. 3476 and 3477) were agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote on the Hollings amendment.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. That motion ran to the Hollings amendment, which was offered two amendments prior to this.

The PRESIDING OFFICER. The Chair thanks the Senator for the clarification.

Mr. GREGG. I thank the Senator from Nevada for his cooperation.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

AMENDMENT NO. 3477

Mr. REID. Mr. President, even though my friend from New Hampshire has quietly offered an amendment that has been accepted, it is extremely important. It is an amendment that I have been trying to pass for a number of years in this body. We have been successful, but it has been knocked out in the other body. That deals with a subject which is difficult to talk about, female genital mutilation. It is a horrible procedure that is perpetrated on women all over this world. What this amendment does is stop it from being done to women in the United States.

I express my appreciation to my friend from New Hampshire for making this part of the managers' amendment to this legislation.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I want to just take a few minutes. I have waited patiently. I want to talk about the Lautenberg-Hollings-Kerry amendment. Our amendment would provide $7 million for the Federal Bureau of Investigation and $3 million for the Department of the Treasury to address the emergency of terrorism in the Middle East.

The funding would be used to enhance efforts to prevent illegal fundraising in the United States on behalf of organizations, such as the ill-famed Hamas organization, that support terror to undermine the Middle East peace process.

Now, the funding we are proposing would bolster the FBI and the Treasury Department's efforts to promote greater enforcement of Executive Order 12947, which is listed as "Prohibiting Transaction with Terrorists Who Threaten to Disrupt the Middle East Peace Process." Under that Executive order and subsequent notices that are published by the Treasury Department, American citizens are prohibited from making contributions to Hamas along with organizations and individuals that front for Hamas. Even more, the assets of such terrorists and terrorist organizations are frozen by the Treasury Department. That is in the Executive order.

Mr. President, I ask unanimous consent that a copy of the President's Executive order be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. Despite the existence of this Executive order, Mr. President, from the United States, funds are still being sent to Hamas, the organization that takes credit for suicide bombings, for killing innocent people, for injuring scores of others. One report I heard on the radio this morning estimated that $10 million was being sent annually by Americans to Hamas.

By the way, that is tax-exempt, if my understanding is correct, tax-exempt funds to help terrorists work their dastardly deeds. Even the FBI acknowledges Americans are still contributing money to Hamas. In one article, Robert Bryant, Assistant Director of the Federal Bureau of Investigation's National Security Division, said, "U.S. financial support is funding for Hamas."

I ask unanimous consent that a copy of the article be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LAUTENBERG. While some of these contributions may not be used to promote terrorism in the Middle East, I think we need to be more certain. Blood for the despicable murders in Israel that the world has witnessed in the past few weeks is already on the hands of the Hamas militants. I do not want it on the hands of American citizens, as well. There are no words to express sufficient outrage at the rash of Hamas-supported suicide bombings in Israel. In four recent bus bombings, 48 innocent people have been killed by Hamas madmen. Clearly, the United States has an interest in helping our friend and ally, Israel, put an end to this madness.

We also have a more direct interest at stake. Though Hamas militants aim to strike a blow to the peace process and in the psyche of the Israeli people, its suicide bombs do not distinguish between soldier and citizen, between infant and adult, or even between Israeli and other nationals.

Unfortunately, two of the most recent victims of Hamas' senseless violence were young adults from the United States. Two were from New Jersey: Sarah Duker, from Teaneck, NJ, and her fiance, Matt Eisenfeld, from Connecticut. Another college student from New Jersey, Alisa Flatow, was killed last April in another Hamas suicide bombing.

My concern and the concern which this amendment addresses is that the funds raised in this country may be used by Hamas militants to take the lives of both American and Israeli citizens. Although American citizens are not detonating the bombs, they may be providing the financial support which enables Hamas militants to pull the pin.

Since the Executive order went into effect just over a year ago, some progress has been made in stemming the flow of financial support from the United States. Press reports indicate that $800,000 in assets have been blocked, unable to be transferred to their Middle East recipients. Unfortunately, the dramatic increase in Hamas-supported violence reminds us that the job is far from done. Despite our efforts, Hamas militants continue to gloat in the killing and continue to make martyrs of the murderers.

The graphic photographs of blood from the Middle East compel us to redouble our efforts to choke off support in the United States for Hamas militants. It is not enough to declare war against fundraising Hamas' militant activities, but we need to put our money where our mouth is and provide additional resources to get the job done, to stop terrorism.

The funding provided in this amendment would enable our Government to accelerate investigations of individuals and organizations that it has good reason to believe are attempting to fund the Hamas death machine. It would provide funding for additional analysts, equipment and intelligence-gathering equipment in the United States aimed at addressing this problem in the Middle East.

It will provide resources to allow for better tracing of funds once they leave the United States so that we can be more certain that American dollars are not ending up in the coffers of Hamas militants. It will provide resources to promote greater efficiency in freezing the assets to stop bankrolling of terrorism dead in its tracks.

Mr. President, this week our President, Bill Clinton, will join world leaders at a summit in Egypt on terrorism. He has left already. He will, among other things, call upon leaders in the Middle East to redouble efforts to ensure that the financial wealth for these extremists is going to run dry. I applaud his initiative and wish him well in this worthwhile endeavor. I hope that he will say publicly that Syria's unwillingness to come to the talks on terrorism, that their client state, Lebanon, is essentially prohibited from joining in these talks, is an action that we deplore. How can we believe and how can the Israeli people believe that Syria will talk seriously about peace when they will not come to a discussion about the reduction or elimination of terrorism?

I want the record to reflect accurately, I think it is a terrible sign of their intention about making peace. Syria has to know that we here in the United States want them to be honest and forthcoming in their peace discussion and not to come to a meeting that consists of tens of nations' representatives in the area, willing to discuss peace, willing to discuss at least the elimination of reduction of terrorism—I think reflects very badly on the seriousness of their view.

I can think of no better way of helping our President succeed in his effort to shut off the international funding spigot for Hamas' terrorists than by showing the world, as this amendment would do, that we are doubling our efforts to do the same at home. This amendment will not solve all of the problems of terrorism in the Middle East, but it demonstrates America's resolve to ensure that our citizens are not directly or inadvertently financing the actions of terrorists.

I am grateful that we obtained the unanimous support of our colleagues to enhance our ability to fight harder against the killers of innocent people and to fight against the thugs that do not understand that the civilized world rejects their approach of murder to gain political objectives.

Mr. President, I ask unanimous consent to have printed in the RECORD a pertinent letter from the Anti-Defamation League.

There being no objection, the motion was ordered to be printed in the RECORD, as follows:

THE LEON AND MARILYN KLINGHOFFER MEMORIAL FOUNDATION OF THE ANTI-DEFAMATION LEAGUE,
Washington DC, March 12, 1996.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Leon and Marilyn Klinghoffer Foundation of the Anti-Defamation League, we want to thank you for your leadership in the fight against terrorism and for seeking to keep this country from being used as a base to raise funds and finance the activity of terrorist organizations.

Ten year after the senseless murder of our father, Leon Klinghoffer, aboard the Achille Lauro cruise ship, terrorism has hit home for other Americans. Unfortunately, our laws are still inadequate to meet the changing nature of the terrorist threat.

We welcome and strongly support your amendment to increase funding for the FBI and the Treasury Department's Office of Foreign Assets Control. This would provide additional resource to facilitate and enhance their investigative abilities to uncover assets, property, and fundraising support in the United States for foreign terrorist organizations designated (under President Clinton's Executive Order 12947, January 23, 1995) as "threatening to disrupt the Middle East Peace Process."

We are ready to assist you in your efforts to build support among your colleagues for this initiative and are dedicated to helping to prevent another family from suffering the painful reality of terrorism.

Sincerely,

LISA KLINGHOFFER.
ABRAHAM H. FOXMAN.

EXHIBIT 1

EXECUTIVE ORDER 12947 OF JANUARY 23, 1995—PROHIBITING TRANSACTIONS WITH TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

By the authority vested in me as President by the Constitution and the laws of the

United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, William J. Clinton, President of the United States of America, find that grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. Except to the extent provided in section 203(b)(3) and (4) of IEEPA (50 U.S.C. 1702(b)(3) and (4)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date: (a) all property and interests in property of:

(i) the persons listed in the Annex to this order;

(ii) foreign persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found:

(A) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or

(B) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence; and

(iii) persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any of the foregoing persons, that are in the United States, that hereafter come within the United States, or that hereafter come within the possession or control of United States persons, are blocked;

(b) any transaction or dealing by United States persons or within the United States in property or interests in property of the persons designated in or pursuant to this order is prohibited, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons;

(c) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order, is prohibited.

Sec. 2. For the purposes of this order: (a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "foreign person" means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States) or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

Sec. 3. I hereby determine that the making of donations of the type specified in section 203(b)(2)(A) of IEEPA (50 U.S.C. 1702(b)(2)(A)) by United States persons to persons designated in or pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. (a) The Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

(b) Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, shall first be coordinated with the Federal Bureau of Investigation (FBI), and any matter involving evidence of a criminal violation shall be referred to the FBI for further investigation. The FBI shall timely notify the Department of the Treasury of any action it takes on such referrals.

Sec. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 6. (a) This order is effective at 12:01 a.m., eastern standard time on January 24, 1995.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON,
January 23, 1995.

ANNEX

TERRORIST ORGANIZATIONS WHICH THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS

Abu Nidal Organization (ANO)
Democratic Front for the Liberation of Palestine (DFLP)
Hizballah
Islamic Gama'at (IG)
Islamic Resistance Movement (HAMAS)
Jihad
Kach
Kahane Chai
Palestinian Islamic Jihad-Shiqaqi faction (PIJ)
Palestine Liberation Front-Abu Abbas faction (PLF-Abu Abbas)
Popular Front for the Liberation of Palesine (PFLP)
Popular Front for the Liberation of Palestine-General Command (PFLP-GC)

OFFICE OF FOREIGN ASSETS CONTROL

LIST OF SPECIALLY DESIGNATED TERRORISTS WHO THREATEN TO DISRUPT THE MIDDLE EAST PEACE PROCESS—WEDNESDAY, JANUARY 25, 1995

Agency: Office of Foreign Assets Control, Treasury.

Action: Notice of blocking.

Summary: The Treasury Department is issuing a list of blocked persons who have been designated by the President as terrorist organizations threatening the Middle East peace process or have been found to be owned or controlled by, or to be acting for or on behalf of, these terrorist organizations.

Effective date: January 24, 1995.

For further information: J. Robert McBrien, Chief, International Programs, Tel.: (202) 622-2420; Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Supplementary information:

Electronic availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the Federal Register. By modem dial 202/512-1387 or call 202/512-1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

On January 23, 1995, President Clinton signed Executive Order 12947, "Prohibiting Transactions with Terrorists Who Threaten To Disrupt the Middle East Peace Process" (the "Order"). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of 12 terrorist organizations that threaten the Middle East peace process as identified in an Annex to the Order. The Order also blocks the property and interests in property subject to U.S. jurisdiction of persons designated by the Secretary of State, in coordination with the Secretary of Treasury and the Attorney General, who are found (1) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or (2) to assist in, sponsor or provide financial, material, or technological support for, or services in support of, such acts of violence. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction in which there is any interest of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other person designated pursuant to the Order (collectively "Specially Designated Terrorists" or "SDTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons. This prohibition includes donations that are intended to relieve human suffering.

Designations of persons blocked pursuant to the Order are effective upon the date of determination by the Secretary of State or his delegate, or the Director of the Office of Foreign Assets Control acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

LIST OF SPECIALLY DESIGNATED TERRORISTS WHO THREATEN THE MIDDLE EAST PEACE PROCESS

Note: The abbreviations used in this list are as follows: "DOB" means "date of birth," "a.k.a." means "also known as," and "POB" means "place of birth."

ENTITIES

Abu Nidal Organization (a.k.a. ANO, a.k.a. Black September, a.k.a. Fatah Revolutionary Council, a.k.a. Arab Revolutionary Council, a.k.a. Arab Revolutionary Brigades, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Al-Gama'A Al-Islamiyya (a.k.a. Islamic Gama'AT, a.k.a. Gama'AT, a.k.a. Gama'AT Al-Islamiyya, a.k.a. The Islamic Group); Egypt.

Al-Jihad (a.k.a. Jihad Group, a.k.a. Vanguards of Conquest, a.k.a. Talaa'al al-Fateh); Egypt.

ANO (a.k.a. Abu Nidal Organization, a.k.a. Black September, a.k.a. Fatah Revolutionary Council, a.k.a. Arab Revolutionary Council, a.k.a. Arab Revolutionary Brigades, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Ansar Allah (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Islamic Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Arab Revolutionary Brigades a.k.a. ANO, a.k.a. Abu Nidal Organization, a.k.a. Black September, a.k.a. Fatah Revolutionary Council, a.k.a. Arab Revolutionary Council, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Arab Revolutionary Council (a.k.a. ANO, a.k.a. Abu Nidal Organization, a.k.a. Black September, a.k.a. Faith Revolutionary Council, a.k.a. Arab Revolutionary Brigades, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Black September (a.k.a. ANO, a.k.a. Abu Nidal Organization, a.k.a. Fatah Revolutionary Council, a.k.a. Arab Revolutionary Council, a.k.a. Arab Revolutionary Brigades, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Democratic Front for the Liberation of Palestine (a.k.a. Democratic Front for the Liberation of Palestine—Hawatmeh Faction, a.k.a. DFLP); Lebanon; Syria; Israel.

Democratic Front for the Liberation of Palestine—Hawatmeh Faction (a.k.a. Democratic Front for the Liberation of Palestine, a.k.a. DFLP); Lebanon; Syria; Israel.

DFLP (a.k.a. Democratic Front for the Liberation of Palestine—Hawatmeh Faction, a.k.a. Democratic Front for the Liberation of Palestine); Lebanon; Syria; Israel.

Fatah Revolutionary Council (a.k.a. ANO, a.k.a. Abu Nidal Organization, a.k.a. Black September, a.k.a. Arab Revolutionary Council, a.k.a. Arab Revolutionary Brigades, a.k.a. Revolutionary Organization of Socialist Muslims); Libya; Lebanon; Algeria; Sudan; Iraq.

Followers of the Prophet Muhammad (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Islamic, Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah); Lebanon.

Gama'At (a.k.a. Islamic Gama'at, a.k.a. Gama'at Al-Islamiyya, a.k.a. the Islamic Group, a.k.a. Al-Gama'a Al-Islamiyya); Egypt.

Gama'at Al-Islamiyya (a.k.a. Islamic Gama'at, a.k.a. Gama'at, a.k.a. the Islamic Group, a.k.a. Al-Gama'a Al-Islamiyya); Egypt.

Hamas (a.k.a. Islamic Resistance Movement); Gaza; West Bank Territories; Jordan.

Hizballah (a.k.a. Party of God, a.k.a. Islamic Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Islamic Gama'at (a.k.a. Gama'at, a.k.a. Gama'at Al-Islamiyya, a.k.a. the Islamic Group, a.k.a. Al-Gama'a Al-Islamiyya); Egypt.

Islamic Jihad (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Islamic Jihad for the Liberation of Palestine (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Islamic Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Islamic Jihad of Palestine (a.k.a. PIJ, a.k.a. Palestinian Islamic Jihad—Shiqaqi, a.k.a. PIJ Shiqaqi/Awda Faction, a.k.a. Palestinian Islamic Jihad); Israel; Jordan; Lebanon.

Islamic Jihad of Palestine (a.k.a. PIJ, a.k.a. Palestinian Islamic Jihad—Shiqaqi, a.k.a. PIJ Shiqaqi/Awda Faction, a.k.a. Palestinian Islamic Jihad); Israel; Jordan, Lebanon.

Islamic Resistance Movement (a.k.a. Hamas); Gaza; West Bank Territories; Jordan.

Jihad Group (a.k.a. Al-Jihad, a.k.a. Vanguards of conquest, a.k.a. Talaa'al Al-fateh); Egypt.

Kach; Israel.

Kahane Chai; Israel.

Organization of the Oppressed on Earth (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Islamic Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Palestine Liberation Front (a.k.a. Palestine Liberation Front—Abu Abbas Faction, a.k.a. PLF-Abu Abbas, a.k.a. PLF); Iraq.

Palestine Liberation Front-Abu Abbas Faction (a.k.a. PLF-Abu Abbas, a.k.a. PLF, a.k.a. Palestine Liberation Front); Iraq.

Palestinian Islamic Jidad—Shiqaqi (a.k.a. PIJ, a.k.a. Islamic Jihad of Palestine, a.k.a. PIJ Shiqaqi/Awda Faction, a.k.a. Palestinian Islamic Jihad); Israel; Jordan; Lebanon.

Party of God (a.k.a. Hizballah, a.k.a. Islamic Jihad, a.k.a. Revolutionary Justice Organization, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

PFLP (a.k.a. Popular Front for the Liberation of Palestine); Lebanon; Syria; Israel.

PFLP-GC (a.k.a. Popular Front for the Liberation of Palestine—General Command); Lebanon; Syria; Jordan.

PIJ (a.k.a. Palestinian Islamic Jihad—Shiqaqi, a.k.a. Islamic Jihad of Palestine, a.k.a. PIJ Shiqaqi/Awda Faction, a.k.a. Palestinian Islamic Jihad); Israel; Jordan; Lebanon.

PIJ Shiqaqi/Awda Faction (a.k.a. PIJ, a.k.a. Palestinian Islamic Jihad—Shiqaqi, a.k.a. ISlamic Jihad of Palestine, a.k.a. Palestinian Islamic Jihad); Israel, Jordan; Lebanon.

PLF (a.k.a. PLF-ABu Abbas, a.k.a. Palestine Liberation Front—Abu Abbas Faction, a.k.a. Palestine Liberation Front); Iraq.

PLF-Abu Abbas (a.k.a. Palestine Liberation Front—Abu Abbas Faction, a.k.a. PLF, a.k.a. Palestine Liberation Front); Iraq.

Popular Front for the Liberation of Palestine (a.k.a. PFLP); Lebanon; Syria; Israel.

Popular Front for the Liberation of Palestine—General Command (a.k.a. PFLP-GC); Lebanon; Syria; Jordan.

Revolutionary Justice Organization (a.k.a. Party of God, a.k.a. Hizballah, a.k.a. Islamic Jihad, a.k.a. Organization of the Oppressed on Earth, a.k.a. Islamic Jihad for the Liberation of Palestine, a.k.a. Ansar Allah, a.k.a. Followers of the Prophet Muhammad); Lebanon.

Revolutionary Organization of Socialist Muslims (a.k.a. ANO, a.k.a. Abu Nidal Organization, a.k.a. Black September, a.k.a. Fatah Revolutionary Council, a.k.a. Arab Revolutionary Council, a.k.a. Arab Revolutionary Brigades); Libya; Lebanon; Algeria; Sudan; Iraq.

Talaa'al al-Fateh (a.k.a. Jihad Group, a.k.a. Al-Jihad, a.k.a. Vanguards of Conquest); Egypt.

The Islamic Group (a.k.a. Islamic Gama'at, a.k.a. Gama'at, a.k.a. Gama'at al-Vanguards of Conquest (a.k.a. Jihad Group, a.k.a. Al-Jihad, a.k.a. Talla'al al-Fateh); Egypt.

INDIVIDUALS

Abbas, Abu (a.k.a. Zaydan, Muhammad); Director of Palestine Liberation Front— Abu Abbas Faction: DOB 10 December 1948.

Al Banna, Sabri Khalil Abd Al Qadir (a.k.a. Nidal, Abu); Founder and Secretary General of Abu Nidal Organization; DOB May 1937 or 1940; POB Jaffa, Israel.

Al Rahman, Shaykh Umar Abd; Chief Ideological Figure of Islamic Gama'at; DOB 3 May 1938; POB Egypt.

Al Zawahiri, Dr. Ayman: Operational and Military Leader of Jihad Group; DOB 19 June 1951; POB Giza, Egypt; Passport No. 1084010 (Egypt).

Al-Zumar, Abbud (a.k.a Zumar, Colonel Abbud); Factional Leader of Jihad Group; Egypt; POB Egypt.

Awda, Abd Al Aziz; Chief Ideological Figure of Palestinian Islamic Jihad—Shiqaqi; DOB 1946.

Fadlallah, Shaykh Muhammad Husayn; Leading Ideological Figure of Hizballah; DOB 1938 or 1936; POB Najf Al Ashraf (Najaf), Iraq.

Habash, George (a.k.a. Habbash, George); Secretary General of Popular Front for the Liberation of Palestine.

Habbash, George (a.k.a. Habash, George); Secretary General of Popular Front for the Liberation of Palestine.

Hawatma, Nayif (a.k.a. Hawatmeh, Nayif, a.k.a. Hawatmah, Nayif, a.k.a. Khalid, Abu); Secretary General of Democratic Front for the Liberation of Palestine—Hawatmeh Faction; DOB 1933.

Hawatmah, Nayif (a.k.a. Hawatma, Nayif; a.k.a. Hawatmeh, Nayif, a.k.a. Khalid, Abu); Secretary General of Democratic Front for the Liberation of Palestine—Hawatmeh Faction; DOB 1933.

Hawatmeh, Nayif (a.k.a. Hawatma, Nayif; a.k.a. Hawatmah, Nayif, a.k.a. Khalid, Abu); Secretary General of Democratic Front for the Liberation of Palestine—Hawatmeh Faction; DOB 1933.

Islambouli, Mohammad Shawqi; Military Leader of Islamic Gama'at; DOB 15 January 1955; POB Egypt; Passport No. 304555 (Egypt).

Jabril, Ahmad (a.k.a. Jibril, Ahmad); Secretary General of Popular Front for the Liberation of Palestine—General Command; DOB 1938 POB Ramleh, Israel.

Jibril, Ahmad (a.k.a. Jabril, Ahmad); Secretary General of Popular Front for the Liberation of Palestine—General Command; DOB 1938; POB Ramleh, Israel.

Khalid, Abu (a.k.a. Hawatmeh, Nayif, a.k.a. Hawatma, Nayif, a.k.a. Hawatmah, Nayif); Secretary General of Democratic Front for the Liberation of Palestine—Hawatmeh Faction; DOB 1933.

Mughniyah, Imad Fa'iz (a.k.a. Mughniyah, Imad Fayiz); Senior Intelligence Officer of Hizballah; DOB 7 December 1962; POB Tayr

Dibba, Lebanon; Passport No. 432298 (Lebanon).

Mughniyah, Imad Fayiz (a.k.a. Mughniyah, Imad Fa'iz); Senior Intelligence Officer of Hizballah: DOB 7 December 1962; POB Tayr Dibba, Lebanon; Passport No. 432298 (Lebanon).

Naji, Talal Muhammad Rashid; Principal Deputy of Popular Front for the Liberation of Palestine—General Command; DOB 1930; POB Al Nasiria, Palestine. .

Nasrallah, Hasan; Secretary General of Hizballah; DOB 31 August 1960 or 1953 or 1955 or 1958; POB Al Basuriyah, Lebanon; Passport No. 042833 (Lebanon).

Nidal, Abu (a.k.a. Al Banna, Sabri Khalil Abd Al Qadir); Founder and Secretary General of Abu Nidal Organization; DOB May 1937 or 1940; POB Jaffa, Israel.

Qasem, Talat Fouad; Propaganda Leader of Islamic Gama'at; DOB 2 June 1957 or 3 June 1957; POB Al Mina, Egypt.

Shaqaqi, Fathi; Secretary General of Palestinian Islamic Jihad—Shiqaqi.

Tufayli, Subhi; Former Secretary General and Current Senior Figure of Hizballah; DOB 1947; POB Biqa Valley, Lebanon.

Yasin, Shaykh Ahmad; Founder and Chief Ideological Figure of Hamas; DOB 1931.

Zaydan, Muhammad (a.k.a. Abbas, Abu); Director of Palestine Liberation Front—Abu Abbas Faction; DOB 10 December 1948.

Zumar, Colonel Abbud (a.k.a. Al-zumar, Abbud); Factional Leader of Jihad Group; Egypt; POB Egypt.

Dated: January 23, 1995.

R. RICHARD NEWCOMB,
Director, Office of Foreign Assets Control.

Approved: January 23, 1995.

JOHN BERRY,
Deputy Assistant Secretary (Enforcement).

EXHIBIT 2

FBI SAYS HAMAS RAISING FUNDS IN UNITED STATES

WASHINGTON.—A top FBI official acknowledged Wednesday that Americans are contributing money to Hamas, the Islamic Resistance Movement, which has claimed responsibility for recent deadly attacks in Israel.

"U.S. financial support is funding for Hamas," Robert Bryant, assistant director of the Federal Bureau of Investigation's national security division, told reporters. He said most of the donors believe the money is being used for charitable purposes.

"I think the people believe in good faith it's going to charitable purposes. I think there will be a very determined effort to cut it off," he told the Defense Writers Association, declining to specify how this would be done.

Israeli Ambassador Itamar Rabinovich told a news conference this week that Americans were contributing funds to Hamas. "It's not a question of opinion. It's a question of facts. And I'm afraid they still do," he said.

"That Hamas became very sophisticated in fund-raising and disguising the true purpose of fund-raising and these are facts. These are not a matter of opinion," Rabinovich said.

Hamas has claimed responsibility for recent attacks in Israel including a suicide bombing Monday that killed 12 people in Tel Aviv and one Sunday that killed 18 people in Jerusalem. The attacks, which followed the killing of a key Hamas figure with a booby-trapped cellular telephone in January, have stalled Middle East peace negotiations.

President Bill Clinton, responding to previous attacks against Israel, signed an executive order in January 1995 blocking assets in the United States of "terrorist organizations that threaten to disrupt the Middle East peace process" and prohibiting financial transactions with them.

Hamas, which was founded in 1987 and funds its strength among Palestinians in the West Bank and Gaza Strip, was one of a dozen groups listed in the order.

In last year's terrorism report, the State Department said Hamas receives funds from Palestinian expatriates, Iran and private benefactors in Saudi Arabia and other moderate Arab states.

In addition to launching violent attacks against Israel, Hamas provides medical and social services to Palestinians.

The U.S. Treasury Department, whose Office of Foreign Assets Control executes the presidential order, said Monday that since January 1995, $800,000 worth of Hamas-related assets, involving three individuals, have been frozen.

But a Treasury spokesman could not immediately say whether the effort was considered successful and what the total amount of Hamas fund-raising in the United States was believed to be. Nor could he say if the three individuals whose assets were frozen have been charged with any crimes.

Mr. HOLLINGS. Mr. President, I want to thank the Senator from New Jersey for bringing this issue to the Senate and I am pleased to cosponsor this amendment. Getting directly to the point, this amendment provides an additional $10 million to the Federal Bureau of investigation and the Department of Treasury to combat international terrorism.

We have all been shocked and saddened to see the death and destruction caused by Hamas terrorists in Israel. These fanatics, and that is just what they are—these zealots are doing everything they can to stop the peace process. The scenes from the Middle East are simply revolting. Several times in the past few weeks we have watched innocent people—men, women, and children both Israeli and American—killed in senseless terrorist bombings. It is as if the people of Israel are being subjected to a tragedy like the Oklahoma City bombing—over and over again. They cannot even safely take public transportation without risking their lives.

President Clinton and Secretary of State Christopher will be in Egypt tomorrow to convene an international conference to combat terrorism. The President recently sent the Deputy Director of the CIA to meet with Israeli and Palestinian officials to see what technical assistance the United States can provide. I applaud him for the leadership he has shown on this issue and I hope he can achieve concrete progress at the conference.

Mr. President, I am appalled when I hear reports that funding to support Hamas and other Middle-Eastern terrorism is coming from the United States. It is hard for this Senator to believe that any American would knowingly contribute money to support these cold blooded killers. But, apparently that is the case.

So, this amendment provides Judge Freeh and his FBI with the resources needed to get to the bottom of this issue. It will help them uncover groups and institutions that are providing millions of dollars to support terrorism in the Middle East. And, it provides the Treasury Department with funding so they can moving expeditiously to freeze the assets of foundations and others that knowingly support Hamas and criminals that seek to derail the peace process through committing terrorist acts. It bolsters these agencies enforcement of Executive Order 12947 which is titled "Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process." It is at least one way that we in the Senate can do something to respond to this emergency.

Mr. President, I urge my colleagues to support this amendment.

AMENDMENT NO. 3478 TO AMENDMENT NO. 3466

(Purpose: To restore funding for, and otherwise ensure the protection of, endangered species of fish and wildlife)

Mr. REID. Mr. President, I send an amendment to the desk on my behalf and that of Senators LAUTENBERG, LIEBERMAN, GRAHAM, BOXER, and MOYNIHAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Nevada [Mr. REID], for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. GRAHAM, Mrs. BOXER, and Mr. MOYNIHAN, proposes an amendment numbered 3478.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, strike lines 1 through 9.

On page 412, line 23, strike "$497,670,000" and insert "$501,420,000".

On page 412, line 24, after "1997,", insert the following: "of which $4,500,000 shall be available for species listings under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),".

On page 413, strike "1997:" on line 11 and all that follows through line 20 and insert "1997.".

On page 461, line 24, strike "$1,255,005,000" and insert "$1,251,255,000".

On page 462, line 5, before the colon, insert the following: ", of which not more than $81,250,000 shall be available for travel expenses".

Mr. REID. Mr. President, what this amendment does say to my colleagues is, do away with, repeal the moratorium that is on listing of endangered species under the Endangered Species Act. I indicated to the Appropriations Committee when it was meeting to discuss this omnibus bill that I would offer this amendment.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. REID. I would be happy to yield to the chairman for a question.

Mr. HATFIELD. Mr. President, I thank the Senator for yielding. I believe, in the previous conversation, the

Senator from Nevada indicated he would need 40 minutes for the presentation of his amendment. I have just cleared on our side the additional 40 minutes for the opposition, so that would be a total of 1 hour 20 minutes to be equally divided, or 40 minutes each.

Will the Senator from Nevada agree to that as a time limit?

Mr. REID. Mr. President, since talking to the chairman, I say through the Chair to the chairman, that I have been—if I can have 45 minutes? So I ask the unanimous-consent request be altered to allow 45 minutes on a side.

Mr. LAUTENBERG. I wonder if my friend from Nevada would just respond to an inquiry?

Mr. REID. If I could, just before doing this, and I say to my friend, it is my understanding there will be no second-degree amendments.

The PRESIDING OFFICER. Does the Senator wish to propose a unanimous-consent agreement?

Mr. REID. I would propose that, subject to the question of the Senator from New Jersey.

Mr. LAUTENBERG. My question has nothing to do with the amendment of the Senator. It has to do with some time availability. I understand the Senator needs 40 minutes or some such time?

Mr. REID. Does the Senator wish some time?

Mr. LAUTENBERG. I would appreciate a chance, about 10 minutes, if possible, just to make a statement. If that is acceptable to my friend from Nevada, then I would ask for recognition from the Chair. If not, Mr. President, I suggest the absence of a quorum.

Mr. REID. Mr. President, if the Senator will withdraw the request, I inquire if the Senator from New Jersey wishes 10 minutes of the 45 minutes?

Mr. LAUTENBERG. No, 10 minutes off, on a totally different subject.

Mr. REID. Mr. President, if I could propose a unanimous consent request? Would that be appropriate? I ask unanimous-consent there be 1½ hours equally divided, no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The unanimous-consent request is for 1-½ hours equally divided, with the chairman of the Appropriations Committee controlling half the time and the Senator from Nevada controlling the other half. Does the request also include a provision that no second-degree amendments be in order?

Mr. HATFIELD. Mr. President, I cannot agree to that, relating to the second-degree amendments.

The PRESIDING OFFICER. Objection is heard with regard to the second-degree aspect.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, as I indicated when I stood on the floor of the Appropriations Committee, chaired by the Senator from Oregon, I indicated at that time I would offer this amendment. I am offering the amendment because we have had ample opportunity to understand what the effect is of having a moratorium on the Endangered Species Act.

Mr. President, I am the ranking member on the subcommittee that will reauthorize the Endangered Species Act. I understand the Endangered Species Act and that we need to reauthorize it. I have worked with my friend, the distinguished junior Senator from Idaho, to come up with a bipartisan bill. I do not know if we are going to be able to do that. But we are going to attempt to reauthorize this bill. Whether it is the bill offered by my friend from Idaho or a bill offered by the Senator from Nevada, we are going to get into reauthorizing the Endangered Species Act. There are some things we need to do, in effect, to modernize the Endangered Species Act.

I doubt there is any Member of this body who has not been contacted by one group or another regarding the moratorium on the Endangered Species Act. Most of us in this body, during the last few days, have been visited by the homebuilders. They are concerned about the Endangered Species Act, as are other special interest groups that come to us on a frequent basis, some in favor of the Endangered Species Act and some opposed to it. But never is there anyone who has come to me and said, "We want to do away with the Endangered Species Act."

There are a great many arguments being tossed about to keep the moratorium in place. I have heard some say that the moratorium would be leverage to get the Endangered Species Act reauthorized. That certainly has not proven to be the case to this point. In fact, I think they are wrong. The moratorium has nothing to do with efforts to reauthorize the Endangered Species Act. We need to reauthorize the Endangered Species Act, and I underline and underscore that. If an Endangered Species Act reform bill comes to the Senate floor, it will be because that is the right thing to do. And it is the right thing to do.

I have heard some want reform and better science procedures in place before we lift the moratorium. That type of argument is backward and it is illogical. We, in this body, on this floor, placed a moratorium on listing further species without a hearing, without any procedures that are normal to this body or the other body. We simply said we are going to have a moratorium. Why? Based on these stories that come from people about what is wrong with the Endangered Species Act.

I had some people come to my office today, and they said they wanted me to be real careful about the Endangered Species Act, be careful if we remove the moratorium because they had heard there was some flower in southern California that had been identified by the Fish and Wildlife Service that caused a reduction of the speed on I-15 to 15 miles an hour because, if they drove faster than that, it would blow the petals off the flower. We hear these stories all the time. They are ridiculous. There is no foundation to them. They are scare tactics.

I repeat, I am in favor of doing something to change the Endangered Species Act. We need to do that. We need more input from the public. We need States to be involved. We need to make sure that someone who has an endangered species on their property has some incentives for coming to the Federal Government and saying, "I found this endangered species on my land and I want to work with you to do something about it," and they are not, in effect, penalized for telling us. We need to do some of those kinds of things to make the Endangered Species Act more consumer friendly. And we can do that.

But that has nothing to do with this amendment. This amendment, in effect, says that we should remove this careless, illogical moratorium. While we debate the reauthorization of the Endangered Species Act, there are species needing protection, facing greater risks, and threatened and endangered species could be decreasing to irreparable numbers. The science, all the science in the world, is irrelevant if a specie becomes extinct, because extinction is forever.

Not a single plant or animal has been added to the list since April 10, 1995. There might be some people cheering about this, saying, "Good." The fact of the matter is, that is not good. I know there are probably going to be efforts to, what we call in the jargon of the Congress, to second-degree my amendment, the purpose of which would be to say, "Let us have emergency listings." That will give some people, programs, a way to hide, saying they now can have emergency listings.

Of course, I am sure the amendment will be very clear in not providing any money to do this, which is different from the amendment I am offering. This amendment, in effect, would end the counterproductive moratorium in adding new species to the endangered species for both the Fish and Wildlife Service and the National Marine and Fisheries Service. It will also provide sufficient funding for the Fish and Wildlife Service for listing activities for the balance of the year; that is some $4.5 million. The offset would be $3.75 million of the Fish and Wildlife travel expenses, and $750,000 would be reprogrammed within the Fish and

Wildlife Service. The National Marine Fisheries Service, with funding of $1 million, would administer the reprogramming.

The moratorium is poor policy because it does nothing to promote the endangered species reform that we need to go forward on, and it only increases the costs and uncertainty of recovery of species.

The moratorium is a poor piece of legislation that should be removed so that public policy for endangered species can resume with certainty and with stability. The moratorium fails to acknowledge the permanency of extinction and has increased the risk that unlisted species face.

The public has awakened to this agenda in this Congress, which is antienvironmental. The agenda is to undermine the environmental progress made over the past 25 years. The moratorium which passed last year with little public comment, and I should say no public comment and no attention from the environmental community, was wrong. However, the public understands the implications of this moratorium.

Mr. President, this may not be important to most, but already the League of Conservation Voters has announced its intention to consider the vote on this amendment in its scorecard.

I would like to talk a little bit about why the Endangered Species Act is important and why not listing species is tragic; not only wrong, it is tragic.

There are many examples, but I have picked just a few. The night is late.

In 1992, in Kansas, a bird named the "least tern" had declined from 11 pairs to 1 breeding pair. The restoration on the Cimarron River nesting site reversed the saltwater invasion. Predators were excluded. Following this restoration work, the colony increased to six breeding pairs which now has produced seven young.

Another example is the 11 original trees that remained of the rare Virginia round leaf birch in southwest Virginia. Some people may say, "Well, who cares?" I repeat, extinction is forever.

Due to the listing and recovery work done on this tree to preserve and cultivate the seedlings, the population of the species is now 1,400 trees in 20 different locations. Remember, there were 11 trees when this was listed. Recovery enabled the Fish and Wildlife Service to propose the reclassification from endangered to threatened, and imminent delisting is a viable possibility.

Mr. President, the brown pelican, a bird found mostly in Texas but other places as well, was first listed in 1970. In 1994, we had 125 of these birds that nested at a place called Little Pelican Island in Galveston Bay. It was listed in 1970.

In 1994, for the first time in more than 40 years, we have these brown pelicans nesting and producing more than 90 young. We are probably going to save this bird. I think that is important.

In Nebraska, on the Platte River, the nesting habitat for the endangered migrating whooping crane, sandhill crane, and other waterfowl, has been seriously depleted over the past 20 years. But due to the protection of habitat upon which the birds are dependent, agreements were signed by environmental groups and individual private property owners to clear the vegetation, and now, though the whooping crane is still endangered, progress has been made in recovering population.

Recently, there was a press event celebrating the delisting of the peregrine falcon due to the recovery made in its population.

Even more popular is the success of the American bald eagle. In 1963, because of DDT in the food chain, eagles were caused to lay eggs that were simply too thin to allow hatching. There was a dramatic decline in this very powerful, strong bird, to 417 nesting pairs of this magnificent animal. A ban on the use of DDT and the protection afforded the eagle by the Endangered Species Act by 1994 increased the population nationwide to just over 4,400 nesting pairs. From a little over 400, we are now to almost 4,500.

The impressive increase in the eagle population caused the Fish and Wildlife Service to propose in 1994 the eagle be reclassified in 43 States from endangered to threatened with even actual removal from the list altogether. The eagle population is strong and increasing at incredible rates, and we may sit back and wonder what all the concern was about when you see these magnificent birds floating around. But if the concern had not been there, if the protection of the Endangered Species Act had not been available, there would be more concern today. There would be no American bald eagles. None.

I have mentioned only a few of the successes, Mr. President, of animals and birds. Why are these and other successes important? I received a letter signed by 38 physicians, scientists and those associated with health care across the community, health care providers, advocating the repeal of the moratorium.

The letter says, among other things:

> What is often lost in the debate over species conservation is the value of species to human health.

They continue:

> Recent studies have shown that a substantial proportion of the Nation's medicine is derived from plants and other natural resources. The medicines of tomorrow are being discovered today from nature.

In regard to the Endangered Species Act, the physicians continue:

> The Endangered Species Act is the best tool we have to protect species, imperiled plants and animals, but the moratorium on the endangered species list has put at risk many species which medical researchers have had no opportunity to explore.

They conclude:

> When a species is lost to extinction, we have no idea what potential medical cures are lost along with it.

Why do these 38 physicians talk that way? Fifty percent of prescription medicine sold in the United States contain at least one compound originally derived from a plant. Dr. Thomas Eisner, director of the Cornell Institute of Research and Chemical Ecology, has written:

> The chemical treasury of nature is literally disappearing before we have even had a chance to assess it. We cannot afford in years ahead to be deprived of the inventions of nature.

When I was coming back on the airplane yesterday from Nevada, I read an Audubon Society magazine. Someone had given the magazine to me because there was a wonderful article in that magazine about deserts, and, in fact, about the deserts in Nevada, the Great Basin. But what grabbed my attention was not the article on the Great Basin but an article on endangered species and what they had done to preserve human life throughout the world.

Forty percent of medical drugs were first extracted—these are not prescription drugs—first extracted from other life forms. Of the 150 most frequently used pharmaceuticals—now listen to this—of the 150 most frequently used pharmaceuticals, 80 percent come from or were first identified as living organisms.

Digitalis—there are a lot of important heart medicines, but digitalis is right up on the list of the most important. It comes from a plant called the foxglove plant, a lifesaving compound from a plant.

Cyclosporin. In the Democratic conference today, the senior Senator from Illinois asked us to look at some literature that he had dealing with organ transplants. The Senator from Illinois is 68 years old. He asked the people who came in, "Are any of my organs worth transplanting?" They said yes and proceeded to tell him why and how.

He was asking us to sign up to be, at the time of our demise, willing to give our organs for other people. A number of us had already agreed to do that prior to the presentation by the Senator from Illinois.

But the reason I mention his presentation to us today is because cyclosporin, a drug that makes organ transplantation possible, which is an antirejection drug that helps make organ transplants feasible, comes from a fungus.

The Pacific yew tree was once considered a junk tree by the foresters, but chemists have found that one of the tree's chemicals found only in that tree, a thing called taxol, can be used in the fight against ovarian and other cancers. And it works very well.

There is now an endangered mint that is nearly extinct in central Florida. In fact, that mint has been reduced to a few hundred acres. Doctor Eisner, from Cornell, has discovered many potent, useful chemicals in this plant, the utility of which have not been determined totally. He reports that as scientists examine the mint's leaves, they isolated 20 kinds of fungi living inside the leaves. Now, remember, cyclosporin came from a fungus. Remember, it was a mold that allows us to have penicillin.

Ergot, which is a fungus of wheat, provides us the heart medicine to block adrenaline in coronary disease. And it was snake venom from which blood pressure medications were obtained.

Captopril and enalapril are from a poison from a snake. These are life-saving medications to a significant number of our population.

In Nevada, we have a tiny, tiny little fish called a pupfish. That fish is being studied in hopes of finding new treatments for kidney disease.

I have spoken on several occasions, before the committee and on this floor, about childhood leukemia and how they have been able to find a magnificent cure for childhood leukemia from the periwinkle bush plant.

All these examples, Mr. President, should focus us on the question of what others are we missing by failing to protect them? There are many, many others.

We know that bears and other hibernating animals are being studied for treatment of kidney failure and osteoporosis. It is a remarkable part of nature how these animals can be, in effect, near a state of death, yet their kidneys function well and their bones do not go soft on them.

We have toads that are being researched, specifically a Houston toad which is on the brink of extinction that produces alkaloids that may prevent heart attacks. They also appear to have analgesic properties more powerful than morphine.

We have frogs that were being studied for neurological disease.

Bats are being studied for treatment of heart attacks and strokes because the salivary compounds that prevent blood clotting from these bats have yielded new anticoagulants, more powerful by far than those currently available for the breakdown of blood clots in heart attacks and strokes. These bats are found in very remote places.

Pit vipers for high blood pressure treatments I have already talked about.

Fireflies. The chemicals that cause fireflies to emit light have been used for tuberculosis, leading to faster tuberculosis treatment.

Mr. President, we have already identified another periwinkle bush, not the rosy, but the Madagascar perwinkle. This one is for other forms of cancer.

Mr. President, I have mentioned only a few of the multitude of plants that are now available for scientific study that are going to lead to breakthroughs that will cure people of disease. I think we have to understand what we did last April in shutting down the endangered species list.

You would think that good conscience would force us to come and start talking about why we should get rid of the moratorium. But it has been ignored. We are in this never-never land that we are going to someday reauthorize the Endangered Species Act. When? Well, we are going to do it. We will get around to it.

Mr. President, things have changed a little bit. The Endangered Species Act is not something that is being promoted by the left wing of the body politic. It is being promoted by people from all walks of life, of all political persuasions, including some evangelical and political organizations asking that we protect the species that have been placed on this Earth.

These religious people ask that we utilize our stewardship wisely and remove the moratorium from the listing process. We are doing nothing with this moratorium for the benefit of anyone. I defy anyone to tell me that there are people—organizations; I will not say people—there are organizations that support the elimination of the Endangered Species Act. I have not found any. No one has come to me and said we want to do away with the Endangered Species Act.

What some people have come and said is that they want some certainty in the process. The moratorium, though, Mr. President, increases the uncertainty because of the backlog that is now occurring.

What we are going to hear are efforts to say, well, what we are going to do is we are going to allow emergency listings. During the time we have had the Endangered Species Act in effect, there have been very, very few emergency listings. Listings need to take place in an orderly, scientific process and procedure. That is what we need to do.

We need to reform the Endangered Species Act. We need to make sure, as I have said before, that there is more State and non-Federal party involvement in the process. We need to have peer review and short, objective science. We need workers to work with landowners and have a short-form conservation plan. We need safe harbor for landowners who have agreed to implement conservation measures.

We also need voluntary conservation agreements and recovery teams that make the recovery of species a practical and a cooperative effort between the many interested parties.

This is what happened, for example, Mr. President, in Clark County where a species that was listed was the desert tortoise. It was difficult, but now, that is being used as a model in other parts of our country.

I urge my colleagues to recognize the need for substantive reform of the Endangered Species Act, to understand the devastating effect of this moratorium, to support an immediate repeal of this devastating moratorium and provide sufficient funding.

Remember, we, Mr. President, want to end the counterproductive moratorium in adding new species. We will provide sufficient funding to allow that to take place until the end of this year. The moratorium is poor policy because it does nothing to promote the Endangered Species Act reform that needs to take place. The moratorium is a poor piece of legislation that should be removed so that the public policy toward endangered species can resume with certainty and with stability. The moratorium fails to acknowledge the permanency of extinction and has increased the risk that unlisted species face.

So I ask my colleagues to not fall for some face-saving second-degree amendment that will say we are going to allow emergency listing. Remember, we need to do it in a way that is safe and sound and certainly one that is scientific. Doing something that is rarely done, that is, emergency listing, will not do the trick.

The PRESIDING OFFICER. Has the Senator from Nevada completed his statement?

Mr. REID. I yield the floor.

Mrs. HUTCHISON. Mr. President, I am willing to yield to the Senator from Montana for some period of time.

Mr. BAUCUS. Mr. President, I very much appreciate the very gracious Senator from Texas—5 or 6 minutes would be appropriate.

Mrs. HUTCHISON. I will yield that to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 6 minutes.

Mr. BAUCUS. I thank the Senator from Texas.

Mr. President, I rise in support of the amendment to lift the moratorium on the listing of threatened and endangered species under the Endangered Species Act.

Senator REID, who is the ranking member of our Endangered Species Subcommittee, has described why the moratorium is bad policy. I agree with him.

And I would like to emphasize one particular point. The moratorium makes a bad situation worse.

In Montana, the Endangered Species Act is not an abstraction. If affects people's daily lives. Loggers are concerned about restrictions that apply in grizzly country. Ranchers are concerned about wolves.

At the same time, average folks all across Montana believe, deep down, that Montana's wildlands, and wildlife, are an irreplaceable part of what makes Montana the Last Best Place. So people have strong feelings, and different perspectives. But one thing is clear to everyone. The Endangered Species Act is not working as well as it should. It is driving people apart rather than bringing them together. It is a situation that must be remedied.

So what does the moratorium do to improve the situation? Nothing. In fact, it makes things worse.

A moratorium on listings is a makeshift, stopgap measure. Once it expires, listing will resume, and farmers, ranchers and homeowners will face the same restrictions under the act that they face today.

In the meantime, species that would otherwise be afforded protection under the act continue to decline. For those species that survive, recovery may be much more difficult and expensive, imposing additional and unnecessary burdens on private landowners.

Is there a better approach? Yes, I believe there is. It may not be as simple as moratorium. It may not make as good a slogan. But, in the long run, it is the only way to really improve the Endangered Species Act.

What is it? Sitting down, listening to one another, and trying to resolve our differences in good faith.

Let me give you an example. During the last Congress, I introduced a bill to reform the Endangered Species Act. To improve the listing process. To involve the States more. To encourage more cooperation with landowners.

It was a good bill and it had the endorsement of the western Governors of our country, the endorsement of the environmental community, and we had several hearings on it here in Washington. We also had a hearing on the bill in Ronan, MT.

Now, as some of you may know, Ronan is in western Montana, south of Flathead Lake, in the heart of grizzly country. We had the hearing in July, on a Saturday, at the local high school. It was packed.

Hundreds of people attended. And more than 70 testified. Some represented groups like the Stockgrowers, the Mining Association, and the Sierra Club. Others were there because of their deep personal interest in this legislation.

The hearing started out a little tense. But by the time it ended 7 hours later, there was a sense that we agreed more than we disagreed. That we could get beyond politics and find ways to work together. That we could have a strong Endangered Species Act and a strong economy.

When it comes to the reauthorization of the Endangered Species Act, we need the same kind of an approach.

In fact, some of the people involved in that hearing have established the Montana Endangered Species Act Reauthorization Committee. It includes Democrats and Republicans, loggers and environmentalists.

They, too, have come together—not in support of a moratorium, but in support of commonsense reforms that will protect wildlife while improving the practical operation of the Endangered Species Act.

I suggest that we take the same approach here, that we get beyond the slogans and the politics, that we lift the moratorium, and that we concentrate on what the people back home sent us here to do—that is, to work together to resolve differences and solve problems.

I know the Senator from Idaho is going to engage in that effort on the subcommittee. Mr. President, on the Safe Drinking Water Act, he worked diligently to get groups together. There was not a lot of politicking and sloganeering going on, or headline grabbing. He did a great job in helping to get groups together in a commonsense way. It is the same approach we must take in the Endangered Species Act, not engage in sloganeering, which tends to cause more problems than solve problems.

I thank the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, last year, Congress put a hold on listing of endangered species and the designation of critical habitat that went along with that to give us time to reauthorize the Endangered Species Act. We called a timeout on new listings so we could reexamine a 20-year-old law without the pressure of new listing decisions.

Authorization for appropriations ended on September 30, 1992—3½ years ago. Mr. President, we have been operating without an authorization for this act, and that is because so many things have been done that are far beyond the bounds of common sense. The moratorium was to give us the timeout so that we would be able to put listings on under the new reauthorization, to pass without opposition in the House of Representatives, and with 60 votes here in the Senate—a clear mandate to say, wait a minute, let us stop doing things that do not make sense under a law that is not reauthorized, and let us talk about what we ought to be doing to protect the endangered species of our country. But let us do it without taking private property rights and without hurting jobs, without hurting the economy in this country. We can do both. We can have a positive solution.

But, Mr. President, there are 239 species that are ready to be listed. In fact, we have tried to work with the other side to make sure that the listings could be prepared and that the funding was there to prepare the listings along the way. We have done that in good faith. We did not think that someone would come up and try to use the fact that we had, in good faith, allowed the Department to continue to do all of the preliminary listing procedures, and then spring 239 species that could cause untold economic damage on States all over our country.

No, we acted in good faith. We believed that the right thing to do was to have a moratorium until we have a reauthorization so that we can then list, taking into account some of the new measures that we hope to have that will encourage conservation, that will encourage the endangered species protection, through voluntary means, or other incentives. Those are the things that are not allowed today but will be allowed under the reauthorization.

We are not putting potentially endangered species at risk. The ones that are an emergency could be listed today. In fact, one of the things that we want to do is make sure that an emergency listing would be available. But, in fact, Mr. President, we are going to debate tonight—as I understand it, we do not have a time agreement at this point, but we are going to debate the merits of lifting the moratorium prematurely. That is really the issue here.

We have agreed on two occasions in this body, and on the House side, that we should not act precipitously. Now, all of a sudden, the same people who are fighting the reauthorization are now saying to lift the moratorium. I really do not think that it is the way we should do business here. I think we have been acting in good faith. We have done the things that we have been asked to do to try to take that timeout, so that when we have a reauthorized act we can come back in and make sure that the species that are scientifically designated as endangered will, in fact, be protected. That is what all of us want.

If we free those species—the 239 that we have allowed to be prepared to be listed when, in fact, they are being prepared under the old act—I think we will do a lot of harm to many States—my State, the State of California, Arizona, and many States across this country are going to have significant economic impact if we do this. Mr. President, it is not necessary. There is no reason to act precipitously on this omnibus bill that we are trying to get through. We are trying to fund Government until the end of this fiscal year.

Mr. President, there is no reason to put something on that is so extraneous, that causes this kind of debate right at a time when we are trying to work with the other side to come up with an agreement that will fund Government until the end of this fiscal year so that we can start turning toward the next fiscal year, which is going to take our time.

Mr. President, I think this is the wrong thing at the wrong time. This is like saying we have this modern, new automobile but we are going to put Model T parts in it because that is what we have on hand. Let us not do that. That is not the way to do business.

I am going to speak on this issue again. But, Mr. President, I want to lay the groundwork for what I think is a terrible injustice. I think it is breaking a gentleman's agreement that we had that we would work together for reauthorization because I assumed that was everyone's goal. But to have a lifting of the moratorium before the reauthorization comes, I think, is the wrong thing to do for our country, for the private property owners in our country, for the small business people in our country, and for the working people who could lose their jobs if this happens. This is not right, and I hope the Members will turn it back. I hope the Members will do the right thing and let us proceed with Senator KEMPTHORNE to reauthorize in a judicious way.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, there have been several references to people resisting the reauthorization of the Endangered Species Act. I do not know who the references are to. But it certainly is clear that if this moratorium is extended, the pressure to reauthorize the Endangered Species Act is reduced. The best way to get the Endangered Species Act reauthorized is to get rid of this moratorium and have everybody concentrate their energies on the reauthorization. Certainly, as far as I am concerned, those on the committee—and certainly the subcommittee headed by the Senator from Idaho—have been working to get this act reauthorized. So, I for one have seen no resistance to the reauthorization of the act from any individual that I know.

Let us just review the bidding, if we might. When President Nixon signed the Endangered Species Act in 1973, this is what he said:

> Nothing is more priceless or more worthy of preservation than the rich array of animal life with which our country has been blessed. It is a many faceted treasure for valued scholars, scientists, and nature lovers alike, and it forms a vital part of the heritage we share as all Americans. I congratulate Congress for taking this important step toward protecting a heritage which we hold in trust to countless future generations of our fellow citizens.

That is what President Nixon said when he signed the Endangered Species Act in 1973. The importance of America's natural heritage is exactly what we are debating here today—whether as a Nation we should conserve those plants, species, and animals which we know to be threatened with extinction, or whether we should knowingly choose not to protect those imperiled species.

I support Senator REID's amendment to strike the provisions which would impose a moratorium on adding new species to the threatened and endangered list. A blanket moratorium on listing new species undercuts the goals of the Endangered Species Act and undermines our Nation's strong bipartisan—I stress bipartisan—history of conservation. This is not a Republican measure. This is not a Democratic measure. The efforts to preserve the endangered species of America has been a bipartisan effort, signed, as I pointed out, by President Nixon in 1973 and passed by a Democratic Congress at that time.

Let me take a moment, if I might, to speak about the broader issue that led me to support an effective law to protect endangered species. I share the belief of many across our land that each species is intrinsically valuable whether or not it is of obvious use to mankind.

I note that when Noah led the animals into the ark, he included all species. If I could quote, "One pair male and female of all beasts, clean and unclean, of birds and everything that crawls on the ground." And God did not direct him to select only the most beautiful animals or those plants that might have some particular use to mankind and perhaps to help him to cure cancer, whatever it might be. Noah saved all creatures.

One great strength of the Endangered Species Act is that it does not just single out the bald eagle, or the bison, or the California whale, or whatever it might be—some majestic symbol such as the grizzly bear. It protects every endangered species and its essential habitat—and I stress the habitat—simply because it is threatened with extinction. Despite all the advantages of modern science, we really do not understand the implications, the chain reaction that will be set in motion when a given species vanishes. So, we should do all we can to avoid taking such a chance.

Since last April, a moratorium has been in place on adding any new species to the threatened and endangered list maintained by the Fish and Wildlife Service. Listen to this. Since last April a moratorium has been in place on adding any new species to the threatened and endangered list, and for the past 5 months the Service has had no funding to carry out any new listing activities. As a result, species in need are not protected by the law. They are piling up on the proposed candidate list. There are no new listings of endangered or threatened. The Service can put those on the proposed and candidate list but not the threatened or the endangered list.

Under the regular process established under the Endangered Species Act, species are added to the endangered and threatened list by the Secretary of the Interior based upon the best scientific knowledge available. This takes years and involves several stages of review. It is not done haphazardly. It takes public notice, comment, and hearings, if requested, and, once listed, the Federal Government is committed to conserve these species, and they are subject to the protections of the act; that is, if they are listed as threatened or endangered.

Currently, the Fish and Wildlife Service has 243 species, 196 of which are plants proposed for listing under the Endangered Species Act. Proposed species have been subject to a full scientific review and considered to be at risk so as to require the protections of the act. There are 182 species on the Fish and Wildlife Service list of candidates. That is species thought to warrant protection for which the Service has not yet had the resources to conduct a full review. Neither the proposed nor the candidate species are subject to the protections of the Endangered Species Act.

In other words, all that is taking place now, there is no protection out there for those that are proposed or candidate. If they are already on the list and endangered, and they have been so listed in the past, that is OK. But they are discovering new species that are proposed and candidates but they are not subject to any of the protections of the Endangered Species Act. In other words, proposed and candidate species—let us take plants for example—can be ripped up, hunted, and sold, or the animals can still be hunted. In other words, what we are doing is taking those that once upon a time seemed in pretty good shape, but they were proposed, or candidates, and now they are becoming more and more endangered because there is no protection of them.

That is no way to do business. Why should we care that species that are in danger of extinction are left unprotected and are piling up on these lists of proposed and candidates? The reasons are practical as well as ethical. Failure to recognize and address the risk to imperiled species and doing something about them now will make it much more difficult and more expensive to conserve in the future. For one thing, destruction of habitat that is essential for the survival of the proposed and candidate species can proceed unchanged.

In other words, yes, they are potentially in danger, but you cannot do anything about it. You cannot do anything about their habitat preservation.

Thus, a prolonged moratorium on listing is likely to cause further declines in the status of those species that are precluded from the protections of the Endangered Species Act. The moratorium may eliminate conservation options that are available now. In other words, the longer the moratorium goes on, the less chance there is to come up with a variety of options to save these endangered species. You cannot do anything about them.

Each month the moratorium drags on increases the size of the backlog of work for the biologists at the Fish and Wildlife Service. This backlog and the lack of funding for listing activities such as research and monitoring will lead inevitably to further delays and inefficiencies down the road. Most importantly, it seems to me, Mr. President, by refusing to protect these species, we fail to live up to our moral obligation to act as good stewards.

Mr. President, the Endangered Species Act is far from perfect. It can and should be improved. And with respect to private property rights, the act should include more carrots and fewer sticks—more inducements and fewer prohibitions. We recognize that. But we are not going to solve the problems of the Endangered Species Act by ignoring species that we know are in grave danger.

That is no way to solve the problem. The problems with the current Endangered Species Act are not solved by cutting off funds that are necessary for Fish and Wildlife to carry out its responsibilities.

The problems with the current Endangered Species Act should be addressed through the normal authorization process, and that is what we are trying to do.

I pay tribute to the chairman of the particular subcommittee in the Environment and Public Works Committee, the junior Senator from Idaho, for the hearings he has held and attempts he is making to reauthorize this act. It is no easy job. We have had six hearings, three of them in the West, on the reauthorization of the act. We have heard from 100 witnesses, and many of them have come up with good proposals. These hearings, as I say, ably chaired by the junior Senator from Idaho, were constructive and form the basis for continuing discussions.

So we are meeting, the staffs and members of the committee are meeting regularly, working on legislation to reform the law. Certainly, my best efforts will be put toward supporting a responsible Endangered Species Act this year, and I look forward to working with all Senators to complete successfully that important task.

However, I do not believe that the moratorium provisions contained in this appropriations bill constitute a responsible step toward completion of the reauthorization process. Enactment of the reauthorization is not going to be easy. We know that through these meetings and hearings that we have had. The only way it is going to come about is if Senators are willing to back away from fixed positions and inform their constituents that their constituents are not going to get everything each one wants, either the environmentalists, the lumbermen, or whoever it might be. So Senator KEMPTHORNE, Senator BAUCUS, Senator REID, and I are working together striving to reach a consensus on legislation to improve the act. Our staffs are meeting, and we believe we are making good progress.

So, again, I wish to make it clear that I am in favor of passing legislation to improve the act. And I seek to report a bill from the committee this spring. But I believe a moratorium on adding new species to the threatened and endangered list is just plain wrong. A moratorium causes new problems and compounds the difficulties we are facing. It does not make it easier. It makes it more difficult. Meanwhile, the protections are not there that should be there, the protections of the flora and fauna, the animals involved, and also their habitat that should be theirs.

So, Mr. President, I hope the Reid amendment will be adopted.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, before the chairman of the committee leaves, I wish to extend to him my appreciation for the work he has done as chairman of the committee, and especially the guidance and, in effect, free hand he has given the chairman of the subcommittee, the junior Senator from Idaho, and myself to work on reauthorizing this legislation.

As the chairman has pointed out, it is difficult legislation. We have been working hard on this. Our staffs have had numerous meetings not once every quarter, once every month, but numerous times. We have come a long way toward each other's position. As I mentioned in my opening statement, it is not unthinkable that we could come up with an agreement on reauthorization of the Endangered Species Act. So I appreciate the statement of the chairman. I appreciate the support of this amendment.

Also, Mr. President, I underline and underscore what the full committee chairman has said. This amendment should not be approached on a partisan basis. For instance, as important and as successful as it has been, Democrats cannot take all the credit for passing the Clean Water Act. One President who did a great deal for environmental matters in this country was President Nixon. Some of the most influential environmental legislators we have had this century have been Republicans.

So I hope that my friends on the other side of the aisle will approach this matter with an open mind because all we are trying to do is remove this moratorium. We talk about emergency listing. Mr. President, it is used very rarely—only in imminent risk of a species being wiped out. We need, before we list species, to have good science, and this is not the way to go. This is not good science.

The emergency listing does nothing for the vast majority of 243 species that are already proposed for listing, let alone 182 candidate species. In the meantime, these species continue to decline. The emergency listing exception to the moratorium is a Band-Aid approach, Mr. President, largely a cosmetic solution to a very real problem. And there is no better example of that than what has happened with the spotted owl. The longer you wait to list, the more difficult and complicated the problem becomes.

So, Mr. President, I know there are many others on the floor who wish to speak. It is late at night. I understand there will be an offer of an agreement that will allow the Senator from Texas and the Senator from Nevada in the morning to close the debate. With that in mind, I will yield the floor.

Mr. EXON. Will the Senator yield for a question before he yields the floor?

Mr. REID. I will be happy to yield to the Senator.

Mr. EXON. Let me see if I understand the amendment the Senator is offering. As I understand it, the situation we are now confronted with is that the continuing resolutions that have been offered, the series of them and potentially more, in each and every instance the funding mechanism has been tied to a caveat that no new Endangered Species Act may be placed in force. In other words, there is a prohibition from changing or adding to the endangered species list, period, as we face the situation right now. Is that correct?

Mr. REID. The Senator is absolutely correct. Not only was there a moratorium back in April of last year offered and passed, but in addition to that, each time we come up with a continuing resolution there is no additional funding placed, so that the Fish and Wildlife Service and the National Marine Fisheries Service simply are without any funds to list anything. So we have two problems: One is no money and a moratorium on further listing.

Mr. EXON. I was able to hear only the tail end of the remarks made by the chairman of the committee. I hope something could be worked out.

I have some concerns that the EPA and the Fish and Wildlife Service are so restricted now that they could not put something on the list that was really endangered. On the other hand, I happen to feel that the bureaucracy in this area has gone overboard in some areas, by the number of species that they have placed on this list. If the amendment offered by the Senator from Nevada becomes law, would that open up the situation to where the Federal bureaucracy, who has the responsibility for doing the scientific research, supposedly, and then making a determination as to what species should go on the endangered list—would they be free and clear to proceed with the investigation and the identification of endangered species exactly the way they were before the prohibition was put into the law on the continuing number of continuing resolutions?

Mr. REID. I respond to my friend, we have talked about this. I am happy to, again, address this.

As the chairman of the full committee and I feel, the moratorium has been very detrimental to scientific listing of plants and animals. During the period of time this moratorium has been in effect, the Senator from Nevada and the junior Senator from Idaho have been working on a reauthorization of the Endangered Species Act. I acknowledge that we need to reauthorize the Endangered Species Act and make some changes in it. We need more public input. We need more involvement of the State governments that simply are not allowed in the act anymore. We need peer review. We need better science in listing these species. And there are a number of other proposals that I think—I do not think, I know the Senator from Idaho, as chairman of the subcommittee, and I want to put into a bill for reauthorization. What the moratorium has done, as far as this Senator is concerned, is it has prevented us from going forward on reauthorization, because there are some who simply want no further listing.

As I mentioned just a short time ago, I say to the Senator from Nebraska, when the moratorium went into effect we had 182 candidate species, and in addition to that we had 243 species already listed with which we have not been able to go forward. I spent a good part of the debate earlier this afternoon talking about how, really, that is not helpful to us.

I say to my colleague, 80 percent of the prescription drugs that the American public goes to a drugstore to get have in them elements taken from plants. I read a series of statements from physicians saying, "You cannot stop now. You have some of these listed. By the time you get around to listing some others they are going to be gone." I also say to my friend, although recognizing the Endangered Species Act as it is written needs changing, we cannot, while we are trying to make the act better, let these species become extinct. And it is not a left-wing cabal that is pushing getting rid of this moratorium. There is a group of Evangelical Christians who are saying, "You cannot do this. You have to support the listing of these endangered species. Because once they are gone they are gone."

So I say to my friend from Nebraska, I recognize that the Endangered Species Act has some problems, but we are trying to correct that. The junior Senator from Idaho and the Senator from Nevada have been working to come up with a bill that we hope to get out on the floor this session, I hope. But in the meantime we cannot let all these species that are becoming extinct become extinct.

Mr. EXON. I am not a member of the committee so I am not fully informed on all of these issues. I appreciate very much the explanation that is being given by my friend from Nevada.

Under the system that we have always had with regard to the identification of endangered species, as I understand it, it was that the agency of jurisdiction would do scientific research which they would manage and direct to determine whether something was really endangered or not, or to what degree it was endangered.

But after the agency of jurisdiction makes that determination, then do they have, under the law, authority, as part of the bureaucracy, to say, All right, that plant or that animal or that fish is an endangered species, and we so designate it as an endangered species and that is it?

Mr. REID. Well, yes, I guess in short term that is it. One of the things we need to work on, and we are working on in the reauthorization of this bill, is to allow better science and to allow more than just the Federal agencies to have some voice in whether or not a species is threatened.

Mr. EXON. How do you propose to do that?

Mr. REID. We are going to do that in a number of different ways. We are going to allow better peer review, that is more scientific input, and also allow State and/or local government some input into whether or not the listing should take place.

Mr. EXON. But the final decision still rests with the agency of jurisdiction?

Mr. REID. The final decision would rest with the agency of jurisdiction. However, I think under the proposal of the Senator from Idaho and myself, prior to arriving at that point there would be a much more deliberative process than there is now.

Mr. EXON. Has the Senator ever considered the possibility of having these people proceed as they have with the identification of an endangered species, and then, before we added more species to that list, it be voted on by the Congress of the United States?

Mr. REID. There has been consideration given to that. But, I would say to my friend from Nebraska, that I think, as I have indicated, we now have 243 species that have already been listed and we have 182 candidate species. I do not really think that should be the role of Congress, to vote on each of those.

We could spend a lot of time that should be spent in the agencies of government, both Federal and State. Of all of the numerous special interest groups I have listened to—homebuilders and contractors, labor unions, environmental groups—I do not think anyone has suggested we should vote on each one of those. I think they all suggest that the process should be more deliberative in nature and allow more input from the private sector, not because the Federal agencies have done anything wrong in listing the endangered species, but the purpose is to allow State governments and the local entities to feel better about the listing, so they understand it better.

To this point it has all been done by the Federal Government and there has not been enough input from State and local governments. So, I would say to my friend, I think the main thing we have to take into consideration is there probably have been some listings that have been wrong, although I do not know of any. But I think the problem is—take, for example, in Nevada. We have, surprisingly enough, word that we are the fourth highest State in the whole Nation for endangered species. It is surprising to some people because we are an arid State. But one that caused a lot of attention was the desert tortoise in southern Nevada. It literally brought construction in rapidly growing Las Vegas to a standstill until we worked it out.

I do not think, in hindsight, there was anything wrong in listing the desert tortoise. But State and local governments should have had more input in that listing, rather than having it just given to us all at one time, and that is what we are trying to do in the reauthorization.

Mr. EXON. I agree with my friend. I am not sure with how much I disagree, though. I generally have been supportive of all the agencies that have something to do with this matter. I think the environment is very, very important. I do, though, think maybe sometimes we, here in the Congress, give too much authority to the bureaucracy to make determinations. At one time —I do not know whether it is by the boards or not, now—but they talked about putting the rattlesnake on the endangered species list. Those of us who have been born and raised and been around rattlesnakes, we really do not believe they are endangered now, and I do not believe they are.

But it seems to me at least maybe we should consider—not that we can take the time to go through each and every one of these things, but certainly, possibly, we should at least consider the possibility, when something is put on the endangered species list, whether it is one species or 100 species, at one time, maybe the bureaucracy should have to make a better case to the people's representatives here, to say yes or no, rather than, carte blanche, giving them the authority after the input that you say should be improved with regard to State and local governments.

I am just saying that I have some concerns. I think this whole matter of endangered species has been overstated, and yet, I must say to my friend, I congratulate him for bringing this up, because when we have a situation today when we cannot add on anything, even though they are critically endangered, it is a concern to me.

Mr. REID. I respond to my friend, we not only have a danger of the listing, but to this Senator a real concern about not listing. If we wait too long—and that is what we are doing in this instance. I indicated we have 243 that are waiting to be listed. We need to proceed. Not listing is a concern.

I also say to my friend from Nebraska, in a Nickles-Reid amendment that was adopted by this body 100 to 0 last year, which was an amendment to the Comprehensive Regulatory Reform Act which we received from the House of Representatives, we said that if there is a regulation promulgated by a Federal Agency that has a certain financial impact, we in Congress would have 45 days to look at that, and if we did not like it, we could rescind it legislatively. That is, I am quite certain, going to come back when we do regulation reform in the next few days.

So under that proposal, if something happened like listing an endangered species in Las Vegas that certainly had a financial impact on the level Senator NICKLES and I talked about, in that instance, we would have had the ability in Congress, if the action had been grievous enough, to rescind the action of the Fish and Wildlife Service.

Mr. EXON. To use an example, and then I will yield the floor, if the controlling agency would declare the rattlesnake an endangered species, we in the Congress could override that under what you have in place?

Mr. REID. Under the Nickles-Reid amendment, if the financial impact is such, as they were told it was in southern Nevada, if there is no financial impact, we continue. But if there is a financial impact, this Congress would have a right because that is a regulation and rule promulgated by the Fish and Wildlife Service.

Mr. EXON. I thank my friend for answering my questions. I have some concerns on both sides of the issue. Mr. President, I thank him very much. I yield the floor.

Mr. REID. I say, as usual, my friend from Nebraska asked piercing questions, and during his entire time in the Senate he has always been on top of the issues. I appreciate the questions.

Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I believe this Congress erred last year when it allowed passage of a moratorium on new listings of endangered species, and new designations of critical habitat. This action did nothing to reduce the decline of wild plants and animals in our Nation, and across the world. If anything, the need to prevent their loss has grown, as God's creatures continue to lose a growing war against them. The moratorium did nothing to reduce the complications or costs of protecting them. In all likelihood, it has only made it more difficult as valuable time, and preferable management options, have been lost. The moratorium provided no funds to stimulate new approaches for conservation. It provided no financial incentives for private landowners. It did nothing to streamline listing procedures or tighten the quality of scientific determinations of species' risk. Instead, it built a false hope that somehow these problems would simply go away if we tried to put them away.

It is understandable that nature does not heed man's advice. But it is unfortunate that we fail to heed nature's advice when it is so plain. Wild plants and animals are declining at rates thousands of times faster today than ever before in the fossil record. It is no coincidence that man's population, our thirst for natural resources, and our environmental problems, have grown just as fast in the opposite direction. Our ability to intelligently and effectively manage our resources has not kept pace with our ability, or desire, to use them. That is why we developed an Endangered Species Act and other laws for the conservation of wild plants and animals, and the basic natural resources upon which both they, and we, depend. We must do a better job of managing all natural resources for the complete spectrum of human needs they satisfy, and all of the values they provide. Man cannot live by bread alone.

There are many arguments pro and con about the effectiveness of the ESA. Some say our success rate at saving species is too low to be worth the effort. Others say that it is too little, too late. For sure, the odds are against us when we let problems get so far out of hand. So it is a great credit to everyone involved in recovery of endangered species that we have so many great success stories like the peregrine falcon, bald eagle, and Pacific yew tree. But I say that the single most important measure of success for the ESA is whether it has really made us better stewards of our resources.

Without a doubt it has. Federal and State agencies pursue multiple use goals and conflict resolution with far greater expertise than they otherwise might. Some very bad government projects have been scrapped or modified over the years. Private conservation efforts are far more sophisticated and widespread. Other nations look more carefully at their actions. Science has pushed farther and wider to understand the causes of species decline, as well as the cures. Because of our concern about other creatures we have learned more about saving ourselves and leading better, more sustainable lives than we could ever have hoped all alone. Perhaps that is one reason God put them here with us. Perhaps our journey should not be alone.

I recognize that stewardship comes with sacrifice. And I recognize that it can be misdirected at times. I support reforms to the ESA that ensure that the sacrifices involved are reasonable, supportable, and specifically targeted toward the prevention of species' decline, or their recovery. While the ESA moratorium has done virtually nothing to further progress in these areas, we are fortunate to have an administration that has been busy nonetheless.

In this past year the Secretary of the Interior has implemented a broad series of administrative reforms to the ESA, including listing procedures for endangered species, that go a long way toward solving problems that may have existed with it. This reform plan includes stronger peer review of listings to ensure good science; a safe harbor policy for landowners creating new habitat; speedy habitat conservation plans and negotiated regional habitat protection approaches; greater State and local involvement in recovery planning; and recommendations for new positive incentives for landowners. In addition, the list of so called "candidate species" has been updated after careful scientific peer review. The procedure for listing candidates has been changed so that only those species meeting a higher standard of scientific information are included.

Last April when Congress added the ESA moratorium to the Defense supplemental appropriations bill it singled out the ESA, and inaccurately portrayed it as the cause of many of our Nation's economic woes. For the past year our economy has been no significantly different than it would have without this moratorium. Today we can set the record straight by ending this moratorium and providing an appropriate level of funds to get the law working again.

More than a century ago Sir Arthur Conan Doyle, author of the famous Sherlock Holmes mysteries, wrote: "so often those who try to rise above nature are condemned to fall beneath it." Let's not make that mistake with the ESA by suggesting that a blind eye sees a brighter future. Let's get back on track with the implementation of the ESA with its new reforms, and resolve not to waste any more time. For many creatures, time is running out.

Mr. CRAIG. Mr. President, authorization of the Endangered Species Act expired nearly 4 years ago on September 30, 1992. Since then, Congress has kept the law alive by feeding it new appropriations each year. Funding without authorization is not the way to enact policy, especially one with such a high profile and one which produces such profound effects on our environment and our economy.

I have been to the floor numerous times in those 4 years to recount serious problems with the law as it is being administered.

It is far too costly; $500 million per year is being spent on Snake River salmon alone. No economic commonsense is being applied—or required—under the current law.

The section 7 consultation process is out of control. Dozens of projects have been delayed past the point of economic viability while waiting for concurrence from the National Marine Fisheries Service.

One year ago, a complete shutdown of all multiple use activities on 6 Idaho national forests nearly became a reality because of confusion over section 7.

Even today, the Forest Service is proposing to shut down guided rafting trips on the Salmon River to protect spawning salmon. But they are proposing to stop rafting at times of the year when there are no fish in the river. None of this makes any sense, and it unnecessarily angers people, but that is the way the law is being applied.

The law makes enemies of private landowners because of the regulation and fear it engenders. You don't build cooperation for endangered species by taking a person's rights or their land.

Despite the obvious need to reauthorize the ESA, reform legislation has been locked in the Senate Environment and Public Works Committee year after year.

My patience has run out. The authorizing committee must generate action on the two reform bills which have sat in committee for months—Senator GORTON's S. 768 and Senator KEMPTHORNE's S. 1364. I am a cosponsor of both bills.

Until we turn seriously to the matter of reauthorization, I will continue to support the moratorium on new listings and designations of critical habitat.

The people of Idaho and the Nation continue to believe that conserving fish and wildlife species for the enjoyment of future generations is still the right thing to do. They want to make changes to the law, but don't want to see the Endangered Species Act eliminated.

Senator KEMPTHORNE's bill walks that line by: using incentives on private lands, not regulations; granting States a greater role; offering realistic conservation alternatives; and requiring that priorities be set and costs controlled.

The committee has been ignoring these good ideas. They are covering their eyes and pretending that no significant problems exist while holding ESA reauthorization at bay.

I am confident we can reform the law in a way which will win the confidence of the American public. We must give it a try. I challenge the committee to move toward open debate and consideration of reform legislation.

Until that happens, I will support the moratorium.

AMENDMENT NO. 3479 TO AMENDMENT NO. 3478

Mrs. HUTCHISON. Mr. President, I offer an amendment to the Reid amendment. I send it to the desk and ask for its immediate consideration. This is a Hutchison-Kempthorne amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself and Mr. KEMPTHORNE, proposes an amendment numbered 3479 to amendment No. 3478.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be stricken, on page 75 insert the following: "*Provided further*, That no monies appropriated under this Act or any other law shall be used by the Secretary of Commerce to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(I), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act."

On page 412, line 23, strike "$497,670,000" and insert "$497,670,001".

On page 412, line 24, after "1997,", insert the following: "of which $750,001 shall be available for species listings under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),".

In the language proposed to be stricken, strike all after the word 1997 on page 413, line 11, through the word Act on page 413, line 20, and insert the following: "*Provided further*, That no monies appropriated under this Act or any other law shall be used by the Secretary of the Interior to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(I), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act."

On page 461, line 24, strike "$1,255,005,000" and insert "$1,255,004,999".

On page 462, line 5, before the colon, insert the following: ", of which not more than $81,349,999 is available for travel expenses".

UNANIMOUS-CONSENT AGREEMENT

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate resume consideration of the Hutchison-Kempthorne amendment to the Reid amendment at 9:30 a.m. on Wednesday, March 13, after the Members who are here have had a chance to debate, of course; that there be 30 minutes of debate equally divided between Senators HUTCHISON and REID; further, that immediately following that debate, the amendments be temporarily set aside; that immediately following the cloture vote at 2 o'clock p.m., Senator REID be recognized to make a motion to table the Hutchison amendment; further, if the Hutchison amendment is not tabled, the Senate proceed to a vote on the amendment without intervening action, to be followed immediately by a vote on the Reid amendment, as amended, if amended.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I do not intend to object, but I want to ask one question, if I might. If I understood the proposal correctly, there will be adequate time this evening for further discussion. So the Senator is not cutting things off right now, as I understand it?

Mrs. HUTCHISON. That is correct, Mr. President. The floor will be open for debate unlimited tonight, but this will take effect after the debate has finished tonight, and it will be the procedural order.

Mr. CHAFEE. Mr. President, I thank the Senator.

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. There is no reservation of the right to object. The Senator is recognized for an inquiry.

Mr. REID. Mr. President, just so I understand the unanimous-consent request, there will be 15 minutes controlled by the Senator from Nevada and 15 minutes controlled by the Senators from Idaho and Texas in the morning?

Mrs. HUTCHISON. That is correct, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Texas is recognized.

ORDER OF PROCEDURE

Mrs. HUTCHISON. Mr. President, I announce, on behalf of the leader, that there will be no further votes tonight, and that the votes will occur as described in the previous order.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, let me acknowledge the chairman of the Environment and Public Works Committee, Senator CHAFEE, who spoke just a few moments ago. He referenced the hearings that we held around the country. I want to compliment Senator CHAFEE, because while he is the chairman of the full committee, he still attended all the hearings.

In addition to the hearings, he took part in the field trips associated with them. That fact just speaks volumes as to how he is approaching this issue—trying to see the perspective of those of us from States that are natural resource based who feel how onerous the Endangered Species Act has been in its administration. I think he also heard from the people in the West that they support the goals of the Endangered Species Act. They want to make it work. Right now, it is not working.

Senator REID, who is the ranking member of the subcommittee that I am privileged to chair, has pointed out that we are engaged in those sessions where we regularly are discussing the elements of a reauthorization of the Endangered Species Act. Our staffs are fully engaged in this so that we can come up with a reform of the Endangered Species Act, because just as Senator REID has stated that he has heard no group say that we ought to abolish the Endangered Species Act, I do not think I have heard of any Senator saying we should not reform the existing act. So we are engaged in that.

Senator CHAFEE and Senator BAUCUS, who spoke moments ago, said that we ought to abandon any sloganeering and the rhetoric. Boy, do I agree with that.

This issue on the Endangered Species Act, without question, is one of the most polarized issues that Congress will deal with, because you are so quickly labeled if you deal with the Endangered Species Act. You are going to be labeled either antibusiness or antienvironment. Now choose. But which of those is a winning label?

That is why we have to stop this nonsense of the rhetoric that is escalating this and do what is right for the species and for the people who are the stewards of this land trying to protect the species and bring about the well-being of these species.

We undertook this same sort of effort with the Safe Drinking Water Act: 10 months of sitting down at the table, back and forth, back and forth. And I will tell you, for a number of those months, Senator CHAFEE and I did not agree. But we ultimately agreed, as did Senator BAUCUS and Senator REID.

We are trying to do the same sort of process so that we can bring about meaningful reform of the Endangered Species Act.

I do not know if it is possible this year. I do not know if this thing has been so highly politically charged and if somebody has made a determination that this is going to be the political litmus test on whether or not you are proenvironment or not. If that has happened, then we can stop right now, because it will not happen. We will play politics with it. And that is wrong.

I stood here on the floor of the Senate when we dealt with the enactment of the funds for listing activities, the rescission package. I stood here and I defended the money that was authorized and appropriated because it is a meaningful activity. I am pleased to cosponsor the second-degree amendment offered by the Senator from Texas, Senator HUTCHISON, because the amendment is very straightforward. It allows all listing-related activities except the final determination that a species is threatened or endangered. And significantly, it also allows the Secretary to emergency list a species under the existing regulations. It also allows the down listing of endangered to threatened and the delisting of final rules. Straightforward.

I want to discuss then the very real need for Endangered Species Act reform and the role of the current moratorium that is on the books right now and how it applies. When we enacted the moratorium initially last year there was a sense that we needed a timeout from the listing process, a sense that the Endangered Species Act as it is currently implemented is not working. The act is not saving the species that we all want to preserve. It is not saving those species.

The purpose of the moratorium was to give all of us and the administration and Congress an opportunity to explore meaningful reform of the act to make it work better.

That purpose for the moratorium is just as relevant today and maybe even more so. Together with my colleague, Senator REID, who is the ranking member of the subcommittee that I chair, I am using this timeout to reform and improve the Endangered Species Act.

Our goal—and I emphasize the words "our goal"—is to develop the bill over the next few weeks that will actually preserve endangered species and improve their habitat. This is a goal that we can all share. But the moratorium is an important element of that effort. People outside of the beltway who have to live with the real-life impact of the Endangered Species Act understand the importance of the moratorium.

Let me read an excerpt from a letter I received last week from the American Farm Bureau. They state:

> Authorization of the Endangered Species Act expired over 3 years ago. Congress has clearly failed in its responsibility to address the issue surrounding how our Nation is protecting endangered species. This has occurred despite the calls for change in the act from business, the environmental community, Secretary Babbitt, and others. Farmers and ranchers, thousands of whom attended ESA field hearings throughout the Nation, are concerned that a new Endangered Species Act will never even be considered by the Congress. Clearly without a listing moratorium, there is no incentive to reauthorize the act.

It is for that reason that I cosponsored the amendment by Senator HUTCHISON. The Hutchison amendment as I stated, will continue the moratorium until we either reauthorize the law or at the end of the existing fiscal year. This will keep the pressure on all of us to craft a bill that we believe addresses the real problems with the Endangered Species Act.

The moratorium also applies only to final listings. The Secretary can still perform all of his other functions under the Endangered Species Act, including all preliminary activities up to final listing and actions related to the recovery of listed species.

The Hutchison amendment improves on the current moratorium by recognizing that situations may arise where a species is really in trouble. I do not want to drive any species to extinction. I do not know of anyone else who would willingly do so. Therefore, if there is an emergency and the Secretary has complied with the other requirements of the act, the Secretary can add the species to the list and would have the authority to use this emergency listing power to protect the species.

Finally, the Hutchison amendment allows the Secretary to delist and downlist species if that action is appropriate. The moratorium is an important first step in our effort to achieve substantial reform of the Endangered Species Act.

As chairman of the Drinking Water and Fisheries and Wildlife Subcommittee I have held a number of field hearings as well as hearings here in the Nation's capital to look at the current Endangered Species Act and to identify ways to improve the act.

It is clear from the testimony we gather that the Endangered Species Act has not accomplished what Congress intended when it was written more than 20 years ago. And it is clear that it is possible to achieve better results for species by improving the act. That is what we are engaged in, trying to improve the act.

When Congress passed the Endangered Species Act of 1973, it was intended to slow the extinction of plants and animals that we share this Earth with. When former Senator Jim McClure, who was here when the ESA was first written, testified before the Environment and Public Works Committee just 2 years ago, he referred to the Endangered Species Act as a "great and noble experiment."

He stated it was the intent of Congress in 1973 to "legislate the lofty ideal of a National effort to conserve species * * *." He also made it clear that the way the Endangered Species Act has been regulated has made a mockery of that intent. He stated that "* * * lack of specific direction in some areas of the act could be corrected by the administrative agencies charged with implementing the act."

But in Roseburg, OR, in Lewiston, ID, and Casper, WY, the people who live with the ESA told us correction has not happened. We heard from a rancher in Joseph, OR, who described how Federal regulators under the threat of a lawsuit from environmentalists tried to stop all grazing on forest lands in the mountains because salmon were spawning in streams that ran through the private lands below. But, in his words, "the cows were up in the high mountains, as far from the spawning habitat as you could get." The ranchers had supporting letters from the Northwest Power Planning Council and the Oregon Department of Fish and Wildlife, but the Federal regulators would not see the reason for this.

We also heard from county officials in Challis, ID, about another lawsuit to shut down all resource related activities on national forests in Custer the Lemhi Counties for the sake of preserving salmon habitat. The lawsuit would have resulted in a loss of 31 percent of the county's jobs and a 38-percent decrease in earnings. The impact on salmon would have been negligible since over 90 percent of the salmon spawning ground in Custer County is on private land.

We need to do a better job of making this act work, while recognizing the legitimate needs of people at the same time. We have let the regulators use the Endangered Species Act as a club against the very people who ought to help make the Endangered Species Act work * * * that is the citizens of the United States. The fact is the people spend too much time trying to comply with too much paperwork and too many regulations from too many Federal agencies. Just the consultation process alone can take years, particularly when the agencies involved disagree as they often do. In one case in Idaho, for example, a simple bridge was held up for over a year while the National Marine Fisheries Service reviewed a proposed construction plan that had been already approved by the Corps of Engineers, the Idaho Department of Fish and Game, Idaho Department of Water Resources, and Idaho Department of Environmental Quality. The National Marine Fisheries Service ultimately prevailed. Their bridge cost over four times as much as the original approved design.

Citizens spent too much time being afraid that a threatened or an endangered species will appear on their land and they will then be told what they can and cannot do with their land. In our field hearings, for example, several people testified that land owners who had previously managed their land intelligently in a way to preserve older trees are now cutting them down quickly because they are scared. They are scared that the Federal Government will find new endangered or threatened species down the road and come in and tell them that they will not be able to cut down their trees in the future.

The Endangered Species Act needs to be carefully reviewed, carefully debated, carefully rewritten so that it accomplishes its fundamental purpose to conserve species. We cannot wait any longer. The original reasons for the moratorium remain valid. Until the Endangered Species Act is reformed to accomplish what it was intended to do, there is no reason to add more species to it.

The only condition for removing the moratorium was reform to the Endangered Species Act. Interior Secretary Bruce Babbitt initially said there was no need for legislative changes in the act. After 2 years, though, of initiating administrative corrections to the act, he told my subcommittee that he was recommending a 10-point legislative plan to address endangered species. A 10-point legislative plan.

It appeared the changes he recommended were largely to bring the Endangered Species Act into compliance with his administrative changes. In fact, a major landowner who has spent literally millions of dollars to comply with the Secretary's administrative changes told our committee that they were not sure how their investment would hold up in the courts if they were ever challenged because the changes are not part of the law.

I saw a very real need to include the Secretary's plan in my bill, and so the Secretary's 10-point plan is part of the reform that is being offered.

I also looked at the Western Governor's Association who had been through an exhaustive process to determine what that bipartisan group of Governors needed by way of Endangered Species Act reform. We have incorporated all of the language of the Western Governor's Association into this reform that we are bringing forward.

Last month the President was in Idaho addressing the needs of flood victims in the northern part of my State. During the course of his visit we had a good discussion about these environmental issues. Working off of the cooperation between Federal, State and local governments who are working together to help flood victims, the President acknowledged and made the point that we need to establish the same sort of partnership to reform the Endangered Species Act. I want to take him up on that challenge.

I want to take this opportunity to again compliment Senator REID, because we are working through this process. I hope it will bear the results that we are after. It should. We are making a good-faith effort. It should because it needs to be done. It should because we ought to do it this year instead of having to see that it becomes political fodder and we cannot deal with it.

I want to move forward this year with kind of a bipartisan bill that will incorporate the very real changes that everyone agrees are needed. Until then it only seems appropriate that the timeout represented by the moratorium is the best way to encourage everyone to stay at the table until we get this job done.

Perhaps the administration agrees. The moratorium was not in force during certain periods between continuing resolutions during 1995. The Secretary announced that he was not going to rush through various listing packages or critical habitat designations during that time. Instead, he honored the intent of the moratorium. Why honor the intent of the moratorium when it did not apply, and now seek to overturn it during an emergency bill?

There is an emergency in America concerning the Endangered Species Act. And from the view of my State, that need must be addressed by reform, not just adding more species to the list. If there is an emergency with regards to a particular species as a result of this moratorium, let Members address that.

It is evident to me that if we are to move forward to a safer, cleaner, healthier future, we have to change the way Washington regulates laws like the Endangered Species Act. States and communities must be allowed, even encouraged, to take a greater role in environmental regulations and oversight. After all, who knows better about what each community needs, a local leader or someone hundreds of miles away in Washington, DC?

There are national environmental standards that must be set in the Endangered Species Act, and the Federal Government must make that determination, but Federal resources must be targeted and allocated more effectively, and that's why we must have a greater involvement by State and local officials.

The improvements we need in Washington go beyond State and local involvement. We need to plan for the future of our children, not just for today. Science and technology are constantly changing and improving. In the case of the Endangered Species Act, the Federal Government hasn't kept up with these improvements, and old regulations have become outdated and don't do the best job they can. That is why I want to reform the Endangered Species Act.

In the meantime, Mr. President, I think the moratorium on listings is the best tool we have to ensure that we continue to work toward meaningful reform of the Endangered Species Act.

I conclude by saying this: As I listened to Senator REID make his points about the areas that he thinks we should focus on, I do not find myself in disagreement. He is touching on a number of those issues that I do think we need to deal with. We may have a different approach as to how we correct them. That is what we are discussing at our sessions that we regularly conduct. We need to deal with this.

Senator CHAFEE referenced Noah and the flood—now when I had the discussion with the President, we referenced that too. I have heard people say that you should not change the Endangered Species Act, and they call it Project Noah, where Noah was charged to save those animals two by two. I believe that Noah had to have two-by-fours in order to construct the ark to save those animals, so we need balance. If there had been an Endangered Species Act in existence at the time that Noah was charged with saving those species, I do not know if he would have gotten permits before the floods came.

That is how a lot of landowners feel right now. They want to save the species. They can do it. Who are the very people that can do it? Is it the attorneys in the courtrooms litigating all of this? Absolutely not. Where you save the species is on the ground. On the ground, where their habitat is.

So why do we not change this whole atmosphere from adversaries to advocates? Why do we not enlist all of the American people in this great crusade to save these species? Right now we have them divided right down the middle. I challenge all of us that are dealing with this issue to step up to the plate so that Congress no longer abdicates its responsibility because it is too politically sensitive. We should deal with it, deal with it for the species, and deal with it for the people who in too many instances are finding that it threatens their well-being, it threatens entire communities.

That is not what was intended by Congress in 1973 when it first enacted the Endangered Species Act. We should be realistic. I am being realistic in cosponsoring the Hutchison second-degree amendment. It is going to keep us at the table. It is at the table that we are going to write the reform that is necessary with regard to the Endangered Species Act.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the American Farm Bureau Federation, referenced earlier in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
March 7, 1996.

Hon. DIRK KEMPTHORNE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KEMPTHORNE: During consideration of the Continuing Resolution, we urge you to oppose any effort to remove the moratorium on listing of endangered species or the designation of habitat for endangered species.

Authorization of the Endangered Species Act expired over three years ago. Congress has clearly failed in its responsibility to address the issues surrounding how our nation protects endangered species. This has occurred despite the calls for change in the Act from business, the environmental community, Secretary Babbitt and landowners. Farm Bureau, at every level, has involved itself in providing the Congress with a wealth of information on ESA and how farmers and ranchers can be part of the solution in protecting species. Our members, thousands of whom have attended ESA field hearings throughout the nation, are concerned that a new Endangered Species Act will never be even considered by the Congress. Clearly, without a listing moratorium, there is no incentive to reauthorize the Act.

Again, we ask that you oppose any effort to remove the moratorium and support any effort to reauthorize the Act this year.

DEAN R. KLECKNER,
President.

Mr. CHAFEE. Mr. President, I want to express my appreciation for all that the junior Senator from Idaho has done in connection with working on the reauthorization of this act. As he pointed out, he has a determination, and I share that determination, to get this act reauthorized this year.

Here is the situation, Mr. President: As I understand the second-degree amendment that the Senator from Texas and the Senator from Idaho have submitted, and if I am wrong I would appreciate if he would correct me, I have a copy of it here, but there may have been changes to it since. What this does is say to the Secretary of Interior that in an emergency there can be a listing of the animal or plant as endangered.

What that means to me, and here is the problem, the situation has gotten so desperate that it therefore qualifies for an emergency listing. By that time it is close to being too late. That is the whole problem. That is why this moratorium is bad business. Now it said here, well, we agreed to a moratorium last April so, therefore, we agreed to a moratorium in perpetuity. No, I never agreed to anything like that. I agreed to a moratorium last April that took us through to the end of that fiscal year. That does not mean I am for going on and on with this business, especially because of the very point that it seems to me that the second-degree amendment stresses, that by having these moratoriums the situation gets worse and worse, no action is taken, and then you come rushing in under an emergency listing. Yes, that is better than nothing but by that time it is probably too late. The cost is so significant.

In connection with that, I might say they reduce the money that has been proposed by the Senator from Nevada very, very substantially. The moneys that are available are not going to do the trick here as far as saving these species that have now reached the emergency situation.

For those reasons, Mr. President, I do not find that the second-degree amendment solves the problems we have been dealing with here this evening. I hope, as I hoped the original amendment would be approved, namely, the Reid amendment, I hope that careful consideration would be given by all to this second-degree amendment and there will be a motion—I presume by the Senator from Nevada—to table that second-degree amendment. I urge favorable consideration of that motion to table because of the reasons enunciated. Namely, we do not want this situation to reach the emergency status.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, the debate Senate REID has started regarding the Endangered Species Act is a good one. We need to reexamine this act and where we have succeeded and where we have failed.

However, the amendment by my friend from Nevada moves a step away from reforming a well-intended law. Therefore, I must oppose Senator REID's amendment.

The Endangered Species Act [ESA] was well intended. But, like many good ideas, its original intent has been twisted and misused. It has been turned away from an act designed to protect species, and instead is being used to close down thousands, if not millions, of acres of land throughout our country.

In Montana, we have wolves being placed in Yellowstone as an experimental population under the Endangered Species Act. We have miles and miles of roads being closed in order to protect grizzly bears. And, we face the threat of listing of the Bull Trout even though our State is taking an incredibly active role in managing this specie. While Montanans are proud of our wildlife, we are equally proud of the lifestyle we cherish. This is based on the balance and wise-use of our lands.

Senator REID'S amendment would repeal a moratorium on the listing of new species on the endangered list. Under the moratorium, prelisting work and recovery activities are still under way. The moratorium does not effect these activities.

But, the moratorium on listing is important because it gives the Congress and the administration an opportunity to reexamine the Endangered Species Act. We need to allow the Environment and Public Works Committee an opportunity to do their job. The committee held a number of hearings last year throughout the United States on the act. Now, we need to allow the committee to report a bill which will address the inadequacies of the act.

While most Americans agree we need to protect and recover endangered species, there are a wide range of beliefs on the extent and costs which should be incurred.

The process is out of control. For every dollar we spend on recovery, we spend another on process. This includes consultation, law enforcement, listing, and permits. That ratio needs to change. We need more recover for our money.

One example for Montana, Idaho, Oregon, and Washington is the salmon. Should we spend $1 billion each year and increase electric rates in the name of the salmon in the Columbia River? Yet we have not recovered one fish in the process.

We can do a better job at protecting species at a lesser cost to the Federal treasury, local communities dependent on natural resources and landowners. I hope the Reid amendment will be rejected and that we can continue to consider a complete reauthorization of the act in the near future.

Mr. President, the work that has been going on now for the reauthorization of the Endangered Species Act has been going on ever since I walked through these doors. I would like to have a nickel for every word that has been spoken about the good intentions of reauthorizing the act. It has not been done yet. Given that track record, it just goes to prove that the way Washington works and the way we regulate have to be looked at.

I would rather this amendment not come up. I do not think this is the time or place to consider this issue, as an amendment on this bill. The Committee on Environment and Public Works has the reauthorization now under consideration and should come forth with legislation for this body to vote on.

We should let that process move forward. The law, in its present form, is not working in the manner in which it was intended or in a way it can be successful. If we who serve here in the Senate are to pursue sensible environmental policy that preserves the gains that we have made in the last two decades, then this law will have to be changed to make it user friendly, and also to approach the problem of endangered species in a plain, everyday, commonsense way. If there is anything we are short of here, it is common sense.

However, that not being the case in this instance, let us look and see the merits of this amendment and, of course, the second-degree amendment. The moratorium now in effect is just on listings. Until a couple of weeks ago, we had 2,500 to 3,000 candidates on the list to be considered for listing. Under the moratorium, we now have 184. The Secretary of the Interior using a model in which to cut those way back so it does not sound like they are not working to make it work. And recovery plans on those who are actually on the endangered list continue.

Now, I suggest to this body that for as much money as it has cost, the recovery record has not been very good. If the sponsor of this amendment wants to take credit for delaying this bill, thus leaving the employees for the respective departments not knowing—we should give them some predictability and planning for which they are responsible with regard to this Endangered Species Act.

Recovery plans must move on. It cannot move on as long as the appropriation is hung up here in the U.S. Senate. It is not fair to the employees, nor is it fair to the taxpayers of this country, nor is it fair to what we are trying to do, which is to preserve a base of biological diversity that we all know is very, very important.

The sponsors of this amendment must understand that the very people who are administering this law are the ones that are funded by this legislation. But sometimes I do not understand the motives on such predictability.

I do not think we have an endangered species crisis or an environmental crisis here. I do not feel there is any great urgency or a great care for the maintenance or restoration of a healthy biological base or diversity—not in this particular exercise, not on this day. I have a feeling there is a little bit of politics in this. But, after all, that should not surprise any of us. It is like I said, the work goes on. Right now, there are around 900 domestic species that are listed on the threatened or endangered list. There are another 900 on the foreign endangered species list. There were 3,500 to 4,000 a couple of weeks ago on the candidate list, which is now down to 182. So the work continues.

So it is not that the U.S. Fish and Wildlife Service does not have enough work to do without this moratorium, because they do. This has been a very, very expensive law. And, at times, it has defied common sense. In most areas, the law has not worked. It is being used for a purpose that it was not intended for.

I would like to look at a couple of species that have been listed. We have spent over $2 billion in recovery, both in taxpayers' money and ratepayers' money, on the Columbia River trying to recover the sockeye and the chinook salmon. You can buy salmon in any grocery store fresh, frozen, or canned. As you know, we had the terrible accident in Prince William Sound in 1989 when the *Exxon Valdez* ship hit a rock and spilled the crude. Everybody said the fishing would be gone forever. The other day in that particular part of the world—I noticed that the Secretary of Agriculture, Dan Glickman, went to Alaska, and the harvest of salmon was so big that the Department of Agriculture has decided to buy an extra amount of salmon for the school lunch programs around this country.

The market is depressed because of an oversupply. Mr. President, I am sure not opposed to the School Lunch Program. In fact, I am a great supporter of it. I even like the idea that salmon should be a part of the diet. But it does seem strange to me that we have chinook and sockeye salmon on the endangered species list where we will be able to buy it anywhere in the world, and yet, we have spent all that money with the possibility of endangering hydro power production on the Columbia River. I think we can cite a lot of those kinds of instances where common sense has absolutely been laid aside to make it work.

I hope my colleagues will reject this amendment and allow the committee of jurisdiction to complete its work in reforming the law. Let us involve local government; let us involve local citizens when we start talking about listing; and let us separate this business of listing from the business of recovery. Right now, the way the law is written, if a species is put on the endangered list, it is head-over-heels costs. It means nothing. We start the recovery program and, as we have found out, that becomes very expensive. Let us not knee-jerk this around because it is a highly charged issue, just to appease some folks who want an environmental record.

When one has to answer and solve a problem or policy, or enable problem solving to go forward, and we do it by just throwing taxpayer money at it, I do not think that is the correct approach. And if we are to pass on to the next generation a world where clean water and clean air is the hallmark, and a broad-based biological diversity is intact, then we must approach it and we have to make sure that this law survives.

As it is right now, it may not—the total law—because of people and the actions that they take to prevent it being applied to my property or my neighbors' property.

So, Mr. President, the moratorium should stay intact. And there are those who are dedicated. I know that my friend from Nevada—I worked with him on another committee—when he commits himself to something, he does it wholeheartedly and with a great deal of integrity.

They should keep working on this law. They should bring it forward. But I am kind of like the Nike commercial: "Let's do it." Let us quit talking about it and do it. Let us quit dealing with people that might be like a featherbed because the last one that sits on it leaves the biggest impression. Let us do it because the law needs to be reformed. My friend from Nevada understands that, and also my friend from Idaho does.

We want to see it survive, and we want to see it work in the best interest of mankind and also for the species that are involved. Let us look at fairness. Let us look at balance. But let us make sure that it works. Let us involve local government from the county commissioners to the city council. Let us work with Governors and State government. Let us work with the fish and game people and the wildlife biologists that are found in each and every State, because each and every State is unique and they have a very unique biological base.

So let us reject the Reid amendment totally, and let us bring forth a new bill. Let us dedicate ourselves to it because I think we owe it to the taxpayers of this country.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I reluctantly disagree with my friend from Montana on the bulk of his statement. I say to my friend before he leaves the floor that one of the most pleasant experiences I have had in the U.S. Senate has been working with the junior Senator from Montana on the Appropriations Committee, he being chairman of the Military Construction Subcommittee and me being the ranking member. He is easy to work with, and I think we have been very productive in that subcommittee.

Mr. President, first of all, let us go back and reflect on how we arrived at the point where we are now. The junior Senator from Texas offered an amendment to stop listing further species until the end of the fiscal year. That was the end of last fiscal year—not this fiscal year.

I read from the CONGRESSIONAL RECORD where the Senator said the amendment rescinds $1.5 million of funding for new listings of endangered or threatened species, or designation of critical habitat, through the end of the fiscal year, which is a little more than 6 months from now. It provides remaining funds not to be used for final listings.

Mr. President, this so-called emergency moratorium was to end last October 1. Here it is October, November, December, January, February, and we are in the middle of March—6 months later, almost 1 year later, and it is still going on. That is wrong. The record is replete with examples of why we should not have this moratorium.

There are species of plants and animals that are life-sustaining that will relieve pain and misery throughout the world. Eighty percent of the drugs prescribed to the American public are compounds that initially come from a plant or other species.

Mr. President, I say to my friend from Montana who gave the example of the oil spill in 1989 that I hope—I am sure—the intent of the Senator was not that we have more oil spills to increase the population of fish around the world. We all know that there is a lot of fish where the oil was spilled. It was not because of the oil being spilled there.

I also say to my friend from Montana that the numbers of species that he talked about is daily. The Department of the Interior published within the past couple of weeks; the prepublication copy was February 23 of this year. The Department of the Interior Fish and Wildlife Service, 50 Code of the Federal Register, Part 17, Endangered/Threatened Wildlife and Plants, revealed plants and animals that are candidates of listing as endangered or threatened species. There are 182. They eliminated the others.

So, as I indicated earlier, Mr. President, we have 243 species that have already been proposed for listing. We have 182 that are candidate species. This is what we have to make sure of—that we are allowed to process these in an appropriate order. This does not mean when the moratorium is lifted that we are going to have 182 or 243 thrown at the American public in a day or two. It will take years. But the process needs to go forward for the reasons that I have mentioned.

We are dealing literally with life and death. We have been very patient. The chairman of the full committee voted with the junior Senator from Texas on the original moratorium. I think everyone who voted for it was willing to say, "Well, we will give it until the end of this fiscal year." But then, after the fiscal year, we got into the continuing resolution process. I think there were 10 CR's offered in the past few months, and in each one of those the moratorium was extended and extended and extended, and it has been to the detriment of the American public. We owe it to the American public to process these species of plants and animals that are listed. Doing so, Mr. President, will benefit mankind and certainly do the thing that is fair.

The emergency listing in the second-degree amendment is very transparent. It is only a way to give people who want to say they want an environmental vote to vote environmentally. As we have already established an emergency listing, that is not how we should list things. We should not wait until the animals are gone before we list them. It should be an orderly process so we make it much better and easier on everyone.

Mr. President, I will await the debate in the morning, and I yield the floor.

The PRESIDING OFFICER. According to the previous order, there is no further debate.

Does the Senator from Montana seek recognition?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

MODIFICATION TO AMENDMENT NO. 3473

Mr. BURNS. Mr. President, I ask unanimous consent to modify amendment No. 3473, to make technical changes that I will send to the desk.

Further, I ask unanimous consent to restore text at the end of amendment No. 3473. Language that appears on pages 778, line 1 through 781, line 4 of amendment No. 3466 was inadvertently deleted.

I send the technical changes to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification to amendment No. 3473 is as follows:

Under the heading "Departmental Management, Salaries and Expenses", $12,000,000, of which $10,000,000 shall be only for terminal leave, severance pay, and other costs directly related to the reduction of the number of employees in the Department.

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Health Resources and Services", $55,256,000: *Provided*, That $52,000,000 of such funds shall be used only for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act; and

Under the heading "Substance Abuse and Mental Health Services", $134,107,000.

PART 3—GENERAL PROVISION

Notwithstanding any other provision of this Act, section 4002 shall not apply to part 1 of chapter 3 of title IV.

On page 539, lines 18 and 19, and page 540, line 10, decrease each amount by $200,000,000.

On page 546, increase the rescission amount on line 21 by $15,000,000.

On page 583, lines 4 and 14, decrease each amount by $224,000,000.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading elsewhere in this Act, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as amended by Public Law 100–485) is amended by adding: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

FEDERAL AVIATION ADMINISTRATION GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $616,000,000 are rescinded.

FLOODING

Mr. GORTON. Mr. President, as Senator HATFIELD knows, Cowlitz County has been digging out, literally and figuratively, from the effects of Mt. St. Helens ever since 1980. These last two floods have exacerbated the movement of sediment in the Toutle, Cowlitz, and Columbia Rivers creating both flooding and navigation concerns. Will the current Senate bill provide funding so the Corps of Engineers can use authorities available to them to review and correct these newly created problems?

Mr. HATFIELD. Yes, this bill provides funding for the corps to address problems such as those raised by my good friend, the Senator from Washington.

Mr. CONRAD. Mr. President, I note that the chairman and ranking member of the Commerce/State/Justice Appropriations Subcommittee are on the floor at this time. Senator DORGAN and I would like to engage them in a colloquy concerning the amendments which we offered and which were accepted yesterday to help prevent flooding at Devils Lake, ND.

The omnibus appropriations bill now includes emergency funding to address flooding at Devils Lake, ND. The lake is located in Benson and Ramsey Counties, as well as in the Devils Lake Sioux Indian Reservation. Last year, as my colleagues know, the lake reached a 120-year high water level, causing more than $35 million in damages. The National Weather Service projects that the lake will rise an additional 2½ to 3 feet this year. It is our understanding that the additional $10 million provided to the Economic Development Administration is to undertake emergency flood prevention efforts at Devils Lake. These emergency funds are critical to the area's economy, and will help prevent some of the $50 million in flood damages expected this year at Devils Lake.

Mr. DORGAN. It is also our intention that the State of North Dakota or its designee be the EDA grant recipient in order to get emergency funding to the Devils Lake area as quickly as possible. An Interagency Task Force, headed by FEMA Director James Lee Witt, has recommended that 100,000 acre-feet of water be stored on upper basin lands as part of a comprehensive strategy to deal with the unprecedented high water. Additionally, the Army Corps of Engineers' Contingency Plan and the Interagency Task Force recommended raising essential roads that are expected to experience flood damage. Would the Chairman of the Commerce, Justice, and State Appropriations Subcommittee agree that water storage and elevating roadways are critical to ensuring the economic well-being of Devils Lake?

Mr. GREGG. It is my understanding that water storage and elevating roadways are essential to the area's economy, and that only those projects recommended by the Interagency Task Force or identified by the Corps of Engineers' contingency plan would be appropriate uses of the emergency supplemental funds for Devils Lake under this bill. Is it the Senators' understanding that the State of North Dakota would provide the customarily required non-Federal cost share?

Mr. DORGAN. It is my understanding that North Dakota would provide whatever non-Federal share is customarily required by EDA.

Mr. CONRAD. That is my understanding as well.

Mr. HOLLINGS. Let me add that I agree with the comments of Senator GREGG. Projects of those types would fit well within the parameters of the emergency supplemental appropriations language.

Mr. DORGAN. I thank the Senators for their comments. I want to express my appreciation to the chairman and ranking member of the Appropriations Subcommittee on Commerce, Justice, and State for their assistance.

Mr. CONRAD. I also want to thank the Senators for clarifying the intent of Congress regarding emergency funding for Devils Lake. This funding will help prevent tens of millions of dollars of damages in Benson and Ramsey Counties and on the Devils Lake Sioux Indian Reservation.

Mr. CRAIG. Mr. President, the disastrous flooding in the northwestern United States has covered many areas with layers of flood-borne boulders, gravel, woody debris, and associated materials. Among those areas of particular concern are U.S. Department of Agriculture [USDA] Conservation Reserve Program [CRP] lands. The CRP program provides cost-share assistance to reestablish destroyed permanent vegetative cover. It is my understanding that present Department policy prohibits USDA from providing cost-share assistance of clear CRP lands of debris to reestablish permanent cover. However, the severity of this flood has covered these lands with unusually heavy and extensive deposits of materials that must be removed before permanent cover can be reestablished. It is also my understanding that the Department has the discretion to allow cost-sharing assistance to remove such materials. We are told that these lands are not eligible to use Emergency Conservation Program funds for clearing debris.

Mr. HATFIELD. Mr. President, our states, which border each other and have suffered from the same natural disaster, have similar and shared problems. I would inform the Senator that section 1101 of chapter 11 of title II of this bill gives cabinet secretaries of involved departments authority to waive or specify alternative requirements of any statute of regulation to expedite the provision of disaster assistance to affected areas. I believe that the Secretary of Agriculture can and should use this authority to provide cost sharing assistance to clear lands enrolled in the CRP reestablished cover.

Mr. COCHRAN. Mr. President, I concur with my friend from Oregon, the distinguished Chairman of the Appropriations Committee, that this would be an appropriate use of this authority.

Mr. CRAIG. Mr. President, as you know, my State of Idaho was devastated like others in the Northwest from floods in recent months. Many agricultural lands have sustained damage which must be repaired if the land is to be returned to productive use. It is my understanding that a need of $1,167,000 has been determined for conservation work and streambank stabilization in Idaho through the Agricultural Conservation Program, which was not requested by the President. However, it is also my understanding that the Department of Agriculture administers the Emergency Watershed and Flood Prevention Operations Program and the Emergency Conservation Program, which could fund these needed activities in Idaho and other affected states in the Northwest. I would ask my colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies if this is his understanding as well?

Mr. COCHRAN. Mr. President, I appreciate the distinguished Senator's inquiry. This bill includes $107,514,000 for watershed and flood prevention operations and $30,000,000 for the Emergency Conservation Program. USDA has determined that these amounts should be sufficient to cover the damage sustained in the Northwest and other areas which have experienced natural disasters.

Mr. PRESSLER. Mr. President, the omnibus appropriations bill before us today is a wide ranging piece of legislation with programs that impact teachers, doctors, job trainees, police officers, and businessmen. I do want to single out one small piece of this legislation that is very important for South Dakota students and families, especially those in rural areas.

You see, many small banks and credit unions have been leaving the Federal student loan program due to burdensome audits imposed by the Department of Education. The audits on guarantee agencies and schools were extended to lenders in the Higher Education Act Amendments of 1992. I fully agree with the goal of cracking down on fraud and abuse in the student loan program.

However, these audits on small lenders are clearly a case of the cure being worse than the illness. The audits are duplicative and in the case of many small financial institutions, exceeding the profitability of the program. The audits are bureaucratic overkill. Expenditures are wasted, as the Department of Education does not even review all of the audits. For lenders with small portfolios, it does not make sense to stay in a program that is losing money. As a result, small lenders are leaving the program, forcing students and families to take their student loan business away from their hometown banks. When hometown lenders leave the program, students and communities are the real losers.

I was pleased to have worked with the chairman of the Labor and Human Resources Committee, Senator KASSEBAUM, to include language in the Balanced Budget Act to correct this problem by creating an exemption for lenders with portfolios under $5 million. I am equally pleased that the Appropriations Committee included the same language in the bill before us today. I want to thank the chairman of the Appropriations Committee, Senator HATFIELD, and the Subcommittee Chairman, Senator SPECTER, for adding this provision, which will allow students to continue doing business with their hometown banks. I am pleased this problem will be resolved for small lenders and their communities.

Mr. KENNEDY. Mr. President, I wish to make an observation about funding in this Appropriations bill for the Police Corps program.

I have long supported the Police Corps concept, because I believe it represents an innovative way to improve public safety and strengthen the ties between police departments and the communities they serve. I was proud to be an original sponsor of the Police Corps legislation, which was enacted into law in 1994 as part of the omnibus crime bill.

In the Senate-passed version of the crime bill, the Police Corps program was authorized at $100 million for the first year, $250 million the second year, and such sums as were necessary thereafter. Clearly, the Senate contemplated a truly national program. Regrettably, the pending bill contains only $10 million for this important program, so a national effort is not feasible at this time. I am nonetheless pleased that the Police Corps will finally get off the ground.

It is my view that the $10 million appropriated in this bill should be used to support a limited number of pilot programs, rather than spread thinly over many jurisdictions. With this much reduced amount, the Police Corps concept can only receive a fair trial if the money is concentrated in a few jurisdictions that make a serious effort to implement the program comprehensively. If instead the money were dispersed across the country as 435 separate Police Corps grants, each grant would support only one Police Corps officer. The administrative overhead alone would essentially swallow the entire appropriation.

This program will be administered by the Department of Justice. I expect—and I believe that my view is shared by the Appropriations Committee and the full Senate—that the Attorney General will allocate the $10 million to no more than four or five jurisdictions. It is my understanding that several police departments are already prepared to apply for grants and then implement the program swiftly and conscientiously.

I also understand that the administration intends to request increased funds for the Police Corps Program in fiscal year 1997, at which time other jurisdictions can be added.

I look forward to the commencement of the Police Corps effort, and expect that in the jurisdictions in which it is implemented it will make a real difference in public safety and police-community relations.

MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 11, 1996, the Federal debt stood at $5,017,403,575,141.97.

On a per capita basis, every man, woman, and child in America owes $19,044.49 as his or her share of that debt.

LOBOS WIN WAC BASKETBALL TOURNAMENT

Mr. BINGAMAN, Mr. President, I would like to take a moment to say a few words about the University of New Mexico men's basketball team, which this week completed one of its best seasons ever by winning the Western Athletic Conference Tournament title.

This has been an excellent year for the Lobo basketball program, winning 27 games so far and winning the conference tournament in dramatic fashion. The Lobos were able to pull out a triple-overtime win over Fresno State in the semi-final, and then were able to come back from that emotional game to upset an excellent Utah team for the conference tournament championship.

What makes the victories especially gratifying for New Mexicans is the large number of New Mexico high school basketball players that make up this team. Being a sparsely populated state, our universities have often needed to recruit from throughout the country for athletes. Often our schools would field teams, both successful and unsuccessful, that included no native New Mexicans. It is a tribute to the quality of New Mexico's high school athletic programs that athletes such as Kenny Thomas, David Gibson, Royce Olney and Daniel Santiago have played such an integral part in this season's achievements.

I congratulate coach Dave Bliss and his team for making its fourth appearance in six years in the NCAA Men's Basketball Tournament and for winning the Western Athletic Conference Championship.

I also congratulate Don Flanangan and the UNM Women's which made it to the conference finals.

I would also like to take this opportunity to recognize the coaching efforts of Lou Henson, who has announced his retirement from coaching after 21 years at the University of Illinois. Before beginning his fine career at Illinois, Henson both played and coached at New Mexico State University. He coached the 1970 Aggies to the Final Four and in 1989 brought the Illini there as well. Henson leaves collage basketball with an overall record of 663 wins against 223 losses. He has been a credit to the game and to New Mexico.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2012. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2013. A communication from the Assistant Secretary of the Interior for Water and Science, transmitting, pursuant to law, the report of a proposed contract amendment; to the Committee on Energy and Natural Resources.

EC–2014. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to the Pentagon Reservation; to the Committee on Appropriations.

EC–2015. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-180 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2016. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-181 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2017. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-185 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2018. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-189 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2019. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 11-190 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2020. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-191 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2021. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-192 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2022. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-193 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2023. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-194 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2024. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-195 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2025. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-196 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2026. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-198 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2027. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-199 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2028. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-200 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2029. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-197 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2030. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-201 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2031. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-202 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2032. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-215 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2033. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-217 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2034. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-218 adopted by the Council on January 4, 1996; to the Committee on Governmental Affairs.

EC–2035. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Audit of the Boxing and Wrestling Commission for Fiscal Year 1994"; to the Committee on Governmental Affairs.

EC–2036. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Evaluation of the D.C. Lottery Board's Wagering Cancellation Methodology"; to the Committee on Governmental Affairs.

EC–2037. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of the Fiscal Year 1995 Comprehensive Annual Financial Report"; to the Committee on Governmental Affairs.

EC–2038. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review and Analysis of the District's Accounts Receivable"; to the Committee on Governmental Affairs.

EC–2039. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Analysis of the Revised Fiscal Year 1996 General Fund Revenue Estimates in Support of the Mayor's Budget for Fiscal Year 1996"; to the Committee on Governmental Affairs.

EC–2040. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-213 adopted by the Council on February 6, 1996; to the Committee on Governmental Affairs.

EC–2041. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Review of the Boxing Event of October 15, 1995 Regulated by the District of Columbia Boxing and Wrestling Commission"; to the Committee on Governmental Affairs.

EC–2042. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2043. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, the report under the Chief Financial Officers Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2044. A communication from the Executive Officer of the National Science Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2045. A communication from the General Counsel and Corporate Secretary of the Legal Services Corporation, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2046. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2047. A communication from the Chairman of the Board of Governors of the U.S. Postal Service, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2048. A communication from the Secretary of the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2049. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2050. A communication from the Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2051. A communication from the Chairman of the U.S. Parole Commission, Department of Justice, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2052. A communication from the Director of the Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2053. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals From the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104–240).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be brigadier general

Col. Brian A. Arnold, [redacted]
Col. John R. Baker, [redacted]
Col. Richard T. Banholzer, [redacted]
Col. John L. Barry, [redacted]
Col. John D. Becker, [redacted]
Col. Robert F. Behler, [redacted]
Col. Scott C. Bergren, [redacted]
Col. Paul L. Bielowicz, [redacted]
Col. Franklin J. Blaisdell, [redacted]
Col. John S. Boone, [redacted]
Col. Clayton G. Bridges, [redacted]
Col. John W. Brooks, [redacted]
Col. Walter E.L. Buchanan III, [redacted]
Col. Carrol H. Chandler, [redacted]

Col. John L. Clay, [redacted]
Col. Richard A. Coleman, Jr [redacted]
Col. Paul R. Dordal [redacted]
Col. Michael M. Dunn [redacted]
Col. Thomas F. Gioconda [redacted]
Col. Thomas B. Goslin, Jr [redacted]
Col. Jack R. Holbein, Jr [redacted]
Col. John G. Jernigan [redacted]
Col. Charles L. Johnson I [redacted]
Col. Lawrence D. Johnston [redacted]
Col. Dennis R. Larsen [redacted]
Col. Theodore W. Lay II [redacted]
Col. Fred P. Lewis [redacted]
Col. Stephen R. Lorenz [redacted]
Col. Maurice L. McFann, Jr [redacted]
Col. John W. Meincke [redacted]
Col. Howard J. Mitchel [redacted]
Col. William A. Moorman [redacted]
Col. Teed M. Moseley [redacted]
Col. Robert M. Murdock [redacted]
Col. Michael C. Mushala [redacted]
Col. David A. Nagy [redacted]
Col. Wilbert D. Pearson, Jr [redacted]
Col. Timothy A. Peppe [redacted]
Col. Craig P. Rasmussen [redacted]
Col. John F. Regni [redacted]
Col. Victor E. Renuart, Jr [redacted]
Col. Richard V. Reynolds [redacted]
Col. Earnest O. Robbins I [redacted]
Col. Steven A. Roser [redacted]
Col. Mary L. Saunders [redacted]
Col. Glen D. Shaffer [redacted]
Col. James N. Soligan [redacted]
Col. Billy K. Stewart [redacted]
Col. Francis X. Taylor [redacted]
Col. Rodney W. Wood [redacted]

The following-named captains in the line of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. William Wilson Pickavance, Jr., [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. George Richard Yount [redacted]

Pursuant to an order of the Senate of June 29, 1990,

Ordered, that the following nomination be referred jointly to the Committees on Armed Services and Energy and Natural Resources:

*Alvin L. Alm, of Virginia, to be an Assistant Secretary of Energy (Environmental Management)

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Joseph W. Arbuckle [redacted]
Col. Barry D. Bates [redacted]
Col. William G. Boykin [redacted]
Col. Charles M. Burke [redacted]
Col. Charles C. Campbell [redacted]
Col. James L. Campbell [redacted]
Col. Joseph R. Capka [redacted]
Col. George W. Casey, Jr [redacted]
Col. John T. Casey, [redacted]
Col. Dean W. Cash [redacted]
Col. Dennis D. Cavin [redacted]
Col. Robert F. Dees [redacted]
Col. Larry J. Dodgen [redacted]
Col. John C. Doesburg [redacted]
Col. James E. Donald [redacted]
Col. David W. Foley [redacted]
Col. Harry D. Gatanas [redacted]
Col. Robert A. Harding [redacted]
Col. Roderick J. Isler [redacted]
Col. Dennis K. Jackson [redacted]
Col. Alan D. Johnson [redacted]
Col. Anthony R. Jones [redacted]
Col. William J. Lennox, Jr [redacted]
Col. James J. Lovelace, Jr [redacted]
Col. Jerry W. McElwee [redacted]
Col. David D. McKiernan [redacted]
Col. Clayton E. Melton [redacted]
Col. Willie B. Nance, Jr. [redacted]
Col. Robert W. Noonan, Jr [redacted]
Col. Kenneth L. Privratsky [redacted]
Col. Hawthorne L. Proctor [redacted]
Col. Ralph R. Ripley [redacted]
Col. Earl M. Simms [redacted]
Col. Zannie O. Smith [redacted]
Col. Robert L. VanAntwerp, Jr [redacted]
Col. Hans A. VanWinkle [redacted]
Col. Robert W. Wagner [redacted]
Col. Daniel R. Zanini, [redacted]

AIR FORCE

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Thomas R. Case [redacted]
Brig. Gen. Donald G. Cook [redacted]
Brig. Gen. Charles H. Coolidge, Jr. [redacted]
Brig. Gen. John R. Dallager [redacted]
Brig. Gen. Richard L. Engel [redacted]
Brig. Gen. Marvin R. Esmond [redacted]
Brig. Gen. Bobby O. Floyd [redacted]
Brig. Gen. Robert H. Foglesong [redacted]
Brig. Gen. Jeffrey R. Grime [redacted]
Brig. Gen. John W. Hawley [redacted]
Brig. Gen. Michael V. Hayden [redacted]
Brig. Gen. William T. Hobbins [redacted]
Brig. Gen. John D. Hopper, Jr [redacted]
Brig. Gen. Raymond P. Huot [redacted]
Brig. Gen. Timothy A. Kinnan [redacted]
Brig. Gen. Michael C. Kostelnik [redacted]
Brig. Gen. Lance W. Lord [redacted]
Brig. Gen. Ronald C. Marcotte [redacted]
Brig. Gen. Gregory S. Martin [redacted]
Brig. Gen. Michael J. McCarthy [redacted]
Brig. Gen. John F. Miller, Jr [redacted]
Brig. Gen. Charles H. Perez [redacted]
Brig. Gen. Stephen B. Plummer [redacted]
Brig. Gen. David A. Sawyer [redacted]
Brig. Gen. Terryl J. Schwalier [redacted]
Brig. Gen. George T. Stringer [redacted]
Brig. Gen. Gary A. Voellger [redacted]

AIR FORCE

The following-named officers for appointment in the Air National Guard of the U.S. Air Force, to the grade indicated, under the provisions of Title 10, United States Code, Sections 8373, 8374, 12201, and 12212:

To be major general

Brig. Gen. James F. Brown [redacted]
Brig. Gen. James McIntosh [redacted]

To be brigadier general

Col. Gary A. Brewington [redacted]
Col. William L. Fleshman [redacted]
Col. Allen H. Henderson [redacted]
Col. John E. Iffland [redacted]
Col. Dennis J. Kerkman [redacted]
Col. Stephen M. Koper [redacted]
Col. Anthony L. Liguori [redacted]
Col. Kenneth W. Mahon [redacted]
Col. William H. Phillips [redacted]
Col. Jerry H. Risher [redacted]
Col. William J. Shondel [redacted]

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Major Gen. Richard C. Bethurem [redacted]

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Michael E. Ryan [redacted]

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Gen. Richard E. Hawley [redacted]

ARMY

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under Title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Stanhope S. Spears [redacted]

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 1604. A bill to improve the Juvenile Justice and Delinquency Prevention Act requirements regarding separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (by request):

S. 1605. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. KOHL, and Mr. BIDEN):

S. 1606. A bill to control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. REID, and Mr. KYL):

S. 1607. A bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes; to the Committee on the Judiciary.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1608. A bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. BIDEN:

S. 1609. A bill to provide for the rescheduling of flunitrazepan into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Con. Res. 44. Concurrent resolution authorizing the use of the Capitol Grounds for an event sponsored by the Specialty Equipment Market Association; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mr. HELMS):

S. Con. Res. 45. Concurrent resolution authorizing the use of the Capitol Rotunda on May 2, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 1604. A bill to improve the Juvenile Justice and Delinquency Prevention Act requirements regarding separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE JAIL IMPROVEMENT ACT OF 1996

• Mr. KOHL. Mr. President, I introduce the Juvenile Jail Improvement Act of 1996.

We face a growing and frightening tide of juvenile violence. And that tide is threatening to swamp our rural sheriffs. It is increasingly common for rural sheriffs to face a terrible dilemma every time they arrest a juvenile—they either have to release a potentially violent juvenile on the street to await trial or they have to spend invaluable time and manpower chauffeuring the juvenile around their State to an appropriate detention facility. Either way, the current system makes little sense and needs to be changed.

Let me explain how this dilemma works. In most rural communities, the only jail available is built exclusively for adults. There are no special juvenile facilities. But sometimes, the community can create a separate portion of the jail for juveniles. However, under current law, a juvenile picked up for criminal activity can only be held in a separate portion of an adult facility for up to 24 hours. After that, the juvenile must be transported—often across hundreds of miles—to a separate juvenile detention facility, often to be returned to the very same jail 2 or 3 days later for a court date. This system often leaves rural law enforcement crisscrossing the State with a single juvenile—and results in massive expenses for law enforcement with little benefit for juveniles, who spend endless hours in a squad car. Such a process does not serve anyone's interests.

And that is not all that rural sheriffs face. Even qualifying for the 24-hour exception can be a nightmare. That's because juveniles can be kept in adult jails only under a very stringent set of rules. Keeping juveniles in an adult jail is known as collocation. It can only be done if there is strict sight and sound separation between the adults and the juveniles as well as completely separate staff. For many small communities, making these physical and staff changes to their jails is prohibitively expensive.

So sheriffs faced with diverting officers to drive around the State in search of a detention facility may chose to let the juvenile free while awaiting trial. This prospect should frighten anyone who is aware of the growing trend in juvenile violence.

Today, I am introducing legislation that is designed to cure this problem. My legislative solution is simple, straightforward and effective. It extends from 24 to 72 hours the time during which rural law enforcement may collocate juvenile offenders in an adult facility, as long as juveniles remain separated from adults. It also relaxes the requirements for acceptable collocation. After taking a hard look at how the collocation rules have worked—and in what ways they have failed—this legislation comes to a reasonable compromise, and, as a result, it has the support of the Badger Sheriffs Association.

Mr. President, one of our most important goals is assuring that any changes to these rules does not sacrifice the safety and welfare of arrested juveniles. In addition to the growing fear about juvenile violence, we have witnessed a growing anger and frustration at juveniles. That frustration should not lead us to forget the painful lessons we learned many years ago about abusive and dangerous treatment of delinquent children. Twenty years ago, we learned about kids who were thrown in jail where they were victimized and abused by adult prisoners; or where, without proper supervision, they committed suicide; or, where, guarded by people who only had experience with adult prisoners, they were disciplined savagely. When we give in to the temptation to just throw juveniles in jail and teach them a tough lesson, we are often ill rewarded. So even as we loosen these collocation requirements, we must bear in mind that the juvenile justice system still has as its principle goal rehabilitation, not harsh retribution.

My conversations with administrators, sheriffs, and juvenile court judges have led me to conclude that we must bring greater flexibility—and less redtape—to the Juvenile Justice Act. It is my hope that this legislation—which offers greater flexibility while retaining important protections regarding the separation of juveniles from adults—will meet with strong support from the Senate.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juvenile Jail Improvement Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) current Juvenile Justice and Delinquency Prevention Act rules and regulations concerning the separation of adults from juveniles during short periods of detention or confinement have proven unduly burdensome for rural law enforcement;

(2) altering requirements concerning the length of stay permitted in a State-approved portion of a county jail or secure detention facility, while retaining the separation of juveniles from adults, would diminish these burdens without harm to juveniles;

(3) the requirement of completely separate staffing during these short stays also creates large burdens yet yields little benefit for juveniles; and

(4) experience with shared staff indicates that juveniles are not harmed by the use of shared staff, so long as the staff members are appropriately trained and certified, and juveniles do not have regular contact with adults.

SEC. 3. CLARIFICATION OF CONTACT RULES.

Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) is amended—

(1) by striking "1997" and inserting "2001";

(2) by striking "pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays)" and inserting "and permit the detention or confinement of juveniles in a State approved portion of a county jail or secure detention facility for up to 72 hours"; and

(3) by striking "such exceptions are" and all that follows through the end of the paragraph and inserting the following: "such exceptions—

"(A) are limited to areas that are in compliance with paragraph (13) and—

"(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available that is easily accessible;

"(B) permit the same staff members to oversee both juveniles and adults only if such staff members have been properly trained and certified to supervise juveniles; and

"(C) ensure that juveniles have no regular contact with adult persons who are incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;".•

By Mr. MURKOWSKI (by request):

S. 1605. A bill to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

THE ENERGY POLICY AND CONSERVATION ACT AMENDMENTS ACT OF 1996

• Mr. MURKOWSKI. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Secretary of Energy, I send to the desk a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire June 30, 1996.

Although I do not necessarily agree with all of the provisions of this bill, the reauthorization of the programs covered by the legislation, including the strategic petroleum reserve, is an important issue that must be fully considered by the committee and the Senate. Thus, I introduce this draft legislation today and ask unanimous consent that the executive communication and the bill be printed in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act".

SEC. 2. Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and", and

(2) by striking paragraphs (3) and (6).

SEC. 3. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking section 102 (42 U.S.C. 6211),

(b) in section 105 (42 U.S.C. 6213)—

(1) by amending subsection (a) to read as follows—

"(a) The Secretary of the Interior shall prohibit the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in that person, when the Secretary determines prior to any lease sale that this bidding would adversely affect competition or the receipt of fair market value.", and

(2) by striking subsections (c) and (e).

(c) by striking section 106 (42 U.S.C. 6214),

(d) in section 151 (42 U.S.C. 6231)—

(1) in subsection (a) by striking "limited" and "short-term", and

(2) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.",

(e) in section 152 (42 U.S.C. 6232)—

(1) by striking paragraphs (1) and (7), and

(2) in paragraph (11) by striking ", the Early Storage Reserve, and the Regional Petroleum Reserve ", and by adding a period after Industrial Petroleum Reserve.

(f) by striking section 153 (42 U.S.C. 6233),

(g) in section 154 (42 U.S.C. 6234)—

(1) by amending subsection (a) to read as follows:

"(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.".

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.", and

(3) by striking subsections (c), (d), and (e).

(h) by striking section 155 (42 U.S.C. 6235),

(i) in section 156(b) (42 U.S.C. 6236(b)), by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The".

(j) by striking section 157 (42 U.S.C. 6237),

(k) by striking section 158 (42 U.S.C. 6238),

(l) by amending the heading for section 159 (42 U.S.C. 6239) to read, "Development, Operation, and Maintenance of the Reserve",

(m) in section 159 (42 U.S.C. 6239)—

(1) by striking subsections (a), (b), (c), (d), and (e),

(2) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve the Secretary may:

"(1) issue rules, regulations, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies, in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve;

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land, and

"(12) to the extent provided in an Appropriations Act, and not withstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in unused SPR facilities by lease or otherwise petroleum product owned by a foreign government or its representative, petroleum product stored under this paragraph is not part of the Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.".

(3) in subsection (g)—

(A) by striking "implementation" and inserting "development", and

(B) by striking "Plan".

(4) by striking subsections (h) and (i),

(5) by amending subsection (j) to read as follows:

"(j) When the Secretary determines that a 750,000,000 barrel inventory can reasonably be expected to be reached in the Reserve within 5 years, a plan for expansion will be submitted to the Congress.", and

(6) by amending subsection (l) to read as follows:

"(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(n) in section 160 (42 U.S.C. 6240)—

(1) in subsection (a), by striking all before the dash and inserting the following:

"(a) To the extent funds are available under section 167(b) (2) and (3) and for the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire place in storage, transport, or exchange.".

(2) in subsection (b), by striking "including the Early Storage Reserve and the Regional Petroleum Reserve" and paragraph (2), and

(3) by striking subsections (c), (d), (e), and (g).

(o) in section 161 (42 U.S.C. 6241)—

(1) by striking subsections (b) and (c),

(2) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.",

(3) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this Section.", and

(4) in subsection (g)—

(A) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures",

(B) by striking paragraphs (2) and (6), and

(C) in paragraph (4), by striking "90" and inserting "95".

(p) by striking section 164 (42 U.S.C. 6244),

(q) by amending section 165 (42 U.S.C. 6245) to read as follows—

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

"(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum in the Reserve;

"(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including those carried out as part of operational maintenance or extension of life activities;

"(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing such remedial actions;

"(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on such rates and capabilities;

"(5) an identification of purchases of petroleum made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

"(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

"(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

"(8) a summary of expenses for the year, and the number of Federal and contractor employees;

"(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part, and

"(10) any recommendation for supplemental legislation or policy or operational changes the Secretary considers necessary and appropriate to implement this part.".

(r) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "the funds necessary to implement this part.",

(s) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

(A) by inserting "for test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,", and by inserting "for" before "the drawdown",

(B) by striking paragraph (1), and

(C) in paragraph (2), by striking "after fiscal year 1982".

(t) in section 171 (42 U.S.C. 6249)—

(1) by amending subparagraph (b)(2)(B) to read as follows:

"(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum product proposed to be stored, in the Reserve, and an estimate of the proposed benefits.".

(u) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b),

(v) by striking section 173 (42 U.S.C. 6249b), and

(w) in section 181 (42 U.S.C. 6251), by striking "June 30, 1996" each time it appears and inserting "September 30, 2001".

SEC. 4. Title II of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking Part A (42 U.S.C. 6261 through 6264),

(b) by striking "section 252(l)(1)" in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting "section 252(k)(1)",

(c) in section 252(42 U.S.C. 6272)—

(1) in subsections (a)(1) and (b), by striking "allocation and information provisions of the international energy program" and inserting "international emergency response provisions",

(2) in subsection (d)(3), by striking "known" and inserting after "circumstances" "known at the time of approval",

(3) in subsection (e)(2) by striking "shall" and inserting "may",

(4) in subsection (f)(2) by inserting "voluntary agreement or" after "approved",

(5) by amending subsection (h) to read as follows—

"(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

"(1) the international energy program, or

"(2) any allocation, price control, or similar program with respect to petroleum products under this Act.",

(6) in subsection (i) by inserting "annually, or" after "least" and by inserting "during an international energy supply emergency" after "months",

(7) in subsection (k) by amending paragraph (2) to read as follows—

"(2) The term "international emergency response provisions" means—

"(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

"(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on "Stocks and Supply Disruptions") for—

"(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments, and

"(ii) complementary actions taken by governments during an existing or impending international oil supply disruption", and

(8) by amending subsection (l) to read as follows—

"(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.".

(d) by adding at the end of section 256(h). "There are authorized to be appropriated for fiscal years 1996 through 2001, such sums as may be necessary.",

(e) by striking Part C (42 U.S.C. 271 through 272), and

(f) in section 281 (42 U.S.C. 6285), by striking "June 30, 1996" each time it appears and inserting "September 30, 2001".

SEC. 5. (a) Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6325 and 6361–6374) is amended—

(1) in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated $24,650,000 million for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.", and

(2) section 397 (42 U.S.C. 6371f) is amended to read as follows: "For the purpose of carrying out this part, there are authorized $26,849,000 million to be appropriated for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.".

(b) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1996 through 2001, to remain available until expended.".

SEC. 6. Title V of the Energy Policy and Conservation Act (42 U.S.C. 6381–6422) is amended—

(1) by striking section 507 (42 U.S.C. 6385), and

(2) by striking section 522 (42 U.S.C. 6392).

SECTION-BY-SECTION

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraphs (3) and (6) of the Statement of Purposes to reflect the bill's elimination of sections 102 (incentives to develop underground coal mines) and 106 (Production of oil or gas at the maximum efficient rate and temporary emergency production rate).

SECTION 3. AMENDMENTS TO TITLE I OF EPCA

Subsection (a) would strike section 102 of EPCA.

Section 102 of EPCA provides a loan guaranty program to encourage the opening of underground coal mines. Coal supply, however, is abundant, and the loan guarantee program has been inactive since the early 1980s. Because there is no current or foreseeable need for the program authorized by section 102 of EPCA, it is appropriate to delete the section.

Subsection (b) would amend section 105(a) of EPCA by providing that the Secretary of the Interior may allow joint bidding by major oil companies unless the Secretary determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary decides to prohibit joint bidding, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Subsection (c) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (d) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (e) would amend section 152 of EPCA by deleting the definition of "Early Storage Reserve" and "Regional Petroleum Reserve." Requirements for and all references to these parts of the program would be deleted by this bill.

Subsection (f) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (g) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve.

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sales as the drawdown and distribution policy and elimination allocation as a method of distribution.

Subsection (h) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve have been accomplished, and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (i) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Reserve Plan, which are being deleted by other amendments.

Subsection (j) would delete section 157, Regional Petroleum Reserve. Section 157 of the Act requires the establishment of regional petroleum reserve of refined products in Federal Energy Administration regions that are dependent upon imports for more than 20 percent of their consumption. The Department determined to substitute crude oil for products and also determined that the Gulf Coast area is near enough to all areas to provide protection.

Subsection (k) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (l) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (m) would amend section 159 of EPCA.

Paragraph (1) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (g) of this amendment.

Paragraph (2) would amend subsection 159(f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act. In addition, the Secretary is given authority to lease under-utilized Strategic Petroleum Reserve facilities to foreign governments or their representatives. These leases also may exceed the five-year limitation of section 649(b).

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Reserve has 592 million barrels of oil in storage and significant unutilized storage capacity Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C and the reporting provision has expired by its own terms.

Paragrah (5) would amend subsection 159(j) of the EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that the Reserve can reasonably be expected to be filed to 750 million barrels within five years. This reflects the uncertain financing situation for filling available capacity in the Reserve and makes planning for capacity expansion beyond current capacity premature.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution without regard to rulemaking requirements in section 523 of this Act and section 501 of the Department of Energy Organization Act.

Subsection (n) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the references to the Early Storage Reserve and the Regional Petroleum Reserve, which would be eliminated by this bill.

Paragraph (3) would strike subsections 160 (c), (d), (e), and (g) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States' share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrel per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection 160(g) requires a refined petroleum product reserve test in fiscal years 1992-94, and a report to Congress. The test was not conducted due to insufficient appropriations in fiscal year 1992 and fiscal year 1993 and was waived in fiscal year 1994. The required report has been submitted.

Subsection (o) would amend section 161 of EPCA.

Paragraph (1) would strike subsections 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(d)(1) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or a sudden reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute "distribution procedures" for "Distribution Plan".

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subparagraph (4)(C) would amend section 161(g)(4) of EPCA to prevent the Secretary from selling oil during a test sale of the Strategic Petroleum Reserve at a price less than "95 percent" of the sales price of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale rather than "90 percent" currently stipulated in this section. Since 10 percent of current prices upward of $1.50 per barrel, the Department believes a smaller range of difference in price would protect the Department from selling the oil below normal variations in market prices.

Subection (p) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (q) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve, and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports, considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (q) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill and would change some of the requirements for information to be included in the annual report to reflect more accurately the current status of the Reserve.

Subsection (r) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (s) would amend section 167 of EPCA to clarify that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limits the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will not be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (t) would amend section 171 of EPCA to eliminate the reference to a requirement for information identical to that in section 154(e) of EPCA. Section 154(e) describes information that is included in the Strategic Petroleum Reserve Plan, which is deleted in this legislation. Instead, when the Secretary notifies the Congress that the Department intends to contract for storage of petroleum under part C, the notification will include a requirement for information more pertinent to the contract.

Subsection (u) would amend section 172 of EPCA.

Paragraph (1) would delete subsections (a) and (b). The exemption in subsection (a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for Plan amendments. Subsection (b) provides that, for purposes of meeting the fill rate requirement in section 160 (d)(1) of EPCA part C contract oil which is removed from the Reserve at the end of the contract agreement shall be considered part of the Reserve until the beginning of the fiscal year following the fiscal year in which the oil is removed. This subsection is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (v) would delete section 173 of EPCA which requires congressional review and therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day "lie before" period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by "leasing" and other alternative financing methods authorized by EPCA, part C.

Subsection (w) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1985.

Subsection (b) would amend section 251(e)(1) by striking section "252(l)(1)" and inserting in lieu thereof "252(k)(1)."

Subsection (c) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the "allocation and information provisions" of the Agreement on an International Energy Program ("IEP"). These limited defenses are now available only in connection with the companies' participation in planning for and implementation of the IEP's emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency ("IEA") in planning for and implementing coordinated drawdown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA's Governing Board adopted a decision on "Stocks and Supply Disruptions" which established a framework for coordinating the drawdown of member countries' government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph 1 would amend subsections 252(a) and (b) of EPCA. These sections would be amended by substituting the term "international emergency response provisions" for the term "allocation and information provisions of the international energy program." The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph 2 would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable "in light of circumstances known at the time of approval" rather than "in light of known circumstances."

Paragraph 3 would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph 4 would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph 5 would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102–558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph 6 would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to Congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an "international energy supply emergency," when the reports would be required every six months.

Paragraph 7 would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term "international emergency response provisions" for the present definition of "allocation and information provisions of the international energy program." The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph 8 would amend subsection 252(l) of EPCA to make clear that the antitrust defense does not extend to international allocation of petroleum unless the IEA's Emergency Sharing System has been activated.

Subsection (d) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 2001 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (e) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (f) would amend section 281 of EPCA by extending the expiration date of title II from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 5. AMENDMENTS TO TITLE III OF EPCA

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals. The amendment would authorize appropriations of $24.651 million for section 365 and $26.849 million for section 397 for fiscal year 1996 and such funds as may be necessary for fiscal years 1997 through 2001.

Subsection (b) would amend section 400BB to extend the authorization for the appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2001.

SECTION 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.

SECRETARY OF ENERGY,
Washington, DC, October 10, 1995.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal cited as the "Energy Policy and Conservation Act Amendments Act of 1995." This proposal would amend and extend certain authorities in the Energy Policy and Conservation Act (Act) which either have expired or will expire June 30, 1996. Not all sections of the current act are proposed for extension.

The Act was passed in 1975. Title I authorizes the creation and maintenance of the Strategic Petroleum Reserve that would mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency. This is our method of coordinating energy emergency response programs with other countries. The current antitrust defense available to American companies participating in the International Energy Agency would be clarified by the proposed legislation. Titles I and II are proposed for extension beyond their June 30, 1996 expiration date.

Title III contains authorities for certain energy efficiency and conservation programs. The authorization of appropriations has expired for these programs. These successful and very cost beneficial programs, designed to encourage and subsidize demand reducing investment and manufacturing, are proposed for extension without amendment.

Title V contains residual provisions from the Federal Energy Administration pertaining to energy data bases and information, and general and administrative matters. Those provisions which hinder the flexibility of the Administrator of the Energy Information Administration to collect currently meaningful information are proposed for deletion.

The proposed legislation would extend the Strategic Petroleum Reserve, participation in the International Energy Program, and conservation and efficiency authorities to September 30, 2001. It would revise or delete certain provisions which are outdated or unnecessary.

The proposed legislation and a sectional analysis are enclosed.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President. We look forward to working with the Congress toward enactment of this legislation.

Sincerely,

HAZEL R. O'LEARY.

Enclosures.

SECTION-BY-SECTION

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraphs (3) and (6) of the Statement of Purposes to reflect the bill's elimination of sections 102 (incentives to develop underground coal mines) and 106 (Production of oil or gas at the maximum efficient rate and temporary emergency production rate).

SECTION 3. AMENDMENTS TO TITLE I OF EPCA

Section (a) would strike section 102 of EPCA.

Section 102 of EPCA provides a loan guaranty program to encourage the opening of underground coal mines. Coal supply, however, is abundant, and the loan guarantee program has been inactive since the early 1980s. Because there is no current or foreseeable need for the program authorized by section 102 of EPCA, it is appropriate to delete the section.

Section (b) would amend section 105(a) of EPCA by providing that the Secretary of the Interior may allow joint bidding by major oil companies unless the Secretary determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary decides to prohibit joint bidding, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Section (c) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (d) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (e) would amend section 152 of EPCA by deleting the definition of "Early Storage Reserve" and "Regional Petroleum Reserve." Requirements for and all references to these parts of the program would be deleted by this bill.

Subsection (f) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (g) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve.

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sale as the drawdown and distribution policy and eliminate allocation as a method of distribution.

Subsection (h) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve have been accomplished, and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (i) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Reserve Plan, which are being deleted by other amendments.

Subsection (j) would delete section 157, Regional Petroleum Reserve. Section 157 of the Act requires the establishment of regional petroelum reserve of refined products in Federal Energy Administration regions that are dependent upon imports for more than 20 percent of their consumption. The Department determined to substitute crude oil for products and also determined that the Gulf Coast area is near enough to all areas to provide protection.

Subsection (k) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (l) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (m) would amend section 159 of EPCA.

Paragraph (1) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (g) of this amendment.

Paragraph (2) would amend subsection 159 (f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act. In addition, the Secretary is given authority to lease under-utilized Strategic Petroleum Reserve facilities to foreign governments or their representatives. These leases also may exceed the five-year limitation of section 649(b).

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Reserve has 592 million barrels of oil in storage and significant unutilized storage capacity. Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C, and the reporting provision has expired by its own terms.

Paragraph (5) would amend subsection 159(j) of EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that the Reserve can reasonably be expected to be filled to 750 million barrels within five years. This reflects the uncertain financing situation for filling available capacity in the Reserve and makes planning for capacity expansion beyond current capacity premature.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution without regard to rulemaking requirements in section 523 of this Act and section 501 of the Department of Energy Organization Act.

Subsection (n) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the references to the Early Storage Reserve and the Regional Petroleum Reserve, which would be eliminated by this bill.

Paragraph (3) would strike subsections 160(c), (d), (e), and (g) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States' share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrels per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection 160(g) requires a refined petroleum product reserve test in fiscal years 1992-94, and a report to Congress. The test was not conducted due to insufficient appropriations in fiscal year 1992 and fiscal year 1993 and was waived in fiscal year 1994. The required report has been submitted.

Subsection (o) would amend section 161 of EPCA.

Paragraph (1) would strike subsections 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(d)(1) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or a sudden reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute "distribution procedures" for "Distribution Plan."

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subparagraph (4)(C) would amend section 161(g)(4) of EPCA to prevent the Secretary from selling oil during a test sale of the Strategic Petroleum Reserve at a price less than "95 percent" of the sales price of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale rather than "90 percent" currently stipuled in this section. Since 10 percent of current prices ranges upward of $1.50 per barrel, the Department believes a smaller range of difference in price would protect the Department from selling the oil below normal variations in market prices.

Subsection (p) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No. 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (q) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (q) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill and would change some of the requirements for information to be included in the annual report to reflect more accurately the current status of the Reserve.

Subsection (r) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (s) would amend section 167 of EPCA to clarify that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limits the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will not be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (t) would amend section 171 of EPCA to eliminate the reference to a requirement for information identical to that in section 154(e) of EPCA. Section 154(e) describes information that is included in the Strategic Petroleum Reserve Plan, which is deleted in this legislation. Instead, when the Secretary notifies the Congress that the Department intends to contract for storage of petroleum under part C, the notification will include a requirement for information more pertinent to the contract.

Subsection (u) would amend section 172 of EPCA.

Paragraph (1) would delete subsections (a) and (b). The exemption in subsection (a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for Plan amendments. Subsection (b) provides that, for purposes of meeting the fill rate requirement in section 160(d)(1) of EPCA, part C contract oil which is removed from the Reserve at the end of the contract agreement shall be considered part of the Reserve until the beginning of the fiscal year following the fiscal year in which the oil is removed. The subsection is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (v) would delete section 173 of EPCA which requires congressional review and, therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day "lie before" period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by "leasing" and other alternative financing methods authorized by EPCA, part C.

Subsection (w) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from June 30, 1996 to September 30, 2001.

Public Law 103-406 extended the expiration date to June 30, 1996.

SECTION 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1985.

Subsection (b) would amend section 251(e)(1) by striking section "252(l)(1)" and inserting in lieu thereof "252(k)(1)."

Section (c) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the "allocation and information provisions" of the Agreement on an International Energy Program ("IEP"). These limited defenses are now available only in connection with the companies' participation in planning for and implementation of the IEP's emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency ("IEA") in planning for and implementing coordinated drawndown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA's Governing Board adopted a decision on "Stocks and Supply Disruptions" which established a framework for coordinating the drawdown of member countries' government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990-91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph 1 would amend subsections 252 (a) and (b) of EPCA. These sections would be amended by substituting the term "international emergency response provisions" for the term "allocation and information provisions of the international energy program." The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph 2 would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable "in light of circumstances known at the time of approval" rather than "in light of known circumstances."

Paragraph 3 would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph 4 would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph 5 would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102-558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph 6 would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to Congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an "international energy supply emergency," when the reports would be required every 6 months.

Paragraph 7 would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term "international emergency response provisions" for the present definition of "allocation and information provisions of the international energy program." The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph 8 would amend subsection 252(l) of EPCA to make clear that the antitrust defense does not extend to international allocation of petroleum unless the IEA's Emergency Sharing System has been activated.

Subsection (d) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 2001 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (e) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (f) would amend section 281 of EPCA by extending the expiration date of title II from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date of June 30, 1996.

SECTION 5. AMENDMENTS TO TITLE III OF EPCA

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals. The amendment would authorize appropriations of $24.651 million for section 365 and $26.849 million for section 397 for fiscal year 1996 and such funds as may be necessary for fiscal years 1997 through 2001.

Subsection (b) would amend section 400BB to extend the authorization for the appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2001.

SECTION 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.•

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. KOHL, and Mr. BIDEN):

S. 1606. A bill to control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes; to the Committee on the Judiciary.

THE BIOLOGICAL AGENTS ENHANCED PENALTIES AND CONTROL ACT

Mr. HATCH. Mr. President, I rise to introduce a bill that has a simple but important purpose: To decrease the opportunity for terrorists to use biological weapons.

S. 1606 is cosponsored by Senators FEINSTEIN, THURMOND, DEWINE, KOHL, and BIDEN. I welcome this broad bipartisan support to respond quickly to this threat to the safety of Americans.

It may surprise the American people to know that very dangerous, indeed deadly, organisms that cause diseases and death in human beings are available for purchase across State lines—not only by legitimate users, but by those who may use them with criminal intent. These organisms include the agents that cause the bubonic plague, anthrax, and other diseases.

Perversely, the Federal Government has stricter regulations on the interstate transportation of biological agents causing disease in plants and animals than it has for the interstate transportation of agents that cause disease in humans.

I favor regulatory reform and a reduction in the Government's overall regulatory burden on the American people. But that is not to say that the Federal Government has no legitimate regulatory role to play. The interstate transport of dangerous biological agents should be regulated.

A recent Washington Post story reported that, in May 1995, an individual in Ohio faxed an order for three vials of the agent that causes the bubonic plague, a disease that killed one-third of the people of 14th century Europe, from the American Type Culture Collection [ATCC] in Maryland. The purchaser's letterhead appeared to be that of a laboratory.

When the purchaser called ATCC to complain about slow delivery, the sales representative became concerned about whether the caller was someone who should have the plague agent. Ohio police, public officials, the FBI, and emergency workers ultimately scoured the purchaser's home.

In the home they found nearly a dozen M–1 rifles, smoke grenades, blasting caps, and white separatist literature. The deadly micro-organisms were found in the glove compartment of the purchaser's automobile, still packed as shipped.

The purchaser was prosecuted under wire and mail fraud statutes. But these charges would not have been possible if the purchaser had not sent a false statement on the letterhead of a nonexistent laboratory stating that the laboratory assumed responsibility for the shipment, as the seller had required.

Unfortunately, both current laws and regulations are deficient in protecting Americans from the threat of the diversion of potentially dangerous biological agents. Gaps exist in current regulations that allow anyone to possess deadly biological agents, also referred to as human pathogens, and gaps exist in our criminal laws that make prosecution of people who attempt to obtain these agents for illegitimate purposes very difficult.

I would like to take a moment to discuss these problems with you.

Biological agents that cause disease in humans are available to several legitimate groups of users. First, small quantities of biological agents can be found in patient samples that are analyzed by clinical laboratories. Second, biological agents are used in the conduct of legitimate basic and clinical science research by scientists across the country, both within and outside of Government. Third, the Department of Defense has facilities to investigate biological agents, not as weapons, but to develop protective strategies in the event of military use of these agents during war. Currently, however, anyone else can also obtain these agents under Federal law. The only limits on who may purchase deadly biological agents are those imposed by the sellers themselves.

There are many regulations in place with regard to the management of biological agents. These regulations come from many different governmental sources, including the CDC, the Postal Service, U.S. Department of Agriculture, Department of Commerce, Food and Drug Administration, and the Department of Transportation, among others. Unfortunately, the regulations were developed by these agencies with little or no apparent integration with other agencies, and with narrow purposes in mind. They were also developed in an era when domestic terrorism was not thought of as a real risk.

In addition to the lack of coordination of efforts in the regulation of biological agents, existing regulations have not kept up with advancing science. For instance, biological agents are currently classified by CDC into four classes, based on several criteria. This ranges from class 1 organisms, which are considered to be nonharmful to humans under ordinary circumstances, to class 4 organisms, which are considered to be highly harmful to humans. In the manual "Biosafety in Microbiological and Biomedical Laboratories,"—hereafter Biosafety manual—CDC defines how legitimate laboratories should manage agents in these various classes.

Again, these biohazard levels are designed for the protection of laboratory personnel and to prevent the accidental release of these agents into the environment. They do not take into account potential theft of these agents, or attempt to prevent misdirection of these agents to terrorists. In addition, the biosafety manual that establishes biohazard levels was last revised in 1993. It has not kept up with classification changes, or with the new strains of organisms that are constantly being described by microbiologists.

Another example of how current regulation has not kept up with advancing scientific knowledge is the definition of what a biological agent actually is. The Centers for Disease Control and Prevention [CDC] defines a biological agent—human pathogen—as "a viable micro-organism or its toxin which causes, or may cause, human disease" [42 CFR 72]. This definition includes algae, bacteria, protozoa, fungi, and viruses.

Unfortunately, threats now exist that we did not even know about when this definition was written. For instance, we now are experiencing a rapid growth in the field of gene technology. This technology now gives scientists the ability to deliberately or accidentally insert genes into micro-organisms that could broaden their host range, alter their route of disease transmission to humans, make them more toxic, or make them more difficult to treat.

CDC has wide authority to regulate biological agents that pose a threat to human health, and could establish rules limiting who may possess these agents. Current regulations do not protect communities from intentional diversion of biological agents or the potential for these agents to be turned into weapons of mass destruction.

This fact was recognized by CDC testimony before the Senate Judiciary committee last week. Dr. James M. Hughes, the Assistant Surgeon General and Director of the National Center for Infectious Diseases for the CDC testified:

> The current safeguards governing the acquisition and distribution, in the United States, of infectious and/or toxic agents are not comprehensive. There is no single set of consistent regulations but rather a number of different departmental regulations that address the shipping and handling of infectious agents. Taken together, these are effective at controlling the packaging, labeling, and transport of infectious materials, but they are not completely effective at controlling the possession and transfer of human infectious agents within the United States.

Unfortunately, efforts by CDC and others have been slow. To date, there have been at least two multiagency task forces established to look at this issue. The first task force completed its work and made recommendations in July 1995. The second task force is well underway in the development of a regulatory system, but there does not appear to be a sufficient sense of urgency to get the job done.

According to CDC's March 6 testimony before the Judiciary Committee, CDC does not plan to release proposed regulations for at least another 6 months. That means that it might be another year before final rules regulating who may possess dangerous biological agents are in place and enforceable.

Why is that a problem? Current criminal law has gaps that prevent the prosecution of someone who obtains biological agents under false pretenses, or who possesses these agents with the intent to harm others. Under current Federal law, it is legal for anyone to possess biological agents—we must wait until they actually use it as a weapon before there is anything we can do about it.

These gaps in current criminal law were discussed in detail during the hearings before the Judiciary Committee. Mr. Mark M. Richard, the Deputy Assistant Attorney General, testified on behalf of the Department of Justice. Mr. Richard stated that the multiagency task force looking into this issue determined "that there were no comprehensive Federal regulations governing the control of these dangerous organisms."

My colleagues and I believe that current regulation and law have left us vulnerable to the potential use of biological agents as a terrorist weapon. We have not kept pace with science and technology, nor have we recognized that we live in a more dangerous world than we once did. We further believe that action must be taken sooner, rather than later, to avoid a potential disaster.

This bill strikes a balance between protecting citizens from the threat that biological agents will be used as a weapon of domestic terrorism and placing over-burdensome demands on legitimate users of biological agents.

The first title of our bill is directed at placing appropriate criminal provisions in place as requested by the Justice Department. Our provisions ensure that persons who develop or use biological organisms as a weapon will face severe and certain punishment.

Our bill does this by amending sections 175 to 178 of Title 18, which relate to prohibitions with respect to biological weapons. As it currently is written, this provision makes it criminal to knowingly develop, produce, transfer, acquire, or possess any biological agent, toxin, or delivery system for use as a weapon. It also prohibits knowingly assisting a foreign state or organization to do so. My bill will strengthen this provision to include an attempt, threat, and conspiracy prohibition within its scope. In addition, I broaden the definitions of biological agent, toxin, and vector in section 178 to cover biological products that can be engineered as a result of advances made in the field of biotechnology.

The second statute in Title 18 that we amend is section 2332a. That provision currently makes it a criminal offense to use a weapon of mass destruction. Under current law, a "weapon of mass destruction" is defined to include "any weapon involving a disease organism." 18 U.S.C. §2332a(b)(2)(C). This bill will expand that definition to include in its coverage the biological agents and toxins, as defined in section 178, including bioengineered products, that can be used as a weapon of mass destruction. In addition, we add a threat provision to this statute.

The second title of our bill requires the Secretary of Health and Human Services to establish interim regulations within 90 days and to issue proposed rules within 180 days that regulate the transfer within the United States of biological agents which have the potential to pose a severe threat to the public health and safety.

I believe that the time limits required in our bill are reasonable and prudent, and allow the Secretary of Health and Human Services adequate time to develop appropriate regulations in this area. In fact, Dr. James Hughes testified last week that this process is well underway.

The Judiciary Committee has been very concerned about the immediate potential for diversion of dangerous biological agents under the current law and regulation. In fact, at our hearing last week, we were disturbed to learn from agency representatives that no measures are in place to guard against reoccurrence of a situation like the Ohio case.

For this reason, on March 6, Senators FEINSTEIN, SPECTER, KOHL, and I sent a letter to the President urging that he:

> * * * direct the Centers for Disease Control and Prevention to implement on a priority basis emergency procedures which will protect the American people against the threat of dangerous, diverted pathogenic materials.

In addition, our new legislation includes a requirement for the establishment of interim rules while the long-term rules are developed.

In closing, Mr. President, I believe that the threat for the intentional diversion of biological agents is real, and that these agents pose a threat for use as a weapon of domestic terrorism.

We are submitting a comprehensive bill that fixes the gaps in criminal code and requires the rapid development and implementation of a regulatory program that will limit the people who may possess these materials to those who have a legitimate need to possess them. Obviously, time is of the essence, and I hope that the Senate will act as quickly as possible on the Biological Agents Enforcement Enhancement and Control Act.

I ask unanimous consent that the text of S. 1606 be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1606

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biological Agents Enhanced Penalties and Control Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

SEC. 3. CRIMINAL ENFORCEMENT.

(a) BIOLOGICAL WEAPONS.—Chapter 10 of title 18, United States Code is amended—

(1) in section 175(a), by inserting "or attempts, threatens, or conspires to do the same," after "to do so,";

(2) in section 177(a)(2), by inserting "threat," after "attempt,"; and

(3) in section 178—

(A) in paragraph (1), by striking "or infectious substance" and inserting "infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product";

(B) in paragraph (2)—

(i) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule" after "means";

(ii) by striking "production—" and inserting "production, including—";

(iii) in subparagraph (A), by inserting "or biological product that may be engineered as a result of biotechnology" after "substance"; and

(iv) in subparagraph (B), by inserting "or biological product" after "isomer"; and

(C) in paragraph (4), by inserting "; or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology," after "organism".

(b) TERRORISM.—Section 2332a(a) of title 18, United States Code, is amended—

(1) by inserting ", threatens," after "attempts"; and

(2) by inserting ", including any biological agent, toxin, or vector (as those terms are defined in section 178)" after "destruction".

SEC. 4. REGULATORY CONTROL OF BIOLOGICAL AGENTS.

(a) LIST OF BIOLOGICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (c), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(2) CRITERIA.—In determining whether to include an agent on the list under paragraph (1), the Secretary shall—

(A) consider—

(i) the effect on human health of exposure to the agent;

(ii) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(iii) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(iv) any other criteria the Secretary considers appropriate; and

(B) consult with scientific experts representing appropriate professional groups.

(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (c), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant subsection (a), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(c) TIMES LIMITS.—The Secretary shall carry out subsections (a) and (b) by issuing—

(1) interim rules not later than 90 days after the date of the enactment of this Act;

(2) proposed rules not later than 180 days after the date of the enactment of this Act; and

(3) final rules not later than 360 days after the date of the enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "biological agent" has the same meaning as in section 178 of title 18, United States Code; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. REID and Mr. KYL):

S. 1607. A bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes; to the Committee on the Judiciary.

METHAMPHETAMINE CONTROL ACT OF 1996

Mrs. FEINSTEIN. Mr. President, I rise today to introduce, along with Senators GRASSLEY, REID, and KYL, the Methamphetamine Control Act of 1996. This is legislation that, first, increases the regulation of precursor chemicals necessary to produce methamphetamine, a dangerous narcotic also known as speed, crank, or ice.

Second, it increases the penalties for possession of controlled chemicals or paraphernalia used to make methamphetamine.

This legislation has been drafted over the past 6 months with the input of the Drug Enforcement Agency, the California Attorney General's Bureau of Narcotics Enforcement, the California Narcotics Officers Association, and local, State, and Federal law enforcement and prosecutors. I have a particular interest in this issue because of the ravaging effects that methamphetamine has had in my own State and other States in the Southwest.

Let me, for just a moment, explain how serious this problem is today. Methamphetamine has been around for a long time. But what once was a small-scale drug operation run by motorcycle gangs has now been taken over by at least one Mexican drug cartel. According to DEA, it is a multibillion-dollar industry in America.

California has become the front line in this new and dangerous drug war. DEA has designated California as the "source country," a source country for methamphetamine, much like Colombia is the source country for cocaine. It has identified that 93 percent of the methamphetamine seized nationwide has its point of origin in California.

The explosion of this drug is being documented in hospital emergency rooms around California, and the epidemic is spreading eastward. In Sacramento just 4 weeks ago, law enforcement made the largest seizure in county history—80 pounds; street value, $2.5 million.

Large-scale labs are now commonplace. Last year in the Central Valley, law enforcement convicted a man who manufactured in excess of 900 pounds with a street value of $5 million. Literally hundreds of illicit laboratories exist throughout the State. In two counties alone, Riverside and San Bernardino, there were 589 methamphetamine labs discovered in 1995.

Labs can be in apartments, in mobile homes, in moving vehicles, and in hotel rooms. They can be dismantled in a matter of hours. They are explosive, toxic, and they burn. Law enforcement has indicated that drug dealers come in, set up, produce their drugs in hotels, and leave.

The California Environmental Protection Agency expects that 1,150 sites will require cleanup by the end of this year in California. Most of the chemicals—iodine, refrigerants, hydrochloric gas, sodium hydroxide—are toxic and, in the case of red phosphorous, one of the precursor chemicals, highly flammable and explosive.

Two months ago, a mobile home in Riverside used as a methamphetamine lab exploded, killing three small children. Incredibly enough, the mother of these children pleaded with neighbors that they not call for help. Before firefighters could find the children's burnt bodies, the woman walked away from the scene.

Police in Phoenix say methamphetamine is mainly responsible for the 40-percent jump in homicides the city is experiencing.

In Contra-Costa County, law enforcement reports that methamphetamine is involved in 89 percent of domestic disputes.

Last year in San Diego, rival methamphetamine smuggling rings were responsible for 26 homicides.

In 1994, among all adults arrested in the San Diego area, 42 percent of men and 53 percent of women tested positive for amphetamines. Sutter Memorial Hospital in Sacramento says that methamphetamine-affected babies now outnumber crack-addicted babies 7-1.

The Methamphetamine Control Act which we are introducing today is carefully crafted. It is a targeted piece of legislation. It is drafted with the help of Federal, State, and local law enforcement, and it is aimed at the supply side of the problem.

This bill would increase criminal penalties that can be applied to large-scale methamphetamine manufacturers throughout our Nation. It restricts access to the precursor chemicals used in mass quantities to produce methamphetamine.

It would increase the penalties for possession of controlled chemicals or specialized equipment like the triple-neck flasks used to make methamphetamine.

It would add chemicals used to make methamphetamine—iodine, red phosphorous, and hydrochloric gas—to the Chemical Diversion and Trafficking Act.

It imposes a civil "three strikes and you're out" law, for companies that are found to be selling chemicals used to make methamphetamine.

There are in our State about seven rogue chemical companies. Anyone with $100 and a mail order catalog can put themselves into business in manufacturing methamphetamine. They can buy large-scale quantities of those chemicals that go into making methamphetamine.

This bill would double the maximum criminal penalty for possession of a chemical identified under the Chemical Diversion and Trafficking Act in methamphetamine production and would increase the maximum criminal penalty from 4 to 10 years for those who possess the specialized equipment used to manufacture methamphetamine.

It would remove the loophole on pseudoephedrine in the Controlled Substances Act. Pseudoephedrine, a common ingredient in many over-the-counter medicines, is now used as a substitute for ephedrine to make methamphetamine.

I have met with retailers and manufacturers of over-the-counter medicines and I understand the concerns about regulations which the DEA has proposed to control the illicit diversion of pseudoephedrine to make methamphetamine. I intend to work with these groups over the coming weeks to ensure that the 37 million Americans who rely on these products continue to have access to them.

We are creating an informal advisory group comprised of executives of chemical manufacturers and supply house companies, DEA officials, and other law enforcement agencies to devise strategies to see that this law is responsibly and sensibly enforced.

This bill includes a sense-of-the-Congress resolution supporting efforts for global chemical control.

The point is that many chemicals used to make methamphetamine, such as ephedrine, are tightly controlled in the United States but are literally smuggled into the United States through countries with little or no control, like Mexico. This legislation would express the sense of the Congress that ephedrine-producing countries should require approval from the Mexican Government for shipments of ephedrine and pseudoephedrine to Mexico, where they then come into this country.

I am very pleased, Mr. President, that this is a bipartisan effort. I am delighted to have the cosponsorship of Senators GRASSLEY and KYL. I note that this bill is also being introduced in the House today by Congressman RIGGS and Congressman VIC FAZIO.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Methamphetamine Control Act of 1996".

SEC. 2. REGULATION OF CHEMICAL SUPPLY HOUSES.

Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end the following new subsection:

"(d)(1) Any chemical supply house that sells a listed chemical, after having been provided a warning under paragraph (2) within the previous 10 years, to a person who uses, or intends or attempts to use, the listed chemical, or causes the listed chemical to be used or attempted to be used, to manufacture or produce methamphetamine shall—

"(A) be subject to a civil penalty of not more than $250,000; or

"(B) for the second violation of this subsection, be ordered to cease the production and sale of any chemicals.

"(2) The Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall provide a written warning to each chemical supply house that violates paragraph (1).

"(3) For purposes of this subsection, the term 'chemical supply house' means any manufacturer, wholesaler, or retailer, who owns, or who represents the owner of, any operation or business enterprise engaging in regulated transactions.

"(4) All amounts received from enforcement of the civil penalty under paragraph (1) shall be used by the Administrator of the Environmental Protection Agency for the environmental cleanup of clandestine laboratories used, or intended or attempted to be used, to manufacture methamphetamine.".

SEC. 3. INCREASED PENALTIES FOR POSSESSION AND DISTRIBUTION OF LISTED CHEMICALS.

(a) IN GENERAL.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking "10 years" and inserting "20 years in a case involving a list I chemical or 10 years in a case involving a list II chemical".

(b) AMENDMENT OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall amend the Federal Sentencing Guidelines to reflect the amendment made by subsection (a).

SEC. 4. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE METHAMPHETAMINE.

Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking "(d) Any person" and inserting "(d)(1) Except as provided in paragraph (2), any person"; and

(2) by adding at the end the following new paragraph:

"(2) Any person who, with the intent to manufacture methamphetamine, violates subsection (a) (6) or (7), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both.".

SEC. 5. REGULATION OF PSEUDOEPHEDRINE.

Section 102(39)(A)(iv) of the Controlled Substances Act (21 U.S.C. 802(3(9)(A)(iv)) is amended by striking "ephedrine" each place it appears and inserting "ephedrine or pseudoephedrine,".

SEC. 6. ADDITION OF SUBSTANCES TO DEFINITION OF LISTED CHEMICALS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by adding at the end the following new subparagraph:

"(Y) Iodine."; and

(2) in paragraph (35), by adding at the end the following new subparagraphs:

"(I) Red phosphorous.

"(J) Hydrochloric gas.".

SEC. 7. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

It is the sense of the Congress that—

(1) the rise in manufacture and usage of the illegal narcotic methamphetamine is of major concern to the United States;

(2) a substantial portion of the ephedrine used to make methamphetamine is smuggled across the United States-Mexico border;

(3) the countries of China, India, the Czech Republic, Germany, and Slovenia are the largest manufacturers of ephedrine and pseudoephedrine;

(4) one means of preventing the international diversion of ephedrine and pseudoephedrine is the letter of nonobjection, which requires that the government of a country receiving a shipment of the chemical is aware of and approves the shipment, the quantity involved, the company receiving the shipment, and the ultimate use of the chemical;

(5) therefore, all ephedrine and pseudoephedrine producing countries should require letters of nonobjection from the Mexican government before exporting ephedrine or pseudoephedrine to that country; and

(6) all ephedrine and pseudoephedrine producing countries and Mexico should cooperate in any way possible to deter the smuggling of ephedrine and pseudoephedrine into the United States.

Mr. GRASSLEY. Mr. President, today I am pleased to introduce the Methamphetamine Control Act of 1996 with my colleague Senator FEINSTEIN. This bipartisan bill takes aim at a rapidly growing problem in America—the abuse of methamphetamine, known on the street as meth or crank.

I am from Iowa—a rural State which most people do not associate with rampant crime or drug use. But in Iowa today, meth use has increased dramatically. According to a report prepared by the Governor's alliance on substance abuse, seizures of methamphetamine in Des Moines increased an astounding 4,000 percent from 1993 to 1994. I repeat: meth seizures in Des Moines increased by 4,000 percent. The increase statewide was 400 percent. These numbers are scary, Mr. President. According to the Iowa Department of Public Health, 7.3 percent of Iowans seeking help from substance abuse treatment centers in 1995 cited meth as their primary addiction. That's up over 5 percent from 1994, when only 2.2 percent cited meth as their primary addiction.

Why has meth become such a problem? I do not think anyone knows definitively, but experts have been able to identify some of the reasons. Meth is cheap; a meth high lasts for a very, very long time, so you get more for your money; and perhaps most disturbingly, meth does not have the stigma associated with cocaine and crack. Kids know that crack is dangerous. But they have not yet learned that meth is.

In Waterloo, IA, though, people are beginning to learn this sad and painful lesson. According to the New York Times, a 17-year-old Iowan who had been a good boy, descended into meth addiction. His behavior changed for the worse. Last October, this young man checked himself into the hospital because he believed that he had the flu. He died only days later because meth had so destroyed his immune system that he developed a form of meningitis. I will never forget the words of this boy's mother: "He made some wrong decisions and this drug sucked him away." I ask unanimous consent that this New York Times article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 22, 1996]

GOOD PEOPLE GO BAD IN IOWA, AND A DRUG IS BEING BLAMED

(By Dirk Johnson)

NEWTON, IA. Feb. 16.—In this small town surrounded by corn fields, nothing but Sunday morning church bells ever made much noise, and the jail sat three-quarters empty most of the time.

And then about a year or so ago, things started to go haywire.

Crime began to soar, coupled with an outbreak of irrational behavior; a man with a spotless record pulled a string of burglaries; some parents suddenly became so neglectful that their children were taken away; a man fled his workplace to get a gun, terrified that helicopters were coming after him; motorists in routine traffic stops greeted the police with psychotic tirades.

Prosecutors linked all of these cases and many more in this town of 15,000 people to the influx of the drug methamphetamine, and its frequent side-effects of paranoia and violent behavior.

A problem for several years in California and other Southwestern states, the drug is now making its way across America, ruining lives and families along the way and raising the concern of policy makers in Washington.

"Meth seems to have taken control of these people," said Steve Johnson, the prosecutor here in Jasper County, where the 24-bed jail is now overflowing, and 90 percent of the inmates have a problem with the drug. "It's scary stuff. We're pretty frustrated and don't know exactly what to do to get it under control."

The drug, also known as crank or ice, is a stimulant that is swallowed, snorted or injected. It is much cheaper than cocaine, and its high lasts longer, the authorities say. Users may stay awake for several days at a stretch, feeling euphoric and full of energy before finally plunging into terrible depression and paranoia.

"This is the most malignant, addictive drug known to mankind," said Dr. Michael Abrams of Broadlawn Medical Center in Des Moines, where more patients were admitted during the past year for abuse of methamphetamine than for alcoholism. "It is often used by blue-collar workers, who feel under pressure to perform at a fast pace for long periods. And at first, it works. It turns you into wonder person. You can do everything—for a while."

Crack, wicked as it is, cannot compare to the destructive power of methamphetamine, Dr. Abrams said. He said the drug, because of its molecular structure, is more stimulating to the brain than any other drug.

The effects of cocaine, whether snorted or smoked, might be gone from the brain in 5 or 10 minutes, Dr. Abrams said, while methamphetamine continues to work on receptors in the brain for 8 to 24 hours.

The price of the drug here might be $100 a gram, about the same as that for powdered cocaine, but would last a user for a week while the cocaine would probably be used in a day.

Cocaine, which comes from the coca plant, is a natural substance. Methamphetamine is purely synthetic. "The body has enzymes that break down cocaine," he said, "but not with methamphetamine."

Methamphetamine causes psychotic and violent reactions, he said, because the drug throws out of control the production of the brain chemical dopamine, which plays an important part in movement, thought and emotion, as is the case with schizophrenia. Over time, the drug damages the brain.

"A person addicted to this stuff looks and acts exactly like a paranoid schizophrenic," he said. "You cannot tell any difference."

He said that a crack addict could reach the same point of psychotic behavior but that it would take "much longer and much more of the drug."

The drug, combined with the effects of sleep deprivation, can cause people to go mad, with ghastly consequences. In a case last July, a man in New Mexico, who was high on methamphetamine and alcohol, beheaded his 14-year-old son and tossed the severed head from his van window onto a busy highway.

The drug has already exacted a big death toll in Western states. In California, it was blamed for more than 400 deaths from overdose and suicide in 1994, the latest year with complete records on the drug. In Phoenix, it killed 122 people in 1994, the authorities said.

Here in Iowa, the ravages of the drug have reached what law-enforcement and health officials call an epidemic level. The police in Des Moines seized $4.5 million worth of methamphetamine in the last year alone.

And for the first time in Polk County, which includes Des Moines, arrests for drugs now surpass the number of arrests for drunken driving. Methamphetamine accounts for 65 percent of the drug arrests.

The drug is often manufactured in makeshift laboratories in rural areas, where the stench given off during its production is more likely to go undetected, and where law-enforcement agencies are more thinly spread.

Drug agents found seven such laboratories in Iowa last year. In the first six weeks of this year, they found five more. One of them, in a house trailer near the small town of Centerville, exploded and burned a man over 40 percent of his body.

The drug is also making its way into schools throughout Iowa, with some ghastly consequences.

One night about a year ago, 17-year-old Travis Swope of Waterloo sat down with his parents, Tim and Keely, and began to tremble. "I'm scared," the boy told them. He said he could not eat or sleep, and that he had been taking a drug called crank.

His parents, who had never heard of the drug, were shocked, but supportive. Mr. Swope, a maintenance worker at the John Deere Company, said his union insurance would cover drug treatment. The next day, however, Travis said he would quit on his own. And his parents believed him.

"I was in denial," Mr. Swope said. "I though it was something he'd get through."

Travis, who was a first-rate athlete, seemed better for a while. But then he lost weight and looked pale, all the while insisting that he was not using drugs. Then his manner changed.

"He had never been disrespectful to us," his mother said. "But all of a sudden, he'd be like, 'I'll be home when I decide to come home!' That wasn't Travis. It was like he was a different kid."

At the end of September, there was a blowup with his father, and Travis was told to leave the house.

On Oct. 6, Travis checked into a hospital, feeling as if he had a terrible case of the flu. In fact, the drug had broken down his immune system and he had developed a form of meningitis. Ten days later, he was dead.

"Learn about this drug, and sit down with your sons and daughters," said Mrs. Swope, her voice breaking with emotion as she talked with a reporter. "I learned way too late, and I feel like I failed him. Travis was a really good kid—not a perfect kid. He made some wrong decisions, and this drug sucked him away."

Mr. Swope said there were times he avoided discussions about drugs with his son, because he feared it would lead to a confrontation. "But I would give everything to have him sitting here now," he said, "being mad at me."

While it seems puzzling why otherwise intelligent people would risk ruining their lives with this poison, drug counselors point out that stimulants have long held appeal in American culture. Going back more than a generation, students, athletes and workers have sought endurance by taking "uppers" or "speed" in tablets called Black Cadillacs or White Crosses.

The old country song by Dave Dudley, "Six Days on the Road," spoke in the voice of a long-haul trucker in a big hurry: "I'm taking little white pills, and my eyes are open wide."

Methamphetamine made inroads among many blue-collar people because it did not carry the stigma of being a hard drug, the authorities said.

"Crack has the stigma of being an inner-city drug, and powder cocaine is thought to be for affluent people," said Mike Balmer, the chief deputy sheriff in Jasper County. "But speed was a working-class drug. It's what people used to get them through a shift at the factory or keep up on a construction site."

Indeed, the use of methamphetamine goes back many years, perhaps to the 20' or 30's. But today's form is far more powerful, and deadly.

Years ago, the authorities said, a typical street dose of methamphetamine consisted of perhaps 20 percent of ephedrine, the ingredient that delivers the kick. New methods that emerged in the late 1980's and early 90's often using a synthetic psuedoephedrine, have yielded a much more potent substance. Now the drug contains over 90 percent of the active ingredient.

Even before the big influx of methamphetamine, the use of stimulants was a problem in Iowa. A public health survey in 1993 found that the use of stimulants like amphetamines among Iowans was twice the national average, a finding that caused some scholars to wonder if an intense Midwestern work ethic was mainly to blame.

The latest statistics show that more than 35 percent of the people going to Iowa prisons last year reported using methamphetamine. And 90 percent of the people being committed to the mental health facilities in Polk County have used methamphetamine.

In some cases, the psychotic behavior provoked by the drug becomes permanent. The drug also causes body sores, which are worsened by the incessant scratching by users who feel like bugs are crawling over their bodies.

To fight the drug, Iowa has begun a radio and television advertising campaign to warn people of the dangers. A new prosecutor has been added to the United States Attorney's office in Des Moines, just to concentrate on drugs. At least five counties in Iowa have hired extra prosecutors to deal with the rising tide of methamphetamine cases.

"They haven't seen much of this in the East Coast," said Tom Murtha, the director of the First Step-Mercy Franklin Center, an alcohol and drug treatment center. "But it's coming."

Mr. GRASSLEY. Mr. President, what America is facing today is nothing short of an epidemic. Meth is cheap and easily manufactured from commonly available chemicals. Today, with Senator FEINSTEIN, we are striking at the root of the problem: chemical suppliers who sell chemicals to illegal meth labs. The harder it is for criminal chemists to get the raw material to make meth, the more difficult it will be to produce. This in turn will make it more expensive. And this will reduce consumption. And that will help keep our kids alive a little longer.

With the rapid increase of meth use among young people, unless we act quickly—and decisively—to pass this bill, I fear for an entire generation of Americans. Mr. President, in the 1980's, we almost lost a generation to crack and power cocaine. Let's not get that close to the edge again.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1608. A bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

EXTENSION OF THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

Mr. McCAIN. Mr. President, I rise today to introduce a measure that would extend for 60 days the authority Congress delegated in 1994 to the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations implementing the Indian Self-Determination Contract Reform Act of 1994.

Under longstanding Federal-Indian policies favoring tribal self-determination, the United States has encouraged native American tribal governments and tribal organizations to assume the responsibility of carrying out essential governmental services previously performed by Federal employees of the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS]. Indian tribes have been waiting since 1988 for regulations that would guide the implementation of the act. The bill I am introducing today would elongate that delay by an additional 60 days, extending the authority to issue final regulations from April 25, 1996 to June 25, 1996.

Despite my initial hesitancy to sponsor such an extension, tribal governments have now convinced me of the need for this 60-day extension. The United South and Eastern Tribes, the National Congress of American Indians, and numerous tribal governments have asked me to support the extension. I respect their judgment and ask that the Congress honor their request. In addition, several days ago the Senate referred executive communication No. 1959 to the Committee on Indian Affairs, which I chair. EC 1959 forwards the request of the Department of Health and Human Services and the Department of the Interior that Congress enact the bill I am introducing today. The Departments argue that a 60-day extension is needed because winter weather conditions and recent Federal employee furloughs related to the budget impasse between the Congress and the administration have made it impossible for the administration to comply with the statutory deadline.

I remain, however, very concerned that further delay in issuing the regulations will erode the power Congress placed with Indian tribes in the negotiated rulemaking provisions of the 1994 act. A 60-day delay could potentially allow the Federal agencies more time to undermine tribal provisions in the negotiated regulations that were published in proposed form in late January.

My concern is based on history. On three occasions, the Congress has had to enact precise statutory directives—in 1988, 1990, and in 1994—to overcome the two Departments' entrenched resistance to the requirements in the original act. When, for example, in 1988 the two Secretaries were given a statutory 10-month timeframe to promulgate regulations with tribal participation, they cut off all tribal input and began a delaying process that extended to 6 years. After 6 years—not 10 months—the Clinton administration released proposed regulations in 1994 that sought in every conceivable way to retard, rather than enhance, tribal self-determination contracting. The Congress responded by promptly enacting the Indian Self-Determination Contract Reform Act of 1994. That act mandated, for the first time in the history of Federal-Indian legislation, that tribal governments be directly involved in the process of drafting the proposed regulations through a negotiated rulemaking format rather than the traditional process of being "consulted" on drafts prepared by Federal officials.

In the 1994 act, the Congress accepted the administration's request that the 12-month regulatory period, originally proposed by the Senate, be enlarged to 18 months. That 18-month period ends on April 25, 1996. The Clinton administration assured the Congress that this would be ample time to get the job done.

I am told that the proposed regulations prepared by the joint Federal-Tribal negotiated rulemaking committee were largely completed and ready for publication in October 1995. However, the draft regulations languished in the Office of Management and Budget, or OMB, for over 3 months before they were finally released for publication in the Federal Register on January 24, 1996. Soon after publication, the administration began to mount pressure for an extension.

Mr. President, I am very concerned about reports that OMB officials recently raised dozens of questions and issues after the joint Federal-Tribal negotiated rulemaking committee had finalized the proposed regulations. This is particularly disturbing, because I and other authors of the 1994 act expected the entire administration, including the OMB, to raise its concerns and questions during the negotiated rulemaking committee's deliberations with the Indian tribes, not afterward. What is most troubling to me, is that tribal representatives on the joint Federal-Tribal negotiated rulemaking committee have informed me that many of these OMB questions reflected a basic lack of understanding of the act and the special statutory and historic context in which these regulations have been developed. It appears that the administration's negotiators did not release these OMB questions to the tribal representatives until late last month. The questions are of the type that could easily have been addressed during the Federal-Tribal negotiated rulemaking process. I am disturbed that the OMB has apparently elected not to participate directly in the negotiations, where the OMB officials could have openly aired their concerns and afforded tribal government representatives an opportunity to respond.

The apparent risk associated with extending the deadline for final promulgation of the regulations is that the OMB, and their allies within the Departments, will have more time to unilaterally undo much of what the joint Federal-Tribal negotiated rulemaking committee has achieved to date as a result of government-to-government negotiations, and more time to resolve, against the Indian tribes, the remaining areas in dispute set forth in the January 24, 1996, notice of proposed rulemaking.

I am deeply concerned that the Departments' resistance to the act has undercut the negotiated rulemaking process, as evidenced by the nature of the issues remaining in dispute. For instance, neither Department wants to use the negotiated rulemaking process to develop their agency procedures, despite the law's directive that they do so. The Interior Department insists on incomprehensible organizational conflict-of-interest provisions which can only serve to undermine the goal of tribal self-determination. The Interior Department insists that a standard contract renewal with no material change must be processed through the full contract application and declination process even though that is plainly not what Congress intended—as the IHS, to its credit, does recognize. The Departments both seek to preserve the right to impose on tribes unpublished requirements, despite the clear statutory prohibitions against doing so. And perhaps most distressingly, the Departments have resisted placing any language in the new regulations that would state that Federal laws and regulations will be interpreted liberally for the benefit of the Indian tribes in order to facilitate contracting activities under the act. This is the position of the Departments despite the fact that this language is a well-settled U.S. Supreme Court rule of statutory construction that applies to all remedial Indian legislation.

To sum it up, Mr. President, I and other Members of Congress in 1994 were persuaded by the Indian tribes to set a hard and fast publication deadline of April 25, 1996 in response to the delays tribes had experienced in getting final regulations under the 1988 amendments. Likewise, at the request of the Indian tribes, Congress mandated that the proposed regulations be developed by a joint, tribal-Federal negotiated rulemaking committee. Assuming substantial tribal involvement in that committee, and good faith on the part of the administration, it would be reasonable to expect that these timeframes could be met. But apparently, 60 more days is needed. Accordingly, I will support the extension with the warning to the administration that I do not want to learn at some later date that the expanded timeframe has allowed the administration additional advantage over tribal governments in the negotiation of the final regulations.

Despite my reservations, I remain hopeful that the ongoing negotiated rulemaking process can be successfully concluded within the extended timeframe. But the Departments and the OMB must commit themselves to this process, just as the Indian tribes have done, and they must resist the temptation to slide back into the paternalistic, adversarial, and bureaucratic thinking that has compelled the Congress since 1988 to micromanage the Departments in the area of tribal self-determination contracting.

I thank my friend, Senator INOUYE, for joining with me as an original cosponsor of the bill. I urge my colleagues to support the 60-day extension and to join me in ensuring that the administration does not, by reason of the 60-day delay, gain any negotiation advantage over the Indian tribes.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF APPLICABILITY OF CERTAIN REGULATORY AUTHORITY.

Section 107(a)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(a)(2)(B)) is amended by striking "18 months" and inserting "20 months".

By Mr. BIDEN:

S. 1609. A bill to provide for the rescheduling of flunitrazepan into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES ACT LEGISLATION

• Mr. BIDEN. Mr. President, the best time to target a new drug with uncompromising enforcement pressure is before abuse of that drug has overwhelmed our communities.

The advantages of doing so are clear—there are fewer pushers trafficking in the drug and, most important, fewer lives and fewer families will have suffered from the abuse of the drug.

Today, we are tracking the arrival of two new drugs—rohypnol and what is called "special K"—as they begin to show popularity in several States. So, today is the time for action against these drugs.

Heightening this urgency is one stark fact—these new drugs are being used primarily by our children—our teens and young adults. One need not be unduly alarmist, but we must proceed with dispatch to do what we can to stop the spread of rohypnol and special K.

That is why I am today introducing legislation to make both these drugs subject to much stricter regulation. This can be accomplished by moving these drugs to different schedules under the Federal Controlled Substances Act.

This is not a step to be taken lightly, because there is a regulatory procedure in place for scheduling controlled substances. But, unfortunately, this regulatory procedure can take years to accomplish our goal, and what we need to do must be done in months, not years.

In the past decade, Congress has taken legislative action to change schedules in at least two other instances.

In 1984, in response to an alarming increase in illicit trafficking and nonmedical abuse of the drug, Congress enacted legislation to move quaaludes, a previously medically approved sedative, to schedule one of the Controlled Substances Act.

In the decade since this legislation took effect, quaalude abuse has decreased significantly, with emergency room quaalude overdose reports down 80 percent from 1985 to 1994.

And in legislation I sponsored, which was passed as part of the 1990 Crime Control Act, steroids were reclassified as a schedule three substance, subjecting them to more strict controls and penalties.

This change was also in response to an explosion of abuse—particularly by young athletes. The effects of this legislation has also been significant, with the rate of annual use of steroids down 42 percent in the first 2 years following the enactment of the legislation.

It is now time to legislate stricter controls for rohypnol and special K. The record high drug abuse rates of the 1970's were accompanied by a unique drug culture signified by the presence of "club" drugs—drugs that were popular with youth and young adults who frequented dance clubs and often mixed drugs with alcohol and other substances.

Recently, club drugs have made a resurgence in popularity, and they are often showing up at both bars and "raves," all-night dance marathons popular with teens.

Club drugs are typified by the way they suddenly gain popularity and become the drug of choice, becoming trendy among youth. Often these drugs are legally manufactured but are being used by youth in ways unintended by the manufacturer and unapproved by the Food and Drug Administration.

Rohypnol and special K are two of the drugs which have recently hit the youth scene and quickly become popular. Both of these drugs are very dangerous drugs whose current legal status does not reflect the dangers inherent in their abuse.

Rohypnol abuse was first documented in the United States in 1993. Although abuse was first noted in southern Florida, in the past 2 years abuse has spread rapidly, and rohypnol activity has now been reported in more than 30 States.

Without rapid and strong Government action, abuse will continue to spread to uncontrollable levels.

Teenagers find rohypnol attractive for a number of reasons. Frighteningly, one major reason is that youth do not see rohypnol as dangerous because it has a legitimate medical use in some areas of the world, and they mistakenly believe that if they are taking a drug which is in its original packaging from the manufacturer, it is both safe and unadulterated.

In addition, there are few existing means for testing and prosecuting youth for rohypnol possession and intoxication. The combination of rohypnol and alcohol makes it possible for youth to feel very intoxicated while still remaining under the legal blood-alcohol level for driving.

In addition to gaining attention for increasing rate of abuse, rohypnol has also been the focus of another social problem: crime, particularly date rape. In fact, in many areas and in a number of newspaper accounts, rohypnol has been referred to as a "date rape drug."

This connection between rohypnol and rape is due to the drug's disinhibitory effects and its likelihood of causing amnesia when combined with alcohol.

Unfortunately, this amnesiac effect is one of the reasons many people who abuse rohypnol are attracted to it. It is commonly reported that people taking rohypnol in combination with alcohol typically have blackouts, or memory losses lasting 8 to 24 hours.

The novelty of blackouts attract youth, particularly youth who are combining drugs with alcohol.

This has led to rohypnol being referred to as the "forget me pill" or the "forget pill." Even more frightening, many people are finding the drug attractive as a way of creating blackouts in others.

The combination of disinhibition and memory loss caused by rohypnol mixed with alcohol makes women especially vulnerable to being victims of date rape by people who convince women to take rohypnol while drinking or put the drug in a woman's drink without her knowledge.

Recently, in Florida and Texas, there have been a number of investigations into these types of victimizations.

There have also been a number of reports of teens and young adults who have entered drug abuse treatment facilities in Florida, reporting rohypnol abuse and suicidal feelings they experienced while using rohypnol.

The most famous example of rohypnol overdose made the news with the attempted suicide of Kurt Cobain, lead singer of the rock band Nirvana. Cobain ultimately succeeded in committing suicide on March 18, 1994, but the rock singer had attempted suicide earlier in the month when he fell into a coma following a near fatal mixture of champagne and rohypnol. Cobain remained comatose for nearly 2 days before regaining consciousness after this drug experience.

Special K is also hitting the club scene at alarming rates. This drug is a hallucinogen very similar to PCP. Special K, or ketamine hydrochloride, has become popular as a new designer drug.

Although this drug has been in existence for several years, its abuse has rapidly become more prevalent in recent years.

Now many parties and raves at dance clubs are called bump parties, as a way of conveying special K is available. It is particularly attractive to kids at these types of events because along with its mind-altering effects, the drug gives a burst of energy, and it can be mixed with water so kids can take it in public without attracting attention.

In fact, a club in New Jersey was recently closed by police after it was discovered that teens were attending raves there where club employees distributed bottled water for this purpose.

In addition to seizures in New Jersey, recent newspaper articles have mentioned seizures in Maryland, New York, Pennsylvania, Arizona, California, and Florida. Drug tracking experts have also cited the presence of special K in Georgia and the District of Columbia, and in my home State of Delaware.

Special K is considered the successor to PCP—or angel dust, as it is known on the street—due to similarity of the two drugs' chemical compositions and mind-altering effects. There have also been reports of PCP being sold to people who think they are buying special K.

Ketamine is primarily a veterinary anesthetic. Although it has some limited use for human medical treatment, its use in this manner is not extensive due to the unpleasant and often dangerous side effects that can accompany its use.

It is clear that the current controls on rohypnol and ketamine do not reflect the dangers these drugs now pose to our society, particularly to women and children. In the United States rohypnol is classified under the Federal Controlled Substances Act as only a schedule four drug, and ketamine is not scheduled at all.

Last week, the Treasury Department announced that custom officials would begin seizing all rohypnol which is brought across U.S. borders. This is a step in the right direction. But this ban on all rohypnol is only the first step.

Further action is needed to make sure cracking down on the illegal trafficking of rohypnol is a high priority and that illegal traffickers of rohypnol are given tough sanctions.

That is why I am introducing legislation to increase the restrictions on both special K and rohypnol. By moving rohypnol to schedule one of the Federal Controlled Substances Act and adding special K to schedule two of the act, this legislation will subject both drugs to tighter controls, increased penalties for unlawful activity involving the two drugs, and will increase the attention and enforcement efforts directed at the drugs by Federal, State, and local law and drug enforcement officials.

In essence, these tighter regulations will mean that rohypnol will be subjected to the same restrictions and penalties as heroin, and special K will face the same controls as cocaine.

I hope my colleagues will join me in seeing to speedy passage of this legislation—taking action to make these drugs less available to our youth now.

I ask unanimous consent that a copy of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESCHEDULING.

Notwithstanding sections 201 and 202 (a) and (b) of the Controlled Substances Act (21 U.S.C. 811, 812 (a),(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order—

(1) transfer flunitrazepam from schedule IV of such Act to schedule I of such Act; and

(2) add ketamine hydrochloride to schedule II of such Act.•

ADDITIONAL COSPONSORS

S. 942

At the request of Mr. BOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 960

At the request of Mr. SANTORUM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 960, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1423

At the request of Mr. GREGG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Indiana [Mr. COATS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1487

At the request of Mr. GRAMM, the names of the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Hampshire [Mr. SMITH], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1487, a bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1537

At the request of Mr. ROBB, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1537, a bill to require the Administrator of the Environmental Protection Agency to issue a regulation that consolidates all environmental laws and health and safety laws applicable to the construction, maintenance, and operation of above-ground storage tanks, and for other purposes.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Ohio [Mr. DEWINE], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1578, a bill to amend the Individuals With Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. THOMAS, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress regarding proposed missile tests by the People's Republic of China.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

AMENDMENT NO. 3467

At the request of Mr. BRYAN, his name was added as a cosponsor of amendment No. 3467 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

SENATE CONCURRENT RESOLUTION 44—RELATIVE TO CAPITOL GROUNDS

Mr. CAMPBELL submitted the following concurrent resolution which was referred to the Committee on Rules and Administration:

S. CON. RES. 44

Whereas the United States public has demonstrated a continuing love affair with motor vehicles since their introduction 100 years ago, enjoying vehicles for transportation, for enthusiast endeavors ranging from racing to show competitions, and as a mode of individual expression;

Whereas research and development in connection with motorsports competition and specialty applications have provided consumers with life-saving safety features, including seat belts, air bags, and many other important innovations;

Whereas hundreds of thousands of amateur and professional participants enjoy motorsports competitions each year throughout the United States;

Whereas such competitions have a total annual attendance in excess of 14,500,000 spectators, making the competitions among the most widely attended in United States sports; and

Whereas sales of motor vehicle parts and accessories for performance and appearance enhancement, restoration, and modification exceeded $15,000,000,000 in 1995, resulting in 500,000 jobs for United States citizens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR SPECIALTY MOTOR VEHICLE AND EQUIPMENT EVENT.

The Specialty Equipment Market Association shall be permitted to sponsor a public event displaying racing, restored and customized motor vehicles, and transporters on the Capitol Grounds on May 15, 1996, or such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board. The Specialty Equipment Market Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURE AND EQUIPMENT.

For the purposes of this resolution, the Specialty Equipment Market Association is authorized to erect upon the Capitol Grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, tents, and other related structures and equipment as may be necessary for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any additional arrangement that may be required to carry out the event under this resolution.

SEC. 5. LIMITATIONS ON REPRESENTATIONS.

The Specialty Equipment Market Association (including its members) shall not represent, either directly or indirectly, that this resolution or any activity carried out under this resolution in any way constitutes approval or endorsement by the Federal Government of the Specialty Equipment Market Association (or its members) or any product or service offered by the Specialty Equipment Market Association (or its members).

SENATE CONCURRENT RESOLUTION 45—RELATIVE TO THE CAPITOL ROTUNDA

Mr. DOLE (for himself and Mr. HELMS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on May 2, 1996 at 2 o'clock post meridian for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

MURKOWSKI (AND STEVENS) AMENDMENT NO. 3472

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them to amendment No. 3466 proposed by Mr.

HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated or otherwise made available for activities of the Department of Agriculture Agricultural Marketing Service may be expended until such time as food safety and inspection programs implemented or accepted by the Food and Drug Administration for the safety of American and overseas consumers are adopted as the standard required for the purposes of Department of Agriculture surplus seafood commodity purchase programs.

SPECTER (AND OTHERS) AMENDMENT NO. 3473

Mr. SPECTER (for himself, Mr. HARKIN, and Mr. WELLSTONE) proposed an amendment to amendment No. 3467 proposed by Mr. HARKIN to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

PART 1—AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Training and Employment Services", $1,213,300,000, of which $487,300,000 is available for obligation for the period July 1, 1996 through June 30, 1997, and of which $91,000,000 is available from July 1, 1996, through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act, and of which $635,000,000 is for carrying out title II, part B of the Job Training Partnership Act;

Under the heading "State Unemployment Insurance and Employment Service Operations", $18,000,000, which shall be available for obligation for the period July 1, 1996 through June 30, 1997;

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Children and Families Services Programs", $136,700,000.

In addition to the amounts provided for in Title I of this Act for the Department of Education:

Under the heading "Education Reform", $151,000,000, which shall become available on October 1, 1996 and shall remain available through September 30, 1997: *Provided*, That $60,000,000 shall be for the Goals 2000: Educate Act and $91,000,000 shall be for the School-to-Work Opportunities Act.

Under the heading "Education for the Disadvantaged", $814,489,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997: *Provided*, That $700,228,000 shall be available for basic grants and $114,261,000 shall be for concentration grants.

Under the heading "School Improvement Programs", $208,000,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Vocational and Adult Education", $82,750,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Student Financial Assistance", the maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be increased by $60.00: *Provided*, That funding for Title IV, part E shall be increased by $58,000,000 and funding for Title IV, Part A, subpart 4 shall be increased by $32,000,000.

Under the heading "Education Research, Statistics, and Improvement", $10,000,000 which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997, shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act.

PART 2—ADDITIONAL AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Departmental Management, Salaries and Expenses", $12,000,000, of which $10,000,000 shall be only for terminal leave, severance pay, and other costs directly related to the reduction of the number of employees in the Department.

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Health Resources and Services", $55,256,000: *Provided*, That $52,000,000 of such funds shall be used only for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act; and

Under the heading "Substance Abuse and Mental Health Services", $134,107,000.

PART 3—GENERAL PROVISIONS

SEC. 401. AVAILABILITY.

Notwithstanding any other provision of this Act, section 4002 shall not apply to part 1 of chapter 3 of title IV.

SEC. 402. OFFSETS.

Notwithstanding any other provision of this Act, the amounts on page 539, lines 18 and 19, and page 540, line 10, shall each be reduced by $200,000,000.

On page 546, increase the rescission amount on line 21 by $10,000,000.

Notwithstanding any other provision of this Act, the amounts on page 583, lines 4 and 14, shall each be reduced by $159,000,000.

ADMINISTRATION FOR CHILDREN AND FAMILIES

Job Opportunities and Basic Skills

(Rescission)

Of the funds made available under this heading elsewhere in this Act, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as amended by Public Law 100–485) is amended by adding: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

FEDERAL AVIATION ADMINISTRATION

Grants-In-Aid For Airports

(Airport and Airway Trust Fund)

(Rescission of Contract Authorization)

Of the available contract authority balances under this account, $616,000,000 are rescinded.

PART 4—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

SEC. 1. SHORT TITLE.

This Act may be cited as the "USEC Privatization Act".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 5.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 4.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 have a lower percentage.

SEC. 3. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 4. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall now allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 3(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 5. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this Act.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this Act, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation,

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207, (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 6. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 7.

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 8(a),

(4) the Corporation's right to purchase power from the Secretary under section 8(b).

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 7. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OR LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporations access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 8. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 9. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this Act, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of

agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 8 or any other action the Corporation is required to take under this Act.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this Act, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 10. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a) (2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B) as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 11. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 12. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEW Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take deliver of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

ANNUAL MAXIMUM DELIVERIES TO END USERS

(millions lbs. U_3O_8 equivalent)

Year:	
1998	2
1999	4
2000	6
2001	8
2002	10
2003	12
2004	14
2005	16
2006	17
2007	18
2008	19
2009 and each year thereafter	20.

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this Act shall be read to modify the terms of the Russian HEU Agreement.

SEC. 13. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) The Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 14. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extend requested by the Corporation and subject to the requirement of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B)

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subjection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 15. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 16. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review."

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f-1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code, and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any lease or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 17. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102-486.

(b) DEFINITION OF THE CORPORATION.—Section 1018 (1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(1) is amended by inserting "or its successor" before the period.

SUBPART B—STRATEGIC PETROLEUM RESERVE

SEC. 431. SALE OF WEEKS ISLAND OIL.

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell in fiscal year 1996, $292,000,000 worth of oil formerly contained in the Weeks Island Strategic Petroleum Reserve.

HOLLINGS (AND OTHERS) AMENDMENT NO. 3474

Mr. HOLLINGS (for himself, Mr. DASCHLE, Mr. KERRY, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. LEAHY, Mr. ROCKEFELLER, and Mr. KERREY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 781 of the Committee amendment, strike lines 5 and 6, and insert in lieu thereof the following:

This title may be cited as the "Contingency Appropriations Act, 1996".

TITLE V—TECHNOLOGY INITIATIVES

CHAPTER 1—RESTORATIONS FOR PRIORITY TECHNOLOGY PROGRAMS

DEPARTMENTS OF COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

In addition to funds provided elsewhere in this Act, $300,000,000, to remain available until expended, for continuation grants and new program competitions under the Advanced Technology Program: *Provided*, That notwithstanding any other provision of this Act, any unobligated balances from carryover balances of current and prior year appropriations under the Advanced Technology Program may be used for continuation grants and new program competitions.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

INFORMATION INFRASTRUCTURE GRANTS

In addition to funds provided elsewhere in this Act, $32,000,000, to remain available until expended, for increasing the number of grants promoting the development of the national telecommunications and information infrastructure.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

In addition to funds provided elsewhere in this Act, $4,500,000, to remain available until September 30, 1997, of which $2,500,000 shall be for grants to be awarded by the United States Israel Science and Technology Commission.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

In addition to the amounts provided in Title I of this Act for the Department of Education:

Under the heading, "EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT", of the amounts made available in title I an additional $23,000,000 shall be for part A of title III of the Elementary and Secondary Education Act of 1965, as amended.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

In addition to funds provided elsewhere in this Act, $31,000,000, to remain available until September 30, 1997.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $31,000,000, to remain available until September 30, 1997.

CHAPTER 2—OFFSET FOR TECHNOLOGY PROGRAMS

SEC. 5101. SHORT TITLE.

This chapter may be cited as the "Debt Collection Improvement Act of 1996".

SEC. 5102. EFFECTIVE DATE.

Except as otherwise provided in this chapter, the provisions of this chapter and the amendments made by this chapter shall become effective October 1, 1996.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraph (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91-173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231(m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board shall be subject to offset under this section.

“(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall—

“(i) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period; and

“(ii) consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authoring the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

“(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under the standards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

“(D) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act.

“(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based only on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the ‘Account’ determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

“(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

“(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations, and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

“(7)(A) Any Federal agency that is owed by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

“(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

“(8) The disbursing official conducting the offset shall notify the payee in writing of—

“(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

“(B) the identity of the creditor agency requesting the offset; and

“(C) a contact point within the creditor agency that will handle concerns regarding the offset.”.

Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practicable thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

“(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.”.

(c) Section 3701(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

“(8) ‘non-tax claim’ means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.”.

SEC. 5202. HOUSE OF REPRESENTATIVES AS LEGISLATION AGENCY.

(a) Section 3701 of title 31, United States Code, is amended by adding at the end the following new subsections:

“(e) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

“(f) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives.”.

SEC. 5203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended in paragraph (8)(B)—

(1) by striking “or” at the end of clause (vi);

(2) by inserting “or” at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

“(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;”.

SEC. 5204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting “section 3716 and section 3702A of this title, section 6331 of title 26, and” after “Except as provided in”;

(2) in section 3325(a)(3), by inserting “or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331),” after “voucher”; and

(3) in sections 3711, 3716, 3717, and 3718, by striking “the head of an executive or legislative agency” each place it appears and inserting instead “the head of an executive, judicial, or legislative agency”.

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting “and to officers and employees of the Department of the Treasury in connection with such reduction” adding after “6402”; and

(2) in subparagraph (B), by adding “and to officers and employees of the Department of the Treasury in connection with such reduction” after “agency”.

Subpart B—Salary Offset Authority

SEC. 5521. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: “All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.”;

(b) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

“(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.”; and

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

“(B) For purposes of this section ‘agency’ includes executive departments and agencies, the United States Postal Service, the

Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate."; and

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by adding at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty, or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the government.

"(3) For purposes of this subsection:

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"§3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is resolved, pursuant to these standards. This section shall not apply to loans or loan guarantees where a status specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 5241. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103–387) is repealed.

(c) Section 631 of the Tariff Act of 1930 (19 U.S.C. 1631), is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by inserting after subsection (c) the following new subsection:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986.";

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records and an individual is responsible for a claim of notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(B) in subsection (d), by inserting ", or to locate or recover assets of", after "owed".

SEC. 5242. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred nontax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from another account or from revenue received from Section 701. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of government-wide debt collection activities. Costs properly chargeable to the Account include, but are not limited to—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout. A taxpayer identification number shall be included with each claim provided if it is in the agency's possession.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) will be disposed of under the loan sales program of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or a disbursing official of the United States designated by the Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180-day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative, or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such action.

"(7) At the end of each calendar year, the head of an executive, legislative, or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized—

"(A) to prescribe such rules, regulations, and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies.".

SEC. 5243. COMPROMISE OF CLAIMS.

(a) Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

(b) This section shall be effective as of October 1, 1995.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

"(1) by amending section 4 to read as follows:

"(SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end of the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"§3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are carried with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed five percent of the debt collection improvement amount as described in paragraph (3).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative and tax referral off-sets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under section 502 of the Debt Collection Improvement Act of 1996), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation Acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practicable after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the

Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal Government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subpart H—Definitions, Due Process Rights, and Severability

SEC. 5281. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico where there is also a Federal monetary interest or in cases of court ordered child support."; and

(3) by adding after subsection (f) (as added in section 5202(a)) the following new subsection: "(g) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any Federal department, agency, or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5282. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

Subpart I—Reporting

SEC. 5291. MONITORING AND REPORTING.

(a) the Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later than three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding non-tax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

PART II—JUSTICE DEBT MANAGEMENT

Subpart A—Private Attorneys

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99-578, 100 Stat. 3305) are hereby repealed.

Subpart B—Nonjudicial Foreclosure

SEC. 5311. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale: postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§ 3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual partnership, association, or corporation, or an employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal and State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notices to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devises, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owners of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. Any agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) Any agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosures trustees for different tracts of a secured property.

"(f) REMOVAL OF FORECLOSURE TRUSTEE; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§3405. Notice of foreclosure sale; statute of limitations

"(a) IN GENERAL.—

"(1) Not earlier than 21 days nor later than 10 years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclosure shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§3406. Service of notice of foreclosure sale

"(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) NOTICE BY MAIL.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§3407. Cancellation of foreclosure sale

"(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender;

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§3048. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"§3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"§3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"§ 3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums; and

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§ 3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

CHAPTER 3—SPENDING DESIGNATION

SEC. 5501. EMERGENCY DESIGNATION.

Congress hereby designates all amounts in this entire title as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided*, That these amounts shall only be available to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted by the President to Congress.

GREGG AMENDMENT NO. 3475

Mr. GREGG proposed an amendment to amendment No. 3474 proposed by Mr. HOLLINGS to amendment No. 3466 proposed by Mr. HATFIELD to the H.R. 3019, supra; as follows:

Strike chapter 3 of the pending amendment in its entirety.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 3476

Mr. GREGG (for Mr. LAUTENBERG, for himself, Mr. HOLLINGS, and Mr. KERRY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place in title II of the Hatfield substitute amendment, insert the following new sections:

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Federal Bureau of Investigation's efforts in the United States to combat Middle Eastern Terrorism, $7,000,000, to remain available until expended: *Provided*, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: *Provided further*, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget Act and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Office of Foreign Assets Control's efforts in the United States to combat Middle Eastern terrorism, $3,000,000, to remain available until expended: *Provided*, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: *Provided further*, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget Act and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

REID AMENDMENT NO. 3477

Mr. GREGG (for Mr. REID) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place under the heading of "General Provisions" at the end of the bill, insert the following new section:

SEC. ——. (a) This section may be cited as the "Federal Prohibition of Female Genital Mutilation Act of 1996".

(b) Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I of the Constitution, as well as under section 5 of the Fourteenth Amendment to the Constitution, to enact such legislation.

(c) It is the purpose of this section to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties for the performance of female genital mutilation.

(d)(1) Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, or midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(e)(1) The Secretary of Health and Human Services shall do the following:

(A) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(B) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(C) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(2) For purposes of this subsection, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

(f) Subsection (e) shall take effect on the date of enactment of this Act, and the Secretary of Health and Human Services shall commence carrying out such section not later than 90 days after the date of the enactment of this Act. Subsection (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

REID (AND OTHERS) AMENDMENT NO. 3478

Mr. REID (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. GRAHAM, Mrs. BOXER, Mr. MOYNIHAN, and Mr. AKAKA) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 75, strike lines 1 through 9.

On page 412, line 23, strike "$497,670,000" and insert "$501,420,000".

On page 412, line 24, after "1997,", insert the following: "of which $4,500,000 shall be available for species listings under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),".

On page 413, strike "1997:" on line 11 and all that follows through line 20 and insert "1997.".

On page 461, line 24, strike "$1,255,005,000" and insert "$1,251,255,000".

On page 462, line 5, before the colon, insert the following: ", of which not more than $81,250,000 shall be available for travel expenses".

HUTCHISON (AND KEMPTHORNE) AMENDMENT NO. 3479

Mrs. HUTCHISON (for herself and Mr. KEMPTHORNE) proposed an amendment to amendment No. 3478 proposed by Mr. REID to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In the language proposed to be stricken, on page 75, insert the following: "*Provided further*, That no monies appropriated under this Act or any other law shall be used by the Secretary of Commerce to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(I), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act."

On page 412, lines 23, strike "$497,670,000" and insert "$407,670,001".

On page 412, lines 24, after "1997,", insert the following: "of which $750,001 shall be available for species listings under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),".

In the language proposed to be stricken, strike all after the word 1997 on page 413, line 11, through the word Act on page 413, line 20, and insert the following: "*Provided further*, That no monies appropriated under this Act or any other law shall be used by the Secretary of the Interior to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(I), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act."

On page 461, lines 24, strike "$1,255,005,000" and insert "$1,255,004,999".

On page 462, lines 5, before the colon, insert the following: ", of which not more than $81,249,999 shall be available for travel expenses".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, March 12, 1996, in open session, to receive testimony on the Defense authorization request for fiscal year 1997 and the future years Defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 5 p.m. on Tuesday, March 12, 1996, in executive session, to consider Tailhook and related nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. D'AMATO. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, March 12, at 9 a.m. for a hearing on the subject of human radiation experiments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON YOUTH VIOLENCE

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Subcommittee on the Youth Violence of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, March 12, 1996, at 10 a.m., in the Senate Dirksen Building, Room 226, to hold a hearing on funding youth violence programs: should the strings be cut?

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 12, 1996, at 2 p.m. to hold hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FREEDOM TO FARM

• Mr. ABRAHAM. Mr. President, after months of discussion and debate on farm legislation, I was pleased that the Senate passed a farm bill Thursday, February 7, which implements revolutionary steps toward a free market agriculture system. With farmers beginning to plan for the upcoming growing season, the urgency to pass a farm bill lead to a compromise bill which, while it certainly could have taken bolder moves toward free market agriculture, is a step in the right direction. This bill offers reform, opportunity, and flexibility for farmers in a fiscally responsible way.

The most significant reforms of current farm programs in this bill are the Freedom to Farm provisions which eliminate agriculture subsidies over the next 7 years. Freedom to Farm will allow American farmers to grow for the global market rather than for the Federal Government. The bill would eliminate supply control programs and requirements that farmers plant specific crops to preserve historical crop bases used to determine Government payments. These are very positive steps toward a free market in agriculture.

Time after time, Michigan farmers have told me that they do not want to grow for the Government—they want to grow for the marketplace. By extricating Michigan's farmers from bureaucratic planting requirements, the Freedom to Farm provisions in this bill will allow them to produce to meet consumer demand.

I would like to discuss an important change which was made in this bill before it was brought to the Senate floor. Many Michigan fruit and vegetable growers were concerned about a provision originally included in the Freedom to Farm language which would have allowed farmers receiving Government payments to grow fruits and vegetables on their land. In effect, had this been implemented, farmers receiving subsidies would have been able to plant nonsubsidized crops. This would have put those fruit and vegetable farmers who have been growing for the market without Government intervention at a disadvantage. Fruit and vegetable farmers who had never received subsidies would have been competing against subsidized farmers. Members of the committee corrected this problem before Senate floor consideration. The bill which passed the Senate maintains current policy which does not allow nonprogram crops to be grown on contract acres.

During consideration of the farm bill, Senator WELLSTONE offered an amendment to delete language in the bill which provided congressional consent for the Northeast dairy compact. This compact would allow member States to set the price for fluid milk above the existing Federal order. Thus, the compact would have been an additional step away from free market competition in that it would establish a subsidy within a subsidized industry. Not only would the compact raise the price of milk among the New England States, it would set a disturbing precedent by allowing States to insulate themselves from competition. Mr. President, in this farm bill which attempts to move the United States toward free market agriculture, the Northeast dairy compact would have been a dangerous step backward. I was pleased to support Mr. WELLSTONE's amendment which passed by a 50 to 46 vote.

The bill as written increases the interest rate for price support loans for farmers through the Commodity Credit Corporation by 1 percent. Senator HARKIN offered an amendment which would have eliminated this increase. While it is important for farmers to have access to affordable loans, I opposed Senator HARKIN's amendment. His amendment would have cost the American taxpayers $260 million. Yet, even with the increase, interest rates on price support loans would remain below commercial rates. Mr. President, this Congress has been dedicated to efforts to reduce the U.S. budget deficit. The price tag on Mr. HARKIN's amendment, coupled with the fact that the loan rates are lower than commercial rates, even with the 1 percent increase, lead me to oppose Mr. HARKIN's amendment which failed by a vote of 37 to 59.

Senator HARKIN offered a second amendment which would have reinstated the Farmer Owned Grain Reserve. Under this program, which is no longer in existence, the Federal Government paid grain farmers for grain put in storage. This created a grain surplus which depressed prices. Farmers I have talked to in Michigan are opposed to the grain reserve—they understand that farmers cannot store themselves into prosperity. This amendment would have been out of place in a farm bill which attempts to have farmers produce for the market instead of for the Government. Along with 60 of my colleagues, I opposed this amendment.

Senator SANTORUM who has been a strong, consistent opponent of our outdated, feudalistic peanut program, offered an amendment which would have made more drastic changes to the peanut program than were included in the bill. Unfortunately, a majority of Members of the Senate voted to table the amendment thereby effectively killing it. I voted against tabling the amendment because I believe we should have had an opportunity to support further changes in the peanut program. Senator SANTORUM's amendment would have phased out the quota system which was established during the depression to guarantee a high price for peanut producers. In order to do this, the Government issued quotas. Only the holders of these quotas would be allowed to grow peanuts. The quota holders are now selling the right to grow peanuts at extremely high prices which increases the price of peanuts to the consumer. Under the peanut program, the Government dictates who has the right to grow peanuts and the amount they are allowed to grow. Mr. President, I voted against the motion to table the Santorum amendment and believe that we should go further than the bill which passed to eliminate the peanut quota system.

I was pleased to vote with 60 of my colleagues in opposition to the Gregg amendment which would have eliminated the new sugar provisions from the farm bill. Senator GREGG's amendment would have left the sugar program as it is today in the hopes of eliminating the program completely when it expires in 1997.

Mr. President, the sugar program is different than many other agriculture programs in that it is necessary to keep a trade balance with other countries. Sugar is highly subsidized in other countries, allowing the producers to dump their excess sugar on the world market at very low prices. Eliminating our sugar program completely would give our sugar producers—some of the best producers in the world—a trade disadvantage in the world market. Unilateral elimination of our sugar program would put the most efficient sugar producers in the world at a competitive disadvantage to other producers. Furthermore, the notion that other countries would follow our lead and eliminate their support programs on their own is ridiculous.

Mr. President, I have introduced legislation which would completely eliminate the U.S. agricultural price support and production adjustment programs for sugar contingent upon a GATT agreement which would eliminate export subsidies and price supports in other countries. While I firmly believe that the free market should be allowed to work, it will not work if the most efficient producers are put at a competitive disadvantage. As I have said in the past, I will continue to fight diligently on the side of free trade. I will continue to work to eliminate export subsidies and other price supports worldwide so that we may eventually achieve true free trade.

Senator DORGAN offered an amendment which would have mandated that in order to receive Government payments, farmers must grow program crops. While on the surface this appears to be a reasonable amendment, it flies in the face of the Freedom to Farm provisions. Through Freedom to Farm, over the next 7 years, farmers who have received payments in 3 of the past 5 years will receive guaranteed payments—regardless of how they use their acreage. After 7 years, however, the payments will stop. Over the 7 years during which payments will be provided, farmers are expected to transition from producing for the Government to producing for the marketplace. For the Government to dictate—in any way—how the farmers are to use their land would be counterproductive and would serve only to make it more difficult for us to accomplish free market agriculture. For these reasons, I did not support Senator DORGAN's amendment which failed in a 48 to 48 vote.

Mr. President, I am pleased that both the House and Senate were able to pass farm bills. I am hopeful that the conferees will act quickly to finalize this legislation so that America's farmers can begin to plan for the upcoming season and grow for the market.●

AMERICA NEEDS TO REVITALIZE WORK PHILOSOPHY

• Mr. SIMON. Mr. President, one of the most impressive executives in America today is Hugh Price, executive director of the National Urban League.

His commonsense approach to our needs is appreciated. One of the things he has been stressing over and over is the need to have jobs for people.

As I have said so frequently on the floor of the Senate, welfare reform without jobs is public relations and not welfare reform.

Recently he had a commentary in the Chicago Defender on this question of jobs which I ask to be printed in full in the RECORD.

The article follows:

[From the Chicago Defender, Feb. 26, 1996]

AMERICA NEEDS TO REVITALIZE WORK PHILOSOPHY

(By Hugh B. Price)

The widening gap between rich and poor in America is threatening our democracy. Workers are being laid off by the thousands, companies are downsizing, families are falling apart and the ranks of the poor and homeless seem to be growing.

Yet experts tell us the economy is on the upswing.

Certainly, good things are happening. Many cities are upgrading their "quality of life industries" by revitalizing their business districts and neighborhoods, building new sports stadiums, museums and sparkling restaurant districts. But in those and in so many urban centers, the poor, the unemployed and the homeless can't afford to use those facilities.

When you see them there, they're often begging or sleeping in doorways. That's not supposed to happen in America.

From what I've seen in traveling through dozens of cities, the plight of the poor is in stark contrast to economists' claims that inflation is leveling, that interest rates have fallen and that unemployment is declining. Americans are justifiably worried and skeptical about their future. Cities define civilizations. Vibrant cities boost our morale; decaying and dangerous cities depress us and scare off tourists.

If the poor, the homeless and the have-nots have no role in the re-birth of our cities, their welcome revival efforts won't reach their fullest potential. Government policymakers, business leaders and economists must devise a work-based system of self-reliance that lifts the urban poor out of poverty and allows them to support their families with dignity. Of course, such planning must include education and training in current and new skills.

Job creation programs must be established for employable but unemployed people in communities where there simply are not enough jobs to go around.

The approach must be holistic, because while it's one thing to instill potential workers with proper work skills, it's another thing to inculcate workers with the job know-how that employers require, such as punctuality, politeness and reliability.

Here are a few examples of new initiatives some of our urban league affiliates have undertaken:

In Detroit, plans are underway to establish an Employment Training and Education Center that will provide GED certification and computer training courses. Instruction in occupational, employability, entrepreneurship and customer service skills will be offered, along with an automated job search system and a day-care facility.

In Los Angeles, the Urban League and Toyota are partners in operating a modern training facility that will enable residents from the South Central community to learn all facets of automobile servicing and repair.

If our cities and our society are to prosper, if we are to continue to be the leader of the industrialized world, we must reverse socially corrosive economic trends that undermine public confidence.

America urgently needs to re-organize its employment and income policies so that the 21st century will be the century when, once and for all, we make America work for all Americans.●

VALLEY HAVEN SCHOOL'S 20TH ANNIVERSARY HIKE/BIKE/RUN

• Mr. SHELBY. Mr. President, I would like to take a moment and bring to my colleagues' attention the 20th anniversary of the Valley Haven School Hike-Bike-Run. The Valley Haven School, located in Valley, AL, is a school for mentally retarded and multiple handicapped citizens of all ages. Started 37 years ago by volunteers, the school is now professionally staffed and currently offers skilled training to 95 students ranging in age from 3 months to 60 years.

Mr. President, local moneys of $100,000 must be raised each year to meet operating expenses and match State and Federal grants. The primary source of these funds is the annual Hike-Bike-Run, which consists of a 5- or 10-mile walk, an 11- or 22-mile bike ride, a skate-a-thon, a 1-, 3.1-, or 6.2-mile run, a 5-mile bike ride for children, and the trike trek for preschoolers.

Each participant in the Hike-Bike-Run obtains pledges for their participation, and all proceeds go directly to Valley Haven to support the education and training for handicapped students. In 1995, this 1-day fundraiser involved over 1,000 participants and 8,000 pledging sponsors. The event generated over $100,000 in pledges to support the work of the school.

Mr. President, I would like to congratulate and commend Valley Haven and the entire Valley community for displaying such strong support and concern for these special students. This year's Hike-Bike-Run will be held on Saturday, May 4, and I know that the community will once again unite to support this wonderful program and help Valley Haven School help its students.●

IT TAKES A VILLAGE TO DESTROY A CHILD

• Mr. SIMON. Mr. President, a few years ago I read a book by Alex Kotlowitz, then a reporter for the Wall Street Journal, titled "There are no Children Here: The Story of Two Boys Growing Up in the Other America." It is one of the best books I have read in the last few years.

It tells with gnawing detail how the lives of people deteriorate in our central cities.

Recently, he had an excellent op-ed piece in the New York Times titled "It Takes a Village to Destroy a Child," which I ask to be printed in the RECORD.

His title is obviously a take-off on the title of the book by Mrs. Clinton, but what he has to say ought to disturb the consciences of all of us.

The article follows:

[From the New York Times, Feb. 8, 1996]

IT TAKES A VILLAGE TO DESTROY A CHILD

(By Alex Kotlowitz)

OAK PARK, ILL.—The crime is so heinous it makes me shake with anger. In the early evening hours of Oct. 13, 1994, two boys, 10 and 11 years old, dangled and then dropped 5-year-old Eric Morse from the 14th floor of a Chicago public housing complex, because Eric wouldn't steal candy for them.

His killers displayed no remorse. In court, the younger of the two, who could barely see the judge above the partition, mouthed obscenities at reporters covering the trial. Last week, they became the youngest offenders ever sent to prison in Illinois. And they have come to symbolize the so-called super-predators, children accused of maiming or killing without a second thought.

Unsurprisingly, both boys had fathers who were in prison. One had a mother who, according to school records, repeatedly missed counseling sessions. The other mother, according to court records, battled a drug addiction. I don't mention the parents of these children to excuse the crime. Nor do I mention this to state the obvious: In the absence of loving, nurturing, discipline-minded adults, children become lost.

Rather, I want to point out that while we can talk about strengthening families, there will be little success until we also find a way to strengthen our communities. We profess homage to the well-worn aphorism that it takes a village to raise a child. But where in the case of these boys—and ultimately in the case of Eric Morse—was the village?

Let's take a look at the older of the two boys, whom I will call James. He attended the primary and intermediate J.R. Doolittle Schools, two buildings which butt up against the drab-looking Ida B. Wells public housing complex. According to school documents, James earned mediocre grades, mostly C's, and then in the third grade, when his father was arrested, his grades plunged. He couldn't sit still in class. He fought other students.

In fourth grade, the school ordered a psychological evaluation, which recommended only tutoring. That same year, he flunked every subject, including gym and music. Nonetheless, the school promoted him. The next year at his new school, he missed 23 days. Because of low marks, he repeated the fifth grade.

Why didn't the school administrators sense that something was amiss in this child's life? Part of the problem may be that the primary school of 700 students could afford only once-a-week visits by a psychologist and social worker. And truant officers were axed three years ago by the financially strapped Chicago Public Schools.

One afternoon when James was on his way to pick up his cousin, he witnessed a gang member shoot and kill a rival. James was 9 at the time. His lawyer, Michelle Kaplan, said he was standing 10 feet from the victim. No adult offered him counseling. No one stepped in to make sure that such an incident didn't happen again.

In most communities, such an event would have brought quick attention, I'm reminded of the day in 1988, when Laurie Dann, a deranged woman, walked into an elementary School in Winnetka, Ill., and shot six children, killing an 8-year-old boy. Psychologists were brought in to counsel the students, their parents and teachers. The governor called for tighter school security. Some politicians demanded tougher gun control laws.

James received no such attention. In the six months before Eric's murder, the police arrested James eight times on relatively minor charges from shoplifting to possession of ammunition, presumably bullets. Each time the police released him.

After three arrests in one year, the police are supposed to—by their own guidelines—refer a child to juvenile court in the hope that he or she might receive help. That was never done in James's case. "This was a child in crisis," Ms. Kaplan said. "Here's an 11-year-old child who was expressing in the only way a child can that something's wrong."

Now the village vigorously debates not how we failed James but what we should do with him: Send him to a youth prison or to a residential center, where the emphasis is on rehabilitation? The judge who presided over this case, Carol Kelly, has a reputation for siding with the prosecution. Indeed, she chose to send the two boys to prison, stipulating that they receive therapy. But when asked what could be learned from this case, Judge Kelly says: "Let's focus on what brought them to this point. What happened to them? What didn't happen to them? What can we do so we don't have other Eric Morses?"

I'm haunted by one image in particular. When the two boys dropped Eric from the window, Eric's 8-year-old brother ran down the 14 flights as fast as he could. He later testified that he was hoping to catch Eric. Eric's brother did more than any one else to try to save his little brother.

He and Eric are victims of James and his cohort—and of the village guardians who failed them. James and his 10-year-old partner were not headed for trouble, they were well into it. Yet, no adult intervened.

These boys come from a neighborhood poor in spirit and resources. If we can't help rebuild their community, using schools as a foundation, we'll all end up running furiously down those stairs hoping, praying, that we can catch yet one more child dropped by their families and by the institutions that presumably serve them. It will almost always be too late.•

BUDGET SCOREKEEPING REPORT

•Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 7, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget House Concurrent Resolution 67, show that current level spending is above the budget resolution by $15.7 billion in budget authority and by $16.9 billion in outlays. Current level is $81 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.6 billion, $17.0 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated February 27, 1996, Congress cleared for the President's signature an act providing tax benefits for members of the Armed Forces performing peacekeeping services in Bosnia and Herzegovina, Croatia, and Macedonia (H.R. 2778). This action changed the current level of revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 11, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through March 7, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report dated February 14, 1996, Congress has cleared for the President's signature an act providing Tax Benefits for Members of the Armed Forces Performing Peacekeeping Services in Bosnia and Herzegovina, Croatia and Macedonia (H.R. 2778). This action changed the current level of revenues.

Sincerely,
JAMES L. BLUM,
(For June E. O'Neill, Director).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS MAR. 11, 1996

[In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current level[1]	Current level over/ under resolution
ON-BUDGET			
Budget authority	1,285.5	1,301.2	15.7
Outlays	1,288.1	1,305.0	16.9
Revenues:			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.6	262.6	17.0
Debt Subject to Limit	5,210.7	4,900.0	−310.7
OFF-BUDGET			
Social Security Outlays:			
1996	299.4	299.4	0
1996–2000	1,626.5	1,626.5	0
Social Security Revenues:			
1996	374.7	374.7	0
1996–2000	2,061.0	2,061.0	0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 7, 1996

[In billions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation		242,052	
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557
ENACTED IN FIRST SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 7, 1996—Continued

[In billions of dollars]

	Budget authority	Outlays	Revenues
Legislative Branch (P.L. 105–53)	2,125	1,977	....
Military Construction (P.L. 104–32)	11,177	3,110	....
Transportation (P.L. 104–50)	12,682	11,899	....
Treasury, Postal Service (P.L. 104–52	23,026	20,530	....
Offsetting receipts	−7,946	−7,946	....
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	....
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)	....	(6)	....
Perishable Agricultural Commodities Act Amendments of 1995 (P.L. 104–48)	1	(6)	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	....
ICC Termination Act (P.L. 104–88)	....	....	−(6)
Total enacted first session	366,191	245,845	−100
ENACTED IN SECOND SESSION			
Appropriation bills:			
Seventh Continuing Resolution (P.L. 104–92)[1]	13,165	11,037	....
Ninth Continuing Resolution (P.L. 104–99)[1]	792	−825	....
Foreign Operations (P.L. 104–107)	12,104	5,936	....
Offsetting receipts	−44	−44	....
Authorization bills:			
Gloucester Marine Fisheries Act (P.L. 104–92)[2]	30,502	19,151	....
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	....
Saddleback Mountain—Arizona Settlement Act of 1995 (P.L. 104–102)	....	−7	....
Telecommunications Act of 1996 (P.L. 104–104)[3]	....	....	....
Farm Credit System Regulatory Relief Act (P.L. 104–105)	−1	−1	....
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	....
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–111)	−5	−5	....
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	(6)	(6)	....
Total enacted second session	56,884	35,613	....
PENDING SIGNATURE			
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia, and Macedonia (H.R. 2778)	....	....	−38
CONTINUING RESOLUTION AUTHORITY			
Ninth Continuing Resolution (P.L. 104–99)[4]	116,863	54,882	....
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	131,056	127,749	....
Total Current Level[5]	1,301,247	1,305,048	1,042,419
Total Budget Resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution	....	....	81
Over Budget Resolution	15,747	16,948	....

[1] P.L. 104–92 and P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[2] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[3] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[4] This is an annualized estimate of discretionary funding that expires March 15, 1996, for the following appropriation bills: Commerce-Justice, Interior, Labor-HHS-Education and Veterans-HUD.

[5] In accordance with the Budget Enforcement Act, the total does not include $3,417 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

[6] Less than $500,000.

Notes.—Detail may not add due to rounding.•

READ THE RIOT ACT TO CHINA

• Mr. SIMON. Mr. President, in response to the irresponsible statements by China recently about Taiwan and their relationship with the United States, the Chicago Tribune had an excellent editorial which I ask to be printed in full in the RECORD.

While I differ some with my friend Senator DIANNE FEINSTEIN, the other day she told me that the United States should stop zigzaging all over the place in terms of China policy.

I could not agree with her more.

Our policy should be consistent so that both China and Taiwan understand where we are. We are not hostile to China. We are not hostile to Taiwan. We want to be friends with both.

China must also understand that if there is a tilt from time to time between a democracy and a dictatorship, the tilt of the United States of America will be to democracy.

The article follows:

[From the Chicago Tribune, Jan. 25, 1996]

READ THE RIOT ACT TO CHINA

China has gone too far. According to press reports from Beijing, China has drawn up plans for possible attacks on Taiwan after that island-state completes it first democratic presidential elections in March.

But it doesn't stop there: China also has issued veiled threats to hit America with nuclear missiles if the U.S. military intervenes.

The U.S. has shown extraordinary patience with China, hoping by sweet reason and constructive engagement to coax it into behaving reasonably, constructively—and peacefully.

But threats of war are intolerable. America must put an end to Beijing's strutting and bullying. President Clinton must immediately let the Chinese know in no uncertain terms that the U.S. military will guarantee Taiwan's territorial integrity from missile attack or invasion. And he must back that warning with action: dispatching an aircraft carrier task force off the Taiwanese coast, perhaps, or sending a contingent of American soldiers to the island as a tripwire.

But Clinton must do more: He must tell the gerontocrats in Beijing that even so much as a hint of an attack on the United States will bring consequences for China more horrible than they can imagine.

The U.S. dollar had a roller-coaster ride Wednesday on rumors and denials of warmongering from China. It started when The New York Times quoted Chas. W. Freeman, a former assistant defense secretary, as saying China has plans for launching a missile a day against Taiwan should Beijing perceive the island striding too quickly toward independence.

Even more chilling were comments that the Chinese feel they can act with impunity because American leaders "care more about Los Angeles than they do about Taiwan"—interpreted as a threat to launch nuclear missiles against the U.S. to deter involvement.

No response can be too muscular in warning China that even such fortune-cookie-style threats are intolerable. After all, this is the same China that violates nonproliferation treaties by shipping ballistic missiles to Pakistan and by selling equipment for manufacturing chemical weapons to Iran. This is the same China that stands accused of operating an island-like chain of slave-labor camps and of dealing with unwanted orphans by allowing them to starve to death.

Beijing needs to understand that the American eagle offers a choice. The first, an olive branch, promises peaceful intercourse and free trade. But the other claw holds the mightiest quiver of arrows the world has ever known, and America is ready to use them.•

FAIRBANKS, THE ICE CAPITAL OF THE WORLD

• Mr. MURKOWSKI. Mr. President, On March 17, 1996, the great Alaskan city of Fairbanks, my hometown, is hosting the World Ice Sculpting Championships as part of the annual Fairbanks Winter Carnival. The organizers of the event have discovered that Alaska has the best ice in the world for ice sculpting. In 1988 they invited ice sculpting teams from Chicago and China to come to Fairbanks in hopes of reviving the art of ice sculpting. At the time, they were unaware of the fine quality of Alaskan ice, so to make sure they had the right ice for the guest instructors they brought in blocks of ice from Seattle, WA. In addition, however, they harvested some local ice for comparison. As a surprise result, they discovered that Alaskan ice is superior to any other ice found in the world. They now export Alaskan ice to such far away places as Frankenmuth, MI, for ice sculpting.

The organizers of this event believe that because of the superiority of Alaskan ice and other favorable conditions, they have been able to attract a growing number of artisans to participate in the Fairbanks ice art ice sculpting championships. This year, Fairbanks is proudly hosting 67 teams from countries around the world including China, Korea, Holland, Belgium, Brazil, Chile, Japan, France, Russia, Canada, and the contiguous United States.

Fairbanks is able to successfully host this event through the hard work of volunteers. The organizers hope to continue to host the world championships every year except during years when the Winter Olympics are held. I am confident that this year Fairbanks, AK, will hold one of the biggest and best Winter Carnival's ever. My congratulations to the organizers and volunteers for all their effort and hard work.•

IS WEST SLIGHTING AFRICA'S HOT SPOTS LIKE LIBERIA?

• Mr. SIMON. Mr. President, I am concerned about the deterioration in Liberia, Burundi, and a few other nations.

The pattern in Bosnia is for the United States and other nations to wait until the situation deteriorates very, very badly—until hundreds of thousands of people are killed—and then the United States and the community of nations move in.

I applaud what we are finally doing in Bosnia.

In no country in Africa do we have greater responsibility than in Liberia, where it was sometimes viewed as an American colony because it was founded by former American slaves.

Their ties to the United States have been long.

And when there was a dictatorship in Liberia, we did not hesitate to cooperate with that dictatorship. An article by Howard W. French recently appeared in the New York Times which I ask to be printed in the Record.

Now that the dictatorship is gone and chaos has followed, our concerns appear to be minimal.

The article follows.

[From the New York Times, Jan. 23, 1996]

Is West Slighting Africa's Hot Spots Like Liberia?

(By Howard W. French)

Monrovia, Liberia, January 22.—When the American delegate to the United Nations, Madeleine K. Albright, stopped here briefly on Wednesday during a tour of several African countries, there were the predictable pledges of assistance from Washington to war-torn Liberia.

But along with the promise of helicopters and trucks to help in the disarming of combatants in a devastating six-year civil war, there was also a stern warning that the international community had little patience for crisis-ridden African countries that failed to settle their own problems.

"We have no intention of our logistical support being squandered by anyone's failure of political will," Mrs. Albright said at an airport news conference, straining at times to be heard over a Nigerian transport plane ferrying in new peacekeepers. "Delay," she said, can "no longer be in the vocabulary" of Liberia's political actors.

But for many African leaders and diplomats, the trip of Mrs. Albright—the highest-ranking American to visit Liberia since Secretary of State George Shultz came here before the war that killed more than 150,000 people—inadvertently underscored another point: by the time African crises receive this level of outside attention, the moment for averting catastrophe or sealing the peace has all too often passed.

The most critical obstacle to fulfilling the Liberian peace agreement reached last August, these African officials say, has been the delay in getting the kind of international response needed to carry out a disarmament program and remake this country's shattered economy.

In this regard, African officials argue, the handling of the Liberian crisis by the outside world strongly resembles the ambivalent or tardy international response to past crises in other stops on Mrs. Albright's itinerary: Angola, Rwanda and Burundi.

In Liberia, despite widespread skepticism about its prospects, a cease-fire has largely held for months. But recent days have seen the first serious signs of an unraveling of the country's settlement, as unruly fighters of one of the country's several armed factions have killed as many as 50 West African peacekeepers.

Diplomats say the fighting began because of the economic desperation of the militia members, who are often unschooled boys, and add that the conflict nearly flared out of control because of the limited means available to a short-handed and poorly equipped peacekeeping force.

"Last fall, the American Government pledged $75 million to help us," said Wilton S. Sankawulo, the former schoolteacher who is chairman of Liberia's governing Council of State. "But they said go home first and prove that you are serious."

Liberia has been the first instance in which a regional organization, namely the Economic Community of West African States, or Ecowas, has acted with the official sanction of the United Nations to end a civil war. Nigeria has led this effort from the start, spending an estimated $4 billion. But with major political and economic crises at home, diplomats say Nigeria cannot now carry out Liberia's peace agreement without substantially more outside help.

Foreign diplomats say the most critical immediate element is giving the 7,500-man Nigerian-led peacekeeping force—known as Ecomog, for the Ecowas monitoring group—the means to deploy throughout the country; the trucks and helicopters pledged but not yet delivered by the Americans, and more troops from poor West African countries, which would require financing from the outside world.

Unlike other crises in which the United Nations send its own peacekeepers and directly assess contributions from members, international fund-raising for Liberia has been conducted through voluntary donor conferences that have garnered sparse contributions.

On top of the outside world's reluctance to contribute to an African-led peacekeeping effort, which has embittered many of this region's leaders, there is the additional complication of deeply strained relations between the United States and Nigeria over the latter's human rights situation.

Rather than being turned over to the Nigerian-led peacekeepers, as is the practice in most international efforts of this sort, the troop trucks promised by the United States are leased vehicles that, at Washington's insistence, will be operated only by private contractors to keep them out of Nigerian hands.

"The resources of Ecomog have been stretched to the limit, and it would be wrong and unfair for the international community to expect it to proceed further without getting it more help," said Anthony Nyaki, the United Nations special representative to Liberia. "Because of the unique mandate given by the U.N. to the West Africans whatever happens here will be precedent-setting.

"In five days as much is spent in Bosnia as was spent in a whole year on Liberia," he said. "If this is allowed to fail, the question will become more pertinent than ever why the outside world cares so little for Africa."

The comparison with Bosnia is one that comes up again and again in conversations with African officials throughout this region, and it is one that inspires cynicism among many.

The international community was slow to act and committed far too few resources to managing crises like the transition to democracy in war-torn Angola or the prevention of a genocidal civil war in Rwanda, African diplomats say. And in Burundi today, where the signs of a possible Rwanda-style civil war are multiplying, the same reluctance to act seems apparent to many.

"Since Somalia ended, I have attended three major conferences on the lessons of that crisis, but these lessons never seem to be learned," said Victor Gbeho, a Ghanaian diplomat who represents the West African economic community here and was the United Nations special envoy to Somalia at the height of that country's crisis.

"For some reason it still takes far too long to get the international community to react to African crises, to realize their pledges of support and work through their bureaucratic mazes," Mr. Gbeho said. "It took the Americans one week to raise $1.8 billion for Bosnia. If I were paranoid, I would say the delays we always face here are due to the fact that we are dealing with Africa."•

THE HEZBALLAH CONFESSION

• Mr. D'AMATO. Mr. President, I rise today to discuss something that most people who follow the subject, I am sure already knew, but is nevertheless an interesting admission. In a Reuters interview, yesterday, Sheik Hassan Nasrallah, Secretary General of Hezballah in Lebanon, flatly admitted to Iranian funding when he said:

> We are not shy and they (Iranians) are not afraid about it . . . we don't hide Iranian support. There is no need to deny that we receive financial and political support from Iran.

Moreover, he admitted that Syrian forces in Lebanon's Bekkah valley help greatly in getting weapons to his forces, when he stated:

> Syrian forces are stationed in the Bekaa [sic] (valley) and the north. These two areas constituted the background of support for resistance fighters in (Israeli)-occupied areas.

These admissions, especially that of implicit Syrian support for Iranian terrorism are vital to understanding the relationship of these terrorist organizations and how they operate in the region. If we are going to support Israel while it wages peace, are we going to ignore Syria and Iran while they wage war against Israel?

We cannot ignore what is going on for mere political expediency. We must confront the facts as they exist and this means that we must question the Syrians on this admission. With Iran, I am sure that there is no disagreement. But Syria is another question altogether.

Mr. President, I ask that the text of this important interview be printed in the Record.

The text follows:

[From Reuters, Mar. 11, 1996]

Hezbollah Chief Admits Iran Is Financing Group With BC-Iran-President

Beirut, Lebanon.—For the first time, the leader of Hezbollah acknowledged publicly in an interview published Monday that Iran is financing the group.

"We don't hide Iranian support. There is no need to deny that we receive financial and political support from Iran" said Sheik Hassan Nasrallah, Secretary-General of the Shiite Muslim Militant Group.

"We are not shy and they (Iranians) are not afraid about it," he said in an interview with the London-based Arabic Language Weekly Al Wasat.

It was the first public admission of Iranian financial support by a senior leader of Hezbollah, or Party of God.

The group has vociferously denounced the planned counter-terrorism summit at Egypt's Red Sea resort of Sharm El-Sheik Wednesday.

Why doesn't one wonder why the United States is paying 3 billion dollars to the Zionist entity, which is attacking the entire region while condemnation is voiced over Iran's financial support for Hezbollah or any Islamic resistance faction fighting to liberate its land?" Nasrallah said.

Hezbollah guerrillas are fighting to oust the 1,200 Israeli soldiers and 2,500 Israeli-backed South Lebanon Army militiamen from an occupied border enclave in South Lebanon.

Israel established the enclave, known as a "security zone," in 1985 as a buffer against cross-border guerrilla attacks on its northern towns.

Hezbollah guerrillas mounted a string of attacks on Israeli troops in the "security zone" Sunday, killing one and wounding five.

Nasrallah also said that Syria, the main power broker in Lebanon, was facilitating Hezbollah's arms supplies through routes in northern and eastern Lebanon.

Syria maintains an estimated 40,000 troops in Lebanon, ostensibly as peacekeepers to prevent a rekindling of the 1975–90 civil war.

Nasrallah said since Hezbollah was founded in 1982 following the Israeli invasion of Lebanon that year, Syria has provided the party with "a political cover, moral support and field facilities."

"Syrian forces are stationed in the Bekaa (Valley) and the north. These two areas constituted the background of support for resistance fighters in (Israeli)-occupied areas," he said.

"Of course, Syria didn't give us money. It has supported us and facilitated" arms supplies, Nasrallah added.

Like its sponsor, Iran, Hezbollah opposes the U.S.-sponsored Middle East peace process and has vowed to torpedo it through intensified attacks in South Lebanon, the last active Arab-Israeli war front.

The Sharm El-Sheik Summit, which will be attended by U.S. President Clinton and more than 30 other world leaders, was called to bolster Israel following a wave of suicide bombings which killed 61 people.

Hezbollah has hailed the bombings, which have been claimed by the Palestinian militant Hamas group, as an "Act of Heroic Jihad (holy war) against occupation." •

UNANIMOUS-CONSENT REQUEST—S. 942

Mr. BURNS. Mr. President, I ask unanimous consent that on Thursday, March 14, at 10 a.m., the Senate proceed to the consideration of Calendar No. 342, S. 942, the small business regulatory reform bill, to be considered under the following limitation: 90 minutes of total debate equally divided between the two managers; that the only amendments in order to the bill be the following: the managers' amendment to be offered by Senators BOND and BUMPERS, an amendment to be offered by Senator NICKLES regarding congressional review, one additional amendment, if agreed to by both leaders after consultation with the two managers; further, that following the disposition of all amendments, the bill be read a third time, the Senate then proceed to vote on final passage of the bill, all without any intervening debate or action.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Yes. I have two things I wish to correct. One would be the Nickles-Reid amendment in the body of the text, and if the Senator from Montana wishes an explanation, I would be happy to give one, but I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BURNS. Mr. President, I helped craft this legislation, and if there is one thing that we hear going down the road every day from the people who live in my State of Montana it is the way we write our rules and regulations here in Washington. This regulatory reform bill addresses those fears. This bill was reported out of the Small Business Committee with strong bipartisan support for the work that was done by Senator BUMPERS, who was chairman of that committee and has worked on this issue for so long, and I am sorry that it will not be allowed to come to the floor.

Mr. REID. Will my friend yield?

Mr. BURNS. Yes.

Mr. REID. I say to my friend, I personally feel as if the unanimous-consent request is excellent. I think the content of the unanimous-consent request would allow us to go forward with regulatory reform which is badly needed. It especially directs attention to the small business community which has been hammered with regulations with which they have difficulty complying.

I say to my friend from Montana that we have a Member on this side of the aisle who has worked very long and hard, in his own words, not hours or days but weeks with Members on the Senator's side, and his objection relates to a much bigger piece of regulatory reform that I think frankly will kill all regulatory reform, but that is what he wants. And so in the next few hours, maybe days, we are going to work with him to see if we can get him to agree to our unanimous consent request.

Mr. BURNS. I think my friend from Nevada understands the problems small business is going through right now and the margin they have to worry about. This gives them a great deal of flexibility. But it also allows Congress to take a look to see how the rules are really written with regard to legislation that we pass. It is fairly simple for us to pass legislation. We beat ourselves on the chest, and we say what a good thing we have done, but then when the law goes down and the administrative rules are written, sometimes those rules do not even look like the legislation, let alone the intent of the legislation. So I think this addresses that, and I hope we can work out something. Knowing my friend from Nevada, I understand the possibility is very good.

Mr. REID. Will my friend yield again?

The Senator is absolutely correct. This unanimous-consent request contains a provision that was passed in this body by a vote of 100 to nothing, the Nickles-Reid amendment, which would allow the Congress to look at regulations promulgated by Federal agencies. If it has a financial impact of $100 million, it would not go into effect until a reasonable period of time. This calls for 60 days, which I think is appropriate. It was originally 45 days. If it has a financial impact of less than $100 million, it goes into effect immediately but we can rescind it within 60 days. That is really I think farsighted legislation, something that is long overdue. And so I agree with my friend from Montana. I hope we can work it out so that we can debate it for a period of time as indicated in the unanimous consent request and in effect claim victory for the American people. We would be doing something that is bipartisan in nature. Heaven knows, we need to do some things on a bipartisan basis in this body.

Mr. BURNS. No question about it. The Senator from Nevada is exactly correct.

AGRICULTURE MARKET TRANSITION ACT

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 338, H.R. 2854; further, that all after the enacting clause be stricken and the text of S. 1541, as passed the Senate, be inserted in lieu thereof, the bill be read the third time, passed, and the motion to reconsider be laid on the table; further, the Senate insist on its amendments, request a conference with the House and the Chair be authorized to appoint conferees, provided that the total number of Democratic conferees signing the conference report does not exceed five.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, for the information of the Senate and my colleagues who are in the Chamber, I wish to say that I intend to discuss with appropriate remarks my concerns about the agriculture bill and very likely at the end of those comments I will withdraw my objection for the reasons I will state during the remarks I intend to make about the farm bill. If the Chair will recognize me for that purpose, I will make my remarks as brief as I can but not as brief as the Senator from Nebraska usually is.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, my strong objections to the so-called freedom-to-farm act, or son of freedom to farm act, or whatever it is called now, both the version passed by the Senate and the one that passed the House of Representatives, and the technical amendments and the appointment of the conferees that has just been suggested by the acting majority leader give me pause for great concern.

I wish to state once again, in trying to wrap up, if I might, the strong objections this Senator has along with many other Senators from the farm belt with regard to the basic thrust of this law, what it does do and what it does not do, the reasons I think it is very bad legislation; and if I withdraw my objection to the unanimous-consent request it would only be with the hope, a wing and a prayer, if you will, that the conference committee itself, when it discusses the farm bill in conference and reports back the conference report for approval of both the House and the Senate, that significant changes will be made so that I will be able to accept the conference report.

However, I say that with a great deal of optimism and a great deal of concern that that in the end might not happen. Therefore, I think it is time once again as we contemplate taking the action that has just been suggested by the acting majority leader to understand what we are doing, which I think is not in the long-term interests of a sound food policy or in the long-range interests of the safety net that basically from its very beginning the freedom-to-farm act was designed to end in 7 years, notwithstanding the protestations, notwithstanding some of the efforts which have tried to be explained as providing a safety net for agriculture after 7 years.

Mr. President, I take a back seat to no one in the support of agriculture and family-size farmers and rural America. During my 8 years as Governor of Nebraska before I came to this body, until now, my 18th year in the U.S. Senate, I have fought hard for agriculture. I have joined with many of my colleagues on both sides of the aisle to try to tell the majority of the Members of this body that the safety net that we have had for a long, long time with regard to farm legislation has not been perfect, but it has led to a solid, firm food supply for America. The genius of production of our farmers feeds not only the United States but many parts of the world.

Last but not least, the farm programs that have been often criticized because of the safety net feature and the expenditures have still provided the United States with an abundance of food, more abundance than any place in the whole world. At the same time, it has provided prices for food at very competitive rates. The facts of the matter are that the cost of food in the United States of America is the cheapest of any of the industrialized nations in the world. So, certainly the farm programs that have been often abused and cursed over the last several years since the Great Depression of the 1930's, have served America and agriculture overall very well.

But where are we going from here? Where are we going to be if the freedom to farm act encompassed in the Senate version, and likewise the freedom to farm act as encompassed in the version passed by the House of Representatives, basically is designed in the form of transition payments to lead to nowhere at the end of 7 years? Mr. President, 7 years of handsome, expensive payouts to agriculture, that, in my view, is essentially a welfare system, going ahead with massive—billions of dollars in expenditures, welfare to farmers, at a time when we are trying to reduce the budget and at a time when we are trying to curtail welfare, defies reason.

I say that once again, Mr. President, as a strong supporter of family-size farms in rural Nebraska and rural America. I simply point out, first with regard to the estimates of the costs of the program, we all know, and it has been well established, that the so-called freedom to farm act came out of the budget discussions and agreements and disagreements. The freedom to farm act and the transition payments have been fostered early on as a great budget saver, to help us balance the budget by the year 2002.

I would simply point out that the facts, as the way this bill has come out of the House and the Senate, are just the opposite. The most recent CBO estimates show that the Senate farm bill will cost $1.13 billion more than the current law over the next 7 years. Some had claimed that was too expensive. In the first 2 years alone, the Senate farm bill will cost almost $4.6 billion more—and I emphasize more—than current law. Turning to the House bill, to cite the figures therein, the House bill saves only $1.8 billion over 7 years, a far cry from the savings touted earlier in the year. And what do farmers get for this? A healthy payoff but no long-term farm policy or safety net.

The CBO figures have just come out. I would like to cite those at this time. For the 1996 crop, the one that we hope will be planted or is being planted now, a corn farmer will get paid 37 cents per bushel up to the limit of $40,000 that he can receive each and every year. The corn farmer will get that 37 cents per bushel regardless of what the market price is and what the farmers receive from the market price for the products that I will identify, starting out with corn.

In other words, if corn, which is now at a price of about $3.40 a bushel at the marketplace, if that would be maintained—and the Department of Agriculture predicts that those prices will very likely be maintained for 1996 and 1997—that would mean that the farmer getting $3.40 a bushel would get 37 cents per bushel on top of that, roughly over $3.75 a bushel. Wheat farmers will get paid 98 cents per bushel over and above, as a gift from the taxpayers of America. Sorghum farmers will be paid 44 cents per bushel. And so on, and so on, and so on.

Mr. President, I point this out because I think the Republican farm bill has strayed way off course. It is not good for agriculture in the long term and it is certainly not good for balancing the budget. I simply say that, at $3.40 a bushel, we should not be paying any money out to corn farmers, unless there are some circumstances where his crop would be wiped out. I point this out because this is just one of the things wrong with this farm bill. This cost estimate brings the fact home loud and clear, that S. 1541 is a sham. It is a sham to the taxpayers, and it is a sham to the farmers over the long term.

How so? For taxpayers, it is a sham because it does not make good on deficit reduction. For months, taxpayers have been told that Congress was going to crack the whip and enact deficit reduction. Now we learn that the farm program's revisions, which were advertised as saving money, are actually going to cost more than if we would simply continue with the farm program and its costs that we have today. In fact, for 1996 and 1997, they will cost about $4.5 billion more than the current law.

For farmers, this sham is a little different. They have been led to believe that the freedom to farm contracts will protect them from fiscal unpleasantness that will surely follow. I am sad to say that these contracts that are widely heralded have been grossly oversold. Farmers have been led to believe that, once they sign up, their payments from the Federal Government will be locked in and no one can do anything about it.

A few moments ago, we were talking about the rules of the U.S. Senate. One of the rules that we all know very well is that one Congress cannot bind the succeeding Congress. Farmers should bear this in mind. The reality is that future Congresses will almost certainly take a butcher knife to the Freedom to Farm Act, and I believe that we all should recognize and realize that. These farm payments that will be received under the Freedom to Farm Act have no relationship to farm production or to the commodity prices that the farmers receive.

I agree that we should be cutting out all or most of the red tape that the farmers have to wrestle with each and every year. We should provide a piece of farm legislation that provides much more flexibility, if not total flexibility, as to what the farmers plant and how much they plant of a given product. But what kind of protection will the freedom to farm contracts provide? Not enough. The National Center for Agricultural Law Research and Information was asked to make a careful review of the freedom to farm bill. They concluded that, "* * * the annual payments are not guaranteed for the life of the Freedom to Farm legislation."

The facts, Mr. President, could not be clearer. This is a sad commentary on the way the farm bill has been handled, and I simply want to set the record straight, make it very clear on several very important points.

Mr. President, let me start out by quoting from several publications with regard to the costs that very likely will skyrocket and make it even that much more difficult to balance a budget.

I quote first from an article from the Omaha World Herald of February 27, 1996. The headline is: "Glickman Says New Farm Plan's Costs are Higher." We all know that Dan Glickman is Secretary of Agriculture and a farm expert who previously served on the Agriculture Committee of the House of Representatives with great distinction.

This article is by David Beeder of the Omaha World Herald:

> WASHINGTON—Legislation guaranteeing farmers more than $40 billion over seven years would cost the Federal Government $20 billion more than it could cost to extend a farm law that expired December 31, Agricultural Secretary Dan Glickman said on Monday.
>
> "For the first 2 or 3 years, we know we are going to be spending much more on this farm bill," Glickman said in a speech to the National Association of State Departments of Agriculture.

To save time and to stay away from being redundant, I ask unanimous consent that all of the articles I quote be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I wish to carry on the discussion of the skyrocketing costs under the new farm bill. I wish to also quote from an article from the Omaha World Herald of February 25, 1996. The headline is: "USDA: Dairy, Cereal Prices Expected to Rise."

This story goes on to say that:

> Food prices in the United States are likely to increase less than the rate of inflation this year, with meat prices expected to decline, Government economists say.
>
> However, the price of milk should rise by 4 percent to 5 percent over last year because of the lowest surpluses of dairy products since the mid-1970's, the Agriculture Department said.

This goes on to explain what is happening and what the freedom to farm policy, if you want to call it that, will do for both the consumers of America and the producers as well.

Mr. President, I will further comment on an article from the Lincoln Journal Star of February 25, 1996, and this one is headlined: "Bill Raises Farm Costs, Officials Say," by Robert Greene of the Associated Press.

> WASHINGTON.—A farm-program overhaul that the Senate passed this month will raise spending rather than save billions of dollars as Senate budget writers had planned, the Senate Budget Committee says.
>
> "We've lost all our savings," said Bill Hoagland, the committee's staff director.
>
> The original farm-program changes in the budget-balancing legislation vetoed by President Clinton last year would have cut spending for agriculture programs by $4.6 billion. The Senate-passed farm bill instead costs $200 million to $380 million more over the next seven years than if the farm bill had been left alone, Hoagland said.

Mr. President, I simply say that this farm bill, indeed, is backed by some farm organizations. I happen to think that they are taking a very shortsighted approach to the whole proposition.

This farm bill leaves beginning farmers out in the cold. It provides a rather handsome payment for the next 7 years. To those who have participated in farm programs in the past, I have cited earlier in speeches on the floor in this regard that if you take, for example, a 500-acre corn farm—and those of us who know and understand agriculture know that that is not a big farm—but 500 acres of corn, and if the farmer would sell that for $3.10 a bushel, which is under the $3.30 to $3.40 price today, he would receive, in addition to that good price for corn, a check free from the Federal Government, free from the taxpayers, of $16,000 on top of the $186,000 that that corn farmer would receive, assuming a return of about 110 bushel per acre, which is reasonable.

Many farmers and many farm organizations that I will cite in my remarks realize and recognize that if you are a 57-year-old farmer today, and I must say that that is about the average age of our farmers in Nebraska and very likely near the average age of our farmers in the United States as a whole, if you are going to farm 7 more years, and then when you are 65 and retire, this is a pretty good bill, because it gives you handsome payments from the taxpayers that cannot be justified.

In the end, it leads to nowhere, 7 years of transition payments. What does transition payments mean? Transition payments were intended and I predict eventually will be a payoff to farmers in rather handsome numbers through welfare, and they will receive this check from the Federal Government whether they even plant or not, whether they even go to the field. They get this check from the taxpayers.

But many farm groups are protesting this, and rightly so.

Mr. President, I cite an article that I have in my hand from the Omaha World Herald, again, on February 23, 1996, and this headline says: "Hundreds Expected to Protest Farm Bill," by Ann Toner of the Omaha World Herald.

> By bus, car and van, farmers from as far away as North Dakota are expected to gather in Wichita, KS, today to voice their opposition to the latest farm program proposals to gain House and Senate approval.
>
> Loosely dubbed the Freedom to Farm Act, the proposed law—officially, the Agricultural Marketing Transition Act in the Senate—is in its final stages in Washington.

This goes on to identify the farm organizations and some of the farmers who made that trip to Wichita.

The next article that I will reference is, again, from the Lincoln Journal Star. This is Sunday, February 25, 1996.

The headline is, "Only people who eat need to worry about our food policy." And the first paragraph of this article by Sally Herrin says:

> The United States Senate put the family farm up for sale when it voted 64-32 to send Bob Dole's Agricultural Marketing Transition Act, S. 1541, to the House of Representatives tomorrow morning, Feb. 26. This is a modified version of Bill Barrett's and Newt Gingrich's Freedom to Farm proposal which is the "final solution" to farm programs.
>
> But farm programs are just for farmers rights? Think again.

And Sally Herrin goes on to explain in great detail how bad this freedom to farm bill actually is.

Likewise, I will include in the RECORD an editorial from the Lincoln Journal Star of February 18, 1996. This editorial is entitled "Freedom To Farm: An excuse To Abandon Agriculture."

I will read the first two or three paragraphs of this editorial because, in summation in a few words, this does about as good a job as I could imagine in saying what is wrong with this measure.

> Blow a little dust off your memories of the 1988 Senate race in Nebraska. David Karnes is at the podium at State Fair Park in Lincoln. Row after row of Republican cheerleaders lean forward, gathering themselves for their next explosion. But coming out of Karnes' mouth are these fateful words: "We need fewer farmers at this point in time."
>
> Groans. Gasps. Even boos. Cheerleaders slump in their seats. Bob Kerrey seizes on what Karnes later describes as a slip of the tongue and delivers a stern lecture. A few weeks later, voters elect Kerrey and cast Karnes into the basement of political esteem.
>
> But guess what? Eight years after a promising conservative showed his poor grasp of acceptable rhetoric, the underpinnings of the once unutterable are being uttered daily. As Congress and President Clinton stumble toward passage of a new farm policy, the words "freedom to farm" are much in vogue. They are represented, not as the first step [the real steps] towards abandonment of agriculture, but as breath-taking reform.

Likewise, Mr. President, I will quote very briefly from another editorial, this time of February 29, 1996, again from the Lincoln Journal Star. This headline is "Freedom To Farm: Freedom To Plunder Treasury." And I quote:

> Farming experts will tell you that a farmer who can't make money raising corn at $3 a bushel should sell the tractor and move to town. Fortunately, most Nebraska farmers are much too smart to miss out on the $3 corn and the profits that appear well within reach as the 1996 growing season approaches.
>
> But misfortune is in this picture, too—misfortune for taxpayers. Congress is hammering out a farm bill that proposes to give these same savvy farmers as much as $40,000 each in extra income, in precious tax money, this year. Why? Because that's how Freedom To Farm, the new approach that is supposed to get the government off the farmer's back is supposed to work. It puts more government, more cost, on the taxpayer's back instead.

Mr. President, next I will quote from a news release from the National Farmers Union, which is one of the leading farm organizations whom I have worked closely with all of my 26 years in Government service. This news release from the Farmers Union is headlined:

> Senate Farm Bill A "Sell out" Of Farm families, Says [the National Farmers Union] President.
>
> Washington, DC—The farm bill passed by the U.S. Senate Wednesday was termed a "sell out of American farm families and their values to the special interests of agribusiness and a license for a few corporations to further dominate the marketing, processing and trading of agricultural commodities" by National Farmers Union President Leland Swenson. Representing 250,000 farm, ranch and other rural families across the nation, Swenson expressed concern that the Agricultural Transition Act would escalate the move of U.S. agriculture away from its system of independently owned and operated family farms to that of contract production.

Mr. President, in addition to that, which will be printed in the RECORD, there is a bulletin of about 9 or 10 items entitled: "What's wrong with the Farm Bill approved by the Senate?"

Clearly, in the opinion of the reliable National Farmers Union it is a disaster.

What are other knowledgeable people who have had great experience in agriculture saying? This time from the Republican side of the fence.

I refer to an article in the Sioux Falls Argus Leader of February 25, 1996, by George Anthan. George is with the Georgia Net News Service and is a columnist.

The headline of his column is: "Iowans wary about Freedom to Farm bill."

It goes on to say:

> Two of Iowa's most respected voices on national agricultural policy—both of them Republicans and farmers—expressed strong misgivings over the GOP's Freedom to Farm bill, which would guarantee subsidies to farmers regardless of market price. Cooper Evans of Grundy Center, a former Congressman and former agriculture advisor to President Bush's White House, said the policy advanced under the Freedom to Farm bill "would be a disaster."

Mr. President, the article goes on and says:

> Thurman Gaskill of Corwith—long active in national farm policy affairs and a high-ranking political operative for Presidents Nixon, Ford and Bush—said: "I don't understand the thinking behind this. In the short term, it's a hell of a deal. But I don't think it's good for the long-term farm policy of this country."
>
> Evans, an influential member of the House Agriculture Committee during his congressional service, said: "To me, the important point is that now is not the time for a program that can be viewed as strictly a gift in the sense that it's not at all tied to need, not all tied to current prices, not at all tied to supplies.
>
> "It's just a gift, which seems to me to be totally incompatible with the fundamental interest of both parties to whip the budget deficit."
>
> Evans continued: "We're making all kinds of claims on programs that have a much larger constituency, and I think it makes those who support [the] (Freedom to Farm) [Act] extremely vulnerable to the criticism that you're cutting Medicare, [yes,] you're cutting Medicaid . . . and yet you're giving this money to farmers regardless of what they do, regardless of what they plant, regardless of what the prices are."

I continue to quote:

> "It would be most inappropriate to do this."

Mr. President, who are some of the supporters of the freedom to farm act, other than the Republican majorities in both the House and the Senate?

I reference at this point an article, again from the Lincoln Journal, of February 19, 1996. This headline says, "Big Agribusiness Enjoyed Benefits in Senate Farm Bill."

> Washington, Associated Press. With a mix of luck, work and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of the farm bill.
>
> The "Freedom to Farm" bill, as it's called, stops the government from forcing growers to idle land in order to keep their Federal payments. It says farmers can grow the crop that they most likely will sell without losing government payments usually tied to a particular crop. For 7 years, at least, the government would fix the price of corn, wheat and other row crops.

Further down in the article is an interesting quote from our distinguished friend and colleague, the Senator from Minnesota:

> "In the long run it says you're on your own with Cargill. You're on your own with the Chicago Board of Trade," said Sen. PAUL WELLSTONE, Democrat from Minnesota, taking on the Minnesota-based food giant.
>
> Cargill Inc. and the Chicago Board of Trade did work Congress. So did such giants as General Mills Inc., Tysons Foods, Kraft Foods, Procter & Gamble, Union Pacific Railroad, Rabobank Netherlands, the Fertilizer Institute and others who build a business from agriculture.
>
> Unlike before, the food companies and the trade groups banded together. In the fall of 1994, more than 120 formed the Coalition for Competitive Food and Agricultural Systems.
>
> "It was probably the first time in history that a broad-based group in the food industry had gotten together with market-oriented reforms in mind," said spokesman Stu Hardy, a former staffer on the Senate Agriculture Committee, now with the United States Chamber of Commerce.

It is really interesting, Mr. President. Any farmer or any farm organization that really believes that business interests such as I have just mentioned, who for years have lived off of cheap product prices, were very much instrumental in writing the freedom to farm bill. I think that fact alone, the U.S. Chamber of Commerce, Tysons Foods, General Mills, Kraft Foods, Procter and Gamble, Union Pacific, the Fertilizer Institute—if those people helped write this farm bill, there is no way that it can be both good for them and good for the producers.

Mr. President, there was another article that drives home this point. This is from the Omaha World Herald of February 25, 1996. This headline reads: "Businesses Put Muscle Behind Farm Bill Push," by David Beeder, Washington, DC:

> Major changes in U.S. farm policy—passed by the Senate and pending in the House—will get a big push all the way to the White House from a powerful coalition of more than 120 grain traders, processors, shippers, retailers and producer organizations.
>
> "We wanted to retain a farm income safety net but also eliminate acreage reduction programs (ARP)," said Mary Waters of ConAgra Inc. of Omaha. "Both of these bills will do that."

Now, Mr. President, ConAgra is located in my State. It is a very fine organization. They are processors of food. I can see why they would be involved in writing a farm bill, because, basically speaking, the cheaper the cost of the raw products that they produce into edible food, the more money they make. I do not criticize ConAgra for being concerned about agriculture prices, but I do not think they represent the family-size farmer:

> Stu Hardy of the U.S. Chamber of Commerce said the legislation could have been strengthened if it had reduced the amount of acreage in the $36 million Conservation Reserve Program in which farmers are paid to idle land. If there is one part of the previous farm bill and if there is one part of the new farm bill that is generally supported by all farm organizations—as far as I know, all or most farmers—it is the Conservation Reserve Program, which has been very popular. According to the U.S. Chamber of Commerce, we would have been a whole lot better off if we cut down the Conservation Reserve Program.

Mr. President, there is a lot of misinformation out there today about what this program does. I have referenced several times this evening in my remarks the fact that the freedom to farm act from its very beginning and inception was to provide transition payments originally to help reduce the costs—that has gone by the board now—but primarily to have a transition from the present payments we have historically had as part of the program, when prices were low but not when they were high as they are now, but we have been pounding this home.

Now, even some of the introducers of the legislation have come around to say we should have something in there very cleverly in the Senate bill incorporated as permanent law. The 1949 act has been permanent law for a long, long time as a fall-back position. That is soft soap to agriculture because when the people understand what is going on, and after the "60 Minutes" type program exposes this for what it is, it will be tough to get any kind of responsible farm program through the Congress.

For years I have fought, along with many of my colleagues, on the basic concept of selling to the 535 Members of the House and Senate the need for a farm bill, a safety net farm bill, that did not pay the farmers anything when prices were high but gave them a stipend that would get them somewhere near the cost of production when the corn price—as it has historically—not stayed at $3.10 to $3.50 a bushel, but when it drops to $2.10 to $2.50 a bushel below the cost of production. That is when we should have farm programs. That is when they should kick in. They should not kick in in a rich man type fashion of selling and buying off farmers with this healthy hefty payment for the next 7 years.

I make reference, Mr. President, to the Congressional RECORD of February 28, 1996, page 1429, to bring home how there is so much misunderstanding with regard to whether the safety net is going to be eliminated. There is included on that page a letter from the Farm Bureau to a Member of Congress. It says here by the writer of the letter, who is an official of the Farm Bureau:

> In my view, concerns about the "freedom to farm" approach have centered on two points: First, opponents are concerned that the contract payments will be viewed as welfare payments.

I do not know what else they are, but I think it rancors them a great deal when we call them welfare payments.

> Secondly, some are concerned that there will not be any farm program after the seventh year of the bill. These issues were also the same as some members' of the Farm Bureau. The following points were used, in part, to make our policy determination.

Then it goes on to another paragraph. I would like to quote from the same letter from the Farm Bureau:

> In regard to the future farm policy after 7 years, it is important to keep in mind that there are no provisions in the bill that require farm programs to be eliminated after 7 years. In fact, it is our view that public policymakers should actively debate what farm policy should be after the year 2002, while considering such issues as supply and demand factors, international trade barriers, financial conditions of agriculture, monetary policy, trade policy, and other issues important to our farmers and ranchers.

Soft sell. Soft soap, because the very thrust of the farm bill, known as the freedom to farm act, was to use the transition payments to eliminate farm programs in the year 2002. Why else would you pay the handsome payments from the taxpayers to the farmer regardless of what the farmer is receiving for his commodity? Certainly, that is the attitude of the New York Times. I think it is rather interesting, Mr. President, that in addition to big business writing the farm bill, we have those great defenders of the American family-size farmer, the New York Times and the Washington Post, approving of this farm bill. They have never approved of any farm bill in the history of the United States of America, but this one. Why is that? Because they know what the intent is. They know they are buying off the farmer, and it will all come to an end at the end of 7 years.

Mr. President, I quote from a New York Times editorial of March 6, 1996. The headline is: "Big Changes Down on the Farm."

It says:

> The Senate and House-passed bills would phase out wheat, corn, rice and cotton subsidies over a 7-year period. The Senate-House conferees need to make it clear, as the House bill attempts to do, that after 2002, farm welfare supplicants cannot count on reverting to the old discredited law.

Further, it says:

> The House bill would make it harder for lobbyists to extend the dole after 7 years and is thus preferable to the Senate version.

Mr. President, also, I think it is interesting to note this on the front page of the New York Times of Friday, March 1, 1996. I reference that at this point. Big farm paper, the New York Times. It says:

> House approves biggest change in farm policy since the New Deal.

Well, that is an honest statement. Below that, it says:

> Legislation phases out subsidies over 7 years.

You cannot have it both ways. Yet, that is being sold today.

I simply say that the whole article will appear in the RECORD. It, once again, shows that the New York Times, an opponent of agriculture as long as I can remember, has a right, and they are getting what they want, along with the chamber of commerce, along with the big-money interests that live off the products of the American farmer. If I were a farmer, I would not want those organizations saluted and backed by the New York Times, and to write a farm bill, because down the road, in the future, this is going to come home to haunt the safety net that we have relied on for so long.

Then there is another newspaper that is well known as a big booster of agriculture. This time it is the Wall Street Journal of Friday March 1, 1996. It is interesting to note that that is the same date of the article that I just quoted from the New York Times. But the farmer friendly Wall Street gurus, who speak frequently through the Wall Street Journal, had this story. The headline is: "House Approves Ending Costliest Farm Programs."

How ridiculous. I have just cited the facts of the matter. Yet, the Wall Street Journal, who understands the stock market but has not a clue about agriculture, says, "House Approves Ending Costliest Farm Programs." The Sub-headline is, "Plan to Be Phased in Over 7 Years, Would Stop Restrictions On Crop."

The story:

> The House measure would spend $46.6 billion through fiscal year 2002, including $35.6 billion for transition payment.

What we have here is total allocations, if subsequent Congresses approve it—at least this is the plan—to provide $46.6 billion through fiscal year 2002, including all but $10 billion, or $35.6 billion for transition payments:

> It will have to be reconciled with a similar Senate bill in a House-Senate conference before going to the White House for the President's consideration.

Just some more, Mr. President, of what is going on today with regard to the people who wrote the farm bill that some farmers and some farm organizations think is just hunky-dory.

Mr. President, I may be wrong. Maybe this bill will be the greatest thing for agriculture that we have ever seen. If so, on down the road I will salute the Wall Street Journal, the Washington Post, the New York Times, the Union Pacific Railroad, Kraft Foods, and the many farmers in my State, and many of my friends and colleagues here in the U.S. Senate who support this. I will salute all of you.

I will salute all of you. I might be wrong. But as one who has wrestled with farm programs in fairness to rural America for a long, long time, and who consults regularly with farmers and farm organizations—in fact, just this afternoon in Nebraska wheat growers were in to see me. And since this is my last year in the U.S. Senate they presented me with a plaque that I treasure saluting me for the help I have given to—and have been part of in—protecting the interests of family-sized farmers and the food production in America. Each and every one of them—there were seven there—were firmly opposed to the so-called freedom-to-farm act. Yes. There are lots of farmers out there that have bought on to this very expensive and unfair program that I am very fearful will be the death knell for farm safety nets and make it almost impossible for young farmers who do not share in this program. The money only goes to farmers who have been in the program previously. It is a bad piece of legislation.

I am about to withdraw my objection only with the hope that maybe some miracle will occur and we will be able to get some changes in a whole series of areas made in the conference with the House, and that a conference report which is eventually forwarded back to the House and the Senate will have a much improved farm bill.

In the meantime, I have consulted with the Secretary of Agriculture about this on several occasions. I have discussed this with the President of the United States. Some people are speculating right now that the President will sign the bill, or that he will not sign the bill. I know that the President of the United States has not made up his mind. The Secretary of Agriculture has not made up his mind. They are waiting the outcome of the conference. I hope we can have a bill that makes some sense.

With that I withdraw my objection that I raised earlier, and I will work constructively with all concerned to make changes in this bill in conference that I think are absolutely essential.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Omaha World-Herald, Feb. 27, 1996]

GLICKMAN SAYS NEW FARM PLAN'S COSTS ARE HIGHER

(By David C. Beeder)

WASHINGTON.—Legislation guaranteeing farmers more than $40 billion over seven years would cost the federal government $20 billion more than it could cost to extend a farm law that expired Dec. 31, Agriculture Secretary Dan Glickman said Monday.

"For the first two or three years, we know we are going to be spending much more on this farm bill," Glickman said in a speech to the National Association of State Departments of Agriculture.

Farmers would receive little or no subsidy payments if the five-year 1990 farm law still were in effect, Glickman said.

"Why? Because prices are higher now," he said.

Subsidies, under 60-year-old U.S. farm policy, have been based on the difference between the market price of crops and the so-called target price set by Congress, which is usually higher.

Glickman said economists at the U.S. Agriculture Department expect the market price of corn and wheat to match or exceed target prices for two or three years.

He said giving farmers a guaranteed annual payment in a period when they are being paid high market prices "could create potential political problems" for farm legislation in the future.

"We need a well-rounded farm bill, one that people in nonrural areas can support," he said. "That's what we are working on, and we think the Senate bill moved a few steps in that direction."

Glickman's speech before state agricultural directors was followed a few hours later by Rep. Pat Roberts, R-Kan., chairman of the House Agriculture Committee, who defended the plan to guarantee annual payments to farmers.

He disputed Glickman's estimate that the legislation would cost $20 billion more than would extending the farm law that expired Dec. 31.

Roberts said the Freedom to Farm Act, which he has co-sponsored with Rep. Bill Barrett, R-Neb., would reduce the average annual cost of commodity subsidies from $10 billion a year to $5 billion.

"The Freedom to Farm Act will save $5.2 billion over seven years, and that's what I intend to say on the House floor Thursday when we debate this legislation." Roberts said.

"What this debate is all about is who makes the decision," he said. "We feel very strongly that under Freedom to Farm, the farmers make the decision. They have the freedom to plant whatever they want to plant."

Roberts said the high prices being paid for crops this year have had little effect in the Great Plains, where poor growing conditions left many farmers with little or nothing to sell.

Under the 1990 farm law, many of these farmers received subsidy payments in advance, he said.

Those subsidies must now be repaid even though a farmer may have lost the crop, Roberts said.

"It is true that if you have the current (1990) farm bill the farmer gets no payment this year or next year, but he has to pay back advanced deficiency payments and there is no requirement for conservation compliance," Roberts said.

[From the Omaha World-Herald, Feb. 27, 1996]

STATE AG LEADERS WON'T BACK PLAN

WASHINGTON.—State agriculture leaders from Nebraska and Iowa said Monday they could not support farm legislation that guarantees a fixed government payment to farmers regardless what they are paid for their crops.

Larry Sitzman, Nebraska director of agriculture, said the plan would be politically vulnerable in a period like today when farmers are receiving high crop prices.

"I am concerned that a seven-year program with guaranteed benefits would be difficult to sell with the mood of Congress and the mood of taxpayers in this country," Sitzman said.

He said the plan, if adopted, could lead to elimination of a long-standing policy of subsidizing farmers during periods of low crop prices.

"The safety net probably would be gone in two years," said Sitzman, who operates a 2,000-acre farm near Culbertson, Neb.

Dale Cochran, Iowa secretary of agriculture said he expects Congress to pass a farm bill that includes guaranteed payments while continuing to provide subsidies when crop prices fall.

Cochran, of Eagle Grove, Iowa, said it would be difficult to convince taxpayers that farmers should receive a payment when crop prices are high.

Cochran, a Democrat who served more than 22 years in the Iowa House of Representatives, is in his third term a secretary of agriculture, an elective office in Iowa.

Sitzman, a Democrat, was appointed director of the Nebraska Agriculture Department by Gov. Nelson in 1991.

[From the Omaha World-Herald, Feb. 25, 1996]

USDA: DAIRY, CEREAL PRICES EXPECTED TO RISE

WASHINGTON.—Food prices in the United States are likely to increase less than the rate of inflation this year, with meat prices expected to decline, government economists say.

However, the price of milk should rise by 4 percent to 5 percent over last year because of the lowest surpluses of dairy products since the mid-1970s, the Agriculture Department predicted.

The Consumer Price Index for food rose 2.8 percent last year—the overall CPI was up 2.5 percent—and higher prices for fruits and vegetables were the prime reason, USDA Chief Economist Keith Collins noted in a report to the annual Agricultural Outlook Forum.

"In 1996 the highlight for the American consumer will be food-price increases below the overall inflation rate, as the strong increase in meat production lowers meat prices slightly," Collins said. Red meat and poultry account for 24 percent of the at-home food CPI.

With average weather, Collins added, this year's fruit and vegetable price increases should be less than last year's. Although the price of cereal and baked goods should go up because of rising grain costs, the increase is likely to be no more than about 5 percent because farm-level grain prices represent only about one-tenth of the retail prices of the finished products.

The USDA forecast relies in large part on the expectation that 1996 beef production will increase by 2 percent to 3 percent despite higher feed costs. This envisions feed corn prices peaking at about $3.70 per bushel.

However, Collins said, "If 1996-crop corn prices were to move into the $4-per-bushel range due to reduced yield prospects, hog and poultry producers would reduce animal numbers first with cow-calf operators making their big reductions in the fall.

"The result would be higher meat prices in late 1996 and into 1997, and, for beef, into 1998 and beyond."

USDA foresees record-high season-average farm prices for wheat in this harvest year and near-record prices for corn. Carryover stocks of wheat on June 1 are forecast at 346 million bushels, which, as a percent of total use, would be the lowest since 1947–1948. Corn carryover was put at 457 million bushels, lowest as a percent of use since 1937–1938.

Such low stocks make it very difficult to forecast prices, Collins acknowledged. "The low stocks have put feeders, processors, traders and consumers at much greater risk if 1996 harvests are subpar."

With higher corn prices, better planting weather and no reduction in acreage, USDA said corn planted this year may increase nearly 15 percent, to more than 80 million acres. Winter wheat acreage was up 7 percent, and total wheat acreage this year could rise about 6 percent, to 73 million acres. That would support a wheat price near the $4-a-bushel level.

[From the Lincoln Journal Star, Feb. 25, 1996]

BILL RAISES FARM COSTS, OFFICIALS SAY

(By Robert Greene)

WASHINGTON.—A farm-program overhaul that the Senate passed this month will raise spending rather than save billions of dollars as Senate budget writers had planned, the Senate Budget Committee says.

"We've lost all our savings," said Bill Hoagland, the committee's staff director.

The original farm-program changes in the budget-balancing legislation vetoed by President Clinton last year would have cut spending for agricultural programs by $4.6 billion. The Senate-passed farm bill instead costs $200 million to $380 million more over seven years than if farm law had been left alone. Hoagland said.

The new estimates create problems for the farm bill as the House prepares to take it up this week. Many added costs were the result of amendments needed to ensure its 64–32 passage Feb. 7. Those amendments included guaranteed spending for new conservation, rural development and farmland preservation programs.

Stripping down the bill could lose votes, many from Democrats, when a final version is crafted. Or law-makers could be forced to tinker with the core "Freedom to Farm" proposal, which substitutes fixed-but-declining payments for unpredictable, price-based crop subsidies.

Democrats remain opposed to "Freedom to Farm" because it continues to pay farmers even when crop prices are high. New projections released last week by the U.S. Department of Agriculture suggest that farmers will cash in big if Congress removes the link between farmer payments and movements in crop prices.

Prices for major crops are expected to be high for several years because of heavy world demand and extreme shortages going into the wheat and corn harvests this year.

As a result, crop subsidies could wind up costing a little more than $12 billion over seven years, the figures show, if farm law is unchanged.

The Senate bill and the version headed for the House calls for giving farmers $35.5 billion over seven years—nearly three times what the Agricultural Department forecasts.

The department estimates are based on more optimistic forecasts for crop prices than those used by the Congressional Budget Office, which Congress uses for estimating program costs, and other forecasters.

The wide gap points to the larger debate over the massive overhaul, including who should get the money.

The Republican bill guarantees the payments against future budget cuts and leaves the way open for farm programs to end after seven years. The high payments in 1996 will offset the $2 billion in advance subsidies that farmers will have to refund from 1995 because prices shot up.

The Democrats, including Agriculture Secretary Dan Glickman, say farmers still need a safety net in case crop prices unexpectedly plunge—despite the department's rosy predictions.

Advocates for conservation and more help to small farmers say that locking in payments to farmers, including the large ones, means danger, especially if the House version passes without any of the Senate amendments.

"The likely result will be that future agriculture budget cuts will be in beginning farmer, rural development, research and conservation programs,"said Chuck Hassebrook, an analyst with the Center for Rural Affairs in Walthill, Neb.

Andy Fisher, spokesman for the Senate Agriculture Committee, hinted that the Freedom to Farm payments may have to be cut. He also said the committee was awaiting final cost estimates from the Congressional Budget Office.

He noted that the 1990 farm bill cost $57 billion over five years—$15 billion more than forecast. The new bill would allow no such overruns.

Hoagland, at the Budget Committee, said that even though the farm bill had been separated from the budget-balancing bill: "Most of our discussions had always assumed that we would still get some savings, even in any final negotiated agreement, in the $3 billion to $4 billion range. But we have no savings at all. We have a cost."

[From the Omaha World-Herald, Feb. 23, 1996]

HUNDREDS EXPECTED TO PROTEST FARM BILL

(By Ann Toner)

By bus, car and van, farmers from as far away as North Dakota are expected to gather in Wichita, Kan., today to voice their opposition to the latest farm program proposals to gain House and Senate approval.

Loosely dubbed the Freedom to Farm Act, the proposed law—officially, the Agricultural Marketing Transition Act in the Senate—is in its final stages in Washington.

While some other farm groups favor the proposal, the opponents believe that unless substantial changes are made, President Clinton should veto the bill.

"Doing nothing is a far better option than committing economic suicide just to end the suspense of waiting," said John Hansen of Tilden, president of the Nebraska Farmers Union.

Proponents "listened to the grain trade and shut out the interests of production agriculture," he said. "It's a hostile takeover of ag policy by the grain trade that will flood the market with lots of cheap product at the expense of family farmers."

John Whitaker, president of the Iowa Farmers Union, said he hopes to convince Agriculture Secretary Dan Glickman that unless substantial changes are made in the bill, Clinton should veto it.

"Real farmers don't want welfare," Whitaker said. "We want to veto it and unless it can be improved, revert to 1949 law.

"Under the Senate bill, you don't even have to farm for seven years to get a payment. Farm programs are supposed to be a safety net. In years when they don't need it, like this year, they shouldn't get a payment."

The final bill isn't finished—House and Senate versions are due to be reconciled before being forwarded to Clinton—but opponents said they are meeting now to send their message to Washington.

But the proposal has strong defenders, said Rep. Bill Barrett, R-Neb.

"This bill echoes the sentiment of the majority of those in agriculture," Barrett said. "This bill provides planting flexibility, promises full production, and allows farmers to manage their own businesses based on economic factors without government intervention."

Rob Robertson, vice president of the Nebraska Farm Bureau Federation, said provisions of the law would "benefit farmers by providing income stability over seven years and allowing U.S. agriculture to compete in the world marketplace."

Opponents include Sen. J.J. Exon, D-Neb.

"If we buy into the Freedom to Farm Act now, by the year 2002 there would be no farm programs at all, no safety net, not anything," Exon said. "For the next seven years, it turns farm programs into welfare programs."

Today's rally is scheduled to start at 4 p.m. in the parking lot of the Cotillion Ballroom in Wichita. Between 1,500 and 2,000 farmers are expected to participate, representing several farm groups that oppose all or parts of the proposal.

Some of the groups represent mostly small farmers, but others have many large-farm members as well.

After the rally and a 6 p.m. barbecue, a 7 p.m. question-and-answer session with Glickman is planned inside the ballroom.

Glickman, a former Kansas congressman, opposes many aspects of both versions.

But sponsors of the Glickman dinner—Kansas Farmers Union and KFDI, a Kansas radio station—said Glickman is not coming to Wichita either to take part in the rally or to be rallied against.

In fact, Glickman isn't even scheduled to arrive until the rally is over.

The sponsors said Glickman is coming to Wichita for the sole purpose of breaking bread with the farmers, speaking and answering questions from farmers after dinner.

National Farmers Union President Leland Swenson and Farmers Union leaders from about 15 states are expected to be in attendance.

"After two years under this program, production would increase significantly, driving down prices," Swenson said. That would leave farmers no chance to sell their crops at a profit, he said.

Gene Paul of Delavan, Minn., president of the National Farmers Organization, also opposes the bill.

"Freedom to Farm will do nothing to improve the image of agriculture, nor will it deal with the solution of America's farm problem: sustained, profitable commodity prices," he said.

Wheat grower Tom Giesel of Larned, Kan., one of the organizers of the rally, said farmers, not farm leaders, will speak.

"We've invited speakers who can speak from the heart about how this farm bill will affect their farms and rural communities," Giesel said. "Their message, that this bill will devastate the rural economy, is very important for people to understand."

More than a busload of Nebraskans are expected to attend the Wichita event, said Hansen, the Nebraska Farmers Union president.

Other Nebraskans will represent the American Corn Growers Association, the Nebraska State Grange, the NFO, the Nebraska Wheat Growers Association and the League of Rural Voters.

Hansen said he and many of the attending Nebraskans believe the House and Senate bills would make their farms too vulnerable to the marketplace and the whims of grain trading giants.

"It's a political and economic bonanza to the grain trade," he said. "They got what they've wanted for a long time."

Hansen said the promise of payments to farmers during the transition without program restrictions would be so offensive to taxpayer groups and members of Congress that it will "set us up for the political kill" later on.

Roy Frederick, a public policy specialist for the University of Nebraska-Lincoln, said calling it an Agricultural Market Transition Program is appropriate.

"It seems highly unlikely that flat payments without regard for market conditions could last beyond 2002," Frederick said.

John Dittrich of Meadow Grove, Neb., who will speak at the rally, said ending price supports would be "extremely destabilizing to farmers and destabilizing to consumers."

The increased risk of farming without a safety net would discourage young farmers from entering the business and jeopardize older farmers, Dittrich said.

He said the proposals are influenced by businesses and "legislative theoreticians" who don't understand the risks and instabilities of farming.

"They've never had to look nature in the eye the way farmers have had to do," he said.

KEY PROVISIONS OF "FREEDOM TO FARM" ACT

Subsidies

Eliminate crop subsidies and reduce payments annually to farmers, ending them altogether in seven years.

Planting

Eliminate crop acreage restrictions. Farmers would be allowed to plant as much or little of any crop as they choose.

Maximum payments

Lower the maximum payment to farmers under the programs from $50,000 to $40,000 but enlarge provisions that could increase payments to large farmers who create several subentities.

Conservation

Senate version: Reauthorize the Conservation Reserve Program through 2002 for up to 36.4 million acres, provide incentives for farmers leaving the program to protect the most environmentally sensitive land and fund a program to reduce pollution from farm and livestock runoff.

House version: Reduce the Conservation Reserve Program and allow land to be withdrawn from the program at any time.

Future

Senate version: Require Congress to pass additional farm legislation when the current bill expires.

House version: Instead of requiring a new bill, name a Commission on 21st Century Production Agriculture to make future policy recommendations.

LUGAR TO KEEP CAMPAIGNING, HOLD AG PANEL POSITION

WASHINGTON.—Sen. Dick Lugar, R-Ind., said Thursday that he would not consider stepping down as chairman of the Senate Agriculture Committee while he continues campaigning for the Republican presidential nomination.

Lugar also said that Sen. Bob Dole, R-Kan., should remain as Senate majority leader while campaigning for the nomination.

"I think Bob Dole is doing a great job as our majority leader." Lugar said at a press conference. "I hope I have done a good job getting a farm bill through the Senate."

Lugar, who received less than 6 percent of the vote in the Iowa party caucuses and the New Hampshire primary election, said he plans to continue campaigning "as long as there is money and some momentum."

[From the Lincoln Journal Star, Feb. 25, 1996]

ONLY PEOPLE WHO EAT NEED TO WORRY ABOUT OUR FOOD POLICY

(By Sally Herrin)

The United States Senate put the family farm up for sale when it voted 64–32 to send Bob Dole's Agriculture Marketing Transition Act. S. 1541, to the House of Representatives tomorrow morning, Feb. 26. This is a modified version of Bill Barrett's and Newt Gingrich's Freedom to Farm proposal, which is the "final solution" to farm programs.

But farm programs are just for farmers, rights? Think again.

Concerned about the environment? No wilderness protection initiative has anything like the impact on soil and water quality that a national farm policy has, because farmers and ranchers own more than three-fourths of the non-public land in the country. And while S. 1541 retains authorization for the Conservation Reserve (the butt of many a late night's comic joke, this poorly understood program builds the nation's environmental capital), the stone truth is the carrot-and-stick good faith partnership between ag producers and the nation is broken. Added long-term conservation goals will be sacrificed for short-term economic survival.

Is food security national security? Europeans old enough to have survived World War II would say so. Yet, the proposed farm bill excludes farmers who haven't participated in farm programs in at least one of the last five years, cutting off farm kids at the knees.

The average farmer in Nebraska is 57. Seven years of declining severance pay takes most of them right up to retirement. Who will farm then?

Nebraska lost 33.9 percent of its rural population between 1980 and 1990. Just as agriculture is the prime economic base for the state as a whole, farm families are the economic base for the main street businesses which serve them. When the families leave and fail, the towns dry up and stand rattling like pin oaks in the wind.

Earl Butz—former secretary of agriculture, forced to resign for telling off-color, racist jokes and later convicted of income tax fraud, mentor to Clayton Yeutter and economic godfather to Freedom to Farm—Earl Butz described rural depopulation resulting from low commodity prices this way: "This trend toward fewer farms isn't bad. Rather, it's good because it frees a larger percentage of the population to become productive members of society."

While Butz and Yeutter laid the groundwork for the industrialization of our food supply, it has taken Dole and Gingrich to bring big business to its perilous new heights of corporate economic advantage, which is what Freedom to Farm is all about.

The only people who should care about farm policy are the people who eat. As for so much else in modern life, we are in denial about how food comes to our table. But no Martha Stewart recipe will take away the stink of corporate hog farming and the environmental and economic devastation that it means to communities just across the Missouri River in Iowa.

National food security is a matter of reasonable production goals that also give something back to the land, and it's a matter of a strategic food reserve. Freedom to Farm creates planting chaos and a world of boom-and-bust cycles with huge surpluses and terrible shortages. The last time the agricultural market was this "free," they called it the Great Depression. It not only can happen here, it has.

Freedom to Farm means seven years of decoupled welfare payments to farmers, politically indefensible in times when welfare to poor women and children being gutted, and lending new meaning to "planned obsolescence."

In a letter to the editor (LJS, Feb. 21), Bill Barrett claimed his proposal was designed to let farmers get their income from the market. But his bill strips farmers of their traditional marketing tools, including the Farmer-Owned Reserve and the Emergency Livestock Fee Program, and caps the loan rate for corn at $1.89. Since loan caps in practice generally become price ceilings, this means farmers selling corn at or below the cost of production.

The food sector, the most profitable in the national economy bar none, is shared by four corporations: Cargill, ConAgra, ADM and IBP. Mexican farmers call them the Coyotes, and I'm hoping the tag will catch on.

There is no free market. The food sector has become a system of shared monopolies, and by letting men like Dole and Barrett shape our national policy who consistently favor big corporations at the expense of the public good, we permit it to happen.

While you may want government off your back as the shadow of tax time creeps near, you'd do well to remember that government is all you've got to mitigate, much less control, big business.

Bob Dole has been one of Archer Daniels Midland's best long-term political investments. Bill Barrett, ConAgra's largest single PAC recipient for the years 1980–92, is repaying his contributor with the Freedom to Farm the Farmer is Spades.

The farm hits the auction block tomorrow morning when the House takes up debate. The land is the only thing the Coyotes don't own. Yet. But unless our president and representatives get a lot of calls and wires tonight, we've just sold the family farm.

[From the Lincoln Journal Star, Feb. 18, 1996]

FREEDOM TO FARM: AN EXCUSE TO ABANDON AGRICULTURE

Blow a little dust off your memories of the 1988 Senate race in Nebraska. David Karnes is at the podium at State Fair Park in Lincoln. Row after row of Republican cheerleaders lean forward, gathering themselves for their next explosion. But coming out of Karnes' mouth are these fateful words: "We need fewer farmers at this point in time."

Groans. Gasps. Even boos. Cheerleaders slump in their seats. Bob Kerrey seizes on what Karnes later describes as a slip of the tongue and delivers a stern lecture. A few weeks later, voters elect Kerrey and cast Karnes into the basement of political esteem.

But guess what? Eight years after a promising conservative showed his poor grasp for acceptable rhetoric, the underpinnings of the once unutterable are being uttered daily. As Congress and President Clinton stumble toward passage of new farm policy, the words "freedom to farm" are much in vogue. They are represented, not as the first step toward abandonment of agriculture, but as breathtaking reform.

When Karnes charged into Lincoln with a solid shot at beating Kerrey, the underpinnings for sweeping change were called "decoupling." It was a simply slogan meant to break the link between public payments to financially challenged farmers and public attempts to manage grain supplies and natural resources.

Eight years later, "freedom to farm" is a softer sell of essentially the same thing. If conservatives have their way with the next farm bill, farmers will still get money from the government over the next seven years, but there will no longer be any requirement of idle acres.

The trouble with this policy is that it neglects farmers' protection against mountainous and ruinous grain surpluses. It neglects consumers' protection against shortage. It edges farmers away from earning their way by conserving and under-utilizing their land assets. The new policy has the government doling out compassion and dollars in diminishing increments over the next seven years.

Momentum is still building to send this very message to farmers by mid March, before the last-ditch deadline for enrollment in the payment-compliance system and the start of planting season. The freedom to farm crowd continues to describe it as the one true path toward self-reliance and cutting into the federal debt.

It is not. It's not even close. Reformers could save tons of money if they just targeted farm payments toward the smaller and often younger farmers who need them and cut off the big farmers who have plenty of equity and cash. In what may be the only country in the world that has never known food shortages, rational policy makers could keep a proven food security system in place, cut costs and still offer farmers familiar incentives for controlling erosion and groundwater contamination.

According to the most recent portrayals of its leadership, the American Farm Bureau

Federation, the largest alliance of grain producers nationally and in Nebraska, is among those sold on much rasher behavior. Its legions are ready to roll up their sleeves, renounce reliance on tax dollars, and exercise this new freedom to farm.

According to recent portrayals by Sen. Jim Exon, the Farm Bureau is mentally ill. It must be schizophrenia. Exon said, that has its spokesmen calling for more of the same in the federal-farmer partnership one moment and much less of the same the next.

Those eager to demolish farm programs suggest the average farmer is a millionaire, because he has a million dollars' worth of paper assets. They smugly suggest that the government could have bought all the farmland in 41 states with the money it spent on the farm program in the last 10 years.

Much of this is the rhetoric of insanity. But regardless of what farm groups and farmers really want, consumers should embrace sanity and a system that can continue to serve their food needs at a more acceptable budget price.

Reform is a wonderful thing. Adjusting farm policy so that farmers are cast in the role of welfare recipients is not reform. It is a calculated abandonment of government's crucial role in ensuring a good supply and reasonable food prices.

TERM LIMITS CAN'T GO ON '96 BALLOT

Any attempt to put another question dealing with term limits on the November ballot could run afoul of the Nebraska Constitution, said Secretary of State Scott Moore.

Article III, Section 2 of the constitution says: "The same measure, either in form or in essential substance, shall not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once in three years."

The Nebraska Supreme Court last week threw out term limits that were placed on the ballot in 1994.

Moore said his warning did not apply to a petition already filed that would seek to force legislators to support term limits. Rather than putting term limits in the State constitution, that measure seeks to label on the ballot those candidates who do not support the idea.

FREEDOM TO FARM: FREEDOM TO PLUNDER TREASURY

Farming experts will tell you that a farmer who can't make money raising corn at $3 a bushel should sell the tractor and move to town. Fortunately, most Nebraska farmers are much too smart to miss out on the $3 corn and the profits that appear well within reach as the 1996 growing season approaches.

But misfortune is in this picture, too—misfortune for taxpayers. Congress is hammering out a farm bill that proposes to give these same savvy farmers as much as $40,000 each in extra income, in precious tax money, this year. Why? Because that is how Freedom To Farm, the new approach that is supposed to get the government off the farmer's back, is supposed to work. It put more government, more cost, on the taxpayer's back instead.

It does this by severing the long-standing connection between grain supplies, market conditions and levels of price support payments to producers.

Conservatives have opened the door to one of the biggest boondoggles in farm program history. In the first year of this ill-named "reform," farmers can get almost $4 a bushel for any corn they have in the bin right now. They have every right to expect that they can lock in prices of $3 per bushel or better on their 1996 production—and they will still qualify for thousands of dollars in government support!

Freedom to Farm sets aside several billions dollars for the first of seven years of annually declining financial support to farmers. Allocators of that amount are completely oblivious to need and profit influences. Right in front of us here, in fact, is a year when farmers are unlikely to need any help at all.

A typical Nebraska farmers could easily make $200 an irrigated acre in profit in 1996—$200 after expenses. If he has 1,000 acres of corn, that's profit in six figures. That's not the sort of financial statement that ought to be supported by another $40,000 from taxpayers.

Much less likely, but not impossible, is this market scenario: A bad export forecast or the kind of weather that causes bin-busting surpluses intrudes in the next few weeks, prices plummet, and this financial safety net is suddenly woefully inadequate.

The point in either case is that this twisted vision of farm policy helps farmers when they don't need help and could well help them too little when they need lots of help. That's what Freedom to Farm would do if it passes in present form.

As it exists in the House, scene of the debate this week, it is even worse. Freedom to Farm on the House side is also woefully deficient in protection of soil and water resources and in support for rural development of things that should matter to farmers, to consumers, and anybody who understands that farm policy is also food policy and environmental policy.

In all of those areas, Congress has edged dangerously close to handing us bad policy.

SENATE FARM BILL A "SELL OUT" OF FARM FAMILIES, SAYS NFU PRESIDENT

WASHINGTON, DC.—The farm bill passed by the U.S. Senate Wednesday was termed a "sell out of American farm families and their values to the special interests of agibusiness and a license for a few corporations to further dominate the marketing, processing and trading of agricultural commodities" by National Farmers Union President Leland Swenson. Representing 250,000 farm, ranch and other rural families across the nation, Swenson expressed concern that the Agricultural Transition Act would escalate the move of U.S. agriculture away from its system of independently owned and operated family farms to that of contract production.

"How ironic it is for this reform-minded Congress to establish a brand new bureaucracy instead of enacting real farm policy reforms. The Agricultural Transition Act guarantees payments regardless of commodity prices and regardless of whether or not a crop is even planted," said Swenson. "This bill would provide producers with a short-term gain, but it will inevitably lead to long-term economic pain for independent family farmers and for other rural communities," said Swenson.

"The Senate is irresponsible in this proposal to enact policies which maximize production, lower commodity prices at the farm gate and make set payment," said Swenson. He also notes that under this bill farmers would be asked to sign seven-year compliance contracts without even knowing what their transition payments will be.

The Agricultural Transition Act caps marketing loan rates for seven years. The maximum loan rates under this bill would be: corn—$1.89 per bushel; wheat—$2.58 per bushel; soybeans—$5.26 per bushel; cotton—52 cents per pound; and rice—$6.50 cwt.

"Loan rates are capped at artifically low levels, stripping away any opportunity producers might have to market their commodities in a manner that positively affects farm income," said Swenson. "After two years under this program, production would increase significantly, driving down prices."

Farmers Union supports the U.S. Senate's retention of permanent farm law and the reauthorization of nutrition, conservation and rural development programs, as well as increased planting flexibility.

"The bottom line is that the Agricultural Transition Act will drive down commodity prices, lower farm income and make it difficult for young farmers to enter production agriculture," said Swenson. "We will urge President Clinton to veto the proposal if it reaches his desk."

"Beyond the devastating economic impact this proposal would have on rural communities, we need to question the long-term consequences of a food supply controlled by a handful of multi-national corporations. We also need to ask ourselves if such a system of food production is worth the environmental degradation and the loss of rural businesses and infrastructrue," said Swenson.

WHAT'S WRONG WITH THE FARM BILL APPROVED BY THE SENATE?

S. 1541, the Agriculture Market Transition Act, is still "Freedom to Farm." This is the grain trade bill, designed as a watershed legislation to end farm programs.

This bill decouples production from payments. Farmers don't want decoupled welfare payment, they want a fair price for what they produce. In a political climate where welfare payments to the poorest children are under attack, given the already massive national negative press characterizations of farmers as rich welfare cheats, given the declining population and political base of farmers, given the fact that farmers will collect decoupled welfare type payments during periods of relatively high commodity prices, Congress will most likely eliminate the Farm Bill before its scheduled 7 years. This amounts to an invitation to our own hanging.

How can anyone be expected to sign a seven-year contract for declining payments without knowing what is being offered? There is nothing in S. 1541 to even allow producers to calculate what their transition payment would be. All we know is that payment is limited to 85 percent of contract acres, and based on historical yields, frozen since 1985. There is no price factor in this formula. USDA just divides the available pool of money between contracting farmers.

S. 1541 provides what amounts to as "severance payment" to older farmers looking to get out of farming, but what about young farmers trying to get in? Young farmers are locked out.

This bill actually reduces marketing flexibility. It eliminates traditional marketing tools used by farmers to store farm commodities during periods of low commodity prices: The Farmer Owned Reserve is dead. So is the Emergency Feed Program and the Emergency Livestock Feed Assistance Program.

This lowers the non-recourse marketing assistance loans down to: corn—$1.89, wheat—$2.58, rice—$6.50/cwt, and soybeans based on 85% of recent average prices, using the same formula used for wheat and feed grains or between $4.92 to $5.25/bu. In addition, it gives the Secretary of Agriculture the authority to make downward adjustments to wheat and feed grain loan rates based on stocks-to-use-formulas, but no authority to raise loan rates.

Contracts must be signed by April 15. The House has yet to act on the Farm Bill, and will not likely do so until the end of February. The House and Senate versions will then need to go to Conference Committee, and then reported to the President. Will that be enough time to develop new rules and program regs by then? No.

This Farm Bill will cause a tremendous amount of uncertainty in crop production as farmers chase whatever crop they think will work best this year. Boom and Bust. Huge surpluses, and major crop shortages. National Food Safety is clearly at risk. Land values and other assets will decrease as crop prices wildly gyrate and auger their way to the bottom of the unprotected world market price, which tends to be the "dump price."

So what is so bad about the 1949 Permanent Farm Bill? Not much. Is it better than the current law or the proposed Farm Bills in either the Senate or House? Yes, much better.

What do we want the President to do? VETO the Farm Bill.

[From the Sioux Falls Argus Leader, Feb. 25, 1996]

Iowans Wary About Freedom To Farm Bill

(By George Anthan)

WASHINGTON.—Two of Iowa's most respected voices on national agricultural policy—both of them Republicans and farmers—express strong misgivings over the GOP's Freedom to Farm bill, which would guarantee subsidies to farmers regardless of market prices.

Cooper Evans of Grundy Center, a former congressman and former agriculture adviser to President Bush's White House, said the policy advanced under the Freedom To Farm bill "would be a disaster."

Thurman Gaskill of Corwith—long active in national farm policy affairs and a high-ranking political operative for Presidents Nixon, Ford and Bush—said: "I don't understand the thinking behind this. In the short term, it's a hell of a deal. But I don't think it's good for the long-term farm policy of this country."

Evans, an influential member of the House Agriculture Committee during his congressional service, said: "To me, the important point is that now is not the time for a program that can be viewed as strictly a gift in the sense that it's not at all tied to need, not at all tied to current prices, not at all tied to supplies.

"It's just a gift, which seems to me to be totally incompatible with the fundamental interest of both parties to whip the budget deficit."

Evans continued: "We're making all kinds of claims on programs that have a much larger constituency, and I think it makes those who support (Freedom To Farm) extremely vulnerable to the criticism that you're cutting Medicare, you're cutting Medicaid . . . and yet you're giving this money to farmers regardless of what they do, regardless of what they plant, regardless of what the prices are.

"It would be most inappropriate to do this."

Conversely, Rep. Tom Latham, R-Iowa, who strongly supports Freedom To Farm, said it "eases our farm economy into a market-oriented economy though guaranteed market transition payments."

But Freedom To Farm, approved recently by the Senate, isn't law, yet. The House returns this week to take it up amid signs of rebellion among conservatives, environmentalists, consumer advocates and even farm-state legislators.

House conservatives are upset because the Senate, to avoid a filibuster, added $4 billion to the bill's cost and reauthorized food stamps and other nutrition programs they wanted to cut back as part of welfare reform.

Also, the Senate avoided dealing with the complex dairy issue. But a House proposal is being attacked by consumer and food manufacturing interests as a measure that would force higher milk prices.

Economist: Farm Bill Will Drop Crop Prices

The Freedom to Farm bill, as written, would mean lower crop prices, more production and could ultimately affect property tax revenues, an agricultural economist said.

The bill, passed by the U.S. Senate, would phase out crop subsidies to producers over a seven-year period.

Because farmers will no longer be told what to plant and how much to plant, production will increase, said Gene Murra, an economist at South Dakota State University.

"I think it would be very easy, in many cases, for producers to say, 'Well heck, I might just as well plant as much as I can,' and given the fact that we have a relatively high price this year, that's going to encourage even more of that kind of thing. So we could have very large production in any given year if the weather is just right," Murra said.

Lower crop prices could lower values of agricultural property lending to lower property tax collections, he said.

NFO Opposes "Freedom to Farm Act" as Passed by Senate

AMES, IA.—The National Farmers Organization (NFO) opposes the Freedom to Farm Act as passed by the U.S. Senate.

"The statement that Iowa U.S. Senator Charles Grassley is circulating that all farm organizations support the Freedom to Farm Act is erroneous," says NFO president Gene Paul. "The NFO cannot support the act because in the long run it will not benefit NFO members, nor rural communities."

"The one thing that farmers and ranchers in this country need is more economic stability and sustained profitability based on fair farm commodity prices. Otherwise, they are unable to make sound farm management and marketing decisions. Freedom to Farm does just the opposite. It transitions farmers into a world market that is anything but free, and is most notable for price instability," Paul explains."

"Furthermore, while no one wants deep government intrusion into day-to-day farming decisions, the federal government has a legitimate role in agriculture," Paul notes. "It needs to insure fair competition, both domestic and foreign. It needs to keep accurate records of the agricultural industry. And it needs to provide some form of an income safety net to food and fiber producers who are the victims of circumstances beyond their control, such as severe weather, political shenanigans, and market manipulations."

Another NFO concern about Freedom to Farm, according to Paul, is the image it will convey to consumers and taxpayers that farmers are benefitting from an unnecessary government subsidy or handout.

"The American public already has a false conception that family farmers are doing well economically, when in fact thousands of them continue to go out of business each year," Paul concludes. "Freedom to Farm will do nothing to improve the image of agriculture, nor will it deal with the solution to America's farm problem, which is sustained, profitable commodity prices."

[From the New York Times, Mar. 1, 1996]

House Approves Biggest Change in Farm Policy Since New Deal

LEGISLATION PHASES OUT SUBSIDIES OVER 7 YEARS

(By Eric Schmitt)

WASHINGTON.—The House today approved a major overhaul of American farm programs, voting to end 1930's policies that pay farmers not to plant certain crops and to replace many subsidies with fixed payments that would end after seven years.

The $46 billion legislation, the most far-reaching agricultural bill since the New Deal, ends most Government controls over planting decisions for America's 1.5 million farmers. The vote was 270 to 155, with 54 Democrats voting for the bill and 19 Republicans voting against.

"We've now changed the farm-program world," said Representative Pat Roberts, a Kansas Republican who heads the House Agriculture Committee.

The Senate approved a similar, but slightly more costly bill earlier this month. Lawmakers from both chambers will likely meet next week to hammer out a compromise version. Agriculture Secretary Dan Glickman said the House bill "fell short" in maintaining financing for research, rural development and food for the poor. He said he would not recommend the bill to Mr. Clinton unless the conference committee altered these and other provisions.

The Administration and Congress both want to pass a farm bill soon and farmers are clamoring for a resolution because planting season has begun or will begin soon in many areas.

Mr. Glickman also complained that elimination of the market-based subsidy payments would deprive farmers of a vital safety net. But with crop prices at 10-year highs, consumer groups say the fixed payments the bill calls for would actually cost more in the next few years than the current subsidies, which fall when prices are high.

From the New York Times, Mar. 6, 1996]

Big Changes Down on the Farm

Reforming the nation's bloated farm subsidy programs is no overnight task. It has taken 60 years for an emergency relief program to mutate into what now amounts to a welfare system for the rural middle class. Nevertheless, Congress has moved an amazing distance toward ending support programs for wheat, corn, rice and cotton. It even took aim, although it missed, at peanuts, sugar and dairy support systems that milk consumers.

The Senate and House have passed bills that would phase out wheat, corn, rice and cotton subsidies over a seven-year period. The House came within a few votes of ending peanut and sugar programs and beat back an audacious attempt by some dairy interests to make milk marketing even more costly to consumers. Senate-House conferees need to make clear, as the House bill attempts to do, that after 2002 the farm welfare supplicants cannot count on reverting to old, discredited law.

The seven-year weaning process, a schedule of declining annual payments to farmers regardless of their planting decisions, is itself a form of welfare designed to appease long-pampered farm lobbyists. The House bill would make it harder for lobbyists to extend the dole after seven years and is thus preferable to the Senate version.

Peanuts and sugar have narrowly survived but they are rapidly becoming endangered species at a time of budget constraints and growing impatience with wasteful government spending. It is now planting season, time for the Senate and House to adopt the better elements of both bills.

[From the Lincoln Journal-Star, Feb. 19, 1996]

Big Agribusiness Enjoyed Benefits in Senate Farm Bill

WASHINGTON.—With a mix of luck, work and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

The "Freedom to Farm" bill, as it's called, stops the government from forcing growers to idle land in order to keep getting federal payments. It says farmers can grow the crop that's most likely to sell without losing government payments usually tied to a particular crop. For seven years, at least, the government won't fix the price of corn, wheat and other row crops.

Those things please the people who depend on a steady stream of raw farm goods. The stress on volume over price has made farmers suspicious of being exploited. Still, farmers wanted some of the same things, too, which is one reason the Senate could pass the bill 64–32 on Feb. 7.

Not that the antagonisms, dating to the last century, will end. Democratic advocates for small farmers from states like North Dakota and Minnesota futilely hammered the bill for helping corporate America while leaving the yeoman farmer out in the cold when price-based subsidies end.

"In the long run it says you're on your own with Cargill. You're on your own with the Chicago Board of Trade," said Sen. Paul Wellstone, D-Minn., taking on the Minnesota-based food giant during the Senate debate.

Cargill Inc., and the Chicago Board of Trade did work Congress. So did such giants as General Mills Inc., Tyson Foods, Kraft Foods and Procter & Gamble, Union Pacific Railroad, Rabobank Nederland, The Fertilizer Institute and others who build a business from agriculture.

Unlike before, the food companies and trade groups banded together. In the fall of 1994, more than 120 formed the Coalition for a Competitive Food & Agricultural System.

"It was probably the first time in history that a broad-based group in the food industry had gotten together with market-oriented reforms in mind," said spokesman Stu Hardy, a former staffer on the Senate Agriculture Committee, now with the U.S. Chamber of Commerce.

Individual members had tried to shape earlier farm bills, he said, but congressional committees answered mainly to grower groups and general farm organizations like the American Farm Bureau Federation. Others were "pesky intruders," he said.

This time the coalition planned and carried out a lobbying campaign to show urban and suburban lawmakers what their stake was in farm law. Farmers who depend on crop subsidies number in the hundreds of thousands. The mills, railroads, ports and food companies and rest of the business provide 19 million jobs, often a long distance from the fields.

The group and its members met with every member of Congress or their staffs, putting together information on each district. It held farm bill seminars for congressional staff and the media.

The job turned out to be a lot easier than first thought. The Republican takeover of Congress, the move to overhaul government and the push to balance the budget were not sure things.

Wanting to keep the safety net but have more freedom to switch crops, farmers were ready for some change, then more. The Agriculture Department made corn growers idle 8 percent of their land in 1995. The way the market went, growers could have planted those acres and sold the crop at a good price. Western Kansas wheat growers suffered a crop disaster, but had to repay advance subsidies when prices soared.

Rep. Pat Roberts, R–Kan., chairman of the House Agriculture Committee, came up with the Freedom to Farm bill, which guaranteed a payment for farmers that falls over seven years and is not linked to crop prices.

The coalition didn't get everything. It couldn't cut the Conservation Reserve Program, which keeps 36 million acres of land out of production, including some good farm land. The Senate bill keeps "permanent" farm law in the attic, meaning the old system of crop-based subsidies could return.

[From the Omaha World-Herald, Feb. 25, 1996]

Businesses Put Muscle Behind Farm Bill Push

(By David C. Beeder)

WASHINGTON.—Major changes in U.S. farm policy—passed by the Senate and pending in the House—will get a big push all the way to the White House from a powerful coalition of more than 100 grain traders, processors, shippers, retailers and producer organizations.

"We wanted to retain a farm income safety net but also eliminate acreage reduction programs (ARPs)," said Mary Waters of ConAgra Inc. of Omaha. "Both of these bills do that."

Stu Hardy of the U.S. Chamber of Commerce said the legislation could have been strengthened if it had reduced the amount of acreage in the 36 million acre Conservation Reserve Program, in which farmers are paid to idle land.

"This program goes on and on without adequate opportunities for an early out," Hardy said.

He said the Coalition for a Competitive Food & Agricultural System also was concerned about the Senate's retention of government programs restricting an open market for peanuts, sugar and dairy products.

"But we are pleased with the planting flexibility, the elimination of ARPs and the decoupling of income support and crop prices on a per-bushel or per-pound basis," Hardy said.

The seven-year Senate bill, which passed 64–32 Feb. 7, would end government subsidies for corn, wheat, cotton and rice on farms where those crops were planted on government-authorized acreage year after year.

Under the Senate bill, farmers would be allowed to plant any crop—or no crop at all—while continuing to receive government payments based on a declining percentage of subsidies paid in the past.

"It's a buyout. That's what it is," said Hardy. "But the costs are fixed, and they are capped."

In the past, he said, Congress would pass a five-year farm bill with a cost estimate that generally fell far short of the eventual expenditure.

Opponents of the Senate-passed bill include Sens. Tom Harkin, D-Iowa, J.J. Exon, D-Neb., and Bob Kerrey, D-Neb., who contend it will destroy a system intended to protect consumers and America's food supply in years when commodity prices fall below the cost of production.

Bob Petersen of the National Grain Trade Council said the coalition would not have endorsed a bill without income protections for farmers.

"But we felt the time for a 1930s-style farm bill had come and gone," said Petersen, a native of Burwell, Neb. "We wanted an income safety net that would not distort markets."

Petersen, whose organization represents grain markets including the Chicago Board of Trade and the Lincoln, Neb., grain exchange, said U.S. farmers should have the opportunity to capture a greater share of global markets at a time when prices are strong.

He said the coalition of organizations supporting major change came together gradually over a period of a year.

"Some of the farm groups were pretty suspicious of us at first," Petersen said. "As the year has gone on we've all gravitated toward the same position."

Petersen said the bill passed by the House could be considerably different than the Senate bill.

"However, I think it will get done," he said. "Farmers and farm groups have been quite vocal in telling Congress they want a bill."

Stephanie Patrick of Cargill Inc. of Minneapolis, like ConAgra a large grain buyer and meat packer, said she couldn't predict the fate of the farm bill in the House or whether it might be vetoed by President Clinton.

However, she said, the coalition has been a major factor in moving the legislation to a point of decision.

"The most gratifying thing about this bill is that we all were going for the same goal," she said.

Floyd Gaibler of the 1,200-member, 8,000-outlet Agricultural Retailers Association, said his organization joined the coalition because it supported the goal of ending supply-management policies in agriculture.

"I think everybody agrees they don't work in today's global market," said Gaibler, a native of Farnam, Neb., who was an assistant to former Secretary of Agriculture Richard Lyng.

Drew Collier of Union Pacific Railroad, a coalition member, said the Senate-passed bill would move the country toward a market-oriented farm policy that would result in more grain being transported by rail to export markets.

"The market place ultimately is the best arbiter of these issues," Collier said. "Supply-side management has not proved to be the solution."

At the Chicago Board of Trade, where farm policy is translated into prices and price protections, Celesta Jurkovich said the need for more U.S. production has been apparent for some time.

"You can see it in what's happening to prices," she said. "They've been going through the roof. The demand out there far exceeds the supply."

Ms. Jurkovich, a senior vice president at the Chicago Board of Trade, said global trends in population and rising living standards indicate demand will remain strong into the next century.

The PRESIDING OFFICER. Does the Senator from Montana renew his unanimous-consent request?

Mr. BURNS. I propound that same unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the bill (H.R. 2854), as amended, was passed.

The PRESIDING OFFICER (Mr. BROWN) appointed Senators LUGAR, DOLE, HELMS, COCHRAN, MCCONNELL, CRAIG, LEAHY, PRYOR, HEFLIN, HARKIN, and CONRAD conferees on the part of the Senate.

Mr. BURNS. Mr. President, I inquire of my friend from Nebraska who probably knows more about football than the average Senator. I once heard Darrell Royal, who was head football coach at the University of Texas. They always asked him why he never passed the ball very much. He had a great running team, and had a couple of national championships. He said, "You know, when you pass the football, three things happen. And two of them are bad."

That is kind of like the way we are running the farm program now. When you are in the grain business because the grain companies can buy the grain cheap, if you take out a market loan on your grain you can forfeit the grain, if it is not market price. And that goes into the pockets of the taxpayer. Then the grain companies buy that after that happens probably at a lower price. Or they can go ahead and buy the grain, and the taxpayers pick up the difference between the grain and the target price. Three things happen. Two of them are bad for the taxpayer, and I think for agriculture.

The reason we have high prices right now is because we had a crop failure. How can you pay a deficiency payment when you do not have any wheat?

We had a great crop in Montana. We had a big crop and got a big price, and everybody is wealthy without the luxury of the deficiency payments.

So I think what we are doing is so that a majority of agriculture would like to get their dollars at the marketplace, and I hope that this will work. If it does not then I will be the first Senator on the door of the Senator from Nebraska after he has retired in Lincoln, NE, and we might enjoy a football game and watch Big Red roll. And then we will talk about all the mistakes that we made together.

Mr. EXON. If the Senator will yield, I thank him very much for his comments.

There is one thing that I want to correct, because no one knows it better than my friend and colleague from Montana. Certainly each and every cattle farmer is not doing well today. And no one knows that better than my friend from Montana because at one time he was a very prominent cattle person in Montana, and he knows better than anybody else the sad condition that our cattle industry is in today. I just wanted to correct the record. I know that he agrees with that. So everybody in Montana is not doing well. If there are any corn people up there, and the wheat people are probably doing pretty good and will the next 7 years, I do not know about the cattle business.

Mr. BURNS. We will hope for better times in the cattle business. The Senator from Nebraska knows that we have been through these times before, and we will go through this one.

I will be honest with you. I have a hard time, I say to the Senator from Nebraska, of going down the aisle in the grocery store. And these people are setting up here tonight. They buy a box of Wheaties. Wheaties is $3.46 cents a pound. It is not $3.46 cents a box, but a pound. Until this year we had a hard time getting $3.50 cents a bushel for a bushel of wheat, and there are 60 pounds in that bushel. I have a hard time dealing with that.

So I appreciate the comments of my friend from Nebraska.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

Mr. BURNS. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227 regarding the Whitewater extension.

Alfonse D'Amato, Trent Lott, C.S. Bond, Fred Thompson, Slade Gorton, Don Nickles, Paul Coverdell, Spencer Abraham, Chuck Grassley, Conrad Burns, Rod Grams, Richard G. Lugar, Mike DeWine, Mark Hatfield, Orrin G. Hatch, and Thad Cochran.

Mr. BURNS. Mr. President, I ask unanimous consent that the vote occur on Thursday, March 14, at a time to be determined by the two leaders and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

AUTHORIZING THE USE OF THE CAPITOL ROTUNDA

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to Senate Concurrent Resolution 45, submitted earlier by Senators DOLE and HELMS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:.

A concurrent resolution (S. Con. Res. 45) authorizing the use of the Capitol rotunda on May 2d, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BURNS. Mr. President, I ask unanimous consent that the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution appear in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 45) was agreed to, as follows:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on May 2, 1996, at 2 o'clock post meridian, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

NOMINATION OF THOMAS A. FINK TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Mr. BURNS. Mr. President, as in executive session, I ask unanimous consent that the Governmental Affairs Committee be immediately discharged of the nomination of Thomas Fink to be a Member of the Federal Retirement Thrift Investment Board; further, that the Senate proceed immediately to the consideration of the nomination; that the nomination be confirmed; that any statement appear in the RECORD as if read; that upon confirmation the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thomas A. Fink, of Alaska, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1999.

HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1995

Mr. BURNS. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1494, a bill to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban

Development and the Secretary of Agriculture, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1494) entitled "An Act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing Opportunity Program Extension Act of 1996".

SEC. 2. MULTIFAMILY HOUSING ASSISTANCE.

(a) SECTION 8 CONTRACT RENEWAL.—Notwithstanding section 405(b) of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 44), at the request of the owner of any project assisted under section 8(e)(2) of the United States Housing Act of 1937 (as such section existed immediately before October 1, 1991), the Secretary of Housing and Urban Development may renew, for a period of 1 year, the contract for assistance under such section for such project that expires or terminates during fiscal year 1996 at current rent levels.

(b) LOW-INCOME HOUSING PRESERVATION.—

(1) USE OF AMOUNTS.—Notwithstanding any provision of the Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 26) or any other law, the Secretary shall use the amounts described in paragraph (2) of this subsection under the authority and conditions provided in the 2d undesignated paragraph of the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" in title II of the bill, H.R. 2099 (104th Congress), as passed the House of Representatives on December 7, 1995; except that for purposes of this subsection, any reference in such undesignated paragraph to March 1, 1996, shall be construed to refer to April 15, 1996, any reference in such paragraph to July 1, 1996, shall be construed to refer to August 15, 1996, and any reference in such paragraph to August 1, 1996, shall be construed to refer to September 15, 1996.

(2) DESCRIPTION OF AMOUNTS.—Except as otherwise provided in any future appropriation Act, the amounts described under this paragraph are any amounts that—

(A) are—

(i) unreserved, unobligated amounts provided in an appropriation Act enacted before the date of the enactment of this Act;

(ii) provided under the Balanced Budget Downpayment Act, I; or

(iii) provided in any appropriation Act enacted after the date of the enactment of this Act; and

(B) are provided for use in conjunction with properties that are eligible for assistance under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the Emergency Low Income Housing Preservation Act of 1987.

SEC. 3. COMMUNITY DEVELOPMENT BLOCK GRANTS.

(a) DIRECT HOMEOWNERSHIP ACTIVITIES.—Notwithstanding the amendments made by section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act, section 105(a)(25) of the Housing and Community Development Act of 1974, as in existence on September 30, 1995, shall apply to the use of assistance made available under title I of the Housing and Community Development Act of 1974 during fiscal year 1996.

(b) INCREASE IN CUMULATIVE LIMIT.—Section 108(k)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)(1)) is amended by striking "$3,500,000,000" and inserting "$4,500,000,000".

SEC. 4. EXTENSION OF RURAL HOUSING PROGRAMS.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996"; and

(2) in the second sentence, by striking "each".

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1994" and inserting "September 30, 1996".

(c) RURAL RENTAL HOUSING FUNDS FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996".

SEC. 5. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

(a) IN GENERAL.—The provisions of section 5 of the bill, H.R. 1691 (104th Congress), as passed the House of Representatives on October 30, 1995, are hereby enacted into law.

(b) TECHNICAL AMENDMENT.—Section 538 of the Housing Act of 1949 (as added by the amendment made pursuant to subsection (a) of this section) is amended by striking "Homesteading and Neighborhood Restoration Act of 1995" each place it appears and inserting "Housing Opportunity Program Extension Act of 1996".

SEC. 6. EXTENSION OF FHA MORTGAGE INSURANCE PROGRAM FOR HOME EQUITY CONVERSION MORTGAGES.

(a) EXTENSION OF PROGRAM.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "September 30, 1996" and inserting "September 30, 2000".

(b) LIMITATION ON NUMBER OF MORTGAGES.—The second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "30,000" and inserting "50,000".

(c) ELIGIBLE MORTGAGES.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z–20(d)(3)) is amended to read as follows:

"(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;".

SEC. 7. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $110,000,000,000 during fiscal year 1996. There are authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association such sums as may be necessary for fiscal year 1996.".

SEC. 8. EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAMS.

(a) RISK-SHARING PILOT PROGRAM.—The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 12,000 units during fiscal year 1996".

SEC. 9. SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING.

(a) CONTRACT PROVISIONS AND REQUIREMENTS.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (k), in the matter following paragraph (6)—

(A) by striking "on or near such premises" and inserting "on or off such premises"; and

(B) by striking "criminal" the first place it appears; and

(2) in subsection (l)(5), by striking "on or near such premises" and inserting "on or off such premises".

(b) AVAILABILITY OF CRIMINAL RECORDS FOR SCREENING AND EVICTION.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

"(q) AVAILABILITY OF RECORDS.—

"(1) IN GENERAL.—

"(A) PROVISION OF INFORMATION.—Notwithstanding any other provision of law, except as provided in subparagraph (B), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, public housing for purposes of applicant screening, lease enforcement, and eviction.

"(B) EXCEPTION.—A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

"(2) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance under this title on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

"(3) FEE.—A public housing agency may be charged a reasonable fee for information provided under paragraph (1).

"(4) RECORDS MANAGEMENT.—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

"(A) maintained confidentially;

"(B) not misused or improperly disseminated; and

"(C) destroyed, once the purpose for which the record was requested has been accomplished.

"(5) DEFINITION.—For purposes of this subsection, the term 'adult' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.".

(c) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED ACTIVITY.—Section 6 of the United States Housing Act of 1937 is amended by adding after subsection (q) (as added by subsection (b) of this section) the following new subsection:

"(r) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED ACTIVITY.—Any tenant evicted from housing assisted under this title by reason of drug-related criminal activity (as that term is defined in section 8(f)) shall not be eligible for housing assistance under this title during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the

public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).".

(d) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS FOR ASSISTED HOUSING.—Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

(1) in the section heading by striking "INCOME"; and

(2) by adding at the end the following new subsection:

"(e) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8—

"(A) that prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person—

"(i) who the public housing agency determines is illegally using a controlled substance; or

"(ii) if the public housing agency determines that it has reasonable cause to believe that such person's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project; and

"(B) that allow the public housing agency to terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person—

"(i) who the public housing agency determines is illegally using a controlled substance; or

"(ii) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the public housing agency to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.

"(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny occupancy or assistance to any person based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, a public housing agency may consider whether such person—

"(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

"(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

"(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

"(3) INAPPLICABILITY TO INDIAN HOUSING.—This subsection does not apply to any dwelling unit assisted by an Indian housing authority.".

SEC. 10. PUBLIC HOUSING DESIGNATED FOR ELDERLY AND DISABLED FAMILIES.

(a) AUTHORITY FOR DESIGNATION.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a public housing agency for which a plan under subsection (d) is in effect may provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated.

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may provide that near-elderly families may occupy dwelling units in the project (or portion).

"(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 16(e)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

"(c) RELOCATION ASSISTANCE.—A public housing agency that designates any existing project or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

"(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the agency and the person or family;

"(2) access to comparable housing (including appropriate services and design features), which may include tenant-based rental assistance under section 8, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

"(3) payment of actual, reasonable moving expenses.

"(d) REQUIRED PLAN.—A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

"(1) establishes that the designation of the project is necessary—

"(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(B) to meet the housing needs of the low-income population of the jurisdiction; and

"(2) includes a description of—

"(A) the project (or portion of a project) to be designated;

"(B) the types of tenants for which the project is to be designated;

"(C) any supportive services to be provided to tenants of the designated project (or portion);

"(D) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the project accommodate the special environmental needs of the intended occupants; and

"(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.

For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of residents.

"(e) REVIEW OF PLANS.—

"(1) REVIEW AND NOTIFICATION.—The Secretary shall conduct a limited review of each plan under subsection (d) that is submitted to the Secretary to ensure that the plan is complete and complies with the requirements of subsection (d). The Secretary shall notify each public housing agency submitting a plan whether the plan complies with such requirements not later than 60 days after receiving the plan. If the Secretary does not notify the public housing agency, as required under this paragraph or paragraph (2), the plan shall be considered, for purposes of this section, to comply with the requirements under subsection (d) and the Secretary shall be considered to have notified the agency of such compliance upon the expiration of such 60-day period.

"(2) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under subsection (d), the Secretary shall specify in the notice under paragraph (1) the reasons for the noncompliance and any modifications necessary for the plan to meet such requirements.

"(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under subsection (d) only if—

"(A) the plan is incomplete in significant matters required under such subsection; or

"(B) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan.

"(4) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a public housing agency shall be considered to have submitted a plan under this subsection if the agency has submitted to the Secretary an application and allocation plan under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996) that have not been approved or disapproved before such date of enactment.

"(f) EFFECTIVENESS.—

"(1) 5-YEAR EFFECTIVENESS OF ORIGINAL PLAN.—A plan under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under subsection (e)(1) of the public housing agency that the plan complies with the requirements under subsection (d).

"(2) RENEWAL OF PLAN.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an agency may extend the effectiveness of the designation and plan for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the plan. The Secretary may not limit the number of times a public housing agency extends the effectiveness of a designation and plan under this paragraph.

"(3) TRANSITION PROVISION.—Any application and allocation plan approved under this section (as in effect before the date of the enactment of the Housing Opportunity Program Extension Act of 1996) before such date of enactment shall be considered to be a plan under subsection (d) that is in effect for purposes of this section for the 5-year period beginning upon such approval.

"(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No tenant of a public housing project shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing project or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

"(h) INAPPLICABILITY TO INDIAN HOUSING.—The provisions of this section shall not apply with respect to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION OF ALLOCATION PLANS.—There are authorized to be appropriated for fiscal year 1996 such sums as may be necessary for rental subsidy contracts under the existing housing certificate and housing voucher programs under section 8 of the United States Housing Act of 1937 for public housing agencies to implement allocations plans for designated housing under section 7 of such Act that are approved by the Secretary of Housing and Urban Development.

SEC. 11. ASSISTANCE FOR HABITAT FOR HUMANITY AND OTHER SELF-HELP HOUSING PROVIDERS.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to—

(1) Habitat for Humanity International, whose organizational headquarters are located in Americus, Georgia; and

(2) other national or regional organizations or consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwelling;

(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 4,000 new dwellings;

(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and Habitat for Humanity International, its affiliates, and other organizations and consortia, resulting in efficient development of affordable housing with minimal governmental intervention, limited governmental regulation, and significant involvement by private entities;

(5) activities to develop housing assisted pursuant to this section involve community participation similar to the homeownership program carried out by Habitat for Humanity International, in which volunteers assist in the construction of dwellings; and

(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

(c) ALLOCATION.—Of any amounts available for grants under this section—

(1) 62.5 percent shall be used for a grant to the organization specified in subsection (a)(1); and

(2) 37.5 percent shall be used for grants to organizations and consortia under subsection (a)(2).

(d) USE.—

(1) PURPOSE.—Amounts from grants made under this section, including any recaptured amounts, shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term "eligible expenses" means costs only for the following activities:

(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs).

(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

(e) ESTABLISHMENT OF GRANT FUND.—

(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

(2) ASSISTANCE TO HABITAT FOR HUMANITY AFFILIATES.—Habitat for Humanity International may use amounts in the fund established for such organization pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization.

(f) REQUIREMENTS FOR ASSISTANCE TO OTHER ORGANIZATIONS.—The Secretary may make a grant to an organization or consortium under subsection (a)(2) only pursuant to—

(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

(A) develop not less than 30 dwellings in connection with the grant amounts; and

(B) otherwise comply with a grant agreement under subsection (i); and

(3) a grant agreement entered into under subsection (i).

(g) TREATMENT OF UNUSED AMOUNTS.—Upon the expiration of the 6-month period beginning upon the Secretary first providing notice of the availability of amounts for grants under subsection (a)(2), the Secretary shall determine whether the amount remaining from the aggregate amount reserved under subsection (c)(2) exceeds the amount needed to provide funding in connection with any expressions of interest under subsection (f)(1) made by such date that are likely to result in grant agreements under subsection (i). If the Secretary determines that such excess amounts remain, the Secretary shall provide the excess amounts to Habitat for Humanity International by making a grant to such organization in accordance with this section.

(h) GEOGRAPHICAL DIVERSITY.—In using grant amounts provided under subsection (a)(1), Habitat for Humanity International shall ensure that the amounts are used in a manner that results in national geographic diversity among housing developed using such amounts. In making grants under subsection (a)(2), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

(1) require such organization or consortia to use grant amounts only as provided in this section;

(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

(4) require the organization or consortia to comply with the other provisions of this section;

(5) provide that if the organization or consortia has not used any grant amounts within 24 months after such amounts are first disbursed to the organization or consortia, the Secretary shall recapture such unused amounts; and

(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

(j) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that an organization or consortia awarded a grant under this section has not, within 24 months after grant amounts are first made available to the organization or consortia, substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

(1) the organization awarded the grant under subsection (a)(1) or (a)(2) shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

(l) CLOSE-OUT.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994.

(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICABLE COMMITTEES.—The term "applicable Committees" means the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(3) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(p) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.

SEC. 12. FUNDING FOR SELF-HELP HOUSING ASSISTANCE, NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM, AND CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.

(a) AUTHORITY TO USE ASSISTED HOUSING AMOUNTS.—To the extent and for the purposes specified in subsection (b), the Secretary of Housing and Urban Development may use amounts in the account of the Department of Housing and Urban Development known as the Annual Contributions for Assisted Housing account, but only such amounts which—

(1) have been appropriated for a fiscal year that occurs before the fiscal year for which the Secretary uses the amounts; and

(2) have been obligated before becoming available for use under this section.

(b) FISCAL YEAR 1996.—Of the amounts described in subsection (a), $60,000,000 shall be available to the Secretary of Housing and Urban Development for fiscal year 1996 in the following amounts for the following purposes:

(1) SELF-HELP HOUSING ASSISTANCE.—$40,000,000 for carrying out section 11 of this Act.

(2) NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.—$10,000,000 for carrying out section 930 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 Stat. 3887).

(3) CAPACITY BUILDING THROUGH NATIONAL COMMUNITY DEVELOPMENT INITIATIVE.—$10,000,000 for carrying out section 4 of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note).

SEC. 13. APPLICABILITY AND IMPLEMENTATION.

(a) APPLICABILITY.—This Act and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

(b) IMPLEMENTATION.—The amendments made by sections 9 and 10 shall apply as provided in subsection (a) of this section, notwithstanding the effective date of any regulations issued by the Secretary of Housing and Urban Development to implement such amendments or any failure by the Secretary to issue any such regulations.

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDERS FOR WEDNESDAY, MARCH 13, 1996

Mr. BURNS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until the hour of 9:15 on Wednesday, March 13; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate begin a period for the transaction of morning business until the hour of 9:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exception, and that is Senator BOND for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I further ask that at 9:30 a.m. on Wednesday, the Senate resume consideration of the omnibus appropriations bill, H.R. 3019, and as under the previous order, resume consideration of the pending Hutchison amendment. I further ask unanimous consent that at 10 a.m., the pending amendments be temporarily set aside and Senator DOLE be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I further ask unanimous consent that the cloture vote with respect to the Whitewater Special Committee occur at 2 p.m. on Wednesday and at 1 p.m. there be 1 hour for debate prior to the cloture vote to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BURNS. Mr. President, for the information of all Senators, the Senate will resume consideration of the omnibus appropriations bill at 9:30 a.m. Additional amendments are expected to be offered, and it is still hoped that we may complete action on the appropriations bill during tomorrow's session.

Under a previous order, there will be a cloture vote at 2 p.m. on Wednesday to be immediately followed by at least one additional vote in relation to the endangered species amendment to the continuing resolution. Additional votes can be expected throughout Wednesday's session of the Senate, and a late session can be anticipated in order to complete action on the omnibus appropriations bill.

ADJOURNMENT UNTIL 9:15 TOMORROW

Mr. BURNS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 9:32 p.m., adjourned until Wednesday, March 13, 1996, at 9:15 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 12, 1996:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

THOMAS A. FINK, OF ALASKA, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1999.

HOUSE OF REPRESENTATIVES—*Tuesday, March 12, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. KOLBE].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 12, 1996.

I hereby designate the Honorable JIM KOLBE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Guam [Mr. UNDERWOOD] for 5 minutes.

ADVANCING THE CAUSE OF POLITICAL STATUS RESOLUTION IN THE TERRITORIES

Mr. UNDERWOOD. Mr. Speaker, in the course of dealing with territorial issues and the resolution of political status for this country's colonial areas, the use of terms has been instructive. At times, the island I represent, Guam, has been referred to by Members of this body as a "territory," "colony," "possession," or "protectorate." In point of fact, Guam is an unincorporated territory of the United States.

The legal implications of this status are important because it helps us understand the reasons behind an effort to change the status. An unincorporated territory is little more than a colony with a legal title which disguises it. An unincorporated territory means that the territory is owned by the United States and that the Congress has plenary power over it. But it is not incorporated meaning that it is not truly an integral part of the United States.

Unincorporated means that the Constitution is not fully applicable to Guam. Unincorporated means that the territory is not on a path to statehood in the same way that incorporated territories have historically been. Unincorporated means that the Congress can make the most basic decisions about your political existence. And because we have no voting representation in the House or the Senate and because we cannot vote for President, the people of Guam have not truly given their consent to the Government which controls their lives. The most basic tenet of American democracy is that government comes from the consent of the governed. In the case of Guam and other territories, this is not the case. Consequently, the term "colony" is clearly applicable.

It is much to the credit of Congress that this plenary power, which so clearly offends the people of Guam and which should offend any principled American, has generally been used in positive ways; ways which promote the progressive development of the territories. However, there have been occasions when this authority has been used in ways which have been damaging to the territories and countless times when Congress has failed to consider the unique circumstances of the area.

In this context, the terms are important. Guam is not a protectorate which implies total internal sovereignty with some tradeoff agreement for protection. Guam is not a possession which seems a step below territory. Wake Island is a possession and has no government functioning there. It is managed by a Federal agency.

Guam is an unincorporated territory that is working to establish a new Commonwealth. The Guam Commonwealth Act, H.R. 1056, which I introduced early in the 104th, provides the framework for this new Commonwealth. Governor Gutierrez and the Guam Commission on Self-Determination have been negotiating with the Clinton administration to resolve areas of disagreement. I am encouraged by the commitment shown by the administration's special representative, Mr. John Garamendi, to complete these discussions, but I am mindful of the difficult issues that remain.

Territories as Commonwealths have existed in American history and today we have two—the Commonwealth of the Northern Mariana Islands and the Commonwealth of Puerto Rico. The term implies that there is an agreement to be a Commonwealth on both sides and that this is a step up from unincorporated territory. The legal foundations of this assumption are questionable and are highly dependent upon the specific nature of the agreement which created the Commonwealth.

I will spare no effort to work toward a Commonwealth agreement for Guam because it is a progressive step. But I recognize that it does not answer a fundamental decision about what Guam may be in the future. The Commonwealth is an intelligent response to what we can be in the present. Guam may be a State, may be an independent country, may be a nation in free association with the United States. That is a story waiting to be written and we must be mindful of our responsibility to reserve these possibilities for the people of Guam to decide.

What happens to other territories is important to Guam because it may affect us in ways that are not readily apparent. I want Guam to be a Commonwealth. I want to help advance political status discourse on Guam and on other areas. I have consponsored H.R. 3024 for the resolution of the Puerto Rico political status issue.

I appreciate the problems of the approach outlined in this bill, but I hope to advance the discussion for Puerto Rico in a way that I wish others would also help to advance the discussion for Guam. And there is in this legislation a fundamental admission about the territorial policy of this country. That admission is that the political status issue is never fully resolved until a territory becomes a State or its sovereignty is recognized.

This legislation admits that the United States has colonies which are awaiting the final resolution of their status. The final resolution may be closer for some than for others, but we will all need to cross that bridge in the future. In the meantime, we can make the path to that bridge more beneficial for all concerned, whether we call that path unincorporated territory or Commonwealth.

REVERSE THE PROCESS OF SPENDING MORE AND GETTING LESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. MICA] is recognized during morning business for 5 minutes.

Mr. MICA. Mr. Speaker, I want to refer to articles in today's newspapers, not only here in Washington, but also across the country, in which the President recently traveled to New Jersey.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

He has continued his campaign, both to scare the American people and seniors, and also those concerned about the environment.

I think it is important that we set the record straight. In fact, the President said, and let me quote, "The GOP-controlled Congress is cutting Federal safeguards to cater to corporate interests. A small army of very powerful lobbyists literally have descended on Capitol Hill, as if they own the place." It makes good campaign rhetoric, but it just "ain't" the truth, Mr. Speaker.

The fact is that the people who represent cities and towns and States have descended on this new Congress. Let me quote the New York Times again, the New York Times of March 24, 1994: "In January, 1994, mayors from 114 cities and 49 States urged the White House to focus on how environmental policy-making had gone awry." That is the true story. "Mississippi and Vermont were among the first to appoint panels of citizens and scientists to examine our environmental policy. In published reports both State panels concluded that the largest sums of monies were being spent on the least threatening environmental problems."

Mr. Speaker, let me tell the Members, the story goes on and on. Let me tell you what the mayor of Columbus said. This is his quote: "What bothers me is that new rules coming out of Washington are taking money from decent programs and making me waste them on less important problems. It kills you as a city official to see this kind of money being spent for nothing."

Let me tell the Members, Mr. Speaker, what this debate is all about. This debate is about command and control in Washington, DC. We would think there are a lot of Federal EPA officials working in the States and trying to improve the environment. Wrong. Let me show the figures of what we have done. First of all, there are nearly 7,850 Federal EPA employees. Of that, there are 5,924 in Washington, DC, within 50 miles of where I am speaking right now. There are almost 6,000, just under 6,000. In fact, a dozen years ago there were not that many in the entire EPA program. In Atlanta, in a regional office, one of 10 regional offices, there are 1,287 bureaucrats.

This whole debate is about this bureaucracy that we have built up. EPA was a Republican idea. The department creating an agency of environmental protection was a Republican idea in 1972, to set some national standards. We should do that. We can do that without this huge bureaucracy. These folks are not in our States. For example, there are only 67 EPA Federal employees in the State of Florida, out of this mass of Federal bureaucrats.

Then the President talked about Superfund. Let me tell you, there is no greater example of a failure of a government program than Superfund. It does not clean up the sites. There are thousands of sites. They have only cleaned up a handful. Over 80 percent of the money goes for attorney's fees and studies. Then what do they do? Does the polluter pay? Here is a headline: "EPA lets polluters off the hook."

Right now they let people off the hook. They do not pay under current law. That is what we think needs to be changed here. So Republicans have a better idea. We think that we are spending more and getting less, and we should reverse that process.

Then, are we cleaning up the riskiest sites to human health, safety, and our children? The fact is, no. I have here a GAO study of 1994. It is absolutely appalling that we are not cleaning up the sites that pose the most risk to human health, safety, and welfare. This report says, in fact, and let me quote: "Although one of EPA's key policy objectives is to address the worst sites first, relative risk plays little role in the agency's determination of priorities."

Do Members know what does determine their priorities? Political pressure. That is what this report says. So a program that was originally, according to this report, going to cost $1.6 billion has grown to $75 billion. It is not cleaning up the sites and it is letting polluters off the hook. We think that is wrong.

SUPPORT HIGHER EDUCATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized during morning business for 5 minutes.

Mr. ROMERO-BARCELÓ. Mr. Speaker, the proposed 1996 spending package for education is unacceptable. Once again, the country's children and youth will be made to pay.

Under the current budget, education programs have been forced to operate at greatly reduced funding levels, to the detriment of students in school districts all across the country.

The appropriation bill provides for additional funds for certain programs but does so only on a contingency basis. And what is the contingency? Agreement to cut vital entitlement programs. In the name of balancing the budget, children are being pitted against each other. Now, we have seen everything.

Once again, college and college-bound students may lose an opportunity to pursue higher education.

How many talented, intelligent, young men and women will be deprived of the opportunity of a higher education?

Many students who are qualified and prepared to enter college, will simply not be able to go. Low- and middle-income families who have worked hard, saved their earnings for many years, will find it more difficult—if not impossible—to pursue higher education.

It is an uncontroverted fact that American voters strongly support Federal aid to college students. Americans believe that by providing financial aid for people who want to go to college, the Federal Government is investing in America's future.

Despite, this fact, the latest House version of the bill would cut $756 million for Pell Grants, eliminate funding for capital contributions for Perkins Loans, and eliminate funding for the Student Incentive Grant Program, which provides invaluable support to low-income college students.

Thousands of students in Puerto Rico and all over the country will be affected.

While Congress is slashing the education budget here in Washington, elsewhere legislators are recognizing the importance of supporting higher education, and regretting that they ever tried to balance their budgets at the expense of higher education. In Virginia, legislators reached an agreement on the Virginia budget this weekend in which higher education will get $400 million more over the next 2 years. The numbers in that budget tell that the No. 1 priority is education.

In Puerto Rico, as well, the State government is honoring its commitment to education. But Puerto Rico's goals for education cannot be accomplished without Federal assistance in student loans.

I urge my colleagues in Congress to consider carefully the legislation before them and to consider the severe impact education cuts will have on working families and their ability to access higher education for themselves and their children.

Funding to vital education programs must be restored. Mr. Speaker, the only contingency we should be talking about when it comes to education, is that if we provide our schoolchildren with the tools they need and deserve, and support higher education, Americans will win.

PRESCRIPTION FOR A PROSPEROUS ECONOMY: LOWER THE TAX RATE, AND ELIMINATE CLINTON ELITISTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. ROHRABACHER] is recognized during morning business for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, how many of us remember what was going on 4 years ago? Four years ago the American people were told that we were in the worst recession in 50 years. Remember that? The worst recession in 50 years. The news media did not challenge that claim by candidate Clinton, but soon after the election, we found out all the new statistics, economic statistics, that were coming out were exactly the opposite. We were not in the worst recession in 50 years. In fact, the economy was heading up in the last half of that year, of that last election year of 1992.

We are now being told, 4 years later, that things are great. The stock market is booming. Inflation remains low. Things are not that great, Mr. Speaker, The American people know that. They can sense that, no matter how many times the news media is trying to tell them otherwise.

The growth rate actually went down dramatically from the time President Clinton was inaugurated until this year. Now we are told things are really picking up. Things are not picking up. There is an illusion that things are getting better, but the American people know better. The first item on President Clinton's agenda when he was inaugurated was passing the largest tax increase in American history. Candidate Clinton had promised a middle-class tax cut. Today, 3 years later, the American people understand something is wrong. Something is wrong. They are paying more, but they cannot put their finger on it.

That is because every time they go to the gas pump they are paying 5 cents more than they would otherwise. That is because many of our seniors, who are the hardest hit by the Clinton tax cut, know that they are paying more money on their Social Security, more taxes on their Social Security benefits. Our seniors felt that tax increase, and a lot of the rest of us have felt the effects of that tax increase, but a lot of Clinton's rich pals, President Clinton's rich pals, did not feel that.

How many of us remember that some of the top contributors to President Clinton's campaign were tipped off by someone, no one knows who, that the tax increases that he would propose as President would be made retroactive? A few super rich contributors, like Mr. Eisner, who owns Disney Corporation, managed to basically do his selling and make his profits between the time President Clinton was elected and the time he was inaugurated. Apparently somebody had tipped him off that those tax increases would be retroactive. He saved himself a cool $100 million, but the average American today is paying higher and higher taxes.

We understand that the American people today, as compared to 1992, the average American family actually is earning in take-home pay, take-home pay, over $700 less than they did in 1992. No, Mr. and Mrs. America, you are not experiencing some kind of delusion. I know you have gone to the movie and you have seen "The American President," this multimillion dollar movie that Hollywood made to glorify the presidency. You have heard the news media telling you over and over and over again that things are getting better. But no, you are not suffering some delusion in thinking that something is wrong, that something has gone wrong with your standard of living and that you are not living as well.

When the Government takes more money from the people in the form of taxation, it puts a clamp on economic growth and it takes decision making away from them, and freedom away from them, and prosperity away from the people. We cannot create something out of nothing. Many liberals believe over the years that if the Government does something, if the Government pays money or if the Government taxes them, this is coming out of thin air. The fact is Government revenue, Federal revenue, unless it results from higher productivity of the American worker, unless it results from actually more investments, unless it results not from higher tax rates, but from more productivity and more production of wealth in our society, means that the American people are worse off. Today every American family faces the choice of either having a lower standard of living or having two people in the family work.

What we have found far too often is that when we examine the statistics, what is happening is that one member of the American family is working full time, and the only thing that happens is that that person's money is paying their Federal taxes. If we are to be a free society, if our people are to be prosperous and to live as they are supposed to, we must lower the tax rate and we must eliminate the Clinton elitists that would like to take more and more money out of our pockets.

THE CONTINUING RESOLUTION MUST INCLUDE FUNDING FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, if the comic Letterman were to name the 10 most unlikely events this year, 1 of them might be that the Presidential primary in any part of the United States would be canceled for lack of funds. I am here to tell you that this morning's Post tells us that, and I am quoting, "Cuts may mean no presidential primary in D.C." The lack, Mr. Speaker, is for money in the form of a payment due the District of Columbia, which the Congress is holding up, in the amount of $250 million or more. As a result, the District faces the possibility of a payless payday at the end of this month, and the end of its primary for May 7.

As Members may know, this money is being held up not because of matters germane to the District of Columbia, but because of a national fight over whether or not vouchers should be funded for private and religious schools. I am here to say this morning, Mr. Speaker, that if you want to debate vouchers, an important national issue, do it on your own time and on your own bill; do not take the Capitol of the United States down with you.

This body is fiddling while D.C. residents are burning. The body shut down the District of Columbia on one occasion. Now you want to cancel democracy in the Capital of the United States by not bringing forward the payment due the District in lieu of taxes? How low can we go? What will it take to wake us up?

Mr. Speaker, I hasten to add that though I am on the ballot in this primary, I do not mind if this primary is shuttled over, if my own primary is put over to another date, because I am unopposed, so I do not have anything personally to lose, although I must tell the Members that there are minor officials that are on this ballot that do have something to lose. Of course, the President is not opposed in his own party, either. But would not the shame of the country be to have a headline, and we know it would be one, to the effect "Election in Nation's Capitol Canceled Because Congress Holds Up the Appropriation?" Come, now.

The Washington Post this morning tells us that this is happening for good and sufficient reasons, lack of funds. "Although he has accelerated layoffs, canceled the planned purchase of new polling places, eliminated mailings to voters, and reduced the temporary staff hired to run elections, Fremaux * * *," that is the head of the election board, "* * * said he is still far short. The only place to turn," his letter said, "is the elections themselves."

This is an agency known as one of the most efficient in the District of Columbia. They have already made sizable cuts. They are going down to $369,000 in cuts. They have made $239,000 very rapidly. But the rest requires, obviously, local legislation and the following of personnel rules.

We are today, at 2:15, to have the fourth cloture vote on the D.C. appropriation in the Senate of the United States, the fourth. Each time there has been a cloture vote on whether to pass our appropriation, it has gotten fewer votes than it got the last time. Somebody is playing games, here. But the folks who are suffering are not represented by anybody in this body except me, so I have to come before this body to say that the CR that is due out Friday simply must contain the District of Columbia, or you will have to suffer the consequences. You will have to suffer the embarrassment. My constituents and I have already suffered the pain.

Congress is fond of saying that it is acting in the District with less democracy than other jurisdictions because "It is the Capital of the United States, and it is our responsibility." When is the Congress going to perform like it recognized that it has a responsibility? The residents I represent are second per capita in taxes paid to the Federal Treasury, and yet have no voting representation in this body, and no representation whatsoever in the Senate. Put yourself in their position, when the money being held up is their money, not this body's money, money owed them for taxes.

If this is everybody's city, which is why the Congress says it exercises jurisdiction over it, then it is time for the Congress of the United States to act like it.

URGING SUPPORT FOR THE ROUKEMA HEALTH CARE REFORM LEGISLATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, last week over 150 Democrats signed a letter of support for positive health care reform legislation sponsored by the Republican congresswoman, the gentlewoman from New Jersey, MARGE ROUKEMA. Her bill is similar to the Kennedy-Kassebaum legislation that has been introduced in the Senate, and has gained wide bipartisan support. In fact, Senator KASSEBAUM already has a commitment to bring up her bill in mid-April, and a number of health care organizations, providers, including the American Medical Association, have signed on and said that this is a good bill.

Essentially that we have now is bipartisan support, both Democrats and Republicans, both House and Senate Members, and the President of the United States, President Clinton, who said that if this bill comes to his desk he will sign it.

The Roukema bill essentially would ensure that Americans will no longer have their health coverage denied or limited because of so-called preexisting conditions The bill also helps people keep their health coverage if they get sick, lose their jobs, or change jobs. This is a bill that could pass the House of Representatives if the Republican leadership in this House would only let it come to the floor.

In fact, it is now my understanding that the House Republican leadership, under Speaker GINGRICH, is taking a different tack and plans on introducing health care legislation that includes controversial provisions to pander to various special interest groups. In other words, instead of letting the Roukema or Kennedy-Kassebaum bill come to the floor with everybody's support and have it signed by the President, they are now going to bring in another bill loaded with all kinds of special interests, special interest provisions; for example, increasing tax-free medical savings accounts, limiting malpractice awards, a number of things that are very controversial and that would prevent any kind of health insurance reform from passing this House and being signed into law.

I just wanted to mention one of the provisions that GINGRICH and the Republicans have talked about, and this is the Medical Savings Accounts, or MSA's. The Speaker tried to include MSA's when they are trying to cut Medicare last year, and now they are trying to insert this untested idea into the health care reform bill, which would provide a financial windfall for the Golden Rule Insurance Company, whose top executive has given Republican political committees excessive contributions in the past few years.

During the Medicare debate it was found that the MSA would cost Medicaid an additional $3 billion. How can the Republican leadership believe they can try to pass this in health care reform? It is not a reform; it is actually catering to special interests. In the end it means health care costs will increase for the average working family.

Serious health care reform was attempted 3 years ago and failed because Congress tried to overhaul the whole system with one piece of legislation. I would maintain that the lesson from that experience is Congress needs to take a step-by-step approach to decrease the number of uninsured Americans. I think that is what we would accomplish in a small, modest way with the Roukema bill.

Again, however, the Republican leadership does not really want health care reform. If they did, then they would not be loading up a bill that benefits the special interests over the uninsured. If they wanted health care reform, why did they bring up this illustrious Contract With America last year?

Essentially what we are seeing here is the same old Republican leadership games. There is bipartisan support for the Kennedy-Kassebaum Senate bill. One hundred and thirty respected business groups, insurance groups, and health care providers have endorsed it. The House version, sponsored by the gentlewoman from New Jersey [Mrs. ROUKEMA], a Republican, has bipartisan support and will reduce the number of uninsured by millions. It is a positive step that will help working families by increasing portability and eliminate preexisting conditions.

If the Republican leadership truly wanted health care reform, they should consider using the Roukema legislation as the vehicle for it. It is irresponsible to try to please all the special interests when Congress can be working together to reduce the number of uninsured Americans.

What I am simply saying, Mr. Speaker, is this: We know that the Roukema bill can pass and address the issue of preexisting conditions and portability. Let us bring it to the Committee on Commerce, let us bring it to the floor. Let us not load it up with all these other things that will make it impossible for it to pass. I think it is incumbent upon the Republican leadership to allow this bill to come out and be considered in a simple form, rather than this new grab-bag package that they are now proposing to introduce and bring before various congressional committees.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 1 minute p.m.), the House stood up in recess until 2 p.m.

☐ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the Sun rises to greet each day and gives light and warmth to every person, so may Your word of grace, O God, greet us each morning and guide us on our daily walk. We recognize that when we look only to ourselves and our own vision, we often falter and faint and we can lose our bearing and drift with the winds of time and the tides of the moment. Speak to us, O God, in the depths of our hearts, nurture our souls, enlighten our minds, and encourage us to use our hands in the works of justice and of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from New York [Mrs. KELLY] come forward and lead the House in the Pledge of Allegiance.

Mrs. KELLY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT OF AMENDMENT PROCESS FOR H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT

(Mr. GOSS asked and was given permission to address the House for 1 minute.)

Mr. GOSS. Mr. Speaker, last Friday, March 8, the chairman of the Rules Committee, the gentleman from New York [Mr. SOLOMON], sent out a "Dear Colleague" letter to all Members of the House, committee offices, and leadership offices providing notice of the amendment process to be used on H.R. 2202, the Immigration in the National Interest Act.

This announcement is intended to serve as a reminder of that process. The Rules Committee is planning to meet Thursday, March 14, at 10:30 a.m. to grant a rule on the immigration bill. This rule may include a provision limiting amendments to those specified in the rule.

Any Member who desires to offer an amendment should submit 55 copies and a brief explanation of the amendment by noon on Wednesday, March 13, to the Rules Committee at room H-312 in the Capitol.

Amendments to the portions of the bill in the jurisdiction of the Judiciary Committee should be drafted to the text of H.R. 2202 as reported by the Judiciary Committee.

Amendments to the portion of the bill in the Agriculture Committee jurisdiction, the guest worker program, should be drafted to the text of the Agriculture Committee reported amendment.

Both of these texts are in the Office of the Legislative Counsel.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

ACTIONS SPEAK LOUDER THAN WORDS

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, I'd like to share a few names with you and hopefully our President: Adam Kopald, Bridgit Mennite, Liesl Himmelberger, Amy Ziegler, Emily Nytko, and Kellie Ernzen.

These are just a few of the names that our President is planning to veto this Friday.

Those six young men and women are the top honor students at James O'Neill High School in Highland Falls, NY.

Their school district vitally depends on the Impact Aid Program. Last week this House stood up for these children and their school district by funding this program—despite the White House's attempts to zero it out.

If the President vetoes our measure, which adds an additional $3.3 billion for education and environmental programs, he vetoes the education of those six students. It's that simple.

The President can talk all he wants about children, but the fact will remain that he abandoned them—not this House.

Mr. Speaker, my mother used to tell me that actions speak louder than words. So, I urge the President to hear the pleas of these children, and help us save the Impact Aid Program.

TRIO OF TRADE EXPERTS RECOMMEND CONTINUATION OF MFN STATUS FOR CHINA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, China denies American products. China steals American videos and software. China tortures their own citizens, China imprisons their political opponents. China has slave labor camps. China has a 17-cent-an-hour labor wage. China still has slave labor camps. China sells nuclear technology and missiles to America's enemies, and China is now threatening to nuke Taiwan. After all this, American government trade experts say it is in the best interests of America to continue most-favored-nation trade status for China.

Unbelievable, Mr. Speaker, I say it has finally dawned on me. These American trade experts are actually Larry, Moe, and Curly, an they inhaled all the time.

Beam me up, Mr. Speaker. I yield back the balance of any jobs left over.

WHITE HOUSE REQUESTS ADDITIONAL $8 BILLION

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, wages are down and taxes are up. The middle class is slowly being squeezed by liberal economic policies put in place by the Clinton administration. Now we hear that the White House has requested an additional $8 billion for corporate welfare and social engineering programs.

This is basically a Clinton reelection pork package. What really rattles me about this request is that the Clinton administration wants $10 million more for the National Endowment for the Arts. This is outrageous.

Mr. Speaker, the American people are tired of seeing their hard-earned tax dollars wasted on projects that go out of their way to offend traditional values. It is outrageous that Bill Clinton would ask for an additional $10 million for this program in order to please the extreme liberal wing of the Democratic Party.

CONGRESS SELLS OUT TO SPECIAL INTERESTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, my Republican colleagues continue to confuse the onset of spring with the continuation of Halloween. They continue to masquerade as the friend of working Americans but are still the defenders of the special interests.

They unveiled their new health care reform plan. They are loading down a bipartisan straightforward health care reform bill with lots of special interest goodies.

Who benefits from these provisions? Is it the working families struggling to pay health care bills? No, that is not who. Their proposal would provide a financial windfall for the Golden Rule Insurance Co., providers of over $1 million in contributions to Republican political action committees.

This attempt to appease special interests is particularly disappointing because it wastes an opportunity to pass real bipartisan health care reform in this Congress. Sadly, when the gavel drops to open debate on this legislation, it will mark the start of yet another auction where this Congress sells out the public interest to the special interests.

THE BUSINESS OF GOVERNING

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, the gentlewoman from New York State said it all when she quoted her mother: Actions speak louder than words.

Now unfortunately as the calendar gives way to spring and ultimately to November, our campaigner in chief seems to be willing yet again to shut down the Federal Government in a bald-faced political tactic. Mr. Speaker, he is trying to bully this Chamber into spending $8 billion in additional taxpayers' dollars in a cynical attempt to be reelected.

Mr. Speaker, the American people know full well that actions speak louder than words. Once again I reach out, Mr. Speaker, to our friends on the other side, ask them to join together and to help us govern, not to electioneer, not to have politics as usual but to get about the business of governing this great Nation.

REDUCED FUNDING FOR EDUCATION TO HAVE SEVERE IMPACT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I just want to point out again that the cuts in education that are happening right now because of the reduced funding levels in these continuing resolutions that the Republican leadership continues to put forward in this House are having a severe impact on education in secondary schools, primary schools, as well as higher education around the country. We are talking, in this continuing resolution that passed last week, if it were to continue for the rest of this year, about a $3 billion cut in education programs.

What that means is higher property taxes in those school districts which decide to continue those programs, or simply the elimination of valuable educational programs that students take advantage of. Already I am hearing from my school boards and from educators in my district in New Jersey who are saying that if the level of cuts continue the rest of this year as they have since the beginning of October, the beginning of this fiscal year, the consequences are dire for education programs on every level. It is sad because, once again, I feel that education should be a priority of this Congress and should not be cut back.

TRAVELS OF THE ENERGY SECRETARY

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, Secretary O'Leary continues to call the shots at the Energy Department. Oh, no, she can't be fired despite the flagrant abuse of her privilege, not right, but privilege of travel.

The taxpayers, in my opinion, have been ripped off because of her excessive travel. Ms. O'Leary flies first class or she charters her own private plane and is accompanied by her ubiquitous entourage.

The time has come for President Clinton to show this woman the gate that leads to the road out of town. Even then she will likely demand a first-class ticket or a private charter and her entourage of 5 to 25 aides to preclude any heavy lifting on her part.

Oh, no, she's special, she can't be fired. Yet she will continue to enjoy the luxury of worldwide travel at the expense of the American taxpayers as well as her own employees.

Inexcusable, Mr. Speaker. Inexcusable.

THIRD GOVERNMENT SHUTDOWN IN OFFING

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, this morning's Washington Post had an article quoting the Senate minority leader as saying that we are 5 days from a third Government shutdown and the situation is every bit as precarious as it was several months ago.

What it did not go on to say was why we are close to a Government shutdown: Because the President wants to spend more money on his favorite projects. He wanted $8 billion. The House passed a bill providing $3.3 billion, but that did not include the $7 million more to foreign countries to teach students to measure rainfall; $10 million more for the controversial art projects funded by the National Endowment for the Arts.

There may be another Government shutdown, Mr. Speaker, but it will be entirely on the President's shoulders because he cannot get rid of his appetite for more spending projects.

COMPETING VIEWS ON GOVERNMENT

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, this coming November the American people will have a choice between two competing views of Government. One view holds that Government must be restrained and that we must be fiscally responsible.

The other view holds a kind of utopian vision of Government. This utopian view holds that Washington spending and Washington taxes and Washington regulations are the key to a successful America.

For instance President Clinton has requested that Congress appropriate $8 billion more in social spending and corporate welfare. The President who gave us the largest tax increase in American history now wants $8 billion for essentially a reelection pork package.

Mr. Speaker, the American people are tired of the lavishness of the Clinton administration. They are sick and tired of seeing their tax dollars going to fund liberal programs with these dollars. We must reject this request and put a stop to the arrogant tax-and-spend policies of the Clinton administration.

THREE STRIKES AND GOP IS OUT

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, already twice the Government has been shut down, once in the fall, once in December, and now we are skidding up towards a third point where the Government could be shut down yet again.

The conditions that the Republicans are imposing, we must cut the EPA by 20 percent, we must cut the Department of Interior by 10 percent, we must gut environmental laws or else they will not allow the Government to operate.

GOP used to stand for Grand Old Party. Now GOP stands for gang of polluters who will shut down the Government unless we gut environmental laws in this country. They say the definition of insanity is someone that keeps doing the same thing over and over again expecting a different result.

□ 1415

The Republicans think they can shut down the Federal Government for a third time and that the people of this country will not be upset. They will be. This time they are going to say, "Three strikes and you're out."

COMPTROLLER OF THE CURRENCY OVERSTEPPING HIS AUTHORITY AND CIRCUMVENTING STATE LAWS

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, I rise today to bring to your attention the unlawful actions of an unelected official—an official who has taken it upon himself to dictate the laws governing the Nation's financial institutions, and proceeding so with no regard to State law or States' rights.

The Comptroller of the Currency, is overstepping his authority and circumventing State laws.

This overstepping of authority has become abundantly clear in my State of Oklahoma where the OCC has approved a national bank branch in a location that would be illegal under Oklahoma State law.

Laws governing intrastate branching have always been an authority granted exclusively to the States. The OCC must not be allowed to pick and choose which State laws national banks have to comply with.

They have become a rogue Federal agency and Congress must exercise its oversight authority. If we are to have a vibrant and healthy State banking system, we need to preserve State law.

I thank my colleague, Chairman LEACH of the House Banking Committee, for his recent comments on this issue. I appreciate his leadership and support for a dynamic and healthy dual banking system.

It is time that Congress take action to reign the Comptroller of the Currency and my hope that the banking

Committee will hold hearings on the OCC's recent disregard for States rights and the dual banking system.

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. CAMP). This is the day for the call of the Corrections Calendar.

The Clerk will call the bill on the Corrections Calendar.

REPEAL MEDICARE AND MEDICAID COVERAGE DATA BANK

The Clerk called the bill (H.R. 2685) to repeal the Medicare and Medicaid coverage data bank.

The Clerk read the bill, as follows:

H.R. 2685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 of the Social Security Act (42 U.S.C. 1320b–14), as added by section 13581(a) of the Omnibus Budget Reconciliation Act of 1993 (in this section referred to as "OBRA–93"), is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) of such Act (42 U.S.C. 1395y(b)(5)), as amended by section 13581(b)(1) of OBRA–93, is amended—

(A) in subparagraph (B), by striking the dash and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) of such Act (42 U.S.C. 1396a(a)(25)(A)(i)), as amended by section 13581(b)(2) of OBRA–93, is amended by striking "including the use of" and all that follows through "any additional measures".

(3) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, as amended by section 13581(c) of OBRA–93, is amended—

(A) by adding "or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. STARK] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2685, a bill I introduced to repeal the so-called Medicare and Medicaid coverage data bank. This particular bill was favorably reported by the Committee on Ways and Means last November by a unanimous voice vote.

Mr. Speaker, this bill is particularly well suited to be considered here under the corrections procedure as we are doing today. Under the Medicare secondary payer program a person's employer based insurance may be the primary payer in certain cases. In other cases, it may not be.

The 1993 budget reconciliation bill created a data bank to identify Medicare secondary payer cases. In principle, this was, I guess, at the time a good idea. However, its implementation was misguided and heavy-handed.

Under the 1993 law, employers were required to submit health insurance information on all their employees, not just those subject to the secondary payer provisions. Health and Human Services also said this was to begin in 1994.

Many employers voiced strong opposition to this cumbersome requirement, in large part because employers were required to report information which they did not routinely collect, and what started out as a good idea became, in part, a hunt for information which was not then currently asked for or even needed in the system.

In response to these objections, a fiscal year 1995 Labor, Health and Human Services appropriations bill directed that no funds be used for the implementation of the bank. In addition, the General Accounting Office issued a report in May 1994 which found that the data bank would create burdensome and unnecessary paperwork for both the Health Care Financing Administration and employers and would achieve little or no savings. As the witness from the GAO testified on February 23, 1995, "The proposed data bank would create an avalanche of unnecessary paperwork for both HCFA and employers and will likely achieve little or no savings while costing millions."

It is also believed that the data bank would cost the private sector as well as Government that money, that burden not being solely on one group or the other.

H.R. 2685 puts an entirely appropriate final nail in the coffin by repealing the underlying data bank law. The data bank notwithstanding, the idea of making sure that the Government paid only its fair share was a misplaced idea from the start.

I am pleased to be able to help send it to its final resting place here today. This is a relatively straightforward bill. It has very narrow scope of subject matter. There is, I believe, universal support for the repeal of this Medicare-Medicaid coverage data bank law, and I urge its swift adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

I, too, support this legislation. It is a provision of 1993 which the House reluctantly accepted in conference as part of a package from the other body, and at the time, then-chairman of the Committee on Ways and Means predicted we would be back repealing it at some later point, and it is appropriate that we are doing so today.

In addition, the administration has been unable to implement the law, and the administration also supports the repeal as a necessary correction.

It is interesting that we are here today to talk about data banks, because the data bank is, Mr. Speaker, a record, just so that my colleagues understand; this is very arcane computer talk, and this gentleman from California is no expert, but I understand that a data bank is a record, a record not unlike this Congress under the Republican leadership which has passed no legislation. That is a data bank, and I am sure that it is one that the Republicans would like to repeal at some point so they do not have to run on the data bank that they have established in this Congress.

There are lots of data banks that perhaps are needed, and I hope that none of my colleagues will feel that doing away with this data bank, we should forego all data banks in the future.

Somebody a while ago mentioned nails in a coffin. Now, I would like to have a data bank on how many coffins will be nailed shut by the Republican Medicare plan, how many poor people would be denied.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from California yield for a parliamentary inquiry?

Mr. STARK. Certainly.

Mr. THOMAS. I fully understand the intent and purpose of the gentleman from California, and all of us, I think agree that we come here not to praise data banks but to bury this particular one, and I know he must, because of the rules of the House, walk a very fine line in talking about the subject matter in front of us. I would urge him that I would not want to continually ask this parliamentary inquiry.

But were the gentleman's statements referring to any data bank, including data banks collecting information about the record of this Congress, germane to the subject matter in front of us?

The SPEAKER pro tempore. The gentleman must maintain a nexus between the subject being debated and the bill.

Mr. THOMAS. My parliamentary inquiry is: Is mentioning the word "data bank" and then talking about what you want to put in any data bank you so conceive, is that an appropriate and parliamentary nexus?

The SPEAKER pro tempore. At this point the Chair will simply remind the Members that discussions should remain relevant to the bill under consideration.

Mr. THOMAS. I thank the Speaker, I thank the gentleman for yielding.

Mr. STARK. My pleasure. I will try and keep my nexus in focus. I am not sure I know what a nexus means, either. But I will do my best.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. THOMAS. Perhaps we could have a data bank collecting nexus. Then we could examine them.

Mr. STARK. I thank the gentleman for his suggestion. In all seriousness, the collection of health data has been an important facet in the Medicare Program, which has been the perhaps leading social legislation since 1965, when Lyndon Johnson and a Democratic Congress and Senate enacted Medicare. And we have kept much in the way of health data. We have talked about outcomes research, which is a data bank which will not, I believe, he repealed in this bill. That is good.

But we do need a data bank to see, as I mentioned, nails in coffins, we passed nursing home legislation some years back. We have records of data banks, if you will, of the number of——

PARLIAMENTARY INQUIRY

Mr. THOMAS. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman yield for an inquiry?

Mr. STARK. I will be happy to yield.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. The gentleman has now moved from a data bank to records, and I believe the statement will show that he is now talking about records in the context of a data bank, if you will.

Does moving from a data bank, the specific subject matter of this bill, to records which are akin to a data bank suffice for the Speaker to continue to allow for this direction? Is that a sufficient nexus, in the Chair's opinion?

The SPEAKER pro tempore. The Chair is of the opinion that the gentleman has maintained a sufficient nexus or connection.

Mr. THOMAS. He is doing a good job.

Mr. STARK. I thank the gentleman. It is this data bank or collection of records that will tell us how well we have done with regulating nursing homes and the data bank will illustrate for us the number of lives that have been saved, the number of senior citizens that are no longer medicated into being zombies, the number of senior citizens in nursing homes in various States who are living in unhealthy conditions, and this data bank will illustrate for us what will happen if we were silly enough to pass the Republican Medicare plan.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I am constrained to ask a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman yield for an inquiry?

Mr. STARK. I will be glad to yield one more time.

Mr. THOMAS. This gentleman is at a complete loss, having read the legislation in front of us, with no reference to nursing homes whatsoever, how a discussion of nursing homes and legislation or desired legislation surrounding nursing homes has any nexus whatsoever with the subject matter in front of us, and Mr. Speaker, I would like you to rule on the nexus of a discussion of nursing homes and data or records collected around the nexus of nursing homes and how that has a relationship to the legislation which we are supposed to be discussing on the floor.

Mr. PALLONE. Following up on that parliamentary inquiry——

The SPEAKER pro tempore. The gentleman is not recognized at this time. The Chair is prepared to respond.

Mr. PALLONE. Could I ask on that point if the gentleman from California [Mr. STARK] could yield to me?

The SPEAKER pro tempore. The Chair is prepared to respond.

The Chair is prepared to give the gentleman from California the opportunity to establish that connection between data banks covered by the bill and nursing homes.

Mr. THOMAS. The parliamentary inquiry was to the legislation in front of us, not to data banks in general and nursing homes, but to the Medicare-Medicaid data bank and nursing homes.

The SPEAKER pro tempore. The Chair is willing to allow the gentleman the opportunity to establish that connection.

The Chair recognizes the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, will the Chair tell me how much time I have consumed in establishing my nexus?

The SPEAKER pro tempore. The gentleman has consumed 8½ minutes.

Mr. STARK. I thank the Chair.

The important issue is that if we were to even consider doing away with the data bank, we could not have the records to support the fact that we ought not to do away with nursing home regulations as the Republican Medicare bill would suggest.

□ 1430

Mr. STARK. Now, there are other data banks. We keep data banks on the income of seniors who qualify under QMB. That is a poor senior with low income.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. CAMP). The gentleman will state his point of order.

Mr. THOMAS. QMB's, who are qualified Medicare-Medicaid beneficiaries, are seniors. We are dealing with legislation that deals with people who are employed by employers to collect data for purposes of determining primary and secondary payers, and I believe the gentleman's statements are not germane.

The SPEAKER pro tempore. The gentleman from California [Mr. STARK] must confine his remarks to the subject of the bill.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I wanted to inquire whether any of the data bank information that would be affected by this legislation would relate to complaints of patient abuse in nursing homes, the kind of violation of Federal standards. I am referring to the standards that the Gingrichites propose to just eliminate entirely in their proposal last year and deny our seniors any kind of safety in nursing homes. Would that be affected by this legislation?

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, is the question propounded by the gentleman from Texas germane to this legislation and therefore a question that should be answered?

Mr. DOGGETT. Mr. Speaker, I would like to be heard on the point of order.

The SPEAKER pro tempore. The gentleman will be heard.

Mr. DOGGETT. Mr. Speaker, surely it is permissible in the course of one of these debates, and I can understand the gentleman's desire not to get into this destruction to the health care of our seniors across the country by raising this issue, but surely it is appropriate under the rules of the House to make an inquiry of someone who is opposed to this legislation as to what the legislation affects. That is all I have asked, is whether or not the seniors in America are going to be affected by changing this data bank to seniors who would lose out if there are no standards to protect them in nursing homes.

Mr. THOMAS. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The gentleman from California.

Mr. THOMAS. The gentleman from Texas is at a disadvantage. He arrived on the floor not hearing the gentleman from California's opening statement, in which the said he was not opposed to this legislation. There is no opposition to this legislation.

In addition, Mr. Speaker, I would be more than willing to engage in a discussion of the shortfall of the Medicare fund, which was not adequately reported by this administration in any form that allows us to understand it. But that is a debate that will take place at another place and another time.

The purpose of this debate under the rules is to discuss the matter in front of us, and all this gentleman from California is trying to do is to maintain decorum and order in the house and request that the Speaker enforce the

Rules of the House so that we may have an orderly debate and not traverse the countryside in any and all directions by any individual who may have an honest and earnest attempt to discuss this issue or may be motivated by other reasons.

The SPEAKER pro tempore. The gentleman has made his point of order. The Chair is prepared to rule.

The question is relevant to the extent of coverage of the data bank under this bill, and the gentleman from Texas may inquire in order.

Mr. THOMAS. Mr. Speaker, continuing my point of order, it is for employees only. The question is about nonemployees. How can it be germane?

The SPEAKER pro tempore. The Chair will ask the gentlemen from Texas and California to proceed in order.

Mr. DOGGETT. Mr. Speaker, I appreciate the opportunity to ask a question as to what this legislation does, because whether you were here at the very beginning of the debate or at the very end of the debate, whether the gentleman is opposed to or for this legislation, it should be proper, as the Speaker has ruled, for a Member of this House to be able to determine whether the legislation will have an adverse effect by changing this data bank on the seniors of America.

Now, does this legislation have any impact on all this proposed Gingrichite repeal for standards of health and safety in nursing homes across this country?

Mr. STARK. Mr. Speaker, reclaiming my time, in response to the question of the gentleman from Texas, this legislation will have no effect. The Gingrich-Thomas legislation will so destroy nursing home regulations that even if it did have an effect, it would not make any difference, because the nursing home regulations would be tossed out the window by the Republicans and it would be moot as to whether this does. But the legislation does not.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to make the point, I understand that the gentleman favors this bill in the sense that he thinks that the data bank at this point in this particular case perhaps does not make sense, but my concern is over the whole issue of data banks.

In other words, we know that the Republican leadership proposes to cut back on Medicare, to cut back on Medicaid. Some of the changes they are now advocating under the guise of health care insurance reform essentially are going to make some major changes for our health care system. For example, when you talk about Medicaid, the Medicaid proposal that the Republican leadership has put forward I believe, because it block grants money to the States, will have a lot of people simply not eligible for Medicaid and not having any kind of health care anymore.

So I am a little concerned that when we talk about eliminating data banks, we may need some of these data banks if some of these Republican proposals go forward, because I would like to know how many people are not going to be eligible for Medicaid anymore, how many medigap recipients will not be able to take advantage of it.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, the items that the gentleman is ticking off on his finger have no relationship to the information to be collected in this data bank, or any other data bank.

Mr. PALLONE. Mr. Speaker, I would like to be heard on the parliamentary inquiry.

Mr. Speaker, I am concerned that that in fact is not the case. The fact of the matter is when you talk about the data bank, which I understand for this specific purpose is linked to how many employees receive private health insurance as opposed to Medicare and what the impact of that is going to be, we have the same thing now with the proposal by Senator KASSEBAUM and Senator KENNEDY and the gentlewoman from New Jersey, Mrs. ROUKEMA, where we are trying to get passed on the House floor health care insurance reform that will eliminate preexisting conditions and that will allow for portability. The Republican leadership, from what I can see, will not allow it to come to the floor.

The SPEAKER pro tempore. The Chair will again rule that the gentleman from New Jersey's remarks must be confined to the bill at hand.

Mr. STARK. Mr. Speaker, could I inquire whether the time for these points of order come out of my time?

The SPEAKER pro tempore. The Chair would state that argument on points of order do not.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield further, if I can just ask the gentleman from California, the way I understand this data bank, it was set up to gather information about whether or not someone who was employed privately and had private health insurance, how that would relate to Medicare coverage.

Mr. STARK. Mr. Speaker, reclaiming my time, the gentleman is quite correct in his presumption. That was the initial suggestion or intent created by the other body in establishing this legislation.

Mr. PALLONE. Mr. Speaker, I would ask the gentleman, is not that type of information possibly valuable in terms of this ongoing debate on the Kennedy-Kassebaum bill as to whether or not insurers are covering people whether or not they have preexisting conditions or whether or not they could carry their health insurance with them to another job?

Mr. STARK. Mr. Speaker, the gentleman is quite correct, because as the number of layoffs continue and as the Republicans continue to do nothing to provide health insurance for the unemployed or extended COBRA benefits, which cost no one anything, except the Republicans do not like it because it would be a Federal involvement, we do not have the data.

This data would not be useful to fulfill what I believe the gentleman has in mind, and that is how can we, as the Democrats would like, assure people who would pay for their benefits and be cut off by the Republican indifference, how can we insure that people could continue their health insurance even if they were willing to pay for it? Without the data, and I think it is important that we emphasize that this bill repealing this one limited data bank should in no way prejudice the establishment of a data bank as the number of people, for example, climb from some 37 million to now almost 45 million uninsured, you have not heard one mention of that out of the Republican presidential candidates or certainly from that side of the aisle in this house. They do not care about the uninsured in this country. they only care about the rich and the big insurance companies. That is who is getting protected.

This data bank that we are repealing would not be helpful in following our democratic precept of assurance that people have a fair chance to purchase insurance at a fair price.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield further, that is the only point that I was trying to make, which is, and I think the gentleman from California said it well, that we may very well need data banks like this in order to ensure that more people are not taken off the rolls or be able to move from one job to another or denied health insurance because of preexisting conditions.

So that whatever happens here today under the corrections day calendar will not somehow get out into the general public as something that we will not need for other purposes, because we are determined as Democrats that we want to bring this Kennedy-Kassebaum bill to the floor and eliminate preexisting conditions as a reason for health coverage and also allow people to be able to carry their health insurance with them when they lose their job or go from one job to another.

Mr. DOGGETT. Mr. Speaker, if the gentleman will yield further, sharing the concern with the gentleman from New Jersey about those who lack health insurance, let me ask the gentleman about this particular bill, about this data bank which has been brought to the floor under an unusual procedure never used before by this Congress, that by the very nature of the procedure bringing it to the floor, we are as Members denied an opportunity to amend this bill to address some of these very real problems that relate to the health care and the lack of access to insurance that affect millions of working families across this country.

Mr. STARK. Mr. Speaker, reclaiming my time, if I may respond, the gentleman makes a very good point. These particular bills are brought to the floor under a euphemism referred to as "correction day." Now, I think we need a correction week. As a matter of fact, for some folks we might need a correctional institution. The fact we are ignoring this piddling little data bank, which somebody had to fuss around to find to make into a bill to bring to the floor today, is not the important issue.

Data banks contain tremendous amounts of information. They contain information, for example, on quality in hospitals. A nonpartisan group of experts the other day, PROPAC, said that maintaining updates as low as the Republicans would do in their Medicare bill would have a severe impact on hospitals.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point or order.

Mr. THOMAS. Mr. Speaker, I rise to this point of order with the understanding that apparently Members are no longer held to the rule of germaneness. The current dialog is nowhere near the intersection of nexus with the legislation, in this gentleman's opinion. I would ask a ruling of the Chair.

The SPEAKER pro tempore. The Chair would remind the Members that on November 14, 1995, the Chair sustained a similar point of order where a Member was unable to maintain a constant connection or nexus between the subject of the bill and his remarks on health care generally. The Chair would ask the Members to proceed with that in mind.

Mr. STARK. Mr. Speaker, I thank the chair for his admonition, and would request my colleagues to join with me in joining in the spirit of his request.

Mr. DOGGETT. Mr. Speaker, if the gentleman will yield further, in other words, this is a so-called corrections day bill, but it does not correct any of the real problems that affect the American families that are out there struggling to make ends meet.

Mr. STARK. Mr. Speaker, in the spirit, I happen to agree with the gentleman's statement, but I think that I cannot find the nexus for the gentleman of Texas's question.

Mr. DOGGETT. Mr. Speaker, if the gentleman will continue to yield, as far as the nexus, is there any nexus between this bill and any other bills that are pending there in the committee from whence this bill came that do deal with the very real problems of American families? Or is this just an isolated correction of some problem that is not really a problem?

Mr. STARK. Mr. Speaker, reclaiming my time, quite frankly, the committee that deals with this topic has not met, and it is responsible for Medicare, and it does nothing except worry and tell us that Medicare is going to go broke. It is in fact fiddling with this type of data bank, when the major data bank, which is the trust fund, is not being corrected. So there is a great deal of blame to justly be placed on the administration of the health committee under its current leadership.

□ 1445

Mr. DOGGETT. Well, I thank the gentleman for trying to put some perspective on the little bit that is being done here and the whole lot that is not getting any correction at all.

Mr. STARK. The other issue of data banks, Mr. Speaker, is in the field of insurance regulation. This data bank was designed to find a correlation between private insurance that an employee might have and Medicare.

We have further need for a data bank that would deal with the question of selling insurance that is duplicative. This is a rule that we have had to protect seniors, and it is being eliminated by the Republican Medicare bill.

The sales rules are also being eliminated. Now, without keeping a data bank on the unscrupulous sales practices of health insurers who sell Medigap, and allowing these duplicative policies to reappear, we will have no way of knowing how much harm is being done to the seniors. We estimate that several billions of dollars were paid prior to our passing the bill which eliminated duplicative Medigap sales to seniors, but we have not kept that data bank, assuming that those rules would be affected.

Without any prejudice to the ability to reinstate a data bank, I think it is necessary to point out that these seniors will need protection from the unscrupulous insurance agency and this bill——

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mr. CAMP). The gentleman will state it.

Mr. THOMAS. Mr. Speaker, this gentleman is constrained once again to request that the Speaker, in this gentleman's opinion, understand that the simple mention of a data bank does not make the discussion germane to the bill in front of us, to the extent that it would allow the gentleman from California [Mr. STARK], who quite rightly is pushing the envelope as he is trying to do, to discuss the sales of Medigap policies and potential unscrupulous salesmen who might sell these products.

If, in fact, the Chair rules that that is germane, then these rules have no meaning at all, in the opinion of the gentleman from California.

The SPEAKER pro tempore. Would the gentleman from California [Mr. STARK] like to respond to the point of order?

Mr. STARK. Mr. Speaker, I certainly would, only to suggest to the Chair that in whichever way the Chair sees fit to rule, the Chair certainly understands the issues and has been extremely fair, and I would have no quarrel with him in any event.

The SPEAKER pro tempore. The notion of data banks generally and the notion of data banks as contained in the bill are not necessarily the same issue. Again, the Chair would ask the gentleman from California [Mr. STARK] to confine his remarks to the legislation at hand.

Mr. STARK. The Speaker's admonition is well received.

Mr. Speaker, I would like to return to the issue of the data banks collected by employers. Part of the reasoning behind repealing this data bank was the feeling that it was overly intrusive; that the Federal Government requiring an employer to do something for the common good is something that the Republicans find antithetical, requiring employers to obey OSHA rules or good labor relations is somehow overburdening them.

Thusly, this data bank was considered as intrusive and something difficult for the employers to maintain.

By the same token, there has been a resistance to say a COBRA extension. I would submit, Mr. Speaker, that the issue of collecting this health data in the data banks in H.R. 2685 was probably three or four times more expensive than keeping data for COBRA extensions for workers who have been laid off or disabled.

It is difficult for this gentleman to be enthusiastic about moving limited amounts of restrictions on employers when, as under COBRA, we have over 30 million Americans who have had their health insurance extended because we did that, and we have perhaps as many as 4 million, as we speak today, who have their health insurance under COBRA because we required those employers to maintain a small data bank.

Now, it escapes reason, or it does to this gentleman, why the Republicans should oppose extending COBRA. it costs no one anything. No Federal cost; no cost to the employer; no cost to the insurance company. It has been offered at 110 percent of the previous premium instead of the 102, and the data bank collection for that is so much simpler.

I do not want to see this correction take on a life of its own and be considered as a policy to remove any responsibility from employers when they are required by minor Federal regulations to do something that is in the public interest, something that would be for the good of all people.

Now, with these layoffs that are coming left and right, American Telephone laying off 40,000 people or whatever, and I am not about to suggest that the Republicans are responsible for that. I imagine the CEO's are Republicans but I do not blame that on the party.

But what I am suggesting is that underlying this bill, the unsung agenda is that there is something wrong with the Federal Government requiring an employer, or anybody, to do the right thing. That is wrong, Mr. Speaker.

The Federal Government, for example, provides Social Security. It has provided, happily, Medicare, and we do require some businesses or employers to keep records for that to make sure they are not stealing from us. That is a data bank. Under no circumstances would I like to have this bill considered as a precursor for removing other restrictions on collecting data.

For example, we are finally starting, this was a bipartisan bill when we used to have bipartisan Medicare bills, to collect outcomes research, a data bank. We are requiring hospitals, even profit hospitals, and physicians to begin to build a data bank about how health policy or health procedures work after 5 or 10 years. That is a vital part of health research, and in no way should that get mixed up with this kind of a data bank, which was not well conceived in the beginning. We have data banks that are useful.

There are other areas that, if I just might mention, as I suggested, the Medigap rules, the question of block granting seniors without knowing if we do not have data banks, and somebody says, gee, this is intrusive, we may miss a chance to protect those seniors and those poorer citizens who do not have the option of being covered under major policies by their employers.

What I am suggesting is that this correction is worthy of taking care of. I am not sure it is worthy of spending as much money as we have assumed here today in printing costs. But I do think that it is a potential danger, that we ought not to let it set a standard that says just because we are asking private citizens or private businesses to collect information, do we feel that that is not something that could be useful.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I have just received a copy of the House Republican National Strategic Plan for 1996, and I am wondering if the gentleman has an opinion as to how this piece of legislation, which I believe is the first piece of legislation dealing specifically with any aspect of Medicare, might fit into that plan, which I will tell the gentleman specifically calls and says, and I quote, not you and me of course, but the Republicans "will pursue a targeted inoculation strategy on Medicare." Does this bill have relevance to that targeted inoculation strategy on Medicare?

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Mr. Speaker, the Speaker knows well my point of order. It is the subject matter and the content of the bill and the question propounded by the gentleman from Texas [Mr. DOGGETT], which has no relevance or germaneness, as we say in our rules, to the subject matter before us.

Mr. DOGGETT. Mr. Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. The gentleman has propounded a point of order to the relevance of the matter at hand.

Mr. STARK. May I be heard on the point of order Mr. Speaker?

The SPEAKER pro tempore. The Chair will allow the gentleman from California [Mr. STARK] to respond.

Mr. STARK. Mr. Speaker, on the point of order, before you restate it, it is beyond the capacity of this gentleman to explain Republican strategy and whether or not it is germane. I would choose not to answer the question, because I am sure it is one of those mysteries of the universe that deny intelligent response.

However, inoculation is germane to this because many of these employers kept records or were to keep records of who was paying for the inoculations in the Republican Medicare plan, so many people will be denied inoculations. It is, in fact, very important that we point out that the inoculations they are talking about are not the same inoculations that little children are not going to get when the Medicaid cuts come down from the Republicans.

The SPEAKER pro tempore. In response to the point of order, the Chair cannot respond to the rhetorical nature of the question stated by the gentleman from Texas [Mr. DOGGETT] by necessarily ruling it irrelevant.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas, apparently within the rules, propounded a question about the fact that this bill is being brought up under a procedure that we did not have in previous Congresses. Apparently it is clearly within the scope of germaneness, as ruled by the Speaker, for me to indicate that there are a lot of things that we are doing in this Congress that we did not do in previous Congresses.

For example we are auditing the books in this Congress. That was not done in previous Congresses. We have placed Members of Congress under the laws that apply to everyone else. That was not done in previous Congresses, and so there are a lot of things that we are doing in this Congress that were not done in previous Congresses.

Mr. Speaker, I do want to say that the gentlewoman from Florida [Mrs. FOWLER] has been very interested in this subject matter, and were it not for the primary in her State and district, the gentlewoman would be with us today.

Mr. Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. MCINTOSH], someone who has had an interest in this for a long time.

Mr. MCINTOSH. Mr. Speaker, I am pleased to rise in support of the bill of the gentleman from California [Mr. THOMAS] to repeal the Medicare-Medicaid data bank requirement. As cochairman of the Speaker's Advisory Committee on Corrections, I want to commend the gentleman and his committee for their work on this very good corrections bill.

Before I describe the bill and the reason the Corrections Committee supports it, let me pause for a moment and say the real issues here is one of jobs. Jobs, jobs, jobs.

The reason is that what we are doing is getting rid of an obsolete, unnecessary paperwork requirement that makes it more expensive for businesses, particularly small businesses, to create new jobs. It is the Republican hope, along with many Democrats who have supported this bill, that we will be able to help small businesses create jobs by passing this bill, eliminating unnecessary redtape and paperwork.

Now, this bill does just what a corrections bill should do. It eliminates a government-imposed paperwork burden that is not achieving any conceivable intended result.

The Medicare-Medicaid data bank was established in 1993 with good intentions, to compile data on secondary insurers for Medicare subscribers, to help identify those cases in which an employer-based insurance company should be the primary insurance provider rather than Medicaid. That is to say, if somebody needs additional coverage from the Medicare coverage they are receiving, should the government pay for it through Medicaid or should the employer pay for it through their primary insurance coverage for their employees?

☐ 1500

Potentially this could have saved the government a great deal of money by identifying those cases where the government, under the Medicaid Program, would not need to pay for that secondary insurance. Unfortunately it has not, and will not, work. The Government Accounting Office has testified regarding this data bank that, and I will quote from their statement:

Enormous administrative burden the data bank would place on the Health Care Financing Administration, known as HCFA here in Washington, and the Nation's employers likely would do little or nothing to enhance the current efforts to identify those beneficiaries who have other health insurance coverage, * * *

That is to say the health care Medicare-Medicaid data bank has not been able to do what it was supposed to do, which is streamline the process and make it less costly for the government.

There are several reasons to be against this program and the need for this bill. The first is it is a burden on the government itself. The Health Care Finance Administration has itself stated that the costs involved in collecting the information will outweigh the costs that may be recovered by the data bank. That is to say it frankly does not save the government any money whatsoever.

Second, it is a burden on citizens, particularly small businesses that have limited resources. They are currently required to compile the names and Social Security numbers of all of their employees and their immediate family and report this not only to the IRS, but also the HCFA. Now gathering and reporting this information takes time and money, and many small companies, quite frankly, just do not have it in their budgets to be able to do that. It is more redtape and does very little good.

And the third reason is that this system is a burden for the taxpayers. But at least Congress has had the wisdom, up until today, to make sure that we did not fund it. Given that wisdom, I think it is important that today we take the next step and repeal the requirement altogether.

Now the bill of the gentleman from California [Mr. THOMAS] will do away with the Medicare data bank, his bill will save employers across the Nation and the Federal Government time and money; as a corrections bill it is one of the best that I have seen, and I want to commend the gentleman for his hard work and urge all of my colleagues to support H.R. 2685.

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HOUGHTON], a member of the House subcommittee of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I am really at a loss of words because so much of what I wanted to say has already been stated. Maybe I can approach this from somebody who has been in business for a long time and understands what this Congress is trying to do is to extract the Government from onerous administrative tasks, which is hardly in keeping with what we are trying to do to relieve people and businesses to be able to create more jobs.

I have been around business a long time, and I know what data collection is; it is important. But when we take a look at this particular issue, clearly the data collected is highly expensive. The GAO has estimated that to create a data bank like this, it would be over $100 million. That is certainly not the intent of Congress, it is not something which is good for business, it is not something which is really good for the employees, and when we take a look at a variety of different businesses that have been contacted, they all agree that this is not necessary, that the administrative burden is onerous, it opens the door to tax retirees on values received, and so why report this?

As a matter of fact, I think we all agree with this. As a matter of fact, I do not think that there is any argument when we are talking about this issue, H.R. 2685. It is a good issue; we all agree it is a bipartisan approach. Where we get off the tracks is when we start getting political and we start messing around in this whole field of health reform.

We all are citizens of this country, we all want to do the right thing. It is not a Republican or a Democratic issue. It is something which we all ought to be concerned about. But today the narrow issue really is this data bank. I agree with the proposition, I think it makes a great deal of sense, it will reduce enormous administrative overburden, and it will save the Federal Government and the taxpayers of this country over $100 million.

Therefore, I support with the greatest strength I can H.R. 2685. We are not talking about health insurance reform, we are not talking about nexuses, we are not talking about inoculations, we are not talking about strategic plans. We are talking about this particular data bank issue, and I think it is a good one, and I support the resolution.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from New York touched on an issue which I think it important. It is true that we will save employers a piddly little amount of money by doing away with this data. What the employer has to do is keep track of an employee's insurance other than Medicare. But if my colleagues want to talk about a cost to employers and a data bank that will choke the horse of business, talk about the data bank that the Republicans are requiring business to keep if they pass these silly MSA's. Under a medical savings account a business would be required in a data bank to keep track of every medical expenditure, it would be required——

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. CAMP). The gentleman is recognized for a point of order.

Mr. THOMAS. Notwithstanding his elegant eloquence, I believe the gentleman from California [Mr. STARK] has once again strayed from the germaneness under the rules of the House.

Mr. STARK. If I may be heard? I am talking about data base requirements by an employer, an issue raised by the previous speaker, and I believe it is quite germane as it deals with the requirements that employers may be faced with in keeping medical data banks as required by the Federal Government.

Mr. THOMAS. May I be heard on the point of order Mr. Speaker?

I thought the Speaker had already ruled that a discussion of data banks in general as a concept for collecting data is not necessarily germane to a specific data bank which is the subject of this bill.

The SPEAKER pro tempore. The gentleman is correct. The Chair will state again that on November 14, 1995, the Chair sustained a similar point of order where a Member was unable to maintain a constant nexus between the subject of the bill and the subject of health care generally. The Chair has at least three times today, and does again, sustain that point of order.

Mr. STARK. Mr. Speaker, I will confine my remarks to employers collecting data for a data bank that relates to Government insurance and private insurance, which I believe is specifically what the bill and I am suggesting; that while we are eliminating this, we are on the other hand creating an even bigger data bank, and perhaps we should prohibit data banks for things like MSA's which, by the way, exist without any new legislation.

MSA's are there today. It is, if we require the employer to keep track of who collects the money for an IRS exemption, he will then have to keep track of each specific payment to a doctor, and it has been estimated that it will cost the Government $4 billion to have these MSA's. Not only will it cost the employers, the gentleman from New York is concerned about more money, it is going to add $4 billion in costs.

So, as the Republicans have done, on the one hand they say let us save a nickel here, but let us spend a million dollars if it helps our rich friends in business, and this is a perfect example of, I think, being penny-wise and pound-foolish dealing, Mr. Speaker, with a data bank which is minuscule, which requires almost no recordkeeping by business, while on the other hand ignoring those data banks that are being proposed to be imposed on business and private citizens, which increase the number of insured, increase the deficit and do no good to anyone.

This, unfortunately, is the litany and the inheritance of the Republican leadership as they have shown this——

Mr. HOUGHTON. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from New York.

Mr. HOUGHTON. Mr. Speaker, I would just like to ask the gentleman, does he support or does he not support H.R. 2685?

Mr. STARK. I am relatively indifferent, but I can find nothing to oppose it. If it came to a vote, I would vote for it.

Mr. THOMAS. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I want to begin a discussion of the repeal of this data bank with an underscoring of a point that the gentleman from California made, and that is that this measure was insisted upon by the Senate. This is not a work product that originated in the House. It was contained in the budget legislation that was passed in 1993 under the majority.

I want to go back to a quote, Mr. Speaker, that I used at the beginning to frame the debate about the repeal of this proposed data bank. This data bank was never put into effect. It was proposed. We are now proposing to make sure it never goes into effect.

In testimony before the Committee on Ways and Means by Sarah Jagger on February 23, 1995, representing a GAO study, she said that this proposed data bank would create an avalanche of unnecessary paperwork for both the Health Care Financing Administration and employers, and will likely achieve little or no savings while costing millions. That statement was made in February of 1995.

The reason we have this legislation before us today is because the need to save not only employers, but the Health Care Financing Agency, money is even more critical today than it was at the time that we took the testimony, because when we took that testimony in February of 1995, we had a trustees' report, those individuals who are charged with the responsibility of overseeing the Medicare trust fund reporting to us that the Medicare trust fund was sound through the year 2002. What we have now discovered is that based upon real data, not projections, but real data, it is no longer protected until 2002. This was what was described to us as the prospective state of the Medicare trust fund at the time this testimony was delivered, that notwithstanding the continual drop in the trust fund, the Chairman of the Board of Trustees, the Secretary of the Treasury, Mr. Rubin, signed a document saying that there is going to be a reversal of this trend, that the Medicare trust fund will have more money in it at the end of 1995 than it did in 1994. We were concerned about saving money in February of 1995, but this was the projection given to us by the Clinton appointees who are the trustees of the Medicare trust fund.

This is now March of 1996, and the projections, the, if you will, more rosy scenario, simply did not obtain, and the reason this bill is before us today to repeal the proposed data bank and save not just employers, but the Federal Government, millions of dollars is because this is actually what happened; not projected, actually what happened. We actually went minus in the trust fund account for this fiscal year. That is the first time this has occurred since 1972.

In 1972 the Democrats were in the majority. They promptly raised the payroll tax. That was a response they used nine times in response to a shortage of funds. Rather than rethinking, reconceptualizing, protecting, preserving, and strengthening Medicare they simply raised the payroll tax.

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This is what they said was going to happen. This is what actually happened. So we have begun an examination of legislation that we could bring to the floor which would guarantee that there would be no more hemorrhaging in the Medicare Trust Fund than was absolutely necessary. That is the purpose and the substance of bringing this bill to the floor today.

Perhaps even more chilling was the testimony not of the Secretary of the Treasury in his function as the Chairman of the trustees, but the Secretary of Health and Human Services. Dr. Shalala indicated, and numbers have now been produced, that at the same time the trust fund was a minus $36 million at the end of fiscal year 1995, in the first 4 months of that year there was $3.8 billion surplus. That is, over a 12-month period, they went from a $3.8 billion surplus to a $36 million deficit. As I said, this is the first time it has happened since 1972.

So my inquiry would be, of course, if this is what we look like in the first 4 months of fiscal year 1995, what do we look like in the first 4 months of fiscal year 1996, the year we are currently in? The information that now has been reported, not projections, not rosy projections to make it look good, but actual figures for fiscal year 1996, the first 4 months, are at a plus $133 million. Remember, when the first 4 months were at $3.8 billion we wound up with a $36 million deficit, the first time since 1972 that we had a minus number. If we have only brought in $133 million in the first 4 months of fiscal year 1996, what is it going to look like in hemorrhaging red ink in the trust fund without making the kinds of changes we are contemplating?

A number of people have complained that repealing this proposed data bank certainly seems like small potatoes. It certainly is a first step. We have to make sure, first of all, that the Government does not do stupid things. This proposal that was passed by the former Democratic Congress in 1993 is now universally agreed to be a stupid thing.

What we need to do is sit down and talk about additional changes that need to be made in the system. Republicans have been more than willing to do that on a bipartisan basis. In sitting down with a number of very responsible Democrats, normally known as the self-named blue-dog Democrats, we have moved forward a proposal, which I am hopeful we will be able to announce, achieves a bipartisan majority in making sure that we preserve, protect, and strengthen Medicare.

But we ought to take every opportunity. We ought not to pass up any opportunity for making changes in the system that will guarantee that not only employers but the Federal Government does not waste money. This is one of those efforts. We chose corrections day to do it, because there was no known opposition at all. This would be an expedited way to deal with this particular question. I find it interesting that notwithstanding all of the discussion that occurred on the side of the minority, no one is in evidence who opposes this legislation.

Our goal is to work in a bipartisan way to produce legislation that will make positive change, will create a new Medicare which will preserve, protect, and strengthen seniors in a prospective fashion, once we have cleaned up the errors that are left over from previous Democratic control.

I would urge an "aye" vote on this particular measure in front of corrections day.

Mr. POMEROY. Mr. Speaker, I rise to offer my strong support for repeal of the Medicare and Medicaid coverage data bank. This provision of law imposed an unfair and unreasonable burden on the businesses of North Dakota, and I believe it must be eliminated.

The data bank program was created to help prevent Medicare and Medicaid from paying claims that are the responsibility of an employer-based private insurer. Despite this laudable goal of saving Government funds, there have been fundamental flaws with this planned program from the beginning. First, under the program employers would be required to report information to the Federal Government which they did not routinely collect. Second, employers would be forced to report data on 100 percent of their work force even though only a tiny percentage of workers would be individuals whose claims might have been eligible for payment by Medicare or Medicaid. This is a classic example of the treatment being worse than the disease.

As can be seen, the data bank program imposes a reporting burden on employers which is far out of proportion to the Government's need for information. Such unnecessary burdens are particularly harmful to the many small businesses which dominate the North Dakota economy. This program is precisely the sort of inefficient approach which North Dakotans are demanding be eliminated from the Federal Government.

The reports from North Dakota businesses as to the anticipated burdens of the data bank program were verified in a thorough study by the General Accounting Office [GAO]. In a report issued on May 6, 1994, the GAO concluded that the data bank would create burdensome and unnecessary paperwork for both employers and the Federal Government and would achieve little or no cost savings while costing millions of dollars in administrative expense.

Mr. Speaker, at a time when many businesses too often labor under the burden of complex and sometimes unnecessary Federal regulation, the Federal Government should not add to this regulatory burden without a concrete benefit clearly in sight. While the data bank program was well intentioned, it has proven unworkable. The anticipated benefit is overwhelmed by the cost of compliance, and, consequently, the program should be eliminated. Elimination is also warranted by the harmful effect this program would have on the availability of health insurance to North Dakota's working families. When increasing numbers of families are finding themselves without health insurance, the Federal Government must not make it more expensive and difficult for employers to provide this insurance for their workers. The substantial administrative expense associated with the data bank program would have had precisely this counterproductive effect.

I urge my colleagues to join me in voting for repeal of this well intentioned but utterly unworkable program.

Mrs. FOWLER. Mr. Speaker, the Medicare/Medicaid data bank was established by the Omnibus Budget Reconciliation Act of 1993 with the intent of yielding savings to the Medicare and Medicaid Programs. Like so many big-government answers, however, it turned out that the data bank was more of a problem than a solution—impractical, inconvenient, and expensive. Had the data bank been implemented by the Health Care Financing Administration, it would have increased the administrative and paperwork burden on businesses; discouraged employers from providing health coverage to their employees; and created a bureaucratic nightmare for HCFA.

Fortunately, the enforcement of the data bank reporting requirements has been delayed, and now we have a chance to repeal it once and for all.

At first glance, it appears that the data bank law asks employers to provide routine information that is readily available. In truth, however, the reporting requirements ask employers to collect data which they could have never imagined compiling, such as the names and Social Security numbers of their employees' spouses and children.

In May 1994, the Government Accounting Office issued a report showing that the data bank would yield little or no savings to Medicare and Medicaid. Additionally, the Health Care Financing Administration has no interest in administering the data bank. In fact, the Clinton administration estimates that the data bank would cost $25 to 30 million to operate each year.

The data bank sets a new standard for bad laws: It is bad for business, bad for workers; and even bad for bureaucrats. And it wouldn't accomplish what it was intended to do.

I want to thank Chairman THOMAS for bringing this measure to the House floor. In the 103d Congress, I introduced H.R. 4095, which would have repealed the data bank, and I reintroduced the same bill at the beginning of the 104th Congress. Recently, repeal of the data bank was also included in the Medicare Preservation Act which the President vetoed.

There are many of us who have been very disappointed by the President's unwillingness to deal with Medicare reform in a responsible manner. His veto of the Medicare Preservation Act not only threatens the long-term viability of the Medicare Program, but also means that employers still have to worry that HCFA might enforce the reporting requirements of the data bank.

This bill eliminates that concern and I hope that my colleagues will join me in support of H.R. 2685

The SPEAKER pro tempore (Mr. CAMP). Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question as taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 8, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, March 8th at 10:40 a.m. and said to contain a message from the President whereby he notifies the Congress of the continuance beyond March 15, 1996, of the national emergency with respect to Iran.

With warm regards,

ROBIN H. CARLE,
Clerk.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–184)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared on March 15, 1995, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) is to continue in effect beyond March 15, 1996, to the *Federal Register* for publication. This emergency is separate from that declared on November 14, 1979, in connection with the Iranian hostage crisis and therefore requires separate renewal of emergency authorities.

The factors that led me to declare a national emergency with respect to Iran on March 15, 1995, have not been resolved. The actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and its acquisition of weapons of mass destruction and the means to deliver them, continue to threaten the national security, foreign policy, and economy of the United States. Accordingly, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the March 15, 1995, declaration of emergency.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1996.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, March 11th at 1:30 p.m. and said to contain a message from the President whereby he submits a 6-month periodic report on the national emergency with respect to Iran.

With warm regards,

ROBIN H. CARLE, *Clerk.*

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–185)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on developments concerning the national emergency with respect to Iran that was declared in Executive Order No. 12957 of March 15, 1995, and matters relating to the measures in that order and in Executive Order No. 12959 of May 6, 1995. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) (IEEPA), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c). This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12957 and matters relating to that Executive order and Executive Order No. 12959.

1. On March 15, 1995, I issued Executive Order No. 12957 (60 *Fed. Reg.* 14615, March 17, 1995) to declare a national emergency with respect to Iran pursuant to IEEPA, and to prohibit the financing, management, or supervision by U.S. persons of the development of Iranian petroleum resources. This action was in response to actions and policies of the Government of Iran, including support for international terrorism, efforts to undermine the Middle East peace process, and the acquisition of weapons of mass destruction and the means to deliver them. A copy of the order was provided to the Congress on March 15, 1995.

Following the imposition of these restrictions with regard to the development of Iranian petroleum resources, Iran continued to engage in activities that represent a threat to the peace and security of all nations, including Iran's continuing support for international terrorism, its support for acts that undermine the Middle East peace process, and its intensified efforts to acquire weapons of mass destruction. On May 6, 1995, I issued Executive Order No. 12959 to further respond to the Iranian threat to the national security, foreign policy, and economy of the United States.

Executive Order No. 12959 (60 *Fed. Reg.* 24757, May 9, 1995) (1) prohibits exportation from the United States to Iran or to the Government of Iran of goods, technology, or services; (2) prohibits the reexportation of certain U.S. goods and technology to Iran from third countries; (3) prohibits transactions such as brokering and other dealing by United States persons in goods and services of Iranian origin or owned or controlled by the Government of Iran; (4) prohibits new investments by United States persons in Iran or in property owned or controlled by the Government of Iran; (5) prohibits U.S. companies and other United States persons from approving, facilitating, or financing performance by a foreign subsidiary or other entity owned or controlled by a United States person of reexport, investment, and certain trade transactions that a United States person is prohibited from performing; (6) continues the 1987 prohibition on the importation into the United States of goods and services of Iranian origin; (7) prohibits any transaction by any United States person or within the United States that evades or avoids or attempts to violate any prohibition of the order; and (8) allowed U.S. companies a 30-day period in which to perform trade transactions pursuant to contracts predating the Executive order.

In Executive Order No. 12959, I directed the Secretary of the Treasury to authorize through specific licensing certain transactions, including transactions by United States persons related to the Iran-United States Claims Tribunal in The Hague, established pursuant to the Algiers Accords, and related to other international obligations and United States Government functions, and transactions related to the export of agricultural commodities pursuant to preexisting contracts consistent with section 5712(c) of title 7, United States Code. I also directed the Secretary of the Treasury, in consultation with the Secretary of State, to consider authorizing United States persons through specific licensing to participate in market-based swaps of crude oil from the Caspian Sea area for Iranian crude oil in support of energy projects in Azerbaijan, Kazakhstan, and Turkmenistan.

Executive Order No. 12959 revoked sections 1 and 2 of Executive Order No. 12613 of October 29, 1987, and sections 1 and 2 of Executive Order No. 12957 of March 15, 1995, to the extent they are inconsistent with it. A copy of Executive Order No. 12959 was transmitted to the Speaker of the House of Representatives and President of the Senate by letters dated May 6, 1995.

2. There were no amendments to the Iranian Transactions Regulations, 31 CFR Part 560 (the "ITR") during the reporting period.

3. During the current 6-month period, the Department of the Treasury's Office of Foreign Assets Control (FAC) made numerous decisions with respect to applications for licenses to engage in transactions under the ITR, issuing 54 licensing determinations—both approvals and denials. The majority of denials were in response to requests to extend contract performance beyond the time specified by Executive Order No. 12959 and by FAC general license. Licenses were issued authorizing the continued operation of Iranian diplomatic accounts, powers of attorney, extensions of standby letters of credit, payments for trade transactions pursuant to contracts prior to May 6, 1995, and exportation of certain agricultural products contracted for prior to May 6, 1995. The FAC continues to review under section 560.528 requests for authorization to export and reexport goods, services, and technology to ensure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft in Iran. In light of statutory restrictions applicable to goods and technology involved in these cases, Treasury continues to consult and coordinate with the Departments of State and Commerce on these matters, consistent with section 4 of Executive Order No. 12959.

During the reporting period, FAC administered provisions on services related to maintaining Iranian bank accounts and identified and rejected Iran-related payments not authorized under the ITR. United States banks were notified that they could not process transactions on behalf of accounts held in the name of the Government of Iran or persons in Iran, with the exception of certain transactions related to interest accruals, customary service charges, the exportation of information or informational material, travel-related remittances, donations of articles to relieve human suffering, or lump sum closures of accounts by payment to their owners. United States banks continue to handle certain dollar payment transactions involving Iran between third-country banks that do not involve a direct credit or debit to Iranian accounts. Noncommercial family remittances involving Iran must be routed to or from non-U.S., non-Iranian offshore banks.

The FAC continues to coordinate closely with the Federal Reserve Board, the Federal Reserve Bank of New York, and the California banking authorities concerning the treatment of three Iranian bank agencies—Banks Sepah, Saderat, and Melli. Licenses have been issued to the Iranian bank agencies authorizing them to pay overhead expenses under the supervision of the California and New York banking departments while meeting obligations incurred prior to May 6, 1995. Authorization expired at the end of December, which had enabled them to make payments to U.S. exporters under letters of credit advised prior to June 6, 1995, where the underlying exports were completed in accordance with the Regulations or a specific license issued by FAC. The FAC also had permitted the agencies to offer discounted advance payments on deferred payment letters of credit under the same conditions.

4. The U.S. Customs Service has continued to effect numerous seizures of Iranian-origin merchandise, primarily carpets, for violation of the import prohibitions of the ITR. Various enforcement actions carried over from previous reporting periods are continuing

and new reports of violations are being aggressively pursued.

5. The expenses incurred by the Federal Government in the 6-month period from September 15, 1995, through March 14, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iran are approximately $965,000 most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of Politico-Military Affairs, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

6. The situation reviewed above continues to involve important diplomatic, financial, and legal interests of the United States and its nationals and presents an extraordinary and unusual threat to the national security, foreign policy, and economy of the United States. The declaration of the national emergency with respect to Iran contained in Executive Order No. 12957 and the comprehensive economic sanctions imposed by Executive Order No. 12959 underscore the United States Government's opposition to the actions and policies of the Government of Iran, particularly its support of international terrorism and its efforts to acquire weapons of mass destruction and the means to deliver them. The Iranian Transactions Regulations issued pursuant to Executive Orders No. 12957 and No. 12959 continue to advance important objectives in promoting the nonproliferation and antiterrorism policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 11, 1996.*

COMMUNICATION FROM THE HONORABLE JOHN EDWARD PORTER, MEMBER OF CONGRESS

The Chair laid before the House the following communication from the Honorable JOHN EDWARD PORTER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 1, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the Circuit Court of Cook County, Illinois.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

JOHN EDWARD PORTER.

COMMUNICATION FROM THE HONORABLE ED BRYANT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable ED BRYANT, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 7, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House of Representatives, that Woody Stickles, District Staff Assistant in my Clarksville, Tennessee office, has been served with a subpoena issued by the Montgomery County, Tennessee Circuit Court in the case of *Irvin* v. *Tennessee Management Co.*

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

ED BRYANT.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 1996

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2972) To authorize appropriations for the Securities and Exchange Commission, to reduce the fees collected under the Federal securities laws, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1996".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to authorize appropriations for the Securities and Exchange Commission for fiscal year 1997; and

(2) to reduce over time the rates of fees charged under the Federal securities laws.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 is amended to read as follows:

"SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission $317,000,000 for fiscal year 1997.".

SEC. 4. REGISTRATION FEES.

Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended to read as follows:

"(b) REGISTRATION FEE.—

"(1) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect registration fees that are designed to recover the costs to the government of the securities registration process, and costs related to such process, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

"(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the sum of the amounts (if any) determined under the rates established by paragraphs (3) and (4). The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year. In no case shall the fee required by this subsection be less than $200, except that during fiscal year 2002 or any succeeding fiscal year such minimum fee shall be $182.

"(3) GENERAL REVENUE FEES.—The rate determined under this paragraph is a rate equal to $200 for each $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered, except that during fiscal year 2002 and any succeeding fiscal year such rate is equal to $182 for each $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as general revenues of the Treasury.

"(4) OFFSETTING COLLECTION FEES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount for each $1,000,000 of the maximum aggregate price at which such securities are proposed to be offered:

"(i) $103 during fiscal year 1997;

"(ii) $70 during fiscal year 1998;

"(iii) $38 during fiscal year 1999;

"(iv) $17 during fiscal year 2000; and

"(v) $0 during fiscal year 2001 or any succeeding fiscal year.

"(B) LIMITATION; DEPOSIT.—Except as provided in subparagraph (C), no amounts shall be collected pursuant to this paragraph (4) for any fiscal year except to the extent provided in advance in appropriations acts. Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

"(C) LAPSE OF APPROPRIATIONS.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.".

SEC. 5. TRANSACTION FEES.

(a) AMENDMENT.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended to read as follows:

"SEC. 31. TRANSACTION FEES.

"(a) RECOVERY OF COST OF SERVICES.—The Commission shall, in accordance with this subsection, collect transaction fees that are designed to recover the costs to the Government of the supervision and regulation of securities markets and securities professionals, and costs related to such supervision and regulation, including enforcement activities, policy and rulemaking activities, administration, legal services, and international regulatory activities.

"(b) EXCHANGE-TRADED SECURITIES.—Every national securities exchange shall pay to the Commission a fee at a rate equal to $33 for each $1,000,000 of the aggregate dollar amount of sales of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on such national securities exchange, except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to $25 for each $1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

"(c) OFF-EXCHANGE-TRADES OF EXCHANGE-REGISTERED SECURITIES.—Every national securities association shall pay to the Commission a fee at a rate equal $33 for each $1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities registered on such an exchange (other than bonds, debentures, and other evidences of indebtedness), except that for fiscal year 2002 or any succeeding fiscal year such rate shall be equal to $25 for each $1,000,000 of such aggregate dollar amount of sales. Fees collected pursuant to this subsection shall be deposited and collected as general revenue of the Treasury.

"(d) OFF-EXCHANGE-TRADES OF LAST-SALE-REPORTED SECURITIES.—

"(1) COVERED TRANSACTIONS.—Every national securities association shall pay to the Commission a fee at a rate equal to the dollar amount determined under paragraph (2) for each $1,000,000 of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subsection (c).

"(2) FEE RATES.—Except as provided in paragraph (4), the dollar amount determined under this paragraph is—

"(A) $12 for fiscal year 1997;

"(B) $14 for fiscal year 1998;

"(C) $17 for fiscal year 1999;

"(D) $18 for fiscal year 2000;

"(E) $20 for fiscal year 2001; and

"(F) $25 for fiscal year 2002 or for any succeeding fiscal year.

"(3) LIMITATION; DEPOSIT OF FEES.—Except as provided in paragraph (4), no amounts shall be collected pursuant to this subsection (d) for any fiscal year beginning before October 1, 2001, except to the extent provided in advance in appropriations Acts. Fees collected during any such fiscal year pursuant to this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission, except that any amounts in excess of the following amounts (and any amount collected for fiscal years beginning on or after October 1, 2001) shall be deposited and credited as general revenues of the Treasury:

"(A) $20,000,000 for fiscal year 1997;

"(B) $26,000,000 for fiscal year 1998;

"(C) $32,000,000 for fiscal year 1999;

"(D) $32,000,000 for fiscal year 2000;

"(E) $32,000,000 for fiscal year 2001; and

"(F) $0 for fiscal year 2002 and any succeeding fiscal year.

"(4) LAPSE OF APPROPRIATIONS.—If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

"(e) DATES FOR PAYMENT OF FEES.—The fees required by subsections (b), (c), and (d) of this section shall be paid—

"(1) on or before March 15, with respect to transactions and sales occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31; and

"(2) on or before September 30, with respect to transactions and sales occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31.

"(f) EXEMPTIONS.—The Commission, by rule, may exempt any sale of securities or any class of sales of securities from any fee imposed by this section, if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.

"(g) PUBLICATION.—The Commission shall publish in the Federal Register notices of the fee rates applicable under this section for each fiscal year.".

(b) EFFECTIVE DATES; TRANSITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions in securities that occur on or after January 1, 1997.

(2) OFF-EXCHANGE TRADES OF LAST SALE REPORTED TRANSACTIONS.—The amendment made by subsection (a) shall apply with respect to transactions described in section 31(d)(1) of the Securities Exchange Act of 1934 (as amended by subsection (a) of this section) that occur on or after September 1, 1996.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect the obligation of national securities exchanges and registered brokers and dealers under section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) as in effect prior to the amendment made by subsection (a) to make the payments required by such section on March 15, 1997.

SEC. 6. TIME FOR PAYMENT.

Section 4(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(e)) is amended by inserting before the period at the end thereof the following: "and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission".

SEC. 7. SENSE OF THE CONGRESS CONCERNING FEES.

It is the sense of the Congress that—

(1) the fees authorized by the amendments made by this Act are in lieu of, and not in addition to, any fees that the Securities and Exchange Commission is authorized to impose or collect pursuant to section 9701 of title 31, United States Code; and

(2) in order to maintain the competitiveness of United States securities markets relative to foreign markets, no fee should be assessed on transactions involving portfolios of equity securities taking place at times of day characterized by low volume and during non-traditional trading hours.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. OXLEY] and the gentleman from Massachusetts [Mr. MARKEY] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to rise in support of H.R. 2972, the SEC Reauthorization Act of 1996. This legislation provides a long-term mechanism for funding the SEC. In addition, it reduces the fees charged by the SEC by over $751 million dollars through 2002. Members of both parties have expressed concern with the amount of fee revenue collected by the SEC, which currently is more than double the cost of running the agency.

Currently the SEC takes in over $600 million in fees annually, and costs approximately $300 million to run. This surplus in fee revenue over the cost of running the agency amounts to a tax on capital paid by all investors—including small investors investing in individual retirement accounts for their retirement. Members of both parties are rightly concerned with promoting savings and growth, and this tax on capital represents an impediment to that growth. With the cooperation of Chairman ROGERS of the Commerce, Justice, State, and Judiciary Subcommittee of the Appropriations Committee, and Chairman ARCHER of the Ways and Means Committee, we have been able to work out a sensible plan to reduce these fees. We also have agreed on a procedure for more orderly and certain funding of the SEC. I am pleased that the legislation has the support and cosponsorship of my friends, JOHN DINGELL, ranking member of the Commerce Committee, and ED MARKEY, ranking member of the Telecommunications and Finance Subcommittee of the Commerce Committee. Additionally, I have received a letter from Chairman LEVITT of the SEC endorsing the legislation.

Mr. Speaker, I include for the RECORD this letter from Chairman Levitt, and letters addressed to the chairman of the committee, the gentleman from Virginia [Mr. BLILEY].

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, February 27, 1996.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce,
Washington, DC.

DEAR TOM: I write to offer my support and endorsement of the "Securities and Exchange Commission Authorization Act of 1996." Thank you for your strong leadership and the support of Chairman Fields, Rogers and Archer in designing a creative approach to the SEC's funding both on a short-term and long term basis.

Your proposed resolution to the perennial problem of SEC funding and fees is perhaps the most important aspect of the "Securities and Exchange Commission Authorization Act of 1996." The funding mechanism for the SEC would reduce Section 6(b) fees over a five-year period and expand existing securities transaction fees to the over-the-counter market, recognizing that the Commission also oversees those markets. Under your proposal, the SEC also has agreed to act to eliminate fees that it collects pursuant to the Independent Offices Appropriation Act of

1952 ("IOAA fees"), which include a fee of $250 that must be paid in connection with filings of annual reports and certain periodic filings. Finally, the SEC would gradually move from reliance on increased offsetting fees towards full appropriation status. The Commission believes that adoption of this approach provides a long-term solution to the SEC's funding problems.

Finally, the premier aspects of the SEC Authorization Bill is that it enables us to maintain our vigorous programs to both protect investors and ensure that the capital formation system in the U.S. markets is efficient. This legislation will help the agency avoid the funding problems it has had in the past, and enable the SEC to be funded entirely through appropriations by the year 2001.

David Cavicke has been extremely helpful in this important initiative. We look forward to working with you and your staff toward final passage of this authorization legislation.

Sincerely,

ARTHUR LEVITT.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, March 8, 1996.
Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you today to thank you for working with me on issues of jurisdictional concern to the Committee on Ways and Means regarding H.R. 2972, the Securities and Exchange Commission Authorization Act of 1996. In light of the agreement reached between you, Chairman Rogers, and me to phase down the rate of certain SEC fees, I am proud to cosponsor this legislation with you.

As you know, I am strongly committed to protecting the jurisdictional interests of the Committee on Ways and Means and to ensuring that all revenue measures are properly referred to this Committee. To this end, the Committee on Ways and Means relies upon the statement issued by Speaker Foley in January 1991 (and reiterated by Speaker Gingrich on January 4, 1995) regarding the jurisdiction of the House Committees with respect to fees and revenue measures. Pursuant to that statement, the Committee on Ways and Means generally will not assert jurisdiction over "true" regulatory fees that met the following requirements:

(i) The fees are assessed and collected solely to cover the costs of specified regulatory activities (not including public information activities and other activities benefiting the public in general);

(ii) The fees are assessed and collected only in such manner as may reasonably be expected to result in an aggregate amount collected during any fiscal year which does not exceed the aggregate amount of the regulatory costs referred to in (i) above;

(iii) The only persons subject to the fees are those who directly avail themselves of, or are directly subject to, the regulatory activities referred to in (i) above; and

(iv) The amounts of the fees (a) are structured such that any person's liability for such fees is reasonably based on the proportion of the regulatory activities which relate to such person, and (b) are nondiscriminatory between foreign and domestic entities.

Additionally, pursuant to the Speaker's statement, the mere reauthorization of a preexisting fee that had not historically been considered a tax would not necessarily require a sequential referral to the Committee on Ways and Means. However, if such a preexisting fee were fundamentally changed, it properly should be referred to the Committee on Ways and Means.

The fees described in H.R. 2972 clearly do not meet all four requirements set forth above. If they were being newly created or were fundamentally different from existing fees, the Committee on Ways and Means would ask that they be referred to it, in accordance with its jurisdictional prerogative. However, the Committee on Ways and Means understands that these fees have been in place for many decades and are not being fundamentally changed by H.R. 2972. Further, H.R. 2972 provides that the fee structure eventually will reflect the four requirements set forth above. Therefore, it is not necessary for the Committee on Ways and Means to assert its jurisdictional interest at this time.

However, I would emphasize that, if the fee structure set forth in H.R. 2972 is modified in the future, the Committee on Ways and Means will take all action necessary to protect its proper jurisdictional interest. For example, the Committee on Ways and Means will view any modification as falling within its jurisdiction if such modification would result in fee collections in excess of the amount required to fund the relevant regulatory activities of the Securities and Exchange Commission.

With regard to budgetary issues, I am concerned about any legislation that may worsen the pay-as-you-go accounts, thus threatening a sequester. I understand that the Congressional Budget Office believes that H.R. 2972 will not create a debit on the pay-go accounts or a potential sequester of entitlement programs. I also understand that H.R. 2972 will not increase the deficit within the current budget window. I very much appreciate your cooperation in solving these budgetary problems for purposes of House consideration of H.R. 2972.

Finally, I would respectfully request that you include a copy of this letter in the Record during consideration of H.R. 2972 on the Floor. I wish to thank you again, Mr. Chairman, for your full cooperation and the cooperation of your staff. With best personal regards,

Sincerely,

BILL ARCHER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 12, 1996.
Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce,
Washington, DC.

DEAR MR. CHAIRMAN. As you know, I am a cosponsor of H.R. 2972, the Securities and Exchange Commission Authorization Act of 1996. I believe it is important that, working together, we find a way to end the uncertainty about the SEC's funding that has been a continuing problem in the past several years.

H.R. 2972 provides for a gradual reduction in the amount of SEC fees that will be available to support the SEC's operating budget over a six year period. This will require that the amount of discretionary funds required just to support the SEC's budget at its current level will have to be increased by an estimated $25-35 million each year.

This amount of an increase each year will be a challenge, during an era when the amount of overall discretionary funds available to the Appropriations Committee will be declining, as we seek to balance the budget in seven years. Nonetheless, the Committee is prepared to try to the best of our ability to make that happen, in the interest of bringing to a closure the past years of uncertainty about how the SEC will be funded.

However, I believe that this is the maximum amount we will be in a position to attempt to accomplish. As this bill moves forward, in working with the Senate, I would simply make the point that a more rapid phase-out in the amount of fees available to support the SEC budget would probably be unworkable.

I appreciate the opportunity to work with you and Chairman Archer, and I congratulate you on bringing this bill to the floor. I would respectfully request that you include a copy of this letter in the Record during consideration of H.R. 2972 on the Floor.

With best regards,

Sincerely,

HAROLD ROGERS,
Chairman, Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies.

Mr. OXLEY. Mr. Speaker, I also want to pay special tribute to Chairman Levitt for his leadership on this very important issue. Without his help and guidance, Mr. Speaker, we would not be here today with this I think very historic legislation.

Mr. Speaker, pursuant to this legislation, SEC fees are reduced by $751 million between fiscal years 1997 to 2002. Thereafter, SEC fees will be at least $256 million lower per annum than they would be under current law.

Of equal importance is the fact that Chairman ROGERS has agreed to work with us to provide a more stable funding mechanism for the SEC, so the Commission can focus on doing its important work rather than devoting time to the problems of funding its operations. As SEC fees are reduced, the SEC will be increasingly funded by an appropriation. By 2002, the SEC will be entirely funded by means of an appropriation. Fees collected by the SEC will approximately equal the cost of running the agency, and will be deposited in the Treasury as general revenue.

This legislation will begin to solve the problems associated with funding the SEC. It will also eliminate the surplus in SEC fees which constitutes a tax on our capital markets. I urge its support by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise this afternoon to join with Commerce Committee Chairman BLILEY, Subcommittee Chairman JACK FIELDS, and the ranking Democrat on the Commerce Committee, JOHN DINGELL, in support of the Securities and Exchange Commission's authorization for fiscal year 1997. Each of them deserve praise for their efforts to develop a solution to the persistent problem of how to provide a stable funding mechanism for the SEC—an agency long recognized by Members of both parties as one of the most effective, efficient and essential anywhere in Government.

The funding mechanism contemplated by the bill is workable and responsible, and deserves broad bipartisan support. Most significantly, it removes the temptation that has seduced administrations, past and present, to view securities registration fees as a source of general revenues. Especially during the bull market of the last 6 years, these fees have greatly exceeded the size of the SEC's overall budget.

I am, of course, reluctant to see revenues cut at a time when some are seeking to slash the resources made available to support our children's education, our elderly's right to retire with dignity, and every person's right to a clean environment. At the same time however, we must be certain that the gamesmanship that has surrounded SEC budget deliberations for the last several years is ended permanently.

Notwithstanding my support for the bill coming before us today, I continue to believe that the mission of the Securities and Exchange Commission—to protect the Nation's 100 million investors and to ensure fair and orderly markets—is so vital to our national interests that the Commission should be self-funded, subject to annual Congressional approval of its budget. Although I will continue to support the self-funding concept, I am satisfied that the proposal before us today is a significant step in the right direction, and I am pleased to endorse it.

I am somewhat less sanguine about the size of the SEC budget as contemplated by the legislation. In light of the record levels of investment in our markets, the unprecedented number of new investors attracted to them, the complexity of many of the securities that are sold, the increasingly sophisticated marketing techniques used to sell them, and the growing volatility the market is experiencing as we attempt to adjust to the remarkable altitudes we have recently reached, the commitment of additional resources to this remarkable agency would certainly be justified.

Here are some facts and figures worth keeping in mind when thinking about the SEC's budget. In 1940, the SEC had 1,400 full-time staff. Fifty-six years later, the SEC has 2,800 full-time staff. In 1940, the typical daily trading volume on the New York Stock Exchange could be counted in the thousands. Today, an average day involves 400 million shares, and the New York Stock Exchange has increased its capacity to handle well over a billion shares a day. Another 450 million shares are traded on the NASDAQ, representing interests in more than 5,000 companies.

Of course the NASDAQ didn't even exist in 1940—it was invented in 1972. Derivatives didn't exist in 1940 either—nor did money market funds, mortgage-backed securities, bond funds, hedge funds, junk bonds, penny stocks, stock options, program trading, financial futures, poison pills, or triple witching hours.

I've addressed the funding mechanism in the bill as well as my concern about the SEC budget. Let me briefly touch upon why the soundness of our system of securities regulation is so important, and why trendy proposals to sweep away important aspects of securities laws need to be considered carefully, lest they lead to unintended and possibly devastating consequences.

For a rapidly growing number of Americans, and a vastly higher percentage of the population than in 1940, hopes for the future—dreams of being able to send a child to college, to buy a new home, or to retire in dignity—are increasingly dependent on the stability, integrity, and success of our financial markets. Indeed, this growing dependence by individuals on the success of the market may be a stealth contributor to middle class Americans' growing anxiety about the future.

For tens of millions of Americans with stakes in the market through a pension plan or mutual fund, the effectiveness and safety of our markets, and the existence of a vital and vigorous SEC, is neither an abstract nor an ideological issue.

The important bill brought before us today recognizes the crucial role that the SEC plays in promoting fair, honest, and successful capital markets.

□ 1530

Again, I applaud the work of the gentleman from Virginia [Mr. BLILEY], chairman, the gentleman from Texas [Mr. FIELDS], chairman, and all on the majority side who worked in a bipartisan fashion, especially the gentleman from Ohio [Mr. OXLEY], so that we could bring this bill out here today. I speak for the gentleman from Michigan [Mr. DINGELL], the distinguished ranking member, in extending our plaudits to the majority for their work.

This has been done in a bipartisan fashion, working in close cooperation with Chairman Levitt of the Securities and Exchange Commission and their staff to ensure that we could produce a budget that would give predictable sources of revenue to the SEC for their very important mission, especially in these coming months and years when the aerodynamics of the existing market may in fact come into question and we have to ensure that we have got an agency there that can manage the consequences at that time.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. WHITE].

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, this House and in particular our committee this year has seen many hard bills but I am happy to say that this is an easy bill. It is easy because it eliminates a surplus that the SEC is collecting, saves a little money for the taxpayers. It makes sure that the SEC is included under the appropriations process, as it ought to be and as I think is appropriate.

It is a bipartisan bill which we have been able to work on with our Democratic colleagues, and that is always a step in the right direction and, last but not least, it does some great things for my district. We consider ourselves in the Seattle area to be the capital formation capital of the Pacific Northwest and of the entire Northwest United States. This will help us do in Seattle what we need to do to make sure we prosper and keep those capital markets running.

I was very happy to support this bill in committee, and I am delighted to support it here on the floor. I would urge all my colleagues to do the same.

Mr. RICHARDSON. Mr. Speaker, I rise in support of H.R. 2972, the Securities and Exchange Commission Reauthorization Act of 1996. I would like to commend Commerce Chairman BLILEY, Telecommunications and Finance Subcommittee Chairman FIELDS, Ranking Member DINGELL and Mr. MARKEY of Massachusetts for their work on this piece of legislation that meets this Congress' objectives of proper market oversight and fiscal prudence.

H.R. 2972 is an excellent example of good government crafted with bipartisan interests taken into account. I would like to commend SEC Chairman Arthur Levitt for accepting the challenges that this tight budget will impose upon an agency that watches over a larger herd than ever.

As more and more Americans choose the securities markets to augment their incomes, it is necessary to maintain the safeguards that make U.S. markets the best.

This bill ensures that our regulatory structure remains sensible, reasonable and cost-effective so that the U.S. marketplace remains vigorous, efficient and attractive to capital formation. I am confident that the SEC will maintain a regulatory environment that encourages capital formation for small entrepreneurial businesses, which drive the U.S. economy in most states like New Mexico.

Finally, the reliance on U.S. equity markets to play a role in the income of average Americans requires vigilant enforcement of sound rules that ensure investor protection and the maintenance of the integrity and honesty of the U.S. capital markets.

In July of 1993, Chairman Levitt requested approximately $317 million for fiscal year 1995. It is noteworthy and, indeed, a credit to the Chairman and the administration's efforts to "reinvent" government that we sit here today and request the same amount of money for fiscal year 1997. Clearly, this stands as evidence that we can get better government for less money.

The SEC has prepared itself for difficult fiscal times ahead by doubling its commitment to working with industry to provide cost-effective, efficient regulation in partnership with the private sector. Despite tight budgetary limits, the Commission has focused on the essentials by fostering small businesses who need capital formation to survive and grow.

Our actions today signal to the American people that periodic review of agency operations like that of the SEC can yield efficiency without drastic overhauls designed for political appeal. The leadership of the subcommittee and committee deserve our sport for endeavors of this nature.

Mr. OXLEY. Mr. Speaker, as an original cosponsor of the bill, I rise in support of this reauthorization. I'm pleased to be considering it on today's suspension calendar.

This bipartisan measure is a credit to its author, Chairman TOM BLILEY, and the subcommittee chairman, JACK FIELDS. It brings coherence and stability to the issue of Securities and Exchange Commission funding, while at the same time providing well-deserved tax relief to investors. It has the support of SEC Chairman Arthur Levitt.

Currently, the SEC has a budget of approximately $300 million, but it collects nearly twice that in fees annually. These are filing fees paid by pension funds, start-up companies, and individual investors. The excess fees amount to a tax on capital formation.

This reauthorization puts the Commission on-budget and phases out the surplus fees, saving investors more than $750 million over the next 5 years. In so doing, it will promote investment, capital formation, and job creation.

Again, Mr. Speaker, I urge support for the bill, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I have no other requests for time, and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from Ohio [Mr. OXLEY] that the House suspend the rules and pass the bill. H.R. 2972, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2972, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FEDERAL AVIATION ADMINISTRATION REVITALIZATION ACT OF 1995

Mr. SHUSTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2276), as amended, to establish the Federal Aviation Administration as an independent establishment in the executive branch, and for other purposes.

The Clerk read as follows:

H.R. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Aviation Administration Revitalization Act of 1995".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. ESTABLISHMENT OF FEDERAL AVIATION ADMINISTRATION.

Subtitle II is amended by adding at the end the following:

"CHAPTER 13—FEDERAL AVIATION ADMINISTRATION

"SUBCHAPTER I—GENERAL PROVISIONS

"1301. Definitions.

"SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

"1311. Establishment.
"1312. Federal Aviation Board.
"1313. Officers.
"1314. Personnel management program.
"1315. Management Advisory Committee.
"1316. Authority to carry out certain transferred functions, duties, and powers.

"SUBCHAPTER III—AUTHORITY

"1331. Functions.
"1332. Regulations.
"1333. Finality of decisions; appeals.
"1334. Procurement program.
"1335. Judicial review of actions in carrying out certain transferred duties and powers.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1301. Definitions

"In this chapter, the following definitions apply:

"(1) ADMINISTRATION.—The term 'Administration' means the Federal Aviation Administration established by section 1311.

"(2) AERONAUTICS, AIR COMMERCE, AND AIR NAVIGATION FACILITY.—The terms 'aeronautics', 'air commerce', and 'air navigation facility' have the same meanings given those terms in section 40102(a) of this title.

"(3) AIRPORT AND AIRWAY TRUST FUND.—The term 'Airport and Airway Trust Fund' means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1986.

"(4) BOARD.—The term 'Board' means the Federal Aviation Board established by section 1312.

"(5) CHIEF EXECUTIVE OFFICER.—The term 'Chief Executive Officer' means the Chief Executive Officer of the Federal Aviation Administration.

"SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

"§ 1311. Establishment

"There is established in the executive branch as an independent establishment the Federal Aviation Administration. The Administration shall succeed the Federal Aviation Administration of the Department of Transportation in existence on the day before the effective date of this section.

"§ 1312. Federal Aviation Board

"(a) IN GENERAL.—There is established a Federal Aviation Board which shall serve as the head of the Administration.

"(b) FUNCTIONS.—

"(1) IN GENERAL.—The Board shall be responsible for the major policy functions of the Administration, including the following:

"(A) The appointment and removal of the Chief Executive Officer and the approval of other senior officers of the Administration under section 1313.

"(B) The approval and submission to Congress of major contracts under section 1334(d).

"(C) The approval of major regulatory actions under section 1332(b).

"(D) The issuance of letters of intent under section 47110(e).

"(E) The approval and submission to Congress of the Administration's plans for personnel management and acquisition management programs under sections 1314 and 1334.

"(F) The approval of the agency's annual budget submission.

"(G) Long-range and strategic planning for the Administration.

"(H) The representation of the Administration at public events to the extent practicable.

"(I) Such other significant actions as the Board considers appropriate.

"(2) NONDELEGABLE FUNCTIONS.—The Board may not delegate the functions described in subparagraphs (A) through (F) of paragraph (1).

"(3) NOT SUBJECT TO ENTITIES CREATED BY EXECUTIVE ORDER.—The Administration shall not submit decisions for the approval of, and shall not be bound by the decisions or recommendations of, any committee, board, or other organization established by Executive order.

"(c) MEMBERSHIP.—

"(1) VOTING MEMBERS.—The Board shall be composed of 3 voting members to be appointed by the President, by and with the advice and consent of the Senate. The initial members of the Board shall be appointed as soon as practicable after the date of the enactment of the Federal Aviation Administration Revitalization Act of 1995.

"(2) NON-VOTING MEMBERS.—The Secretary of Transportation (or the Secretary's designee) and the Secretary of Defense (or the Secretary's designee) shall serve as non-voting members of the Board.

"(d) QUALIFICATIONS.—

"(1) IN GENERAL.—Members appointed to the Board under subsection (c)(1) shall represent the public interest and shall be selected from individuals who are knowledgeable in aviation. Members of the Board may not—

"(A) have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise;

"(B) engage in another business, vocation, or employment; and

"(C) be a member of any organization a substantial part of whose activities are for the purpose of influencing aviation-related legislation.

"(2) DEFINITION.—In this subsection, the term 'influencing legislation' has the meaning such term has under section 4911(d) of the Internal Revenue Code of 1986 (26 U.S.C. 4911(d)).

"(e) TERMS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), each member of the Board appointed under subsection (c)(1) shall be appointed for a term of 7 years.

"(2) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed under subsection (c)(1)—

"(A) 1 shall be appointed for a term of 3 years;

"(B) 1 shall be appointed for a term of 5 years; and

"(C) 1 shall be appointed for a term of 7 years.

"(3) VACANCIES.—Any member appointed under subsection (c)(1) to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

"(f) REMOVAL.—Members of the Board appointed under subsection (c)(1) may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(g) CHAIRPERSON.—The Chairperson of the Board shall be appointed by the President, by and with the advice and consent of the Senate. At the time of such appointment, the President shall establish the term of the Chairperson. Such term may not exceed the term of the Chairperson's appointment to the Board.

"(h) QUORUM.—Two members of the Board appointed under subsection (c)(1) shall constitute a quorum for carrying out the duties and powers of the Board.

"(i) BASIC PAY.—

"(1) CHAIRPERSON.—The Chairperson of the Board shall be paid at a rate equal to the rate of basic pay payable for level II of the Executive Schedule.

"(2) OTHER MEMBERS.—The other voting members of the Board shall be paid at a rate equal to the rate of basic pay payable for level III of the Executive Schedule.

"§ 1313. Officers

"(a) CHIEF EXECUTIVE OFFICERS.—

"(1) APPOINTMENT.—The Board shall appoint a Chief Executive Officer.

"(2) DUTIES.—The Board shall delegate to the Chief Executive Officer the responsibility for managing the day-to-day operation of the Administration, including (except as provided in section 1312(b)) the hiring and firing of employees, acquisition of facilities and equipment, issuance of rules, airworthiness directives, and advisory circulars, preparation of the annual budget submission, the awarding of grants, and such other functions as the Board considers appropriate.

"(3) REMOVAL.—The Chief Executive Officer shall serve at the pleasure of the Board; except that the Board shall make every effort to ensure stability and continuity in the leadership of the Administration.

"(4) BASIC PAY.—Subject to section 1314(f), the Chief Executive Officer shall be paid at a rate to be determined by the Board.

"(b) OTHER OFFICERS.—Subject to the approval of the Board, the Chief Executive Officer shall appoint other senior officers who shall each have such duties as the Chief Executive Officer may prescribe.

"(c) CHIEF COUNSEL.—Subject to the approval of the Board, the Chief Executive Officer shall appoint a Chief Counsel who shall be the chief legal officer for all legal matters arising from the activities of the Administration.

"(d) INSPECTOR GENERAL.—There shall be in the Administration an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

"(e) AIRCRAFT NOISE OMBUDSMAN.—

"(1) ESTABLISHMENT.—There shall be in the Administration an Aircraft Noise Ombudsman who shall be appointed by the Board.

"(2) DUTIES AND RESPONSIBILITIES.—The Ombudsman shall—

"(A) serve as a liaison with the public on issues regarding aircraft noise; and

"(B) be consulted when the Administration proposes changes in aircraft routes so as to minimize any increases in aircraft noise over populated areas.

"§ 1314. Personnel management program

"(a) EXEMPTION FROM CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, the Administration shall be exempt from parts II and III of title 5.

"(2) EFFECTIVE DATE.—The exemption provided by paragraph (1) shall not take effect until the expiration of the 180-period described in subsection (d)(2).

"(b) DEVELOPMENT OF PERSONNEL MANAGEMENT SYSTEM.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Federal Aviation Administration Revitalization Act of 1995, the Board shall develop a personnel management system for the Administration.

"(2) CONSULTATION AND NEGOTIATION.—In developing the personnel management system, the Board shall negotiate with the exclusive bargaining representatives of employees of the Administration certified under section 7111 of title 5 and other employees of the Administration and shall consult with nongovernmental experts in personnel management systems. The negotiation with the exclusive bargaining representatives shall be completed on or before the 90th day after the date of enactment referred to in paragraph (1).

"(3) MEDIATION.—If the Board does not reach an agreement under paragraph (2) with the exclusive bargaining representatives on any provision of the personnel management system, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement. If the services of the Federal Mediation and Conciliation Service do not lead to an agreement, the Board shall include in the plan to be submitted to Congress under subsection (d) the objections of the exclusive bargaining representatives and the reasons for the objections.

"(4) CONTINUATION OF AGREEMENTS.—Collective bargaining agreements and labor management relations under chapter 71 of title 5 shall remain in effect for the Administration until amended or modified under the personnel management system.

"(5) GOALS.—The goal of the personnel management system to be developed by the Board under paragraph (1) shall be to provide, consistent with the requirements of this section, the Administration with the ability—

"(A) to hire and fire employees as in the private sector;

"(B) to promote and pay employees based on merit;

"(C) to provide market-based salaries (designed to attract the best qualified employees) within available resources;

"(D) to provide pay increases and other incentives to staff facilities that are difficult to staff;

"(E) to move personnel to those facilities where they are most needed; and

"(F) to provide an opportunity for collective bargaining and other consultation with employees concerning terms and conditions of employment.

"(6) SAFEGUARDS.—The personnel management system shall include safeguards to ensure that travel expenses of employees of the Administration (including meal and lodging expenses) are not excessive.

"(c) EXPERTS EVALUATION.—The arrangements entered into by the Board with the experts consulted by the Board under subsection (b) shall provide for those experts to evaluate the personnel management system developed by the Board and submit to Congress the results of such evaluation before the last day of the 180-day period referred to in subsection (b)(1).

"(d) NOTICE TO CONGRESS.—

"(1) IN GENERAL.—Upon development of the personnel management system under subsection (b), the Board shall submit to Congress a comprehensive plan describing the personnel management system, along with all existing or proposed rules or regulations relevant to the system.

"(2) IMPLEMENTATION.—The Board may begin to implement the personnel management system only after the expiration of the 180-day period that begins on the date of submission of the plan to Congress under paragraph (1).

"(e) EMPLOYEE RIGHTS AND BENEFITS.—Nothing in this section shall be construed as exempting the Administration and employees of the Administration from any of the following provisions of title 5:

"(1) Section 2302(b)(8) (relating to whistleblower protection) and related enforcement provisions.

"(2) Sections 3308 through 3320 (relating to veterans preference).

"(3) Sections 7311(3) and 7311(4) (relating to limitations on the right to strike).

"(4) Sections 2302(b)(1) and 7204 (relating to antidiscrimination) and related enforcement provisions and provisions of law referred to in section 2302(b)(1).

"(5) Chapter 71 (relating to labor-management relations).

"(6) Chapter 73 (relating to suitability, security, and conduct).

"(7) Chapter 81 (relating to compensation for work injuries).

"(8) Chapter 83 (relating to retirement).

"(9) Chapter 84 (relating to the Federal Employees' Retirement System).

"(10) Chapter 85 (relating to unemployment compensation).

"(11) Chapter 87 (relating to life insurance).

"(12) Chapter 89 (relating to health insurance).

"(f) PAY RESTRICTIONS.—

"(1) MAXIMUM RATE OF PAY.—No officer (including the Chief Executive Officer) or employee of the Administration may receive annual pay in excess of the annual rate of basic pay payable for level II of the Executive Schedule unless the Board provides written notification to Congress of such higher rate of pay and 30 days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) have elapsed since the date of such notification.

"(2) PERCENTAGE OF EMPLOYEES ABOVE LEVEL ES–1 OF SENIOR EXECUTIVE SERVICE.—Not more than 0.35 percent of the officers (including members of the Board and the Chief Executive Officer) and employees of the Administration may be paid at a rate which equals or exceeds the rate payable for level ES–1 of the Senior Executive Service.

"(3) RAISES AND BONUSES.—No officer (including the Chief Executive Officer) or employee of the Administration who is paid at a rate which exceeds the rate payable for level ES–1 of the Senior Executive Service may receive in a calendar year raises or bonuses (excluding cost-of-living increases and increases that are the results of a promotion) that total more than 15 percent of the annual rate of pay of the officer or employee on the day before the first day of such calendar year.

"(g) CONTRACTS BETWEEN FAA AND FORMER FAA EMPLOYEES.—Before the Administration may enter into a contract with an individual who has been employed by the Administration at any time during the 2-year period preceding the expected date of entry into the contract or with a corporation, partnership, or other entity in which such a former employee is a partner, principal officer, or majority stockholder or which is otherwise controlled or predominantly staffed by 1 or more of such former employees, the Board must first approve of the entry into the contract as being essential to the mission of the Administration.

"(h) USE OF UNOBLIGATED AMOUNTS FOR BONUSES AND DEFICIT REDUCTION.—

"(1) IN GENERAL.—Of amounts available to the Administration specifically for administrative expenses for a fiscal year beginning after September 30, 1996, that the Administration estimates on September 1 of that fiscal year will not be obligated by an office of the Administration before the end of the fiscal year—

"(A) the Board may use up to 50 percent to pay bonuses to personnel of such office of the Administration; and

"(B) the remainder shall be divided between and deposited in—

"(i) the general fund of the Treasury and used exclusively for deficit reduction; and

"(ii) the Airport and Airway Trust Fund;

in the same ratio that amounts appropriated for operations of the Administration for that fiscal year from the General Fund of the Treasury bears to amounts appropriated from the Airport and Airway Trust Fund for that fiscal year.

"(2) REPORTS.—The Director of the Office of Management and Budget shall submit a report to Congress by not later than December 31 of each year on the implementation of this subsection in the preceding fiscal year, describing the effectiveness of this subsection in reducing the deficit.

"§ 1315. Management Advisory Committee

"(a) ESTABLISHMENT.—There is established an advisory committee which shall be known as the Federal Aviation Management Advisory Committee (hereinafter in this section referred to as the 'Management Advisory Committee').

"(b) MEMBERSHIP.—The Management Advisory Committee shall consist of 17 members, who shall be appointed as follows:

"(1) 1 member appointed by the Speaker of the House of Representatives;

"(2) 1 member appointed by the minority leader of the House of Representatives;

"(3) 1 member appointed by the majority leader of the Senate;

"(4) 1 member appointed by the minority leader of the Senate;

"(5) 13 members appointed by the Board 12 of whom shall represent 1 of the following interests:

"(A) Airline passengers.

"(B) General aviation and sport aviation.

"(C) Business aviation.

"(D) Hub airports.

"(E) Non-hub and general aviation airports.

"(F) Major airlines and national airlines.

"(G) Regional airlines and air taxis.

"(H) Cargo airlines and charter airlines.

"(I) Aircraft manufacturers.

"(J) Airline employees.

"(K) Federal Aviation Administration employees.

"(L) State aviation officials.

"(c) FUNCTIONS.—The Management Advisory Committee shall provide advice and counsel to the Administration on issues which affect or are affected by the operations of the Administration. The Management Advisory Committee shall hold quarterly meetings. The Administration shall give the Management Advisory Committee access to internal documents (other than proprietary information and documents relating to on-going litigation) and personnel of the Administration. The Management Advisory Committee shall function as an oversight resource for management, policy, spending, and regulatory matters under the jurisdiction of the Administration.

"(d) CHAIRMAN.—The Management Advisory Committee shall elect a chairman of the Management Advisory Committee from among its members.

"(e) TERMS OF MEMBERS.—

"(1) MEMBERS APPOINTED BY CONGRESS.—Members appointed under subsections (b)(1) through (b)(4) shall be appointed for a term of 2 years.

"(2) MEMBERS APPOINTED BY THE BOARD.—Members appointed under subsection (b)(5) shall be appointed for a term of 3 years.

"(f) TRAVEL AND PER DIEM.—Each member of the Management Advisory Committee shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

"(g) UTILIZATION OF PERSONNEL FROM FAA.—The Administration shall make available to the Management Advisory Committee such staff, information, and administrative services and assistance as may reasonably be required to enable the Management Advisory Committee to carry out its responsibilities under this section.

"(h) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Management Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.); except that section 14(a)(2)(B) of such Act (relating to the termination of advisory committees) shall not apply to the Committee.

"§ 1316. Authority to carry out certain transferred functions, duties, and powers

"Except as otherwise provided in this chapter, in carrying out a function, duty, or power transferred under the Federal Aviation Administration Revitalization Act of 1995 (including the amendments made by such Act), the Administration has the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the function, duty, or power immediately before the transfer. An action of the Administration in carrying out the function, duty, or power has the same effect as when carried out by the department, agency, or instrumentality.

"SUBCHAPTER III—AUTHORITY

"§ 1331. Functions

"(a) IN GENERAL.—The functions of the Federal Aviation Administration shall be all functions vested in the Board, the Chief Executive Officer, or the Federal Aviation Administration by this title or by law enacted after the date of the enactment of this chapter. Such functions include functions of the Administration, the Board, and the Chief Executive Officer under the following provisions of this title:

"(1) Section 308(b).
"(2) Section 353.
"(3) Section 1114(d).
"(4) Section 1131(c).
"(5) Subsections (c) and (d) of section 1132.
"(6) Section 1135.
"(7) Section 1153(c).
"(8) Subsections (a), (c), and (d) of section 40101.
"(9) Section 40102(a)(8).
"(10) Section 40103(b).
"(11) Section 40104.
"(12) Section 40105.
"(13) Section 40106(a).
"(14) Section 40107.
"(15) Section 40108.
"(16) Section 40109(b).
"(17) Subsections (a) and (b) of section 40110.
"(18) Section 40111.
"(19) Section 40112.
"(20) Section 40113.
"(21) Section 40114.
"(22) Section 40115.
"(23) Section 40117.
"(24) Section 40119.
"(25) Section 41714.
"(26) Chapter 441.
"(27) Chapter 443.
"(28) Chapter 445.
"(29) Chapter 447.
"(30) Chapter 449.
"(31) Chapter 451.
"(32) Chapter 453.
"(33) Chapter 461.
"(34) Section 46301.
"(35) Section 46302.
"(36) Section 46303.
"(37) Section 46304.
"(38) Section 46306.
"(39) Section 46308.
"(40) Section 46311.
"(41) Section 46313.
"(42) Section 46315.
"(43) Section 46316.
"(44) Chapter 465.
"(45) Chapter 471.
"(46) Chapter 473.
"(47) Chapter 475.
"(48) Chapter 481.
"(49) Chapter 491.

"(b) INCIDENTAL FUNCTIONS.—In addition, the functions of the Administration shall include all functions of the Department of Transportation on the effective date of this section which the Administration determines are incidental to, helpful to, or necessary for the performance of the functions referred to in subsection (a) or which relate primarily to those functions.

"§ 1332. Regulations

"(a) GENERAL AUTHORITY.—The Administration may issue, rescind, and amend such regulations as are necessary to carry out its functions.

"(b) APPROVAL OF BOARD.—

"(1) GENERAL RULE.—The Administration may only issue a proposed regulation, final regulation, airworthiness directive, or advisory circular that may result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $10,000,000 or more (adjusted annually for inflation) in any 1 year if the Board first approves of the issuance of such regulation, directive, or circular.

"(2) EMERGENCY ACTION.—In an emergency, the Chief Executive Officer may issue a regulation, directive, or circular described in paragraph (1) without prior Board approval but subject to Board ratification following issuance.

"(c) REVIEW BY DOT.—

"(1) SUBMISSION.—Before the Administration issues any proposed or final regulation—

"(A) the Administration shall submit a copy of the regulation to the Secretary of Transportation;

"(B) the Administration shall provide the Secretary with a period of 5 days (excluding Saturdays, Sundays, and holidays) beginning on the date of such submission to determine whether or not the regulation is likely to have a significant effect on other modes of transportation in the national transportation system or the Secretary's aviation responsibilities, including national defense responsibilities; and

"(C) if the Secretary determines, before the last day of such 5-day period, that the regulation is likely to have such a significant effect, the Administration shall provide the Secretary with an additional period of 45 days to assess the effect of the regulation on other modes of transportation in the national transportation system and the Secretary's aviation responsibilities, including national defense responsibilities.

"(2) RECOMMENDATIONS.—The Secretary may recommend to the Administration modifications of a proposed or final regulation necessary to minimize the adverse effect of such regulation on other modes of transportation in the national transportation system or the Secretary's aviation responsibilities, including national defense responsibilities. The Administration may make any modifications recommended by the Secretary. If the Administration does not make a modification recommended by the Secretary, the Administration shall include in the publication of the proposed or final regulation a description of the recommended modification and the reasons for not making the modification.

"(3) EXCEPTIONS.—This subsection shall not apply to the following types of regulations:

"(A) Regulations pertaining to agency organization, procedure, or practice.

"(B) Regulations pertaining solely to navigational aids.

"(C) Regulations pertaining solely to airspace designations and configurations.

"(D) Regulations pertaining solely to standard instrument approach procedures.

"(E) Regulations pertaining solely to aircraft design.

"(F) Regulations pertaining to the personnel management system developed under section 1314.

"(G) Regulations pertaining to the acquisition management system developed under section 1334.

"(4) EMERGENCY ACTION.—In an emergency, a regulation may take effect for the duration of the emergency and before the Secretary completes review of the regulation under this subsection, as determined necessary by the Chief Executive Officer or the Board.

"(d) AUTOMATIC TERMINATION DATE.—Any regulation issued by the Administration after the effective date of this section which is likely to result in the annual expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of $25,000,000 or more (adjusted annually for inflation) in any 1 year must contain an automatic termination date. The termination date shall also apply to any advisory circular issued by the Administration and pertaining solely to such regulation.

"(e) EMERGENCY DEFINED.—In this section, the term 'emergency' means a situation where there is good cause for finding that consideration by the Board or by the Department of Transportation is impracticable or contrary to the public interest.

"§ 1333. Finality of decisions; appeals

"Decisions of the Administration made pursuant to the exercise of the functions enumerated in subtitle VII of this title shall be administratively final, and appeals as currently authorized by law shall be taken directly to the National Transportation Safety Board or to any court of competent jurisdiction, as appropriate.

"§ 1334. Procurement program

"(a) EXEMPTION FROM PROCUREMENT LAWS.—

"(1) IN GENERAL.—The following laws and regulations shall not apply to the Federal Aviation Administration:

"(A) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266).

"(B) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

"(C) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

"(D) The Small Business Act (15 U.S.C. 631 et seq.); except that the Administration shall provide reasonable opportunities to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to be awarded contracts.

"(E) Subchapter V of chapter 35 of title 31 (relating to the procurement protest system).

"(F) The Brooks Automatic Data Processing Act (40 U.S.C. 759).

"(G) Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

"(H) The Federal Acquisition Regulation and any laws not listed in subparagraphs (A) through (G) providing authority to promulgate regulations in the Federal Acquisition Regulation.

"(2) EFFECTIVE DATE.—The exemption provided by paragraph (1) shall not take effect until the expiration of the 180-day period referred to in subsection (c)(2).

"(b) DEVELOPMENT OF ACQUISITION MANAGEMENT SYSTEM.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Federal Aviation Administration Revitalization Act of 1995, the Federal Aviation Board, in consultation with such nongovernmental experts in acquisition management systems as the Board may employ, shall develop an acquisition management system for the Administration.

"(2) CONSULTATION.—In developing the acquisition management system, the Board shall consult nongovernmental experts in acquisition management systems.

"(3) GOALS.—The acquisition management system to be developed by the Board under paragraph (1) shall be designed—

"(A) to ensure that services are procured and new equipment is installed and certified as quickly as possible without sacrificing principles of fairness and protection against waste, fraud, and abuse; and

"(B) to ensure a common interoperable air traffic control system with the military.

"(4) EXPERTS EVALUATION.—The arrangements entered into by the Board with the experts consulted by the Board under paragraph (2) shall provide for those experts to evaluate the acquisition management system developed by the Board and submit to Congress the results of such evaluation before the last day of the 180-day period referred to in paragraph (1).

"(c) NOTICE TO CONGRESS.—

"(1) IN GENERAL.—Upon the development of the acquisition management system, the Board shall submit a comprehensive plan describing the acquisition management system to Congress, along with all existing or proposed rules or regulations relevant to the system.

"(2) IMPLEMENTATION.—The Administration may begin to implement the acquisition management system only after the expiration of the 180-day period that begins on the date on which the plan is submitted to Congress under paragraph (1). The acquisition management system shall apply to contracts entered into after the expiration of such 180-day period.

"(d) CONTRACTS.—

"(1) APPROVAL OF CERTAIN CONTRACTS.—The Administration may only enter into a contract that has a total contract value, including all options, of an amount greater than $100,000,000 if the Board first approves of the entry into the contract.

"(2) NOTICE TO CONGRESS OF CERTAIN CONTRACTS.—In addition to complying with paragraph (1), the Administration may only enter into a contract that has a total contract value, including all options, of an amount greater than $250,000,000 if the Board provides written notice to Congress of the proposed entry into the contract, together with a description of the contract and at least 30 calendar days elapse after the date of such notification.

"§ 1335. Judicial review of actions in carrying out certain transferred duties and powers

"(a) JUDICIAL REVIEW.—An action of the Administration in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670) and under the Federal Aviation Administration Revitalization Act of 1995 and an action of the Administrator of the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by the Department of Transportation Act and transferred to the Administration by the Federal Aviation Administration Revitalization Act of 1995 may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer.

"(b) APPLICATION OF PROCEDURAL REQUIREMENTS.—A statutory requirement related to notice, an opportunity for a hearing, action on the record, or administrative review that applied to a duty or power transferred by the Acts referred to in subsection (a) applies to the Administration when carrying out the duty or power.".

SEC. 4. BUDGET OF ADMINISTRATION.

(a) IN GENERAL.—Section 48109 of title 49, United States Code, is amended to read as follows:

"§ 48109. Budget information and legislative recommendations and comments

"(a) PREPARATION.—Subject to approval of the Federal Aviation Board, the Chief Executive Officer shall prepare an annual budget for the Administration.

"(b) SUBMISSION OF BUDGET TO DOT.—

"(1) IN GENERAL.—At the same time that agencies of the Department of Transportation having jurisdiction over other modes of transportation are required to submit their budgets to the Secretary of Transportation, the Administration shall submit to the Secretary the budget prepared by the Administration and approved by the Board. The Secretary shall review the budget and may recommend to the Administration modifications in the budget necessary to ensure that the budget is consistent with the needs of the national transportation system and the Secretary's aviation responsibilities. The Administration may modify the budget to adopt any recommendation made by the Secretary.

"(2) OPPORTUNITY FOR COMMENT.—At least 30 days before submitting a budget to the Secretary under paragraph (1), the Administration shall submit a draft of the budget to the Management Advisory Committee established by section 1315 for comment.

"(c) SUBMISSION OF BUDGET TO CONGRESS.—

"(1) IN GENERAL.—When the Board submits to the President or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or section 48102, the Board concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

"(2) SPECIAL RULE WITH RESPECT TO ANNUAL BUDGETS.—The annual budget of the Administration submitted to Congress shall include—

"(A) budget requests and Airport and Airway Trust Fund estimates for the ensuing 4 fiscal years;

"(B) a numerical ranking, by degree of importance to the national airspace system, of the Administration's requests for funding of air traffic control modernization projects under section 48101;

"(C) the total number of man-years of direct effort the Administration estimates it will use under support service contracts (including professional, technical, engineering, site preparation, and installation and other services comparable to those performed by Government employees, but not including maintenance as part of a supply contract, janitorial, research and development, or construction services or services incidental to supply contracts) during the fiscal year for which the budget is being submitted;

"(D) any modifications made by the Administration under subsection (b) with respect to the budget; and

"(E) if the Administration does not adopt a recommendation made by the Secretary under subsection (b), a description of the recommendation and the reasons for not adopting the recommendation.

Subparagraph (C) shall take effect with the budget submission for fiscal year 1997. The estimate under subparagraph (C) for such budget submission shall include for comparison the estimated total number of man-years of direct effort the Administration used under such support service contracts in each of fiscal years 1992 and 1995.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 481 is amended by striking the item relating to section 48109 and inserting the following:

"*48109. Budget information and legislative recommendations and comments.*".

SEC. 5. COST-BENEFIT ANALYSIS FOR MINIMUM SAFETY STANDARDS.

Section 44701 is amended by adding at the end the following:

"(f) COST-BENEFIT ANALYSIS.—

"(1) IN GENERAL.—For any regulation or standard to be issued under subsection (a) or (b) that is likely to result in annualized compliance costs in excess of $25,000,000, the Administration shall, in addition to other requirements in law, identify and publish together with such regulation or standard the following:

"(A) The benefits of the regulation or standard, quantified where appropriate and feasible, and otherwise qualitatively described, including in appropriate cases, the nature and number of deaths or injuries that the regulation or standard is designed to prevent.

"(B) The approximate number of aircraft, airports, airmen, or cabin crew affected by the regulation or standard.

"(C) The probable cost of fulfilling the requirements of the regulation or standard, quantified where appropriate and feasible, and otherwise qualitatively described, including in appropriate cases any adverse effects on competition or disruption or dislocation of air service or other commercial practices engaged in by the entities affected by such requirements.

"(D) Alternative means of achieving the objective of the regulation or standard while minimizing the costs, adverse effects on competition, and the disruption or dislocation of air service or the commercial practices affected by the regulation or standard and a statement as to why the Administration chose the regulation or standard adopted in preference to the alternatives considered.

"(2) EMERGENCY.—In the case of an emergency, the Chief Executive Officer or the Board may suspend the application of this subsection for the duration of the emergency.

"(3) NONAPPLICABILITY TO ADVISORY CIRCULARS.—This subsection shall not apply to advisory circulars.".

SEC. 6. AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "or Federal Aviation Administration" after "Community Service"; and

(2) in paragraph (2) by inserting "the Federal Aviation Administration," after "United States Information Agency,".

SEC. 7. PASSENGER FACILITY CHARGES.

(a) FEE RETAINED BY AIRLINES.—

(1) DEADLINE FOR RESPONSE TO PETITION.—Not later than 75 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a notice of a proposed rulemaking or a denial of the petition in Docket 27791 of the Federal Aviation Administration (relating to increasing the fee that airlines retain in collecting passenger facility charges).

(2) EFFECT OF FAILURE TO RESPOND.—If the Administrator does not respond to the petition in the docket referred to in paragraph (1) as required by paragraph (1), the fee increase sought by the petitioner in such docket shall become effective after the 75th day referred to in paragraph (1) until such date as the Administrator responds to such petition.

(b) REVIEW OF PROGRAM.—The Secretary of Transportation shall complete the review required by section 121 of the Federal Aviation Administration Reauthorization Act of 1994 (108 Stat. 1581) not later than the 75th day following the date of the enactment of this Act.

SEC. 8. SELECT PANEL TO REVIEW INNOVATIVE FUNDING MECHANISMS.

(a) ESTABLISHMENT.—The Federal Aviation Board shall establish a select panel to review and report to Congress regarding innovative financing mechanisms for ensuring adequate funding for existing and future aviation infrastructure needs and for funding the operations of the Federal Aviation Administration in a manner that would provide for future growth in the Nation's air traffic system, improve the management and performance of the air traffic control system, and make the Administration more efficient and effective. The financing mechanisms to be reviewed shall include, but not be limited to, loan guarantees, financial partnerships with for-profit private sector entities, multi-year appropriations, revolving loan funds, mandatory spending authority, authority to borrow, and restructured grant programs.

(b) APPOINTMENT OF MEMBERS.—Not later than 90 days after the date of the appointment of at least 2 members of the Board, the Board shall appoint members to the panel established under this section. Such members shall consist of appropriate Federal Government officials and representatives of the aviation industry, Administration employees, the financial community, and State and local governments.

(c) INDEPENDENT AUDIT.—Immediately following appointment of the panel, and utilizing funds appropriated for Federal Aviation Administration headquarters operations, the panel shall contract with an entity independent of the Federal Aviation Administration and the Department of Transportation to conduct a complete audit of the financial requirements of the agency, including anticipated air traffic forecasts, other workload measures, and estimated productivity gains which lead to budgetary requirements. The independent audit shall be completed no later than 180 days after contract award and shall be submitted to the panel.

(d) TRAVEL AND PER DIEM.—Each member of the panel established under this section shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEES ACT.—The select panel established under this section shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) REPORT.—Not later than 1 year after the date of the appointment of the last member to the panel under subsection (b), the panel shall submit to Congress and the Federal Aviation Administration a report on the results of the review conducted under this section.

SEC. 9. TRANSFER OF PERSONNEL, PROPERTY, RECORDS, AND FUNDS.

So much of the personnel, property, records, funds, accounts, and unexpended balances of appropriations, allocations, and other funds of the Department of Transportation and the Federal Aviation Administration as are employed, used, held, available, or to be made available, in connection with the functions which under this Act (including the amendments made by this Act) are made functions of the Federal Aviation Administration established by section 1311 of title 49, United States Code, are transferred to the Federal Aviation Administration.

SEC. 10. SAVINGS PROVISIONS.

(a) ORDERS, REGULATIONS, CONTRACTS, AND CERTIFICATES.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President or any Federal department or agency or official thereof or by a court of competent jurisdiction, on or after the effective date of this section in regard to functions which

under this Act (including the amendments made by this Act) are made functions of the Federal Aviation Administration established by section 1311 of title 49, United States Code; and

(2) which are in effect on the effective date of this section,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Federal Aviation Board, or other authorized officials, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS AND APPLICATIONS.—The provisions of this Act (including the amendments made by this Act) shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending on the effective date of this section, and such proceedings and applications, to the extent that they relate to functions under this Act that are made functions of the Administration, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS.—

(1) EFFECT ON PENDING SUITS.—The provisions of this Act (including the amendments made by this Act) shall not affect suits commenced prior to the effective date of this section.

(2) PROCEDURES.—In all suits commenced prior to the effective date of this section, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) ADMINISTRATOR.—If the Chief Executive Officer of the Federal Aviation Administration is not appointed by the Federal Aviation Board on the effective date of this section, the person serving as the Administrator of the Federal Aviation Administration on the day before such effective date shall act as the Chief Executive Officer until the Chief Executive Officer is appointed as provided in section 1313 of title 49, United States Code. While so acting, such person shall receive compensation at the rate such person was receiving on the day before such effective date.

(e) AGREEMENTS WITH DEPARTMENT OF DEFENSE.—Any agreement between the Federal Aviation Administration and the Department of Defense in effect on the day before the date of the enactment of this Act shall remain in effect until terminated in accordance with the terms of such agreement.

SEC. 11. LAWS AND REGULATIONS.

Except to the extent otherwise provided in this Act (including the amendments made by this Act), all laws, rules, regulations, and executive orders in effect and applicable to the Federal Aviation Administration of the Department of Transportation and to the Administrator of such Administration on the day before the effective date of this Act shall, on and after such effective date, be applicable to the Federal Aviation Administration and the Federal Aviation Board established by this Act (including the amendments made by this Act), until such law, rule, regulation, or executive order is repealed or otherwise modified or amended.

SEC. 12. TERMINATION OF FAA OF DOT.

The Federal Aviation Administration of the Department of Transportation is terminated.

SEC. 13. CORRESPONDING REDUCTIONS IN OFFICE OF SECRETARY.

The Secretary of Transportation shall terminate 200 employee positions in the Office of the Secretary to reflect reductions in the aviation responsibilities in the Office of the Secretary by enactment of this Act.

SEC. 14. CONFORMING AMENDMENTS.

(a) FEDERAL AVIATION ADMINISTRATION IN DOT.—

(1) IN GENERAL.—Subject to paragraph (2), subsections (a) through (j) of section 106 are repealed.

(2) TECHNICAL ADJUSTMENTS.—

(A) IN GENERAL.—Subchapter II of chapter 13 (as inserted by section 3 of this Act) is amended—

(i) by adding at the end the following new section heading:

"§ 1317. Civil Aeromedical Institute"; and

(ii) by inserting the text of section 106(j) as an undesignated paragraph under such section heading.

(B) CHAPTER ANALYSIS AMENDMENT.—The analysis for such chapter is amended by adding after the item relating to section 1316 the following:

"1317. Civil Aeromedical Institute.".

(3) AUTHORIZATION OF APPROPRIATIONS FOR FAA OPERATIONS.—

(A) FISCAL YEAR 1996.—Section 106(k) is amended by—

(i) striking "(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—"; and

(ii) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration".

(B) CONFORMING AMENDMENT.—Effective September 30, 1996, section 106, as amended by this subsection, and the item relating to section 106 in the analysis for chapter 1 are repealed.

(b) GENERAL DUTIES AND POWERS OF THE DEPARTMENT OF TRANSPORTATION.—

(1) LEADERSHIP, CONSULTATION, AND COOPERATION.—Section 301(6) is amended by striking ", with particular attention to aircraft noise, and including" and inserting "and".

(2) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.—Section 303 is amended—

(A) in subsection (b) by inserting "and the Federal Aviation Administration" after "of Transportation"; and

(B) in subsection (c) by inserting "and Administration" after "Secretary".

(3) REPORTS.—Section 308(b) is amended—

(A) by striking "Secretary" the 1st place it appears and inserting "Federal Aviation Board";

(B) by striking "Department" and inserting "Federal Aviation Administration"; and

(C) by striking "Secretary" the 2nd and 3rd places it appears and inserting "Board".

(4) MEMBERS OF THE ARMED FORCES.—Section 324 is amended—

(A) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) FAA.—The Federal Aviation Administration, to ensure that national defense interests are safeguarded properly and that the Administration is advised properly about the needs and special problems of the armed forces, shall provide for participation of members of the armed forces in carrying out the duties and powers of the Administration related to the regulation and protection of air traffic, including providing for, and research and development of, air navigation facilities, and the allocation of airspace.

"(2) SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may provide for participation of members of the armed forces in carrying out other duties and powers of the Secretary."; and

(B) in subsection (d) by inserting after "Transportation" each place it appears the following: "or Federal Aviation Administration".

(5) JUDICIAL REVIEW.—Section 351(a) is amended—

(A) by striking "An" and inserting "Subject to section 1335, an"; and

(B) by striking ", the Federal Highway Administration, or the Federal Aviation Administration" and inserting "or the Federal Highway Administration".

(6) AUTHORITY TO CARRY OUT CERTAIN TRANSFERRED DUTIES AND POWERS.—Section 352 is amended by striking ", the Federal Highway Administration, and the Federal Aviation Administration" and inserting "and the Federal Highway Administration".

(7) TOXICOLOGICAL TESTING.—Section 353(a) is amended—

(A) by inserting before "conducts" the following: "or the Federal Aviation Administration";

(B) by inserting after "Department" the second place it appears "or Administration"; and

(C) by inserting before "shall" each place it appears "or Chief Executive Officer of the Administration".

(c) FUNCTIONS OF FAA.—

(1) NATIONAL TRANSPORTATION SAFETY BOARD.—

(A) DISCLOSURE OF DRUG TEST INFORMATION TO NTSB.—Section 1114(d)(1) is amended—

(i) by inserting before "shall" the following: "and the Federal Aviation Administration";

(ii) in subparagraph (A) by inserting before "under post-accident" the following: "or the Administration"; and

(iii) in subparagraph (A) by inserting before ", when" the following: "or the Administration".

(B) INVESTIGATION OF CERTAIN ACCIDENTS.—Section 1131(c)(1) is amended by inserting "or the Federal Aviation Administration, as the case may be," after "Transportation".

(C) CIVIL AIRCRAFT ACCIDENT INVESTIGATIONS.—Section 1132 is amended—

(i) in the heading to subsection (c) by striking "SECRETARY" and inserting "FEDERAL AVIATION ADMINISTRATION";

(ii) in subsection (c) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration";

(iii) in subsection (c) by striking "Secretary" the 2nd and 3rd places it appears and inserting "Administration"; and

(iv) in subsection (d) by striking "Secretary" each place it appears and inserting "Administration".

(D) REVIEW OF OTHER AGENCY ACTION.—Section 1133(1) is amended by striking "Secretary of Transportation" and inserting "Federal Aviation Administration".

(E) RESPONSES TO SAFETY RECOMMENDATIONS.—Section 1135 is amended—

(i) by striking the section heading and inserting the following:

"§1135. DOT's and FAA's responses to safety recommendations";

(ii) in subsection (a) by inserting after "Secretary of Transportation" the following: "or the Federal Aviation Administration";

(iii) in subsection (a) by inserting "or the Administration" after "Secretary" the 2nd and 3rd places it appears;

(iv) in subsection (d) by striking "shall" and inserting "and the Administration shall each";

(v) in subsection (d) by inserting before "during" the following: "or Administration"; and

(vi) in subsection (d) by inserting after "Secretary's" the following: "or Administration's".

(F) JUDICIAL REVIEW.—Section 1153(c) is amended—

(i) in the subsection heading by striking "ADMINISTRATOR" and inserting "ADMINISTRATION";

(ii) by striking "the Administrator of"; and

(iii) by striking "Administrator" the second and third places it appears and inserting "Administration".

(G) CONFORMING AMENDMENT.—The analysis to chapter 11 is amended by striking the item relating to section 1135 and inserting the following:

"1135. DOT's and FAA's responses to safety recommendations.".

(2) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) is amended to read as follows:

"(b) MEMBERSHIP.—The Board consists of—

"(1) the Secretary, who serves as chairman;

"(2) the Chief Executive Officer of the Federal Aviation Administration or the Chief Executive Officer's designee; and

"(3) the Administrator, or the Administrator's designee, of—

"(A) the Federal Highway Administration;

"(B) the Maritime Administration;

"(C) the Federal Railroad Administration; and

"(D) the Federal Transit Administration.".

(3) GENERAL PROVISIONS RELATING TO AIR COMMERCE AND SAFETY.—

(A) POLICY.—Section 40101 is amended—

(i) in subsection (a) by inserting after "Secretary of Transportation" the following: "and the Federal Aviation Administration";

(ii) in subsection (c) by striking "Administrator of the"; and

(iii) in subsection (d) by striking "Administrator" and inserting "Administration".

(B) DEFINITIONS.—Section 40102(a) is amended—

(i) in paragraphs (8)(B) and (37) by striking "the Administrator of";

(ii) in paragraph (20) by striking "Administrator" and inserting "Federal Aviation Administration"; and

(iii) by moving the second sentence of paragraph (37) 2 ems to the left.

(C) SOVEREIGNTY AND USE OF AIR SPACE.—Section 40103 is amended—

(i) in subsection (a)(2) by inserting after "Secretary of Transportation" the following: "and the Federal Aviation Administration"; and

(ii) in subsection (b)—

(I) by striking "Administrator of the"; and

(II) by striking "Administrator" each place it appears after the first and inserting "Administration".

(D) PROMOTION OF CIVIL AERONAUTICS AND AIR COMMERCE.—Section 40104 is amended—

(i) in subsection (a) by striking "Administrator of the";

(ii) in subsection (a) by striking "Administrator" each place it appears after the first and inserting "Administration"; and

(iii) in subsection (b) by striking "Secretary of Transportation" and inserting "Administration".

(E) INTERNATIONAL NEGOTIATIONS, AGREEMENTS, AND OBLIGATIONS.—Section 40105 is amended—

(i) in subsection (a) by striking "Administrator of the";

(ii) in the heading to subsection (b) by striking "ADMINISTRATOR" and inserting "ADMINISTRATION";

(iii) in subsection (b)(1) by striking "Administrator" and inserting "Administration"; and

(iv) in subsection (c)(1) by inserting before the semicolon "and the Federal Aviation Administration".

(F) EMERGENCY POWERS.—Section 40106 is amended—

(i) in subsection (a)—

(I) in paragraph (1) by striking "Administrator of the"; and

(II) in paragraph (2) by striking "Administrator" and inserting "Administration"; and

(ii) in subsection (b)(2) by inserting after "Secretary of Transportation" the following: "or the Federal Aviation Administration".

(G) PRESIDENTIAL TRANSFERS.—Section 40107 is amended—

(i) in subsection (a) by striking "Administrator of the"; and

(ii) by striking "Administrator" each place it appears after the first and inserting "Administration".

(H) TRAINING SCHOOLS.—Section 40108 is amended—

(i) in subsection (a) by striking "Administrator of the"; and

(ii) by striking "Administrator" each place it appears after the first and inserting "Administration".

(I) AUTHORITY TO EXEMPT.—Section 40109(b) is amended—

(i) by striking "Administrator of the"; and

(ii) by striking "Administrator" the second place it appears and inserting "Administration".

(J) GENERAL PROCUREMENT AUTHORITY.—Section 40110 is amended—

(i) in subsection (a) by striking "Administrator of the";

(ii) in subsection (a)(1) by striking "Administrator" and inserting "Administration";

(iii) in subsection (b) by striking "Administrator of" the first place it appears and inserting "Chief Executive Officer of";

(iv) in subsection (b)(2)(E) by striking "Administrator of the"; and

(v) in subsection (b)(2)(E) by striking "Administrator;" and inserting "Administration;".

(K) MULTIYEAR PROCUREMENT CONTRACTS FOR SERVICES AND RELATED ITEMS.—Section 40111 is amended—

(i) in subsection (a) by striking "Administrator of the"; and

(ii) in subsections (b) and (c) by striking "Administrator" each place it appears and inserting "Administration".

(L) MULTIYEAR PROCUREMENT CONTRACTS FOR PROPERTY.—Section 40112 is amended—

(i) in subsection (a) by striking "Administrator of the";

(ii) in subsections (b), (c), and (e)(2) by striking "Administrator" each place it appears and inserting "Administration"; and

(iii) by adding at the end the following:

"(g) LIMITATION.—This section and section 40111 shall not be effective to the extent they are inconsistent with the acquisition management system being implemented under section 1334.".

(M) ADMINISTRATIVE.—Section 40113 is amended—

(i) in subsection (a) by striking "(or the Administrator of" and inserting "and";

(ii) in subsection (a) by striking "Administrator)" and inserting "Administration";

(iii) in subsection (a) by striking "Administrator" the last place it appears and inserting "Administration";

(iv) in subsection (b) by striking "has" the 1st place it appears and inserting "and the Administration have";

(v) in subsection (c) by striking "The Secretary" and all that follows through "Administrator)" and inserting "In carrying out aviation safety functions, duties, and powers, the Federal Aviation Administration";

(vi) in subsection (c) by striking "to assist the Secretary or Administrator of" and inserting "to assist";

(vii) in subsection (d) by striking "Administrator of the";

(viii) in subsection (d) by striking "Administrator" the last place it appears and inserting "Administration";

(ix) in subsection (e) by striking "Administrator" each place it appears and inserting "Administration"; and

(x) by adding at the end the following:

"(f) EXEMPTIONS.—

"(1) FAA REVIEW OF REGULATIONS.—Prior to issuing any regulation or granting any exemption to a regulation issued under this chapter that affects the transportation of hazardous materials by air, the Secretary shall provide the Administration an opportunity for review, and the Administration may disapprove such action if the Administration determines that there would be an adverse effect on aviation safety.

"(2) PROPOSED CHANGES.—The Administration may, in the interest of aviation safety, propose to the Secretary regulatory changes affecting the transportation of hazardous materials by air.

"(3) ENFORCEMENT.—Enforcement actions for violations of this chapter or of any regulations issued under this chapter that affect the transportation of hazardous materials by air shall be brought by the Administration.".

(N) REPORTS AND RECORDS.—Section 40114 is amended—

(i) in subsection (a)(1) by striking "(or the Administrator of" and inserting "and";

(ii) in subsection (a)(1) by striking "Administrator)" and inserting "Administration";

(iii) in subsection (a)(1) by striking "Administrator" the last place it appears and inserting "Administration";

(iv) in subsection (a)(2) by striking "(or the Administrator" and inserting "and the Administration";

(v) in subsection (a)(2) by striking "Administrator)" and inserting "Administration"; and

(vi) in subsection (a)(2) by striking "Administrator" the last 2 places it appears and inserting "Administration".

(O) WITHHOLDING INFORMATION.—Section 40115(a) is amended by inserting after "Secretary of Transportation" each place it appears the following: "or Federal Aviation Administration".

(P) PASSENGER FACILITY FEES.—Section 40117 is amended—

(i) in subsection (b)(1) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration"; and

(ii) in subsections (c) through (i) by striking "Secretary" each place it appears and inserting "Administration".

(Q) SECURITY AND RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 40119 is amended—

(i) in subsection (a) by striking "Administrator of the"; and

(ii) in subsections (b) and (c) by striking "Administrator" each place it appears and inserting "Administration".

(4) NAVIGATION OF FOREIGN CIVIL AIRCRAFT.—Section 41703 is amended—

(A) in subsection (a)(3) by inserting ", after consultation with the Federal Aviation Administration," after "Secretary of Transportation"; and

(B) in subsection (b) by inserting ", after consultation with the Federal Aviation Administration," after "Secretary" the 2nd place itappears.

(5) SLOTS.—Section 41714 is amended—

(A) in subsection (a)(1) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration";

(B) in subsections (a)(2), (a)(3), (a)(4), (b)(1), (b)(2), (c), (d), (f), and (g) by striking "Secretary" and "SECRETARY" each place they appear and inserting "Administration" and "ADMINISTRATION", respectively;

(C) in subsection (b)(3) by striking "Secretary" the first place it appears and inserting "Administration";

(D) in subsection (b)(3) by inserting after "Secretary" the second place it appears the following: "of Transportation";

(E) in subsection (h)(2) by striking "Administrator" and inserting "Administration"; and

(F) by adding at the end the following:

"(i) CONSULTATION WITH DOT.—In making determinations with respect to essential air service, exceptional circumstances, and the public interest, the Administration shall consult with the Secretary of Transportation.".

(6) REGISTRATION AND RECORDATION OF AIRCRAFT.—Chapter 441 (other than section 44109) is amended—

(A) by striking "Administrator of the" each place it appears;

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies and the 3rd place it appears in section 44111(d)) and inserting "Administration"; and

(C) in section 44102(b) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration".

(7) INSURANCE.—Chapter 443 is amended—

(A) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration"; and

(B) by striking "Secretary" each place it appears (other than a place to which subparagraph (A) applies, the 2nd, 3rd, and 5th places it appears in section 44305(b), the 1st place it appears in section 44307(a)(1), the 2nd place it appears in section 44307(b), and the 3rd place it appears in section 44307(d)) and inserting "Administration".

(8) FACILITIES, PERSONNEL, AND RESEARCH.—Chapter 445 is amended—

(A) by striking "Administrator of the" each place it appears (other than the 1st place it appears in section 44501(c)(2)(B) and the last place it appears in section 44502(c)(1));

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies, the 1st place it appears in section 44501(c)(2)(B), the last place it appears in section 44502(c), and in section 44507(3)) and inserting "Administration";

(C) in section 44506(b) by striking "Administrators of the Federal Aviation Administration and" and inserting "Federal Aviation Administration and the Administrator of the";

(D) in section 44506(c) by striking "Department of Transportation" and inserting "Administration";

(E) in section 44506(d) by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure";

(F) in section 44507—

(i) by striking "106(j)" and inserting "1317"; and

(ii) by striking "the Administrator" in paragraph (3) and inserting "the Federal Aviation Board";

(G) in section 44514(b) by striking "Secretary and the";

(H) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration"; and

(I) by striking "Secretary" each place it appears (other than in sections 44501(b)(1)(B), 44502(c)(1), and 44505(a)(3) and a place to which subparagraphs (G) and (H) apply) and inserting "Administration".

(9) SAFETY REGULATION.—Chapter 447 is amended—

(A) by striking "Administrator of the" each place it appears (other than the 2nd place it appears in section 44714, the 2nd place it appears in section 44715(a)(2), the 1st, 4th, 7th, 9th, 10th, and 11th places it appears in section 44715(c), the 1st and 3rd places it appears in section 44715(d)(1), the 2nd place it appears in section 44715(d)(2), the 1st, 3rd, and 5th places it appears in section 44715(e), and the 2nd, 4th, and 6th places it appears in section 44715(f));

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies, the 3rd place it appears in section 44703(f)(2), the 3rd place it appears in section 44713(d)(2), the 2nd place it appears in section 44714, the 2nd place it appears in section 44715(a)(2), the 1st, 4th, 7th, 9th, 10th, and 11th places it appears in section 44715(c), the 1st and 3rd places it appears in section 44715(d)(1), the 2nd place it appears in section 44715(d)(2), the 1st, 3rd, and 5th places it appears in section 44715(e), the 2nd, 4th, and 6th places it appears in section 44715(f), and in section 44720(b)(2)) and inserting "Administration";

(C) in section 44702(d)(3) by striking "Administrator's" and inserting "Administration's";

(D) in the subsection heading to section 44709(b) by striking "ADMINISTRATOR" and inserting "ADMINISTRATION";

(E) in section 44720(b)(2) by striking "Administrator" each place it appears and inserting "Federal Aviation Administration";

(F) by striking "Secretary of Transportation" each place it appears (other than in sections 44712(b)(2) and 44723) and inserting "Federal Aviation Administration";

(G) in section 44723 by striking "Secretary of Transportation" and inserting "Federal Aviation Board"; and

(H) by striking "Secretary" each place it appears (other than in sections 44712(b)(2) and 44720 and a place to which subparagraph (F) or (G) applies) and inserting "Administration".

(10) SECURITY.—Chapter 449 is amended—

(A) by striking "Administrator of the" each place it appears;

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies, the 1st two places it appears in section 44932(a), the 1st place it appears in section 44932(b), the 1st place it appears in section 44932(c), the 5th place it appears in section 44933(a), and each place it appears in section 44934(b)) and inserting "Administration";

(C) in section 44933(b)(4) by striking "Administrator's" and inserting "Administration's";

(D) by striking the heading for section 44932 and inserting "**Civil aviation security**";

(E) by striking subsection (a) of section 44932 and redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(F) in section 44932(a), as redesignated by subparagraph (E), by striking "Assistant Administrator" and inserting "officer designated by the Chief Executive Officer of the Federal Aviation Administration";

(G) in section 44932(b), as redesignated by subparagraph (E), by striking "Assistant Administrator" and inserting "Administration";

(H) in sections 44933(a) and 44934(b) by striking "Assistant Administrator for Civil Aviation Security" and inserting "officer designated by the Chief Executive Officer of the Administration";

(I) in section 44934(b)(1) by striking "Assistant Administrator" and inserting "Administration";

(J) by striking "Secretary of Transportation" each place it appears (other than in sections 44903(b)(1), 44907(d)(1)(C), 44907(d)(3), 44907(e), 44907(f), 44911(b), 44912(a)(3), 44931, and 44938(a)) and inserting "Federal Aviation Administration";

(K) by striking "Secretary" each place it appears (other than a place to which subparagraph (J) applies, the 1st place it appears in section 44903(d), in section 44903(b)(1), the 2nd place it appears in section 44907(b), the 3rd place it appears in section 44907(c), in section 44907(d)(1)(C), the 3rd place it appears in section 44907(d)(2)(A)(ii), the 2nd and 3rd places it appears in section 44907(d)(2)(B), in section 44907(d)(3), the 2nd place it appears in section 44907(d)(4), in sections 44907(e) and 44907(f), the 4th place it appears in section 44908(a), the 1st place it appears in section 44908(b), the 2nd place it appears in section 44909(a), and in sections 44910, 44911, 44912(a)(3), 44931, 44934, and 44938(a)) and inserting "Administration";

(L) in section 44905(g) by striking "Department of Transportation" and inserting "Federal Aviation Administration";

(M) in sections 44907(d)(1)(C), 44907(d)(3), 44907(e), and 44907(f) by inserting "or Federal Aviation Administration" after "of Transportation";

(N) in section 44907(d)(3) by inserting "or Administration" after "Secretary" the 2nd place it appears; and

(O) in the chapter analysis by striking the item relating to section 44932 and inserting the following:

"*44932. Civil aviation security.*".

(11) ALCOHOL AND CONTROLLED SUBSTANCES TESTING.—Chapter 451 is amended—

(A) by striking "Administrator of the" each place it appears; and

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies) and inserting "Administration".

(12) FEES.—Chapter 453 is amended—

(A) by striking "Administrator of the" each place it appears;

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies) and inserting "Administration";

(C) in section 45301(a) by inserting after "Secretary of Transportation" the following: "and the Federal Aviation Administration, as the case may be,"; and

(D) in section 45301(c)(4) by striking "Administrator's" and inserting "Administration's".

(13) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 is amended—

(A) in sections 46101(a)(1), 46102(a), 46103(a)(1), and 46104(a)—

(i) by striking "(or the Administrator of" and inserting "(or"; and

(ii) by striking "Administrator)" and inserting "Administration)";

(B) by striking "Administrator of the" each place it appears (other than a place to which subparagraph (A)(i) applies and in section 46101(b));

(C) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) or (B) applies) and inserting "Administration";

(D) in section 46109 by inserting "or the Federal Aviation Administration" after "Transportation"; and

(E) in the subsection heading to section 46107(c) by striking "ADMINISTRATOR" and inserting "ADMINISTRATION".

(14) PENALTIES.—Chapter 463 is amended—

(A) in section 46301(c)—

(i) by inserting "by other than air" after "transportation" in paragraph (1)(D);

(ii) by redesignating paragraph (2) as paragraph (3);

(iii) by inserting after paragraph (1) the following:

"(2) FAA NOTICE AND HEARING.—The Federal Aviation Administration may impose a civil penalty for violations under subsection (a)(1) of this section related to the transportation by air of hazardous material only after notice and an opportunity for a hearing.";

(iv) by inserting "or Administration, as appropriate," after "Secretary" in paragraph (3), as so redesignated; and

(v) by striking "paragraph (1) of" in such paragraph (3).

(B) in section 46301(d)(2) by striking "Administrator of the";

(C) in subsections (d) and (e) of section 46301—

(i) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies) and inserting "Administration"; and

(ii) by striking "Secretary" each place it appears and inserting "Administration";

(D) in section 46301(f) by inserting "or Administration, as the case may be," after "Secretary";

(E) in section 46301(g) by inserting "and an order of the Administration" before "imposing";

(F) in section 46301(h)(2) by striking the parenthetical phrase and inserting "or Administration, as appropriate,";

(G) in section 46302(b) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration";

(H) in section 46303—

(i) by striking "Secretary of Transportation" and inserting "Federal Aviation Administration"; and

(ii) by striking "Administrator of the";

(I) in section 46304—

(i) by striking "Administrator of the"; and

(ii) by striking "Administrator" each place it appears (other than a place to which clause (i) applies) and inserting "Administration";

(J) in section 46306 by striking "Administrator of the" each place it appears;

(K) in section 46308(2) by striking "Administrator of the";

(L) in section 46311—

(i) by striking "Administrator of the"; and

(ii) by striking "Administrator" each place it appears (other than a place to which clause (i) applies) and inserting "Administration";

(M) in section 46313—

(i) by striking "Administrator of the"; and

(ii) by striking "Administrator" the 2nd place it appears and inserting "Administration";

(N) in section 46315(b)(1) by striking "Administrator of the"; and

(O) in section 46316(a)—

(i) by striking "Administrator of the"; and

(ii) by striking "Administrator" the 2nd place it appears and inserting "Administration".

(15) SPECIAL AIRCRAFT JURISDICTION OF UNITED STATES.—Section 46505(d)(2) is amended by striking "Administrator of the".

(16) AIRPORT DEVELOPMENT.—Chapter 471 is amended—

(A) by striking "Secretary of Transportation" each place it appears (other than in section 47102(1)(A)) and inserting "Federal Aviation Administration";

(B) by striking "Secretary" each place it appears (other than a place to which subparagraph (A) applies, in sections 47101(h), 47102(1)(A), 47102(1)(B)(i), 47103(a), 47103(c), 47106(c)(2), 47107(j)(4), 47110(e), and 47112(b), and the 2nd and 3rd places it appears in section 47153(b)) and inserting "Administration";

(C) in section 47106(c)(1)(B)(ii) by inserting "of the Environmental Protection Agency" after "Administrator";

(D) in section 47106(c)(2) by striking "Secretary" and inserting "Federal Aviation Administration";

(E) in sections 47106(c)(3) and 47110(d)(2)(B) by striking "Secretary's" and inserting "Administration's";

(F) in section 47107(k) by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure";

(G) in section 47110(e)—

(i) by striking "Secretary" each place (other than the 2nd and 6th places) it appears and inserting "Federal Aviation Board"; and

(ii) by striking "Secretary" the 2nd and 6th places it appears and inserting "Federal Aviation Administration";

(H) in the heading for each of sections 47117(h), 47129(a)(3), and 47129(c) by striking "SECRETARY" and inserting "ADMINISTRATION";

(I) in the subsection heading for section 47129(a) by striking "SECRETARY'S" and inserting "ADMINISTRATION'S"; and

(J) in section 47130 by striking "Administrator of the".

(17) INTERNATIONAL AIRPORT FACILITIES.—Chapter 473 is amended—

(A) in section 47302—

(i) by striking "Secretary of Transportation" in subsection (a)(1) and inserting "Federal Aviation Administration"; and

(ii) by striking "Secretary of Transportation or" in subsection (c) and inserting "Federal Aviation Administration or the Secretary of";

(B) in section 47303—

(i) by striking "Secretary of Transportation or" and inserting "Federal Aviation Administration or the Secretary of"; and

(ii) in paragraph (1) by striking "Secretary" and inserting "agency head";

(C) in section 47304—

(i) by striking "Secretary of Transportation or" in subsection (a) and inserting "Federal Aviation Administration or the Secretary of";

(ii) by striking "Secretary" the 2nd and 3rd places it appears in subsection (a) and inserting "agency head";

(iii) by striking "Secretary of Transportation" the 1st place it appears in subsection (b) and inserting "Federal Aviation Administration";

(iv) by striking "Secretary of Transportation or" in subsection (b)(2) and inserting "Chief Executive Officer of the Federal Aviation Administration or the Secretary of";

(v) by striking "Secretary of Transportation" each place it appears in subsection (c) and inserting "Federal Aviation Administration"; and

(vi) by striking "Secretary of Transportation or" in subsection (d)(2) and inserting "Chief Executive Officer of the Federal Aviation Administration or the Secretary of";

(D) in section 47305—

(i) by striking "Secretary of Transportation" in subsection (a) and inserting "Federal Aviation Administration";

(ii) by striking "Secretary" the 3rd and 4th places it appears in subsection (a) and inserting "agency head"; and

(iii) by striking "Secretary of Transportation or" in subsection (b) and inserting "Chief Executive Officer of the Federal Aviation Administration or the Secretary of"; and

(E) in section 47306 by striking "Secretary of Transportation" and inserting "Federal Aviation Administration".

(18) NOISE.—Chapter 475 is amended—

(A) by striking "Administrator of the" each place it appears (other than the 1st place it appears in section 47502, the 2nd place it appears in section 47509(a), the 2nd place it appears in section 47509(c), the 2nd place it appears in section 47509(d), and the 2nd place it appears in section 47509(e));

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies, the 1st place it appears in section 47502, the 2nd place it appears in section 47509(a), the 2nd place it appears in section 47509(c), the 2nd place it appears in section 47509(d), and the 2nd place it appears in section 47509(e)) and inserting "Administration";

(C) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration"; and

(D) by striking "Secretary" each place it appears (other than a place to which subparagraph (C) applies) and inserting "Administration".

(19) FINANCING.—Chapter 481 (other than section 48109) is amended—

(A) by striking "Administrator of the" each place it appears;

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies) and inserting "Administration";

(C) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration";

(D) by striking "Secretary" each place it appears (other than a place to which subparagraph (C) applies and the 1st place it appears in section 48105) and inserting "Administration";

(E) in section 48102(d)(2) by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure"; and

(F) in section 48108(b)(2) by striking "Department of Transportation" and inserting "Federal Aviation Administration".

(20) MISCELLANEOUS.—Chapter 491 is amended—

(A) by striking "Administrator of the" each place it appears;

(B) by striking "Administrator" each place it appears (other than a place to which subparagraph (A) applies) and inserting "Administration";

(C) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration"; and

(D) by striking "Secretary" each place it appears (other than a place to which subparagraph (C) applies and in section 49103(b)(1)) and inserting "Administration".

(21) COMMERCIAL SPACE LAUNCH ACTIVITIES.—Subtitle IX is amended—

(A) by striking "Secretary of Transportation" each place it appears and inserting "Federal Aviation Administration";

(B) by striking "Secretary" each place it appears (other than a place to which subparagraph (A) applies, the 1st place it appears in section 70109(a), the 2nd place it appears in each of sections 70109(b), 70109(c), 70112(a)(2), and 70112(b)(2), the 2nd and 3rd places it appears in each of sections 70116(a) and 70116(b), in section 70117(b)(2), and the 2nd place it appears in each of sections 70303(b)(2) and 70304(a)) and inserting "Administration"; and

(C) in the subsection heading to section 70111(c) by striking "SECRETARY" and inserting "ADMINISTRATION".

(d) TITLE 5, UNITED STATES CODE.—

(1) EXECUTIVE SCHEDULE PAY RATES.—

(A) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by striking "Administrator, Federal Aviation Administration.".

(B) DEPUTY ADMINISTRATOR.—Section 5315 of such title is amended by striking "Deputy Administrator, Federal Aviation Administration.".

(2) DEFINITIONS.—Section 2109 of title 5, United States Code, is amended—

(A) by striking "Department of Transportation" each place it appears and inserting "Federal Aviation Administration"; and

(B) by striking "Secretary of Transportation" and inserting "Chief Executive Officer of the Federal Aviation Administration".

(3) EXPENSE OF TRAINING.—Section 4109(c) of title 5, United States Code, is amended by striking "Administrator, Federal Aviation Administration," and inserting "Federal Aviation Administration".

(4) REDUCTION IN RETIREMENT PAY FOR FORMER MEMBERS OF UNIFORM SERVICES.—Section 5532(f) of title 5, United States Code, is repealed.

(5) DIFFERENTIAL PAY.—Chapter 55 of title 5, United States Code, is amended—

(A) in the heading to section 5546a by striking "**the Federal Aviation Administration and**";

(B) in section 5546a(a) by striking "Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') and the";

(C) in subsections (a)(1), (a)(2), (c), (d), (e), and (f)(1) of section 5546a—

(i) by striking "Administrator or the" each place it appears; and

(ii) by striking "the Federal Aviation Administration or" each place it appears;

(D) by striking "; and" at the end of section 5546a(a)(2) and inserting a period;

(E) by striking paragraph (3) of section 5446a(a);

(F) in section 5546a(f)—

(i) by striking "(1)"; and

(ii) by striking paragraph (2); and

(G) in the item relating to section 5546a of the analysis for such chapter by striking "the Federal Aviation Administration and".

(e) COAST GUARD COOPERATION.—Chapter 5 of title 14, United States Code, is amended—

(1) in the heading to section 82 by striking "**Administrator of**";

(2) in sections 81, 82, and 90(b) by striking "the Administrator of" each place it appears;

(3) in section 90(b) by striking "Administrator may" and inserting "Administration may"; and

(4) in the item relating to section 82 of the analysis for such chapter by striking "Administrator of".

(f) ACCESS TO NATIONAL DRIVER REGISTER.—Section 30305(b)(3) of title 49, United States Code, is amended—

(1) by striking "the Administrator of"; and

(2) by striking "Administrator" each place it appears after the first and inserting "Administration".

(g) WOLF TRAP FARM PARK.—The Wolf Trap Farm Park Act (16 U.S.C. 284–284j) is amended—

(1) in section 4(e)—

(A) by striking "Administrator of the"; and

(B) by striking "Administrator" each place it appears after the first and inserting "Administration"; and

(2) in section 8(b) by striking "Administrator of the" each place it appears.

(h) CERTIFICATION OF FIREARMS.—Section 922(p)(5)(A) of title 18, United States Code, is amended by striking "the Administrator of".

(i) NATIONAL AIR AND SPACE MUSEUM ADVISORY BOARD.—Section 1(a) of the Act entitled "An Act to establish a national air museum, and for other purposes", approved August 12, 1946 (20 U.S.C. 77(a)), is amended by striking "Administrator of the Federal" and all that follows through the first succeeding comma and inserting "Chief Executive Officer of the Federal Aviation Administration,".

(j) FEDERAL PROPERTY.—Section 602(d)(14) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(14)) is amended by striking "Administrator of the" and all that follows through "or" and inserting "Federal Aviation Administration or".

(k) NOISE CONTROL.—The Noise Control Act of 1972 (42 U.S.C. 4901–4918) is amended—

(1) in section 12(a)(2)(B) (42 U.S.C. 4911(a)(2)(B))—

(A) by striking "Administrator of the";

(B) by striking "611 of the Federal Aviation Act of 1958" and inserting "44709(b)(1)(B) or 44715 of title 49, United States Code,"; and

(C) by striking "such Administrator" each place it appears and inserting "such Administration";

(2) in the last sentence of section 12(a) by striking "such Administrator" and inserting "the agency";

(3) in section 12(b)(1)(A) by striking "Administrator" the 2nd place it appears and inserting "Administration";

(4) in sections 12(b)(1)(B) and 12(e) by striking "Administrator" and inserting "agency";

(5) in section 12(c)—

(A) by striking "Administrator of the" the 2nd place it appears; and

(B) by striking "611 of the Federal Aviation Act of 1958," and inserting "44715 of title 49, United States Code,";

(6) in section 16(a) (42 U.S.C. 4915(a))—

(A) by striking "Administrator of the" the 2nd place it appears;

(B) by striking "611 of the Federal Aviation Act of 1958" and inserting "44715 of title 49, United States Code,"; and

(C) by striking "Administrator" the 3rd place it appears and inserting "agency";

(7) in section 16(b)—

(A) by inserting "the Federal Aviation" before "Administration"; and

(B) by striking "Administrator" each place it appears after the 1st and inserting "agency"; and

(8) in section 16(c) by striking "Administrator" and inserting "agency".

(l) PHASE-OUT OF HALON.—Section 604(d)(3) of the Clean Air Act (42 U.S.C. 7671c(d)(3)) is amended by striking "Administrator of the" each place it appears.

SEC. 15. REFERENCES.

A reference in any law, regulation, document, record, map, or other paper of the United States to the Secretary of Transportation (and any reference to the Administrator of the Federal Aviation Administration) with respect to a function which under this Act (including the amendments made by this Act) is made a function of the Federal Aviation Administration established by section 1311 of title 49, United States Code, shall be deemed to be a reference to the Federal Aviation Administration established by such section.

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act (including the amendments made by this Act) shall take effect on the 90th day following the date of the enactment of this Act.

(b) EXCEPTIONS.—Section 1312 of title 49, United States Code, and section 7 of this Act shall take effect on the date of the enactment of this Act. The amendments made by section 14(d)(5) of this Act, relating to differential pay, shall take effect on the date the Federal Aviation Board begins implementation of the personnel management system for the Federal Aviation Administration under section 1314(d)(2) of title 49, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] and the gentleman from Minnesota [Mr. OBERSTAR] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the FAA Revitalization Act. This is legislation which will put us in a position to move into the next century with a modern air traffic control system, with a system that will provide America and the world with the best FAA and the best air traffic control.

I am very pleased that we have 62 cosponsors. This is bipartisan legislation. The gentleman from Minnesota [Mr. OBERSTAR], the distinguished ranking member of the full committee; the gentleman from Illinois [Mr. LIPINSKI], the distinguished ranking member of the subcommittee; the gentleman from Tennessee [Mr. DUNCAN], the distinguished ranking member of the subcommittee; and myself all are among those 62 bipartisan cosponsors. This is legislation whose time has come.

Since airline deregulation in 1978, passenger traffic has more than doubled to now over 500 million passengers a year. Even more significantly, commercial air travel is increasing at a rate of between 4.5 and 5 percent a year, which means that as we move into the next century, we will soon experience 1 billion, that is with a B, commercial air travelers a year.

The 10 largest U.S. airlines conduct nearly 15,000 flights a day. If we add commuter, military and general aviation flights, there are over 107,000 flights per day. This is expected to increase by about another 20,000 flights a day by the year 2002. The FAA's existing structure simply does not give it the flexibility to cope, not only with the current situation, let alone this future growth.

As some of my colleagues know, my background is in the electronic computer industry. I was absolutely stunned to realize that vacuum tubes are still used in approximately 500 of the FAA air traffic control facilities. In fact, in 1994 the FAA spent nearly $50 million on the purchase of vacuum tubes. Most businesses replaced their vacuum tube computers many, many years ago.

Further, the FAA's cumbersome procurement process results in these aging computers constantly breaking down. In fact, there have been at least 6 failures at the air traffic control center in Leesburg, VA. The longest was a 28-hour outage just last June 7.

FAA officials say that computers failed 20 times during a 4-month period at very important centers such as Chicago, Washington, Dallas, Cleveland, and New York. Failures have also been reported at Boston, Kansas City, Atlanta, San Juan, Houston, Oakland, and Miami.

Indeed, beyond this very serious problem which must be corrected, the FAA's bureaucratic personnel system results in some air traffic control facilities being overstaffed while others are understaffed. Indeed, under the FAA's funding systems, users pay into the trust fund with no assurance of getting their money back in the form of proposed infrastructure investments. Indeed, GAO has stated that the FAA's management structure has often been unable to fully cope with all the problems.

The good news, however, Mr. Speaker, is that there is a solution. The solution is this legislation, which exempts the agency from current personnel and procurement laws and gives the FAA an opportunity to develop procurement and personnel systems best suited to its own unique mission. Further, this legislation makes the FAA independent so it would not be subject to the bureaucratic interference from DOT.

It creates a board to oversee the operation of the new independent agency. The board would select a CEO to actually run the agency. Indeed, this legislation is the answer to modernizing the FAA so that we can be in a position, as we move into the next century, to provide the kind of both safety and efficiency which is so necessary,

This legislation will make air travel safer. New computers, a rational personnel system, and quicker decisions will all make air travel safer.

It will also make flying more affordable. Today our airlines are experiencing delays which have an added cost of $2.5 billion a year. Savings from reductions in these delays can be passed on to passengers, so this will permit facilities to be more efficient all across the country.

Indeed, this legislation will reform and streamline bureaucracy. At least 200 positions at DOT can be eliminated, whose only job is to oversee the FAA. This legislation will reduce the regulatory burden on the aviation industry. There are provisions in this bill to ensure that the FAA considers the costs to air travelers as well as the benefits of major new regulatory initiatives.

For all these reasons, I would urge my colleagues to vote for this bipartisan legislation. It passed by voice vote without a single dissenting vote out of our committee, has strong bipartisan support, and I urge the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1545

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today marks a watershed day that I have long looked forward to since, in fact, 1987 when I introduced the first independent FAA bill, then with bipartisan support as we have today. But this is the first time in all the years that I have introduced and reintroduced that bill that it has made its way to the floor. For that, I salute our chairman of the full committee, the gentleman from Pennsylvania [Mr. SHUSTER], for his splendid cooperation, his willingness to move this legislation along as a high priority item for our committee. For that I salute our chairman of the Subcommittee on Aviation, the gentleman from Tennessee [Mr. DUNCAN], who has taken on the burdensome task of learning all the intricacies of aviation, learning the importance of this agency and its role in modern aviation not only in the U.S. but worldwide and who has become a champion of aviation in the brief tenure that he has had as our chairman, and to our ranking Democratic member, the gentleman from Illinois [Mr. LIPINSKI], who, though a longtime member of the Subcommittee on Aviation, has just recently assumed the role of the leader on our side for the Subcommittee on Aviation and who likewise has devoted himself and plunged in with great enthusiasm into this subject matter, and I am very grateful to the gentleman for the job he has done and for the workload and responsibility that he has shouldered.

For many years of hearings of inquiry into the FAA, of safety in the field of aviation, one issue has jumped out, and that is the role of the FAA within this huge Department of Transportation subjugated to the interest to the will, to the changing of the leadership at the top of this department, and consequently with effects upon the FAA itself, have oftentimes gone months without an administrator under both Democratic and Republican administrations, without regard to which party was in control of the government. The FAA continued to have a back door sort of relationship with the Department of Transportation and yet one in which the Secretary of Transportation was all too willing to insert himself or herself into the internal affairs of this safety-conscious agency.

It became so painfully clear to me that what Congress did in response to the Johnson administration's initiative in 1966, bringing all modes together in one Department of Transportation, was flawed in this respect: that the Federal Aviation Administration should not be included in that department, that it should be, as it rightfully ought to be, an independent agency. It ought to have its own independent status because that is the status of aviation. It stands separately in our national picture. It is at the heart of a $600 billion sector of our national economy. Ten percent of our gross domestic product is related to aviation.

The FAA ought to stand on a par, frankly, with the other departments of government and not be subsumed under one. At the hearings that we had on FAA reform, all but one of the living former administrators of FAA endorsed a concept of an independent agency. Those former administrators served over a 30-year period from 1961 to 1991 in which there was a revolution in technology in the field of aviation. They served in Democratic and Republican administrations from President Kennedy to President Bush. They served at a time when FAA was independent and at a time when it was part of the Department of Transportation, and every one of them said the FAA should be independent.

Now, the present Secretary of Transportation does not support that concept, and I understand no sitting Secretary of Transportation ever wanted to see the FAA become an independent agency. Of course, if the FAA is out from under DOT, the Secretary loses it as the majority of the Department of Transportation's total work force. And that is another problem that has disturbed me very much in this past year and a half when the FAA took more like 70 percent of the personnel reductions that the Department of Transportation experienced. That is unfair and unreasonable. They should not have had that kind of reduction.

Another concern that I have is in the rulemaking, particularly in the safety rulemaking side of the FAA's responsibility. And that I consider its primary responsibility. There are 15 signoffers on a rulemaking from the time it emanates from the office of certification until it becomes a rule, and more than half of that time spent in signoffs is the regulation marching its way through the Department of Transportation.

Well, as Chairman SHUSTER said a moment ago, there will be personnel savings if the FAA is moved out from under the department. There will be efficiency savings. There will be ability for the FAA to move ahead more effectively, more dynamically on modernization of the air traffic control system. And I think the whole aviation community in the United States and worldwide will have a greater sense of appreciation and respect for this autonomous, independent agency.

I use the word autonomous because the antidote for an independent FAA is a proposal to give the agency more flexibility or autonomy within the department. Friends, believe me, it will not happen. As long as the FAA is within the Department of Transportation, that agency, that department, is going to exert every measure of control that it can over the FAA, and doing business will simply be as it always has been.

We need a change. We need dynamic, progressive, forward-looking change in personnel, in procurement, in management of the safety function of the FAA, and being the leader worldwide in aviation, and restoring to FAA a leadership role as an independent agency will put it back in charge. And that is what we achieve with this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee [Mr. DUNCAN], the distinguished chairman of our subcommittee.

Mr. DUNCAN. Mr. Speaker, I thank the distinguished chairman of our full committee for yielding me this time. And let me pay a special tribute to the gentleman from Pennsylvania [Mr. SHUSTER], for his outstanding leadership in helping move this legislation through our committee and to the floor today, and particularly for the really tremendous job he is doing as chairman of our full committee.

H.R. 2276 is an outstanding bill that enjoys widespread bipartisan support here in the House. It will help bring long overdue and needed reforms to the Federal Aviation Administration.

I want to also thank my ranking member, the ranking member of my subcommittee, the gentleman from Illinois [Mr. LIPINSKI]. I do not think anyone could have a kinder ranking member than I do on our subcommittee, and we have really worked well together. I want to also though mention for a few moments the gentleman from Minnesota [Mr. OBERSTAR], because I do not think that anyone in the entire Congress knows aviation issues better than the gentleman from Minnesota [Mr. OBERSTAR]. He served as chairman of this subcommittee for many years, and he has really worked well with me in so many different ways, and I thank him for all of that and for this strong support of this legislation.

It would not be right though to go any further without mentioning our colleague from Iowa, Mr. JIM ROSS LIGHTFOOT. The gentleman from Iowa [Mr. LIGHTFOOT] really wrote the bulk, or a large portion of this bill, and his activities in regard to this legislation have also been tremendously meaningful in carrying this legislation forward.

Last year, the Subcommittee on Aviation held several days of hearings on various proposals to restructure our Nation's air traffic control system. From these hearings, it became very clear that a consensus of members as well as the aviation community supported an independent FAA. This process of which I am very proud has enabled us to develop an outstanding bill that has been endorsed by more than 30 leading aviation groups.

No other legislation in regard to aviation has ever had this kind of support. This bill has been endorsed by the Aircraft Owners' and Pilots' Association, the National Air Traffic Controllers' Association, the General Aviation Manufacturers' Association, the National Business Aircraft Association, the National Air Transportation Association, and many, many others.

I believe this legislation could be the most dramatic change in aviation since at least the Airline Deregulation Act of 1978, and perhaps since the Federal Aviation Act of 1958. I think we have a bill that the American people can and will support strongly.

I want the Members to know that this legislation is supported probably by every facet of the aviation community, business, labor, and all others.

Mr. Speaker, H.R. 2276 enjoys support from those representing general aviation, aircraft manufacturers, our Nation's small aircraft owners, the FAA air traffic controllers and many, many others. Also, as the gentleman from Minnesota [Mr. OBERSTAR] just pointed out, every living FAA former administrator, except for one who has not taken a position, supports this legislation. Since airline deregulation in 1978, air passenger traffic has doubled and is now over 500 million per year. According to several aviation experts, traffic is expected to top at least 800 million and maybe even a billion by the year 2002.

The 10 largest U.S. airlines conduct almost 15,000 flights per day at airports all across this country. If you add in commuter, military, and general aviation, there are over 107,000 flights every day. Unfortunately the FAA's existing structure does not give it the flexibility to cope with even the existing situation let alone future growth. The FAA's cumbersome procurement process brought on by years of bureaucratic inertia have resulted in aging computers and 30-year-old, air traffic control equipment that constantly breaks down. Their antiquated equipment causes airplanes to be delayed and certainly shakes public confidence in the safety of flying. In fact, air traffic computers have failed and continue to fail at centers all across this country.

Let me also say, Mr. Speaker, this legislation creates a new agency. It simply removes the FAA from the cumbersome bureaucracy and interference of the Department of Transportation. This agency will create a board that will also include three members, but will include also the Secretaries of Transportation and Defense. The board would select a chief executive officer to manage FAA's day-to-day operations.

For too long, the FAA's management structure has been stymied by outdated rules and big government policies that have not allowed for innovative management styles used by successful companies in the private sector. Today nearly every Federal independent agency, almost 30, are managed by boards. The only exceptions are law enforcement-type agencies.

Basically, Mr. Speaker, just to sum up, this legislation will really bring the FAA into the 21st century. It is very needed. Almost everyone who has looked at this agrees with this legislation. I am very proud of the product of our subcommittee and our full committee, and I urge the support by our Members.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. LIPINSKI], the distinguished leader for our side on the Subcommittee on Aviation.

Mr. LIPINSKI. Mr. Speaker, I thank the ranking member of the committee, whom I affectionately call "Mr. Aviation," for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2276, the Federal Aviation Administration Revitalization Act. I want to thank the chairman of the subcommittee, the gentleman from Tennessee, for all his work on this important legislation and for his leadership with the Aviation Subcommittee. I have enjoyed working with him and look forward to continuing to do so throughout the rest of the year.

I also want to commend the chairman of the full committee, the gentleman from Pennsylvania, and the ranking member of the full committee—my predecessor as the ranking member on this subcommittee—the gentleman from Minnesota. I know that this legislation is the product of considerable effort on all of their parts. I look forward to working with them to see this bill enacted into law.

Mr. Speaker, H.R. 2276 directly addresses the problems at the FAA that we unfortunately see spelled out on the nightly news on a regular basis. The bill recognizes that the problems at the FAA are systematic and not related to, or greatly affected by, any particular individual's management style or philosophy. It is time to make changes at the agency so that the very capable people leading the FAA can have flexibility, resources, and management tools to anticipate and develop policies for the changes coming in the highly dynamic aviation industry.

This bipartisan legislation has strong support within the Transportation and Infrastructure Committee and currently has 62 cosponsors. It is what the FAA needs to operate effectively and efficiently to meet the needs of the 21st century.

Mr. Speaker, I urge support of the legislation.

□ 1600

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the distinguished senior member of our committee.

Mr. CLINGER. Mr. Speaker, I thank the chairman very much for yielding this time to me, and want to commend him for his outstanding leadership in helping shape this important piece of legislation and bringing it to the floor today in an expedited fashion. In fact, I want to commend all of those who have been involved in shaping this legislation. As the gentleman from Minnesota [Mr. OBERSTAR] said, this is indeed an exciting day, sort of a landmark day for the entire aviation community, and I am pleased to rise in very strong support of this extremely important piece of legislation.

Mr. Speaker, I did serve for 6 years as the ranking Republican on the Subcommittee on Aviation working with my good friend and mentor, and most of what I have learned about aviation matters came from JIM OBERSTAR. We worked very hard and held countless hearings about the enormously, enormously complex regulations under which FAA has to operate to build and install a new air traffic control system.

The FAA is a case book example, Mr. Speaker, of Government regulation run amok. The result has been a monumental bungling of one of the most critically needed initiatives ever undertaken by the FAA, which is the development and purchase of an advanced automation system, This system was to have replaced our 1950's era air traffic control system. No matter the FAA began in the early 1980's to replace this outdated system, today, 25 years later 26 years later, they are still relying on the same vacuum-tube equipment to keep aircraft moving through our airways, and this is just really one example.

Mr. Speaker, I spent much of last year pursuing fundamental governmentwide procurement reform, and I am pleased in February the President signed the DOD Authorization Act, which included many of the procurement reforms I have been seeking for some time. Unfortunately, the final outcome of that legislation fell somewhat short of our initial expectations. What I had hoped for was bold procurement reform for every agency of the Federal Government.

With H.R. 2276, we have an opportunity at least to give the FAA an opportunity to make those bold reforms in procurement and personnel management. This is long overdue. Before we waste many more years and many hundreds of millions of dollars developing systems, we should enact this legislation. I urge my colleagues to support H.R. 2276.

Mr. SHUSTER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. WELLER] the vice chairman of the Subcommittee on Aviation.

Mr. Speaker, I want to note that the hearing we held in Illinois at the request and urging of the gentleman from Illinois [Mr. WELLER] to examine the power outages at the air traffic control center in Aurora outside of Chicago, was very instrumental in helping us to develop the legislation which is before us today, and I want to thank the gentleman for his very significant contribution to this legislation.

Mr. WELLER. Mr. Speaker, I do want to commend the gentleman from Pennsylvania, Chairman SHUSTER, and the gentleman from Tennessee, Chairman DUNCAN, and the ranking members for this bipartisan effort on an issue that is so very important. This legislation, frankly, is sorely needed.

Mr. Speaker, at the Aurora air traffic control center serving the world's busiest airport, Chicago-O'Hare, there are 30-year-old computers that are still programmed with computer punch cards, and today the FAA is still the world's largest purchaser of vacuum tubes. Clearly these technologies, computer punch cards and vacuum tubes, are technologies that have been abandoned by the private sector decades ago. This is clearly an illustration of why we need to bring the FAA into the 21st century.

Mr. Speaker, I rise in support of H.R. 2276, the FAA Revitalization Act. Recent computer shutdowns at various air traffic control centers have brought to the forefront an issue of grave concern regarding air traffic safety. Aurora air traffic control center, which serves the world's busiest airport, Chicago O'Hare, is equipped with a 1960's vintage IBM 9020 E computer.

Last year this computer was shut down at least 10 times. In fact, at one time in August this computer was shut down for 29 hours, delaying air operations throughout the country. Five other major air traffic control centers are equipped with this same computer. There have been over 50 failures among these five sites within the past year. It is clear that this outdated and antiquated equipment is more prone to experience problems and outages, and it is time to bring the FAA into the 21st century.

Unfortunately, the FAA today is operating under burdensome, cumbersome procurement personnel procedures that make it difficult to replace outdated equipment and ensure that facilities are properly staffed.

I would like to touch briefly on the situation we are facing with the replacement computers known as the Advanced Automation System. This new computer system, which was to be installed in Chicago and other centers, is 10 years behind schedule and an estimated $4 billion over budget. The FAA has made a commitment to put in place interim computers at these centers. However they will not be operational at least for a year and a half. Mr. Speaker, I urge that this legislation be adopted.

Mr. SHUSTER. Mr. Speaker I am pleased to yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT], one of the architects of this legislation.

Mr. OBERSTAR. Mr. Speaker, I yield 15 seconds to the gentleman from Iowa.

The SPEAKER pro tempore [Mr. CAMP]. The gentleman from Iowa [Mr. LIGHTFOOT] is recognized for 2¼ minutes.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I wish to pay compliment to the gentleman from Iowa [Mr. LIGHTFOOT] for the long years of work that he has devoted in the field of aviation and to this issue of an independent FAA. The gentleman has been a strong voice and a consistent voice, a strong point of support, and I salute him for all his contributions to the formulation of this legislation and getting us to the point where we are today.

Mr. LIGHTFOOT. Mr. Speaker, reclaiming my time, I thank the gentleman for his kind comments and would like to return the favor as well, because part of what we put together the gentleman drew the original blueprint for.

Mr. Speaker, I rise today in support of H.R. 2276, the FAA Revitalization Act. At the outset, let me commend Chairmen SHUSTER and DUNCAN and ranking members OBERSTAR and LIPINSKI for bringing forward this important legislation for our consideration today. Let me also congratulate the staff of the Aviation Subcommittee on its hard work getting us here.

Last year, the Secretary of Transportation, Federico Peña, testified that the Clinton administration proposal for a Government owned air traffic control corporation was the only solution to the problems that exist at the FAA. I was very skeptical of this proposal because I personally do not believe we should separate the FAA's safety oversight function from the operation of the air traffic control system. Further, the General Accounting Office concluded that some of the financial assumptions used by the administration made the corporation proposal look superficially attractive to those of us trying to balance the Federal budget—but were not necessarily realistic.

In response to the problems we all agree on, that FAA needs personnel, procurement, and financial reforms, I introduced H.R. 1392, legislation restoring FAA to independent agency status. Frankly, very little in this town is original and my proposal owed a great deal to previous work on this issue by folks like JIM OBERSTAR, WENDELL FORD, and Barry Goldwater.

Shortly thereafter, the chairman of the Aviation Subcommittee, Representative DUNCAN, concluded his extensive series of hearings on FAA reform and also concluded that restoring FAA to independent agency status was the best alternative for reform. In September, working as a bipartisan team, we introduced the bill before the House today.

H.R. 2276 largely resembles my original legislation. It restores the FAA to independent agency status. It permanently exempts FAA from certain onerous procurement and personnel regulations. However, the legislation also establishes a Federal Aviation Board to make major decisions and a Management Advisory Committee composed of high level industry representatives to advise the FAA on certain management, policy, spending, and regulatory matters. I am certain these provisions will help make the FAA become a more businesslike agency.

I share the concerns expressed by Mr. LIVINGTON, Mr. WOLF, and others about the "off-budget" provisions originally included in this bill. As you all know, the issue of whether to take the trust funds off budget is a difficult and divisive one. I commend Mr. SHUSTER and Mr. DUNCAN for dropping those provisions, temporarily I am sure, so as to allow this bill to move forward today.

However, the bill does contain language creating a select panel to review innovative funding mechanisms such as loan guarantees and restructured grant programs, to ensure funds are available for future improvements in the Nation's aviation infrastructure. I hope the panel will look closely at the concept of linked funding, developed by the Aircraft Owners and Pilots Association, which will link aviation taxes collected to aviation funding. I am currently drafting legislation to implement this concept to see if it may hold part of the solution to our trust fund difficulties.

Just as importantly, the bill will allow us to terminate 200 positions at the Department of Transportation—eliminating duplicative bureaucracy that wastes taxpayer dollars. Taxpayer dollars which could be better spent funding priority transportation needs.

In closing, I would like to comment on the Secretary of Transportation's position regarding this legislation. The Secretary's opposition to an independent FAA is understandable. FAA represents most of his budget and employees.

But the Secretary chooses to deliberately misrepresent this legislation. He portrays this legislation as creating a new bureaucracy. Far from it, as we have already shown, this legislation will reduce over 200 duplicative positions within DOT. In fact, it is my hope this legislation will start another debate—about the future of the Department of Transportation.

When it became clear there was no support for the administration's ATC corporation proposal, the Secretary suddenly decided that aviation faced an imminent funding crisis. So now, the administration proposes we abandon the current system of aviation excise taxes and set up an entirely new system of aviation taxes—taxes to be determined by the administration and raised as it sees fit.

The basis of the administration's so-called funding crisis comes from a projection of FAA's future spending needs versus an extrapolation of future funding based on recommendations made by the joint budget resolution.

But this funding crisis is, in my opinion, a phony one. At the request of the Transportation Appropriations Subcommittee, the GAO has been looking into the methods and assumptions associated with this so-called funding crisis. An interim report delivered to the Transportation Subcommittee last week indicates the Administration, in documenting the so-called crisis, is once again rigging the financial assumptions to get a predetermined answer.

As an example Mr. Speaker, the administration forgot to include the $2.4 billion in savings over the next 5 years which it estimates will come from the personnel and procurement reforms included in this legislation and last year's transportation appropriations bill. If we didn't know better, we would think this phony funding crisis was just another scare tactic from an administration whose resistance to a 7-year balanced budget is well known.

Because of the administration's ongoing practice of cooking the books to get a predetermined answer and as a means of further resolving any doubt about the future funding needs of the FAA, the bill now includes a provision directing an independent audit of the FAA. This proposal, first advanced by my friend from the other body, Senator STEVENS, will also help Congress establish how much, if any, of a funding shortfall might lie ahead for the agency.

Companion legislation in the other body would pursue drastic measures to deal with a perceived crisis. GAO is already showing this funding shortfall may be based on unreliable information provided by the administration. In the past few years, you have heard a lot of rhetoric from the FAA about making the agency run more like a business. Well no business should be based on the sloppy propaganda we have gotten from the administration about this so-called funding crisis.

Mr. Speaker, this bill does not create the Secretary of Transportation's Government-owned corporation, or as I call it, the Postal Service of the Skies. It also does not give the Secretary the new taxes he wanted because they simply are not justified. What we have here on the floor today is a bill that everyone should support. A bill which has the support of the entire aviation community and a bill which will satisfy your constituents' demand for a safe and efficient air transportation system. I urge all my colleagues to support this legislation.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey [Mr. FRANKS], a very important member of our committee.

Mr. FRANKS of New Jersey. Mr. Speaker, first I want to congratulate the gentleman from Pennsylvania, Chairman SHUSTER, the gentleman from Tennessee, Chairman DUNCAN, the gentleman from Illinois, Mr. LIPINSKI, and the gentleman from Minnesota, Mr. OBERSTAR, for their excellent work in bringing this bill to the floor today.

Mr. Speaker, today I rise in strong support of H.R. 2276, the Federal Aviation Administration Revitalization Act of 1995. Although this bill contains many worthwhile provisions that will modernize and improve the FAA, I want to bring to my colleagues' attention an amendment I offered in full committee that is of particular importance to my constituents, many of whom have been severely impacted by aircraft noise. Specifically, my amendment would establish the position of aircraft noise ombudsman within the FAA.

The idea of an aircraft noise ombudsman is long overdue. In my home State of New Jersey, the FAA has either arrogantly dismissed or totally ignored the pleas from my constituents for relief. After the Expanded East Coast Plan [EECP] was implemented by the FAA in 1987, it took years for the FAA to even react to the significant increase in aircraft noise over New Jersey that resulted from their policies. By passing this bill today, Congress will ensure that there will be an advocate in the FAA bureaucracy who will represent the concerns of residents affected by airline flight patterns.

This amendment also gives citizens someone to turn to should they have a comment, complaint, or suggestion dealing with aircraft noise. As the experience in New Jersey demonstrates, the FAA views the very real concerns of our constituents regarding aircraft noise as nothing more than a minor inconvenience. For example, when the

FAA was flooded by telephone calls from irate citizens after the EECP was implemented, their response was to belatedly install an answering machine on a single telephone line which was constantly jammed and to which citizens were unable to get through. The American people deserve better treatment when it comes to the decisions that directly affect their quality of life.

Moreover, by requiring the ombudsman be appointed by the FAA Board, and not by the Administrator, Congress will be assured that the position will be filled by a fair and independent individual, and not simply serve as a mouthpiece for the FAA bureaucracy. Ideally, I believe an aircraft noise activist from New Jersey would be the perfect candidate for this new position. After all, no group of citizens are more familiar with aircraft noise or the FAA bureaucracy than my constituents.

Mr. Speaker, my amendment is extremely important to the people of New Jersey, and to the residents of any area of the Nation affected by aircraft noise. I urge my colleagues to demonstrate to their constituents that Congress is genuinely interested in mitigating the effects of aircraft noise by passing this excellent bill.

Mr. SHUSTER. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. WOLF] the distinguished chairman of the Subcommittee on Transportation of the Committee on Appropriations.

Mr. WOLF. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I understand that the gentleman has proposed an amendment in the nature of a substitute which differs in numerous ways from the bill, H.R. 2276, that was reported out. I am told the most significant of these changes involved the deletion of the off budget provisions. Is that accurate?

Mr. SHUSTER. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. WOLF. Mr. Speaker, I thank the chairman for that. The other thing, for purposes of clarity, would the gentleman briefly describe what are some of the other changes that were made from the bill?

Mr. SHUSTER. I would yield to the distinguished chairman of the subcommittee, the gentleman from Tennessee, [Mr. DUNCAN], for an answer.

Mr. DUNCAN. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Tennessee.

Mr. DUNCAN. Mr. Speaker, the main provision was to take the off budget proposal out. We have another insertion there that would allow any savings from the FAA from their appropriation to be used, half to go to bonuses for FAA employees and half to be applied to the deficit. This was simply a way to try to encourage some savings by a Federal agency as a way to help in a small way the deficit. But I can assure the gentleman we meant in no way to try to sneak this through or pull anything over on the Committee on Appropriations. I can assure the gentleman that we will work with the gentleman to remove any objections that either the gentleman from Virginia or the Committee on Appropriations would have in regard to this particular provision.

Mr. MARTINI. Mr. Speaker, I rise today in support of the Federal Aviation Administration Revitalization Act of 1995, H.R. 2276. As a member of the House Transportation Subcommittee on Aviation and a cosponsor of this bill, I recognize the strong need to revamp and modernize the FAA to provide the safest, most efficient, and most cost-effective delivery of service available.

It is clear that as the aviation industry grows, the FAA's existing structure does not have the flexibility to grow with it. This is a responsible bill and exemplifies our efforts to maximize resources. First, it will modernize this outdated bureaucratic structure. Next, it will help make air travel—a key component of our economy—more productive, allowing the FAA to design its own personnel rules and avoid interference within the Department of Transportation. Last, with this new structure in place, Federal dollars can finally be used for new equipment and aviation personnel, not Government bureaucrats.

Of specific concern to me and thousands of my constituents in northern New Jersey is aircraft noise. What has happened over the last 5 to 8 years has been disheartening to say the least. We have seen the FAA, a Federal bureaucracy seemingly so set in its ways, virtually dismiss the concerns raised by homeowners affected by Federal policies which have increased overhead noise. Mr. Speaker, imagine the frustration felt by the taxpaying citizens of Montclair, NJ, who continue to be ignored and watch as the quality of their life erodes in the wake of thunderous jet engines. Perhaps the FAA's ears have grown deaf to concerns from the very noise they have created.

The people of New Jersey need someone within the FAA who is receptive to legitimate noise of concerns. By supporting this important piece of legislation, Congress will ensure the residents of New Jersey that their concerns will have a seat at the policymaking table. And while I believe H.R. 2276 is a giant step in the right direction, I will continue to closely monitor all FAA policies which could adversely affect my constituents. From this time on the FAA will be accountable for its decisions.

I urge my colleagues to join me in support of this bill and give the American people what they deserve—safe and effective air travel.

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H.R. 2276, the Federal Aviation Administration Revitalization Act. This well-crafted bill, introduced by Congressman LIGHTFOOT and House Aviation Subcommittee Chairman JOHN DUNCAN Jr., was unanimously approved by the Aviation Subcommittee and the full House Transportation Committee, and enjoys strong bipartisan support. Moreover, it is widely supported by the general aviation industry.

H.R. 2276 presents an opportunity to change and improve our Nation's aviation system. For years, those in the aviation industry have stressed the crucial need for FAA reform, and the need for the FAA to acquire state-of-the-art equipment in a timely manner. H.R. 2276 accomplishes this goal. This bill makes the FAA independent of the Department of Transportation, allowing the FAA to manage and regulate the safety of the air traffic control system without second-guessing or interference by the Department of Transportation, it frees the FAA from burdensome Federal procurement and personnel rules, and it establishes a commonsense management structure for the FAA.

By passage of H.R. 2276, Congress is demonstrating its commitment to strengthening the FAA and supporting general aviation and other segments of the aviation industry. I urge the prompt passage of this legislation so that we can ensure a safer and more efficient aviation system for America and its air travelers.

Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 2276, the Federal Aviation Administration Revitalization Act which is before us today.

This bill, briefly, calls for the strengthening of the FAA by creating it as a separate agency, and will make other meaningful and much needed changes in the management of this most critical of Federal agencies.

Important to our consideration of this bill, and I call it to the attention of all my colleagues, is that it provides for the implementation of numerous reforms of the Agency's procurement and personnel management practices. When enacted, this bill will provide the FAA and its employees the necessary framework within which equipment modernization, cost savings, and labor-management teamwork can be fostered and will serve as a model for other Federal agencies.

It is urgent also that we enact this legislation in order to protect and preserve the applicability to the FAA of certain portions of title 5 of the U.S. Code critical to ensure that FAA employees can continue to have the statutory authority to be represented before the Agency and closely work with management to further implement needed reforms in a cohesive, structured fashion.

Many other changes to the Agency's structure, leadership, and operation are contained in the bill, and are equally important to ensure the continued safety of the Nation's air transportation system.

As many of my colleagues are aware, H.R. 2276 originally contained a provision to remove the aviation trust funds off-budget, but in an agreement with the Republican leadership, this portion of the bill has been removed in order for it to be considered under suspension of the rules. I remain committed to this change, and will hope for consideration of a free-standing bill, H.R. 842, that will take both aviation, highway, and other trust funds off budget later this session.

The importance of this bill is second only, in my view, of our need to increase spending on our aviation infrastructure, rather than continue the reductions in spending for such as the Airport Improvement Program [AIP] we have seen over the past several funding cycles. It is my hope that we can, through the aviation funding study authorized in the bill, be provided useful information on innovative financing mechanisms that could be used to fund FAA operations and the development of aviation infrastructure. In the meantime, I believe that the dedicated funds, which are now in surplus, contained in the trust fund for aviation purposes should be spent for the purpose intended.

Mr. EWING. Mr. Speaker, I want to thank Chairman SHUSTER and Aviation Subcommittee Chairman DUNCAN for the expert leadership they have demonstrated in bringing this much-needed fundamental FAA reform legislation before the House of Representatives today. As a member of the Aviation Subcommittee, and as a frequent flyer, I am committed to ensuring that our Nation's aviation system remains the safest and most efficient in the world. H.R. 2276, the FAA Revitalization Act, is sound bipartisan legislation that will strengthen and improve U.S. aviation.

H.R. 2276 will restore efficiency and accountability to the FAA by removing FAA from U.S. Department of Transportation control and establishing it as an independent agency. The new FAA will have a corporate structure, with a five-member Board of Directors, and a chief executive officer from the aviation industry who will oversee the Agency's daily operation. This arrangement will provide direct accountability and improve FAA's responsiveness to the aviation community. It will also save taxpayers money by eliminating 200 FAA oversight positions in DOT.

However, the reforms contained in H.R. 2276 are not just structural. The bill implements desperately needed personnel and procurement reforms. Under current rules, the FAA does not have the flexibility to sufficiently allocate employees to facilities that are chronically understaffed, like the Chicago en route center, while other facilities are over staffed. H.R. 2276 grants FAA private sector-like powers to hire and dismiss employees, a well as the additional flexibility to offer incentives to employees for accepting jobs in hard to staff facilities. This personnel flexibility is achieved with the support of each major FAA employee union, and without weakening employee's rights to collectively bargain.

Finally, H.R. 2276 implements critical FAA procurement reforms. Current Federal procurement rules are so inefficient and cumbersome that new equipment is often outdated by the time it is installed. This problem not only deprives the traveling public and the aviation community of the latest and best equipment, but it frequently results in substantial Government waste and chronically over-budget projects. For example, the FAA's plans to replace its aging en route traffic control computers with the new advanced automation system [AAS] is nearly 10 years behind schedule and approximately $4 billion over its original budget. These cost overruns and delays are clearly unacceptable by any reasonable standards.

Mr. Speaker, H.R. 2276 is true reform legislation. It will fundamentally improve and restructure the FAA, which will benefit anyone who flies in the United States. For all the reasons I have outlined above, I urge all of my colleagues to support passage of H.R. 2276.

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise in support of H.R. 2276, the Federal Aviation Revitalization Act of 1996. This legislation assures that an independent Federal agency will assume the current powers of the Federal Aviation Administration [FAA], for aviation safety, air traffic control, airway modernization, and yes, aircraft noise mitigation. As a Nation we are very dependent on aviation for movement of our citizens and movement of many goods and products. We need an agency that is responsible to the aviation industry, air travelers, as well as all taxpayers across our Nation.

In my view and the view of many aviation professionals, the stonewalling and arrogance which characterize the FAA's response to noise complaints, reflects the culture, attitudes, and philosophy of its parent bureaucracy, the U.S. Department of Transportation [DOT]. Making the FAA independent of the massive DOT bureaucracy, as well as the creation of the Management Advisory Committee and the Aircraft Noise Ombudsman, will enable the FAA to better represent the taxpayers. In a streamlined and independent agency, no decisionmaker will be able to hide behind layers of DOT bureaucracy. The three members of the Federal Aviation Board, who will administer the FAA, will be more visible and publicly accountable.

My colleague from New Jersey, Congressman BOB FRANKS, and his constituents, have experienced the same frustrations as I have with the FAA bureaucracy in the DOT. His successful effort to include in this legislation the creation of an Aircraft Noise Ombudsman directly addresses the needs for the taxpayers to have an advocate for their concerns regarding the very important issue of aircraft noise mitigation. The success of the Aircraft Noise Ombudsman will depend on the degree to which the FAA changes its approach toward communicating with taxpayers and Congress. The establishment of the FAA as an independent agency provides a positive starting point.

Consequently, Mr. Speaker, I ask that my colleagues support H.R. 2276 and give the American taxpayers a more responsive and efficient Federal Aviation Administration.

Ms. BROWN of Florida. Mr. Speaker, Chairman SHUSTER, Congressman OBERSTAR, Congressman DUNCAN, Congressman LIPINSKI, and I want to commend and congratulate you for working together in a bipartisan fashion to bring a good bill to the House floor.

H.R. 2276, the FAA Revitalization Act, addresses FAA's serious bureaucracy and procurement problems while ensuring that Congress keeps an important oversight role. H.R. 2276 makes the FAA an independent agency separate from DOT but still part of the executive branch. H.R. 2276 exempts the Agency from personnel and procurement systems, subject to congressional review. However, this bill does require FAA to develop new personnel and procurement systems tailored to meet the FAA's specific needs while still maintaining important employee rights such as whistleblowers protection, labor-management relations, and laws prohibiting discrimination. That's why it is important that H.R. 2276 be enacted into law before April 1.

If this bill is not enacted into law before April 1, then the fiscal year 1996 Transportation Appropriations Act's requirement that the FAA establish new personnel and procurement rules will go into effect. Unfortunately, the Appropriations Act does not require the FAA to adhere to employee rights that are clearly stated in H.R. 2276, especially the protection of labor-management relations. For the last several months, I have been hearing from FAA employees in my district who are very concerned that Congress will not meet its April 1 deadline and that they will lose their rights to negotiate with the FAA about the new personnel system. These employees have a great deal at stake. Let's get this bill enacted before it's too late.

Again, I commend my colleagues on their fine work and would ask my colleagues to support this bill.

Mr. DOYLE. Mr. Speaker, I rise today in support of H.R. 2276, the FAA Revitalization Act. This bill illustrates that viable, productive solutions can be achieved when both parties examine an issue thoughtfully and approach reform reasonably. In my view, H.R. 2276 serves both to increase the safety of air travel while protecting the rights and needs of air traffic personnel. Recent events at the Pittsburgh International Airport near my district in western Pennsylvania showcase the difficulties which can inhibit maintaining a high degree of air traffic safety in our country.

The development of a new procurement system will help to ensure that air traffic personnel obtain proper safety equipment in a more timely manner. The reduction of the often overwhelmingly burdensome Federal procurement rules will increase safety effectiveness as well as guard against increased costs, waste, and abuse. As I am always concerned how legislation will affect the working men and women in Pennsylvania's 18th Congressional District, I am pleased that H.R. 2276 explicitly states that new FAA personnel systems would not be exempt from whistleblowers protection laws, laws prohibiting discrimination or strikes, workers and unemployment compensation, retirement, labor-management relations, and life and health insurance laws. The air traffic workers in my district support this legislation, and eagerly anticipate its enactment so that they will be able to maximize their ability to maintain the high level of air traffic safety that is absolutely necessary.

I would like to conclude my remarks with words of encouragement for removing the Federal Airport and Airway Trust Fund from the unified Federal budget. As a cosponsor of H.R. 842, the Truth in Budgeting Act, I was disappointed to find that off-budget provisions were deleted from the final language of the bill. As a cosponsor, I encourage my colleagues to support final passage of H.R. 2276 today, and I look forward to debating the merits of H.R. 842 in the near future. Revitalizing the FAA will benefit travelers, air traffic personnel, and the efficiency and effectiveness of the overall safety of air travel.

Mr. SHUSTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and ask all Members to support this very important landmark legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. SHUSTER] that the House suspend the rules and pass the bill, H.R. 2276, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2276, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1615

BI-STATE DEVELOPMENT AGENCY, BY THE STATES OF MISSOURI AND ILLINOIS

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 78), to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois, as amended.

The Clerk read as follows:

H.J. RES. 78

Whereas the Congress in consenting to the compact between Missouri and Illinois creating the Bi-State Development Agency and the Bi-State Metropolitan District provided that no power shall be exercised by the Bi-State Agency under the provisions of article III of such compact until such power has been conferred upon the Bi-State Agency by the legislatures of the States to the compact and approved by an Act of Congress; and

Whereas such States have now enacted certain legislation in order to confer certain additional powers on such Bi-State Development Agency: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the consent of Congress is hereby given to the additional powers conferred on the Bi-State Development Agency of the Compact Between Missouri and Illinois approved under the Joint Resolution of August 31, 1950 (64 Stat. 568) by section 70.378 of the Act of May 26, 1993 (1993 Mo. Laws 382) and section 5 of Public Act 88-611, Laws of Illinois 1994.

(b) The powers consented to in subsection (a) and conferred by the laws referred to in such subsection shall take effect on January 1, 1995.

SEC. 2. The provisions of the Joint Resolution of August 31, 1950 (64 Stat. 568) shall apply to the additional powers approved under this joint resolution to the same extent as if such additional powers were conferred under the provisions of the compact consented to in such Joint Resolution.

SEC. 3. The right to alter, amend, or repeal this joint resolution is expressly reserved.

SEC. 4. The right is hereby reserved to the Congress to require the disclosure and furnishings of such information or data by the Bi-State Development Agency as is deemed appropriate by the Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as everyone knows by now, the Constitution of the United States empowers, no, directs the Congress to approve any kind of compact that may be entered into by any of the several States. If more than one State wishes to join with another in a joint venture, the consent of the Congress must be sought and obtained under the Constitution.

So, from time to time, we here in the House, in fact the entire Congress has to entertain importunings from various States to approve such compacts.

Back in 1950 there was such a compact approved by the Congress between Missouri and Illinois having to do with a joint venture across the river that divides them, and that compact was approved. That had to do with planning, development, et cetera. Now, the two States have found reason to come back to the Congress because one of the agencies that they empowered began operating a light-rail transit system and requested that the respective legislatures authorize it to appoint or employ a security force to prevent fare evasion and other misconduct on the system.

So, the Illinois Legislature and the Missouri Legislature did exactly that, passed their own concurrent legislation, as it were, which they referred to us for our consent, and that is the gist of this bill.

Mr. Speaker, we ask that the Congress approve it with first a vote here in the House. Our subcommittee and the full committee approved the passing of this legislation and have brought it to this stage in the legislative process.

Mr. Speaker, I reserve the balance of my time.

Mr. REED. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill. I know of no objections to this legislation. House Joint Resolution 78 seeks congressional approval for additional powers conferred on the Bi-State Development Agency of Missouri and Illinois by those two State legislatures. These additional powers involve the jurisdiction of various local police officers to make arrests on the light-rail system and the agency's efforts to prosecute fare evaders.

Mr. Speaker, I urge speedy passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. COSTELLO. Mr. Speaker, I rise today in support of House Joint Resolution 78, of which I am a cosponsor. This legislation is necessary to give enforcement authority to the Bi-State Development Agency, the local organization that operates the mass transit system in the St. Louis metropolitan region. Bi-State was originally established by the States of Illinois and Missouri and approved by the U.S. Congress. However, that compact did not give Bi-State the authority to appoint or employ a security force or to enact rules and regulations governing fare evasion and other conduct.

As Bi-State has expanded from providing transit via buses to the large-scale and widely known success of the MetroLink light rail system, its needs have changed. With its growth and new responsibilities, the agency now requires more authority to enact rules and regulations on fare collection and to employ a security force. MetroLink passengers currently pay fares through a barrier-free, self-service, proof-of-payment system. This system, while successful, needs a consistent enforcement policy to ensure fare compliance.

The agency does not currently have the authority to enact these rules under the original compact approved by the U.S. Congress. Because both the Illinois and Missouri Legislatures have acted to extend Bi-State's authority and because local officials and Members of Congress from the region support the change, I urge my colleagues to support passage of this legislation.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 78, as amended.

The question was taken.

Mr. GEKAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HISTORIC CHATTAHOOCHEE COMPACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2064) to grant the consent of Congress to an amendment of the historic Chattahoochee compact between the States of Alabama and Georgia.

The Clerk read as follows:

H.R. 2064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO THE HISTORIC CHATTAHOOCHEE COMPACT BETWEEN THE STATES OF ALABAMA AND GEORGIA.

The consent of Congress is given to the amendment of articles I, II, and III of the Historic Chattahoochee Compact between the States of Alabama and Georgia, which articles, as amended, read as follows:

"ARTICLE I

"The purpose of this compact is to promote the cooperative development of the Chattahoochee valley's full potential for historic preservation and tourism and to establish a joint interstate authority to assist in these efforts.

"ARTICLE II

"This compact shall become effective immediately as to the States ratifying it whenever the States of Alabama and Georgia have ratified it and Congress has given consent thereto.

"ARTICLE III

"The States which are parties to this compact (hereinafter referred to as 'party States') do hereby establish and create a joint agency which shall be known as the Historic Chattahoochee Commission (hereinafter referred to as the 'Commission'). The Commission shall consist of 28 members who shall be bona fide residents and qualified voters of the party States and counties served by the Commission. Election for vacant seats shall be by majority vote of the voting members of the Commission board at a regularly scheduled meeting. In Alabama, two shall be residents of Barbour County, two shall be residents of Russell County, two shall be residents of Henry County, two shall be residents of Chambers County, two shall be residents of Lee County, two shall be residents of Houston County, and two shall be residents of Dale County. In Georgia, one shall be a resident of Troup County, one shall be a resident of Harris County, one shall be a resident of Muscogee County, one shall be a resident of Chattahoochee County, one shall be a resident of Stewart County, one shall be a resident of Randolph County, one shall be a resident of Clay County, one shall be a resident of Quitman County, one shall be a resident of Early County, one shall be a resident of Seminole County, and one shall be a resident of Decatur County. In addition, there shall be three at-large members who shall be selected from any three of the Georgia member counties listed above. The Commission at its discretion may appoint as many advisory members as it deems necessary from any Georgia or Alabama County, which is located in the Chattahoochee Valley area. The contribution of each party State shall be in equal amounts. If the party States fail to appropriate equal amounts to the Commission during any given fiscal year, voting membership on the Commission board shall be determined as follows: The State making the larger appropriation shall be entitled to full voting membership. The total number of members from the other State shall be divided into the amount of the larger appropriation and the resulting quotient shall be divided into the amount of the smaller appropriation. The then resulting quotient, rounded to the next lowest whole number, shall be the number of voting members from the State making the smaller contribution. The members of the Commission from the State making the larger contribution shall decide which of the members from the other State shall serve as voting members, based upon the level of tourism, preservation, promotional activity, and general support of the Commission's activities by and in the county of residence of each of the members of the State making the smaller appropriation. Such determination shall be made at the next meeting of the Commission following September 30 of each year. Members of the Commission shall serve for terms of office as follows: Of the 14 Alabama members, one from each of said counties shall serve for two years and the remaining member of each county shall serve for four years. Upon the expiration of the original terms of office of Alabama members, all successor Alabama members shall be appointed for four-year terms of office, with seven vacancies in the Alabama membership occurring every two years. Of the 14 Georgia members, seven shall serve four-year terms and seven two-year terms for the initial term of this compact. The terms of the individual Georgia voting members shall be determined by their place in the alphabet by alternating the four- and two-year terms beginning with Chattahoochee County, four years, Clay County, two years, Decatur County, four years, etc. Upon the expiration of the original terms of office of Georgia members, all successor Georgia members shall be appointed for four-year terms of office, with seven vacancies in the Georgia membership occurring every two years. Of the three Georgia at-large board members, one shall serve a four-year term and two shall serve two-year terms.

"All board members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the voting members of the Commission. The first chairman of the commission created by this compact shall be elected by the board of directors from among its voting membership. Annually thereafter, each succeeding chairman shall be selected by the members of the Commission. The chairmanship shall rotate each year among the party States in order of their acceptance of this compact. Members of the Commission shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of the Commission.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the question recurs on the need for congressional action on a compact that has heretofore been entered into between two States. In this particular case, the instant legislation is one where a contract or compact had been entered into between Alabama and Georgia as required by our Constitution.

The problem was that in 1978 when they created this Historic Chattahoochee Commission, a Bi-State Heritage and Tourism Agency which serves 11 Georgia and 7 Alabama counties along the Lower Chattahoochee River, the States recently found that they wanted to change the nomination process for the commission's board, so in 1993 they each enacted an amendment, Georgia on the one hand, Alabama on the other hand. Their legislatures acted, and now they come to us to seek approval through the constitutional process.

We in the Subcommittee on Commercial and Administrative Law heard testimony on this legislation and reported it to the full Committee on the Judiciary on October 19. The Committee on the Judiciary reported favorably on the bill by voice vote, and we are here.

Neither I nor anyone that I know of has any objection to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. REED. Mr. Speaker, yield myself such time as I may consume.

Mr. Speaker, again I rise in support of this legislation. I know of no objections to this legislation. As the gentleman from Pennsylvania has explained, H.R. 2064 amends the Chattahoochee compact between the States of Alabama and Georgia to change the method for filling vacancies on the Historic Chattahoochee Commission. The bill was introduced by the gentleman from Alabama [Mr. EVERETT], along with the gentleman from Alabama [Mr. BEVILL], the gentleman from Georgia [Mr. BISHOP], the gentleman from Alabama [Mr. BROWDER], the gentleman from Alabama [Mr. CRAMER], and the gentleman from Alabama [Mr. HILLIARD].

Mr. Speaker, I urge its passage and I am glad that I can participate in this historic event.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. EVERETT], who was instrumental in bringing this matter to the attention of the House of Representatives.

Mr. EVERETT. Mr. Speaker, the Historic Chattahoochee Commission is involved in activities to promote tourism in the lower Chattahoochee River area, that encompasses 7 counties in Alabama and 11 counties in Georgia. The commission has been very successful in these endeavors, which prompted the National Trust for Historic Preservation to identify this commission as a model heritage tourism organization.

The legislation before the House, H.R. 2064, grants congressional consent to approve the changes made by the Alabama and Georgia Legislatures in 1993 to an interstate compact. The changes made to the compact simplify the way the Historic Chattahoochee Commission appoints its board members. Currently, the 28 board members, 14 from each State, are appointed by a cumbersome process involving an historical commission or similar body of each county to make the appointment.

The problem is that some counties do not have an historical organization, while other counties have several historical organizations, which has led to confusing and time consuming proceedings.

This legislation amends the process by making the election of commissioners to vacant seats by majority vote of the voting members of the commission. Some members are nonvoting.

Since Congress originally approved this compact back in 1978, both the Alabama and Georgia attorneys general have determined that the Historic Chattahoochee Commission cannot use the amended appointment process without the approval of Congress. This legislation is obviously supported by the States of Alabama and Georgia, and I am aware of no opposition.

Mr. Speaker, these changes will certainly enable the commission to place more of their efforts on promoting tourism in this area of Alabama and Georgia, and I urge the swift adoption of this legislation.

Mr. REED. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I note an overwhelming absence of other speakers and, therefore, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 2064.

The question was taken.

Mr. GEKAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONDEMN BOMBINGS IN ISRAEL

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 149) condemning terror attacks in Israel, as amended.

The Clerk read as follows:

H. CON. RES. 149

Whereas, on February 25, 1996, two vicious terror attacks in Jerusalem and Ashkelon killed 2 American citizens and 25 Israelis, and wounded over 75 more;

Whereas, on February 26, 1996, an Israeli citizen was killed and 22 Israelis were injured when a terrorist drove a rental car into a Jerusalem bus stop;

Whereas, on March 3, 1996, a suicide bus bombing in Jerusalem took the lives of 18 innocent Israelis and other individuals and injured 10 more;

Whereas, on March 4, 1996, yet another heinous explosion by a suicide bomber in Tel Aviv murdered at least 13 and wounded 130 more;

Whereas, the Gaza-based Hamas terror group claimed responsibility for the most recent bombings, and the Damascus-based Palestinian Islamic Jihad and Popular Front for the Liberation of Palestine terror groups have claimed responsibility for the majority of terror attacks since the signing of the Declaration of Principles;

Whereas, these successive incidents represent an unprecedented escalation by Hamas and Palestinian Islamic Jihad of their terrorist campaign designed to cause maximum carnage against the peaceful civilian population of Israel, including children, women and the elderly;

Whereas, these terrorist attacks are aimed not only at innocent Israeli civilians but also at destroying the Middle East peace process;

Whereas, since the signing of the Declaration of Principle between Israel and the PLO on September 13, 1993 nearly 200 people, including 5 American citizens, have been killed in terrorist acts;

Whereas, the Palestine Liberation Organization, the Palestinian Authority and Yasser Araft have been ineffective and unsuccessful in completely rooting out the vicious terrorist elements from Palestinian controlled areas, calling into question their committment to the peace process;

Whereas, the vast majority of Palestinian terror suspects have not been apprehended, or if apprehended, not tried or punished, and not terror suspects requested for transfer have been transferred to Israeli authorities by Palestinian authorities in direct contravention of agreements signed between the PLO and Israel;

Whereas, the Palestinian Authority must must now do much more systematically to end the threat posed by terrorist groups and take other steps consistent with the Israel-Palestinian Interim Agreement, including the apprehension, trial, and punishment of those who conduct terrorist acts and the implementation of procedures agreed upon with Israel to transfer suspected terrorists;

Whereas, the hateful language calling for Israel's destruction, that remains an integral part of the Palestinian National Covenant only serves to incite those opposed to the peace process;

Whereas, the Palestinian National Covenant has not yet been amended, despite commitments by the PLO to do so;

Whereas, these failures undermine and threaten the peace process as well as continued U.S. financial assistance;

Whereas, the government of Iran continues to provide safe haven, financial support and arms to terror groups such as Hamas, Islamic Jihad, or Hizbollah among others, and has in no way acted to restrain these groups from committing acts of terrorism;

Whereas, notwithstanding Syria's participation in a serious negotiating process to reach a peace agreement with Israel, Syria continues to provide a safe haven for terrorist groups opposed to the peace process, permits the arming of Hizbollah in Lebanon, and has not acted to a prevent these groups from committing acts of terrorism; and

Whereas, failure to act against terrorists by the Palestinian Authority, Iran, Syria, and others only undermines the credibility of the peace process: Now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns and reviles in the strongest terms the attacks in Jerusalem, Ashkelon and Tel Aviv;

(2) extends condolences to the families of all those killed, and to the Government and all the people of the State of Israel;

(3) expresses its support and solidarity with the people and Government of the State of Israel;

(4) reaffirms its full support for Israel in its efforts to combat terrorism as it attempts to pursue peace with its neighbors in the region;

(5) calls upon the Palestinian Authority, the elected Palestinian Council and Chairman Arafat to act swiftly and decisively to apprehend and effectively punish the perpetrators of terror attacks, to prevent such acts of terror in the future, to confiscate all unauthorized weapons and to avoid and condemn all statements and gestures which signal tolerance for such acts and their prepetrators;

(6) calls upon Chairman Arafat, the Palestinian Authority and the elected representatives of the Palestinian Council to eliminate the terrorist structure and terrorist activities of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and all other terror groups;

(7) calls upon Chairman Arafat, the Palestinian Authority and the elected representatives of the Palestinian Council to adopt legislative and executive measures to ban the existence and operations of all terrorist organizations resident in the Palestinian autonomous areas;

(8) insists that Chairman Arafat convene the Palestinian National Council, so that the Palestinian National Covenant will be amended of its vile references to Israel within sixty days of the Palestinian Council's inauguration on March 7, 1996:

(9) reaffirms its belief that the Palestinian National Covenant must be amended in order for the peace process to succeed;

(10) calls upon the Palestinian people to support the deletion of anti-Israel language from the Palestinian National Covenant;

(11) calls upon the Palestinian people to express their revulsion for terrorism against Israel, and condemn and isolate those elements of Palestinian society that employ and support such terrorist acts;

(12) urges all parties to the peace process, in order to retain the credibility of their commitment to peace, to bring to justice the perpetrators of acts of terrorism, and to cease harboring, financing, and arming terror groups in all territories under their control; and

(13) calls upon those Arab states that have failed to condemn these acts of terrorism to do so immediately and forthrightly, and to support all efforts in the region to combat terrorism;

(14) calls upon the international community to cooperate with the United States in isolating states which engage in international terrorism;

(15) insists that Iran and Syria cease all support for all terrorist groups operating in areas under their control and refrain from all activities in opposition to the Middle East peace process;

(16) expresses its intent to reconsider United States assistance to the Palestinian Authority, in consultation with the Administration, in light of the steps that must be taken by the Palestinian Authority against terrorist infrastructures and operations;

(17) urges the United States to act decisively and swiftly against those governments who continue to harbor, arm or finance terror groups seeking to undermine the peace process; and

(18) praises United States efforts to provide Israel with all appropriate anti-terrorism resources to eliminate the tide of terrorist incidents against Israel.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. LANTOS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 149, legislation I introduced with the significant support of Members of this House, which condemns the recent terrorist bombings in Israel.

On February 25–26, and March 3–4, suicide bomber explosions murdered almost 60 people and wounded over 200. Such violence cannot be permitted to continue. The future of the peace process, and the security of the people of Israel, hang in the balance.

House Concurrent Resolution 149 condemns these terrorist acts in the strongest possible terms. These attacks are aimed not only at innocent Israeli civilians and at destroying the Middle East peace process, but additionally show that the PLO, and the Palestinian Authority, under the chairmanship of Yasser Arafat, have been ineffective and unsuccessful in rooting out these vicious terrorist elements from Palestinian controlled areas. Moreover, the hateful language calling for Israel's destruction, that remains an integral part of the Palestinian National Covenant has not been amended.

Accordingly, this calls into question the PLO's commitment to the peace process, and therefore, House Concurrent Resolution 149 expresses its intent to reconsider United States assistance to the Palestinian Authority.

Tomorrow's terrorism summit in Egypt will be well attended by many nations, but Iran and Syria will be conspicuously absent. Iran continues to provide support to terror groups such as Hamas, Islamic Jihad, and Hizbollah, and has in no way acted to restrain these groups. Notwithstanding Syria's participation in the peace talks, Syria has not condemned the bombings, and continues to provide safe haven for terrorist groups opposed to the peace process. Syria permits the continued arming of Hizbollah in Lebanon, and has taken no steps to prevent terror from taking place.

Because these failures to act against terrorists undermines the credibility of the peace process, House Concurrent Resolution 149 condemns the attacks, extends our condolences to the families of all those killed, and reaffirms our full support for Israel in her efforts to combat terrorism as she attempts to pursue peace.

House Concurrent Resolution 149 calls upon Chairman Arafat to act swiftly and decisively to apprehend and punish the perpetrators of terror attacks, to prevent such acts of terror, to confiscate unauthorized weapons, and to condemn all statements which signal tolerance for terrorism.

House Concurrent Resolution 149 also insists that Chairman Arafat convene the Palestinian National Council, to amend the Palestinian National Covenant.

The international community, many of whom will be represented at tomorrow's summit in Egypt, are called upon to cooperate with the United States in isolating states which engage in international terrorism. They must join the United States in insisting that Iran and Syria cease all support for all terrorist groups and refrain from activities in opposition to the Middle East peace process.

Finally, House Concurrent Resolution 149 praises United States efforts to provide Israel with all appropriate antiterrorism resources to eliminate the tide of terrorist incidents against Israel.

Earlier today, our House Committee on International Relations held a hearing on PLO commitment compliance and the threat of terrorism to Israel. We had a session which underscores that we must be ever vigilant against those who only half-heartedly condemn terror and violence.

Accordingly, Mr. Speaker, I urge our colleagues' strong support for passage of House Concurrent Resolution 149, and thank our colleagues for their clear and unambiguous endorsement of this legislation.

□ 1630

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 149, as amended.

Mr. Speaker, first I want to commend the distinguished chairman of the Committee on International Relations, my good friend, the gentleman from New York [Mr. GILMAN], for taking the leadership on this issue, as indeed he has taken the leadership on issues of terrorism for many years with great effectiveness, both in this body and in international bodies.

Mr. Speaker, I also wish to commend my colleague, the gentleman from Indiana [Mr. HAMILTON], the ranking member of the Committee on International Relations.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, as we debate this resolution, the President of the United States is on his way to Egypt to attend a conference called in the wake of the most nightmarish terrorist attacks that we have watched unfold on our television sets in Jerusalem and Tel Aviv and in Israel. I want to commend the President, not only for this extremely important symbolic action, but for his persistent support of the democratic State of Israel which has taken such enormous risks for peace at such a very high price in precious human life.

Mr. Speaker, this resolution does many things. It condemns the terrorist attacks in Jerusalem, Ashkelon, and Tel Aviv, it extends the condolences of the Congress and the American people to the families of the victims, it expresses support and solidarity with the people of Israel who are undergoing some very difficult times in the face of this mindless and brutal terrorist wave, and it expresses support for the State of Israel as it combats terrorism and attempts to pursue peace with its Arab neighbors.

An important aspect of our resolution calls on Yasser Arafat to recognize that this is his last chance to demonstrate that he has the will and the capability to pulverize the terrorist infrastructure of Hamas in territory under his control. We have had for too long a double-faced approach by Arafat saying the right things to the West but praising to high heaven some of the most brutal terrorists, like the engineer who created the most terrible weapons of destruction in recent times in this terrorist wave. Arafat must understand that if he does not destroy the terrorist infrastructure, Israel will do it itself. That would set back the cause that we have been trying so hard to support, the cause of reconciliation, accommodation, and peace.

Our resolution, Mr. Speaker, also deals with state sponsors of terrorism, countries such as Iran. Iran must cease its support for Hamas and other terrorist organizations.

Later this week our committee will mark up legislation to impose tighter sanctions against Iran and those companies and countries which support Iran economically.

I particularly want to call on our European friends and on Japan to recognize their responsibility in fighting terrorism supported by Iran. Their reckless pursuit of profits is singly unseemly as human lives are sacrificed in the wave of terrorism supported by counties such as Iran.

I want to deplore the failure of Syria to express its regret with respect to these terrorist acts. Just a few weeks ago in Damascus I met with the Foreign Minister of Syria, and it was clear in our discussion that terrorism has no room in the new Middle East. Yet Syria is staying away from the conference in Egypt and has failed to condemn this outrageous wave of terrorist attacks.

I am calling on all of my colleagues on both sides of the aisle to demonstrate unanimous bipartisan support for this resolution. It is one of the most important steps the Congress will take in expressing our support for peace and stability in the region so critical to the national interests of the United States.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a member of our Committee on International Relations.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of this resolution. All civilized people and nations must stand with Israel and condemn this series of despicable crimes. We must all work together to bring these criminals to justice. The primary target of our efforts must be the wicked masterminds who repose in safety while duping their misguided followers into believing that killing innocent men, women, and children with suicide bombs is a holy act. These evil beings who make a travesty of their professed religion must be made to pay the price.

Furthermore, the Palestinian Authority must be finally put on notice that if it wants to be treated as a member of the civilized world, it has to behave as one. Its leaders must be made to understand that if they have any hope of actually joining the community of nations, they themselves must suppress the terrorist wing of Hamas—I will not call it the military wing because military people fight other soldiers; they do not blow up civilian buses. This will not be easy for them. It will certainly not be uniformly popular among the Palestinian people. But difficult choices are the price of responsible leadership. Can Mr. Arafat and his colleagues prove themselves responsible enough to stop these vicious terrorists? They had better, if for no other reason than self-interest. Because if they do not, I am certain that the Israelis eventually will, and doom forever the hopes of Palestinian independence. If Israelis and Palestinians are to live together in peace, these atrocities must be stopped.

Mr. GILMAN. Mr. Speaker, I appreciate the comments of the gentlewoman from Kansas [Mrs. MEYERS] and her support of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I rise in strong support of House Congressional Resolution 149 as amended. I want to commend my colleagues Chairman GILMAN and Congressman LANTOS for their leadership on this measure.

We have all known for some time that as significant as it is, the Middle East peace process is also fragile. It cannot run on automatic pilot. It can only be strengthened and protected by sustained efforts to combat terrorism and to build a stronger structure of peace.

Unfortunately, four terrorist bombings in Israel this month—killing some 62 people, including 2 Americans, and injuring over 200 people—have brought us to this crisis.

This recent wave of murderous bombings has added a new urgency to the need for a more sustained and comprehensive effort by the Palestinian Authority to stop terrorism. The Palestinian Authority must work to destroy the structure of terrorism which small radical groups wishing to undermine the peace process have built. There is simply no other course of action that will allow the peace process to continue.

The effort by Chairman Arafat and by the Palestinian Authority to combat terrorism must be a sustained, 100-percent effort. Chairman Arafat cannot do what he has done in the past: relax efforts after the pressure of the moment eases. Hard-core terrorists cannot be coopted: They do not answer to reason and they do not support the peace process.

Statements opposing terrorism may have their place. But words alone will not reinforce the fragile peace. There is today no substitute for action against terrorist cells and the structure that supports them, and against those in Gaza, in the Middle East, and throughout the world who give terrorists safe haven, financial support, logistical support, weapons, and other assistance.

This resolution states clearly what needs to be done—what the Palestinian Authority needs to do, what is needed to reinforce the peace process and bring greater security to Israelis and Arabs, and what the United States and others can do to help the parties. Peace in the Middle East will be hollow if there is no security for people.

Mr. Speaker, I urge my colleagues to support this timely resolution. As we speak, President Clinton is on Air Force One on his way to the Middle East to cosponsor with President Mubarak of Egypt a Conference of the Peacemakers tomorrow in Egypt.

Mr. HOYER. Mr. Speaker, the Jewish holiday of Purim is usually an especially happy one. It is a celebration. Yet this year it was wrought with tears and horror—overshadowed by the deaths of Israelis killed by a bomb blast on a crowded bus. Instead of celebration, it was mourning, instead of happiness, it was shock.

Like so many of my colleagues, I rise today to join the Members of this body, and the people of America, in condemning the recent heinous terrorist attacks against the people of Israel. These attacks are nothing more than a blatant attempt by the militant Hamas warmongers to derail the peace process in the Middle East. Their virulent actions against the people of Israel have left scores dead and hundreds wounded. Their actions deserve, at a minimum, world condemnation.

Once again, the people of Israel have found their democracy under attack—and once again, instead of reacting hastily and with massive military might—they restrained from seeking a quick revenge—for it is their desire for peace that is stronger than the delirious fanatics that seek to wreak havoc on the peace process.

I am pleased that President Clinton will join leaders from throughout the world at a summit in Egypt in a show of unity against both terrorism and the terrorists in the Middle East. I would like to commend Egyptian President Mubarak for hosting the conference and to also commend other Arab countries, including Jordan and Saudi Arabia for participating in this Conference which will hopefully reaffirm the need to continue the peace process in the Middle East.

As members of the Jewish community throughout the Washington metropolitan area celebrated Purim last week, Rabbi Jack Moline of Alexandria said that "We are not compromising what we are doing tonight. It is imperative that we go through with this and not let [the bombers] define our world for us." For the people of Israel, they too, cannot compromise, they, too, cannot allow a group of terrorists to define their world. They haven't and with our actions here today, we show our support for them, for their uncompromising valor, and for their commitment to peace.

Ms. HARMAN. Mr. Speaker, I rise today in support of House Concurrent Resolution 149, and to condemn in the strongest possible terms the use of terrorism by the enemies of peace in the Middle East.

In the past 2 weeks, Israel has been the victim of four gruesome and horrible bombing attacks. Like all Americans, I am saddened and shocked by the killings, and I want to extend my condolences to the families of the slain. But the dead, among them children, are not the only innocent victims of the bombs, nor are they the bombers' primary target. Instead, the bombs have been carefully placed to undermine the foundations of the peace process, to shatter every Israeli's sense of basic security, and to threaten the rule of law.

Mr. Speaker, the people of the United States cannot and will not sit by complacently as extremists like Hamas and Islamic Jihad attempt to destroy the best hope for Middle East peace through terror and violence. I commend President Clinton for his swift condemnation of the recent attacks, and for his commitment to provide Isarel with counter-terrorism technology and assistance. I encourage further cooperation between Israel and the United States in finding ways to stop terrorists from striking. And I endorse the upcoming summit in Egypt, where over 30 nations, including many Arab States, will seek to develop international strategies for fighting terrorism.

But the Palestinian Authority, as Israel's partner in the peace process, must also assume responsibility for ensuring that the atrocious attacks of the past month are never repeated. We must let Chairman Arafat and the Palestinian Council know that America cannot tolerate failure in stopping terror attacks on innocent Israeli civilians. The authority's crackdown on Hamas over the past week is a welcome step, and should be noted. But we must make absolutely clear America's interest in seeing the Palestinian Authority control the violence of rejectionist minority groups like Hamas, and in seeing the Palestinian Council fully accept the peace process by purging from its charter all reference to the destruction of Israel.

Mr. Speaker, this resolution sends an important message to the world that America will not accept terrorism. I urge my colleagues to support it.

Ms. DELAURO. Mr. Speaker, I am proud to stand with my colleagues to reaffirm American support for Israel in the wake of tragic bombings that have claimed nearly 60 lives. My sympathy for the families who lost loved ones in the past weeks is unlimited, as is my outrage at these barbaric acts and their perpetrators.

The fanatics who have murdered innocent men, women, and children must be brought to justice. Groups such as Hamas that preach and practice acts of terror are an unacceptable presence in the civilized world.

Although it is hard, we must try to draw strength from this tragedy and redouble our commitment to bring peace to the Middle East. We must let terrorists know that their cruel violence will not be rewarded. I applaud President Clinton for meeting with world leaders in Egypt to unite against terrorism and to encourage Middle East nations to rejoin the path toward peace.

The United States must do all it can to support the people of Israel, further the peace process, and bring these killers to justice.

Ms. ESHOO. Mr. Speaker, I rise to condemn the recent terrorist bombings carried out against innocent Israelis. At least 57 people have been murdered in the past few weeks in Israel during a wave of suicide bombings carried out by Hamas.

I am pleased to support H. Con. Res. 149 which calls upon Chairman Arafat, the Palestinian Authority, and the Palestinian Council to apprehend and punish the terrorists who planned these bloody attacks, and to prevent such acts in the future. It also calls for the elimination of the terrorist structures of Hamas, Palestinian Islamic Jihad, and the Popular Front of the Liberation of Palestine. In addition, the measure recognizes the role the United States must play by expressing our intent to reconsider United States assistance to the Palestinian Authority in light of steps that must be taken by the authority against terrorist infrastructures and operations.

Mr. Speaker, these attacks were the work of cowards and common criminals. Now, it's up to both Israeli and Palestinian authorities to bring the perpetrators of these crimes to justice and redouble their efforts to guarantee Israel's security. Just as important, they must not let the terrorists achieve their political objective of derailing the Middle East peace process. The victims will truly have died in vain if terrorism succeeds in renewing the hideous cycle of violence that has plagued Israel since it became a state.

Mrs. LOWEY. Mr. Speaker, at this difficult hour we stand in solidarity with the people of Israel and reaffirm our commitment to their peace and security. We unequivocally condemn the reign of terror that has forever silenced the voices of so many of our children. We grieve for the victims—and we pray that no Israeli mother will have to bury a son or a daughter ever again. We remember the words of Yitzhak Rabin and say: "Enough of blood and tears. Enough."

The terrible events of the last weeks have profoundly shaken us all. We yearn so desperately for peace—yet today we are at war—at war against terror—at war against the enemies of peace.

There can be no noncombatants in this battle.

Israel has declared war on Hamas. Yasser Arafat must now become a full partner in this struggle. Nothing less is acceptable. There must be no more speeches in Arabic extolling the martyrs—no more terrorists arrested during the day and released at night. The covenant calling for Israel's destruction must be revoked—compliance with the declaration of principles must be total. This is Yasser Arafat's moment of truth—he must prove in word and deed that he is fully committed to peace. Either he is our ally in the war against terror—or he is our eneny.

This week President Clinton will travel to Egypt to participate in a historic world summit against terrorism.

The President's message will be simple and clear: There can be no compromise with terror. The days of talk are over—it is time for action. Hamas and Islamic Jihad must be eliminated. States that sponsor and finance terrorism—Iran, Iraq, Libya, Syria—must be isolated. Our allies must join us in cutting off all sources of funding and support for terrorism.

Yitzhak Shamir wrote many years ago that, "Israel's twin goals have always been peace and security." We cannot have one without the other—and that is why we must continue to strive for both in the difficult days ahead. Thank you.

Mr. ROEMER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 149, and urge all of my colleagues to join me in supporting this resolution to condemn the despicable terrorist bombing attacks in Israel. I am hopeful that is sends a message to the people of Israel to let them know that the United States stands behind them and will provide every possible support against the increasing and menacing incidents of terrorism.

We condemn, will all our strength, the outrageous agenda by extremists seeking to rekindle the glowing ashes of irreconcilibility in this long-suffering region. They seek to once again plunge the peaceseekers and the people of the Middle East into conflict and confrontation.

Mr. Speaker, this resolution expresses the sincere condolences of the United States to all of the families of those victims killed in the recent bombings. This resolution also sends a message that the people of Israel are not alone in their fight against terrorism. Indeed, the scourge of terrorism today has permeated each corner of the world, striking developing and developed nations alike.

At this crucial time, as sponsors of the Middle East peace process, we reaffirm our support for the peace process and remain confident that terrorists will not be allowed to obstruct the development of the Palestine-Israeli peace process, their constructive dialog and cooperation to resolve the existing problems. We encourage the Palestinian leadership, which has already condemned these abhorrent provocations, to follow this policy with even tougher measures.

Mr. Speaker, we have simply worked too hard for too long to allow terrorists to take over the peace process and determine the fate of peace after so much progress. Our support for the people of Israel, however, should not stop with passage of this resolution. Later this week, we will debate the antiterrorism legislation which seeks to provide significant resources to fight domestic and international acts of terrorism and bring swift justice to the perpetrators.

While nothing can take away the national and personal pain caused by terrorist attacks on innocent men, women, and children, perhaps this resolution can help in some small way by helping to bring an end to the violence. We strongly voice our support and understanding to the Jewish people of Israel and around the world for peace and against cowardly acts of terror.

Mr. FOX of Pennsylvania. Mr. Speaker, like you, I was shocked and deeply saddened when I heard about the fourth suicide bombing which took place on the Eve of Purim in Tel Aviv's shopping district. The once-solid confidence of the people of Israel and of the pro-Israel community in the United States has been terribly shaken by the tragic events of the past weeks.

The United States and Israel are permanent partners in our pursuit of peace, prosperity, and the promise of liberty. We have built a strong foundation based on years of mutual respect and trust. Together, we share risks, rewards, and losses as we strive to make this world a better, safer place to live, work, and raise our families. The United States will continue to stand "shoulder to shoulder" with its closest ally, the State of Israel, during this troubling time. Hamas and other enemies of peace should know that no blast will be strong enough to weaken the indestructible link between our country and the state of Israel.

After returning from the funeral of the late Prime Minister Yitzhak Rabin, I remember thinking that in the long run, those who resort to violence will find that it accomplishes little. Often, it spurs people on to completion of the task at hand—in this case, peace in the Middle East. Just as we were building upon the legacy of Yitzhak Rabin, we will now continue on the path for peace, honoring the memory of the 61 innocent victims who were murdered and the 190 who were injured in the four recent reprehensible suicide bombings.

Seventeenth century Dutch philosopher Benedictus De Spinoza once said, "Peace is not the mere absence of war, but is a virtue that springs from force of character." During my trips to Israel this past year, it was clear to me that Yitzhak Rabin provided that force of character. And after meeting with Prime Minister Peres, Yitzhak Rabin's partner in peace, I became convinced that he would continue to provide that force. We must work with him to heal the wounds and move on toward a more permanent peace and sustained security for our Israeli allies.

As Members of Congress, we must not hesitate, together with our colleagues and the White House, to provide whatever diplomatic, economic, humanitarian, or military support is necessary so that Israel can combat the cowardly terrorists of Hamas and others who would seek to derail the peace for which Yitzhak Rabin and so many others gave their lives. The United States must continue to provide whatever form of assistance is required to preserve and protect the peace and security of Israel and its people.

While I am encouraged by the recent arrest of the head of the military wing of Hamas, we must continue to demand that PLO Chairman Arafat and the leaders of all the states of the Middle East join us in this war on terrorism. I am proud to stand in support of International Relations Committee Chairman BEN GILMAN's resolution to clearly communicate this message to Chairman Arafat—we will accept no less than full cooperation on this matter. Chairman GILMAN's legislation demands that the Palestinian Authority apprehend and punish terrorists, confiscate all unauthorized weapons, eliminate the terrorist structure and activities of Hamas, Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine, ban the existence of all such organizations in the autonomous areas, and amend the Palestinian National Covenant to remove all hate-filled anti-Israel language. This legislation also calls upon all parties to the peace process to condemn terrorist acts and join us in the fight against terrorism. We insist that Iran and Syria cease all support for such deplorable activities. I salute the President for convening the antiterrorism conference tomorrow, and I am also strongly urging him to act decisively and swiftly against those who continue to harbor, arm, or finance terrorists seeking to undermine the peace process.

I thank the chairman for his leadership and I join you in praying for an end to the despicable violence committed by terrorists and for peace and prosperity for Israel and throughout the Middle East.

Mr. SANFORD. Mr. Speaker, this past month terrorist acts in Israel have taken the lives of innocent people. More than that, they have placed the peace of this region once again in jeopardy. Today, I rise to stand with the people of Israel and the Jews around the world. This measure, which we are currently considering, condemns the recent terrorist attacks as well as urges action in support of the peace process. However, it cannot console those who have become victims of a misguided attempt to settle a dispute over land. It cannot repair the buildings and lives which are now fragmented. Through this measure the United States states its opposition to actions such as those which have occurred recently in Israel. This Nation will not condone the senseless actions of terrorists. We stand with those for peace and for Israel.

Mr. LAZIO of New York. Mr. Speaker, I rise today to strongly condemn the cowardly acts of wanton terrorism that have resulted in the deaths and wounding of innocent Israeli civilians in the past few weeks and to urge my colleagues to unanimously support House Concurrent Resolution 149.

Terrorism must not triumph. The terrorist groups responsible and those who support them must be held accountable. All civilized governments should assist Israel's efforts in its counterterrorist efforts, and I commend all the nations who are attending the antiterrorism conference this week in Egypt.

As an ally, the United States must stand by Israel and strongly support Israel's decision to make its people's security its top priority. PLO Chairman Yasser Arafat must immediately eliminate Hamas as a political organization and the Palestinian Authority must stop the charade of Hamas masquerading as a charitable group. Legitimate charitable activities should be assumed by the Palestinian Authority.

Terrorism threatens every country, including the United States and no country can afford to sit idly by. As we learned at the World Trade Center and Oklahoma City, what has happened in Israel can happen in our country as well.

My heart goes out to all those affected by terrorism in the Middle East and I urge my colleagues to pass House Concurrent Resolution 149, of which I am an original cosponsor.

Mr. ACKERMAN. Mr. Speaker, I rise in stong support of House Concurrent Resolution 149, which condemns the bombings in Israel, and in solidarity with the people and Government of Israel. This recent spate of bombings was a series of heinous and cowardly acts, perpetrated by elements of the Palestinian society that have been rejected by the majority of Palestinians, and completely reviled by the international community.

During this period of grief and mourning by Israelis and Jews the world over, I am pleased to see that we can all come together like this, in bipartisan fashion, to speak against these acts of evil, and support the Israeli people in their efforts to combat terrorism. However, we are faced with a complex question: How can we best combat the evil of terrorism, as it continues to indiscriminately victimize the people of Israel? I think the appropriate follow-up to that would be: How do we then fight this evil effectively, without completely derailing the peace process? That to me is a quandary, but it's one that I think is not completely unsolvable.

In fact, I think we've seen some recent steps that would lead us to believe that we're in the best position, since the beginning of the process, to resolve this human tragedy of gigantic proportions. It has finally become apparent to the international community that we are all linked in a common struggle; a struggle to eradicate terror from the face of this planet. Without a doubt, we all have a vested interest in fighting the spread of terrorism, and that is why I welcomed last week's Summit of Peacemakers in Cairo as a positive step in that direction.

The importance of forging as broad a coalition as possible to repel these enemies of peace can not be emphasized enough. It no longer suffices to have world condemnation, we must have world action as well. We have avoided this issue long enough; and in our interdependent and inextricably linked international community, we can no longer afford to do so. However, we must also take careful note: we are not attacking Islam, or the Moslem community—we are attacking terrorism, and terrorism has no religion. We are, in sum, fighting against the enemies of peace, and that fight transcends all ethnic and national borders.

We have all, in effect, partaken in a momentous and irreversible process. We can not be deterred from continuing on. As Hasan Abd Al-Rahman, chief representative of the Palestinian Authority in Washington, said in a statement to a recent International Relations Committee hearing on the commitments made by the Palestinians to the peace process: "It's the struggle between those who have placed their lot with peace and those who seek its death." Therefore, I urge all my colleagues to continue to work together, to be vigilant, and to have faith that we can overcome these recent tragedies. Otherwise, the dark forces poised against us can claim their greatest victory.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 149), as amended.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SUPPORT HOUSE CONCURRENT RESOLUTION 149 CONDEMNING TERROR ATTACKS IN ISRAEL

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I wanted to add my voice to the comments of my colleagues about the resolution condemning terrorism, but we had hearings today in the House Committee on International Relations to try to find out if the Palestinian authority is doing all it can do or has done all it can do to curb the scourge of terrorism, and I think the frustration that one sees and hears; we feel, on the one hand, that the peace process needs to continue. On the other hand, we cannot continue with blinders and pretend that nothing has happened.

So I certainly support the resolution, I think we need to condemn terrorism, I think we need to reach out to the brave people of Israel. No country could tolerate this kind of wanton terrorism against its civilian population, and I think clearly the ball is in Mr. Arafat's court. He has to determine whether or not he is going to be serious about cracking down on the scourge of terrorism. It is not enough anymore just to condemn it, it is not enough anymore to say one is against it. We have to show actions speak louder than words. He has got to route out terrorism, the United States has to stand foursquare against terrorism, but all the nations of the world have to participate.

So I am happy to join in support of the resolution as I know every Member of Congress will. Terrorism is a threat to all of us everywhere in the world.

□ 1645

IN SUPPORT OF THE PEOPLE OF ISRAEL

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to support the Gilman resolution. The terrible devastation of Israel, with the fourth attack on the innocent Israeli victims, which has killed 61 people, injured 190 people, is certainly something this country, the United States, will not tolerate. The Hamas organization has caused such terror and such grief that the once solid confidence of the people in Israel has been shaken. We here in America will show our support in every way possible, whether it is economic, humanitarian, in any way that Israel needs our help. It is our strongest ally in the Middle East, and a democracy that is so important to this country and the world's peace. We must be there to help them.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1561, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 375 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 375

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1561) to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. For purposes of debate only, Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. GOSS asked and was given permission to include extraneous material.)

Mr. GOSS. Mr. Speaker, this is a very simple, fair rule providing for House consideration of the conference report on H.R. 1561, the American Overseas Interests Act—otherwise known as the State Department Reauthorization. As is the custom for conference reports, this rule allows for 1 hour of general debate and preserves the right of the minority to offer a motion to recommit, with or without instructions. Finally, the rule waives all points of order against the conference report and its consideration. Mr. Speaker, H.R. 1561 was passed by the House on June 8, 1995. Since that time, Members in both Houses have invested a great deal of time and energy working to make this the first year since 1985 that we have reauthorized the State Department programs in this bill. In our Rules Committee hearing last week, both Chairman GILMAN and the ranking minority member, Mr. HAMILTON, said they were encouraged by the efforts that the conference committee has made to bring us this far. Unfortunately, I understand that the President is planning to veto this reform-minded initiative, essentially because it will cramp his unique foreign policy style.

In response, Mr. Speaker, I have to say that I think we all understand that the responsibility for conducting foreign policy rests primarily but certainly not exclusively with the executive branch. Today, this long overdue legislation recognizes and addresses the responsibility of the legislative branch in this area—responsibility it has passed on over much of the past 10 years. These duties include policy oversight and, most importantly, laying out the broad priorities for the expenditure of U.S. tax dollars overseas. In this respect, Congress must share some of the blame for our current confused and inconsistent foreign policy agenda. However, it is clear that the lion's share of the blame for recent flip-flops, diplomatic gaffs, excessive costs and ill-defined missions rests squarely with President Clinton and his foreign policy "B" team. To date, the Clinton administration has focussed its priorities and resources on extensive involvement on high-visibility—low-yield projects in Northern Ireland, Bosnia and Haiti—to the point where the United States has been actively engaged in the de facto governance of two out of these three regions. While the administration may have the best of intentions, its focus on these efforts has resulted in the neglect and/or mismanagement of critical situations in Cuba and Taiwan, to name just two. Today, the administration is finally getting around to recognizing that Fidel Castro is not such a nice guy, and that a Chinese invasion of Taiwan could threaten the entire balance of power in Asia and the Pacific—but I am afraid that the reason it took so long to arrive at these rather obvious conclusions is that the White House has conducted United States foreign policy in the same way it has conducted domestic policy: setting priorities by what the opinion polls say, bowing to pressure from hunger-striking activists, and giving more attention to photo ops that will resonate with the voters instead of doing the hard work of conducting a vigorous and consistent policy agenda across the globe based on a clear delineation of what our national security interests really are in today's world.

Mr. Speaker, I hope that passage of H.R. 1561 will begin to put us back on the right track by freeing up foreign policy assets and making them reflect changing priorities in a changing world. It does make some necessary cuts to the operating expenses of the bureaucracy at the State Department and agencies like USAID, USIA, and ACDA—a total of $1.7 billion over 4 years—and requires one of these agencies to be consolidated into the State Department. It also includes many other important provisions, including asserting the supremacy of the Taiwan Relations Act, and setting strict reporting requirements for the Bosnia operation. I would urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 375 makes it in order to consider the conference report on H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. As our friend and colleague, the gentleman from Florida [Mr. GOSS] has explained, it waives all points of order against the conference report.

The conference report authorizes appropriations for the State Department, and it requires the President to select and abolish at least one foreign affairs agency among the Agency for International Development, the Arms Control and Disarmament Agency, or the U.S. Information Agency, USIA. We have concerns about the substance of this conference report, as well as the manner in which the conference was conducted.

The gentleman from Indiana [Mr. HAMILTON], the ranking Democrat on the Committee on International Relations, told the Committee on Rules that a Democratic alternative to the conference agreement was dismissed out of hand. Furthermore, the gentleman from Indiana said that he as the ranking member never saw the conference agreement before it was filed. He told the Committee on Rules "With this kind of approach, we are not making laws, we are making political statements."

Furthermore, I want to express strong objections to the provisions in this conference agreement, as our colleagues know. If the measure is presented to the President in its current form, he has said that he will veto the bill. This bill could result in the abolition of AID, the Agency for International Development. This agency provides vital assistance to millions of poor and hungry people in developing nations. The small amount, the really tiny amount of savings that this, perhaps, would achieve could come at a terrible loss to human life and to our international standing around the world.

The funding levels contained in this bill are inadequate to protect the foreign policy interests of the United States. The bill would seriously undermine our ability to conduct diplomacy and operate overseas posts of foreign affairs agencies. If the bill passes, our Nation would retreat like a turtle into its shell, avoiding our international responsibilities and opportunities. That should not, it seems to us, be the image of our great Nation.

We are, however, pleased with a provision in the bill that prohibits the

United States from selling small arms to Indonesia. This provision was included in response to that country's 1975 invasion and continued military presence in the island territory of East Timor, where numerous deaths and human rights abuse have occurred. We are glad this legislation does not let the East Timor tragedy go unnoticed.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, it is my privilege to yield such time he may consume to the distinguished gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Resolution 375, the rule governing consideration of the conference report on H.R. 1561, the Foreign Relations Authorization Act. I commend the gentleman from New York [Mr. SOLOMON], my good friend and colleague, chairman of the Committee on Rules, for his committee's expeditious consideration of the rule, and the gentleman from Florida [Mr. GOSS], for advocating the adoption of this rule.

Mr. Speaker, I would like to list at this point the main provisions of the conference report, an important conference report. This bill is the first major authorization bill reorganizing the international affairs agencies designed back in the 1950's to fight the cold war. It is also the first Republican foreign affairs authorization bill in 40 years.

In short, the bill will require the President to abolish one of three international affairs agencies, either the USIA, AID, or ACDA, moving their functions back into the State Department, pursuant to the initial suggestion by Secretary Christopher.

It mandates $1.3 billion in budget savings below the fiscal year 1995 spending levels for the operating expenses of State, of AID, of USIA, and ACDA over the next 4 years. It provides authorization of appropriations totaling $6.5 billion for fiscal year 1996 and 1997 to fund the State Department, to fund USIA, to fund ACDA, AID, and related programs. This represents a $500 million reduction from fiscal year 1995 spending on these programs.

It also eliminates the AID housing guarantee program that GAO estimates will lose over $1 billion of the taxpayers' money, the Roth-Gejdenson section. It includes the MacBride principles of economic justice for aid to Northern Ireland. It includes the Humanitarian Corridors Act language, conditioning aid to Turkey on releasing United States humanitarian aid to Armenia. It includes many administration-requested provisions to improve the management of the State Department; in other words, allowing the State Department to collect from insurers for free medical care provided.

□ 1700

It authorizes full administration requests for narcotics control assistance and for the Peace Corps. This bill also imposes a number of important human rights restrictions carefully modified to meet the concerns of the administration. Major provisions include the supremacy of the Taiwan Relations Act over executive agreements and reporting on United States involvement in Bosnia to ensure our mission fulfills its stated purpose of bringing about a lasting and just peace and further restricts the use of refugee funds for involuntary repatriation of genuine refugees or persons in serious danger of subjection to torture.

Accordingly, Mr. Speaker, I urge my colleagues to support this rule and look forward to their support for the important conference report.

Mr. GOSS. Mr. Speaker, may I inquire how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Florida has 22 minutes remaining; the gentleman from California has 27½ minutes remaining.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Jersey [Mr. SMITH], who is the chairman of the Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding me this time.

I urge Members to support this rule. It is a good rule, and it is a very good, comprehensive conference report that we have put together. It has taken our subcommittee and the full committee the better part of a year and a half, working with the Senate, to craft this legislation. There were delays, as I think many Members know, on the Senate side, regrettably, but thankfully we are going to have this bill presented to the whole House very shortly.

H.R. 1561, the Foreign Relations Authorizations Act for 1996 and 1997 has attracted attention, Mr. Speaker, including a veto threat from the Clinton administration, because it would require the consolidation of at least one Government agency and because it would save $1.7 billion over 4 years.

I think it is important that, with the taxpayers clamoring for downsizing throughout the Federal bureaucracy, that the State Department and other agencies of our foreign policy apparatus not be immune to the budget-cutting knife.

Amid the discussion of these issues, however, some of the most important aspects of H.R. 1561 have gone almost unnoticed. Specifically, despite the need to cut spending and consolidate programs, the conference report manages to hold harmless, and at times even enhances, the most important programs and to enact important policy provisions that will indeed support freedom, democracy, and save lives.

Mr. Speaker, in considering H.R. 1561, I hope we will carefully consider the following human rights provisions:

First, Mr. Speaker, the Humanitarian Corridors Act. Section 1617 of the bill will limit assistance to those countries that restrict the transport or delivery of U.S. humanitarian assistance. I introduced the Humanitarian Corridors Act and offered the entirety of that legislation to this bill for a very simple reason: It is wrong, patently wrong, for countries receiving American assistance to keep U.S. humanitarian aid from reaching other countries. Yet this is precisely being done by Turkey, which has been blockading Armenia for several years. Ankara's opening of an air corridor with Armenia last summer indeed was a step in the right direction, but it does not represent a remedy for the problem. Turkey still refuses to open land routes through its territory for the delivery of badly needed United States humanitarian assistance to Armenia, which creates an unacceptable situation.

The MacBride principles, another very, very important set of principles that for years we have been trying to get enacted into law, Mr. Speaker, section 1615 of the bill includes language that guarantees United States assistance programs in Northern Ireland will only go towards projects that do not engage in religious discrimination and which provide employment opportunities for members of the region's Catholic minority. Some of us in Congress have been fighting, as I said, for these principles for many years. It has been a bipartisan effort. We have the opportunity to codify that this evening.

Chairman GILMAN, I think, deserves particular credit for his tenacity for steering this important human rights provision through this legislation and including it.

Refugee protection, the refugee provisions, Mr. Speaker, of H.R. 1561 will prevent the United States tax dollars from being spent to return to Vietnam and Laos thousands of men and women who served side by side with the American forces during the Vietnam war.

These provisions will also restore the Reagan and Bush policy of protecting people who can show that they are fleeing forced abortion or forced sterilization or they have actually been subjected to such cruel measure, such as the women who are now being held in California and in other parts of the country.

Mr. Speaker, H.R. 1561 would also require periodic reports to Congress on what Fidel Castro is doing to enforce his end of the Clinton-Castro immigration deal of 1994 and how people are treated who are returned to Cuba pursuant to the second Clinton-Castro immigration deal of May of 1995.

Despite the need for cuts, Mr. Speaker, in international broadcasting and other public diplomacy programs, H.R. 1561 holds harmless two of our freedom broadcasting programs, such as Radio Free Asia and Radio and TV Marti.

The bill also requires, when cuts must be made, they must not fall disproportionately on broadcasts to countries, such as Iran and Iraq, where people do not enjoy freedom of information within their own country.

The bill also requires that Radio Free Asia commences its broadcasts into China, Vietnam, North Korea, Burma, and other countries whose people do not enjoy freedom and democracy, as we all know so well, within 6 months. No more delays; it is about time this important broadcasting got up and running.

Mr. Speaker, this is a fair rule, and I believe it is a very, very comprehensive conference report. As I think Members know, there were objections made by the other body when it came to the foreign aid section. That has been taken out of this bill, so we are talking basically about consolidation and about reauthorizing many of our important programs like USIA, the State Department refugee assistance.

I urge support for the rule.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HALL], a distinguished member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I want to thank my friend, the gentleman from California [Mr. BEILENSON], for yielding this time to me.

Mr. Speaker, I am very concerned with provisions in the bill which could result in the abolition of USAID, the U.S. Agency for International Development. This Agency provides vital assistance to millions of poor and hungry people in developing nations. The small amount of savings would come at a terrible loss to human life and to our international standing.

Mr. Speaker, the abolishment of USAID is a misguided idea that will lead to increased pain and suffering in the poorest countries of the world and it will reduce the effectiveness of the United States in international affairs. Now is the worst time to be thinking of getting rid of USAID. While the world is becoming increasingly interdependent, there are civil breakdowns in places like Bosnia and Rwanda, and there are outbreaks of deadly diseases in remote regions of the world. I think at this time there are 25 major humanitarian crises going on in the world.

I have been particularly impressed by the work of Brian Atwood as administrator of USAID. He has done an excellent job transforming USAID into an agency that improves its performance at the same time making dramatic budget reforms. In recent years, under Atwood's leadership, USAID has reduced senior management by nearly one-third and he has eliminated 90 organizational units in Washington. He also achieved $7 million in cost savings over 5 years by combining administrative functions with other Government agencies.

If this bill passes, our Nation will retreat like a turtle into its shell, avoiding our international responsibilities and opportunities. This is not my image of our Nation, and it should not be ours.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the committee.

Mr. GILMAN. Mr. Speaker, I wish to address the gentleman from Ohio and mention that we have provided discretionary authority to the President to eliminate one of three agencies, not mandating that AID be eliminated, giving the President the opportunity to decide between AID, USIA, or ACDA, the Arms Control Agency. So there is no mandate, and I just wanted to make certain that the gentleman understands that there is no mandate to remove AID.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I would just respond to the chairman of the Committee on Foreign Relations that I am aware of the fact that it does not mandate that USAID go out of business, or not exist. It gives the choice. It could be one of three agencies.

I think it is felt by many of us here in Congress and many people in the administration that if they are given this, and I hope that they are not given this choice, that probably USAID will be given a direction to eliminate that, and I do not even want it considered in the legislation.

I think USAID is probably one of the more important programs that we have and when we consider where we used to be years ago, when we had $19 or $20 billion in foreign aid, which is like less than one-half of 1 percent of our total budget and now it is at $12 billion, and we want to eliminate the humanitarian agency in the whole Government when, in fact, it saves millions and millions of lives, I would not say every year but over the many, many years, to put them into the equation that they possibly could be abolished I think is a wrong way to go.

I think the people that we have at AID, starting with Brian Atwood, have done a very impressive job. I am very enthused about their direction, their vision for the future, and what this world is about as far as humanitarian concerns are concerned.

I just think we are going the wrong way here, and it makes us look like we are retreating on one of the most important issues that we have to deal with in the Congress of the United States.

People were asked in several polls, "Would you be willing to fund humanitarian issues, humanitarian types of aid in countries overseas," and almost 90 percent of the people agreed that that was a good thing to do.

They also said in the poll, "Would you be willing to give 100 extra dollars in tax moneys to humanitarian aid," and they said if they could be assured that the money was going to the poorest of the poor, they would be glad to do it. I was amazed by that poll.

Another poll showed that a lot of people believe that, you know, our foreign aid, when they did this poll across the country, that of our total budget, that somewhere between 18 and 22 percent of the people believed that, I am sorry, of the people polled, they believed that the total amount going to foreign aid, 18 to 22 percent was the amount of money going to foreign aid from our total budget. And they said, "What actually do you think the money ought to be," and the numbers said they thought it ought to be 8 to 9 percent when, in fact, all we are arguing about here today is less than one-half of 1 percent. This is the aid that goes to humanitarian issues, the many crises going on in the world today.

So even to raise the issue, to have the possibility that it would be eliminated, to put it into the State Department, would be a political decision, I think, that would not work for the poorest of the poor and would hurt them. And I think it would go a long way in not bringing the kind of child survival activities and the type of micromanagement kinds of things that we need overseas in development assistance.

I oppose this bill. I do not think it is a good idea.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume to comment on another matter relative to this, if I may, at this time.

Mr. Speaker, pursuant to section 426 of the Congressional Budget and Impoundment Control Act of 1974, we had been considering making a point of order against consideration of this rule. Section 425, as opposed to 426 of that same act, states that a point of order lies against legislation which, one, imposes an unfunded mandate in excess of $50 million actually against State or local governments, or, two, does not publish prior to floor consideration a CBO estimate of any unfunded mandates in excess of $50 million annually for State and local entities or in excess of $100 million annually for the private sector.

Section 426 of the Budget Act specifically states that the Committee on Rules may not waive this point of order. However, on page 2, lines 9 and 10 of House Resolution 375, which we are discussing here today, all points of order are waived against the conference report and against consideration. For that reason we were, as I said, considering making a point of order. This rule should not have been considered pursuant to this rule 426.

□ 1715

We decided not to pursue that point of order for a number of reasons, one of them being an unusual CBO estimate that we have heard about but have not yet seen. But we do think it is important to discuss very briefly, and I shall be very brief, Mr. Speaker, our reasons for objecting to the waiver of the unfunded mandate rule.

We should, of course, be sticking with the rules. Our good friends on the other side of the aisle came up with this proposal at the beginning of last year, and since that time have consistently waived it. We think we ought to take some of these rules a little bit more seriously and perhaps not pass them in the first place if we are not going to pay much attention to them.

This particular conference report has four refugee-related provisions which, taken together, may well result in increased costs to individual States throughout this country. There are good arguments on both sides of the question of whether these four provisions represent unfunded mandates, and apparently CBO itself is having some trouble coming up with a definitive answer.

What I want to say and be clear about is we would have made the point of order not because of necessarily opposition to the four particular provisions dealing with refugees, but because of our understanding of the intention of the unfunded mandates law, which is to provide full and open debate on any issues or that may raise unfunded mandates for the States. That, after all, was the expressed purpose from our friends on the other side as part of their Contract for that particular change in our rules.

Allowing for debate on the unfunded mandates question in this bill would provide one way to alert States that the Congress is in fact taking action which may well have come impact on state costs. It would give some notice to the States that the States' costs may increase or that State programs may assume some new burdens or may in fact need to be changed to avoid those burdens because of this particular legislation which Congress in fact will be considering today as soon as we are through with the rule.

Mr. Speaker, in conclusion, let me simply say that Members should be aware that this legislation does in fact contain provisions which could impose unfunded costs on State and local governments. Last year, as we have just discussed, the House overwhelmingly approved legislation that would help identify instances of unfunded mandates on public and private sector entities. In fact, much of the month of January of 1995 was consumed by that particular piece of legislation.

We find it somewhat ironic, after all the debate that took place at that time, particularly with regard to protecting Members; rights to be informed about unfunded mandates, that on one of the first major authorization bills that is coming out of the Committee on Rules since that time, the Republicans are apparently attempting to allow legislation that imposes unfunded costs on State and local governments without our raising that point. Most on that side of the aisle, and I guess a lot of Members on our side of the aisle as well, voted for the unfunded mandates bill.

We simply hope that Members will think long and hard about what a "yes" vote on this rule in fact proves. If one is truly opposed to the imposition of unfunded mandates on the States by the Federal Government, then we suggest that one would oppose this particular rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I thank my colleague the gentleman from California. Old friendships are worth a lot around here.

Mr. Speaker, I am proud to be an original co-sponsor of the provision to withhold funding for expanding diplomatic relations until the President certifies that the Vietnamese government "fully cooperates" in accounting for our MIAs. This measure is essential to achieve the fullest possible accounting of our missing heroes. In repeated testimony before my subcommittee the most senior Defense Department analysts who investigate this issue have stated under oath that the Vietnamese continue to hold back critical information on servicemen who were known to have been alive under Communist control in Vietnam, Laos and Cambodia.

In January, the U.S. Government gave the Vietnamese a list of 69 MIAs that based on the Defense Department's recent "comprehensive review" of all MIA cases. The review shows that there are over 400 MIAs who were last known alive or dead under Vietnamese control whom the Vietnamese can provide either bodily remains or their own documents, records and witnesses that can resolve their fates.

Based on this official review, I provided the Vietnamese with an additional 29 priority MIAs that the Communists should be able to account for. About a dozen of these cases overlap with the Defense Department list. All together the Vietnamese has been given the names of 75 MIAs that the U.S. Government knows they can account for immediately. And on January 20, 1996 while visiting Hanoi Assistant Secretary of State Winston Lord expressed to the Vietnamese "disappointment in the level and quality of work that the Vietnam government Office for Missing Persons performs on cases." Although the Vietnamese dribble out isolated records and documents to manipulate the political debate in this Congress, the bottom line is that they are continuing to torture the families of our missing heroes. We have the power to stop this cruel charade.

This provision is strongly supported by the vast majority of veterans organizations and families of the missing heroes. We have letters of support from: the National League of POW/MIA Families, the National Alliance of POW/MIA Families, the American Legion, the Disabled American Veterans, the Vietnam Veterans Coalition, the Veterans of the Vietnam War, Inc., The American Defense and the Vietnam Veterans of America. I strongly encourage all Members of Congress to support this much needed measure.

For the RECORD I would like to include letters from the veterans and families organizations who support this provision.

But first, Mr. Speaker, check this out.

VIETNAM

(SRV Papers Back Cuban Downing of U.S. Airplanes—BK0103131396 Hanoi Voice of Vietnam in English 1000 GMT 1 Mar 96)

[FBIS Transcribed Text] Under the title "Genuine Rights to Self Defense," the leading daily newspaper NHAN DAN and the Army paper QUAN DOI NHAN DAN on March 1 run commentaries reaffirming that the shooting down of two planes being flown by a reactionary organization involving Cuban exiles in the United States was genuine self-defense in line with international law to defend Cuba's territorial integrity and security.

NATIONAL LEAGUE OF FAMILIES OF
AMERICAN PRISONERS AND MISSING
IN SOUTHEAST ASIA,
Washington, DC, March 12, 1996.

Hon. BEN GILMAN,
Chairman, House International Relations Committee, 2170 Rayburn House Building, Washington, DC.

DEAR CONGRESSMAN GILMAN: In response to the President's veto message regarding HR 1561, the League has always maintained that the Government of Vietnam could unilaterally account for hundreds of Americans, and League policy has emphasized that ability as the crucial aspect of the fullest possible accounting since the League's inception. This legislation outlines the four criteria of unilateral action by Vietnam that President Clinton set forth as his measure and the League agrees with each of them.

Recently the administration completed a comprehensive review of all cases of those Americans missing and unaccounted for from the war in Southeast Asia which confirmed that Vietnam can unilaterally respond to and make significant progress on each of these four criteria.

What is particularly strange to the League is that the veto message was sent while a high level Presidential delegation, led by a cabinet member and included a member of the President's staff, was in Vietnam to present the expectations of the United States Government from this review. This delegation is comprised of the League's Executive Director Ann Mills Griffiths and the leadership of five major veterans groups all at the invitation of the President.

We're concerned that someone in the administration may have undercut the entire purpose of the trip with this veto message while the President's delegation was in Hanoi. If the President can't support the language concerning Vietnam within this bill, then the board views this as nullifying the praise that his administration has been lauding on Vietnam for their supposed "outstanding cooperation". The League position remains as stated and will be such until Vietnam has responded in a concrete way to the President's stated criteria. This is the President's chance to signal Vietnam that his administration is serious in upholding his four criteria.

Sincerely,

JO ANNE SHIRLEY,
Chairman of the Board.

NATIONAL ALLIANCE OF FAMILIES, FOR THE RETURN OF AMERICA'S MISSING SERVICEMEN,
March 12, 1996.

Hon. ROBERT K. DORNAN,
Chairman, Subcommittee Military Personnel, International Relations, 1201 Longworth Bldg., Washington, D.C.

DEAR CHAIRMAN DORNAN: The National Alliance's Families and Veterans plead with you to stand firm in maintaining the provision that asks for THE LIMITATION OF FUNDING FOR UPGRADING OF THE EMBASSY IN VIETNAM TO THE LEVEL AS OF JULY 11, 1995 (Sec. 609, HR 2076) in both the AUTHORIZATION and APPROPRIATION BILLS of 1996; until such time, that President Clinton can sign on the dotted line confirming that Vietnam's Government is fully and totally cooperating. This would entail Vietnams being forthcoming with the unilateral return of U.S. Servicemen's Remains, records and documents that we known they are concealing.

At your two hearings in the Military Personnel Subcommittee on the POW/MIA travesty in the past months, testimony was received indicating that the Socialist Republic of Vietnam continues to hide information as well as the remains of our Servicemen which they dribble out slowly at their discretion to give the appearance that Vietnam is fully cooperating.

President Clinton promised that the precondition for normalized relations with Vietnam would be the fullest possible cooperation. Well, Clinton "normalized" and Communist Vietnam is still deliberately and perniciously dribbling out documents as you can see with the enclosed Reuters' story dated (3-12-96). Where is this "superb" and "splendid" cooperation by Vietnam?

Our Families, Veterans and concerned citizens thank you for your total support regarding our loved ones. Please, there should be no compromise of the House language for H.R. 2076 (Sec. 609). We ask only for honesty, and the full unilateral return of the remains of our loved ones, including the records and documents before the U.S. gives the funding for Diplomatic facilities in Vietnam.

Bless you for your stalwart support.

Sincerely,

DOLORES APODACA ALFOND,
National Chairperson.

VETERANS OF THE VIETNAM WAR, INC.,
Freeport, NY, March 12, 1996.

Hon. BEN GILMAN,
Chairman, International Relations.

Hon. ROBERT DORNAN,
Chairman, Military Personnel Subcommittee.

DEAR SIRS: The Veterans of the Vietnam War, Inc. strongly supports the provisions in the State Department Authorization and State Department Appropriations bills that deny funds for expanded relations until the Vietnamese government fully and honestly cooperates to account for American Prisoners of War and those still missing in action.

Based on sworn testimony given by General James Wold before the Military Personnel Subcommittee, who admitted that the Communist Vietnamese government continues to withhold valuable documents, including records of the Vietnamese Politburo and Central Committee, our membership is adamant that no further funding with American dollars be allocated to the expansion of relations with the Communist government of Vietnam.

These provisions strengthen the efforts of United States negotiators who are seeking the truth about the large number of POW/MIA cases. These include men last known alive or whose corpse was photo documented, and continued warehousing of remains. The Vietnamese government can unilaterally provide these remains, records and documents that will lead to resolution of this ongoing tragedy. Without this leverage, the Vietnamese Communists will never give us the answers that they are withholding on hundreds of brave Americans.

It is in the interest of the American people and the Clinton Administration that the President demands immediate resolution to the POW/MIA issue before further funding is granted.

We thank you for your dedication to our POW's and MIA's and to the TRUTH.

Sincerely,

JOYCE A. ROMMEL,
National POW/MIA Dir.

THE AMERICAN LEGION,
Washington, DC, February 27, 1996.

Hon. ROBERT DOLE,
Senate Majority Leader, Hart Senate Office Building, U.S. Senate, Washington, DC

DEAR SENATOR DOLE: In December, the President vetoed the Commerce-Justice-State (CJS) appropriations bill that contains a provision which denies funds for expanded relations with Vietnam unless he certifies that Vietnamese officials are fully cooperating with efforts to account for American POW/MIAs from the Vietnam War. Under this certification provision, the State and Commerce Departments would be prohibited from expanding the number of personnel assigned to posts in Vietnam beyond what existed on July 11, 1995, and only allows the United States to operate the Liaison Office established on January 28, 1995.

The American Legion urges you to include this language in the Omnibus Appropriations Bill that is currently under consideration. The President moved to include the Socialist Republic of Vietnam in the family of nations when the President decided to normalize relations on July 11, 1995. The Administration said this will lead to progress on the issue of American Prisoners of War and Missing in Action, but regretfully, we have not found that to be true.

The Vietnamese posseses the ability to unilaterally disclose information on specific cases, as Defense Department officials have testified and their Comprehensive Review of individual cases clearly shows. Thus, we should emphasize this fact and show how important the POW/MIA issue continues to be to the American people by limiting funds for diplomatic facilities in Vietnam subject to the President's certification that Vietnam is "fully cooperating."

The American Legion expects the fullest possible accounting of our POW/MIAs, and believes that withholding funds for diplomatic facilities would restore at least some of the leverage the United States has surrendered while prematurely normalizing relations with Vietnam.

The American Legion thanks you for your continuing strong support on this important issue.

Sincerely,

DANIEL A. LUDWIG,
National Commander.

DISABLED AMERICAN VETERANS,
Washington, DC, March 12, 1996.

Hon. ROBERT K. DORNAN,
Hon. BENJAMIN A. GILMAN,
House of Representatives, 1201 Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES DORNAN AND GILMAN: The provisions in section 609 of H.R. 1561 are consistent with the DAV's position, as embodied in and mandated by a resolution adopted in National Convention, that calls for release of any Americans who may still be held captive, return of the remains of deceased service members, and the fullest possible accounting of those still missing as a condition to increasing our relations with the Socialist Republic of Vietnam. The DAV therefore supports the provisions of section 609 and urges that they be retained in the bill.

Sincerely,

RICHARD F. SCHULTZ
National Legislative Director.

NATIONAL VIETNAM VETERANS COALITION,
Washington, DC, March 12, 1996.

Re Appropriation Bill (H.R. 2076, Sec. 609)—Limitation of funding for the upgrading of the U.S. Embassy in the Socialist Republic of Vietnam.

Rep. ROBERT DORNAN,
Chairman, Military Personnel Subcommittee, 1201 Longworth Bldg., Washington, DC.

Rep. BEN GILMAN,
Chairman, House International Relations, 2449 Rayburn House Office Bldg., Washington, DC.

DEAR CONGRESSMEN: The FY 1996 Commerce/Justice/State House Appropriations Bill passed the House on March 7, 1996, keeping in tact Section 609—"Limitation of the use of funds for diplomatic facilities in Vietnam". It is our understanding that President Clinton is now seeking to VETO this bill in opposition to Section 609.

The National Vietnam Veterans Coalition urges President Clinton to reassess his position on this matter. The Coalition in its entirety, strongly and unanimously supports the present language of this bill. This provision is necessary to assure a full accounting of American POW/MIAs. This provision will also enhance prospects of U.S. Vietnamese economic relations by firmly demonstrating to Vietnam that the United States will accept nothing less than honesty in all relations that affect both nations.

We are asking that the President do nothing more than what he, himself has always committed to the American people. In January, the United States told Vietnam that resolving the fate of missing U.S. servicemen would be its priority regarding any future ties between the two countries and said at that time we wanted more progress.

As we all know this has not happened. Again, we are urging the President to reassess his position and to sign this bill in its entirely.

Sincerely,

J. THOMAS BURCH, Jr.,
Chairman, National Vietnam Veterans Coalition.

AMERICAN DEFENSE INSTITUTE
March 12, 1996.

Hon. ROBERT K. DORNAN
Chairman, Subcommittee on Military Personnel, House of Representatives, LHOB–1201, Washington, DC.

DEAR CONGRESSMAN DORNAN: The American Defense Institute respectfully requests the House to make one final effort to obtain information on missing U.S. servicemen before our nation fully embraces Vietnam. The House can demonstrate to the Hanoi government America's continuing concern about men like James Kelly Patterson, my navigator, whose name surfaced in the Foreign Broadcast Information System, February 28, 1996, stating that evidence exits that he had been forced to work at a secret arms testing site in the Soviet Republic of Kazakhstan. Denying diplomatic funding in the Commerce, State, Justice Appropriations Bill (section 609 of H.R. 2076) as passed by the House, will help accomplish a final resolution to this national tragedy.

The Administration has clearly stated the nation's intention to move forward with diplomatic ties with Vietnam. At the same time, Department of Defense officials have testified that there has not been full disclosure of information Vietnam can provide to account for missing Americans. Is it not unreasonable to limit diplomatic activity until that information is forthcoming? Can we do less for our fallen soldiers?

As a defense policy organization, the American Defense Institute considers the nation's continuing effort to obtain information on missing service personnel to be critical to the morale of those serving in the military today. On behalf of those active duty men and women, POW/MIA families who still wait for answers, the majority of former Vietnam POWs, and most of the nation's 27 million veterans, we urge the Senate to join with the House of Representatives and say with one voice to the government of Vietnam that full diplomatic relations with the United States must be earned by providing all available information on missing Americans.

Sincerely,

EUGENE B. MCDANIEL,
President.

DORNAN TWO DOZEN MIA CASES TO BE UNILATERALLY RESOLVED BY THE GOVERNMENT OF VIETNAM

Refno 0021.—Versace, Humberto Rocque.
Refno 0024.—Roraback, Kenneth M.
Refno 0050.—Cook, Donald Gilbert.
Refno 0054.—McLean, James Henry.
Refno 0096.—Hall, Walter Louis.
Refno 0105.—Lindsey, Marvin Nelson.
Refno 0162.—Pogreba, Dean Andrew.
Refno 0215.—Nordahl, Lee E.
Refno 0691.—Patterson, James Kelly.
Refno 1329.—Francisco, Sam Dewayne.
Refno 1329.—Morrison Joseph C.
Refno 1388.—Brucher, John Martin.
Refno 1402.—McDonnell, John Terrence.
Refno 1405.—Luna, Carter Pervis.
Refno 1437.—Brashear, William James.
Refno 1437.—Mundt, Henry G.
Refno 1456.—Sparks, Donald L.
Refno 1625.—Duke, Charles R.
Refno 1719.—Burnett, Sheldon John.
Refno 1747.—Pearce, Dale Allen.
Refno 1747.—Soyland, David Pecor.
Refno 1748.—Entrican, Dannly D.
Refno 1843.—Wiles, Marvin Benjamin C.
Refno 1927.—Borah, Daniel Vernon Jr.
Refno 1934.—Anderson, Robert Dale.
Refno 1945.—Brown, Robert Mack.
Refno 1945.—Morrisey, Robert D.
Refno 1948.—Stafford, Ronald Dean.
Special Case, Laos—Renno 0084.—Hrdlicka, David Louis

WOLD LIST DPMO CASES REQUIRING CRITICAL VIETNAMESE ASSISTANCE

0023.—Cody, Howard Rudolph.
0024.—Roraback, Kenneth M.
0047.—Tadios, Leonard Masayon.
0048.—Parks, Joe.
0049.—Bennett, Harold George.
0050.—Cook, Donald Gilbert.
0052.—Hertz, Gustav.
0077.—Shea, James Patrick.
0086.—Walker, Orien J.
0096.—Compa, Joseph James, Jr.
0096.—Curlee, Robert Lee, Jr.
0096.—Hagen Craig Louis.
0096.—Hall, Walter Louis.
0096.—Johnson, Bruce G.
0096.—Owens, Fred Monroe.
0096.—Saegaert, Donald Russell.
0097.—Holland, Lawrence Thomas.
0099.—Schumann, John Robert.
0105.—Lindsey, Marvin Nelson.
0121.—Gray, Harold Edwin, Jr.
0266.—Smith, Harold Victor.
0301.—Mape, John Clement.
0315.—Cooper, William Earl.
0326.—Malone, Jimmy M.
0350.—Alberton, Bobby Joe.
0350.—Edmondson, William Rothroc.
0350.—McDonald, Emmett Raymond.
0350.—Shingledecker, Armon D.
0350.—Stickney, Phillip J.
0430.—Eaton, Curtis Abbot.
0435.—Milikin, Richard M., III.
0476.—Taylor, Danny Gene.
0512.—Scungio, Vincent Anthony.
0529.—Niehouse, Daniel Lee.
0542.—Begley, Burriss Nelson.
0586.—Silva, Claude Arnold.
0589.—Poor, Russell Arden.
0641.—O'Grady, John Francis.
0680.—Jefferson, James Milton.
0727.—Apodaca, Victor Joe., Jr.
0732.—Klemm, Donald M.
0826.—Moore, Herbert William, Jr.
1065.—Hunt, Robert W.
1093.—Ray, James Michael.
1112.—Cichon, Walter Alan.
1258.—Acosta-Rosario, Humberto.
1260.—Ferguson, Walter, Jr.
1277.—Shark Earl E.
1329.—Francisco, San DeWayne.
1329.—Morrison, Joseph C.
1456.—Sparks, Donald L.
1504.—Cook, Glenn Richard.
1538.—Long, Carl Edwin.
1719.—Ard, Randolph Jefferson.
1719.—Burnett, Sheldon John.
1843.—Wiles, Marvin Benjamin C.
1870.—Fowler, James Alan.
1870.—Seuell, John W.
1924.—Buell, Kenneth Richard.
1934.—Anderson, Robert Dale.
1940.—Hall, James Wayne.
1952.—McElvain, James Richard.
1952.—Ward, Ronald J.
1965.—Bennett, Thomas Waring, Jr.
1978.—Bush, Elbert Wayne.
1978.—Deane, William Lawrence.
1978.—Lauterio, Manuel Alonzo.
1978.—Stinson, William Sherril.
1978.—Wilson, Mickey Allen.

69 INDIVIDUALS.—(51 CASES)

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, if passed into law, this bill would be the beginning of the U.S. withdrawal from the international arena.

If this bill passes, the United States is on the slippery slope toward isolationism, and as the last superpower, the United States cannot withdraw from the world. Sections of this bill force the United States to retreat from further engagement in world affairs.

American leadership in the international arena is directly threatened by this bill. The conduct of foreign policy is a significant Presidential prerogative. It is not the prerogative of the Congress. Presidential authority to conduct foreign policy and direct national security legislation is severely curtailed by this bill.

The President should always be prepared to consult the Congress in foreign policy questions, but this bill goes too far in undermining the ability of the President to conduct foreign policy. The bill does not authorize the necessary level of funding for the President to conduct effective foreign policy.

Diplomacy is America's first line of defense. Diplomacy is essential to maintaining American leadership in world affairs. Diplomacy is also an inexpensive way to represent vital U.S. interests abroad.

I recently returned from a trip overseas in the subcontinent, and I spoke to many foreign service officers, AID officers, USIA officers. They are demoralized. They feel that their true worth and value is not appreciated by this Congress. These are men and women that risk their lives, do their jobs well, are patriotic, effective and efficient, yet they are being sent a message that their service is not important, that funding for their agency is not important, that they are furloughed.

This is not the way to treat America's diplomats. These are men and women that form the elite of the American Federal Government. They have been tested through extensive examinations. They do not deserve this treatment.

The United States spends slightly more than 1 percent of its Federal budget on international diplomacy and international assistance programs. This investment in peace and prosperity is the cornerstone of our national security policy. It is clearly cheaper to engage in diplomacy than to pay for military operations.

At this very time that we are in a state of tension between Taiwan and China, there is a provision in this bill, section 1601, amending the Taiwan Relations Act that is going to increase risk at a time of heightened tensions. This is not the time, this is not the week, this is not the day to be sending a message at a time of very heightened tensions. We have ships and destroyers in a state of alarm in Taiwan and in China. This is not the time when we abruptly shift policy and tie the President's hands.

We also have a provision on international organizations which would provide inadequate funding levels for fiscal years 1996 and 1997 and unworkable notification requirements which would undermine our diplomatic efforts in the U.N. and also are efforts to reform the U.N. system. This is not the kind of bill nor the kind of initiative we want to be sending at this time.

The bill also threatens the existence of vital international agencies in foreign policy. The U.S. Agency for International Development, the U.S. Information Agency, and the Arms Control and Disarmament Agency may all be shut down by passage of this bill. At least one of them is going to be closed down. What is America's foreign policy going to be, if not to help international markets for American firms, extending America's promise of freedom through the free flow of information, and to make the world safe from the horrors of nuclear warfare?

Mr. Speaker, this is not a good bill. There are many serious Members on the other side that know the limits and the possibilities of American foreign policy. They know that we are the last superpower. They know that, regrettably, because we resolved the Bosnia issue and many others, that the world is coming to us for leadership. When we retreat and when we say that we cannot staff our embassies and we close consulates, not providing services to Americans and not showing the American flag, that is a signal at this time of our existence when the American leadership is not only going to be questioned, but once again many are going to say that the American giant, the country that is a hope for freedom and diplomacy and democracy, is not out there to do its job.

Mr. Speaker, this is not a good bill. It should not be passed. The President's right to conduct foreign policy should be maintained, and this bill does not do that.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in concluding, I simply want to commend the gentleman who just spoke for his excellent and his very thoughtful statement. His points, especially those made relative to the fine men and women who serve us overseas and what we owe them, I think could not have been better said.

Mr. Speaker, I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Mexico, perhaps more than any Member of this Congress, knows how helpful Members of this Congress can be in the execution of foreign policy, and I think that it is correct to say that foreign policy is not the exclusive right of the executive branch. It is an area where we both have an interest.

I would agree, as I said in my opening remarks, that the executive branch has primary responsibility, but we have primary oversight responsibility. Surely in terms of foreign policy of the national interests of the United States, this body has a tremendous amount to say and should have a tremendous amount to say.

Second, I would like to reply just very briefly to the remarks of my distinguished colleague from California, Mr. BEILENSON, about this question about points of order. We had looked very closely into that ourselves, and, as traditional with conference reports, I would have waived all points of order against it. We had gotten to the conclusion, after checking with CBO, that we in fact have no unfunded mandate. Therefore, we did not see any problem with waiving a rule when there was no unfunded mandate. In fact, I have a letter I will introduce into the RECORD from the Congressional Budget Office dated March 12, that in fact says, among other things, the bill would impose no intergovernmental private-sector mandates as defined by Public Law 1044 and would have no direct budgetary impacts on State, local, or tribal governments. I believe that as well.

Mr. Speaker, I will also include in the RECORD a statement which would have been our statement had we actually taken the point of order question to the floor. I would simply say it would be a futile gesture to provide an answer when there is no problem, although that is the kind of thing we do very well in government these days. It seems at great cost to the taxpayers, and I would put that point of order in that particular category.

Finally, I would like to urge strong support for the rule at this time. Whether one agrees with the substance of the bill, the rule is actually a pretty good rule. It should allow us to get on with our job. I think there is every reason for people to support this particular rule.

Mr. Speaker, the letter and statement referred to earlier are included for the RECORD.

Mr. Speaker, I rise in strong support of the question of consideration of this rule and urge an "aye" vote on it. Let me make quite clear from the outset that the point of order that has triggered this separate 20-minute debate and vote is completely bogus—there are no unfunded mandates in this State Department conference report.

Mr. Speaker, the point of order was made that House Resolution 375 is in violation of section 426(a) of the Budget Act which prohibits the consideration of a rule that waives section 425 of the Budget Act relating to unfunded mandates. A section 425 point of order is triggered if the maker of the point of order can, and I quote, "specify the precise language on which it is premised."

In this case, the existence of a blanket waiver in this rule is sufficient specific language to trigger the point of order and a separate debate and vote. There is no requirement that a point of order against the rule need identify any matter in the conference report that might be in violation of the unfunded mandate procedures.

And so, while the rule waives all points of order against the conference report, implicitly including any unfunded mandate points of order, there is no provision that we are aware of in the conference report that remotely relates to mandates on State or local governments.

There were no such mandates identified by the Congressional Budget Office in the House reported bill, or in the House-passed bill, H.R. 1561, or in the Senate-passed bill. Nor are we aware of any that have been added in conference.

I would therefore submit that while the point of order may be technically valid because this is a blanket waiver, its use in this instance is an abuse of process—a dilatory tactic designed to prolong and delay consideration by the House of this boilerplate rule on a conference report that contains no unfunded mandates of order and that the House should not be subjected to additional debate and a vote where no such valid point of order would lie.

So, the question might be asked, Why not exempt the unfunded mandate point of order from the blanket waiver in the rule? The point of order that has been made against this rule is the perfect answer to that question. While you can have only one bogus point of order against the rule, you could have an infinite number raised against the conference report—each of which would trigger a separate debate and vote of the House to consider the conference report.

In other words, the minority has already made the case for the blanket waiver with this completely groundless and dilatory point of order against the rule. I would therefore urge that the motion to consider this rule be adopted.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 1996.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to the request of your staff, the Congressional Budget

Office has reviewed the Conference Report to H.R. 1561, the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997, as reported on March 8, 1996. The bill would consolidate various foreign affairs agencies, authorize appropriations for the Department of State and related agencies, and address other matters in foreign relations.

The bill could impose no intergovernmental or private sector mandates as defined by Public law 104-4 and would have no direct budgetary impacts on state, local, or tribal governments.

We are preparing a separate federal cost estimate for later transmittal.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Pepper Santalucia (225-3220) for effects on state, local, and tribal governments, and Eric Labs (226-2900) for impacts on the private sector.

Sincerely,

JUNE E. O'NEILL.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 180, not voting 25, as follows:

[Roll No. 56]

YEAS—226

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—25

Barton
Bryant (TX)
Chapman
Chenoweth
Christensen
Collins (IL)
de la Garza
DeLay
Durbin
Fields (TX)
Flake
Ford
Gallegly
Green
Johnson, Sam
Laughlin
Ortiz
Roukema
Rush
Stockman
Stokes
Taylor (NC)
Tejeda
Waxman
Wilson

☐ 1749

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAMP). Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: House Joint Resolution 78, de novo; H.R. 2064, de novo; and House Concurrent Resolution 149 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

BI-STATE DEVELOPMENT AGENCY BY THE STATES OF MISSOURI AND ILLINOIS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution, House Joint Resolution 78, as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 78, as amended.

The question was taken.

RECORDED VOTE

Mr. GOSS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 0, not voting 26, as follows:

[Roll No. 57]

AYES—405

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)

Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—26

Barton
Bryant (TX)
Chapman
Chenoweth
Christensen
Collins (IL)
de la Garza
DeLay
Durbin
Fields (TX)
Flake
Ford
Gallegly
Green
Johnson, Sam
Laughlin
Ortiz
Roukema
Royce
Rush
Stockman
Stokes
Taylor (NC)
Tejeda
Waxman
Wilson

□ 1810

Mr. HOUGHTON changed his vote from "no" to "aye."

So (two-thirds having voted in favor thereof) the rules where suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CAMP). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

HISTORIC CHATTAHOOCHEE COMPACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2064.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 2064.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONDEMN BOMBINGS IN ISRAEL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 149, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 149, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 25, as follows:

[Roll No. 58]

YEAS—406

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner

Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—25

Barton
Bryant (TX)
Chapman
Chenoweth
Christensen
Collins (IL)
de la Garza
DeLay
Durbin
Fields (TX)
Flake
Ford
Gallegly
Green
Johnson, Sam
Laughlin
Lewis (KY)
Ortiz
Rush
Stockman
Stokes
Taylor (NC)
Tejeda
Waxman
Wilson

□ 1819

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Kentucky. Mr. Speaker, I was unavoidably detained and did not cast my vote on rollcall No. 58. Had I been present, I would have voted "yes" on House Concurrent Resolution 149.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1963

Mrs. THURMAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1963.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentlewoman from Florida?

There was no objection.

CONFERENCE REPORT ON H.R. 1561, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997

Mr. GILMAN. Mr. Speaker, pursuant to House Resolution 375, I call up the conference report on the bill (H.R. 1561) to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution, 375, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, March 8, 1996, at page 4136.)

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House, the conference agreement on H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997.

We bring to the floor a bill that eliminates at least one Federal agency, cuts spending $500 million before fiscal year 1995 levels, and achieves savings of $1.7 billion over 4 years.

The conference agreement requires the abolition of at least one agency from among the four international affairs agencies—the Arms Control and Disarmament Agency, the Agency for International Development, and the U.S. Information Agency and its consolidation into the Department of State.

This consolidation—and the President is certainly encouraged to consolidate more than one agency—together with other provisions of the bill, will result in a savings in fiscal years 1996 through 1999 of at least $1.7 billion in the authorizations for programs under the control of the Committee on International Relations.

The bill reauthorizes the Department of State and related agencies for fiscal years 1996 and 1997. Further, it authorizes, at reduced but manageable levels, the salary and expense accounts for the Departments of State, USIA, ACDA, and AID through 1999.

In this manner we are able to ensure that savings in these accounts are planned for and achieved, as will be seen in the accompanying spreadsheet.

Regrettably, the President already has stated his intention to veto this bill, which provides for the first measure of reform in our foreign affairs agencies in 50 years, including reforms his own administration proposed.

With regard to consolidation, Secretary of State Warren Christopher last year suggested consolidating three outdated foreign affairs agencies into the State Department. Our bill requires the consolidation of only one agency.

Our bill also provides for a number of foreign policy principles important to U.S. national interests.

Our bill puts the Taiwan Relations Act at the center of our relations, allowing the United States to fully support Taiwan. The President, siding with the Chinese Communist government, seeks to limit our support for Taiwan by asserting that an Executive Agreement takes precedence over legislation by the U.S. Congress.

On Vietnam, our bill conditions the expansion of United States relations with Vietnam on POW-MIA progress. The President, by disagreeing with this bill, stands with the Vietnamese Government and against the families of missing Americans.

On the international housing program, our bill follows the GAO's advice and ends the AID Housing Guarantee Program, except in South Africa. By vetoing our bill, the President would continue this "international S&L," despite the GAO's warnings that the program will cost the taxpayers over $1 billion in loan losses.

Our bill, for the first time, also provides that recipients of grants from the International Fund for Ireland abide by the MacBride Principles of fair employment in the North of Ireland.

Our bill condemns Turkey's misguided policy of obstructing aid to Armenia by prohibiting assistance to any country that bars or obstructs delivery of United States humanitarian aid.

Our bill contains a bipartisan provision requiring that foreign aid funds not spent after 3 years following their appropriation be returned to the U.S. Treasury.

Our bill also contains 20 provisions to improve management of the State Department that the administration requested.

They include authority to collect fees for visas and use the funds to improve our border security operations, and authority to collect from insurers for providing free health care to U.S. diplomats and their families at overseas posts, to name a few.

We also provide higher spending levels for a very few programs, such as the Peace Corps and International Narcotics Control programs.

H.R. 1561 also provides for reforms in the United Nations to refocus the U.N. on its traditional development and peacekeeping roles, preserves organizational flexibility for the agencies, provides for the humanitarian assistance and resettlement for refugees, promotes the rapid implementation of broadcasting into the non-democratic countries of Asia, and terminates United States participation in obsolete international organizations.

Mr. Speaker, this conference agreement reflects a number of compromises between the House and the Senate and accommodates many of the most serious concerns raised by the administration and the minority.

While the minority chose not to participate in the process, we made a sincere effort to meet their concerns.

It was disappointing that we could not build within the administration and among many of our colleagues a consensus to organize the foreign affairs functions to meet the coming century.

While we are bringing a solid Department of State and related agencies bill to the floor, many of us are disappointed that we could not build a consensus within the administration and among our democractic colleagues to organize the foreign affairs functions to meet the coming century.

Because of bureaucratic inertia and a lack of vision, the Clinton administration has engaged in an all-out assault on any effort to revitalize, reinvigorate, reorganize, reform, restructure, or reconsider the foreign affairs programs of our Nation.

The tragedy is that this bill reflects the failure of the Clinton administration to provide the foreign policy leadership in the early years of the post-cold-war era that was once provided by another Democratic administration—Harry Truman's—in the early years of the cold war era.

Truman's administration—including the President, the Secretary of State, the Secretary of Defense, and hundreds of other competent and courageous public servants—were concerned with building institutions and about the quality and effectiveness of the institutions of government entrusted to them.

The Truman years were years of an openness to new ideas and a willingness to experiment.

Faced with a world situation and an American role in the world radically different from those that existed before the Second World War, President Truman, Secretary Marshall, Secretary Forrestal, Secretary Acheson, and others did what was necessary to adapt to the new era.

This was the era in which the State Department was reformed from top to bottom, in which new agencies like USIA and the foreign aid agency were created, in which the Air Force was created, and authority over the Army, Navy, and Air Force was consolidated into one new Department of Defense. Intelligence matters were consolidated and placed in a newly created Central Intelligence Agency. The National Security Council was created.

I could go on.

The point is that in the years after the Second World War, our country was fortunate enough to have as the leaders of its foreign policy institutions great public servants who were concerned not only with creating a new policy for the new era, but in building the institutions to carry out the new policy.

Today, the institutions of foreign policy built for the cold war era demand serious attention and will require hard work if the institutions are to serve our policy objectives in this post-cold-war era.

The end of the cold war is not the only reason why these institutions need attention. Massive changes in the external environment in which these agencies operate also demand that these institutions be reformed and revitalized.

The revitalization of the foreign policy institutions does not have to be an adversarial process with Congress imposing upon a reluctant bureaucracy reforms that the bureaucracy itself is unable to adopt.

We were prepared, as the new Republican majority in Congress, to work collaboratively with the President and his Secretary of State to develop and carry out a program of reform and revitalization of these institutions.

We in Congress were prepared to work in that great spirit of bipartisanship and executive-legislative collaboration that characterized the post-World War II era.

Regretably our offers of cooperation were spurned.

But the day will surely come—in less than a year, I believe—in which the leadership will be there to engage in a program of revitalizing the foreign affairs functions of our Government. There will eventually be leadership in foreign affairs who have the vision to create the foreign policy for the post-cold-war era and the courage to implement such a vision through institutional changes. Those whose vision is too unfocused and whose courage is too uncertain must give way to those who can provide the leadership that is so desperately lacking today.

Those who oppose the reform and revitalization of the foreign affairs programs are the real isolationists because they have allowed themselves and their thinking to become isolated from the great changes that have taken place.

They recognize the change in the world, but want to isolate themselves from the serious, hard work of adapting public institutions to the changes in the world.

In a now-infamous memo, the A.I.D. Agency said its aim was to—and I quote—"delay, obfuscate and derail" this bill.

This conference report is a downpayment on our pledge to streamline and consolidate our foreign affairs apparatus for the first time in 50 years to make them more effective and efficient.

In his State of the Union speech 7 weeks ago, the President stated that, in his words, "the era of big government is over." When Congress sends this bill to his desk in the Oval Office, we will see if the President truly meant what he said.

FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 1996 AND 1997

[In fiscal years]

International Affairs, Budget Function 150, Account	1995	1996	1996	1996	1996	1996	1997	1997	1997
	Actual authority	Request authority	H.R. 1561 authority	Approps. conferences	S. 908 authority	Final conference	H.R. 1561 authority	S. 908 authority	Final conference
Administration of Foreign Affairs:									
Transition Fund					125,000			100,000	
Diplomatic and Consular Programs	1,748,000	1,758,438	1,728,797	1,719,220	1,688,500	1,719,220	1,656,903	1,612,000	1,710,000
Salaries and Expenses	383,972	374,350	366,276	365,146	368,000	365,146	335,287	373,000	357,000
Capital Investment Fund	0	32,800	20,000	16,400	32,800	16,400	20,000	32,800	16,400
Protection of Foreign Missions and Officials	9,579	8,579	9,579	8,579	8,579	8,579	9,579	8,579	10,000
Emergencies in the Diplomatic and Consular Services	6,500	6,000	6,000	6,000	6,000	6,000	6,000	6,000	6,000

FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 1996 AND 1997—Continued

[In fiscal years]

International Affairs, Budget Function 150, Account	1995	1996	1996	1996	1996	1996	1997	1997	1997
	Actual authority	Request authority	H.R. 1561 authority	Approps. conferences	S. 908 authority	Final conference	H.R. 1561 authority	S. 908 authority	Final conference
Payment to the American Institute in Taiwan	15,465	15,465	15,165	15,165	15,400	15,165	13,710	15,400	14,165
Buying Power Maintenance	(5,223)	0	0	0	....	0	0	....	0
Office of the Inspector General	23,850	24,250	23,469	27,369	23,350	27,369	21,469	23,000	27,000
Security & Maintenance of U.S. Missions	391,760	421,760	391,760	385,760	401,760	385,760	369,860	401,760	380,000
Representation Allowances	4,780	4,800	4,780	4,500	4,500	4,500	4,780	4,500	4,500
Repatriation Loans Program Account	776	776	776	776	776	776	776	770	776
Subtotal	2,579,459	2,647,218	2,566,602	2,548,915	2,674,665	2,548,915	2,438,364	2,577,809	2,525,841
Assessed Contributions for Peacekeeping	518,687	445,000	445,000	225,000	445,000	445,000	300,000	375,000	375,000
Subtotal	518,687	445,000	445,000	225,000	445,000	445,000	300,000	375,000	375,000
International Conferences and Contingencies	6,000	6,000	6,000	3,000	7,000	3,000	5,000	5,000	3,000
Subtotal	6,000	6,000	6,000	3,000	7,000	3,000	5,000	5,000	3,000
Assessed Contributions to Internat'l Orgs	872,661	923,057	873,505	700,000	777,000	850,000	828,388	777,000	840,000
Subtotal	872,661	923,057	873,505	700,000	777,000	850,000	828,388	777,000	840,000
Payment to the Asia Foundation	15,000	10,000	10,000	5,000	5,000	5,000	9,000	3,000	10,000
Subtotal	15,000	10,000	10,000	5,000	5,000	5,000	9,000	3,000	10,000
Migration and Refugee Assistance:									
Refugee Assistance	591,000	591,000	590,000	671,000	591,000	590,000	590,000	671,000	590,000
Refugees to Israel	80,000	80,000	80,000	....	80,000	80,000	80,000	....	80,000
Burmese Refugees	....	....	1,500	....	....	1,500	1,500	....	1,500
Subtotal	671,000	671,000	671,500	671,000	671,000	671,500	671,500	671,000	671,000
International Narcotics Control	105,000	213,000	213,000	115,000	....	115,000	213,000	....	213,000
Peace Corps	231,345	234,000	219,745	205,000	....	210,000	215,000	....	234,000
Subtotal	336,345	447,000	432,745	320,000	0	325,000	428,000	0	447,000
Arms Control and Disarmament Agency:									
Core programs	40,878	45,300	44,000	35,700	22,700	35,700	39,500	0	30,000
Chemical Weapons Convention (CWC)	9,500	17,000	0	....	....	....	....	....	....
Cobra Dane Radar	....	14,000	0	....	....	....	....	....	....
Subtotal	50,378	76,300	44,000	35,700	22,700	35,700	39,500	0	30,000
U.S. Information Agency:									
Board for International Broadcasting	229,735	0	0	....	....	....	0	....	....
BIB—Grants and Expenses	7,290	0	0	....	....	....	0	....	....
Salaries and Expenses	475,645	496,002	445,645	445,645	429,000	445,645	402,080	387,000	440,000
Technology Fund	0	10,100	5,050	5,050	10,100	5,050	5,050	9,500	5,050
East-West Center	24,500	20,000	15,000	11,750	20,000	11,750	8,000	8,000	11,750
North-South Center	4,000	1,000	4,000	2,000	....	2,000	3,000	....	3,000
Radio Construction	69,314	85,919	70,164	40,000	83,000	40,000	52,647	79,500	35,000
International Broadcasting Operations	238,338	395,340	311,191	325,191	310,000	325,191	246,191	300,000	330,000
Broadcasting to Cuba	24,809	0	24,809	24,809	....	24,809	24,809	....	24,809
RFE/RL	....	....	....	....	75,000	....	....	75,000	....
Israeli Relay Station	(2,000)	....	....	....	....	....	....	....	....
Subtotal	1,071,631	1,008,361	875,859	854,445	927,100	854,445	741,777	859,000	849,609
Educational & Cultural Exchange Programs:									
Fulbright	135,753	130,799	112,484	200,000	109,500	102,500	88,681	101,000	98,000
S. Pacific Exchanges	900	0	900	....	....	....	900	....	....
East Timorese Scholarships	0	0	800	....	....	....	800	....	....
Cambodian Scholarships	0	0	141	....	....	....	141	....	....
Tibetan Exchanges	0	0	500	....	....	....	500	....	....
Other Programs	177,352	121,877	77,266	....	118,322	97,500	57,341	107,300	85,000
Unspecified cuts	(40,726)	....	....	....	....	....	....	....	....
Subtotal	273,279	252,676	192,091	200,000	227,822	200,000	148,363	208,300	183,000
National Endowment for Democracy	34,000	34,000	34,000	30,000	32,000	32,000	32,000	29,000	30,000
Radio Free Asia	5,000	0	10,000	(5,000)	....	10,000	10,000	....	10,000
Eisenhower Exchange Fellowship Prog. Trust Fund	2,800	300	....	300	....	....	0	....	....
Office of the Inspector General	4,300	4,593	4,300	State IG	4,100	State IG	3,870	3,900	State IG
Subtotal	46,100	38,393	48,300	25,300	36,100	42,000	45,870	32,900	40,000
Agency for International Development:									
USAID Operating Expenses	515,500	529,000	465,774	465,750	432,000	465,000	419,196	389,000	465,000
Operating Expenses—USAID Inspector General	39,118	39,118	35,206	30,200	35,000	30,200	30,685	31,500	27,000
Subtotal	554,618	568,118	500,980	495,950	467,000	495,200	449,881	420,500	492,000
Housing Guarantee Program Account:									
Subsidy Appropriation	19,300	16,760	0	4,000	....	4,000	0	....	0
Operating Expenses	8,000	7,240	7,000	7,000	....	7,000	6,000	....	6,000
Subtotal	27,300	24,000	7,000	11,000	0	11,000	6,000	0	6,000
Internat'l Relations Committee total	7,022,458	7,117,623	6,673,582	6,095,310	6,260,387	6,486,760	6,111,643	5,929,509	6,472,950
Function 300 HIRC Jurisdiction State Department									
International Commissions:									
International Boundary Waters Comm. (S&E)	12,858	13,858	13,858	12,058	12,500	12,058	19,372	12,300	19,372
International Boundary Waters Comm. (Constr)	6,644	10,398	10,393	6,644	10,000	6,644	9,353	10,000	9,000
American Sections: IBC	740	740	740	640	740	640	666	720	666
American Sections: IJC	3,550	3,550	3,500	3,360	3,500	3,360	3,195	3,500	3,195
International Fisheries Commissions	14,669	14,669	14,669	14,669	14,669	14,669	13,202	14,400	13,202
Subtotal	38,461	43,215	43,160	37,371	41,409	37,371	45,788	40,920	45,435
HIRC bill total	7,060,919	7,160,838	6,716,742	6,132,681	6,301,796	6,524,131	6,157,431	5,970,429	6,518,385

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I rise to express my opposition to the conference report on H.R. 1561.

Before I point out what I believe to be mistaken undertakings on behalf of our committee, I would like to point out that my friend, the gentleman from Florida [Mr. GOSS], who happens not to be on the floor at this time, made a statement earlier regarding this bill which is not correct.

He stated that this would be the first State Department authorization bill since 1985. Our research shows that that simply is not accurate. There has been a State Department authorization bill every year for the last 15 years authorized in 2-year increments.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I think what the gentleman meant, if we adopt this, it would be the first State authorization bill to be adopted, foreign aid authorization bill to be adopted since 1985.

Mr. HASTINGS of Florida. Reclaiming my time, that is not what he said. I want it clearly understood there has not been an authorization bill for foreign aid since 1985, but that does not relate to this bill since the foreign aid authorization has been deleted from this measure.

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I just wanted to point that out. I think that that will reflect accurately, and the gentleman from Florida [Mr. GOSS] needs to be mindful of that.

This report has a myriad of problems, as illustrated by the fact that not one Democrat on the conference committee supported the final product. The President, as the chairman a moment ago has pointed out, has promised to veto it and correctly so. It reorganizes and eliminates foreign policy agencies because of political concerns, not because the changes will make operations more efficient.

The report also cuts spending on our foreign aid programs too deeply. The minimal amounts that we spend in the first place reap benefits for us in expanded trade, better relations, a greater sphere of influence, just to mention a few things. But to cut back on our meager assistance is just plain shortsighted.

This conference report is just another example of this Congress micromanaging foreign policy and preventing the President from doing his job. Foreign policy obviously is important. We cannot wish the world's problems away. Instead of retreating, we must have the flexibility to get involved so that we can help those in trouble and promote our own interests. The two goals are not incompatible, but they will be unachievable if this report is passed.

Mr. Speaker, I want to point out one more thing, and that is the provision dealing with Taiwan. This simply is not the right time to bring this kind of provocative measure to the floor. The fact of the matter is, Taiwan is getting ready to have an election and China is rumbling all over the place. For us to deal with this kind of measure stops us from being able to take the kinds of measures that are vitally necessary.

Mr. GILMAN. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I would like to ask the gentleman what in the Taiwan Relations Act does he object to? In the language passed duly by the Congress, it is the law of our land. What does the gentleman object to?

Mr. HASTINGS of Florida. Mr. Speaker, if the gentleman will yield, the repudiation at this time would destabilize what we have done, I would remind my friend. We have a longstanding policy that this United States has, both Republican and Democrat, toward China. What we will be doing is increasing the risk at the time of heightened tensions. I am not opposed to us talking about this, but I am talking about the timing.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished chairman of the Committee on Economic and Educational Opportunities, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I rise today in support of the conference report to H.R. 1561, the Foreign Relations Authorization Act.

I would like to express my thanks to Chairman BEN GILMAN and his staff for guiding this bill through rough waters and rocky terrain. It has not been easy, and he and his staff have done an admirable job.

I would also like to thank Chairman CHRIS SMITH for all of his work concerning a provision I will discuss in a moment concerning coercive population control policies.

Before I do so, however, I would like to address some of the criticisms I have heard about this bill. We have before us today a bill that represents a genuine compromise on some very difficult issues.

I certainly did not get everything I wanted in this bill. I thought my provision concerning U.N. voting coincidental was worthy of support and inclusion in the conference report. Dozens of Members could say the same thing about many of their provisions that have been left behind. Chairman GILMAN went so far to leave his provisions concerning microenterprise projects out of the bill.

But we all agreed to compromise in order to move the bill forward. That is called governing. It is a product of the democratic process. So when I hear people complain we have been unwilling to give in, and when I learn the President has pledged a veto of this bill despite all of our efforts, I begin to wonder who is serious about governing.

This "my way or the highway" approach to Government is not going to cut it. The other side must be willing to give in on some issues. We have given in on the population issue. We have given in on foreign assistance provisions. We have given in on eliminating three agencies to only one. In contrast, I do not recall one single issue where the minority has compromised.

I say this not out of malice but simply as a point of reference. I would hope we could move forward.

This conference report contains a provision of particular significance which I alluded to earlier. It addresses the coercive population control policies employed by the Chinese Government.

For over 1,000 days, a group of Chinese men have been held in the York County jail, which happens to be in my district. Their crime? These men fled China in fear of China's coercive abortion and sterilization policies.

Had these individuals fled China for the United States during the years President Reagan and President Bush were in office, they would likely have been granted asylum in the United States years ago. Under Presidents Reagan and Bush, fear of repressive, coercive population control policies, which China clearly employs, was grounds for asylum. Under Reagan-Bush, these individuals would likely have been set free, and the Federal Government is paying over $1 million in taxpayer money each year to keep them locked up.

Unfortunately, President Clinton changed the policy when he took office in the belief that fear of forced abortion or sterilization does not merit asylum in this country.

H.R. 1561 would change U.S. law back to the Reagan-Bush policy that was the law of the land for years and which hardly resulted in our Nation being overrun by hordes of asylum seekers.

The House will next week consider legislation to crack down on illegal immigrants. I am the first to say that illegal immigrants who have no grounds for asylum must be sent away. But it is wrong to make an example of these Chinese men and women who fear coercive population policies.

This provision is supported by the Family Research Council, and various churches. This provision is humane, and most of all, it speaks well of America and Americans.

Mr. Speaker, I again want to thank Chairman GILMAN and Chairman SMITH for their work on this bill and I urge all Members to support this conference report.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise to strongly oppose this piece of legislation, the conference report. This is a bad bill. It is a bad bill for several reasons.

First, we have to understand this is not foreign aid. This is a budget for the State Department, USAID, our own agencies.

Under the Constitution, the President is empowered to conduct the U.S. foreign policy. This bill hamstrings the President in the exercise of that responsibility.

First, it abolishes an agency indiscriminately. They do not tell us which agency. They do not say why. They do not indict the agency for malfeasance or any other problems. They just say abolish an agency. It is not real reform. It is reform purely for the sake of saying we had reform. It does not make any sense.

We cannot manage a foreign policy by these kinds of arbitrary changes, moving boxes around without any meaningful purpose.

Second, is deep and unreasonable cuts. This budget, this program, will hamstring the President in terms of his ability to retain qualified people. This budget and the cuts they propose will result in RIF's, layoffs, and the loss of highly talented people. We cannot run a foreign policy without qualified people. We have international responsibilities as a world leader.

A couple of final very important points: This bill discourages burden sharing. We found out through Desert Storm that we need multilateral action. But by discouraging and inhibiting U.S. participation in the United Nations and other multilateral organizations, we discourage burden sharing, because other countries will say, "If the United States does not participate, if the United States does not pay its dues, then why should we? If the United States is trying to pull back on its financial commitment, why should we commit when we are a much smaller country?"

It discourages burden sharing at a time when we need to involve other countries.

Finally, it limits U.S. population assistance programs. One of the biggest problems we will confront in the year 2000 and beyond is the question of an exploding population. Under this bill, as many as 7 million couples will be denied the opportunity to get family planning assistance. I am not advocating any kind of coercive abortions, but I am saying people ought to be able to get information and assistance to engage in family planning.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 5½ minutes to the gentleman from New Jersey [Mr. SMITH], a senior member of our Committee on International Relations and the chairman of our Subcommittee on International Operations and Human Rights.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, I just want to advise the body that the gentleman's statement a moment ago was entirely wrong. There is nothing authorizing or providing for population control funds in this bill either way. It simply is silent on the issue. There is no foreign aid in this bill. That was dropped at the insistence of the Democrats during the House-Senate conference committee, and it would have led to a filibuster beyond any doubt on the Senate side had we insisted that be in there. So it was dropped. It is not there.

Mr. Speaker, I would like to address some of my remarks this evening to my Democratic colleagues, because, frankly, I am astonished again by some of the disinformation going on about what is in the bill or not in the bill.

I am also a little bit hurt by the suggestion this was not a bipartisan bill. The budget savings in the consolidation provisions are there, but they have been modified. There has been compromise with a capital "C" with regards to this bill to meet what we thought were the administration's objections. But the goal posts keep moving back.

Let me speak primarily, however, to the human rights provisions which we have worked very, very hard in my Subcommittee on International Operations and Human Rights and in the full committee with the leadership of the gentleman from New York [Mr. GILMAN].

Opposition to the violation of fundamental human rights is not a partisan issue, and this bill contains stronger human rights provisions than any previous foreign relations authorization act that I have seen on this floor during my 16 years as a Member of this House. Frankly, they were even stronger when the bill passed the House, but we had to moderate some of them and we dropped others to meet the objections of the administration.

I am very pleased that the Humanitarian Corridors Act is in this report. I offered that bill as a freestanding bill and as an amendment to the bill when it came up. It seems to me a very modest proposal to say that those countries that receive U.S. foreign assistance cannot impede or inhibit or proscribe the transiting of humanitarian aid to another country.

I speak, of course, to Turkey and the fact they have disallowed humanitarian assistance to Armenia. It is important if we have relations and provide foreign aid that we say to our allies, allow these medicines and other kinds of assistance to get to our friends in Armenia.

There is also the McBride Principles championed by our good and distinguished chairman, the gentleman from New York [Mr. GILMAN]. That is in here. I just notice and would say parenthetically, Mr. Clinton just got the Irishman-of-the-Year award. He should not veto this bill. This will be the first time we codify the McBride Principles that many of us have talked about. Now we are going to do something about it in this legislation.

There is also an authority to provide the Special Envoy to Tibet. It is not mandatory. I think it is a step forward in the right direction, so that human rights can be further recognized in that very troubled region of the world.

The Migration and Refugee Assistance provisions come under our subcommittee. We, after hearings and hearing from all of the refugee community, have decided that it was very important that we hold harmless the refugee budget. The world is awash with refugees. We have to at least provide, I think, this modest amount of money to provide for them. There is $671 million in each of the fiscal years for refugee programs, $500,000 higher than the administration's 1996 request, and substantially higher than the estimates that the administration's requests were based on for 1997. So we held those refugee assistance accounts harmless.

There is also allocation of funds for certain Burmese refugees and for the resettlement of refugees to Israel. They are carried over from the prior year. We have also authorized such funds that are necessary for the resettlement of certain Southeast Asia refugees in the high risk categories identified by the Lautenberg amendment, primarily those that served with the United States forces in the former government of South Vietnam, religious refugees and members of the Hmong ethnic minority from Laos.

Subsection 1104(b) prohibits expenditures on programs involving repatriation to Vietnam, to Laos or Cambodia, unless the remaining asylum seekers have been or will be interviewed by United States immigration officers, and unless resettlement offers have been made or will be made to those found to be refugees under United States law.

This provision was modified in conference to make it clear that the refugee status interviews can, under certain circumstances, be held in the asylum seeker's country of origin. This is to accommodate the administration's so-called Track Two plan for interviews in Vietnam. This plan will only work if we can somehow guarantee the safety of the asylum seekers during the interview process. We are not there yet, but this provision, which did pass the House 266 to 156 in a broad bipartisan vote, will help us with those boat people, so that we close out the comprehensive plan of action with honor and kindness, and not cruelty.

The section on the Cuban immigration policies, and this is I think very timely, Mr. Chairman, this would require periodic reports on the Cuban Government's methods of enforcing its 1994 and 1995 anti-immigration agreements with the United States, and on the treatment of persons returned by the United States to Cuba.

SECTION 1252, EXTENSION OF CERTAIN ADJUDICATION PROVISIONS

Mr. Speaker, this section extends the Lautenberg amendment, which identifies certain high-risk refugee categories and provides that applicants in these categories are presumed to be refugees if they assert both a fear of persecution and a credible basis for their fear of persecution. The high-risk categories include nationals or residents of an independent state of the former Soviet Union or Estonia, Latvia, or Lithuania who are Jews or evangelical Christians, as well as certain Southeast Asians. (See section 1104 above.) The provision would also extend until October 1, 1997, the Attorney General's ability to adjust the status of aliens who are nationals of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania, Vietnam, Laos, or Cambodia and were granted parole into the United States after August 14, 1988, to the status of aliens lawfully admitted for permanent residence.

SECTION 1253, U.S. POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES

The House-passed provision would have provided that no funds authorized by this act be used for the involuntary return of any person to a country in which he or she has a well-founded fear of persecution. This provision has been modified to meet DOS concerns. The conference provision omits the prohibition against using DOS funds to assist or promote such returns—to meet the argument that the House-passed provision might have been violated if a DOS official made a phone call. Also, the provision is now limited to refugee accounts, not all DOS accounts. The effect of this provision, therefore, is to provide that funds for refugee protection may not be used to forcibly repatriate people unless it has been determined that they are not refugees.

SECTION 1255, PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS

This section would provide that forced abortion, forced sterilization, or persecution for resistance to such measures are persecution on account of political opinion within the meaning of the refugee definition in the Immigration and Nationality Act. It would effectively reinstate the prior interpretation of the law, which was reversed by an INS order on August 5, 1994.

SEC. 1256, U.S. POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS SUBJECTED TO TORTURE

This section would prohibit the use of funds authorized by this act in the involuntary return of any person to a place in which he or she is in serious danger of subjection to torture. This provision has been substantially modified to meet DOS concerns. The section now specifically subjects the definition of torture to all reservations, understandings, etc., adopted by the United States when it ratified the Convention Against Torture. The conference also eliminated the assist or promote language to which DOS objected. (See section 1254 above.)

SEC. 1304, RESPONSIBILITIES OF BUREAU CHARGED WITH REFUGEES

The House-passed provision would have established. This provision would have established a coordinator for human rights and refugees within the Office of the Secretary of State. It would also have established a statutory bureau of Refugee and Migration assistance. Under the House provision, the coordinator for human rights and refugees would supervise the Bureau of Refugee and Migration Assistance and the Bureau of Democracy, Human Rights, and Labor, and would report directly to the Secretary of State. The conference substantially modified this provision to meet DOS concerns. The Department had argued that human rights and refugee protection are distinct functions requiring two separate bureaus, and also that the institution of a coordinator who reported to the Secretary rather than an Undersecretary might have the unintended effect of isolating these bureaus. The conference therefore modified the provision to specify only that the bureau with responsibility for refugee and migration and refugee assistance be independent of the bureau charged with responsibility for population policy. The department can, of course, still maintain a population office in another bureau, as it did prior to 1993. The present provision is designed to reinforce the principle that refugees are linked primarily to human rights problems, not demographic problems.

Related human rights issues:

SEC. 1102(E), LIMITATION ON FUNDING FOR UNDP PROGRAMS IN BURMA

Reduces funding to the UNDP in each fiscal eyar by the estimated cost of UNDP projects in and for Burma, unless the President certifies that all such projects are directed toward the needs of the poor; are conducted through international or private voluntary organizations independent of the SLORC; do not benefit the SLORC; and are endorsed by the democratic leadership of the Burmese people.

SEC. 1408, CONDUCT OF CERTAIN EXCHANGE PROGRAMS

This section requires that exchanges with countries whose people do not enjoy freedom and democracy be carried out in cooperation with human rights and pro-democracy leaders in these countries. The administration successfully argued for the deletion of language that would have extended eligibility for scholarships and exchanges in such countries—including China, Viet Nam, Cambodia, Laos, and East Timor—to exiles from these countries.

SEC. 1410, EDUCATIONAL AND CULTURAL EXCHANGES FOR TIBETANS AND BURMESE

This section carries over a provision of prior law to require that exiles from these countries be eligible for scholarships and exchange programs. In the absence of this provision, exiles would be excluded from eligibility for such programs, and the selection process would necessarily be conducted in cooperation with the regimes that rule Burma and Tibet.

SEC. 1611, REPORTS TO CONGRESS ON BOSNIA AND HERZEGOVINA

This section requires periodic reports on human rights protection under the Dayton agreement, the status of refugees, and the treatment of the Albanian ethnic majority in Serb-held Kosova.

Mr. Speaker, we have heard about how this bill is pro-fiscal responsibility. It is also pro-human rights. I urge a "yes" vote on the conference report.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Speaker, I address this bill on two levels: No. 1, my interest in Africa; and, No. 2, just general foreign policy.

□ 1845

First, the bill cuts back the development funds for Africa. There is $800 million for 600 million people, and now that is gone.

Next, the bill does not want to send peacekeeping forces to Africa, and we saw 400,000 people die in Rwanda because of that. Next, in spite of what the gentleman said, and I am sure the gentleman from Wisconsin [Mr. ROTH] will address this, too, the housing development funds are not there for future operations in South Africa.

Now, by not addressing the problems created in the foreign ops appropriations bill, we are going to cut back population assistance funds, family planning. As the gentleman from Maryland [Mr. WYNN] said, 7 million couples in the world in developing countries will not have any access to family planning information. People will starve in Africa because of this, and unwanted babies will be born.

Now, let us talk about foreign policy. I almost feel that I am in a time warp going back to 1919 when they were voting to get out of the League of Nations here. Mr. Speaker, we are slipping into isolationism, if there ever was one. There are more provisions in this bill that will stymie the President from having and operating foreign policy, and we cannot operate with 435 Secretaries of State here.

We cannot micromanage foreign policy. This was not done by this body during the Bush administration. It was not done by this body in the Reagan administration. It is wrong, and we should kill this bill.

Mr. GILMAN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to point out that we do allow the housing program in South Africa. We have not eliminated it. Apparently, the gentleman has some misinformation.

Mr. JOHNSTON of Florida. Mr. Speaker, if the gentleman would yield so that I may respond, the gentleman's bill has not eliminated what is in progress right now; but has eliminated any future allocations to the housing project.

Mr. GILMAN. Mr. Speaker, reclaiming my time, no, that is not correct. "The provisions of this subsection shall not apply to guarantees which have been issued for the benefit of the Republic of South Africa," and I am quoting from the bill itself.

Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin [Mr. ROTH], the distinguished chairman of our Subcommittee on Economic Policy and Trade.

Mr. ROTH. Mr. Speaker, I compliment the chairman of our Committee on International Relations and all the conferees for the excellent work on this bill. I think what has been lost sight of here today is that this bill is really a reform bill. We have included in this legislation, for example, two provisions that every Member of this House should support and can support.

The first of these provisions will at long last curtail the foreign aid pipeline. When I bring up these issues, this is not something that we have taken out of the paper. This is our GAO accounting office which has made a recommendation to us, and this is where we are getting the initiatives for this particular legislation.

For example, how many of our colleagues know that AID has a huge backlog of funds, some $8.5 billion at last count? These funds are left over from previous years going all the way back to 1987. Here we do not know where the next nickel is coming from, and we have a foreign aid pipeline that has money in it since 1987. That is nearly a decade.

These funds are sitting there waiting for some foreign aid bureaucrat to dream up some way of spending the money. In 1991 the General Accounting Office did an investigation of the foreign aid pipeline, and here it is. This is what we are talking about. They concluded that these funds remaining should not be remaining for more than 2 years. They ought to be deauthorized after 2 years because it is an open invitation to waste, fraud, and abuse if we do not do that.

For 5 years I have sponsored legislation to cut off the pipeline. This House passed that pipeline twice. Today it is incorporated into this bill, and I thank the conferees and the chairman of the Committee on International Relations for having the foresight and the intestinal fortitude to move forward with this plan.

This provision alone will save nearly a half a billion dollars to our taxpayers. That has been sitting around in the pipeline, in this slush fund, for almost 10 years. This reform is long overdue, and today the House has a chance to do something about it. I say thank God. Let us put a halt to this foreign aid pipeline.

Second is the termination to some degree of the AID Housing Guarantee Program, and we are quoting from the GAO report on the housing guarantee program. Now, the gentleman from Florida [Mr. JOHNSTON], my good friend, was talking about this in the well of the House. I think the reason that he got it wrong, Mr. Speaker, and that is not his fault, is that the White House the other day said that they were going to veto some bill because it cut out all the money for South Africa. The truth of it is that South Africa has been exempted, as the chairman of the committee has quoted from the bill itself.

This is a loan guarantee program now where the American taxpayer cosigns for loans around the world. One hundred percent guarantees. Listen to this: 100 percent guarantees. We do not do that for our own people, but we are doing it all over the world.

But what really aggravates a number of us is that when a borrower defaults anywhere in the world, the American taxpayer pays off the loan without question. We do not do that for our own home buyers here in the United States, yet we are doing it all over the world.

In my subcommittee we conducted a 2-year bipartisan investigation of this plan, and here is what we found. The GAO also found this, and right here it is. They found unbelievable losses caused by incompetence, waste, and fraud.

Here is the bottom line. We have some $2.7 billion in guarantees. The United States has already lost $542 million to cover the bad loans in 23 other countries, foreign countries. What is worse, GAO estimates right here in this report to our Congress that we are going to be losing another $500 million, half a billion dollars, just on these existing loans.

What does that mean? It means we are losing about a billion dollars. What this means is that we have a billion-dollar loss here on $2.7 billion in guarantees. That is a 40-percent loss that the American taxpayer is picking up for home loans around the world.

This bill ends the program and imposes tough penalties on foreign governments which would default on these loans. This is a provision which my subcommittee originated. It will stop the losses and collect the money that is owed to us.

I cannot see why this Congress would want to continue to spend hundreds of billions of dollars that we know will go into waste, fraud, and abuse. We should not, and therefore we should vote for this conference report.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, when this bill came before the House last spring, it was titled then "The American Overseas Interest Act." At the time I voted against the bill, and I will have to vote against this conference report. A better title then, as now, would have been "The American Leadership Reduction and Avoidance Act."

The House-passed bill sought to force a reduction in American leadership in the world. It cut funding below levels needed to conduct foreign policy effectively. It placed severe limitations on population assistance programs and was riddled with policy directives designed to restrict the President's ability to conduct foreign policy.

Just as bad, the bill included provisions to eliminate the U.S. Information Agency, the Agency for International Development, and the Arms Control and Disarmament Agency.

I had hoped the conferees might fix the bill's defects enough so I could support the conference report. Unfortunately, that has not happened. The conference agreements funding provisions are no better than those in the original House version. It still contains devastating restrictions on population assistance, and there remain a variety of attempts to micromanage foreign policy at the expense of necessary Presidential prerogative.

And with respect to the elimination of the three agencies, the only difference is that it contains a waiver now which gives the President the right to pick the victim and to protect any two agencies he chooses from elimination. Some may argue that this is an acceptable compromise because the President will be able to save USIA and AID, agencies that have the broadest mandates and constituencies.

The assumption is that only the Arms Control and Disarmament Agency will be sacrificed to the forces of isolation and retrenchment. I do not believe that that is a compromise in any case that we can or should accept.

Effective foreign policy should represent the pursuit of enlightened self-interest. And certainly one of the most pressing interests in American foreign policy right now is controlling the spread of weapons of mass destruction. This becomes all the more important as regional and ethnic conflicts continue to explode across the planet.

Today more than ever before it is in our critical self-interest to maintain an independent agency that advocates, negotiates, implements, and verifies effective arms control agreements and those connected with nonproliferation disarmament policies generally. That agency is the Arms Control and Disarmament Agency. We will do this country a great disservice if we sacrifice it under the wrong-headed choices that are required under this bill.

Mr. Speaker, because of its independent status, ACDA brings to the policy table an expert and undiluted arms control viewpoint. Often, this viewpoint differs from the State Department's perspective, which cannot focus solely or primarily on arms control issues. This is why ACDA was created and that is why ACDA has continued to prove its worth to U.S. national security over the years.

This bill would probably eliminate ACDA's independent voice on arms control. By presumably submerging some vestige of ACDA in the State Department, direct access to the President, the National Security Adviser, and the Secretary of State on arms control issues, now authorized to the Director of ACDA, would be gone, along with direct ACDA participation in the interagency policymaking process where significant arms control and nonproliferation decisions are made.

The supporters of the bill claim that ACDA is a cold-war relic that's no longer relevant. This claim shows them to be out of touch with the realities of the foreign policy environment we face. Given the threat of a revival of Russian nationalism and military expansion, and the new dangers of the post-cold-war world, ACDA is a relic today only if weapons of mass destruction are a rumor and the threats of proliferation are a myth.

The authors of H.R. 1561 claim that it would save money by eliminating an independent ACDA. In fact, according to the Congressional Research Service, it will cost $10 million to eliminate ACDA.

ACDA's basic annual budget is $50 million. According to the U.S. Strategic Command, existing strategic arms treaties save about $100 billion a year. Since these treaties took about a decade to negotiate, you could argue that there's a payoff of 200 to 1 from ACDA. That argument may be a bit of a reach, but I suspect that the impact of this ill-conceived legislation may well be the reverse—one bill and 200 new problems caused by the disruption, dislocation, and crippling reductions contained in this bill.

The compromise in this conference agreement to sacrifice ACDA alone comes at exactly the wrong moment—as the U.S. Government is pursuing the biggest and broadest arms control and nonproliferation agenda in history. Now is not the time to be dismantling the one agency whose sole mandate is to formulate, negotiate, and verify arms control, and nonproliferation policies and agreements.

Now is the time to retain ACDA and to let it build on its past successes. I urge a vote against this conference report.

Mr. GILMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Nebraska [Mr. BEREUTER], a senior member of our Committee on International Relations and the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, this Member rises in support for the conference report on H.R. 1561. As vice chairman of the Committee on International Relations, this Member has worked over a period of some months with his colleagues to craft this conference report; however, no one has worked harder than the distinguished gentleman from New York, Chairman GILMAN, who has skillfully navigated a difficult process to produce this legislation.

There are many important provisions in this conference report, many of which my colleagues will discuss. This Member will discuss only a few key provisions.

First, it should be remembered that many of the Members elected to the 104th Congress came to this body with a strong commitment to reduce government and eliminate unnecessary agencies. Attempt have been made, and overall spending has been reduced somewhat, but all sizable Federal agencies thus far have seemed impervious to elimination.

But with this conference report, Mr. Speaker, the Congress will be consolidating and eliminating agencies. It is true that the President is given the discretion to decide which of three agencies—AID, USIA, or ACDA—would be folded into the State Department, but the net effect would be to eliminate at least one unnecessary and duplicative agency. Each Member of this body who votes for this legislation will be able to return to their district and point to the elimination of at least one agency while preserving those important functions now performed by ACDA, USIA, or AID.

And, this Member would tell his colleagues on the other side of the aisle that the conference report's plan to reduce agencies is wholly in keeping with Secretary of State Christopher's initial proposals to overhaul the U.S. foreign policy apparatus—a plan that regrettably fell by the wayside early in this administration.

Another major accomplishment of H.R. 1561 is the elimination of the Housing Guarantee Program as it operates in most countries. This program, which was created to guarantee loans made by U.S. investors to support shelter-related projects in developing countries, has evolved into a terribly inefficient and badly mismanaged fiasco that is losing tens of millions of dollars annually. Indeed, a recent study by the General Accounting Office estimates that the Housing Guarantee Program may end up costing the United States $1 billion in loan default and other costs. It is a program that deserves to die, Mr. Speaker, and enactment of this conference report would terminate it in most areas.

Yet another major foreign policy concern drafted by this Member and by the H.R. 1561 conference report is aimed at ensuring that the Congress retains some measure of responsibility for our relations with North Korea. Mr. Speaker, in its haste to ensure that North Korea receives assistance in the construction of lightwater nuclear reactors, this administration has effectively bypassed the normal congressional review of foreign assistance. This legislation ensures that future funds for North Korea for this particularly effort receive proper congressional scrutiny. This legislation also ensures that further progress in United States-North Korean relations are also dependent upon progress in the North-South dialog, progress on the final accounting for American MIA's in the Korean war, and cessation of North Korea's proliferation of ballistic missiles and support for international terrorism. This is an important policy message that this body needs to deliver.

Last, Mr. Speaker, this Member would point to the resolution of longstanding claims, against frozen Iraqi assets. The H.R. 1561 conference report ensures that American exporters and financial institutions with legitimate claims against the Government of Iraq for commercial activities initiated before the conflict will receive compensation out of Iraqi assets held since the Persian Gulf war. The result is that, after almost 6 years of arbitrary decisions, arrogance, and intransigence by the State Department's Office of Foreign Assets Control, these outstanding claims will be resolved. This is a matter of basic fairness, Mr. Speaker, but these are also important pro-growth, pro-trade provisions. It also should be noted that these provisions are not mentioned as one of the President's listed objections to this legislation.

Finally, Mr. Speaker, this Member would urge his colleagues to support the conference report on H.R. 1561. There are certainly some provisions in this legislation, like some of the southeast Asia refugee provisions and the Tibet Envoy, which this Member cannot support. However, legislation is subject to necessary compromises and it is important that the Congress attempt to pass this authorization legislation.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

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Mrs. LOWEY. Mr. Speaker, I rise in strong support of the MacBride Principles and the provision in H.R. 1561 that embodies the MacBride Principles. Regrettably, the provision dealing with the MacBride Principles is one of the only positive portions of this terribly flawed bill. As a result, I will not be able to cast my vote in support of H.R. 1561.

The MacBride Principles consist of nine fair employment principles. They are a code of conduct for United States companies doing business in Northern Ireland, and they call for nondiscriminatory United States investment in Northern Ireland.

I strongly support greater accountability of organizations receiving United States assistance in Ireland, and I have demanded that these organizations comply with the MacBride Principles. During consideration of the Foreign Operations Appropriations Act for fiscal year 1996, I offered an amendment that urged all organizations receiving funding from the International Fund for Ireland to comply with the MacBride Principles. My amendment was included in the final version of the bill that was signed into law by President Clinton earlier this year.

Recipients of United States aid must not be allowed to violate the human rights—including religious freedoms—of Catholics living in Northern Ireland. I offered my language on the MacBride Principles in the Foreign Operations bill out of deep concern for continued religious discrimination in Northern Ireland. But now, the MacBride Principles provision in this bill is being held hostage by the other unacceptable provisions of H.R. 1561.

The administration has said it will veto this bill, and I will vote against it. H.R. 1561 does not eliminate all of the restrictions placed on international family planning assistance in the Foreign Operations Appropriations Act. These harmful provisions will severely impact women and children in developing nations. In fact, a study released last week by several populations assistance groups estimates that the decrease in international family planning funds will result in an increase of more than 1.5 million abortions worldwide.

The bill also forces the administration to consolidate or eliminate several critically important foreign affairs agencies: it undercuts the United States ability to maintain its interests overseas, and it negatively impacts the U.S. leadership role in the United Nations by providing inadequate levels of funding and requiring unworkable notification requirements.

Mr. Speaker, the MacBride Principles should be a cornerstone of United States foreign policy in Northern Ireland. That is why I strongly support efforts to tie U.S. assistance to these Principles. However, H.R. 1561 is a bad bill. I would hope that when President Clinton vetoes H.R. 1561—as he has promised to do—we can pass the MacBride Principles as an independent piece of legislation.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the gentleman from Indiana for yielding this time to me. I thank him for his consistent leadership in opposition to this bill.

Mr. Speaker, as my colleagues know, we are at a crossroads in world history, really, and we find ourselves with tremendous responsibility on our shoulders. The whole rest of the world looks to us as the single superpower to lead them to a safer, to a fairer, a more prosperous world, and a world that reflects our principles of democracy, of freedom of expression, of freedom of religion, of respect for human rights, and three principal instruments that we have available to use to achieve these objectives are the Agency for International Development, U.S. Information Agency, and the Arms Control and Disarmament Agency.

The Agency for International Development has, in fact, developed quite a pool of unspent money, as was cited earlier, but they have done that because they also want to use that agency for leverage, to get recipients to respect human rights, to respect the democratic process, to develop economically without exploiting the people. They Agency for International Development, in fact, generates far more profit revenue for American firms than we would ever invest in AID. What they are doing is developing the purchasing capability, particularly in Third World countries, that present market opportunities for American firms. They are streamlined, they are focused, they are a good agency.

The U.S. Information Agency represents the opportunity to spread truth, which oftentimes is that it makes the difference between genocide and peaceful resolution of problems. We need more truth, unbiased truth. If we had more of it in Bosnia or in Rwanda, we might well not have had the genocide that happened. We need to be putting more investment in the U.S. Information Agency because it deserves credibility, and at a time when we see the proliferation of nuclear weapons and chemicals, biological weapons of mass destruction, why would we ever think of cutting back on the Arms Control and Disarmament Agency?

So if we want a safer, a more productive, a fairer world that reflects our principles of democracy and freedom of expression, then we want to vote against this bill, and, if anything, we want to strengthen these three agencies.

This is not a good bill; this is an isolationist bill. We ought to be moving forward and accepting the mantle of leadership that is thrust upon us now. It is a great opportunity. Let us not miss it.

Mr. GILCHREST. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I just hope my colleagues, particularly those who may be listening to this debate back in their offices, are very clear that there is nothing in this bill that authorizes population control funding. There is no policy guidance either way. The Mexico City policy is not in here. I wish it had been, but it is not, and I would like to ask my friends on the Democratic side, perhaps the gentleman from Indiana [Mr. HAMILTON], if he can just clarify so that everyone knows, when the Democratic substitute was offered in the conference committee, did it have language in it dealing with the population issue, did it authorize population or not?

My understanding was it simply did not have section C, which is exactly what the conference report of the gentleman from New York [Mr. GILMAN] does not have, so that there is no authorization, population is not advanced, it is not pushed backwards. It is simply not in this bill.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. BERMAN. The gentleman is correct in that this bill does not deal with a number of the foreign aid issues.

But where the gentleman is wrong is this was an opportunity to get rid of the harsh and unfair restrictions on the existing program.

Mr. SMITH of New Jersey. Let me make it very clear, Mr. Speaker. I offered during the time that we were in the conference committee, and this really fleshed out where some people, particularly on the proabortion side, is on family planning. We would be more than happy to life any percentage restriction on population provided it has the very principled Mexico City policy that says no organization that performs abortions except for rape, incest or life of the mother gets money.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise in opposition to this bill. I might say that the bill is better than the original bill that came before the House, and I know that the gentleman from New York [Mr. GILMAN] has worked very hard to make the bill better, but it still is not good enough.

I believe that American diplomacy is essential. I believe, as the world power that we are, we need to remain engaged in the world. This bill, in my opinion, goes in the opposite direction. It slashes money for foreign affairs agencies, it slashes money for foreign aid, it slashes money for arms control, it slashes money for peacekeeping. The people that serve our country in the Embassies around the world are very demoralized, and rightfully so. The bill has a serious isolationism bent.

We cannot have it both ways, my colleagues. We cannot be the leader of the free world, indeed the leader of the world, and tell other countries that we want them to emulate us in terms of being more open, more democratic, a free society, and at the same time we are pulling back, putting our heads in the sand and being isolationist. We cannot have it both ways, and this clearly, in reducing the level of aid, in reducing the importance of foreign affairs and foreign involvement, we are truly going back to the days when the United States was an isolationist country. I do not think that is the direction in which we ought to go.

Family planning; it pulls back in family planning as well. The country programs; it pulls back as well there.

It seems to me that we spent so much money in the era of the cold war. We won that cold war. We beat the Soviet Union. The Soviet Union and the Eastern bloc countries crumbled. Did we spend billions and billions and billions of dollars on an arms race only to throw it all away? Now that we have won? To say that we do not want to stay engaged in the world? To say that we want to retrench and pull back?

The American public believes that foreign aid is about 15 percent of our budget when in reality it is less than 1 percent of our budget, and in my opinion that is certainly not enough if we want to say that we are the leaders of the world, and we are. Nobody anointed us and said that we were the leaders. We choose to be the leaders, as well we should.

I believe with leadership comes responsibility. I believe that, if we want to ensure that the fledgling democracies in this world continue to prosper and grow, then we have got to provide the help, we have got to provide the aid, especially with the developing countries. A little bit of aid goes such a long, long way.

But what are we telling the world with this? We are saying that we want to step backwards into the era of isolationism.

Now we have problems with the U.N. The U.N. has not always been an ideal or done what we like it to do, but I would think that the world would be a lot worse if we did not have a U.N., and here we are retrenching even there.

So let me just say, if I may conclude to my colleagues, I think this bill goes in the wrong direction and it ought to be defeated.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. BROWNBACK], a member of our Committee on International Relations.

Mr. BROWNBACK. Mr. Speaker, I congratulate our chairman on a fine bill, and I also want to congratulate the ranking member for his leadership for many years in this field.

I rise in strong support of the conference report. The American people clearly want us to balance the budget, they want us to cut foreign aid bureaucracy, and this bill does that.

This is not an isolationist bill. The United States cannot and should not engage in isolationism. But the world has changed. The cold war is over, and we need to reduce the apparatuses that are associated with that cold war in this time of tight budgets.

And I have to disagree with some of my colleagues on the Democrat side of the aisle, that they would suggest that we are pulling back and being isolationist by some of the reforms of the cold war institutions and suggesting that the United States' leadership in the world is dependent upon having the United States Information Agency, and AID and ACDA when our real tools for leadership in the world and the reason the United States is the leading country of the world is a strong, vibrant, growing economy, a strong military apparatus and standing for principles, principles of freedom, and justice, and liberty, and those are the things that give the United States leadership. It is not bureaucracies, and there are fine people that are in these agencies, and they work hard, and they do a good job.

But the truth of the matter is we are broke. We are $5 trillion in the hole, and the American people are far more concerned about health care for our children than they are about a foreign aid bureaucracy, and we should be far more concerned about Medicare than about foreign aid, and that is what this is about. This is about making tough decisions during times of tight budgets.

I think this is a good bill in doing that, in changing the apparatuses. I think it should have eliminated the three international affairs agencies that were involved. But they compromised and went to one of the three and told the executive branch, "You decide in working with this of what you think works best in your foreign policy decisions that you have." That seems prudent to me. They cut the operating budget of the State Department and related agencies by $1.3 billion, and in a time of tight budgets, when we are trying to increase health care for our children in this country, when we are trying to balance our own budget so we can have a strong economy, a strong military and stand for principle, those seem to me to be prudent and wise things to do. It reduces the program budgets of the State Department and related agencies by $500 million below the fiscal year 1995 funding levels. These are all things that are going to be necessary, that are necessary, to balance the budgets so the United States can continue to have the global leadership by virtue of having a strong economy, a strong military and standing for the principles that we always have.

That is why I think this is a good bill. I congratulate the chairman on it.

☐ 1915

Mr. HAMILTON. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise in opposition to the bill and urge the House to defeat this measure.

I would like to just put this in the context of the history that I am aware of since I was elected to this House back in 1982. In every single Congress, with the Democrats controlling half of that in the House the entire period of time, the Republicans controlling the Senate for the first 4 years that I was here, a Republican President for the first 12 of those 14 years, every single time the chairman of then the Committee on Foreign Affairs, working with the ranking member, and on a bipartisan basis, put together a State Department authorization bill that was bipartisan in nature, that had the support of the administration. Each and every time the State Department authorization bill was passed by a Congress, in some cases split, in some cases Democrat, and signed by a Republican President.

Every effort was made to provide more executive branch flexibility in the operations of our foreign affairs, not less. At the same time, in the area of foreign aid, with the exception of one Congress, each and every Congress that I served in this House, and again, that is since 1983, the House passed a bipartisan foreign aid authorization bill that frequently got waylaid over in the Senate. One year we got a bill. In one of those Congresses on the issue of family planning and the abortion controversy, we failed here, but again, the fundamental approach was to do it on a bipartisan basis.

When this bill came through this Congress last year, there was not one whit of effort to try and do a bipartisan bill. Everyone but 12 Democrats voted against this bill. Now we come forward and we hear foreign aid has been dropped, but that is not quite an accurate statement. Foreign aid has been dropped except where a Member of the majority on the committee had a particular priority, so foreign aid was dropped, except we eliminated housing guarantees. Foreign aid authorization was dropped, except where we wanted to write something in on North Korea, or on humanitarian corridors, or on MacBride principles. We cherry-picked a few issues, the majority did, put them into a bill that was supposed to be just a State Department authorization bill, and then shoved it to the administration without one moment of time to talk about the pros and cons of forced consolidation against executive branch wishes.

Should ACDA be consolidated and folded into the State Department or should it be separate? There is an argument, maybe it is not persuasive, but at least it takes a second to pause and think, that we want an independent arms control proliferation agency that is not going to be run by the State Department with a direct voice to the National Security Council to raise issues of arms control and nonproliferation when economic pressures that might exist otherwise cause the State Department to be less clear on those kind of issues.

Should USIA be consolidated? There is at least an argument that having an independent agency involved in articulating the American point of view and a voice of truth and freedom to the world should not be under the direct control of our diplomatic services. Maybe it is not a compelling argument, but it is an argument.

Should AID, the agency primarily focused with development assistance, be subordinated into the diplomatic service? Maybe, maybe not, but there are some good arguments against doing that, but the majority refused to spend time discussing the debate. They wanted to take home a trophy.

They decided, as one Member of the majority just said on this floor.

> If this bill passes, all of you can go home and say you collapsed one of our international relations agencies. It is a trophy. No substantive arguments underlying the reason, just let us do it to do it, to hell with the executive branch, who cares what they want; forget the tradition of bipartisan approaches to this issue.

I think that is wrong. I think we ought to be providing sufficient resources, sufficient flexibility, and an underlying bipartisan approach to these critical issues around the world and the critical issues that are funded by the 150 accounts. This bill does not do it, so I urge a "no" vote.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, very briefly, we have tried to make this bipartisan. I have had markups in my subcommittee, because much of this is from my subcommittee. We had no-shows at the subcommittee markups. At full committee we had lack of participation, and the same thing happened in the House-Senate conference committee.

The substitute offered by the gentleman from Indiana [Mr. HAMILTON], the Democratic alternative, said exactly what this bill says on the issue of population control, nothing. His bill said it, our bill says it, nothing, so it is not an issue here.

The issue of isolationist is absurd. When you have groups backing provisions of this bill like the United Israel Appeal, the American Jewish Committee, the American Legion, Disabled American Veterans, and a whole host of other groups, this is not an isolationist bill at all.

Mr. HAMILTON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. CAMP). The gentleman from Indiana [Mr. HAMILTON] has 7 minutes remaining, and the gentleman from New York [Mr. GILMAN] has 2 minutes remaining.

Mr. HAMILTON. Mr. Speaker, I rise in opposition to the conference report. I do so because I think it fundamentally constrains the President's ability to conduct American foreign policy. It is an improvement over the previously passed House bill, but I think it has a long way to go before it becomes law.

First, I think the conference report mandates a very far-reaching reorganization of the U.S. foreign policy apparatus. That, as far as I have been able to discern, has no real connection to the problems of American foreign policy. Second, I think the conference report does not give the President the flexibility he needs to conduct U.S. foreign policy and protect and promote U.S. interests.

Third, I think it cuts too deeply into spending across the board for foreign policy, making it much more difficult to promote and protect U.S. interests.

The President, of course, has promised to veto this conference report in its present form. I urge my colleagues to support the President and to defeat the conference report.

With respect to reorganization, the conference report, as others have said, dictates to the President how he should organize the foreign policy agencies. -It dictates that at least one agency be eliminated. My view on this is that in the absence of any compelling evidence of the advantages of reorganization, which I really do not find here, I think the President should have the discretion to determine how to structure the foreign policy agencies.

The Administration has already instituted several significant streamlining and reorganization proposals for the foreign policy agencies. For example, the State Department alone has cut 1,300 jobs.

On the second point, the reduced funding for U.S. foreign policy I think damages our ability to carry out that policy. This conference report damages U.S. interests overseas by continuing to reduce funds available to operate overseas by about a half a billion dollars from 1995 levels. That would force the United States to retreat from its presence overseas and reduce U.S. influence. Areas that would be hurt include diplomatic posts, payments for international organizations and peacekeeping, sustainable development, and public diplomacy.

I think the point I would like to make on the funding dollars is that the cuts required by this conference report do not occur in a vacuum. For more than a decade now, the Congress has slashed spending for all categories of international affairs. Funding for economic and security assistance has been cut 10 percent in the last year alone, and that follows a 40 percent cut over the last decade. Spending for all international affairs accounts has been cut 45 percent in real terms in the last decade.

Our ability to use the United Nations to further our interests has been hurt by our unwillingness to pay our share of the budget or to pay over $1 billion in arrears, and the United Nations, therefore, is on the brink of a financial crisis.

I think all of us agree that we are in tight budgetary times. I have supported many of the cuts that I have indicated, but my sense now is that we have cut these accounts enough. We should draw the line before we take away too many resources and impair the President's ability to conduct foreign policy.

Finally, the conference report damages U.S. foreign policy by imposing too many restrictions on the President. This is not the time to be amending the Taiwan Relations Act. This is not the time to be tying the President's hands on relations with Vietnam. This is not the time to undercut U.S. efforts to reform the United Nations.

The conference report does all of those things. It does undermine the ability of the President to conduct policy. We have many different views in this body on the policy restrictions. I am certain that there are provisions that many of my colleagues support, but when we add it all up, when I examine the impact of all of these policy restrictions provisions, I conclude that they constitute a serious infringement on the President's power to conduct foreign policy.

So as we vote on this conference report, Mr. Speaker, I think Members should ask themselves this question: Does this bill help or does it hinder the President's ability to confront the many challenges we face in the world? I think the answer is that it hinders the President's ability to do that.

Members of Congress expect the President to provide leadership in foreign policy, but at the same time, we should not deny the President the resources to provide that leadership. This conference report weakens the President's ability to lead at a time when the world badly needs U.S. leadership. That is not the way for the Congress to play a responsible role in the conduct of American foreign policy, and I urge my colleagues to defeat of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

In closing, Mr. Speaker, my colleagues have heard many important reasons in support of this conference report. This measure delivers on the President's pledge that the era of big government is over, and at the same time, this measure improves the State Department and the management of the United Nations, and at the same time supports our vital U.S. diplomatic missions.

With regard to the MacBride principles included in the report, President Clinton, while Governor and candidate, stated

> I like this principle. I believe in it. I would encourage my successor to embrace it. As President, I would encourage all Governors to look at it and embrace it. I think it is a good idea. I like them very much. I think it is a way to encourage investment, because it is a way to stabilize the political and economic climate in the work force by being free of discrimination. The argument is made against the principles in a country in which there is discrimination. I just do not buy that.

Accordingly, Mr. Speaker, I urge my colleagues to support this conference report. It enhances our Government abroad.

Mr. ACKERMAN. Mr. Speaker, I rise today in opposition to the conference report to accompany H.R. 1561. This bill is veto bait and ought to be sent back to committee.

H.R. 1561 requires the elimination of three foreign policy agencies, the Arms Control and Disarmament Agency [ACDA], the United States Information Agency [USIA], and the Agency for International Development [AID], merging their functions into the Department of State. Under the bill the President must submit a plan to accomplish this reorganization by October 1 of this year in order to abolish these agencies by March 1, 1997. The President's plan must save $1.7 billion over the next 4 years.

Mr. Speaker, the problems with this bill are many. H.R. 1561 forces the President to consolidate agencies, even though he is provided with waiver authority for two of the three, the funding levels are low enough that he will be forced to consolidate other functions in order to adhere to the authorization levels in future years. In addition, the bill requires an unrealistic timetable for presenting a plan and then actually closing agencies within a year from now. The transition provisions are so inadequate that they do not even provide for useful methods of downsizing such as employee buy-outs, which have proven popular at other agencies.

H.R. 1561 also contains a variety of provisions which will harm our ability to participate in a number of international organizations ranging from the United Nations to the Inter-American Indian Institute. By either terminating our membership outright or requiring that we withhold a significant portion of our assessment, the bill ties the President's hands and hinders our ability to play an effective role in the international arena. There are many Members who agree that the United Nations is in need of reform. Many will agree that our assessment should be lower and most will agree that an independent U.N. Inspector General would be a valuable step. But to withhold our contributions and in effect bully the United Nations to go along will likely jeopardize progress already made in the areas of U.N. budgetary and management reform.

Mr. Speaker, the President has said that he will veto the conference report. I say let's save him the trouble by defeating a bad bill and bringing back a genuine bipartisan State Department authorization bill that we can all support and the President can sign.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1561, the Foreign Relations Authorization Act of 1996. I oppose this conference report because it is an unwarranted usurpation of the President's constitutionally mandated foreign policy authority. It requires a sweeping reorganization of U.S. foreign policy agencies, but fails to provide the President the flexibility to undertake this reorganization in a manner which he believes is consistent with the national security interests of this Nation.

This bill also continues the extreme Republican opposition to voluntary international family planning programs, slashing them by a devastating 87 percent, and which could lead to tens of thousands of unwanted pregnancies and abortions.

I oppose this bill with some reluctance because it contains some provisions which I strongly support, including authorization for the International Fund for Ireland, support for the MacBride Principles, and a provision based on the Humanitarian Aid Corridor Act.

I have long supported the International Fund for Ireland and enactment of the MacBride Principles on a Federal level. While a member of the New York City Council, I authored one of the first MacBride bills in this Nation and I continue to strongly believe that this Nation should not do business with any company which practices religious discrimination. Likewise, I support strongly the International Fund for Ireland. Continued economic investment in Northern Ireland and the border countries is absolutely imperative. Enhancing the standard of living in Ireland is critical to improving the prospects for peace in that troubled part of the world.

The Humanitarian Aid Corridor was enacted for 1 year as part of the fiscal year 1996 foreign operations appropriations bill. Nevertheless, it is important that this provision become permanent law. Nations which restrict the flow of U.S. humanitarian aid to third countries should be barred unequivocally from receiving the benefit of our economic aid. This situation has been most blatant in the case of Turkey, which has blocked United States humanitarian aid to the newly independent nation of Armenia. This blatant contempt for United States policy objectives should deprive Turkey from receiving assistance from our country.

I would vote for the International Fund for Ireland, the MacBride Principles, and the Humanitarian Aid Corridor Act if they were included in another measure. Unfortunately, this bill, with its partisan and shortsighted attack on the foreign policy powers of the President, is not one for which I can vote.

Mr. CARDIN. Mr. Speaker, I rise to express my disappointment in the conference report on H.R. 1561. I support many of the provisions in the bill and I had hoped that the conferees might fix H.R. 1561 so that I could support the conference report. For example: I believe that it is important to show, particularly at this time, our support for Taiwan; to support initiatives which require that organizations receiving United States assistance in Ireland abide by the MacBride principles; to continue to condemn China for its human rights record; and to prohibit assistance to any county that bars or obstructs delivery of United States humanitarian aid.

Despite these favorable provisions in H.R. 1561, I cannot support the conference report. This bill seeks to consolidate the State Department and its related agencies. However, the House leadership decided to impose its reconfiguration instead of working in conjunction with the administration. The result is legislation that is very poorly draft as to how to achieve consolidation. In addition, this bill fails to authorize international family planning assistance spending which was required by the Foreign Operations appropriations bill. The appropriations bill stated that no monies for international family planning would be released unless authorized to do so in H.R. 1561. The failure to include such authorization is disastrous. Because of the lack of authorization language, it is projected that over 5,000 women will die over the next year from either self-induced abortions or unplanned pregnancies.

Mr. Speaker, I voted "no" on the foreign relations authorization conference report. I hope that Congress will begin to work in cooperation with the administration regarding agency consolidation and pass on appropriate Foreign Relations Revitalization Act.

Mr. BLILEY. Mr. Speaker, I rise in support of the conference report for H.R. 1561, the Foreign Relations Authorization Act, fiscal years 1996 and 1997. This measure dismantles the United States Information Agency [USIA] and, in doing so, amends the Television Broadcasting to Cuba Act and the Radio Broadcasting to Cuba Act. Additionally, the conference report establishes as an urgent priority the development of an appropriate national strategy to respond to emerging infectious diseases. I am interested in these provisions as a general matter, and also as chairman of the Committee on Commerce.

Regarding the Television Broadcasting to Cuba Act, the Committee on Commerce exchanged letters with the Committee on Foreign Affairs when that committee sought to amend the Television Broadcasting to Cuba Act in the Foreign Relations Authorization Act for fiscal years 1990 and 1991 (Pub. L. 101–246). Furthermore, the Commerce Committee reported its own version of the Radio Broadcasting to Cuba Act (Pub. L. 98–111) on July 29, 1983 (H. Rept. 98–284, Part II). The committee will be interested to see the results of the pilot program to permit advertising on such television and radio broadcasts as provided for in the conference report. I look forward to continued activity on the part of the Commerce Committee in these areas, although I still believe the Television Marti and Radio Marti programs should not be administered through the Voice of America.

Turning to another point of interest in the conference report, this measure requires that the President develop a strategic plan "to identify and respond to the threat of emerging infectious diseases to the health of the people of the United States." In accordance with this committee's jurisdiction over public health and quarantine under rule X of the Rules of the House, I look forward to the opportunity to review the President's recommendations in concert with other efforts made by the Commerce Committee on that front.

Based on the jurisdiction of the Committee on Commerce over the aforementioned statutes, and on the jurisdiction of the committee over public health, I would like to note our intent to continue in the exercise of our authority in these areas.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HAMILTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 172, not voting 33, as follows:

[Roll No. 59]

YEAS—226

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Cooley
Cox
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Maloney
Manton
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—172

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (MI)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gillmor
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—33

Barton
Brewster
Bryant (TX)
Chapman
Chenoweth
Christensen
Coleman
Collins (IL)
Cubin
de la Garza
DeLay
Durbin
Fields (TX)
Flake
Gallegly
Gephardt
Gibbons
Green
Johnson, Sam
Laughlin
McDade
Moakley
Ortiz
Rose
Rush
Stark
Stockman
Stokes
Studds
Taylor (NC)
Tejeda
Waxman
Wilson

□ 1947

The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Ortiz against.

Ms. JACKSON-LEE of Texas changed her vote from "yea" to "nay."

Ms. LOFGREN and Mr. DICKEY changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CHRISTENSEN. Mr. Speaker, due to the untimely death of my father, Harlan Christensen, I was not present for four rollcall votes:

Had I been present, I would have voted as follows: On rollcall vote No. 56, "yea;" rollcall vote No. 57, "yea;" rollcall vote No. 58, "yea;" and rollcall vote No. 59, "yea."

PERSONAL EXPLANATION

Mr. SAM JOHNSON of Texas. Mr. Speaker, on March 12, 1996, I was unavoidably detained from the House floor due to election in the State of Texas. Had I been present, I would have voted on the following: On rollcall vote No. 56, "aye"; on rollcall vote No. 57, "aye"; on rollcall vote No. 58, "aye"; and on rollcall vote No. 59, "aye."

PERSONAL EXPLANATION

Mr. STOCKMAN. Mr. Speaker, on Tuesday, March 12, I was unavoidably detained from the House floor due to the Texas primaries. Had I been present, I would have voted on the following bills: On rollcall vote No. 56, "aye"; on rollcall vote No. 57, "aye"; on rollcall vote No. 58, "aye"; and on rollcall vote No. 59, "aye."

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. Speaker, on March 12, I was unavoidably detained from the House floor and missed four RECORD votes. Had I been present, I would have voted as follows: Rollcall 56, "no"; rollcall 57, "yes"; rollcall 58, "yes"; and rollcall 59, I would have voted "no."

PERSONAL EXPLANATION

Mr. TAYLOR of North Carolina. Mr. Speaker, on March 12, I was unavoidably detained in my district during rollcall Nos. 56–59.

Roll No. 56 was on the rule accompanying the conference report to H.R. 1561, the Foreign Relations Authorization Act. Had I been present, I would have voted "yea."

Roll No. 57 was on a motion to suspend the rules and pass House Joint Resolution 78, granting additional powers conferred upon the bi-state development agency by the States of Missouri and Illinois. Had I been present, I would have voted "yea."

Roll No. 58 was on a motion to suspend the rules and agree to House Concurrent Resolution 149, a resolution condemning terrorist attacks in Israel. Had I been present, I would have voted "yea."

Roll No. 59 was on passage of the conference report to H.R. 1561, the Foreign Relations Authorization Act. Had I been present, I would have voted "yea." This would be consistent with my "yea" vote on the bill June 6, 1995—rollcall No. 366—when it first came before the House.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 1561.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2703, EFFECTIVE DEATH PENALTY AND PUBLIC SAFETY ACT OF 1996

Ms. PRYCE, from the Committee on Rules, submitted a privileged report (Rept. No. 104–480) on the resolution (H. Res. 380) providing for consideration of the bill (H.R. 2703) to combat terrorism, which was referred to the House Calendar and ordered to be printed.

PROVIDING AMOUNTS FOR FURTHER EXPENSES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 377), providing amounts for further expenses of the Committee on Standards of Official Conduct in the second session of the 104th Congress, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FAZIO of California. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from California [Mr. THOMAS], the chairman of the Committee on Oversight, if he would explain the purpose of this resolution to the membership.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Resolution 377 is to provide an additional $580,000 for expenses associated with the investigations and studies by the Committee on Standards of Official Conduct. $400,000 of the $580,000 is for the procurement of consultants in cases pending.

This resolution is obviously with some precedent. The Committee on Standards of Official Conduct is really the only committee in the House that cannot determine its own agenda ahead of time. It is, by its very nature, a reactive committee.

We have in the past supported resolutions of this nature. As a matter of fact since 1982, seven resolutions have come to the floor. This resolution is necessary so that the committee can carry out the investigations, the studies, and the responses to Members' requests for explanations that are part and parcel the nature of the Committee on Standards of Official Conduct.

Mr. Speaker, I would urge my colleagues support House Resolution 377. It is simply affording the Committee on Standards of Official Conduct the resources necessary to do its job.

Mr. FAZIO of California. Mr. Speaker, further reserving the right to object, I would concur in the gentleman's characterization of the resolution, and simply indicate that I hope the committee would return here expeditiously if there is any further need for funding for any purpose that comes before the committee. We are all anxious to see them proceed with all of their work as quickly as possible.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The clerk read the resolution, as follows:

H. RES. 377

Resolved,

SECTION 1. FURTHER EXPENSES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

For further expenses of the Committee on Standards of Official Conduct (hereinafter in this resolution referred to as the "committee"), there shall be paid out of the applicable accounts of the House of Representatives not more than $580,000, of which not more than $400,000 may be used for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946.

SEC. 2. VOUCHERS.

Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved in the manner directed by the Committee on House Oversight.

SEC. 3. LIMITATION.

Amounts shall be available under this resolution for expenses incurred during the period beginning at noon on January 3, 1996, and ending immediately before noon on January 3, 1997.

SEC. 4. REGULATIONS.

Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

SEC. 5. ADJUSTMENT AUTHORITY.

The Committee on House Oversight shall have authority to make adjustments in amounts under section 1, if necessary to comply with an order of the President issued under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 1.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

UNEMPLOYMENT AND UNDEREMPLOYMENT IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, shortly before Christmas, all in the same week, we received the news that three separate plants in my district were closing.

The two largest employers in Tellico Plains, in Monroe County, TN, announced that they were moving, one to Honduras, one to Mexico.

The largest employer in Etowah, in McMinn County, TN, Morgan Manufacturing Co., a blue jeans manufacturer, announced that it was going into bankruptcy, due primarily to NAFTA.

Tellico Plains is a town of about 1,000 people. Etowah is a town of about 4,000. These are beautiful, wonderful places to live, but jobs are not easy to come by.

These three companies meant a loss of about 1,000 jobs within roughly a 25-mile radius, and these were devastating blows to both these communities.

I got Gov. Don Sundquist and his economic development commissioner to go to both places with me, and we are trying to get some help for these people.

But, I wonder how much we can do when there seem to be more companies moving out than moving in, and downsizing seems to be the trend of the day.

Then shortly after the first of the year, I discovered that two small textile companies in my hometown of Knoxville were closing due to NAFTA.

In this same period I read that Hershey has moved most of its production from Pennsylvania to Mexico, that Fruit of the Loom closed a United States plant and opened a new one in Mexico, and on and on.

And of course, AT&T announced that they were downsizing, getting rid of 40,000 employees. Yesterday, Ford announced a cut of 6,000. Altogether, at least 1 to 5 million jobs lost in just the last 3 years to corporate downsizing, and on and on.

You have to wonder, Mr. Speaker, where we are headed. Already, most college graduates cannot find good jobs—so they are headed to law school and medical school, both fields with huge surpluses, just to postpone the inevitable.

Our unemployment rate, while too high, is not bad, but our underemployment rate is terrible. And yet, we seem to be giving our own country away, through NAFTA, GAAT, the World Bank, foreign aid, our mega-billion dollar military adventures in Haiti, Rwanda, Somalia, and now Bosnia. Billions and billions and billions to other countries while our own people head for the unemployment office or have to settle for jobs in fast food restaurants.

In the last few weeks, we have been told that last year was the worst ever for the United States from a balance of payments standpoint.

We ran a record $111 billion trade deficit. Economists conservatively estimate that we lose 20,000 jobs for each 1 billion, so this means that we lost at least 2,200,000 jobs due to foreign imports this past year.

People say don't start a trade war, Mr. Speaker, I certainly don't want one, but it looks like we are already in one and that we are losing.

Senator Dole said in South Carolina a few days ago that he would not vote for NAFTA now without some changes in it.

This is why many of us are cosponsoring the NAFTA Accountability Act, which says that we need to take another look at NAFTA.

Many people now believe that the Congress was given misleading or incorrect information about the Mexican economy, in part at least possibly because the Treasury Secretary had made millions getting his clients to invest in Mexican bonds.

At any rate, facts and conditions change, and we need to take another look at NAFTA. We should have free trade, but we shouldn't enter into bad trade deals in order to get trade, especially when all these other nations need our markets far more than we need theirs.

I would like to place in the Record an article from the February issue of Chronicles Magazine by E. Christian Kopff, a professor at the University of Colorado.

He said an article in Foreign Affairs Magazine in 1994 by Alan Tonelson "proved that the prosperity of the American automobile, machine-tool, and computer-chip industries in the 1980's, while our television and VCR industries were disappearing, was due to protectionist treaties negotiated under President Reagan. The phenomenal prosperity of the Reagan years rested on protectionism. The Bush-Clinton years undermined that prosperity."

Then, Professor Kopff wrote: "In 1993, Goldsmith predicted that multilateral free trade treaties yoking together such unequal partners as the United States and Mexico would cause unemployment in the United States while devastating the Mexican economy. Of prophets and treaties it is true that by their fruits ye shall know them. The December 10, 1994, Economist loudly mocked Ross Perot's prediction of a "giant sucking sound" of jobs being drawn into Mexico an quoted outgoing U.S. Secretary of the Treasury, Lloyd Bentsen, that NAFTA was "a win-win situation." On December 20, 1994, the Mexican peso collapsed. From the United States perspective, this magnified the advantage of Mexican labor costs. In 1992, excluding transshipments, the United States had a $5.7 billion trade surplus with Mexico. The U.S. Department of Commerce estimated that by the end of 1995 that will have turned into a $20 billion trade deficit. Add to that $25 billion deterioration in our balance of trade the $50 billion bailout loan engineered by Secretary Rubin and Federal Reserve Chairman Alan Greenspan.

In Mexico, inflation is estimated at 50 percent, the peso has lost half of its value, but salaries have risen only 20 percent. Unemployment for the poor and bankruptcies for the middle class are at record highs. The Mayans are in open revolt, and the average Mexican is close to despair. "NAFTA is a typical case of mutual poisoning," writes Goldsmith. Michel Camdessus of the International Monetary Fund warned of a world catastrophe. Goldsmith notes, "Submarines are built with watertight compartments, so that a leak in one area will not spread and sink the whole vessel. Now that we have globalized the world's economy, the protective compartments no longer exist."

The demoralization of First World nations and the ravaging of the Third World are accomplished for the benefit of international corporations. Goldsmith's summary is as clear as it is chilling: "Some can still remember the old adage: 'What is good for General Motors is good for America.' But that was in the days when the corporate economy and the national economy had the same purpose. Now there are two distinct economies. Not only do they have different interests, but those interests are conflicting. As corporations switch production to the areas with the cheapest labor and then import the products made abroad, they destroy jobs at home and increase the Nation's trade deficit."

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CHANGES TO EPA BY THE REPUBLICAN MAJORITY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Minnesota [Mr. Gutknecht] is recognized for 60 minutes as the designee of the majority leader.

Mr. GUTKNECHT. Mr. Speaker, Winston Churchill, who was one of my favorite speakers, said that truth is incontrovertible. Malice may deride it. Ignorance may attack it. But in the end, there it is.

John Adams, who I think was a Member of this body at one time, said essentially the same thing, far more simply. He said, facts are stubborn things. We can ignore the facts. We can deny the facts. But in the end, facts are facts.

So tonight, for at least a few minutes if not the full hour, and I think we are going to be joined by some of my colleagues, we are going to talk about some of the facts, not only about the budget and some numbers and some facts about what we are really talking about and the consequences it brings for the American people, but also talk about some of those environmental issues.

I want to first of all turn it over for a few minutes to the gentleman from Florida [Mr. Mica], who would like to share a little information and a few facts about what the President has been saying and what the truth of the matter really is.

Mr. MICA. I would like to thank my colleague for yielding, and also spend a few moments tonight talking about what is going on as far as the environment, what is being said as far as the environment, what is being said as far as the Republican policy and some of the changes proposed relating to the environment by the new majority.

I can tell you, I am a member of the new majority. I am a Republican, but I consider myself a strong advocate of the environment, of protecting our air, our land, our water, and making certain that it is safe for this and future generations.

But I am also concerned that there has been a great deal of misinformation spread about what we are trying to do and what is being done by our chief environmental enforcement agency, and that is the Environmental Protection Agency. Just in the last day or two, President Clinton has visited New Jersey and he has made some comments relating to the EPA and also the Republican agenda for the environment, and I think that it is important that we respond to those.

He stated in New Jersey that lobbyists for special interests were dictating the environmental policies by the new majority. I am here to tell my colleagues and the Speaker tonight and the American public that that is just not correct, that in fact the agenda that has been dictated on making changes to EPA and to regulations that deal with the environment has not been dictated by lobbyists or corporate interests, but in fact by the mayors, by the Governors, by the legislators, by the county commissioners across this great Nation.

In fact, I have a story dated March 24, 1993 from the New York Times, and it says that in January mayors from 114 cities in 49 States opened the campaign by sending President Clinton a letter urging the White House to focus on how environmental policymaking had in their view gone awry. So the genesis of the changes proposed by the new majority are in fact by our local government officials. They have seen that the regulation and some of the other edicts out of Washington have in fact cost the taxpayers, their local taxpayers, enormous amounts of dollars, and not gotten very good results for it.

Let me just cite, if I may, how some of the money is being spent. In fact, it really concerns me that the moneys are being spent in Washington on administration and on employees in a huge bureaucracy that in fact has been built up over the past few years. In Washington, DC, for example, out of 18,000 EPA employees, there are a total of almost 6,000, nearly 6,000 just within 50 miles of Washington, DC. Part of the argument with the changes that we are trying to make is to stop the command and control and the bureaucracy and administration from Washington.

What is interesting is EPA in fact is a Republican idea. It was founded in 1972 under President Nixon to provide some better regulations, some better national standards in cleaning up the air, the water, and the land. What has happened is, over the years we have created a huge bureaucracy, now with 6,000 employees in Washington, and that number, I might say, is about the total figure of EPA employees that was in the entire Agency about a dozen years ago.

Since 1972, I might add, almost every State in the Nation has created their own department of environmental protection. Each State has created an agency which can deal with enforcement, which can deal with some of the problems, which can take into consideration some of the local issues and factors relating to the land and the water and the air in that particular area.

So we have built a huge bureaucracy centered in Washington that wants to keep command and control. Republicans in fact have proposed that we dismantle some of that administration, we dismantle some of the overhead.

Not only do we have the administration in Washington to deal with, you take, for example, the State of Georgia where 1 of the 10 regional offices is located, and that is Atlanta, GA, there are 1,300 EPA employees located in that regional office, 1 of, again, 10 highly bureaucratized and highly staffed offices that are not out there, again, with the cities and the counties and the special districts and the States tackling the tough environmental problems.

So the money and the bureaucracy is in Washington and these regional offices, and the real problems are not being tackled out there. Let me give you just a statistic. More than 90 percent of the environmental enforcement is conducted by the States today, not in fact by Federal EPA. However, the majority of environmental funding goes to EPA, if we look at the statistics. Furthermore, the EPA has doubled its size during the past 20 years, as I have pointed out, now employing these 18,000 employees and maintaining a budget of $3.6 billion.

So the question before the Congress and before this new majority is not just how much money we spend but how we spend it.

Let me say that even Carol Browner, who is now the Administrator of EPA, admits there is a problem with environmental problems. She said to the New York Times on November 29, 1993, let me quote, and she was our State administrator in Florida. Let me quote her. Carol Browner said, "When I worked at the State level, I was consistently faced with rigid rules that made doing something 110 times more difficult and expensive than it needed to be." It makes no sense to have a program that raises costs while doing nothing to reduce environmental threats.

What Carol Browner said in 1993 is what we are talking about today in 1996. Even President Clinton proposed a request for a reduction of 400 full-time employees in environmental enforcement for fiscal year 1996. So we have even the President saying we need a reduction in this massive bureaucracy in the proposal he made to Congress. We have Carol Browner in 1993, fresh from Florida and her role there as the State director of our environmental program.

What has happened, again, is we have threatened these 6,000 bureaucrats in Washington. They have a role and they view their role as pumping out rules and regulations. What would they do if they had some reduction in force? No one wants to see, again, any lessening of regulations, of protections, of standards. What we are saying is let us get the work force where it should be and the dollars where they should be, and that is in our States and local governments, and let the Federal Government set some national standards and also work on international standards.

One of the first bills I introduced in the last Congress was the Global Environmental Cleanup Act, and that dealt with the problem that we have and where some of our focus should be. Countries around the world are polluting the Earth and destroying the planet, in fact, and some of our financing of this Congress and the American people is going to promote that destruction of the planet.

I can tell you, I have been on international business across this hemisphere, across the Southern Hemisphere. You can go through Brazil and see the destruction of the Amazon. You can go to Guatemala, see the destruction, clearcutting of forests on the Mexican border.

You can go to Mexico and see the raw pollution going into the streams and river and land. You can go to China and see the destruction of the planet, raw sewage and raw fluid going into the rivers, and no consideration of protection of the air or water where the largest population of the world is. Then you can go to Europe. I traveled the Tatra Mountains, and you can see the destruction from the former Soviet bloc of the beautiful forests, and again the raw pollution going into the land.

Some of our taxpayer money is going into international financing of projects in these countries without a consideration of environmental cleanup. So we have a role for EPA on the international level, we have a role on the national level with pollution between our States, and we are concerned about that. But we do not need 18,000 full-time employees, the bulk of which is in Washington, not to mention thousands and thousands of employees who are on a contract basis, ruling and dictating from Washington.

We need to get the money where the problem is and to those that are cleaning up the environment. They are State and local officials and our State legislatures. That is the emphasis this new majority is interested in.

Then if we look, and the President talked yesterday in New Jersey about cleanup and Superfund. Superfund must, in fact, be one of the worst government programs ever devised. Its original intent, now, was good. It was designed to cleanup hazardous waste sites and have polluters pay for polluting, and in fact it has not done that. In fact, polluters do not pay. We find that and I have evidence of, in fact, polluters not paying, and also EPA letting the statutes of limitation expire, according to one of the reports from a subcommittee on which I served during my first term.

□ 2015

So polluters get off the hook. They do not pay under the current system. The President says this is a successful program.

Then would you think that in fact we are cleaning up sites that pose the most risk to human health and safety and our children's safety? The fact is a GAO study in 1994 said no, that is not the truth, that in fact we do not clean up sites on the basis of risk to human health and safety and welfare, that they are chosen basically on the basis of political pressure.

So we are not cleaning up these sites, we are not cleaning up the sites that have the most risk.

These are just a few of the studies about EPA, the failures of EPA on the subcommittee on which I sat for my first 2 years in Congress. This first study talks about EPA's pesticide program, and food safety reform and the disaster in that agency. This particular report talks about the impact on safe drinking water regulation and small systems, drinking systems, how the regulations have forced our local governments to the point where it is almost cheaper to deliver bottled water than it is to comply with some of these regulations. We had testify the mayor of the city of Orlando at a field hearing, and she said that EPA requires in the treatment of water, and water comes in, to take out certain natural occurring substances, one part of the process at the beginning, and then put them back at the other end, and she said this makes no sense and it costs hundreds of thousands of dollars to comply with these ridiculous regulations.

So another report that details Superfund and the liability provisions, how now under Superfund, and again the President talked about the success of Superfund and the need for Superfund, and we agreed that there should be a Superfund. But when 80 percent plus of the money in Superfund, a program that was supposed to start out at 1.6 billion and has grown to $75 billion, when 80 percent of the money, in fact, goes to attorney fees and studies, there is something wrong with what we are doing with Superfund.

So we do not want to let polluters off the hook. We think that they should pay. But you find, in fact, that EPA gives them a free ride under current law. They do not enforce the current law; they let the statute of limitations expire. They are letting it happen now, that polluters not pay, and we think there should be a change there. And then also spending all of the money for a cleanup program again on attorney fees and studies and ignoring the real risks makes no sense.

So all this is documented in hours and hours and days and days of hearings.

Then you look at the management problems in contracting activities at EPA. The American people would be appalled to see the waste. We held one hearing on this particular matter, and they said that this particular activity with EPA laboratories is out of control, mismanaged, examples of abuse.

Then we held another hearing on information management systems, so the right hand of EPA would know what the left hand of EPA is doing, to better communicate. I could not believe the hearing, and it is detailed also in these reports, that, in fact, they had spent almost a half a billion dollars and had no clue as to what they were going to do as far as a real management information system.

So one problem after another at an agency again that is out of control.

I spoke just a moment ago of the contract employees. I spoke about 18,000, nearly 18,000 full-time employees that have mushroomed this agency to a huge bureaucracy in Washington.

We found in one of the hearings, and this is interesting to note, that of the thousand of contract employees and the hundreds of contracts that are let out there that nearly all of the contracts that are let by EPA go to former EPA employees. So they have a revolving door, an incestuous relationship, that really would not be permitted under any other circumstances.

So almost every program we look at as far as the management of this agency is again out of control.

Here is another report on clean air protection problems at national parks and wilderness, and this details how EPA cannot even get its act together at it relates to Federal operations.

So each and every one of these reports, and these are just a few tonight that I detail, tell about a story of failure, and that is the Federal EPA program.

And let me say that between the House of Representatives and the other body there are many disagreements. You rarely find the two houses agree on anything. But there was unanimous consent on both this side and the other side, in fact both sides of the aisle, the majority and the minority, that we needed to make some changes in the administration and management of EPA. The House recommended a cut in their funding of somewhere in the neighborhood of 30 percent. The Senate was somewhere in the neighborhood of 20 percent. And rarely do you find that unanimous agreement that an agency should be cut in that fashion.

But these are the reasons, in fact, that I presented tonight that there is unanimous consent on both sides of the aisle, Republican and Democrat, and both of the Houses of Congress, that there needs to be change there. So we have presented changes, we have said that we should look at the way the money is being spent, not just throw money at problems, but in fact try to get a better result so that taxpayer hard-earned dollars are expended in appropriate fashion, that we clean up the environment, that we clean up the real risk areas for our children, that in fact the money does not go just to attorney fees and to studies, that we work with local governments, with State governments, with local authorities, with business and industry, trying to resolve some of the environmental problems, that we renew our emphasis on international problems, that we look at problems that do, in fact, transcend the State and local boundaries, and concentrate on where EPA can do a better job.

So these are some of the issues that we wanted to bring up tonight, and then you think you have got it all together, and you think that EPA has been criticized by Members of Congress, again from both sides of the aisle, and you think that we are trying to get our message across, and maybe it has gotten across. You read articles like the article that I found last week in EPA Watch, which says that in fact EPA's office of enforcement and compliance has circulated a memo of January 19 that notes that staff from no fewer than 11 EPA offices are working with PTA on a project to protest budget cuts in the department. And I think that that is rather sad, that an agency that has been criticized also for misusing its resources and not cleaning up the environment, protecting the environment, but in lobbying Congress and coming after Members of Congress, is now using its limited funds from the office of compliance and enforcement in a lobbying campaign that brings in the children and the PTA with the misinformation campaign. So I think that is the wrong way to spend these limited resources.

When I found this article, I asked the appropriate chairman of the House committees and subcommittees to investigate now their activities. Even after being criticized, even after being asked not to conduct this type of activity, today you find EPA spending again limited resources, taxpayer dollars, on lobbying the Congress and on misleading the parents, and teachers, and schoolchildren of our country in their campaigns.

So it is disturbing, and I think that that should be thoroughly investigated by the appropriate subcommittees of the House of Representatives and the Congress.

So those are some of the points that I wanted to bring out tonight. Again, when the President makes these statements, I think that someone should address that in fact the new majority is interested in protecting the environment, that we have children, that we care about the environment, we care about the future of the environment of this great country, we would do nothing to lower the standards. But in fact when you see the misuse and abuse of power, and authority, and an important charge given by the Congress, you become concerned, every American must be concerned, and every American should also have the correct information, that in fact what the President is saying is political rhetoric, in fact political rhetoric. It is not based on fact or the action of this agency. What Carol Browner is trying to do with the resources of that agency are, in fact, not a proper expenditure of those resources. If she would concentrate in remembering what she said, and I quoted it to you 3 years ago about how she is forced to spend 110 times the energies on things that do not make sense, then we could all be better off.

So this is a debate about command and control in Washington. It is a debate of how our limited resources, your taxpayer dollars, the American taxpayer dollars, are expended, and how we really go about facing the problems of pollution and cleanup across, again, our great lands.

So tonight I wanted to bring some of those facts to the House, and to my colleagues, and to the Speaker's attention. We can do a better job, we must do a better job, we do not need a huge bureaucracy to do it, and that is a part of what we have proposed here, and again I think I share the concern of everyone on this side of the aisle that the environment, clean air, clean land, clean water are our priorities and part of our agenda, and we can do a better job, again with limited resources.

I thank the gentleman for yielding and wanted to make those points tonight.

Mr. GUTKNECHT. I would like to thank the gentleman from Florida because I think he makes some very good points.

My grandma always said if you always do what you have always done, you will always get what you have always got, and unfortunately one team is saying that the real way to cleanup the environment is to spend even more money on the failed programs we have had in the past, and I want to thank the gentleman from Florida for bringing those studies. Those are not Republican studies, those are not Democrat studies. Those are independent studies done by the General Accounting Office which, I think, demonstrate that what we have done in the past has not really helped solve the problem.

And I served with you on the Committee on Government Reform. I also serve on a separate subcommittee that looks at regulatory reform, the McIntosh subcommittee, and we have had some of those field hearings as well. And I remember just a few weeks ago we had some hearings in Iowa, and the mayor of Manson, IA, came to that meeting, Mr. Speaker, and talked about what they had had to do. The EPA came in, and they have had no problems with their water for 75 years. The EPA came in and tested, and they found 1 milligram more than the allowable EPA standard of one chemical, and they forced this relatively small town in Iowa to install over half a million dollars' worth of reverse osmosis filtering equipment to remove that 1 milligram.

Now that dangerous chemical that they were required to remove at substantial expense was fluoride. Now fluoride is a chemical, as most of us know, that many cities, in fact virtually every city in the United States, now puts into the water. They were required to take out that 1 milligram.

And frankly, we also at one of our other field hearings, we had a gentleman who helped develop the spectrometer. Now I am not a scientist, but a spectrometer is that thing that allows us to measure parts per million and parts per billion.

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He said, "Sometimes I rue the day that we developed that technology, because just because we can now measure parts per billion does not necessarily mean they are statistically significant, or that they are dangerous."

Again, we see that $50 solutions imposed on $25 or $5 problems.

Mr. MICA. If the gentleman will yield, Mr. Speaker, I am glad the gentleman mentioned one case. I would like to mention another.

In Hastings, NE, that community began a review of its environmental costs and concluded that the single biggest drain on the Treasury was the $65 million it would take to build a treatment plant to meet a proposed EPA rule for removing radon from the city's water. Now, radon is a radioactive gas that occurs naturally.

Before the EPA proposal, almost no public health specialist had considered radon in drinking water to be any sort of a threat. Independent radiation health experts said that in virtually every area of the United States, the amount of radon that evaporates from water is only one-thirtieth to one-one hundredth of what is really naturally in the air. So here is another example of a small community that had imposed on it a burden from EPA that made no sense. This is what we are talking about. This is not some fancy lobbyist coming in here asking for changes. These are our cities, our counties, our States, our legislatures asking us to look at what we are doing.

Again, even Carol Browner said before she got into the empire and bureaucracy-building business in Washington that what the Federal Government was doing to her as a State director of the EPA in Florida made no sense. That is what this argument is about. The rest is just not the truth.

Mr. GUTKNECHT. Mr. Speaker, I want to thank the gentleman. President Kennedy once observed, "We all inhabit this same small planet. We all breathe the same air. We all cherish our children's future." One of the things that is most frustrating to me as a parent and one who cherishes my children's future and one who enjoys the out-of-doors, I enjoy the environment, I like to hunt and fish, one of the things that disturbs me so much is when we start talking about finally using cost-benefit analysis and good science to determine whether or not these solutions that are being imposed from Washington really makes good economic sense. When we start talking about real reform, the other side seems to always question our motives; that we somehow want the world to live with dirty water, that we want to put raw sewage into Americans' drinking water.

Nothing could be further from the truth. But they measure success by how many dollars go into the programs. We are trying to measure success by what we really, ultimately get out of it.

I want to give one more example. We have the director of the waterworks of the city of Des Moines, IA, who came and testified at one of the field hearings. He said, "The EPA requires us to test for 53 different chemicals and organisms in the water. I have worked for the waterworks here in Des Moines for over 20 years, and nobody knows more about the water that goes in and out of these pipes than I do."

As a matter of fact, he said, as far as he could tell, only about 16 of those chemicals or microbes could ever be found in the water surrounding Des Moines, IA, and yet they are required to spend over half a million dollars a year in testing for chemicals and testing for microorganisms which will never be found in the water around Des Moines. He said it is just nuts.

He said, "The other thing that is important is if somebody should get sick from drinking the water in Des Moines, IA, they are not going to call the bureaucracy out in Washington; they are going to come to me, because ultimately I am responsible for the quality to the water in this city." Really, that is also what we are talking about. We are talking about more responsibility down at the area where the people actually can have that responsibility, can exercise responsibility, and ultimately get the job done.

Mr. Speaker, having a large bureaucracy, I think that the gentleman mentioned 6,000 people here in Washington——

Mr. MICA. Just in Washington.

Mr. GUTKNECHT. It does very little to ultimately guarantee we have clean water. As a matter of fact, one of my first trips to Washington a few years ago, and I had been to Washington maybe one or two times before that, maybe you remember this, there was a scare that came through in the water system here in Washington, DC. They thought it was somehow infected with Cryptosporidium. This is just blocks away from the EPA offices. They have their own water system. But the EPA did not take responsibility for that. Ultimately, the city of Washington, DC. took responsibility.

Mr. MICA. Mr. Speaker, I am glad the gentleman mentioned Cryptosporidium and contaminated water supplies. I sat on the subcommittee, of course, that oversaw some of these issues in the 103d Congress. One of the things we have heard folks talk about here on the floor was Milwaukee and how their water supply became contaminated. We questioned, in fact, some of the people who were involved in the problem. I think there were some deaths there, and many people were sick.

In fact, it turned out, and the gentleman spoke about the 53 or 54 water contaminants that are mandated by Congress and the EPA for each area to look at. And the folks from Milwaukee told us in fact that they were busy checking on some of these mandated contaminants that actually had no opportunity to occur in that area, and had to use their resources on these edicts that were sent out from Washington, when in fact Cryptosporidium, which is caused by deer or animal feces, I think, is the root of it, was ignored by the community.

So we are requiring, with these edicts and mandates from Washington, them to spend their limited resources not looking at where the real risks are, and that is part of what we are trying to change.

I had another example of an area, and it is good to cite these, engineers in Columbus, OH, were Attempting—the city was attempting to build a parking lot behind a city garage. They discovered traces of chemical in the dirt. Federal hazardous waste required a $2 million cleanup. This is over a parking lot.

The city was required to dig up 2.4 million pounds of dirt containing no more than a few pounds of toxic chemical from a patch of ground no larger than a baseball diamond. They shipped that dirt 1,500 miles to the south of Texas to be burned in an incinerator. They had to install detection equipment to monitor the air for up to 25 years for traces of any contaminants that might be remaining. All this is to build a parking lot.

These are the examples of an agency and regulation out of control. The cost is being passed to the cities, the counties, the special districts, the States who have asked us to make these changes. These are the interests we are talking about.

This kind of regulation accounts for the largest percentage of increase over the last 10 years in local taxes. All of these regulations are passed on to cities and counties for compliance, and then in fact we make them spend this money, whether it is for water treatment, whether it is for building this garage in some expensive, not cost-effective fashion, and it results in higher taxes for the local property owner. So this is another example of an agency and regulation out of control.

Mr. GUTKNECHT. We do cherish our children's future, and we all breathe the same air and we all want a clean environment, but we want results. We do not want 70 percent of the Superfund cleanup money being spent on lawyers and consultants, we want results. That is what this Congress is really all about.

I think particularly those of us in the freshman class came here to change the way Washington does business. We want to talk a little bit tonight, too, about the budget. We are being joined by the gentleman from South Carolina, Mr. LINDSEY GRAHAM, and perhaps the gentleman from Connecticut, Mr. CHRIS SHAYS, is going to join us as well. I am not sure.

We want to talk a little about some of the budget numbers, where we have come from, what it is going to take, the kind of discipline. Again, I restate, if you always do what you have always done, you will always get what you have always got. Unfortunately, where we are today is at least some of the people in this Capital City want to continue to do what we have always done. That is, "Well, we will continue to spend normally; but manana, or next year, or 5 years down the road, then we are going to start to really get serious."

As somebody said the other day, it is a little like saying you are going to lose 20 pounds by the end of the month, but you are going to gain 5 pounds during the first 2 weeks, and you really will not get started on it until the last 3 days. That is sort of the way Washington sort of looks at balancing the budget. We have said that is not acceptable.

Mr. Speaker, I yield to my good friend, the gentleman from South Carolina [Mr. GRAHAM].

Mr. GRAHAM. Mr. Speaker, along those lines, President Clinton had a good quote. A good definition of insanity was doing everything the same and expecting different results. That would be crazy. If you do everything the same, it will probably turn out the same.

The budget debate is often talked about in my district, "Why can you not come to an agreement on the budget? What is wrong with all you guys and ladies up there?"

I ask this to the audience that comes to my town meetings: "Have you ever had a disagreement in your family about how to spend and how much to spend?" And everybody laughs and everybody raises their hands. It is probably not uncommon for American families to have arguments at times over how to construct the family budget and how much to spend and where to spend it.

That is exactly what is going on in this Congress right now. We are having an overdue, long overdue debate about how much money to spend at the national level and where should it be spent. Let us kind of give people at home an update of where we are right now in the process.

Here we are in March 1996. We have had a couple of budgets vetoed. One budget that would have balanced in the year 2002 was offered by the Republicans that spent $12 trillion, $12.004 trillion, to run the Federal Government over the next 7 years. When you compare that $12 trillion expenditure to the last 7 years, it was a 26-percent increase in Federal spending. This harsh budget that you hear about that the Republicans have offered increased Federal spending 26 percent, it increased Medicare spending 63 percent, it increased Medicaid, welfare, by over 50 percent, it increased spending on student loans by 50 percent.

Instead of being accused of being harsh, I ought to be apologizing to people for spending that much money to run the Federal Government over the next 7 years. Again, it is a 26-percent increase for the next 7 years compared to the last 7 years. Most people are not going to get that much increase in pay.

So the first thing you have to come to grips with is, is $12 trillion enough. I guarantee you, it is enough for LINDSEY GRAHAM. If you spend 63 percent more on Medicare over the next 67 years than you did in the last 7 years and that is not enough, there is something wrong with Medicare; and there are two things wrong with Medicare. It is very inefficient, and it is going broke.

Our budget addresses the Medicare problem. It addresses the entitlement problem, because when we look at the budget and we look at the national debt, which is $5 trillion, under the Republican budget, it goes up to $6 trillion. The budget we came up with is not one bit harsh. As a matter of fact, we should apologize for taking 7 years. The freshmen put a budget together that balanced in 5 years. You can do it in 5 years and not hurt anyone if you just have a little discipline, you work together, and you work smart.

But one thing you have to understand about $1 trillion, most people do not know what it is. I certainly still cannot imagine $1 trillion. But if you spent $1 million a day, do you know how long it would take you to spend $1 trillion. Two thousand seven hundred years. It you started at the time of Christ spending $1 million a day, you still would not have spent the first trillion.

We have appropriated $12 trillion, not $1 trillion. To get $1 trillion in taxes from the American public is the equivalent of $3,814 from every man, woman and child in America. The truth is, every man, woman and child in America is not paying taxes. Those of us that are paying a lot. So $12 trillion is enough. You need to say no somewhere, and $12 trillion is where I am saying no.

But when you look at the budget and figure out why you are $5 trillion in debt, one thing jumps out at you, I believe: 50 percent of the Federal budget is entitlement spending, 16 percent of the budget is interest payment. The interest payment on the national debt this year will be over $400 billion. We will pay more in interest this year than the entire Defense Department budget. That is a fact that astonishes me, that we have to really do something about this debt situation. Fifty percent of the budget is on auto-pilot.

Entitlement means the following: There is a computer somewhere in this town that takes Medicare and Medicaid and welfare spending, looks at the growth of these programs, builds into the computer their growth rate, and in Medicaid it has been 19 percent growth rate since 1990, adds inflation to the growth rate, anticipates the number of people who are going to be on the program, sends us a bill in Congress, and we cannot say no. No matter how out of control Medicare is, no matter how inefficient Medicaid is, no matter how unwise welfare is, we cannot say no to the bill. And when the bill comes to Congress, 50 percent of the budget is on autopilot and we cannot say no. We do not have enough cash on hand to pay that bill, and we have to go borrow money. That is why we are $5 trillion in debt.

We are going to talk about the President's budget, but let me tell you the difference between the President's budget. He is over four in balancing the budget, and on the fifth try he got to a balanced budget in the year 2002, but here is what he did not do. That 50 percent of the Federal budget that is on autopilot that led us to a $5 trillion national debt, Medicare alone went up 2,200 percent since 1980. All the President has done is for a 7-year period he has slowed the growth of spending on Medicare, Medicaid, and welfare, but he has not changed the reason we got in debt.

In other words, he spends less on welfare, but he does not change the reason people stay on it a decade. He has spent less on Medicare, but he has not changed the reason that the program has grown 2,200 percent. He has spent less on Medicaid, but he does not change the reason it is growing at 19 percent. He has suppressed the growth, but he has not changed the reason we got in debt.

I will not vote for a budget that does not address the reason we got in $5 trillion worth of debt. If that is harsh, mean, cruel, so be it. I think it is wise. I think it is smart. I think it is long overdue.

Mr. GUTKNECHT. I thank the gentleman, Mr. Speaker. I want to also restate a couple of important points. One that I think gets lost in all this debate that the gentleman has made that I did not completely understand, and I dare say most Americans do not understand, is that half of the Federal budget right now is effectively on autopilot. These things we call entitlements, Social Security, Medicare, Medicaid, welfare, those are on autopilot, and Congress really has very little control over it. That is one of the reasons it is so difficult.

The other point, if you add in the 16 percent we are paying in interest, which really is an entitlement, you are really talking about two-thirds of the Federal budget which is essentially an entitlement program.

□ 2045

We are trying to balance the budget here in the Congress and really only have direct control over that one-third of the budget.

I want to point out something else that has been lost in all this debate. This is in the Constitution of the United States. A little over 2 months ago we were sworn in, and we were sworn to uphold the Constitution of the United States.

It is pretty clear, reading article 1, section 8 of this Constitution, that the power of the purse is vested with the Congress. It really is ultimately the responsibility of the Congress to balance the books of this Government.

Something happened in 1974, that the Congress began to turn over the power of these entitlements, in other words, divorce them from the congressional oversight that I think they should have. That is one of the other issues I think we ultimately have to deal with if we are going to balance the budget.

I want to welcome to our little discussion tonight the gentleman from Connecticut, CHRIS SHAYS, author of the Shays Act—I always try to work that in for the gentleman—one of the really powerful speakers on behalf of a balanced budget, who serves on the Budget Committee. I yield to the gentleman from Connecticut.

Mr. SHAYS. I thank the gentleman.

I remember the first day when we started this new Congress, and the gentleman basically introduced the Congressional Accountability Act, getting Congress under all the laws that we impose on the rest of the country, to the Congress. This was his first act on his first day as a freshman. The gentleman and his colleagues, other Members who had just joined us, did such a wonderful job of introducing that bill, the rule and so on, and getting that bill passed. I think we Republicans and Democrats alike can take great satisfaction that we now are looking to be under all the laws we impose on the rest of the country, something that we had not been for the last 30 years.

I have been wrestling with really what is concerning me most. I cannot really speak to what is in the President's budget or what is not. All I know is that when I was elected in 1987, the gentlemen all triggered that major point, that I voted on one-third of the budget. Gramm-Rudman, which dealt with what came out of the Appropriations Committee, the 13 budgets out of the Appropriations Committee, the defense budget which was equal to the other 12 appropriations bills, was what I voted on.

Yet we tried to control the growth of spending by basically squeezing the annual votes on the appropriations bill. While we were doing that, we had Medicare, Medicaid, food stamps, agricultural subsidies, and a whole host of what we call entitlements. You fit the title, you get the money. We do not vote on them, they are not sunsetted, they were growing at 10, 11, 12 percent. In fact Medicaid a few years grew at about 20 percent a year. They double every 5 to 6 years. Now they are 50 percent of the budget, and if we do not do anything by 2002, they will be about 65 percent of the budget. We really need to get a handle on it.

The thing that concerns me I think more than anything, and I do not think that history will be kind to Congress over the last few years or the President over the last few years. I am candidly bringing in Republican Presidents as well. Republicans did not want to control the growth of defense and Democrats did not want to control the growth of entitlements, and they both agreed to just let things happen and ignore that we were creating these large deficits.

But what I am most afraid of is, in the last 12 years since 1974, since the end of the Vietnam War, we have had our national debt grow from about $430 billion to $4,900 billion, a tenfold increase.

So what do I think history is going to say about Congress and the White House? I think they are going to say there was a time when they basically decided to let their children and their children's children pay for the bill.

Mr. Rabin, the former Prime Minister of Israel, pointed out on more than one occasion that the job of an elected official, they are elected by the adults but their job is to represent the children. That is really what this is all about: How do we save this country for future generations? How do we leave it better for future generations?

What we attempted to do was get a handle, slow the growth of Medicare, slow the growth of Medicaid, allow those programs to grow and to meet all the needs that they have to meet. But if I could just conclude, I am constantly hearing in this place that we are cutting, and we are cutting some programs but not the ones that are identified. We are consolidating certain departments and agencies. We are eliminating some programs and discretionary spending, but the earned income tax credit, a program to help the working poor, that is growing from $19 billion to $25 billion. The school lunch program, which we were told we were cutting, is growing from $5.2 billion to $6.8 billion.

The student loan program, that is the one that really gets me, it is growing from $24 billion to $36 billion, a 50 percent increase. Hardly a cut. Maybe in this place a cut, but anywhere else around the world it is known as a 50 percent increase.

Just to end, Medicaid growing from $89 billion to $127 billion in the seventh year of our program; Medicare, $178 billion to $289 billion. Only in Washington when you spend so much more do people call it a cut.

We are spending 60 percent more total amount on Medicare. Per beneficiary 49 percent more, from $4,800 to $7,100.

I just hope that we keep the course, I hope we do not let up, I hope we try to get a handle on this budget for the future generations that ultimately would have to pay the bill if we do not.

Mr. GUTKNECHT. I thank the gentleman. I started this special order tonight quoting Winston Churchill and John Adams' famous quotation, "Facts are stubborn things." I think that we have to continue to share with the American people those facts, because I have found, and we have had an awful lot of town meetings back in my district, when people are confronted with the truth about what is really in this budget, I think overwhelmingly what they are saying is, "My goodness, you're being far too timid."

In fact, in the Medicare numbers alone, when you tell people we are going from $161 billion to $244 billion, as a matter of fact, in one of my town meetings I had some school children, and I went through that fairly slowly with them. I said, "Now, if you go from $161 billion to $244 billion, is that a cut or is that an increase?" They all looked kind of funny and said, "Well, that's an increase." And I said, "You're right, but sometimes in Washington that's called a cut."

Then I go through the numbers again with some of the seniors and I say that we are going from $4,800 average per recipient, because there are going to be more senior citizens in 7 years, we know that, but from $4,800 to $7,100. That is not a cut. That is a big increase.

I think again when you are talking to people who have common sense, whether it is in South Carolina or Connecticut or Minnesota or Florida, anywhere around the country, people recognize that these are significant increases, and if anything we are probably being far too timid in our budget changes.

I yield to the gentleman from South Carolina.

Mr. GRAHAM. I thank the gentleman very much. I have got to let the gentleman from Connecticut [Mr. SHAYS] come in on us in a minute.

We are talking about how much money we are spending over the next 7 years on Medicare, Medicaid, and welfare. But let us look at the reason why we have spent so much money in the past. Why is Medicare growing at 4 times the private sector?

We have increased spending over I think the next 7 years by 63 percent. A lot of money is going to be spent on senior citizen health care at the Federal level. But if you want to get the budget balanced and you want to keep it balanced, you better start now and you better start with entitlement reform. Senator KERREY, a Democrat, said in his commission report that if nothing changes in the next 17 years, the entire Federal revenue stream, all the money coming to Washington, will be consumed by entitlement spending and interest payment on the debt. That there will be no money for the Department of Defense. That is how quickly the interest element and entitlement spending is taking over the revenue stream.

Mr. SHAYS. There will be no money for any department, and any grant and any program for those departments according to Senator KERREY.

Mr. GRAHAM. Right. The good news may be that Congress will not get paid, too. They may like that part of it, but they will not like the other parts, the Government they have come to rely on in the discretionary side of the budget.

But let us talk a minute about what we have done. We have spent a lot of money in additional spending but we have done the most responsible thing you could do, if you have a chance to participate in this great democracy at this level, and that is change the reason we got in debt.

Let us talk a minute about not just how much we spend on Medicare but the improvements we have made to make sure that, one, it does not go broke, and two, that we will have a Medicare system for our generation.

What we have tried to do is we have looked at the private sector, which is a new and novel idea up here, instead of looking to another bureaucracy and to another agency and building more buildings in Washington, we have looked outside the institution itself, outside the Beltway, we have looked in the heartland of America and we have found out that there are some great ideas in health care. Let us create some of those ideas and give options to senior citizens, something new and novel in Washington also for people who rely on the Government to have a menu of things to choose from.

As a Congressman I think we have 3 or 4 health care plans to choose from.

Mr. SHAYS. We actually have 10 programs we can choose and then variations within those programs, so we have lots of choice and we want seniors to have that same choice.

Mr. GRAHAM. Let me give one option that would be put on the market if our bill passed. It is called a medical savings account and I am going to apply it to two people I know and love,my aunt and uncle. When my parents died, I was about 21, I had a sister who was 13, we were taken in by an aunt and uncle whom I am very close to. They worked in the textile industry all their lives in South Carolina. I doubt if they ever made over $8 an hour but they had a good job and proud to have the job. They are retired now, been retired about 3 years. They live off Social Security, they have Medicare as their primary health care, and they have a paper route. They are healthy seniors and God has been good to them. But under the current Medicare system, they have about $46.10 taken out of their Social Security check. That is their part B premium. That money is taken out of their check and it is taken out of Ross Perot's check if he happens to be Medicare eligible and it goes into a fund and it pays doctor bills for senior citizens, 30 percent of the doctor bills. All doctor bills paid under Medicare the funding comes from two sources, a senior citizen premium, like my aunt and uncle pay out of their Social Security check, and 70 percent of it comes out of the Treasury. Medicare has been growing at 12 and 13 percent a year. A huge bill is being sent to the taxpayer because of Medicare growth. They have $110 a month they pay for a Medicare supplement policy because under Medicare it does not pay everything and seniors know this very well. You have got deductibles, copayments. They are paying out of their pocket over $300 a month for the Medicare system that we have today. A medical savings account option, if available, would have saved my aunt and uncle $10,000 in the last 3 years and would save the government a great deal of money.

Here is how it would work. The average senior citizen gets about $5,000 a year from the Federal Government on Medicare. We are going to take a portion of that money, the vast portion of that money, and put it into a medical savings account and do something really extreme, we are going to let my aunt and uncle manage their own health care and take care of the money. They can take out of that account about $4,000 and buy a catastrophic health insurance plan that will be sanctioned by the Federal Government, that will take care of their health needs as Medicare would for any illness over $10,000. They will have a catastrophic health insurance plan bought by the Federal Government, not money out of their pocket. There will be $1,000 left over, and the game goes as follows. From zero to $10,000 is the game that they are going to be willing to play. In my aunt and uncle's case, in the last 3 years, they have never spent over $450 to go to the doctor or to the hospital. They have been lucky. They have taken care of themselves. Under the medical savings account plan, $1,000 would be left over in this account. They could use it to manage their health care needs. That $1,000 would have taken care of every medical bill they have had. They would have had no out-of-pocket expenses, they would have saved over $10,000 over the last 3 years and the Federal Government would have saved money. Why should that option not be available and if they did get sick, if they did have a catastrophic illness, they would have been able to opt into another plan.

Mr. GUTKNECHT. What we are doing some remarkable things. What we are talking about with Medicare—let me jump in, and I want to yield to the gentleman from Florida [Mr. MICA]—we are talking about using market forces, personal responsibility, and competition to help control costs. It works everywhere except in Federal programs. That is what we want to experiment with.

I yield to the gentleman from Florida for a quick minute, as well.

Mr. MICA. I wanted to comment, and I thank the gentleman for yielding. I come from the State of Florida. We have a very large elderly population that rely on Medicare and some who rely on Medicaid. In fact, if you just spend a minute and look at what has been going on in a State like Florida, for example, the Miami Herald did a story last year and identified in Medicare $1 billion worth of waste, fraud, and abuse.

I sat on one of the other subcommittees in what was Government Operations that oversaw Medicaid. We identified about $1 billion in Medicaid in Florida in fraud and abuse. One of the cornerstones of the Republican plan is to create some penalties, to root out waste, fraud, and abuse.

That is the main, major change we have proposed. People can still stay on Medicare. We do offer choices. But, again, we must address the problem of waste, fraud, and abuse.

Let me talk for a second, too, about nursing homes. The proposals that the Republicans have advocated, we provide some change there, also addressing fraud.

But the other major change we have that affects the folks in Florida is, we are not advocating lessening of regulations or wheeling people out on the street from nursing homes. What we have said is we should give people some more compassionate, some more cost-effective alternative. Right now people have to divest themselves of any savings. They must expend all their savings and basically go on this program for the poor or transfer their savings to their relatives.

□ 2100

Once they have done that, they lie, cheat and steal in some cases to get on the programs or divest themselves of life savings. And then what do we do? We give them one choice. You go in a nursing home.

What we said is why not allow the elderly to live with their families, pay for some attendant care. It could cost one-third, it could cost 20 percent, and they could live with their families. Why not, in fact, give some alternatives they they could stay in their own home and not be forced into a nursing home, and we live longer and can live longer by ourselves with a little bit of help from our friends rather than this one forced option that we are forcing. So we can and we should make a difference for the elderly. And these are the choices we hold out for them.

I thank the gentleman.

Mr. SHAYS. If the gentleman would yield, just to close the loop on both programs, the bottom line to our Medicare plan is we do not increase copayments, we do not increase deductibles, we allow the premium to stay at 31.5 percent, we provide choice.

It is true, we ask the wealthiest of wealthy to pay a higher part for the premium for part B. I think sometimes Republicans do not like people to know we are asking the wealthy to pay more, and Democrats do not want people to know Republicans are asking the wealthier to pay more, but we are in that instance, and that makes sense.

Most importantly, we are allowing for choice in the program and providing for the kind of innovation you and others have talked about. In this way we are trying to work to save the program from bankruptcy and to make sure it can continue for future generations.

Mr. GUTKNECHT. I yield for one last minute to the gentleman from South Carolina. We are just about out of time. The clock is ticking.

Mr. GRAHAM. Welfare as you know it, we want to change it. One key difference, President Clinton's welfare bill says you cannot stay on welfare for more than 60 consecutive months. You can get off for 1 month or 1 day, and have 60 more months waiting on you. Our bill says 2 years, 5-year lifetime, big difference.

Mr. GUTKNECHT. I thank everyone for joining us tonight. As we started with Winston Churchill's quote, "Truth is incontrovertible. Malice may deride it, ignorance may attack it, but in the end there it is."

Mr. SHAYS. If we can end with Mr. Rabin's quote that, "The politician is elected by the adults to represent the children."

Mr. GUTKNECHT. We have a moral responsibility to make sure we preserve this last best hope. If we do not make some changes, whether in Medicare entitlements, the way the Federal Government spends money, we are going to leave our kids a legacy no one can be proud of. If we continue down the same path, continue to do the same things, we are only going to get the same kind of results.

I wish we had more time to talk about the President's budget. Recently he gave it to us. It is 20 pages, now, not a whole lot of detail, but it really, you know, back in January he said that the era of big government is over, but on the other hand, when you take a look at the budget and get the facts about this budget, you start to see that that obituary may have been written prematurely.

CUTTING ENVIRONMENTAL PROTECTION

The SPEAKER pro tempore (Mr. METCALF). Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I rise tonight because of my concern over some of the statements that were made by my colleagues on the Republican side during this last 1 hour where they talked about the Republican cuts, budget cuts on the environment and the changes that the Republican leadership have proposed with regard to environmental protection.

Particularly, reference was made to the fact that President Clinton was in my State, New Jersey, yesterday and was highlighting the fact that this Congress, this Republican Congress, under Speaker GINGRICH and the Republican leadership, has done everything possible to turn back the clock or try to turn back the clock on environmental protection. The President was in New Jersey because of this concern over the Superfund Program, which is used by the Federal Government to try to force polluters, those who caused hazardous waste sites, to clean up their pollution, to spend the money to do it, and where the polluter cannot be found or the polluter is bankrupted or the corporation has ceased to exist anymore, the Federal Government steps in to do the cleanup itself.

The President was highlighting the fact that under the Republican leadership's proposals and the vast cutbacks that they have made in appropriations or spending for the Environmental Protection Agency, a number of Superfund sites in the State of New Jersey will not be cleaned up this year. In fact, the many shutdowns of the Federal Government which affected the EPA at many Superfund sites, the cleanup has either not occurred or was slowed down completely, in many cases at a considerable cost to the Federal Government. And what he was saying is that this cannot be allowed to continue, that we cannot allow this Republican leadership to turn back the clock on the Superfund Program to make it so that our environmental laws are not even enforced for lack of money to hire people to do the enforcement, which is essentially what is happening.

Now today, our environmental task force on the Democratic side, we have a task force that is trying to address environmental concerns and point out how the Republican leadership is cutting back and turning the clock back on the environment. Well, our Democratic task force issued a report based on a hearing we had a few weeks ago. The report, which I have here, shows dramatically the impact of the budget cuts that the Republicans have put forward on the environment.

What it shows, essentially, is that the Republicans are trying to hide a very dismal record. Anti-environmental legislative riders have been attached to appropriation bills, disproportionate budget cuts have targeted environmental programs, and curbs on enforcement activities have been widespread, which let polluters off the hook and sends the cleanup bill to the taxpayers.

We talk about, in the report, how the Republicans have specifically targeted environmental programs for particularly deep budget cuts. In other words, we know that we have to spend less and we have to downsize the Federal Government, but the Environmental Protection Agency has received a disproportionate share of these overall cuts. Overall funding for the EPA was cut by 21 percent. Pollution enforcement, the cops on the beat, the environmental cops on the beat, have been cut by 25 percent. What that means is that you have these environmental laws on the books but you do not have any way of enforcing them. The polluters know if no one is out there watching them and they continue to pollute, discharging materials, violating their water discharge permits, discharging into waters and harbors, they do what they think they can get away with.

I would venture one other thing we found in our report and found in the forum, the cuts in environmental enforcement do not save money. In other words, the Republican leadership argues if we cut back on this environmental enforcement, somehow we are going to save money.

Nothing could be further from the truth. I mean, essentially what happens is that the environmental cop on the beat, if you will, those who go out there to find the polluters, they do not find them, they do not issue them summonses and, as a result, no fine is incurred and the Treasury actually loses money because they are not penalizing the polluters.

In addition, a lot of times, when pollution takes effect, it costs even more money in the long run to clean it up, whether it is the water, whether hazardous waste, whatever it happens to be, so the bottom line is it costs the Federal Government more money in the long run.

Some of the previous speakers on the Republican side also made the argument we do not need the Federal Government involved in all of this enforcement activity because the States can do it. I think the gentleman from Florida mentioned that almost every State or every State now has an environmental protection agency or something like it. But the reality is that the Federal Government sets preliminary standards, whether it is clean water, clean air, hazardous waste cleanup, whatever it happens to be. Without those Federal standards in place, many States simply have not historically established standards similar to the Federal ones. So I just wanted to point out we could talk all night. Of course, my time is up now. I just wanted to point out this fact. This Republican leadership is turning the clock back on the environment. I am glad the President came to New Jersey to point that out today.

PREVENTING TEENAGE PREGNANCY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 60 minutes as the designee of the minority leader.

Mrs. CLAYTON. I have several of my colleagues who will participate with me on this special order as we are talking about the special order on preventing teenage pregnancy.

Mr. Speaker, 30 percent of all out-of-wedlock births are to teenagers below the age of 20. That astonishing reality should be alarming to all Members of Congress and to all citizens of our country. More importantly, the current debate on welfare reform is accelerating the need to address the issue of out-of-wedlock teen births. We want to end welfare as we know it, all of us say, but we do not want to replace it with welfare as we do not want to know it. We do not want to enact legislation that leaves a policy of national abandonment.

As we consider solutions to this issue, we must keep in mind no other industrialized nations with the standard of living comparable to the United States has a problem of this dimension. On the problem of teenage pregnancy, we have the dubious distinction of leading the world.

In January, the national campaign to prevent teen pregnancy began. This campaign is a privately funded nonpartisan effort. The goal of the campaign is to reduce teenage pregnancy rate by one-third by the year 2005. The mission of the campaign is to reduce teenage pregnancy by supporting values and stimulating actions that are consistent with a pregnancy-free adolescence. In order to accomplish this mission and reach the goal, the campaign will first work to raise the awareness level concerning this crisis. The campaign will reach out to national media to help raise awareness and to attract the interest of national leaders and organizations. It is critical that our Nation take a clear stand against teenage pregnancy and that the position be widely publicized.

Enlisting the support of the State and local media will be a vital part of this outreach to strengthen the knowledge base and to educate the public on this issue. These actions will force a national discussion about how religious, cultural and public values influence both teenage pregnancy and the way our society responds to the dilemma.

The campaign's second focus is to encourage and to stimulate innovative solutions through local schools, churches, civic groups, as well as local and State officials. The campaign does not advocate any plan other than community involvement. Each community would determine what would be appropriate and acceptable based on a community's standards and values. Let me again emphasize the national campaign encourages community involvement, but it does not recommend any plan of action. Again, each community would determine the action appropriate for their community plan. The parents, families, churches, teachers, Scout leaders, community members who know these teenagers best would determine what kind of program their communities could use to help their young people avoid teenage pregnancy and becoming teenage parents too early.

I think you will agree these decisions should be made by the community and at the community level by individuals and families who care the most about the greatest need to influence these young people.

I am delighted to have several people to join me today, and Congresswoman MEEK of Florida is going to share some of her remarks with us.

Mrs. MEEK of Florida. Mr. Speaker, I am very pleased to bring the subject of teenage pregnancy to the consciousness of everyone in this Nation, and I think this special order you have tonight will take us a long way to doing that and having people aware of what is going on to some of our best and most valuable resources, and that is our teenagers.

We all know that statistics show us that the baby boomers now have produced a new crop of teenagers, much larger than the baby boomers' population itself, so we are beginning to have more and more of the problems which you have described here.

Tonight I am going to take a few minutes and just talk about what is happening in the State of Florida. Most people know about Florida as a beautiful tourist State. They know about it as the State where the Sun shines all the time. They know about it as being a very warm climate.

The one thing people do not talk about a lot in the State of Florida is that our rate of teenage pregnancy is growing. Our rate of AIDS is growing. As a matter of fact, we are in the top five in this country as far as AIDS and teenage pregnancies. It is something that many of us as policymakers have been afraid or maybe a little reluctant to address as being a problem. But until we change some of the policies, and I think that is where you are on your way to changing some of the policies which underwrite what we do with our wonderful teenage children, certainly we will keep going the helter-skelter way as we are doing now; that is, one State may have a very strong policy, another one may have very little, and another one may have sort of a lukeworm policy.

I guess what we would like to see is that this country would face this as a problem, not to sweep it under the rug. Policymakers would no longer be afraid or a little concerned about the political incorrectness of addressing this problem.

□ 2115

Just to look at the social significance of teenage pregnancies in Florida, and I am talking about births by teenagers who are 18 years or younger in the State of Florida, if you will notice, this particular, I call it an epidemic, is almost a pandemic. But it is an epidemic in that some groups of teenagers, who once did not even have this problem, are now beginning to show an advancement in their teens whether they are white or black or any other ethnic group.

However, because of the policy related circumstances with minorities, teenage pregnancy incidence is much higher than it is among some other ethnic groups, particularly with nonwhite teenagers. The growth in Florida since 1991, there were 8,274 teenage pregnancies. But now it is reduced a little bit because of some of the many things we are trying to do in Florida to sort of alleviate this problem.

But I do not think we are doing enough teaching and education and teaching youngsters that abstinence is the best policy. I go to the age-old dictum that we were taught, that that was the only way to prevent teenage pregnancy. Now we say safe sex, we say a lot of things. But I think perhaps we may have to go back to some of the age-old policies of combating this, that being not forced, but supported by a State policy.

It costs a lot. Teenage pregnancies cost Florida a lot of money. In doing so, it takes away some other programs that need the same kind of financial assistance.

The regular prenatal care and delivery of teenage babies costs the State of Florida $15.3 million. Now, think in terms of the health care delivery system in Florida. If this money could be placed toward fighting some of the many other health problems in Florida, then certainly we would have had that money to put in that pot.

Also in Florida, teenagers who have babies usually are at-risk babies. The prenatal care is much higher than a regular adult having a baby. So these teenagers bring with them certain deficiencies. One is that, with many of them, the babies have to be treated through neonatal care. That has a very high price tag on it. No matter what you say, these things cost money, and we must do our best to prevent them.

Just take the at-risk prenatal care that Florida spent in 1994 for teenage pregnancies; $16.4 million was spent just for the prenatal care. This has nothing to do with those who repeat and have a second pregnancy after the first one.

The emergency room and hospitalization is $1.7 million, prenatal intensive care, $10.8 million. My hospital in Miami, the public hospital, has a very high cost of parental intensive care.

Also, there is neonatal intensive care. Per client it costs more than any other care. In addition to that, many of them during the first year of life must be rehospitalized, because you remember the teenager's body is not as strong and not built for pregnancy as the adult's body. So that is a problem.

Then what happens when a lot of teenagers have a lot of youngsters? Then there is the cost of special education. Up until the time they are 14 years of age, that carries with it a great cost. I do not think I am trying to say that this is cost prohibitive. I am saying the money the State of Florida spends with teenage pregnancies, which are usually low birth weight babies which need neonatal care, which need very strong prenatal care, that it costs a lot of money.

Then the developmental kinds of services that are needed for the babies which are already born with a strike against them, and that is like the special education, costs $939 million. That is a lot more money, because these children who were born into the bodies of young teenage mothers that are not physiologically prepared costs this special social significance.

Then there are the developmental services, $6.8 million. That is why it is so very important, when you look at AFDC, at least 8 percent of the 8 years of age spends 14 percent in food stamps. If you take 2.5 years, 14.9 percent, and 8 years for 14 percent, the food stamps for 10 years would cost $129.8 million. These figures are statistically correct, but many times a lot of these figures do not include all the youngsters that go through the teenage pregnancy syndrome.

Medicaid in Florida ran up $40.8 million because of the teenage pregnancy problem. The crime, not including the cost, that is $2.6 million.

So I think that education is a key to our problems with teenage pregnancies. I do not think that it can be done altogether in the school. It is a problem in the home, the school, and the community. There is a lot to be done, a lot can be done, because right now many of the teenagers do not understand what makes them pregnant as well as how to take care of a baby born to a teenage mother. There are a large percentage of them born in Florida to teenage mothers. In 1994 it is 13 percent of the babies were born to teenage mothers, and the teenage birth rate was very high as well. Repeat births was like 23 percent in Florida. I can go on and on.

I guess the point I am making here is that teenage pregnancies have a high cost attached to them, not only in the problems to the teenage mother herself, but to the baby.

Regarding the impact of the teenage mother's baby, as it brings forth many things which, I think, if properly educated soon enough and the intervention is made soon enough, something can be done.

Florida has a lot of good programs and is fighting this problem. But we have not come to the point yet that we are able to stop that first child. Usually through education and through programs, we are able to slow down the rate of the second baby. But we still have problems with the first.

I think it is important that you brought this to our attention tonight, and I think we have to really put more focus on it. We need to look at it because it is interlinked very closely with Medicaid, and it is going to cause a problem which many of my colleagues have talked about. I want to thank you for bringing this to our attention.

Mrs. CLAYTON. I want to thank the gentlewoman from Florida for bringing up the Florida experience. Just to emphasize, the gentlewoman shared that indeed there are a myriad of solutions, but basically she felt education was one of them.

In addition to the educational part of abstinence, other educational programs of conception are also needed in that area. They have been successful in maintaining or reducing the second birth, but not as successful in intervening early on.

So I think there is much we can learn from the Florida experience. I certainly want to express sincere appreciation for the gentlewoman sharing that with us this evening.

The gentlewoman from Texas [Ms. JACKSON-LEE] is with us, and I appreciate her joining us.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding. Let me thank the gentlewoman for her leadership on this issue and bringing to the focus of America the importance of supporting the National Campaign to Reduce Teenage Pregnancy. I join the gentlewoman in the support.

I support the National Campaign to Reduce Teenage Pregnancy, especially enlisting the aid or help of the media, because teen pregnancy and too early teen births impact the teenager's health, education, and long-term self-sufficiency.

Educational attainment and poverty are related to adolescent child bearing. One million teenagers become pregnant every year, and most of these pregnancies are unintended. A lot of it comes from the lack of information about one's body, a lack of sex education information, and the youngster is simply a child guided by the words of her peers, or maybe the individual that has enticed her into a sexual act that results in the pregnancy.

We have heard much about the social cost of teenage pregnancy in terms of welfare and Medicaid. One-quarter of teen mothers live below the poverty level. But there is also a psychological cost. There is a cost in the future of that young mother and the future of that child.

Advocates for Youth have estimated the annual public cost in 1992 for AFDC, Medicaid and food stamps attributable to families begun when the parents are teens are $34 billion. I imagine that also includes the cost of the prenatal care that they do not get really and the neonatal costs that they have when the babies are low birth rate babies.

However, if we want to address the issue of teen pregnancy, then we must assist teens with a multidimensional program that provides reproductive health information and access, as well as teaching teens to communicate with their partners and their parents. And, yes, I wholeheartedly support the teaching and communication of abstinence and the ability to build one's self-esteem around the ideas of waiting and looking forward to a future and the availability and ability to raise one's child with the best resources possible.

Prevention of at-risk teen behavior should include attention to educational and employment opportunities. All of us should be concerned when intergenerational teen motherhood affects the long-term chances of teenagers and their families.

I believe that teenage pregnancy prevention must be targeted at both boys and girls. That is a very important point. I have found times when we have spent time with young men, it is very valuable time, to inform them that it is their responsibility too; that their manhood is not intertwined with the creating of a life, and that that life then becomes dependent on them, and their future opportunities may be shortchanged because of the responsibility to this wonderful new life.

Treating teen pregnancy as if it is an issue that affects only young girls is shortsighted and is unlikely to be effective. Adult men are frequently the fathers of children born to teenage mothers. I hope that the link between sexual abuse and teen child bearing are also examined by the National Campaign to Reduce Teen Pregnancy. That is certainly an issue that I am hoping to address in my district.

I urge the media, parents, educators, and all those who care about children to talk with our young people about abstinence and postponement of sexual activity. Teen mothers have approximately a 60-percent chance of graduating from high school by the age of 25. Remember now, a 60-percent chance of graduating, way beyond the normal graduation time, but maybe by the age of 25, and only 60 percent, compared to 90 percent of those who postpone child bearing.

African-American and Hispanic teens who delay child bearing to age 20 are 3 to 5 times more likely to attend college as their counterparts who do not delay childbirth. Again that goes back to the quality of life of that new life that this young parent would bring into the world, the ability of taking care of that child, and warding that child away from the ills of life, the social ills, the lack of getting an education, drugs, the lack of self-esteem because they have not had the nurturing and care that would come about from a more mature parent.

For an African-American family in which the mother began child bearing before the age of 16, the average income is only 96 percent of the poverty level, not even the poverty level, but only 96 percent. The average income rises to 236 percent of the poverty level if she is between 26 to 27 years of age when her first child is born, and 275 percent if she postpones child bearing past the age of 27.

I am concerned about teen pregnancy because too-early births impact the teens and families in my State. In Texas there were 52,859 births to those age 12, underlined, age 12 to 19, in 1994 alone. The combined cost of maternity care and newborn care for these teen births in Texas was $339,407,639.

I have visited the Lyndon Baines Johnson Public Hospital in my community and have seen the neonatal unit with these very low birth weight babies. Loving as they are, and your great desire to love them and care for them and cry for them, we also recognize that we are in some way diminishing their quality of life by their low birth rate. Because of the lack of prenatal care, many of them are born to our teen mothers.

This is something that, if for nothing else, for that child that we want to bring into this world, giving him or her the most that we can give them, that we should emphasize this effort with respect to teen pregnancy. The combined costs of maternity care and newborn care for these teen births in Texas, as I said, some $330 million-plus.

In my district in Harris County, TX, in 1994, there were 3,598 births to teens aged 11 to 17. The estimated cost of maternity and newborn care for these teens births in Harris County alone was $23,102,758. Just a couple of weeks ago we saw the emphasis on teen pregnancy in Texas take national status when it was thought that a 10 year old was on the run who was about to give birth to a child out of wedlock. We now find out it was a youngster of 14. But just the horror of it and the thoughts of youngsters having children, and that does occur in my community.

□ 2130

Let me applaud, however, the school districts, particularly HISD, who have several schools that deal with pregnant teens and teens that have had children, and in particular, they provide child care for those teens. But they also expressed to me the difficulty of keeping those teens in school and again ensuring that those children are getting the best protection and help that they possibly can, both the child that has had the newborn and the newborn, of course.

It is encouraging that the pregnancy rate among sexually experienced teens has declined 19 percent in the last two decades, but there remains much that we as parents and friends of teens must do if we truly care about our young people.

I would also like to applaud the teen clinic in the hospital district supported by Baylor College of Medicine. That has been an outstanding light, Congresswoman CLAYTON, in prevention measures, in encouraging young teens to look differently or in another direction, and certainly after the first child, to discourage them from a future birth until they get their education and secure a marriage partner and have the opportunity to provide for that young child or that newborn.

There is no one program, however, that will work for all teenagers. When we look at the teen programs which have been effective, the teen pregnancy prevention programs have approached this social and personal issue holistically and comprehensively. That is the key. Adolescent pregnancy prevention must include reproductive health, education and access to contraception, along with the emphasis of education and prevention and certainly abstention.

The media must take responsibility for the explicit images of sexual activity that our children see on a daily basis. Might I add, even the media that shows television programs during the hours that you think young children are safe, during the 6 to 8 hours, maybe 6 to 9, the media has to take responsibility without enforcement and without regulation to do that. I am very glad that we have at least passed legislation that will give parents the V-chip to ward off violence, but it will also allow them to ward off unnecessary sexual activities.

The Internet, we must be concerned about that, as we saw sexual connotations and messages coming across the Internet. We must be diligent as parents and guardians of our children to ensure that they are viewing the right messages, and the media must help us do that.

A discussion of the postponement of sexual activity should be coupled with developing teens' communication skills and partners and parents. Finally, teen pregnancy must focus beyond the sexual activity of adolescence. When we talk about at-risk teens, we need to confront the environment which our young people are growing up with. When we see how early teen pregnancy can impact our children's educational attainment and long-term self-sufficiency, we need to confront this national issue of adolescent pregnancy and help our children flourish and develop their full potential.

It is key that we support this national campaign. It has to be combined with schools and churches, religious institutions, parents and nonparents, volunteers and community-based groups and youth support groups, so that we can in fact make sure that this is an effective effort, Congresswoman CLAYTON, and it is one that I accept the challenge of your leadership, but as well as this national campaign, one that I know that we will be working with our community leadership in the 18th district in Texas and Harris County to make sure we continuously work to put our young people first, but to ensure that they provide a good quality of life for the newborn child.

Mrs. CLAYTON. Well, I want to thank the gentlewoman from Texas for that very substantial statement, and also for her sharing what she understands to be a very interrelated problem that is not purely one approach. It is a holistic approach. We have to be engaged from various sectors, and to recognize the value of having good programs in the high school and good programs to encourage people, the young people, not only in terms of sex education but their self-esteem.

You know as I know, young people who feel that they have a future are going to not risk being an early parent. So we have to give hope, we have to give that, and I am delighted that you are going to do your part in raising the awareness and giving that positive message to young people in your district. I applaud you for what you have done already, hope that you will continue that effort. Thank you for participating.

Ms. JACKSON-LEE of Texas. Well, I thank you very much, and I think that as I close on one point, you raised a very valuable point. I will close on this. When that teen has that first child, we should not abandon them, because we can still work with them to stem the tide or stop any additional births.

Mrs. CLAYTON. Absolutely.

Ms. JACKSON-LEE of Texas. We should continue to keep them in the system, as well.

Mrs. CLAYTON. We should stop a national policy of abandoning children simply because of the mistakes of their parents, but we should not give up on that parent themselves.

Ms. JACKSON-LEE of Texas. That is right.

Mrs. CLAYTON. Because they made the first error. We can still have them turn their lives around.

Ms. JACKSON-LEE of Texas. I think we must do that. Thank you.

Mrs. CLAYTON. This is not just a debate with women and by women. It is a debate that all people are joining, and I am pleased to have the gentleman join this debate. We have the distinguished gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I would like to first thank Mrs. CLAYTON for organizing this special order in support of the goals of the national campaign to reduce teen pregnancy. Representative CLAYTON's efforts to highlight this issue of teen pregnancy prevention are certainly timely as Congress continues to debate welfare reform and children and youth issues.

Mr. Speaker, last month I sponsored a public policy forum on health care issues confronting adolescents in the 1990's. That forum was sponsored with the Advocates of Youth, a national organization committed to public outreach and education on adolescent health issues.

The four panelists that were involved in that forum covered issues ranging from the increase in HIV/AIDS in the youth population to the current battles surrounding family life education in school districts. Everyone who attended that policy forum agreed that today's youth face greater challenges than ever before.

The challenges presented by teen pregnancy can seem insurmountable in light of the correlation between adolescent childbearing and education and economic attainment. According to research compiled by the Advocates for Youth, the chance of graduation from high school increases by 30 percent for teenagers who postpone childbearing, and among dropouts, teen mothers are less likely to return to school than others.

The organization goes on to report that early childbearing has an impact on the economic status of teens by not only affecting job opportunities and marital options and family structure, but particularly because of the effect it has on education. In fact, across all ethnic groups, delaying childbirth by just 1 year leads to significant improvement in subsequent economic vitality.

Not only does teen pregnancy affect the teen, but it also affects the entire community. Teen pregnancy prevention has been a priority in my State of Virginia because we have long recognized the devastating effects that early childbearing has on teens and their children and also on the community.

Representative JACKSON-LEE and Representative MEEK both indicated that teenage pregnancy caused expenses in their States. The statement is true in Virginia. One study found that one-half of all of our AFDC case loads, one-half of the people receiving AFDC, began their families with a teen pregnancy. You not only have AFDC, you also have the related expenses like Medicaid and other social services, so we see that it is a very expensive proposition for the community.

As a result, in response to this we have developed several programs to educate adolescents on the issue of teen pregnancy prevention. These programs function at the local level and place their emphasis on mentoring, parental involvement, postponing sexual activity, and the promotion of abstinence.

In addition, Virginia has a mandatory family life education curriculum in its elementary and secondary schools. We have found that these programs have been very instrumental in reducing teen pregnancy, particularly the programs that focus on education, increasing opportunity for our young people, giving them something constructive to do with their time, and giving them adult guidance. As Representative JACKSON-LEE indicated, those who feel that they have a future are not the ones getting pregnant.

We have found that these programs have been instrumental in reducing teen pregnancy and, thus, we have provided Virginia's youth with an opportunity to grow into adulthood without the burdens of early childbearing. These programs share the goals of the National Campaign on Teen Pregnancy, and I enthusiastically support both efforts.

Mr. Speaker, I would be remiss if I did not mention that there are programs in place right now that have been integral in reducing teen pregnancy by offering teens the opportunity for success. These programs involve job training, summer jobs and other activities, other activities to help them stay in school.

Unfortunately, Mr. Speaker, the Summer Jobs Youth Program, job training, Head Start and other dropout prevention initiatives are now at risk because of the misguided priorities in some of our budget initiatives. The recently passed omnibus appropriations bill targeted the Summer Jobs Youth Program for elimination, and drastically reduced Head Start youth training and school-to-work activities. If our goal is to eliminate the obstacles that young people face and instead provide them with opportunity, these programs must be fully funded.

Again, I would like to thank Representative CLAYTON for inviting me to participate in this special order, and I look forward to working with the national campaign on the important issue of teenage pregnancy prevention.

Mrs. CLAYTON. I want to thank the gentleman from Virginia, to say apparently Virginia may be leading the way, and hopefully we can share some of your positive and effective programs that you have. We, too, in North Carolina are beginning that. There are many programs like the Coalition to Prevent Teenage Pregnancy, which indeed has helped that.

I also want to just reemphasize something the gentleman said, and I understood you to say that there are special developmental programs that we need to have in place, too, if we expect young people to be able to have positive opportunity, and those are after-school programs. There is a summer training program, and these programs need to be in place because there indeed is evidence and research that when young people have idle time, and we feel for them because there is a lot of idle time is going to come in the summer, even when young people have idle time between 3 and 6, between the time they get out of school and when they go home, we know also that young people need supervision.

So we need to interject programs where young people can get engaged in that, and I think it is very helpful.

Mr. SCOTT. You mentioned the time between 3 and 6, between the time they leave school. It is also the time, 6 is the time the parents finally come home from work.

Mrs. CLAYTON. Right.

Mr. SCOTT. It is a time they are unsupervised.

Mrs. CLAYTON. Right.

Mr. SCOTT. Studies have shown that during that time, a significant number of pregnancies occur. We also found that those who think they have a future are less likely to get pregnant. Therefore, college scholarships and other activities designed to make sure those opportunities are available must be fully funded, and cutting back in that area will increase teen pregnancies.

Mrs. CLAYTON. My point is to suggest that young people, we want to instill responsibility in them and positive behavior, but also there is a reciprocal responsibility for society to make sure there are opportunities for work and career and positive development there, and we in Congress can play a part. Others also must play a part.

Again, I want to thank you for participating with that. I also know that this is not just one-sided, it is not a partisan view. Republicans and Democrats have an interest in this, to prevent teenage pregnancy, and I am delighted that my colleague CHRIS SHAYS, the gentleman from Connecticut, is joining me, and welcome your participation.

Mr. SHAYS. I am grateful to have this opportunity, Congresswoman CLAYTON, to participate in this very important dialog, and to salute you for your taking the leadership and making sure that we as a Congress begin to confront what is an extraordinarily serious problem for our country.

I am here to salute you, to participate in this issue, and also to compliment and to praise the President for establishing the National Campaign to Reduce Teen Pregnancy. I know that you circulated a letter, which I would like to read later in this special order. But first to tell you that as someone who is chairing the Committee on Human Resources and Intergovernmental Relations, we are going to be having a hearing on this issue and will obviously be inviting you to help lead that off.

It is incredible, the more I get into it, and candidly, I have not spent the kind of time that I should have, but to think that up to 1 million teenagers become pregnant in the United States, and that 85 percent of those pregnancies are unplanned and that the vast majority of mothers are simply unmarried, to think that teenage mothers are more likely to be impoverished, go on welfare and never finish school, to think what kind of future they have for themselves and the promise that they have for their children who they grow to love dearly.

I think probably more than anything else in my own childhood, what I value the most was that my parents taught me to dream, but my dreams were realistic. I mean, I really felt I could meet those dreams. It is hard for me to understand how a pregnant teenager, a young 15-year-old or 14-year-old who is giving birth is able to think of dreams that get that individual, get her out of the welfare cycle and get her the opportunity to think of being able to live what the American dream is, to think of what it must be like for her children.

□ 2145

I am stunned by the statistics that say that adult males are the fathers of approximately 66 percent of babies born to teenage girls. I am talking about adults impregnating young kids, the thought that, according to the U.S. New and World Report, that 65 percent of teenage mothers are unmarried, up from 48 percent in 1980 and that, most importantly, that 39 percent of 15-year-old mothers say the father of their babies are 20 years or older. Fifteen-year-old kids.

I have a 16-year-old daughter, and it is hard for me to comprehend a 15-year-old daughter, and it is hard for me to comprehend a 15-year-old young girl describing the fact that nearly 40 percent of these young girls are saying that they were impregnated by 20-year-olds or older, and for 17-year-old mothers, 55 percent of the fathers are adults, and for 19-year-olds, 78 percent are the fathers, are adults who have been involved in this relationship.

You sent a letter that you circulated, and hundreds of Members of Congress signed this letter, and I would love to read this letter for the RECORD. You drafted this letter to President Clinton. You said:

"Dear President Clinton, we write to applaud your efforts and those who have agreed to serve in the bipartisan National Campaign to Reduce Teenage Pregnancy. The mission of the National Campaign," quote, 'to reduce teenage pregnancy by supporting values and stimulating actions that are consistent with a pregnancy-free adolescence is,' end of quote, "one that each of us supports, and the goal to," quote, 'reduce the teenage pregnancy rate by one-third by the year 2005' is one that each of us endorses."

We are trying to reduce the pregnancy rate in the next 10 years by one-third. It seems to me obviously like a goal that all Americans could unite behind.

You go on in your letter to say: "The increase in out-of-wedlock childbearing is alarming. Even more alarming is the vicious cycle into which pregnant teenagers are thrust. The young women, as well as the young men, who become teen parents have few expectations, few ties to community institutions, few adult mentors and role models, and little hope. Many live in communities where crime and drug use are common and where dropping out of school and chronic unemployment are even more common. This is a very costly human burden for our society."

You then go on to say: "In addition, teenage pregnancies cause a heavy burden on the federal budget, especially Medicaid funds, one of the elements of the budget that is spiraling. Food stamps and AFDC funds are also taxed by these young people is the dawn of their lives. Indeed, teen pregnancy is a strong predictor of a new generation of disadvantaged. As poverty is the most accurate predictor of teen pregnancy, teen pregnancy is a near certain predictor of poverty."

Your letter then goes on in three more paragraphs:

"We believe the approach to this problem that will be undertaken by the National Campaign is correct. It is critical that this Nation first take a clear stand against teen pregnancy and, in doing so, attract the interest of more national leaders and organizations. Enlisting the support of the national media in supporting and stimulating State and local action are necessary steps in the effort to reduce teen pregnancy. These and other activities will help to foster a national discussion about how religion, culture, and public values influence both teen pregnancy and the responses to this dilemma. But most importantly we believe the intent of the National Campaign to strengthen the knowledge base, to educate, will be invaluable."

And your last paragraph: "The National Campaign to Reduce Teenage Pregnancy should not be bound by politics, party or philosophy. The situation is urgent. By our endorsement of this letter, please note that we stand behind you in the National Campaign. The goal is ambitious, but it is within our reach."

And I would just salute the President for his establishment of this committee, the appointment of Dr. Henry W. Foster, Jr., as the senior adviser. He will be coming before our committee to begin that hearing, and we are grateful for his participation and for the nonpartisan approach which the President took in naming former Senator Warren Rudman, a Republican from New Hampshire, the former New Jersey Governor, Thomas Kean, a Republican from New Jersey, obviously, and the former Surgeon General, Everett Koop, actress Whoopi Goldberg, MTV President Judy McGrath, chairman of the executive committee of the Washington Post, Katherine Graham. I mean this is a distinguished committee and one which I salute the President for forming.

And again, I thank you for giving me the opportunity to, one, take a stand on this issue, to announce that our committee, because of your work and the work of others, will be holding hearings to alert the Nation of this nearly desperate problem and to hope that we, as American citizens, can do a better job of helping to have our young kids, our young kids, have dreams and hopes and to let them know that they can always be parents, they can always have a child. They just do not need to have a child when they are in school. They can grow to lead blessed lives, and they can grow to mature as individuals before they then try to help a young person grow as well.

Kids raising kids is kind of insane, and it is, I think, that history will look back on our generation, look back on Congress, look back on the White House, not just this White House and this Congress, but for the last few years and the last few presidencies, and say we were really asleep when we should have been awake. I thank you for this opportunity.

Mrs. CLAYTON. I want to thank the gentleman for his very important remarks, but also for his important announcement that his committee is going to have hearings on this subject which I think is going to be substantial, adding to the debate in that you will bring out a myriad of problems. One of the problems you identified indeed is adult males having some liability and responsibility for this whole problem, and we have not been focusing on that. So I am looking forward for the deliberation and thoughtfulness.

Mr. SHAYS. I look forward to working with you and other Members of Congress.

Mrs. CLAYTON. And we are joined by the gentlewoman from California. I am delighted to have Ms. MAXINE WATERS.

Ms. WATERS. Thank you very much, Congresswoman EVA CLAYTON, for your leadership on this issue. I join with you and others in congratulating the President for placing this very, very important issue high on his agenda. I think whether you are a Democrat or a Republican, you cannot help but be concerned about the rate of teenage pregnancy. I understand over 1 million teenagers are getting pregnant each year here in this country and that this rate of teenage pregnancy far outdistances what is happening in other advanced nations in this world.

Mr. Speaker, I have tried to pay some attention to this issue, and when I came to Congress a few years ago, I called Health and Human Services and asked them what could they do, using some discretionary money, to come into an area in my district where this is a problem and help us to create a program to deal with teenage pregnancy, at least find out what is going on. And so Health and Human Services, along with Family Planning, did come into one of the housing projects in my district known as Avalon Gardens Housing Project, and we were very fortunate that we were able to hire a young woman who is greatly interested in working with teen mothers, a young woman who has a background in working with troubled youngsters, and she has been doing an interesting job.

We worked with males and females between the ages of 12 and 25 years old, and in the first year, after the first year, we are very pleased to report that no pregnancies or repeat pregnancies have occurred. Some of the young ladies that we worked with had already borne a child, others had not, and we hoped to prevent them from doing so. And in the first year we have had no pregnancies or repeat pregnancies. But it is very, very work-intensive. We find that the young people in the program, both male and female, are looking for attention. Many have very low self-esteem. Many or all of them are poor. They have very few activities. They travel not far from their home in the housing project. They do not interact in programs and projects outside of the immediate community. They have very little information available to them. When we started to work with them, we found that very few knew much of anything about contraception.

And so the 15 to 20 people per day that she is working with are now involved in various kinds of activities. Some are athletic activities. We have formed a men's club, and we have been able to create opportunities to take them out of the community on some trips. I am pleased to say that some of them were with us last week when we took a group of boys and girls, young men and women, from Los Angeles, so-called south central Los Angeles, to Selma, AL, the commemorate the march from Selma to Montgomery. We did that because we found that most of them did not know very much about their history, surprisingly, not a lot about Martin Luther King, nothing about the marchers, the work that had been done. And in building this self-esteem, we think that that is very important, that they understand who they are, the kinds of sacrifices that have been made for them so that they could be successful in a democratic society, and we think unless there is self-esteem, people do not take responsibility, they do not feel comfortable, they do not have the confidence, and therefore many of their actions are irresponsible until you are able to build self-esteem.

So we are working very hard. This is but a drop in the bucket to what is needed in this Nation to deal with this problem.

Mrs. CLAYTON. It is a good example that you are sharing with us that others can do as well.

Ms. WATERS. It is, and we are very pleased because we really are hopeful. We are very, very optimistic about the possibilities for stemming the tide of teenage pregnancies. We believe that you can create real prevention. It does cost money, and some of the work that is being done that has helped in this area under the title XX is now threatened, and we believe that it is important for us to say to everybody that, if you really care about this issue, if you want to do something to stop babies from having babies, if you really want to get a hold of poverty in America, then we will invest some dollars to create opportunities for these young people and recognize that many of them are from so-called dysfunctional families, families where they, they come from one-parent families, where fathers are missing, and the cycle, this vicious cycle, continues because we have done nothing really to break the cycle.

We know everything we need to know about poverty, and one thing we know for sure is that when poor children bear children, that those children are going to be poor, and most likely those children are going to be the school dropouts. These are going to be the children with health problems. These will be the children who will be caught up in poverty and will not be successful. They will drop out of school because they are being born into the same conditions that their parents were born into when we do not break this cycle.

And so, EVA, I thank you for creating this opportunity for more discussion on this issue. I think we must urge our colleagues to get involved in this in a real way. This cannot be just a political issue used during the campaign. We have got to commit ourselves to embracing our young people, to providing for them opportunities that have not been available, to provide resources to get them out of these situations. And if we do this, I think we can do something about this problem.

Mrs. CLAYTON. I want to thank the gentlewoman from California in not only participating, but also sharing examples of her initiatives and what they do in Los Angeles to bring so much hope.

But she demonstrates one point. As we try to counsel young people, we should not think that this is easy, or not intensive, and is costly because we are dealing with troubled young people. We are not dealing with adults. So you cannot use the same formula that you have in counseling adults in family planning. You have to raise the esteem, you have to do development, you have to have a myriad of opportunity.

And I think she raised another point, is that as we are beginning to use the whole teenage pregnancy issue in pursuing the debate of welfare reform, we should not just do it as a political scapegoating of finding opportunity to hit at vulnerable children, we should not have a national policy of abandoning our children.

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Certainly as we move toward welfare reform, both sides say we want to reform welfare as we know it, but we should not move to welfare reform as we do not want it. We do not want a welfare system that, whether by accident or on purpose, we have a national abandonment of children by saying we will not support children if they are born while the parent is on welfare.

This is not to suggest we are condoning it. We do not want it any more than anyone else. But we understand that you cannot punish young people by punishing their parents to make them do the behavior you want them to do. You have to give them a reason, counsel them, and discipline them, and that discipline has to be with having them be responsible.

I again thank all those who have participated. I look forward to continuing this debate, that our colleagues would understand that everybody here has something at stake. If we do not think we do, I think we are missing the opportunity to be responsible as Members of Congress, and we are missing the responsibility of being adults if we do not raise this issue to see our role or our way of participating in bringing the awareness out.

This is not an issue that Congress can do alone. This is an issue, obviously, where we can make a difference. But this is an issue where we have to encourage, as many of you have indicated in your community, where we get many sectors of our community, whether it is the church, the home, Boy Scouts, PTA, a variety.

Also, we have to understand that abstinence is one of those things we teach, but we also have to understand we have to teach contraceptives and family planning. The reality of where our young people are is that. When I was growing up, it was implicit that it was abstinence. Now we have to make it explicit, to make sure that is one of the things young people know that they have that option.

But we reinforce that when we have opportunity that expands their future, expands their horizon of dreaming. You can dream dreams when people make that opportunity, the connection between work, the connection between education as a future for them.

As Members of Congress, we ought to consider in the whole budget debate, what things are we doing that are disincentives for young people to stay in school. I would submit that our education budget is not one that encourages, that we are investing in education. Certainly taking away the summer program is the wrong way to go if we are talking about making sure that young people are fully engaged during the time of the summer, but there are other programs that we can also do.

Mr. Speaker, I thank all my colleagues who have participated in this special order.

As we consider how and where to reduce spending, we must also not forget that teenage pregnancies cause a heavy burden on the Federal budget.

Medicaid funds, food stamps, and AFDC funds are especially hard hit by the teenage pregnancy problem.

If we want to balance the budget, let us begin by working to bring some balance to the lives of thousands and thousands of our teenagers, involved in premature childbearing.

A recent report to Congress on out-of-wedlock childbearing indicates that 35 percent of all out-of-wedlock births are to women over age 25; 35 percent are to women 20 to 24 years of age, and 30 percent are to teenagers.

One objective of welfare reform, shared by both political parties, is to reduce teenage childbearing. Pending legislation on welfare reform, however, embraces an unreasoned approach to reduce the number of out-or-wedlock births, by denying cash benefits to unwed teenage mothers.

This unreasoned approach is based on the perception that the system has failed and contends that any proposed change, no matter how austere, must be a good change.

Thus, those who propose eliminating welfare benefits to young unwed mothers argue that their approach can't make matters any worse than they already are.

Such proposals appear premised on the belief that if Government ignores teen parents, they will go away or get married. There is little or no research to support such contentions.

Reason, on the other hand, suggests that even if the belief held true for some, there would be many young children and mothers left destitute.

To have true welfare reform we must eliminate the need to pay these monetary benefits rather than just eliminating the funding.

As I stated earlier, we want to "end welfare as we know it." But we do not want to replace it with welfare as we do not want to know it. We do not want to enact legislation that leads to a policy of national child abandonment.

An effort to reduce teenage childbearing is likely to require more than eliminating or manipulating welfare programs.

In fact 76 of the top researchers in this field signed a statement saying, "welfare programs are not among the primary reasons for the rising number of out-of-wedlock births."

My opinion on the issue revolves around three unanswered questions. First, if welfare is fueling the growth in out-of-wedlock births, they why do many of the States with the lowest AFDC payment levels have some of the highest out-of-wedlock birth rates? Second, why have out-of-wedlock births increased as the relative value of welfare benefits have gone down over the last 20 years? And third, why do other nations with more generous welfare benefits have lower teenage birth rates?

Teenage pregnancy is just one marker of disadvantaged—one result of growing up poor and poorly nurtured.

But, teen pregnancy is also a strong predictor of a new generation of disadvantaged.

The equation is as simple as this: As poverty is the most accurate predictor of teen pregnancy, teen pregnancy is a near-certain predictor of poverty.

While one in four American children now live in poverty, a 1991 report from the Casey Foundation compares the children of two groups of Americans: those who finished high school, got married, and reached age 20 before having a child and those who did not.

Of children in the first group, the poverty rate was 8 percent; in the second group the poverty rate was 79 percent.

Among teens, more births occur out-of-wedlock today than occurred 35 years ago.

This increase in out-of-wedlock births can be attributed to the certain changes in marriage patterns, sexual behavior, contraceptive practices, abortion, and the composition of the teenage population.

Young men and women are increasingly delaying marriage but not sexual activity. Teens make three sets of choices about sexual behavior and its consequences.

The first is whether and when to start having sex.

The second is whether to use contraceptives.

According to studies, in making the third choice—whether to become pregnant—the distinctions by income are dramatic.

In 1994, of all women age 15 to 19, 38 percent are defined as "poor" or "low-income"; of these same women, 73 percent were projected to become pregnant. Of the 1 million teens who become pregnant each year, about half give birth, about 40 percent choose abortion, and the remaining 10 percent miscarry.

Once a teenager becomes pregnant there is no good solution. There is pain in adoption, there is pain in abortion, there is pain and suffering in giving birth and parenting a child. The best solution is to prevent the pregnancy.

Young people who believe that they have real futures to risk have real incentives to delay parenting. That is why when we demand responsible behavior, we have a reciprocal obligation to offer a real future beyond early parenting and poverty.

Reducing teenage childbearing is likely to require more than eliminating or manipulating welfare programs. Experience tells us that threats and punishment are not the best way to get teens to behave in a way that is good for them.

The most successful approach to reducing teenage childbearing is to design policies and procedures that are targeted to encourage positive developmental behavior through beneficial adult role models and job connections.

We must implement pregnancy prevention programs that educate and support school-age youths—10 to 21—in high-risk situations and their family members through comprehensive social and health services, with an emphasis or pregnancy prevention.

On average, it takes teens 1 year after becoming sexually active to receive family planning services.

The pregnancy rate among sexually experienced teens actually fell 19 percent from 1972–90, suggesting that teenagers who have access to birth control and are motivated have been successful at preventing pregnancies.

A recent study conducted by the Johns Hopkins School of Hygiene and Public Health analyzed the value reproductive clinics and other health care providers had when given an opportunity to intervene and provide contraceptive counseling to a group of sexually active teenage girls before they became pregnant.

The study shows that spending money on counseling these teenagers could help reduce future pregnancies.

Teenage girls seeking pregnancy tests are already sexually active, so even the most determined fundamentalist cannot claim that the clinics are telling these teens to have sex.

Unfortunately, clinics struggling for funds have a disincentive to serve teenagers who, by and large, cannot pay.

In addition, counseling teenagers is quite expensive because they need more attention than older women.

In the study, most girls who came for a test had reason to believe they might be pregnant: a late or a missed period.

But, a significant number—almost 14 percent—believed there was little chance they were pregnant.

One has to wonder why they came to the clinic. Perhaps it was a way to get someone that they could trust to talk to them.

Devoting more resources to preventing teen pregnancy will not only save us money in the long run, but it will improve the health, education, economic opportunities, and well-being of these young women and their families.

Supporting the National Campaign to Prevent Teen Pregnancy is an ideal way to acknowledge the problem of out-of-wedlock teen births. I urge all of my colleagues, Democrats, Republicans, and Independents to join in the campaign's effort.

THE 100TH ANNIVERSARY OF SPARROW HOSPITAL, LANSING, MI

The SPEAKER pro tempore (Mr. METCALF). Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, I rise today to recognize the proud history and accomplishments of Sparrow Hospital of Lansing, MI, which celebrates its 100th anniversary on March 18, 1996.

In the spring of 1896, a group of young women met at Lansing's Downey Hotel to discuss the growing need for a community hospital in the developing capital city. Armed with sheer determination, the 114 charter members of the Women's Hospital Association set about to raise funds to buy the local DeViney House, located on West Ottawa Street. Having just $400, they were forced to rent instead.

Not easily discouraged, these women opened and operated an 11-bed hospital, hired a doctor and a nurse, and donated their own linens.

As the needs of the community continued to expand, so did the needs of the facility. Expanding the operation several times, the hospital was finally located on a plot of land donated by Edward W. Sparrow—one of Lansing's pioneer developers.

Edward Sparrow donated the land at 1215 East Michigan Avenue and $100,000 to build the new hospital. Two years later on November 6, 1912, the 44-bed Edward W. Sparrow Hospital opened its doors. At the dedication ceremonies, it was avowed that the purpose of the new hospital was for "receiving, caring for and healing the sick and injured, without regard to race, creed, or color."

Sparrow Hospital in the years after has lived up to this purpose. Sparrow is a nonprofit organization, guided by volunteer boards, comprised of people representing a wide spectrum of community interests.

Through the efforts of its founders, and legions of others in the community, Lansing's first health service has grown to become today's Sparrow Hospital and the Sparrow Health System—a place where highly trained professionals work together to perform daily miracles.

Sparrow blends the knowledge and expertise of over 600 physicians, nearly 3,000 associates, and 1,400 volunteers with the most advanced technology, serving as a comprehensive health system for an eight-county population of nearly 1 million residents.

Sparrow is the regional center for pediatrics, burn treatment, cancer care, radiation therapy, neurological care, high-risk obstetrics, dialysis, and neonatal intensive care. Each year Sparrow treats over 120,000 residents, and Sparrow Health System services improve the health of thousands more.

The volunteers who first founded Sparrow and the continued community interest have made Sparrow Hospital and the Sparrow Health System the special place it is today. This spirit of volunteerism and community development will serve as a lasting legacy to the mid-Michigan community.

I would like to congratulate and commend all the individuals involved with the successful first 100 years of Sparrow Hospital, including the community itself, in celebrating this historic accomplishment.

OBJECTIVES OF NEW REPUBLICAN MAJORITY IN 104TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, it is not my intention to use the full hour, but I would like to address the Chamber in regards to a number of issues dealing with what we are seeking to do in this new 104th Congress, this new Republican majority.

Mr. Speaker, I said earlier in part of a special order that former Prime Minister Rabin, the Prime Minister of Israel, had said that politicians are elected by adults to represent the children. I am struck by the power of that statement, because really what our task is as Americans, certainly in government, is to leave this country better for the generation that will follow. That is what our forefathers did for us. They founded a country and left it better for us, and we have to leave it better for our children.

Mr. Speaker, we have three main objectives in this Republican Congress: This is to seek to get our financial house in order and finally to balance our Federal budget, we are looking to save our trust funds, particularly Medicare, from insolvency, bankruptcy, and we are looking to transform our caretaking, social, corporate, even farming, welfare state into what I would refer to as a caring opportunity society.

We are not looking to throw our hands into the air and say, "Listen, this is not a problem with the government, you're on your own." We are looking to help people grow the seeds. We just do not want to keep handing them the food.

We as Members of Congress have a solemn pledge to do a number of things, but obviously one of them is to vote on a Federal budget each year.

What some of the listening audience may not know and something I did not fully grasp, even after I was elected a Member of Congress in 1987, was that whereas on the State level I voted on one budget, here in Washington we vote on 13 separate appropriations bills, but they only constitute one-third of all the spending that we do in Washington.

When we vote out a budget, we are voting on one-third. When we vote, we vote on one-third. We think of how we spend one-third of the budget. Fifty percent of the budget is literally on automatic pilot. It is what we call our entitlements, it is food stamps, Medicare, Medicaid, welfare for mothers and children. It is agricultural subsidies. You fit the title, you get the money. We in Congress do not vote on it each year. It is on automatic pilot.

I can remember early on in my career as a Member of Congress, I would go back in a community meeting and I would say "I voted to cut spending," and they said, "I know you did, but how come it keeps going up?" It is a good question. I went back to my office and I said, "How come if we keep voting to cut spending and they actually pass, the budget keeps going up?"

I realized that in Washington, unlike any place I have ever been before, they use what they call a baseline budget. They say this is what it cost this year, and to run the same level of service, if it cost $100 million this year, and it is going to run to the same level of service, we spend $105 million to run the same level of service. So then if you only appropriate and spend $103 million, Washington calls it a $2 million cut.

If it costs $100 million and you spend $103 million, how can you call it a cut? It is a $3 million increase. The argument is you have more people and you have inflation, and so that is the baseline. Therefore, anything cut from the baseline is cut. I guess that is how you get these outrageous predictions that when we have voted on the budget that we have cut things like the earned income tax credit. This is a payment that goes to a working person who pays no taxes because they do not make enough to pay taxes, so they actually get money from the Federal Government.

The earned income tax credit was a program that was really inaugurated by Republicans but then expanded by Democrats, and the program is simply at a point where it will become the largest entitlement if we do not slow its growth. So we are allowing the program to grow from $19.9 billion in the last year to, in 2002, 6 years from now, $25.4 billion. That is referred to as a cut, and yet it is going from $19.9 billion to $25.4 billion. Only in Washington when you spend that much more money do people call it a cut.

The school lunch program, remembering the President and legislative leaders on the other side of the aisle literally going to schools, telling kids that they are going to lose their school lunch program because of what this new majority was doing in Congress. Yet when I look at that program, it is growing from $5.2 to $6.8 billion in the seventh year. Only in Washington when you go from $5.2 billion to $6.8 billion do people call it a cut. It is not a cut, it is a significant increase in spending. Admittedly it is not growing at 5.2 percent, it is growing at 4.5 percent. Then we are allowing States to reallocate 20 percent of that money for other programs dealing with food for Kids.

The student loan program, I was outraged when I heard Republicans were going to cut the student loan program, because, I mean, that is what the President said and the President would be, it seems to me, wanting to be accurate in his statement. When I questioned my own colleagues, I wrestled with the fact that the student loan program last year was $24.5 billion. In the seventh year, in 2002, the year we balance our budget, it grows to $36.4 billion. That is a $12 billion increase, $12 billion on top of the $24 billion spent last year, a 50-percent increase in the student loan program We are still allowing students to borrow up to $49,000. The average loan will still be $17,000.

What did we originally attempt to do? When a student graduates, they are given a grace period of 6 months before they have to start paying back the loan. The Federal Government, the taxpayers, men and women who work who pay money into this general fund of the Federal Government, were paying and are paying the interest from graduation to that first 6 months. Our proposal was that you simply take that period of 6 months and you say that student pays the interest, and we amortize it during the 10 years that the student is allowed to pay back the loan. In some cases they are given more than 10 years, but 10 years tends to be the average.

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So we are saying that a student will have to pay the interest from graduation to the first 6 months, and no longer it will be the taxpayers. Believe it or not, we save in the 7 years about $4 billion doing that, close to it.

Now, what did it amount to in terms of the student costs? Because we amortized it during that 10-year period, it amounts to about $9 more for the average $17,000 loan. Nine dollars more is the cost of a pizza. It is also the cost of a move and the most inexpensive soda.

I have no trouble whatsoever telling the student who has borrowed money from the Federal Government at lower interest rates that they are going to pay $9 more a month in order to save $4 billion for the taxpayers of this country.

So we are increasing the student loan 50 percent, not cutting it; increasing it.

The Medicaid program, which is health care for the poor and nursing care for the elderly poor, it is growing under our plan this last year $89 billion to $127 billion. Only in Washington when you go from $89 billion to $127 billion do people call it a cut. It is not a cut. It is a significant, almost a gigantic increase in spending funded by the taxpayers.

Medicare is going to grow from $178 billion, which it was this last year, to $289 billion, over $100 billion more spent in the seventh year than spent today. We will be spending 60 percent more in the course of the seventh year to what it was last year, and people say, well, that is 60 percent more. But you have all of these elderly people who are growing into the system. It is accurate we do have more elderly, but on a per elderly, it is going to grow 49 percent, going to grow from $4,800 to $7,100 per beneficiary.

What we are doing with Medicare? We are going to save $270 billion, that number, by the Congressional Budget Office, was moved to $240 billion. The President called it a cut. We viewed it as a savings, particularly since we knew we were going to spend more each and every year. I mean $4,800 per beneficiary. Per senior, the $7,100 is a significant increase, not a cut, a significant increase, a 50 percent of 49 percent increase per beneficiary in the seventh year. But referred to as a cut.

I was trying to wrestle with this idea how the President and others and my colleagues on the other side of the aisle could call it a cut, and it would be like if my daughter was able, if we were able to afford it, we told our daughter that she could buy a new automobile, she could buy a Taurus automobile for $20,000 retail price and the dealership A sold it for $20,000 and dealership B sold it for $17,000 for the same automobile instead of 20.

I would hardly tell her that the $20,000 we gave her to spend that she was foolish and irresponsible because she saved $3,000 buying the same automobile. Now like in the argument that she could buy this automobile for $20,000 in one dealer and buy a better automobile, one that had a sunroof and had a few extra points, a better engine, other features to it, and if she bought it for 17, I would hardly say that she cut the program, that she was foolishly saving but not saving, cutting, when she was doing what I would hope any rational person would do, get a better program and spend less to do it.

Now, how could we possibly say that by saving $270 billion we are or $240 billion later, scored by the Congressional Budget Office, we are getting a better program? That on the face of it seemed like it looked too good to be true.

I think most seniors could answer why it is true. There is not a senior, not a senior who cannot describe the extraordinary fraud in some cases, and the outrageous abuses we see in this program. It is a great program, but it is a very, very wasteful program. We look to save money. We save $240 billion in Medicare by not increasing the copayments on seniors. Maybe we should have, but we did not. Not increasing the deductible, maybe we should have. We did not. Not increasing the premium on seniors, we kept it at 31.5 percent. Now, 31.5 percent of the premium, that is on Medicare part B, is going to cost more each year because 31.5 percent, as health care costs go up, that premium will cost more the taxpayer, though, is still going to pay 68.5 percent. That tax revenue is coming out of general funds. We have Medicare part A, which is the hospital program, and we have Medicare Part B, the health care services, all the equipment, all the doctors costs, all the other costs associated with serving health care, non-hospital costs.

Now, what we learned last year and actually in the years before, we were being told, not listening, this Congress is the first Congress that said we are going to do something about it, we learned that Medicare was going to go bankrupt, insolvent, starting this year, according to the trustees, five of whom are the President's appointees, and we learned that, in fact, this was going to happen.

So what we looked to do is to save money in the Medicare part A trust fund and save money in the Medicare part B trust fund. We looked to do that so the program would not go bankrupt. What we then found out is last year, instead of $4 billion more going into the fund than going out, in Medicare part A, did not happen. In fact, $36 million more went out than went in; $36 million in this program is not gigantic, but we were supposed to have $4 billion more coming into the program, which did not. I mean that sets off alarm bells to any rational person. That says, my gosh, this fund is going insolvent 1 year sooner than we were told and by

$4 billion more than we expected that it would happen.

What did we do then? We did not increase the copayment. We did not increase the deductible. We did not increase the premium. We left it at 31.5 percent. What did we do? We said the wealthier, if you made more than $125,000, would have to pay all of Medicare part B, not just 31.5 percent, all of it. It is still the best deal in the world for seniors. But if you make $125,000, that is not well known, Republicans do not like the wealthy to know we want them to pay more, I guess it is not the Republican thing. I am hard-pressed to know why Democrats clearly do not want people to know Republicans are asking the wealthier to pay more, because Democrats like to tell people the Republicans just want to help the wealthy and hurt the poor. That is simply not true. But that is what they like to say. So Democrats are not sharing that the wealthier are paying more and Republicans are not making that point either.

The fact is if you make over $125,000 of taxable income, you will pay all of Medicare part B. That gives us $9 billion more of our $244 billion savings. Where do we find the biggest savings? The biggest savings is not we slow the growth of payments to doctors and hospitals, which we do, not as much as the President, but we do, the biggest savings is that we allow seniors for the first time to have choice in Medicare.

Why would that save money? Because the Federal Government does such a pathetic job of controlling the growth of these programs that there is just simply a lot of opportunity to save. Now, we are allowing private sector, the private sector to get involved. When the private sector gets involved, they cannot say you are going to get less than you are going to under Medicare part B, they cannot say that because they are not allowed to have that happen. They have to provide the same level of service or better.

The fact remains, if they cannot offer anything less and charge less, they have to attract seniors. The way they attract seniors is they say we will give you eye care, dental care, we will give you prescription care, costs of helping pay prescription drugs. They will also in some cases say we will rebate the copay or deductible, maybe we will pay the Medigap. That is the difference between what Medicare pays and what the beneficiary has to pay. Quite often they want to shield themselves from any costs, so they simply buy a Medigap program.

There will be some private sector groups that will come in and do all of the above or part of the above, but they will make it less expensive than it is for a senior today.

Now, seniors can stay in the old system. They can stay in the fee-for-service. They can get Medicare just as they have gotten it. They do not have to leave. If they leave and they do not like the program, they do not like the program, what they do, they leave, they have the opportunity to go right back into the private care model. They have the opportunity to go right back every 30 days for the next 24 months.

A senior who moves into private care who does not like it, maybe does not like the doctors, does not like the program, does not feel they are getting the kind of care they want, does not think the Medigap coverage or the dental care, prescription care, warrants their leaving their fee-for-service, they can go right back into the traditional fee-for-service system.

It is amazing, but the plan saves an extraordinary amount of money because the private sector simply is going to police the system better than the Government sector does.

Now, I chair the Medicare task force and Medicaid task force for the Committee on the Budget. I am also chairing the Human Resource Committee that oversees the Department of HHS. We oversee HUD, Labor, Education, and Veterans Affairs, but we also oversee HHS, Health and Human Services. That means we oversee FDA, HCFA, which is the Health Care Administration, that basically handles Medicare programs. We oversee the Centers for Disease Control. We have looked into the Medicaid program, the Medicare program. It is astounding to know that we have contracted out to private carriers simply to police the system, but we do not give them any incentives to do it right.

Basically, the carriers do not have the bottom line kind of ability in a bill that is presented on Medicare, if a doctor takes care of someone's broken or sprained ankle, and they do a chest x-ray, which is clearly not related to the sprained ankle, they can submit the bill and know it is likely it will be paid, even though it should not be paid, because HCFA does not require any more than 5 percent of the bills to be checked and only less than 1 percent, less than 1 percent of all the dollar amounts of bills to be checked.

So what has the GAO told us, the Government Accounting Office, what have the inspectors general told us? They said, if there was a basic auto-adjudicated system, with software to kick out these inappropriate bills, the Federal Government would save about a half a billion dollars.

Well, that is your government at work. The Government, your government at work chooses not to save a half a billion dollars. The Government has set up a Byzantine system of changing the purchase of health care products. We know that the Veterans' Administration is able to buy a particular product that Medicare pays, and for the last 4 years has paid $4 billion more than the Veterans' Administration pays for that same product. In other words, if we paid the same price for what the Veterans' Administration pays for that particular product, the Federal Government, the taxpayers, would have saved over $4 billion.

I can go on. I mean, why is it that men under Medicaid are sometimes, and Medicare, Medicare particularly, why would they have been charged for giving birth. It is humanly impossible, but it happens. And we go on and on.

I mean I had in one of my community meetings, I always have people come up and tell me the outrageous bills that they get. One of them was a nurse, and she said she knew health care services, she knew that this bill was incorrect. She had looked at it, knew it was incorrect, and went to the hospital. The hospital said, well, we are not properly paid by Medicare, so we have to find other bills in order to get what we think we are properly due.

It is why doctors sometimes go into nursing homes, poke their head in a window, Emily, how are you doing, John, how are you doing? They see 15 people in 15 minutes, and they are able to make out like bandits. I mean I can go on and on.

One of the ways we save in our Medicare plan is that we make health care a Federal offense, finally we prevent people from going State to State. We are going to save billions of dollars by finally getting tough, finally in a Federal way against abuse in Medicare.

Now, there is lots I could deal with and talk about as I yield the floor. I do not want to just make mention of a few more issues. I know this looks like a food fight to a lot of people. Republicans and Democrats on the floor yell at each other. I am not proud of that. We look like Little League deciding who is safe at second. In fact, we probably are doing a disservice to Little League to say we look like Little League. They might take issue at that. We are pretty childish at times.

I guess my point to this Chamber, to put it on the record, is that this is not a food fight. It is an epic battle about what kind of country we are going to become. I look and think of what we have done, allowing the Federal debt since the Vietnam War to go from $430 billion to now $4,900 billion. In 22 years, in 22 years, we have allowed the Federal debt to increase ten-fold. That is during the time of peace. It is not during a time of war when you just spend whatever you have to spend and then you pray that you will succeed in your battle against, in this case, Hitler's Germany. We just spent what we had to and we ended up with a sizable debt.

But since the Vietnam war we have allowed the debt to increase ten-fold, ten-fold in 22 years. I think of what I like to think of myself, as a historian, I certainly would appreciate it, that was my college degree in American history. I think of how historians graded the Congress after the death of Lincoln, the Reconstruction Congresses.

□ 2230

It is not a proud time in our history, the time after the Civil War. I think that historians will look at the Congresses over the last 22 years, and even the White House of both parties, and say this was not our proudest moment. I think I am being kind. I think they will say it was one of the darkest times in our history, when we have literally been willing to mortgage our children's future for present-day expenses.

I do not think that when historians will look at what we have done in Congress, in the White House, and, candidly, I think historians will be not complementary even of the American people, because the American people, as much as they may feel they are not part of this process, they are very much a part of it.

I would have liked to have shut down the Government after Thanksgiving break and not open it up. I was on the losing side in my own conference. I think it was a mistake to open the Government until we balanced the budget. I regret dearly that we did.

I think it is a mistake to vote out increasing the national debt until we come to grips with the balancing the budget. I prayed that Congresses of earlier years and the White House of earlier years would have, at least one of them, would say no more, we are not going to allow these deficits to continue. We are not going to mortgage our children's future. We care to leave this country better than we found it. If only 10 years ago a Congress or White House, one of them had said no more, we are not going to allow this to continue.

So I say well, you know, it did not happen. We are not going to shut down the Government I do not suspect. We crossed that line, and I guess we will just continue working day by day until the White House and Congress come to grips. We need to have an agreement, but it cannot be a superficial one. It has got to be a substantive agreement.

How did I start this special order? I started this special order by pointing out that 50 percent of our budget are entitlements. Fifty percent of our budget. We do not vote on them, they are on automatic pilot. Only one-third of the budget is what we vote on, the 13 different budget items.

Congress has the upper hand in the negotiations with the President on appropriations. He vetoes a budget, the Government shuts down. That is not good necessarily for us or the President, but it calls the question. And it is certainly not something Federal employees wanted. They are caught in the middle.

But it is much bigger than Federal employees. It is whether we are going to finally come to grips with the budget. When the President vetoes entitlements like he did, when he vetoed our balanced budget bill, when we wanted to reform Medicare and Medicaid and welfare, what did we end up with? Not nothing. We ended up with what exists, the automatic pilot, what is existing law.

So for Congress to simply cave in and allow the President to allow and force us to spend more on appropriations without a corresponding change in entitlements would be very foolish and irresponsible, in my judgment.

I learned a great term when I was in graduate school when I was getting my MBA and MPA and majoring in economics, a concept I wish I had learned earlier. It is called opportunity costs. If you spend money here, you give up the money to spend it here. If you spend money here, you give up the opportunity to spend it here. If you spend some money here, you can maybe spend some money here. But you give up opportunities, depending on how much you spend.

Our entitlements are growing at 10, 11, 12 percent. If we do not get a handle on the growth of Medicare and Medicaid, if we cannot slow Medicare and Medicaid to about 7 percent a year, and prevent them from growing at 9, 10, 11 percent, if they go up at 9, 10, 11 percent, then the appropriations part of our budget is going to be continuing to be squeezed and squeezed and squeezed. Our need to help our young children dealing with teenage pregnancies, a whole host of things I think are necessary, are simply not going to be able to be funded, if we just allow entitlements to grow and grow and grow.

I know a number of good Members in both the House and Senate are quitting. They say this is not a fun place anymore. I am hard pressed. I have been here 7 years and I love this job, and I have never felt I have been critical of serving in Washington. I love Washington. I love this opportunity. I mean, this Congress was formed by our Founding Fathers in the Constitution of the United States. I mean, I look at this flag with great reverence. I look at the Constitution with great reverence, and I look at what the Constitution did. It established a Congress, it established a Senate, it established a White House, and they knew there would be times we have disagreements.

Our Founding Fathers knew that sometimes it might even look like kids, but they knew that ultimately we would have a system to resolve our differences.

So I just ask the American people to see beyond just this debate that seems to not be as substantive as they want, and look for the fact that this truly is an epic battle. I would encourage some of my colleagues who are quitting and not running again because they say this is not a fun place to level with the American people and acknowledge this really has never been a fun place. It has been an important place, but not a fun place.

Candidly, I am not so sure it matters whether it is a fun place anymore. I am not even certain that the issue of whether we are always civil to each other is an overriding issue. It is not pretty to look at, and I regret it and like to think I am not a part of that kind of dialog. But when I see some of the people I have admired over the years quitting, and I admit I do not walk in their shoes, their moccasins, I do not know what their life experiences are, but it seems to me on the outside looking in on what they are doing, that they really were part of a Congress over the years that allowed us to get in the mess we are in.

We are in this mess, and it is very serious, and it requires a lot of heavy lifting. We have got to confront the seniors, we have got to confront the young, we have got to confront the rich and poor, and we have got to come to solutions to our problems.

It is a very contentious time. My take on their leaving, not to be unkind, is that simply that now that the difficulties are here, now that we are clawing to get out of the deep hole we find ourselves in, they are quitting. They are quitting when it is tough. They helped get us in this mess, and, frankly, I think they should stay to help get us out of this mess.

When I hear a colleague say, "Well, now that I am not running again, I can really be honest with the American people," I am thinking to myself, why were you not honest when you were running? Tell the American people the truth. They are going to have you do the right thing. Tell the American people things that just simply do not add up, and they are going to give you confused messages. So I think it is a shame they just did not tell them the truth while they were candidates. If they told the American people the truth, I do not think we would be in the mess we are in today.

Mr. Speaker, with that, I have a sense you were not sure that this was going to be as long a time as it has turned out to be, and I notice a colleague on the other side of the aisle, so you will probably be here a little longer than you wanted, but I thank you for giving me this opportunity.

SUMMER YOUTH EMPLOYMENT PROGRAM

The SPEAKER pro tempore (Mr. METCALF). Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, the hour is late, and I will try to compress my remarks into about 30 minutes.

Mr. Speaker, I think it is very important that we realize also that the hour is late for the funding of the Summer Youth Employment Program, and that is the subject which I feel compelled to talk about tonight. We are going to be talking about it more this week. The members of the Congressional Black Caucus at a meeting on Friday decided we would make this item a priority item this week and try to rally our colleagues, both Democrat and Republican, to come to the aid of the young people in our country.

Most of those young people reside in big cities, and that is where most of the money for the Summer Youth Employment Program has traditionally gone, to big cities. That is where the population is, in big cities. It has gone to big cities because that is where the poor young people are.

There are requirements for the program. It is a means-tested program. You have to be poor. You have to meet certain standards in terms of poverty before you can participate in the program.

So it has gone to the big cities, where the poor youth are. It has gone to a large number of minority youth, Hispanic and African-American. It has gone to a large number of young people who come from poor neighborhoods that do not have people voting as they should vote, so they do not have much political power.

For all these reasons, the program seems to have become very unpopular, certainly become a cast-off by the leadership perhaps in both parties. But certainly the Republican majority in this Congress seems to delight in going after the Summer Youth Employment Program.

The Republican majority in the rescission process more than a year ago zeroed out the program. It was zeroed out for 1995, the past summer, and zeroed out for 1996 and forevermore.

Why does this Summer Youth Employment Program merit being targeted for the hostility of the Republican majority in this Congress? I do not know. I cannot understand. There are protestations from both sides of the aisle about being concerned about young people, about being concerned about youth. We have heard some eloquent speeches tonight about being concerned about pregnant teenagers.

Well, I think one of the speakers said if you are concerned about pregnant teenagers, that means you have to be concerned about programs that impact on both males and females. So we are talking about male and female youth and being concerned about them.

Here is a program that is targeted to young people in a very direct way. Here is a program that does not have a lot of red tape. Here is a program that does not have a great deal of bureaucracy. The money goes to young people to pay them to do jobs in the summer. The money goes to young people to pay them for about 2 months, I think it is an 8-week program. They work at minimum wage. They work for a limited number, 6 hours a day for 4 or 5 days a week. It is a very short program, about 30 hours, I think, a week.

For a small amount of money, it reaps a great dividend. There are many young people who have never been employed before who are employed for the first time. They learn good work habits. They get a sense of worth, self-worth.

I was surprised the other night as we were talking about the dilemma of the Summer Youth Employment Program that one of my assistants who is a college graduate already, she does a lot of my case work and who voluntarily works with young people, was talking about how upset the young people are about the fact that the summer youth program appears to be lost. Normally at this time of the year, there is notification that there is a program and there are dates already offered as to when you can file your application and the process has already started. But they were told it is a hazy situation at best, and, at worse, we have to recognize the fact that there is zero in the budget for the Summer Youth Employment Program.

Yes, the President did ask, I think, for $900 million for this year's program. I think the budget for the previous was $1 billion. He asked for $900 million-some in his budget. But the Republican majority zeroed that out. They asked for zero. The Senate, the other body, has not made any effort to put the Summer Youth Employment Program back in either.

The Republican majority zeroed it out for 1995, but it was saved by the Senate before. The other body put it back in in the conference process. We regained a program that was of a smaller size, but it was nevertheless a program. I think you had more than 600,000, about 700,000 young people serviced in the 1995 program.

I might add that is a long way from the original Summer Youth Employment Program. They used to serve in New York City, for example, 90,000 young people in the summer. New York City is a big place, with 8 million people and a lot of young people. Our school system has 1 million young people in school. Of that number, teenagers are about 400,000. So of that 400,000, 90,000 received jobs at the height of the program in the late 1960's and the early 1970's. I know, because I was the commissioner of the Community Development Agency, which was the agency responsible for community action programs. Those community action programs were primarily the employers of the summer youth program youngsters.

Community action programs operate all year round. They did various things for the community in the area of housing, education, and cleaning streets and doing all kinds of things. They employed those 90,000 young people. In 1995, the number had dropped from 90,000 to 32,000. So, all we could do is give 32,000 young people jobs.

☐ 2245

They are upset. They have good reason to be upset. So my assistant, Necole Brown, was explaining to me about how upset the young people are about the fact, the prospect that there will be absolutely no jobs this summer, and she said, you know, the first job I ever had was in the Summer Youth Employment Program, the very first job I ever had. The first job my brother ever had was in the Summer Youth Employment Program. The first job my sister ever had was in the Summer Youth Employment Program. For the first time, I felt like I was somebody, that I belonged to the mainstream as a result of having that job during the summer.

The story can be told by numerous others. The numbers are very large. I meet lots of young people, because I started my career in the community action program in a local community action agency in Brownsville, which was a front-line employer. So I saw the faces of the young people who were employed by the hundreds summer after summer, and I still meet them on the street 20 years later. I meet them and they remind me that they were employed. They think it was my Summer Youth Employment Program, and they tell me about what they are doing. Not all of them have made good in life, and I have not done a case study to tell you exactly what the longitudinal effect of it has been, but most of them have been greatly helped by that program. And if you do a longitudinal study, careful study of youth who went through the Summer Youth Employment Program, I am sure you will find a great positive benefit between the difference of among poor youths who when through the program and those poor youths who never had the opportunity.

We have had longitudinal studies done of Head Start. Head Start is a program for poor youngsters starting in preschool, and they followed youngsters who went into the program 20 and 25 years ago, and those longitudinal studies always show great benefits when you compare the youngsters in the Head Start Program with a control group that they used of youngsters who did not go into the Head Start Program who came from the same kind of backgrounds.

These programs do benefit young people. We do not know a lot about how to handle our present crisis with youth, but we do know that some things work, some things work and they work very well. We cannot solve all the problems. Nobody is going to stand here, I am certainly not going to stand here and pretend I can tell you what the prescription is for handling teenagers in 1996.

There are some teenagers, I just wrote a letter for one recently, who have all the benefits in the world, came from a very good family, you know, good income in the family, they took good care of him and put him through the best schools, and still he is in trouble with the law, facing 3 or 4 years in jail because of drugs. Not only did he have drugs, but when the police approached the car, he tried to drive off, so the situation is worse. Here is a good youngster from a good family, and I am writing a letter to try to get some kind of leniency and get the judge to look at the situation in total. He has a good opportunity to be rehabilitated because he has the support of a family.

I do not know why he went wrong, though. I cannot explain the phenomenon of young people who have all the advantages in the world going wrong, but there are many of them. They come from all neighborhoods, and Members of Congress certainly know some of them. They have relatives and they have friends who are confronted with this situation. But there are situations where youngsters in poverty, when you apply some kind of assistance, you get a result. There are some things that we know do work, that large numbers, the greatest, overwhelming majority will rise to the occasion if they get some help.

One of the things that Necole Brown told me about the young people she is working with. My office is not equipped to work with young people. I do not have a grant for that.

I have what you call a youth advisory committee where I wanted to get involved a little bit, have youngsters tell me what is going on, but we get more and more involved, because once you show them attention, teenagers want more attention, and they respond in such a way that it inspires you to get more involved, you want to do more for them. So we found ourselves trying to do more and more all the time. But right now the rock bottom thing is to get them access to summer youth employment, those minimum wage jobs, about 30 hours a week can mean all the difference in the world.

We say we care. We say we care as a nation. We say we care as a Congress. But we do things which are quite the opposite. In fact, it is kind of an evil situation that we confront when we have people who are knowledgeable about exactly what is going on and they stand here and tell us that we do not have the money to fund a Summer Youth Employment Program where youngsters all across the country can get same jobs this summer. It will bust the budget. We do not have the money in the budget. What are we talking about? We are talking about probably $600 or $700 million out of a trillion-dollar budget, $600 or $700 million. The same people who stand here and tell us that we do not have the money to fund a program for youth, which will employ more than 600,000 young in the cities, give them hope and help us to deal with some of these problems that cost so much more money. It costs $20,000 to keep a young person in jail for a year, and yet here is a Summer Youth Employment Program, we are going to pay minimum wage for 2 months, 10 weeks, 8 weeks, I am sorry. That tiny amount of money we cannot invest. It is some kind of distorted, evil kind of thinking that comes out with a conclusion that we cannot afford it.

The same people who say we cannot afford it will do nothing about the fact that the CIA just discovered the fact that it has $2 billion in its petty cash fund that it did not know it had. Two billion dollars, the auditors have discovered $2 billion. That is what has been made public. When the CIA makes something public, we always have to sort of look at it and add something to it because we know they do not tell the truth. They are in the business of not telling the truth, so it is probably more than $2 billion, $2 billion.

So we have written a letter to the President saying that, you know, you can solve the problem of the Summer Youth Employment Program. It is the same letter we intend to distribute to the whole Congress and certainly the Republican leadership of this House, which started the problem. The Republican majority instituted this attack on the Summer Youth Employment Program, this irrational attack, this evil attack, this attack which runs counter to the purposes of any sane group of people who want to help young people. We hope that they will also read the letter and respond.

We wrote to Bill Clinton, the members of the House Committee on Economic and Educational Opportunities. The gentleman from Michigan [Mr. KILDEE] and I initiated the letter. We will be asking other people to join us:

> DEAR MR. PRESIDENT: We respectfully and urgently request that the $2 billion in unspent funds recently discovered by auditors of the CIA be reprogrammed to eliminate the cuts in title I Head Start and the Summer Youth Employment Program. We have noted with great shock and indignation the revelation that the CIA has $2 billion in unspent funds that no one in the government was aware of, $2 billion that no one in the government was aware of. It is our understanding that these funds are not on any budget schedule and therefore are available to be utilized for more positive purposes. More specifically, Mr. President, we propose that the following budget actions be initiated by your administration:
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> Transfer $1.1 billion to title I, the education programs that go to the elementary and secondary schools, title one. Transfer $300 million to Head Start; $300 million is that amount that Head Start has been cut in the budget initiated by the Republican majority in the House of Representatives. And transfer $600 million to summer youth employment programs, $600 million.
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> It all adds up to $2 billion; $2 billion is a lot of money but look at the great good you can do if you put it to positive purposes. We are certain the Democratic Members of both the House and the Senate would enthusiastically support these actions. We are also certain that the Republican opposition would find it very difficult to show cause why these recently discovered funds that are free and available cannot be used to guarantee the same level of funding for these vital education programs.
>
> Mr. President, we look forward to working closely with you and to achieve this very practical goals.

I would like for the Republican majority of this House to show cause, tell us why you have attacked the Summer Youth Employment Program and, if your reason is that there is no money in the budget and it is impossible to make room for the program now, then tell us why you cannot join with us in reprogramming $2 million that the Central Intelligence Agency has that it did not know it had, that nobody knew it had. So it certainly is not on anybody's budget schedule. Tell us.

This is a challenge and this is a moral challenge. If you care about morality, if you care about family values, if you care about pregnant teenagers, we have heard some eloquent speeches about pregnant teenagers and people who want to take steps to deal with the problem of pregnant teenagers in any way possible, and I applaud every suggestion that was made. I applaud those speeches on both sides of the aisle. We need to come to grips with the problem. But you certainly do not care about the problem of pregnant teenagers if you are going to wipe out a program like the Summer Youth Employment Program which is quite simply, a direct way of giving hope to young people. It gives hope.

I heard the people who talked before me about teenage pregnancy use the phrase over and over again about hope, hope for young people. I heard the gentleman from Connecticut [Mr. SHAYS] on the other side of the aisle talk about dreams and the fact that as a young person his parents guaranteed he had the opportunity to dream and how you wreck the dreams of young people when their dysfunctional lives lead to pregnancy and you throw them into a quagmire that they can never get out of. I heard this with great sympathy.

I hope that we as intelligent people, we as intelligent people also act as honest people, because we are not honest, it is not honest to look at the situation and see the $600 million will solve the problem, $600 million will take us a long way toward giving some of those teenagers hope, the males and the females because they are both part of the problem; $600 million will save us a great deal of money by keeping young people out of trouble, out of jail.

Jail always costs $20,000 or more per year for young people. All of these are so obvious, so self-evident until only some kinds of evil force can be at work to not make decisionmakers in Washington see it and act on it. What is going on? I really do not know what is going on.

Mr. Speaker, I think the gentleman from New Jersey wants to join me here. And before I go any further, I want to give him an opportunity to join us. I think we will take our entire hour at this point. The gentleman from New Jersey [Mr. PAYNE] is welcome to join this discussion. Mr. PAYNE is the chairman of the Congressional Black Caucus, which had a retreat last week on Friday. On Friday, we looked at all the priorities and all the problems. We concluded that the problem facing us more right now, the problem that has a deadline on it, the problem that has a time clock, a time bomb ticking away is the problem of summer youth employment. Summer youth employment, the program, decisions need to be made now. They need to be made soon. The process needs to be engaged.

We have a lot of talk about AmeriCorps, and we are all for AmeriCorps. Both of us serve on the committee, the Committee on Economic and Educational Opportunities, which is responsible for AmeriCorps. It used to be called the Education and Labor Committee when we passed the bill that created AmeriCorps. Nobody ever said to us, when you create AmeriCorps you have to get rid of the Summer Youth Employment Program.

I want everybody to hear me carefully. If you bring AmeriCorps into our neighborhoods this summer and there is no Summer Youth Employment Program, I fear for the safety of the AmeriCorps youth. It would not be just to wipe out the Summer Youth Employment Program and then send in middle-class youngsters from the AmeriCorps program and expect there not to be a reaction. It is wrong. It is unjust. And I hope you understand how explosive that could be.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, let me first of all commend my friend and colleague, the gentleman from New York [Mr. OWENS], for calling this special order tonight. I appreciate having the opportunity to participate in this with him. Through our service together on the House Committee on Economic and Educational Opportunities, we have worked together many years on issues and projects, on educational issues, on issues of jobs, and I have always admired the gentleman's strong stand and his conviction and his willingness to stand up for what he believes in.

So it is with that pleasure that I participate in this special order tonight and also to reiterate, as he said, that the Congressional Black Caucus held a retreat where we talked about the state of black America where we discussed issues that confront us as a people and this Nation as a country. One of the issues that continually came up and the issue that we overridingly talk about was the fact that the summer youth employment is an extremely important, critical and key issue to us in our communities.

Tonight I am proud to join with him in standing up for young people in our communities.

□ 2300

There is one concept now which all Members of Congress from both sides of the aisle can agree. It is the importance of instilling in our young people a strong work ethic. That is what made this country great; that is what made America what it is today. And a sense of personal responsibility. We hear so much about personal responsibility in the new majority's rhetoric. Personal responsibility also includes the opportunity to feel that personal responsibility by virtue of being able to have concrete, tangible goals that people can see and do, and that is where employment comes in.

That is what the summer youth employment program is all about.

More of us can remember what it was like when we got our first summer job. We can all remember that; my colleague mentioned that, too. Many times it was during elementary school or high school, and no matter how menial the job was, how unimportant it seemed to other people, we felt a sense of accomplishment, we felt a sense of pride, and we worked to live up to our employer's expectation as we collected our first paycheck. Many of us began saving for college. Some of us dreamed of one day owning our own businesses. My brother was very successful in having a business for 20 years that he ran, where he was involved with high technology in manufacturing computer forms. And so it was a dream that started when we had an opportunity to have a summer job.

Today in too many of our economically deprived communities there is a serious shortage of summer jobs, despite the eagerness of thousands and thousands and thousands of young people who want to become gainfully employed. In the past, the summer job program has enjoyed strong bipartisan support for all the years. There has been a wide recognition of the value of providing low-income youngsters with valuable work experience at a critical time in their life were they learn these work ethics, work experience, the whole value of work.

Young people need an alternative to hanging out on the streets, for drifting out in the community, and they will see this opportunity to be productive, to hold a job, if we will extend it to them, if we would reach out and say there is a job, because many times as I walked down my boulevards and my streets in my districts, sometimes late at night just to encounter the young people, they say, "Mr. Congressman, won't you come on over here," and I will go over, and we will talk, and they will say, "I'll stop hanging on this corner doing things that I'm doing that is not right if I could find a job." And they challenge: "Mr. Congressman, can I come down to your office tomorrow and get a job?"

And it is a very shallow feeling when you say, "Well, come down, and we'll work at it," but knowing that there are very few jobs available.

I have been working with young people most of my adult life as a school teacher, as president of the YMCA of the USA before coming to Congress, and I have seen how positively young men and women respond when they are given an opportunity to hold a job, to earn a paycheck, that pride.

I believe the new majority in Congress have made a big mistake in targeting summer youth employment programs for elimination, a big mistake. It would be abundantly unfair to pull the rug out from under so many deserving young men and woman.

There is much emphasis today on dealing with the crime problem in our Nation, especially in our urban centers where crime is rampant. Congress seems to have no problem with spending billions of taxpayer dollars on new prisons to warehouse offenders. The majority of Congress voted to increase the expenditures for prisons from $7.9 billion to $10.5 billion, an increase, money taken away from prevention and put into more prison construction. When they talk about the costs per inmate, the costs of construction is not even built in. Any other kind of business, you build in the cost of construction, and it is $20,000 plus just for correction officers, food, health, and all of the things that go along with having 24-hour, 7 days a week, 360 days a year custodial care over a person. And so it certainly would be a much better investment in an employment program if we took the money and put young people back on the right track.

So I hope my colleagues will join with us in restoring the $635 million for this summer program. In keeping with our efforts to compromise on the budget, it actually will bring down the figure from last year. It is only 75 percent of the 800 million that was appropriated last year, and so it is in keeping with gradual decrease.

Let me just say once again that years ago, when I was employed in the downtown business community, there were jobs available at the utilities firm, at the insurance companies, at the transit company, and young people would come and get summer jobs, and so the necessity for government to be the employer of last resort was not even necessary at that time.

Today in my community those companies no longer have summer jobs available. Those companies no longer have the work force they had in my city of northern New Jersey. At one time 500,000 people lived there, just about 1 million people were there during the day. Today we have a city of 275,000 where during the day the numbers do not swell much because the employment opportunities are not there. So if the full-time employment opportunities are not there, then the summer job opportunities are not there.

And so I just appeal to the President, when he sends back his veto message, and I personally mentioned this to him on yesterday when he was in New Jersey, that young people must not, must not, be sacrificed, that when this CR comes back, it must have in it the money to restore summer youth employment, which was not in either bill, and it must be in the bill when it comes back.

I had the opportunity to work as a waiter, a truck driver, a lumber handler, a warehouse man. I worked as a longshoreman. I did just about—postal employee. I was a teacher. I did it all, and it gave me the whole sense of feeling empowered because of earning my way.

As a matter of fact, as I conclude, I was a newspaper boy. I remember at the young age of 9 starting my job. I think you were supposed to be 12, but I just told them I was old enough. But I started a job, and at that time it was just delivering of 3-cent newspapers. This was back in the forties, and I made three-eighths of a cent a paper, and I only had 30 customers, so I had to build my route up. I built it up to over 125 customers because then in order to make a dime, I had to deliver 30 papers. And so that was slow. And so it just gave me the opportunity to have my own business, to move, to earn, and actually made about maybe $3 a week, and had 50 cents taken out on a payroll deduction at that time to put down when I decided that I was going to go to Seton Hall and that it was not enough of a scholarship money in order for me to go.

And so I can remember very clearly those days, and it instilled a pride.

We do a disservice to young people today when we take away the opportunity for them to achieve. It is unfair that they do not have the opportunity to be successful. It is just like in some school districts that the young people do not have the opportunity to learn, and then they fail standardized tests. It is unfair. We have to stop being unfair to young people. We have to start treating them with dignity, self-respect, the total person, the mind, the body and the spirit, the triangle which makes the full person.

This Nation is taking away from our future a major ingredient and the opportunity to earn a living, an opportunity to learn, and we need to talk about that at some other time. But the gentleman was kind enough to yield, and so I will conclude by urging my colleagues on both sides of the aisle to join with us in restoring these very, very crucial and important funds.

Mr. OWENS. Mr. Speaker, I thank my colleague from New Jersey. He is from the great city of Newark, and he mentioned the fact that Newark used to have a bustling downtown area filled with people, you know, not too many years ago, and that has declined greatly now.

I am going to talk a little bit about that. That is part of the problem. And we have had a situation develop where our cities have been drained of resources. Money has flowed from our cities to the rest of the country, and we have lost a great deal of the resources that we need to keep our own cities going. And it is not through mismanagement, it is not that our cities are not still, our cities and our States, are not still very wealthy States.

New York State is a State in the Nation which provides the greatest amount of surplus over in terms of the Treasury, and when you compare what New York State receives from the Federal Government, what it receives from the Federal Government in terms of aid is much less than it pays in, and that has been true for the last 20 years. In 1994, the last year that they have figures available, New York State paid into the Federal Treasury $18.9 billion more than it got back from the Federal Treasury in terms, in Federal aid. New York State was the, you know, most generous of the States, but New Jersey also paid far more into the Treasury than it got back from the Federal Government.

And this has been a pattern. Michigan, many of the Northeastern States, have consistently paid more into the Treasury. The States with the large cities like Chicago and Detroit, Philadelphia, those States are being discriminated against in many ways by the Federal Government policies.

One way we would get our money back in terms of Federal aid would be through programs like the summer youth employment program. New York City, for example, over the last 20 years has lost $10 billion in Federal aid, and we hear on this floor a lot of criticism about New York State and New York City spending too much money on Medicare and Medicaid. Medicare and Medicaid, we have the highest expenditures in the country. But even with the highest expenditures in the country in Medicare and Medicaid, New York State is still putting in, paying out to the Federal Government, $18.9 billion more than it is getting back. We do not have any big defense plants, we do not have any disasters like hurricanes or earthquakes or floods. There are a number of ways that we do not receive money back from the Federal Government that other areas do. Highway funding; we have a great need for mass transit funds, and they are being cut.

Now I want to focus on the summer youth employment program. But you cannot tell the whole story and you cannot show how vicious, how vicious the process is here in Washington, unless you look at the total picture.

And at this point I want to pause and make certain that everybody understands that for the next few days we are going to be talking about this problem. The summer youth employment program will be on our agenda, and a lot of people say, well, the situation is not so bad because the continuing resolution says that all programs will be funded at 75 percent of their last year's funding level. Well, you know that is not true of the summer youth employment program. The last year was zeroed out. There is no authorization, there is no—the rescission process killed the program. So it would be 75 percent of zero that you are talking about.

Let me read from the latest statement on it that appeared just a few days ago in the House action reports. The Congressional Quarterly's House action report reads that the bill that the House has put forth, H.R. 1944, has no funds for the summer youth employment program. Yes, the President had requested $958 million for this program, but since the fiscal year 1995 rescissions and disaster supplement appropriations bill—I am sorry that was H.R. 1944. The bill that we are talking about is the appropriations bill for the Labor, Education and Health. That is the bill we are talking about, H.R. 2127. H.R. 2127 for this year is the bill that has this language in it—I mean that has no funds for the summer youth employment program.

Since the fiscal year 1995 rescissions and disaster supplemental appropriations bill, which was H.R. 1944, rescinds all funds that were appropriated in advance for the summer of 1996, the summer of 1995 will be the last year for the operation of this program. The last year, gone; 1995 is the last year that there are funds available.

So they have been clear that let every member of Congress understand when you talk to your constituency, understand that there is no amount in the budget for which we can take 75 percent of. It is zero at this point.

Now the Senate, I do not know why the Senate has abandoned the program also, because it did take the initiative last year, and in the conference process put back the money for the 1995 summer youth employment program. This year the Senate majority has done nothing, and the Senate Democrats have an amendment that they are using to try to get back the funds for the summer youth employment program. They have an amendment which includes a number of things, Senate Democratic education—this is as of March 12. I am reading from the day's national journal, Congress Daily. Senate democratic education amendment would provide $1.28 billion for the title I compensatory education program, $208 million for school improvement programs, $91 million for school-to-work programs, and $60 million for the Goals 2000 program.

□ 2315

In addition, the Democratic amendment would provide $136 million for Head Start, as well as $635 million for the Labor Department's Summer Jobs Program and $333 million for aid to dislocated workers. The Democratic amendment is being proposed but there is no guarantee that that is going to be passed. We are in a situation where the summer youth employment program has zero in the budget for it at this point, and a lot of work has to be done to save the situation.

Why the hostility toward the summer youth employment program? Why are we in a situation in a Congress where family values are touted by everybody on both sides of the aisle, in a Congress where young people are said to be of great concern by both sides of the aisle, and I have heard the Republican majority speak again and again about being concerned about the future. Children are the future, should not be made to pay for the debts that we make today. They are very concerned about drastic budget cuts, draconian cuts in order to guarantee that our children will not have to pay for the debts we make today.

I am glad they are so concerned about children. I am, also. There is a lot of concern about unborn children, children in the womb. I am concerned about them, too. I think every mother who has a child has to think twice about it, because of this cruel backward world we live in where we will propose to pay $20,000 to keep a juvenile delinquent in jail but we are not willing to pay 2 months' salary to a youngster who wants a job during the summer. There is something radically wrong with our thinking.

We have a lot of arrogant sophomores who think they are philosopher kings, and they spout off about saving money and the need to downsize the Federal Government while they are completely blind to the fact that the CIA has a $2 billion slush fund.

They are blind to the fact that today's New York Times talks about a new set of jet fighters we are going to build that eventually will cost $1 trillion, a whole system of jet fighters that we are going to be building, all the manufacturing companies are gearing up, and that cost is going to be $1 trillion. do you want to saddle your children with $1 trillion in costs for a new jet fighter plane when we have the most modern sophisticated jet fighter planes already?

One is being manufactured at Marietta, GA, in Speaker GINGRICH's district. That one, the F-22, is already the most sophisticated thing you can imagine. Why do we need another set?

We say we are going to downsize Government, the era of big Government is over, but the defense spending continues to go on at the same pace. The CIA is the same size that it was 10 years ago. Yet we say we are downsizing Government.

We also insist that places like New York State and New York City get their house in order in order to qualify for the largesse that the Federal Government confers upon them. I have just told you, the Federal Government does not do New York State any favors.

If New York State stood alone, it would be in receipt of $18.9 billion that it does not have now. If you gave us back the $18.9 billion in 1994 that we paid into the Federal Government, which was greater than the amount we got back in terms of aid, we could solve our budget problems.

In fact, just give us back half that amount. If we had $9 billion, the New York State budget could be balanced, we could increase the budget for education, we could take care of our own youth this summer. We could have a New York State summer youth employment program, if you give us back the great amount of money we pay in that we do not get back in terms of aid.

I mention this because last Thursday, March 7, the Washington Post, and I think it is very significant that the Washington Post did this and not the New York Times. I would like to know where is the New York Times on this issue. I have never seen them do an article of this magnitude. The Washington Post, last Thursday, had a front page article which talked about this very situation.

It is entitled, "U.S. to New York: It's Still Dutch Treat. Balance of Taxes to Services Favors Washington—So Does the Rhetoric." It was written by a reporter, a Washington Post staff writer, named Malcolm Gladwell. Mr. Gladwell makes some very interesting statements here, and I commend him on his research here but I marvel at his naivete. I am going to read some of this. We have a little time left.

Quoting from Mr. Gladwell's article on the front page of the Washington Post:

> In a memorable outburst late last year, Representative Newt Gingrich declared that New York City was saddled with "a culture of waste for which they want us to send a check." The rest of the country, the House Speaker said, in a blunt summation of Federal urban policy, " is not going to bail out the habits that have made New York so extraordinarily expensive."

I guess one of those programs that have made us extraordinarily expensive is the summer youth employment program. We get more than anybody else in terms of young people because we have more poor young people in our city than anybody else.

To repeat the quote, NEWT GINGRICH says, "We will not be saddled with a culture of waste for which they want us to send a check. The Federal Government is not going to bail out the habits that have made New York so extraordinarily expensive."

Continuing to read Mr. Gladwell's article:

> As Republicans campaign in the New York primary, no one is talking about aid to the cities, mass transit and urban renewal. And the prevailing assumption in Washington, as Gingrich put it, is that places like New York City are financial sinkholes, inefficient, wasteful, and a drain on the public purse. It is a powerful new idea, central to the fate of American urban life. But it has one problem, economists say: It isn't true.
>
> According to statistics complied by economists at Harvard University, Illinois, Massachusetts, Ohio, New Jersey and Michigan—in other words, those States powered by the metropolitan economies of older cities such as Chicago, Boston, Cincinnati and Detroit—all send billions of dollars more to Washington each year in Federal taxes than they get back in social programs, defense spending or public works projects. And the biggest contributor of all to the Federal budget—the cash cow of the United States Treasury—is the place Gingrich derided as a dead weight on the rest of the country: New York City.

New York State in 1994 contributed $18.9 billion more to the Federal Government than it received in return. It ran a surplus of that amount in 1994.

> The Speaker's home State of Georgia, meanwhile, is one of a large number of southern, largely Republican States that receive far more from the Federal Government than they send out in taxes.

Quoting Mr. MOYNIHAN:

> I told Mr. Gingrich, what are you talking about, my friend? In Atlanta, 59 percent of the children are on AFDC, Aid to Families with Dependent Children, in a single year. Where do you think that money from from?

By the way, Atlanta is in Georgia, in case somebody does not have their geography straight. Atlanta is in Georgia. Georgia is the Speaker's home State.

> The idea that cities like New York run huge surpluses with Washington is, according to urban experts and economists, one of the best-kept secrets in American politics, an idea that—if it ever gained currency—could force a fundamental transformation in the relationship between the Federal Government and the States.

Here is where I applaud Mr. Gladwell's naivete. It is a beautiful purity. He thinks that if we really understood the facts, if we really had the information, it would change our behavior. But, of course, most of the people on the Budget Committee here, Republicans and Democrats, understand this fact very well. Most of the people on the Appropriations Committee understand this fact. They are not dumb. The idea that Congressmen are dumb and do not understand statistics and do not understand the complexities of the modern world is a ridiculous idea. Congressmen are some of the smartest people in the world. They understand. They have the knowledge. But where is the morality? Where is the integrity which says that this is not just? I am going to read Mr. Gladwell's statement again.

> The idea that cities like New York run huge surpluses with Washington is, according to urban experts and economists, one of the best-kept secrets in American politics, an idea that—if it ever gained currency—could force a fundamental transformation in the relationship between the Federal Government and the States.

I hope that by "currency" he means that the American people, ordinary people with common sense out there, are going to learn more and more about this injustice and begin to pressure to have something done about it. I hope that that is what he means, because it is understood by the people who are making policy here. They are bullying the situation. Power, the power to harass the cities, the power to neglect the cities, the power to swindle the cities.

We had a big swindle in the private sector. Money flowed from the depositors in New York City, Detroit, Philadelphia. The big cities of the Northeast poured money into their banks and the banks would not invest in the big cities, very little investment in the infrastructure, very little investment in shopping malls, in stores there. They said that the cities were a bad risk, so the money flowed out to the Midwest, the South, the West, into the savings and loan associations, into the banks, and they used the money to invest in shopping malls and condominiums and all kinds of programs which were supposed to be not risks but good buys, good investments.

Then came the savings and loan scandal, which up to $300 billion was found to be bad investments or crooked investments, stupid investments, and the taxpayers of the whole country were saddled with a bill which they do not even know about yet because nobody talks honestly about it in the Government here, of about $300 billion it has amounted to, the savings and loan swindle, money we have to pay back to depositors, plus the administration of the process of getting all this straightened out. It is still going on. They put out reports that are not very clear, but at least $300 billion of public money has gone down the drain.

That is the private sector taking the money out of the cities, refusing to invest in the cities, and putting it into so-called better investments in the South, the West, the Midwest, and losing the money. Now we have the Federal Government, and this has been going on for some time. It was started really by the New Deal, and I am going to read on quickly because he talks about that.

The New Deal was an altruistic action, where Franklin Roosevelt and the people who conceived the New Deal were not dumb, either. They understood that the wealth was in the Northeast. They understood that the States in the Northeast had more money, and they wanted to help the rest of the country by having programs which spread the money across the rest of the country. They wanted to.

They did not talk about States rights. If New York had talked about States rights 50 years ago, then you would have never had the money to have the agricultural subsidy program across the rural areas of the country. You would not have the money to rebuild the infrastructure in the cities. The WPA would have been limited to those States that could pay for it.

But they did not have States rights and block grants and all this nonsense about States being able to administer programs better. Fortunately, that was not around, and the beneficiaries of that are mainly the southern States. Southern States get more than anybody else. When you add up all the figures in this same Harvard report, $65 billion more go into the southern States than they pay out to the Federal Government; $65 billion.

One of the biggest recipients is Mississippi. It gets $6 billion more from the Government than it pays in. But Virginia, Georgia, a number of others, Georgia gets $2 billion more from the Federal Government than it pays in. The county where the Speaker resides is the county that gets the most money from the Federal Government per capita than any other county in the country, in the whole country. Speaker GINGRICH's district gets more money from the Federal Government per capita, per person, than any other.

Let me read on from the Washington Post article of Tuesday, March 7, by Mr. Malcolm Gladwell:

> It strongly suggests, for example, that the decline of many northeastern American cities may be due not just to mismanagement—as is now popularly imagined—but to the emptying of their coffers by the Federal Government.

□ 2330

> It also suggests that keeping cities healthy should not be seen by Congress as an act of charity so much as a prudent step to protect one of the Treasury's real moneymakers.

Let me repeat that.

> The cities should not be treated as an act of charity,

Aid to cities:

> So much as a prudent step to protect one of the Treasury's greatest moneymakers. Money has been drained steadily from the cities. The policies of the Federal Government the last 20 years have been draining money away from the cities, but the cities are the moneymakers.

Cities are still, despite this great drain and despite the stress on their infrastructures, they are still producing more tax money than any other part of the country:

> Manhattan sends an awful lot of money to Washington, says Sigurd Grava who teaches urban planning at Columbia University. But Manhattan is beginning to suffer from problems that require very heavy capital investment, and that is where we should expect the money to be coming back. And if the money does not come back from the Federal Government, then we have a serious dislocation. The cow is being milked in the city, and that is fine because that is what cows are for. But you have to feed the cow, too.
>
> There are two reasons why States in the Northeast tend to pay much more to Washington than they get back. The first is that the northeast is still, as it has been since colonial days, the seat of much of the country's wealth. As a result, the region pays the lion's share of the country's taxes.

I heard somebody here before talking about the terrible amount of taxes the people pay, and I think the American people really deserve as individuals and families to be relieved of some of the tax burden. We should have corporations paying a greater share of the taxes, because corporations are making great amounts of money. We should do something about the great tax burden on the families. But let us understand where the taxes are coming from. They are still coming from the Northeast in great amounts.

In New York State, for example, the per capita income in 1994 was $25,999, which means, according to the Harvard study, on average every New Yorker paid just about $5,000 in Federal taxes. In Connecticut, the same statistics are $29,402, and $6,281 for every individual family.

But in a much poorer State, such as South Carolina, for example, where the per capita income is $17,695, the average Federal tax bill was just $3,816. The other side of the equation is that what States get back from Washington, and here the Northeast is an exception as well, New York State, New Jersey, and Connecticut each have over the years gotten a big chunk of Federal funds for Medicaid programs. We have been criticized for spending money on Medicaid and Medicare. I say if you are going to spend money, and I can think of no more noble way to spend it than to help people, if they are spending it for the health of people, to take care of people, the elderly, the sick, the injured, children, their health, then that is a great way to spend money.

Let us get rid of the corruption in health care programs. Let us get rid of the waste, but if you are spending it on health care instead of on weapons systems that are not needed, then you are certainly a few steps higher on the moral plane than those people who are spending it for weapons systems.

They go on to say:

> By national standards, our Medicaid programs tend to be quite lavish. But if all the payments the Federal government makes to the States are totaled, the Northeast's share of money for welfare, salaries of military

personnel, public works projects, social security checks, highway construction, and other federally funded programs lags well behind the rest of the country. New York State got $3,948 per capita from Washington in 1994, while New Jersey received less, $3,648. Both were well below the national average of $4,732 and far behind North Dakota at $6,001, or New Mexico at $6,734, both of which received large Federal agricultural and land management subsidies.

You want to know where the money is going in this country? You want to know where the great injustice is, where those people who are really on corporate welfare because many of these agricultural subsidies are not going to individuals and families, they are going to agricultural businesses, and it is going to States that receive Federal agricultural and land management subsidies. The biggest winner of all in terms, and economists say there is nothing wrong with this kind of income redistribution. In an open economy such as ours, it is not necessary, even desirable, that Federal expenditures of taxes always be in balance in every State.

Harvard economists Monica Friar and Herman Leonard wrote in a 1995 balance of payments report, an annual study initiated 20 years ago by Senator Moynihan, indeed one of the main purposes of a progressive income tax is that the more well-to-do, wherever they may reside, pay a higher share for the services provided by the government.

They go on to talk about the New Deal and how the people who concocted the New Deal knew that they were spreading the wealth throughout the entire country, what would they say if they heard people talk about block grants now and the States having the right to do what they want to do.

New Yorkers ought to wake up. Maybe they ought to get on board block grants, States' rights, and have New Yorkers have the right to take the money back. If New York had control of the $18.9 billion, the State, half of that is the city, $9 billion, we could have a summer youth program without begging anyone. We have been begging, begging; we begged last year. I have a set of letters here written by the Congressional Black Caucus, where we begged the Honorable MARK HATFIELD, Senate Committee on Appropriations, we begged Honorable BOB LIVINGSTON, Chairman of the Committee on Appropriations, we begged DAVID OBEY to help us, we begged ROBERT BYRD, the ranking member on the Senate Committee on Appropriations, we begged for a summer youth employment program in 1995.

Now we are on our knees again begging. We are begging to help young people, begging to do something which makes a great deal of sense. We are begging to do something which anybody with common sense knows is right and is productive. We are begging.

Let me just conclude by saying that I appreciate the eloquent statements made by the persons who were concerned about teenage pregnancy. But I am very sorry that the hypocrisy is so thick in this Chamber. I am very sorry there is so much hypocrisy that we can talk in "hifalutin" terms about helping teenagers with the problem of teenage pregnancy, helping teenagers with their lives, sense of self-worth, and then we turn down a program which is directly aimed to help teenagers.

Let me tell you about the teenage problem where it first originated in America. Let me tell you about the teenage pregnancy, where it happened, overwhelming in moral terms. America's greatest teenage pregnancy problem existed for 232 years, when Africans were enslaved in this country. For 232 years, African girls who were enslaved were required in this country to become pregnant in order to be able to keep eating.

Let me read you just in closing from "Bull Whip Days: The Slaves Remembered," an oral history, where the slaves during the Federal rightist project told their stories, and they were recorded and here is a slave named Hilliard Yellerday, who says, and this is teenage pregnancy on a massive scale, when a girl became a woman, she was required to go to a man and become a mother. There was generally a form of marriage. The master read a paper to them telling them they were man and wife. Some were married by the master laying down a broom and the two slaves, man and woman, would jump over it. The master would then tell them they were man and wife, and they could go to bed together.

Master would sometimes go and get a large hale, hearty Negro man from some other plantation to go to his Negro woman. He would ask the other master to let this man come over to his place to go to his slave girls. A slave girl was expected to have children as soon as she became a woman. Some of them had children at the age of 12 and 13 years old. Negro men 6 feet tall went to some of these children.

This is a testimony by Hilliard Yellerday, an ex-slave woman.

Here is a system that oppressed teenagers, and we have a system that neglects teenagers, plays games with teenagers, and refuses to offer the simplest form of health at the lowest cost, the summer youth employment program. We are in a moral dilemma as great as those slave masters who made their slave girls become pregnant as soon as they were old enough to become pregnant.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

Mrs. CHENOWETH (at the request of Mr. ARMEY) for today and March 13, on account of medical reasons.

Mr. CHRISTENSEN (at the request of Mr. ARMEY) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. GUTKNECHT) to revise and extend their remarks and include extraneous material:)

Mr. MICA, for 5 minutes, on March 13.

Mr. CHRYSLER, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day on March 12, 13, 14, and 15.

Mr. DUNCAN, for 5 minutes each day on March 12 and 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) and to include extraneous matter:)

Mr. ABERCROMBIE.
Mr. SCHUMER in two instances.
Mrs. MEEK of Florida in two instances.
Ms. DELAURO.
Mr. PICKETT.
Mr. GUTIERREZ.
Mr. POSHARD.
Mrs. KENNELLY.
Ms. PELOSI.
Mr. JOHNSTON of Florida.
Mr. KLECZKA.
Mr. DELLUMS.
Mr. COYNE.
Mr. MCDERMOTT.
Mrs. SCHROEDER.
Mr. ACKERMAN.
Mr. FAZIO of California.
Mr. JACOBS.
Mr. STARK in two instances.
Mr. FRANK of Massachusetts.
Mr. TORRES.
Mrs. MINK of Hawaii.

(The following Members (at the request of Mr. GUTKNECHT) and to include extraneous matter:)

Mr. HOKE.
Mr. SOLOMON.
Mr. BURTON of Indiana.
Mr. KNOLLENBERG.
Mr. WALKER.
Mrs. ROUKEMA.
Ms. ROS-LEHTINEN.
Mr. HAYWORTH.
Mr. SCHAEFER.

Mr. GOODLING.
Mr. RADANOVICH.
Mr. LAZIO of New York.
Mr. MCDADE.
Mr. WATTS of Oklahoma.

ENROLLED BILL SIGNED

Mr. Thomas, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 927. An Act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition Government leading to a democratically elected Government in Cuba, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. Thomas, from the Committee on House Oversight, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

March 8, 1996:

H.R. 2778. An act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

H.R. 3021. An act to guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States.

March 11, 1996:

H.R. 927. An act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

BILLS APPROVED AFTER SINE DIE ADJOURNMENT

The President notified the Clerk of the House that, subsequent to the sine die adjournment of the First Session of the 104th Congress, he had approved and signed on the following dates bills of the following titles:

January 4, 1996:

H.R. 2808. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.

January 6, 1996:

H.R. 1655. An act to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

January 10, 1996:

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 2627. An act to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

January 11, 1996:

H.R. 2203. An act to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

January 16, 1996:

H.R. 1295. An act to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks.

BILLS AND JOINT RESOLUTIONS APPROVED

The President notified the Clerk of the House that he approved and signed on the following dates bills and joint resolutions of the House of the following titles:

January 4, 1996:

H.J. Res. 153. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

January 6, 1996:

H.J. Res. 134. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

H.R. 1358. An act to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

H.R. 1643. An act making appropriations for certain activities for the fiscal year 1996, and for other purposes.

January 26, 1996:

H.R. 2880. An act making appropriations for fiscal year 1996 to make a downpayment toward a balanced budget, and for other purposes.

February 1, 1996:

H.R. 1606. An act to designate the United States Post Office building located at 24 Corliss Street, Providence, Rhode Island, as the "Harry Kizirian Post Office Building."

H.R. 2061. An act to designate the Federal Building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building."

February 8, 1996:

H.R. 2924. An act to guarantee the timely payment of social security benefits in March 1996.

February 10, 1996:

H.R. 2029. An act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.

February 12, 1996:

H.R. 1868. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2111. An act to designate the Federal Building located at 1231 Nevin Avenue in Richmond, California, as the "Frank Hagel Federal Building."

H.R. 2726. An act to make certain technical corrections in laws relating to Native Americans, and for other purposes.

February 13, 1996:

H.R. 2353. An act to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to carry out certain programs and activities, to require certain reports from the Secretary of Veterans Affairs, and for other purposes.

H.R. 2657. An act to award a congressional gold medal to Ruth and Billy Graham.

March 5, 1996:

H.R. 1718. An act to designate the United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, as the "Max Rosenn United States Courthouse."

SENATE BILLS APPROVED

The President notified the Clerk of the House that he approved and signed on the following dates bills of the Senate of the following titles:

February 6, 1996:

S. 1341. An act to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona, and for other purposes.

February 8, 1996:

S. 652. An act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

February 10, 1996:

S. 1124. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition law and information technology management of the Federal Government, and for other purposes.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 13, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of March 8, 1996]

2222. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-217, "Closing of a Portion of a Public Alley in Square 5259, S.O. 92-45, Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2223. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-218, "Highway Trust Fund Establishment Temporary Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

[Submitted March 12, 1996]

2224. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by H.R. 1868, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-578); to the Committee on the Budget.

2225. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's report entitled "Annual Report to Congress—Progress on Superfund Implementation in Fiscal Year 1995," pursuant to 45 U.S.C. 9651; to the Committee on Commerce.

2226. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the design and development subphase two of the NATO Improved

Link Eleven [NILE] project (Transmittal No. 06-96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2227. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning a cooperative project with Norway for development of a composite hull structural monitoring system (Transmittal No. 05-96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2228. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

2229. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Program Review of the Economic Development Finance Corporation For Fiscal Year 1994," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

2230. A letter from the Assistant Secretary for Human Resources and Administration, Department of Energy, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2231. A letter from the Director, Office of Personnel Management, transmitting notification that it is in the public interest to use procedures other than full and open competition to award a particular OPM contract, pursuant to 41 U.S.C. 253(c)(7); to the Committee on Government Reform and Oversight.

2232. A letter from the Vice President and General Counsel, Overseas Private Investment Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2233. A letter from the Secretary of Transportation, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2234. A letter from the Director, Selective Service System, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2235. A letter from the Administrator, Small Business Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

2236. A letter from the Staff Director, U.S. Commission on Civil Rights, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2237. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2238. A letter from the President, Boy Scouts of America, transmitting the Boy Scouts of America 1995 report to the Nation, pursuant to 36 U.S.C. 28; to the Committee on the Judiciary.

2239. A letter from the Comptroller General of the United States, transmitting a report entitled, "Financial Audit: Federal Family Education Loan Program's Financial Statements for Fiscal Years 1994 and 1993" (GAO/AIMD-96-22), pursuant to Public Law 101-576, section 305 (104 Stat. 2853); jointly, to the Committees on Government Reform and Oversight and Economic and Educational Opportunities.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 2972. A bill to authorize appropriations for the Securities and Exchange Commission, to reduce the fees collected under the Federal securities laws, and for other purposes; with an amendment (Rept. 104-479). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE: Committee on Rules. House Resolution 380. Resolution providing for consideration of the bill (H.R. 2703) to combat terrorism (Rept. 104-480). Referred to the House Calendar.

DISCHARGE OF COMMITTEES

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on March 11, 1996]

H.R. 2276. The Committees on Government Reform and Oversight and the Budget discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALKER (for himself, Mr. BROWN of California, Mrs. MORELLA, Mr. SCHIFF, Mr. ROHRABACHER, Mr. CRAMER, Mr. DAVIS, Mr. EHLERS, Mr. BOEHLERT, Mr. WELDON of Pennsylvania, Mrs. SEASTRAND, Mr. HASTINGS of Florida, Ms. LOFGREN, Mr. MCHALE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, Mr. OLVER, Ms. RIVERS, Ms. JACKSON-LEE, and Mr. BAKER of California):

H.R. 3060. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty; to the Committee on Science, and in addition to the Committees on International Relations, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 3061. A bill to resolve certain conveyances under the Alaska Native Claims Settlement Act related to Cape Fox Corp., and for other purposes; to the Committee on Resources.

By Mr. COX of California (for himself and Mr. DUNCAN):

H.R. 3062. A bill to authorize the States to assist the Attorney General in performing functions under the Immigration and Nationality Act relating to deportation of aliens; to the Committee on the Judiciary.

By Mr. ARCHER (for himself and Mr. THOMAS):

H.R. 3063. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, and to simplify the administration of health insurance; to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOYER:

H.R. 3064. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by coordinating Federal financial assistance programs and promoting local flexibility; to the Committee on Government Reform and Oversight.

By Mr. COBURN (for himself, Mr. BURR, Mr. STUPAK, and Mrs. LINCOLN):

H.R. 3065. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the review of radiopharmaceuticals under section 505 of such act; to the Committee on Commerce.

By Mr. CUNNINGHAM:

H.R. 3066. A bill to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal year 1997, 1998, 1999, 2000, and 2001; and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FAZIO of California (for himself and Mr. RIGGS):

H.R. 3067. A bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes; to the Committee on Commerce, and in addition to the Committees on the Judiciary, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTKNECHT:

H.R. 3068. A bill to accept the request of the Prairie Island Indian Community to revoke their charter of incorporation issued under the Indian Reorganization Act; to the Committee on Resources.

By Mr. HAYWORTH:

H.R. 3069. A bill to authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, AZ; to the Committee on Resources.

By Mr. BILIRAKIS (for himself and Mr. BLILEY):

H.R. 3070. A bill to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, and to simplify the administration of health insurance; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NADLER:

H.R. 3071. A bill to combat terrorism; to the Committee on the Judiciary.

By Mr. PORTMAN:

H.R. 3072. A bill to direct the Secretary of the Army to convey to the village of Mariemont, OH, a parcel of land that is under the jurisdiction of the Corps of Engineers, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. ROUKEMA (for herself and Mr. TORRICELLI):

H.R. 3073. A bill to amend the Communications Act of 1934 in order to allow the continued operation of certain overlapping stations; to the Committee on Commerce.

By Mr. FATTAH (for himself, Mr. HILLIARD, Mrs. MEEK of Florida, Mr. JEFFERSON, Mr. GORDON, Ms. NORTON, Mr. ENGLISH of Pennsylvania, Mr. DELLUMS, Mr. FOGLIETTA, Mr. HINCHEY, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GONZALEZ, Ms. JACKSON-LEE, Mr. KLECZKA, Mr. KLINK, Mr. PASTOR, Mrs. COLLINS of Illinois, Mr. BARRETT of Wisconsin, Mr. COYNE, Mr. CLINGER, Mr. UNDERWOOD, Mr. QUINN, Mrs. CLAYTON, Mr. FOX, Mr. OWENS, Mr. FRAZER, Mr. RUSH, Mr. TOWNS, Mr. JACOBS, Mr. THOMPSON, Ms. MCKINNEY, Mr. HASTINGS of Florida, Mr. CLYBURN, Mr. PAYNE of New Jersey, Mr. CLEMENT, Mr. GUTIERREZ, Mr. ABERCROMBIE, Mr. NADLER, Mr. CONYERS, Ms. LOFGREN, Mr. HORN, Mr. STOKES, Mr. BROWN of California, Mr. FLAKE, Mr. BONIOR, Mr. FROST, Mr. BRYANT of Texas, Mr. KILDEE, Mr. WYNN, Mr. RICHARDSON, Mr. FIELDS of Louisiana, Mr. LEWIS of Georgia, Ms. WATERS, Mr. SCOTT, Mr. DIXON, Mr. LIPINSKI, and Mr. ENGEL):

H. Con. Res. 151. Concurrent resolution recognizing the importance of African-American music to global culture and calling on the people of the United States to study, reflect on, and celebrate African-American music; to the Committee on Economic and Educational Opportunities.

By Mr. LANTOS (for himself, Mr. BEREUTER, Mr. BARR, Mr. BASS, Mr. BARTLETT of Maryland, Mr. BALLENGER, and Mr. WATTS of Oklahoma):

H. Res. 378. Resolution deploring recent actions by the Government of Serbia that restrict freedom of the press and freedom of expression and prevent the Soros Foundation from continuing its democracy-building and humanitarian activities on its territory and calling upon the Government of Serbia to remove immediately restrictions against freedom of the press and the operation of the Soros Foundation; to the Committee on International Relations.

By Mr. PORTER:

H. Res. 379. Resolution expressing the sense of the House of Representatives concerning the eighth anniversary of the massacre of over 5,000 Kurds as a result of a gas bomb attack by the Iraqi Government; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

205. The SPEAKER presented a memorial of the Legislature of the State of West Virginia, relative to requesting the Congress of the United States to enact legislation that would enable the States to control the indiscriminate importation of solid waste; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 294: Mr. MOLLOHAN, Mr. OLVER, Mr. GEJDENSON, Mr. MARTINEZ, Mr. SABO, Ms. ROYBAL-ALLARD, Mr. JACOBS, Mr. EVANS, Mr. LAHOOD, and Mr. WYNN.

H.R. 449: Mr. THOMPSON.

H.R. 777: Mr. FLANAGAN, Mr. GUTIERREZ, and Mr. WATT of North Carolina.

H.R. 778: Mr. FLANAGAN, Mr. GUTIERREZ, and Mr. WATT of North Carolina.

H.R. 779: Mr. DIXON, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. BROWN of Florida.

H.R. 780: Mr. DIXON, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. BROWN of Florida.

H.R. 833: Ms. BROWN of Florida.

H.R. 878: Mr. WHITFIELD, Mr. FUNDERBURK, and Mr. BAKER of Louisiana.

H.R. 957: Mr. WELLER.

H.R. 969: Mr. TRAFICANT.

H.R. 972: Mrs. LINCOLN.

H.R. 1127: Mr. CRAPO.

H.R. 1226: Mr. HUTCHINSON and Mr. CUNNINGHAM.

H.R. 1462: Mr. CARDIN and Mr. QUINN.

H.R. 1499: Mr. HAMILTON.

H.R. 1527: Mr. MCINNIS.

H.R. 1591: Mr. BRYANT of Texas.

H.R. 1618: Mr. HANCOCK.

H.R. 1625: Mrs. CHENOWETH and Mr. COBURN.

H.R. 1627: Mr. MCDADE.

H.R. 1677: Mr. DINGELL.

H.R. 1733: Mr. LONGLEY, Mr. MONTGOMERY, and Mr. CRANE.

H.R. 1776: Mr. EHLERS, Mr. FRELINGHUYSEN, Mr. PARKER, Mr. MCINTOSH, Mr. BARRETT of Wisconsin, Mr. ENGLISH of Pennsylvania, Mr. KLECZKA, and Mr. MONTGOMERY.

H.R. 1805: Mr. TRAFICANT, Mr. WHITFIELD, Mr. FUNDERBURK, Ms. MOLINARI, and Mr. PETE GEREN of Texas.

H.R. 1846: Mr. REED and Mr. FLAKE.

H.R. 1965: Mr. GALLEGLY, Mr. BILIRAKIS, and Mr. MCHUGH.

H.R. 2071: Mr. FRAZER.

H.R. 2167: Mr. MARTINEZ and Mr. HALL of Ohio.

H.R. 2270: Mr. LARGENT.

H.R. 2306: Mr. HINCHEY and Mr. HOYER.

H.R. 2400: Mr. HAYES and Mr. COBURN.

H.R. 2480: Mr. MCHUGH.

H.R. 2511: Mrs. MALONEY.

H.R. 2566: Mr. BARRETT of Wisconsin.

H.R. 2579: Mr. HALL of Ohio, Mr. SMITH of New Jersey, Mr. CARDIN, and Mr. BRYANT of Tennessee.

H.R. 2634: Mr. HOLDEN.

H.R. 2651: Mr. BONIOR, Mr. OLVER, and Mr. FRANK of Massachusetts.

H.R. 2654: Mr. WAXMAN.

H.R. 2655: Mrs. ROUKEMA.

H.R. 2664: Mr. CRAPO and Mr. POMEROY.

H.R. 2682: Mr. LAZIO of New York.

H.R. 2694: Ms. NORTON, Mr. LAFALCE, Ms. LOFGREN, Mr. FILNER, Mr. HINCHEY, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, and Mrs. LOWEY.

H.R. 2727: Mr. FUNDERBURK, Mr. NEY, and Mr. HERGER.

H.R. 2740: Mr. BONO and Mr. MCCOLLUM.

H.R. 2747: Mr. YOUNG of Alaska, Mr. MINGE, and Mr. WELLER.

H.R. 2757: Mr. COBLE, Mr. SANDERS, Mr. BOEHLERT, and Mr. KLECZKA.

H.R. 2771: Mr. BARTON of Texas.

H.R. 2779: Mr. BARCIA of Michigan, Mr. CAMP, Mr. CUNNINGHAM, Mr. GANSKE, Mr. MCHUGH, Ms. PRYCE, and Mr. ROYCE.

H.R. 2827: Mrs. LOWEY.

H.R. 2828: Mr. BILIRAKIS and Mr. FOLEY.

H.R. 2844: Mrs. LOWEY, Mr. FRAZER, Mr. BLUTE, Mr. HOKE, and Mr. MEEHAN.

H.R. 2898: Mr. ALLARD and Mr. BROWNBACK.

H.R. 2911: Mr. BUNNING of Kentucky, Mr. DORNAN, Mr. FUNDERBURK, Mr. STOCKMAN, Mr. HUTCHINSON, and Mr. HOLDEN.

H.R. 2921: Mr. MILLER of Florida.

H.R. 2925: Mr. SCARBOROUGH, Mr. KNOLLENBERG, Mr. BARCIA of Michigan, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. ZIMMER, Ms. DUNN of Washington, Mr. HOSTETTLER, Mr. SAXTON, Mr. FOX, Mr. BARR, Mr. HAYES, Mr. PORTMAN, Mr. MICA, Mr. MCINTOSH, Mr. SALMON, Mr. COMBEST, Mr. CRAMER, Mr. PICKETT, Ms. PRYCE, Mr. LATHAM, Mr. SHADEGG, Mr. NUSSLE, Mr. THORNBERRY, Mr. DICKEY, Mr. CRAPO, Mr. BUNNING of Kentucky, Mr. GORDON, Mr. DUNCAN, Mr. SANFORD, and Mr. BARTLETT of Maryland.

H.R. 2926: Mr. OXLEY.

H.R. 2938: Mr. NEY, Mr. LINDER, and Mr. DAVIS.

H.R. 2959: Mr. RIGGS and Mr. RICHARDSON.

H.R. 2976: Mr. BURTON of Indiana, Mr. DEFAZIO, Mr. FROST, Mr. HILLIARD, Mr. HUTCHINSON, Mr. OLVER, Mr. POSHARD, and Mr. RANGEL.

H.R. 2992: Mr. BLILEY.

H.R. 2994: Ms. MOLINARI, Mrs. LOWEY, Mr. HOUGHTON, Mr. WALSH, Mr. KLINK, Mr. KLECZKA, Mr. NEAL of Massachusetts, and Mr. DOOLITTLE.

H.R. 3002: Mr. HASTERT.

H.R. 3011: Mrs. CHENOWETH, Mr. CUNNINGHAM, Mr. FUNDERBURK, Mr. DAVIS, Mr. CRANE, and Mr. CLINGER.

H.R. 3012: Mr. BILIRAKIS, Mrs. COLLINS of Illinois, Mr. LEWIS of Georgia, Mr. CONDIT, Ms. MCKINNEY, and Mr. THOMPSON.

H.R. 3032: Mr. FOX.

H.R. 3043: Mr. GREENWOOD.

H.R. 3050: Mr. BREWSTER, Mr. TRAFICANT, Mr. FROST, Mr. MINGE, and Mr. LIPINSKI.

H.J. Res. 90: Mr. HANCOCK.

H.J. Res. 117: Mr. BARCIA of Michigan.

H.J. Res. 162: Mr. HUTCHINSON and Mr. HUNTER.

H. Con. Res. 10: Mr. CLINGER.

H. Con. Res. 102: Mr. ROHRABACHER and Mr. OLVER.

H. Con. Res. 119: Mr. SHAYS, Mr. DIXON, and Mr. ROMERO-BARCELO.

H. Con. Res. 140: Mr. MARTINEZ, Mr. LEVIN, and Mr. FRANK of Massachusetts.

H. Con. Res. 149: Mr. WAXMAN, Mr. HAYWORTH, Mr. MCDERMOTT, Mr. BENTSEN, Mr. COBLE, Mr. HALL of Ohio, Mr. ROYCE, Mr. FRANK of Massachusetts, Mr. ANDREWS, Mr. ZIMMER, Mr. JOHNSON of South Dakota, Mr. DELAY, Mr. GRAHAM, Mr. SERRANO, Mr. HASTINGS of Washington, Ms. DELAURO, Mr. OWENS, Mr. SHAYS, Mr. TAYLOR of North Carolina, Mr. MANZULLO, Ms. FURSE, Mr. WATTS of Oklahoma, Mr. HAMILTON, Mr. HINCHEY, Mr. CUNNINGHAM, and Mr. MANTON.

H. Res. 30: Mr. KINGSTON, Mr. STARK, Mr. DINGELL, Mr. LATHAM, and Mr. CHRISTENSEN.

H. Res. 39: Mr. PAYNE of New Jersey, Mr. SANDERS, Ms. LOFGREN, Mr. FARR, Mr. STARK, Mr. WYNN, Mr. HILLIARD, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. REED, Mrs. KENNELLY, Mrs. CLAYTON, and Mr. DURBIN.

H. Res. 358: Ms. PELOSI, Mr. TORRES, Mr. DOOLEY, and Mr. FRANK of Massachusetts.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1963: Mrs. THURMAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2202

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 1: At the end of subtitle A of title I, add the following new section (and conform the table of contents accordingly):

SEC. 108. DETAIL OF DEPARTMENT OF DEFENSE PERSONNEL TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.

(a) AUTHORITY OF SECRETARY OF DEFENSE.—Section 274 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) During each fiscal year, the Secretary of Defense may make not more than 10,000 Department of Defense personnel available to assist—

"(A) at the request of the Attorney General, the Immigration and Naturalization Service in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States; and

"(B) at the request of the Secretary of the Treasury, the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States.

"(2) Section 377 of this title shall apply in the case of Department of Defense personnel made available under paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§374. Use of personnel to maintain and operate equipment and to provide other assistance".

(2) The item relating to such section in the table of sections at the beginning of chapter 18 of title 10, United States Code, is amended to read as follows:

"§374. Use of personnel to maintain and operate equipment and to provide other assistance.".

(c) EFFECTIVE DATE.—Subsection (d) of section 374 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act.

H.R. 2202

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 2: After section 836, insert the following new section (and conform the table of contents accordingly):

SEC. 837. SENSE OF CONGRESS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

EXTENSIONS OF REMARKS

ENERGY SECURITY, 5 YEARS AFTER THE PERSIAN GULF WAR

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. SCHAEFER. Mr. Speaker, what is the cornerstone of a sound and thriving economy? What is an absolute prerequisite for American national security? What is the key to this country's overall well-being?

The answer is a vibrant domestic energy industry, one which will help reduce this country's dependence on foreign oil imports.

Unfortunately, despite the development of alternative forms of energy and the tremendous gains in energy efficiency in the past two decades, we are farther now from energy independence than ever. Last year, for the first time in history, the United States imported more than half of the oil it consumed. In 1973, during the oil crisis that virtually paralyzed the country, about 35 percent of our oil supplies were imported.

Though oil appears to be plentiful and real prices for energy are at or near all-time lows, we must not be lulled into a false sense of complacency. We must ensure the viability, productivity, and competitiveness of the domestic American energy industry.

As chairman of the Commerce Committee's Subcommittee on Energy and Power, I am committed to supporting policies that will help lead to greater American energy independence in the years to come.

Though the issue of energy security does not grab as many headlines these days as it did 5 short years ago during the Persian gulf war, I hope my colleagues understand that it will grab the headlines again someday in the future. We must take steps now to ensure that future generations of Americans do not suffer because of any failure on our part to safeguard the integrity and viability of our country's domestic energy industry.

CONGRATULATIONS TO RABBI AND MRS. DAVID ELIACH FOR A LIFETIME COMMITMENT TO RELIGIOUS AND EDUCATIONAL LEADERSHIP

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. SCHUMER. Mr. Speaker, I rise today to honor two unique individuals, Rabbi Doctor David Eliach and his wife, Prof. Yaffa Eliach for their endless dedication and tireless work in the fields of Hebrew language instruction and Judaic studies. On the eve of their retirement, I salute these two outstanding citizens for contributing to the educational achievement of students throughout Brooklyn.

At a time when religious education is often overlooked by more mainstream and secular educational training, Rabbi Eliach single-handedly inspired the parents and children of Flatbush, Brooklyn with his love and respect for the Hebrew language. As dean of the Yeshiva of Flatbush and principal of the Joel Braverman High School for over 43 years, Rabbi Eliach provided thousands of Yeshiva students with extensive training in Hebrew and Jewish history unmatched by most other educational institutions in New York. The communities of Brooklyn have benefited much from Rabbi Eliach's commitment to thorough language instruction coupled with his drive for academic excellence. His work has made an indelible impression on his students, faculty and friends of the Yeshivah of Flatbush.

Prof. Yaffa Eliach has also established note worthy life-long career in Jewish instruction and creative literature. As a highly-noted scholar of Judiac studies, founder of the Center of Holocaust Studies and creator of the acclaimed "Tower of Life" at the U.S. Holocaust Memorial Museum in Washington, Professor Eliach has made enormous contributions to the institutional knowledge of Jewish culture history throughout the world. Her works have been studied and read widely in several different countries.

These two educators have served our community with distinction. Their presence in the cultural and academic life of Yeshiva students and neighbors throughout the world will certainly be missed. As Rabbi Doctor David and Yaffa Eliach celebrate their retirement, I am honored to salute them as leaders of the Jewish community. I urge all my fellow colleagues to recognize these dedicated individuals and wish them well in their future endeavors.

WAYS AND MEANS SCHIZOPHRENIA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. STARK. Mr. Speaker, last week, the chairman of the Ways and Means Committee delivered a speech on the 1996 schedule of the committee.

The first three pages talked about how horribly complex the current Tax Code is and how the chairman wants to tear the code out 'by its roots,' substitute a kind of sales tax, and make the IRS unnecessary.

The last two pages talks about what the committee is going to do in March in the health sector: pass medical savings accounts, which are an elaborate and complicated new type tax deferred savings plan, and increase the tax deductibility of health insurance for the self-employed, but not their workers.

Hello.

I am sure that the chairman writes his own speeches, and if I did not know that, I would say that two different people who had never met wrote that speech. How can you start a short speech saying you are going to abolish the current Tax Code and greatly simplify it, and end that speech saying you are going to add two new special incentives that will add pages of regulations and forms to the law?

LEGISLATION FOR CASA MALPAIS NATIONAL HISTORIC LANDMARK

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. HAYWORTH. Mr. Speaker, today I am introducing legislation which would authorize the Secretary of the Interior to provide assistance to the Casa Malpais National Historic Landmark in Springerville, AZ. The Casa Malpais National Historic Landmark is a 14.5 acre archaeological site located near the towns of Springerville and Eager in northeastern Arizona. The site was occupied around A.D. 1250 by one of the largest and most sophisticated Mogollon communities in the United States.

Casa Malpais is an extraordinary rich archaeological site. Stairways, a Great Kiva complex, a fortification wall, a prehistoric trail, catacombs, sacred chambers, and rock panels are just some of the features of this large masonry pueblo. Due to its size, condition, and complexity, the site offers an unparalleled opportunity to study ancient society in the Southwest and, as such, is of national significance.

My legislation would establish the Casa Malpais National Historic Landmark as an affiliated unit of the National Park Service. Affiliated status would authorize the resources and protection necessary to preserve this treasure. As a member of the family of affiliated national landmarks, the public would also have greater exposure to the Casa Malpais site.

The communities in the area support this legislation. Local officials have taken steps to ensure that all research and development of the site is conducted in consultation with affiliated local native American tribes.

I ask my colleagues to support this measure. It will enhance the landmark's attributes for the enjoyment and education of local communities, the State of Arizona, and the Nation. By supporting this measure, we can help open this unique window of history through which we can study and learn about our rich heritage.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

EDDIE T. PEARSON BLACK HISTORY TRAILBLAZER

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mrs. MEEK of Florida. Mr. Speaker, I rise today to recognize a friend and educator, Mr. Eddie T. Pearson who has devoted over 25 years of leadership in the quest for educational and racial equality. During Black History Month, this Dade County public schools region VI superintendent was honored as a role model for youth. All too often, our youth's instruction regarding historical events is so far removed that any connection to their lives is lost. Honoring Eddie T. Pearson was one way of closing that distance in time.

After graduating from Tuskegee Institute's High School with outstanding academic and athletic accomplishments, Eddie continued his education at Tuskegee Institute. He gained great notoriety as a star football player and was recently inducted into the school's athletic hall of fame. Eddie was the first member of his family to obtain a post-secondary degree, but he did not stop at that milestone. He later received his master's degree from Florida Atlantic University and a specialist degree from the University of Florida.

At 26, Eddie T. Pearson was the youngest principal appointed by Dade County public schools and he was the first black individual appointed to head a primarily non-black student body—Homestead Middle School. This assignment helped to make Eddie an ambassador of race-relations. He created an educational environment so that everyone would be given the opportunity to excel. Eddie T. successfully designed and implemented a plan that provided for the full integration of the student population.

Having served 33 years as a member of the Dade County public school family, Eddie T. Pearson is indeed a role model for our times.

CHRISTOPHER RIES IS WORLD'S PREMIER GLASS SCULPTOR

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. MCDADE. Mr. Speaker, I rise today to honor the achievements of Christopher Ries, who is one of the world's premier glass sculptors. On March 24, the Everhart Museum in Scranton, PA, will present a retrospective of Mr. Ries' work called Glass and Light. This retrospective will showcase Mr. Ries' lifetime of effort to mold glass into works of art which capture and transform light in unique and beautiful ways.

As a student at the Ohio State University, Mr. Ries learned to appreciate the qualities of glass during course work in ceramics. He pursued this interest through studying glass engineering and by designing and building a glass studio at Ohio State.

The cofounder of the Modern Glass Movement, Harvey Littleton, was so impressed with Mr. Ries' work at Ohio State that he invited him to be his assistant at the University of Wisconsin at Madison. While subsequently pursuing his master of fine arts degree, Mr. Ries opened his own studio at Mineral Point, WI.

Mr. Ries began to achieve international acclaim after establishing a relationship with Schott Glass Technologies in Duryea, PA, which creates optical glass of optimum clarity and brilliance. In a unique partnership between artist and industry, Schott allowed Mr. Ries the use of its facilities in order to produce the world's largest crystal sculptures. In 1988, these magnificent pieces were exhibited in an exclusive showing at the Cincinnati Art Museum which, according to museum officials, was the most popular in the museum's history.

Mr. Ries presently maintains a studio in Tunkhannock, PA, where he continues to mold glass into beautiful works of art. It is a privilege for the 10th Congressional District to count Mr. Ries as a resident and I ask my colleagues to join me in honoring his contributions to the world of art.

ARMS CONTROL IS NOT PASSE

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Ms. FURSE. Mr. Speaker, I am submitting two excellent editorials to the CONGRESSIONAL RECORD that support adequate funding for the Arms Control and Disarmament Agency. These appeared in the March 5 Christian Science Monitor and the March 11 Oregonian.

ACDA is carrying out vital work as we move toward implementing START II, completing negotiations on a comprehensive test ban treaty, and ratifying the Chemical Weapons Convention.

Ridding the world of weapons of mass destruction is perhaps the most important thing we can do to advance the security of the world. I urge my colleagues to support a higher funding level for ACDA in the continuing resolution the next time it comes before us.

[From the Christian Science Monitor, Mar. 5, 1996]

FUND ARMS CONTROL

Some of the federal government's smallest agencies do some of its most important work.

One of them is the Arms Control and Disarmament Agency (ACDA), a tiny, 250-person department that conducts negotiations to limit and reduce nuclear, chemical, and biological weapons and verifies compliance with arms-control treaties.

ACDA has been whipsawed in the budget debate: First, it got caught in Sen. Jesse Helms' misguided attempt to eliminate it and two other foreign-affairs agencies and hand their work over to the State Department. That effort was defeated in the Senate, which passed a State Department authorization bill that includes funding for the other agencies.

But the upper chamber and the House of Representatives have not yet reconciled conflicting versions of the bill. So ACDA got caught in a continuing resolution that provides it with only 70 percent of the funding it had last fiscal year, and only 47 percent of the funding the administration asked for this year.

The resolution expires March 15, and ACDA needs an additional $8.7 million—for a final budget of $44.4 million—to do its job. ACDA Director John Holum has taken extreme measures to make sure his agency stays within the continuing-resolution funding.

He has slapped on a hiring freeze, halted use of consultants, banned overtime, put a hold on promotions, and restricted travel. Most vacancies are being left unfilled. Maintenance on ACDA's phones is limited to emergency repairs.

These measures have allowed the agency to hang on and, so far, fulfill most of its missions. But if Congress doesn't appropriate additional funding for after March 15, several of those missions will be in danger.

The agency has had to withdraw a key expert who is helping the United Nations ensure that Iraq's Sadaam Hussein doesn't develop nuclear, chemical, or biological weapons.

ACDA may not have the expertise it needs to complete negotiations on the treaty to ban nuclear testing.

The agency won't have the personnel to work on ratification of the Chemical Weapons Convention. It already doesn't have the money to send an expert to The Hague to work on inspection procedures that will be required when the accord kicks in.

It's not only silly, it's dangerous for Congress to appropriate money for B-2 bombers the Pentagon doesn't want and for an untested missile-defense program while at the same time starving the agency that ensures other countries abide by arms-control agreements. The extra money ACDA needs buys a lot of national security at a very low price. Congress should find the funds.

[From the Oregonian, Mar. 11, 1996]

KEEPING OUR NUCLEAR GUARD UP—CONGRESS SHOULD ADEQUATELY FUND U.S. ARMS CONTROL AGENCY TO COMBAT SPREAD OF CHEMICAL AND NUCLEAR WEAPONS TO TERRORISTS

Preventing the spread of weapons of mass destruction is a high priority for the Clinton administration and should be a concern of all Americans.

Here's why we should worry:

China stands accused of transferring nuclear-related technology to Pakistan. It refuses to halt its own tests of nuclear weapons. It is accused by U.S. arms negotiators of throwing up roadblocks in Geneva-based talks aimed at promulgating a global Comprehensive Test Ban Treaty. There are indications that China maintains an offensive biological weapons program in violation of international accords.

The Mayak nuclear complex in Russia is so secret that it didn't show up on maps during the Cold War. Enough plutonium is stored there to make 3,750 bombs. The site is protected by enough soldiers to fight a war. But inside, where 30 metric tons of plutonium are stored, security is so lax that it wouldn't take much effort for an errant worker to steal radioactive material.

The danger from within—that's the new nuclear nightmare. That's also why the U.S. Senate should ratify the Chemical Weapons Convention treaty, which not only makes chemical weapons illegal, but would make it illegal to stockpile them as well.

To protect Americans from these threats, Congress needs to spend an estimated $10 million to restore funding for the 250-person U.S. Arms Control and Disarmament Agency, which is the nation's most effective post-

Cold War watchdog. Temporary funding for the agency expires Friday. Indeed, the agency has been so strapped for money that when the chemical weapons treaty's inspection procedures were negotiated, agency experts were forced to stay home due to the lack of travel funds.

The central mission of the U.S. Arms Control and Disarmament Agency is to reduce nuclear stockpiles here and in Russia; to put an end to nuclear testing around the world; and to outlaw poison gas forever. The agency complements the work of the Pentagon by trying to remove the threats to national security through negotiated, verifiable agreements.

The nature of the nuclear threat has changed since the end of the Cold War. It is difficult to police or detect activity: Witness the mortifying prospect that as little as a kilogram of plutonium or weapon-grade uranium could fall into the hands of terrorists targeting U.S. cities.

The nation needs an adequately funded arms control agency to minimize these threats.

TRIBUTE TO THE CITY OF MIAMI'S UNSUNG HEROINES

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to join, once again, with the citizens of the city of Miami in honoring the 1996 Unsung Heroines. Each year the city of Miami Commission on the Status of Women commemorates National Women's History Month by recognizing and honoring women who care to share their time by helping others through volunteerism.

This year, I join the city of Miami in saluting the 1996 Unsung Heroines:

Marilyn S. Bloom—a retired preschool and elementary schoolteacher, who is also an enthusiastic advocate for senior citizens and intergenerational programming in Dade County.

Dr. Castell V. Bryant—an educator for over 30 years and currently the interim president of Miami Dade Community College—Wolfson Campus, Dr. Bryant has been deeply committed to programs that help instill pride, build self-esteem and improve family life for inner-city youth.

Doris Emerson—a dedicated volunteer and board member in the Girl Scouts, the Quaker religion, and in the fields of mental health and education.

Dr. Carmen Gonzalez—an untiring chef and creator of Feeding the Mind Foundation, a scholarship for battered women. Dr. Gonzalez has chaired numerous fundraisers for Camillus House, and has actively promoted "Extra Helpings" a program that supplies meals for the homeless.

Cindy Lerner—the codesigner of a program titled "Teenage Dating Violence: Intervention and Prevention," that provides curriculum and training for educating youths about the dynamics of domestic violence.

Dr. Ann Moliver Ruben—developed programs for Dade County teachers to help combat gender inequities, and has provided voluntary psychotherapy for rape victims.

Alvia Palmer-Michel—a volunteer at the Children's Home Society, a board member of Florida Legal Services, and a courageous and dedicated advocate for AIDS awareness. She has risen through personal struggles to offer comfort, education and hope to parents of children with AIDS.

Kathleen Sweeney and Denise Nerette—as members of the Haitian Task Force on Domestic Violence they have collaborated in promulgating domestic violence in Miami's Haitian Community.

Christina Zawisza—a child advocate and the founding member of the Florida Foster Care Review Project, who has dedicated her untiring efforts for children in need.

Marcela Viola—is the first unsung student to be honored. She attends Miami Beach Senior High School, and has dedicated time to helping children help themselves, while maintaining superior grade averages in advanced classes.

COPE Schools—Continuing Opportunities for Purposeful Education is the first program to be honored. The two schools, "North" and "South," through their dedicated principals, Dorothy Wallace and Dr. Williams Perry, have, through education, improved the quality of life to single teenage mothers and their children.

It is said that Miami is the only major city in the United States to have been created by the inspiration of a woman—Julia Tuttle. It is today that we honor women who follow that inspiration.

TRIBUTE TO MARGIE MONTES, PIO PICO WOMAN'S CLUB 1996 WOMAN OF THE YEAR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. TORRES. Mr. Speaker, it is with pride that I rise to pay tribute to Margie Montes, Pio Pico Woman's Club 1996 Woman of the Year. Mrs. Montes has earned this distinctive recognition through her active involvement in our community.

Mrs. Montes became an active member of our community at a very early age, participating in sports while attending Assumption Grammar School. Later, at Our Lady of Loretto High School, Margie began showing her leadership abilities as captain of the tennis team and as yearbook editor. When she graduated in 1979, she was awarded the Bank of America Award for Home Economics. Currently, she is an executive manager for Tupperware where she has received numerous awards of recognition for her performance.

Her contributions extend throughout our community. She is currently president of the Soroptimist of Pico Rivera, where she has also held the positions of first and second vice president. She is also a member of the Pico Rivera Chamber of Commerce, where she serves on the board of directors.

She has been a member of the Pio Pico Woman's Club since 1991. For the past 2 years, she has served as chairperson for the Pio Pico Woman's Club's annual Christmas with Santa Claus dinner, as well as chairperson for the international dinner and pasta nights. She has also chaired the Dessert Fashion Show. She has selflessly contributed her time above and beyond expectations to these events, making wreaths and arranging baskets as door prizes.

In addition to all of her contributions to our community through her membership in various organizations, Mrs. Montes is a loving mother and is as devoted to her family life as she is to her community.

Mrs. Montes has proven herself to be deserving of this award. I ask my colleagues to join me in congratulating this year's Pio Pico Woman's Club woman of the year, Margie Montes.

BEST OF LUCK TO COMDR. SEAN P. SULLIVAN

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. WATTS. Mr. Speaker, I rise today to recognize a truly outstanding naval officer, Comdr. Sean P. Sullivan, U.S. Navy, who has served with distinction as Deputy Director of the House of Representatives' Navy Legislative Liaison Office. It is a privilege for me to recognize his many outstanding achievements and commend him for the superb service he has provided to this legislative body and to our great Nation as a whole.

A native of Bridgeport, CT, Commander Sullivan received his commission from the U.S. Naval Academy in Annapolis, MD. He was commissioned as an ensign in May, 1980. Commander Sullivan then completed a rigorous nuclear propulsion training program and submarine officers basic course.

Following this initial training, Commander Sullivan reported to his first ship, U.S.S. *Plunger*, SSN–595. While on U.S.S. *Plunger*, Commander Sullivan served as reactor control assistant, main propulsion assistant, and weapons officer.

Completing a successful tour on U.S.S. *Plunger*, Commander Sullivan was selected to return to his alma mater, the U.S. Naval Academy, as a company officer. In this vital role, Commander Sullivan was charged with the training of our future naval officers.

All great naval officers can't wait to get back to sea and Commander Sullivan is no exception to that rule. Following his tour at the Naval Academy he reported to U.S.S. *Chicago*, SSN–721, where he served as the ship's engineer. While on U.S.S. *Chicago*, Commander Sullivan served in Operation Desert Shield and Desert Storm.

Completing his tour aboard U.S.S. *Chicago*, Commander Sullivan reported to the staff of Submarine Group 11 where he served as the squadron engineer. In May 1993, Commander Sullivan again returned to sea duty serving as the executive officer of U.S.S. *Maryland*, SSBN–738.

Due to his demonstrated sustained outstanding performance, Commander Sullivan was handpicked to report to his current job upon completion of his tour on U.S.S. *Maryland*. During his tenure at the Legislative Affairs Office, Commander Sullivan has provided the members of the House National Security Committee, our professional and personal staffs, as well as many of you seated here today, with superior support regarding Navy plans and programs. His valuable contributions have enabled Congress and the Department of the Navy to work closely together to ensure our naval forces are well equipped and superbly trained.

Mr. Speaker, Sean Sullivan, his wife Sharon, and their four children, Amy, Casey, Kelly, and Maxwell, have made many sacrifices during his 16-year-naval career. Serving on three submarines, he has spent a significant amount of time underway away from his family. We are all deeply in debt to the contributions of great Americans such as Commander Sullivan to ensure the freedom we all cherish.

As Commander Sullivan now prepares to return to sea yet again, this time as captain of his own submarine, I call upon my colleagues from both sides of the aisle to wish him every success as well as fair winds and following seas.

AMBASSADOR FERRARO RECOGNIZES INTERNATIONAL WOMEN'S DAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mrs. SCHROEDER. Mr. Speaker, on March 8, 1996, Ambassador Geraldine Ferraro, head of the U.S. delegation to the United Nations Human Rights Commission, spoke eloquently about International Women's Day. Ambassador Ferraro recognized the many high-ranking women in our Government who perform outstanding service on behalf of human rights all over the world. She spoke at length about the many human rights violations that women still face, in spite of our best efforts. I would like to have her remarks included in the RECORD.

AMBASSADOR GERALDINE FERRARO, HEAD OF U.S. DELEGATION, UNITED NATIONS HUMAN RIGHTS COMMISSION, ON THE OCCASION OF INTERNATIONAL WOMEN'S DAY, MARCH 8, 1996

Thank you so much, Tim, for that kind introduction. It is a great honor for me to be here today on the occasion of International Women's Day with so many friends and former colleagues and to have the chance to speak with you about women and human rights and the essential role they both play in our efforts to fashion a new and better world for those who follow us.

Before I begin, however, I want you to know that you have chosen some of my favorite people to honor today, Mr. Secretary. I am pleased, but not surprised, because each of them has been at the forefront of the struggle to protect the rights of women, each of them fought for the rights of children, the poor, the disabled and the disenfranchised at home before coming to Washington. So moving into the arena of international human rights has been a natural progression for them.

These are women who are not afraid to stand up for the cases they believe in. Indeed, the desire to fight for such beliefs was why they ran for public office in the first place.

But many run and only a few win. What we see here are women who have helped make history, each in her own way, women who overcame the obstacles others so often put in their path. Together, they prove that it is not just possible for women of principle to lead, but that the public will support them when they do.

This, them, is change. And change is what this administration has achieved, both with regard to women and to human rights. You know and I know that this has not been easy. But change is taking place. There are more women at the highest levels of our Government now than ever before, demonstrating their competence, day in, day out, proving their value to the country and to the world—no nonsense women like Madeleine Albright. I don't know how many of you saw her on television the other day, when the Cubans were trying to explain how shooting down unarmed planes in international waters was somehow an act of courage. Madeleine let the world know exactly what she thought of their so-called machismo, and she called it, what it was in plain English, as well as in Spanish. Yes, Madeleine has been a most articulate spokesperson for this country no matter what the issue.

And, of course, there's Donna Shalala, Janet Reno and Hazel O'Leary, handling complex Cabinet portfolios with skill and determination. And here in the State Department: Robin Raphel is doing an excellent job with India and Pakistan; Tony Verstandig is making real contributions to the Middle East Peace Process; Melinda Kimble, proved herself a leader at the Beijing Women's Conference; and Nancy Ely-Raphel made a vital contribution to the success of the Vienna conference and more recently the Dayton accords. Both Lynn Davis and Joan Spero are among the Secretary's most trusted advisors, while Phyllis Oakley has been a pillar of strength on refugee issues. And Pru Bushnell has shown enormous leadership on African issues.

There are many more of you who also deserve to be recognized as well, women who stand in the trenches of government and do battle every day for the things we believe in. Because we don't have just a handful of exceptional women in Government any more; we've got thousands of them. In every office in every department and agency in this Government, there are women making believers of those who doubted them before. This is change.

It's a measure of your achievement that this change is, I believe, irreversible.

That doesn't mean that I think the battle to ensure women's rights is over in this country, that women have achieved equality in the workplace and in their paychecks. That doesn't mean that we have put an end to sexual harassment, that we are free to walk our streets at night, or that the fear of violence no longer haunts the daily lives of millions. Nor does it mean that those who would turn us against each other, pitting those who stay at home to raise their children against those who go to work, have suddenly seen the light. It doesn't mean that the glass ceiling is shattered or that every deadbeat dad is paying for his children now. It doesn't even mean that we, as a society, understand what it takes to be a woman today, what it means to walk a tightrope between family and the work place, at a time when so much is changing and yet so little.

No, but I'm optimistic because there is a course to history. How many women worked here in the State Department a generation ago—not just in secretarial positions—women have always filled those spots—but as analysts, office directors, desk officers? There was Eleanor Dulles, a specialist in German affairs—whose brother just happened to be Secretary of State—and who else? Not many. Look at your numbers now. Who among you thinks we're ever going back?

I'm optimistic about the future because I am convinced that the doors of opportunity which we have opened will never again be closed. The gains we have achieved will be built on—not only in the State Department, but in Congress and in the State legislatures, on Wall Street and in Silicone Valley, in the boardrooms, the newsrooms and the classrooms of our great universities, in the science labs and in space and wherever the next chapters of our history are being written.

It will be tough. Every step of the way will be contested. Power is always contested.

But I'm optimistic for another reason. In 1984, when I was running for Vice President, the campaign had me shy away from emphasizing women's issues. I didn't have to prove to anyone where I stood on equity for women. I had to convince "the guys" that I had the courage and the intelligence to run the country. But it didn't make sense. How can a woman not address the needs of women? And so in late October, right before the election, I gave my one and only women's speech, It addressed every issue we care about and have fought for over the last dozen years. I was concerned that somehow the message would be lost if we didn't bring in the other half of the population, and so I said: "I am not only speaking to women here tonight. Every man is diminished when his daughter is denied a fair chance; every son is a victim when his mother is denied fair pay."

Those are the same points we make when we discuss women's rights as human rights as the First Lady did so eloquently in Beijing. Allowing women full participation in society benefits not just them, but society as a whole.

Many of you participated in one way or another to the effort which made the Beijing Women's Conference such a success. I was privileged to be part of the delegation. It was one of the most fascinating and exhilarating events I've ever attended. The platform for action we adopted commits the nations of the world to halting violence against women, protecting their rights to free speech, health and education, and establishing a higher standard of respect for women's rights than ever before in history.

This, in itself, is quite an achievement. But I don't think that we will have done our job until the standard we set is met—and not just in America, but everywhere. And that will take a lot of work on the part of all of us who care about women and human rights. For we all know how easy it is for some nations to agree to international standards one moment then forget them entirely the next. So will it be with the Beijing platform if you and I relax or focus too narrowly on ourselves.

It is the special fate of America to be the particular champion of human liberty. It is not always an easy burden to live with. Whether we like it or not, the hopes of millions and millions of people across the world rest on our shoulders. And we know why: When the rest of the world has proven itself incapable of unwilling to lead, the United States has accepted the challenge.

It took two generations of sacrifice to win the cold war and bring the blessings of liberty and freedom to a hundred million people. And now, in Bosnia, in Haiti and in the

Middle East, the eyes of the victims are turned to Washington again. There are jobs which only we can do. Not that we can do them all, or that we can always do them by ourselves. But the fact is, we are different; we are a catalyst. When we act, others follow.

So it is with human rights. The United States has been leading for over two hundred years. That's as it should be. Leadership in human rights is a burden we embrace in this building, in this administration, and in hundreds of private institutions and organizations throughout the country.

That's why I'm looking forward to heading back to Geneva next week for the meeting of the U.N. Human Rights Commission. There will be a lot on our plate there—China, Bosnia, Cuba and the Middle East. But despite all that, you can be sure that no delegation is going to be more active in the defense of women's rights than we will.

Human rights are universal, but they're also American through and through. They're as old as the Declaration of Independence, as new as this week's human rights reports. Despite our lapses, our institutions and policies are grounded in a genuine belief that the rights and freedoms we cherish belong to everyone. And that gives us a strength most other nations lack.

That is why I think that ultimately our views on human rights will prevail throughout the world. One day the standard we first set in our own institutions and then helped establish in the international arena will become the one by which all countries judge themselves.

Our job, then, is to take that voice and amplify it, to use the power of our institutions and the strength of our people, people like you to hold the nations of the world—our own included—accountable to the standards we have set for ourselves so many times—whether in the Bill of Rights, the U.N. Charter or the Universal Declaration of Human Rights—or more recently in the Vienna declaration, the Beijing platform and our 1996 human rights reports.

Of course, some governments won't be disseminating our reports this week. They'll be doing their best to silence them. They may succeed in the short term. They may jam the Voice of America. They may censor their newspapers, lock their dissidents in distant jails. They may oppose us at the United Nations and at the Human Rights Commission. They may bluster and rage and obfuscate. But time is no longer on their side. Eventually, with modern telecommunications the truth will find its way to even the most remote outpost of injustice. They are going to find it impossible to kill ideas which just won't die, ideas like freedom, justice and equality.

We only have to look at Bosnia or Baghdad, to Cuba or Chechnya or the desperate refugee camps in Sudan, Tanzania and Zaire to see how far we have to go. For if women's rights are human rights and human rights are universal—and all the nations of the world have agreed they are—there must come a time when the respect for these rights becomes universal, too. There must come a time when words become deeds, not just in America, but in every hut and every home in every land.

Yes, I think that time will come. It may not be in my lifetime, but it will come. There will be a time when the women of the world won't need to petition the powerful for protection, when "poor" and "defenseless" won't be names we give to half a billion women. There'll be a time when girls are not left to starve upon a hillside because they were not born boys; when their genitals are not mutilated to please some cruel, outdated custom; when they are not violated in the name of ethnic cleansing; when girls are not sold into prostitution out of financial desperation; when they are not burned because their dowries are too small or their husbands died before them.

There will be a time when women will not be either the victims or the cause of overpopulation; when they will not bear eight children in the hope that three may live; when they are not forced into early marriage; when they will not lack the education they need to become productive citizens.

There will be a time when refugee women will not sell themselves for food; when they will not be raped by marauding soldiers; when they will not be terrorized because they come from the wrong group or the wrong city or because they chose the wrong time to gather firewood to cook the family meal.

Yes, there will be a time for all of that. There'll be a time when the women of America can walk the streets of our cities and not know fear. There'll be a time when the life of a ghetto girl will mean as much as one in the wealthy suburbs; when comparable work will mean comparable pay; and when we can look out across any meeting room in any county of this country and see as many women there as men.

But that is some time off. Until then, violence against women will remain a thread that knits the world's rich and poor together. No nation is immune. This is not a problem of the developed or developing world. It is not African or Asian or American alone. It is universal. It is our problem; it is every nation's problem, and so it will remain until women take their rightful place alongside men, in all strata and at all levels of society. For violence is a reflection of second-class status.

And so as I look around me here and see so many examples of what this country can produce when it nurtures its girls as well as boys, I can't help but feel pride that we women have begun to force history to march forward. But time has caught us in mid-step. Our work, the work of everybody here today—men and women—is but half-done.

And yet I cannot think of a more exciting time to be alive. There is so much to do and so many talented people like you to do it. Women, not just here in America, but everywhere, are on the move, brushing aside the obstacles, defending our interests, our families and our values. Women's rights are human rights.

It's been a long time in coming, but I can feel the sweep of history now. It's in this room and in this country. And it won't stop here. One day the pulse of freedom and human dignity will beat in every woman's heart, not just in America, and not just on International Women's Day, but in every village and in every nation of the world every day of the year. It may not happen soon, but I know that with all of us working together, its time is sure to come.

COMMUNITY ACTION OF GREATER INDIANAPOLIS, INC.

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. ANDREWS. Mr. Speaker, we always hunger for good news. The following should be a very fine meal in this respect.

COMMUNITY ACTION OF GREATER INDIANAPOLIS, INC.

To: Thomas L. Haskett, State Program Director

From: Nanci Morris, Foster Grandparent Program Coordinator, Community Action of Greater Indianapolis

Re: Impact, Meeting Community Needs

To address community needs, three priority areas have been targeted for Community Action's Foster Grandparent Program services: (1) special needs children in public schools, (2) children in homeless shelters, and (3) neglected and abused children in temporary homes and shelters.

1. SPECIAL NEEDS CHILDREN IN PUBLIC SCHOOLS

Dramatic increases have occurred in the number of mildly-to-severely disabled children enrolled in 19 elementary schools of the Indianapolis Public Schools (IPS) that have been designated for mainstreaming these children. Budget cutbacks have not allowed for all classrooms with special needs children to have teacher's aides. Severely disabled children are assigned 8 to a classroom with 1 teacher and 1 aide, and moderately-to-mildly disabled are assigned 10–14 per classroom with 1 teacher and sometimes 1 aide. Thus, 8 schools with classrooms having no aides or not enough aides to adequately address the children's special needs have been selected as priorities for this Foster Grandparent Program's placements by the IPS Programs for Young Children, Special Education Department.

2. CHILDREN IN HOMELESS SHELTERS

The increase in children throughout the nation living without a permanent address has made serving homeless children a priority for all Foster Grandparent Programs as presented at the recent Foster Grandparent Conference in Washington, D.C. A survey conducted last fall indicated that there were at least 824 homeless children under age 15 in Indianapolis. Thus, serving homeless children has been identified as a community need for Community Action's Foster Grandparent Program. Program volunteers are placed at 6 of Indianapolis' seven homeless shelters serving families with children.

3. NEGLECTED AND ABUSED CHILDREN IN TEMPORARY HOMES AND SHELTERS

Reported child abuse in Indianapolis has risen 150 percent during the past 2 years. A decrease in the number of neglected, abused, sexually abused, abandoned, fetal alcohol syndrome, emotionally disturbed/disabled, and "crack" children is not anticipated for the foreseeable future. Funding for homes and shelters to serve these children have not increased accordingly. Thus, 7 shelters for abused children have been selected for Community Action Foster Grandparent services.

IMPACT ON COMMUNITY NEEDS

At the end of the 1994–95 school year, children assigned to Foster Grandparents were tested and assigned to summer school for additional assistance as needed. To our knowledge, only three students assigned to Foster Grandparents were not promoted. The rest were able to keep up with their classmates after receiving the intervention of one-on-one Foster Grandparent instruction during the school year and summer school.

In addition to there being too few available, homeless shelters for families with children in Indianapolis are understaffed. There is a need for Foster Grandparent intervention during the parents' busiest hours (mornings) as they seek jobs and attend to other business. The one-on-one attention provided by the Grandparents eases the trauma and provides a sense of stability through loving and meaningful interaction for these children. Foster Grandparents help fit the children in suitable clothing in addition to helping provide for other physical needs. The parents enjoy guidance and support from the volunteers as well. Additionally, the shelter employees benefit in the traditional ways from the Grandparents' assistance. Consequently, the whole atmosphere of a shelter improves when a Foster Grandparent is around.

The staffs of homes and shelters for neglected and abused children alone can not adequately provide the level of attention needed there, particularly by the babies and small children. The maturity, stability, and love Foster Grandparents provide help the children respond in ways that would likely not be possible otherwise.

IMPACT ON THE VOLUNTEER

Many Community Action Foster Grandparent volunteers have worked with special needs children in the IPS system for years and continue to maintain regular contact with many of their former students. Having witnessed the progress these children have made, the Grandparents benefit from the abounding satisfaction they feel from having been a part of each child's paths to success. The Grandparents are encouraged and allowed by IPS to be creative, and the teachers gladly seek advice and new ideas from the Grandparents. A good example of this creativity at work was when children living in a homeless shelter were often teased by their school classmates. "Grandma" started a grooming session whereby the special needs children met her before school. She would check them over for tidiness, give them a pep talk, and then give them a liberal spray of after shave lotion or perfume as a reminder that she was with them all day. This soon caught on, and other children who weren't homeless sought out Grandma for some reassurance and a sweet smell. Thus, the Grandparents are rewarded in the best possible way for being creative. Additionally, each of the Grandparents is taught how to operate school office equipment such as the duplicator, copiers, and calculators. The children often assist the Grandparent in copying and preparing papers for the next day's work, honing skills and providing satisfaction for both. One school even offers computer literacy classes to the Grandparents.

Many of the Grandparents live near the shelters they serve. They know first-hand about the situations faced by the families as they starting over. Being able to offer the single parent support, guidance, and encouragement to "hold your head up" in the face of diversity and loneliness, inspires the Grandparent and develops a sense of independence and self-worth for both parties.

Of course ultimate personal satisfaction comes when the family is ready to leave the shelter and thanks the Grandparent wholeheartedly for the time, advice, and loving attention given to the children at their time of need.

Reward likewise abounds for the Foster Grandparents who serve neglected and abused children. The sense of self-worth derived from these programs is priceless for the Grandparents.

IMPACT ON THIS AGENCY:

Foster Grandparents are highly valued by the school system, and thus a positive image of Community Action is presented to the agencies served as well as to the community at large. The Foster Grandparent Program enables Community Action to have significant contact with youth before they become teens and reject adult guidance. Grandparents are also able to refer children and their parents and alert agency personnel to the array of other Community Action programs available to meet diverse needs.

One example is Community Action's certified housing counseling program that includes a strong homeless assistance component. Foster Grandparents remind shelter workers to call upon this Community Action program for additional, on-going assistance to families as needed.

Community Action, the volunteer stations, and most importantly the people they serve benefit from cooperative relationships built through the Foster Grandparent Program.

REMARKS HONORING HUGH MILLER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of the Young Leadership Committee of the New York chapter of the Juvenile Diabetes Foundation, as they hold their seventh annual masked ball honoring Hugh Miller. Known as an astute businessman in the world of finance, Mr. Miller is president and CEO the Delta Funding Corp., a company dealing primarily with the origination, purchase, and servicing of nonconforming residential mortgage loans. Indeed, the industry has looked to Mr. Miller for leadership, and he has served in that capacity as a representative of the National Home Equity Mortgage Association, National Mortgage Brokers Association, Executive Enterprises, American Community Bankers, Information Management Network, and Mortgage Bankers Association of America.

Yet despite the ongoing demands on his time and talents, Hugh Miller has vigorously and effectively undertaken a myriad of social responsibilities. Many diverse organizations including the National Kidney Foundation, Police Conference of New York and Nassau County, DARE, the American Cancer Society, the Leukemia Society of America, Hofstra University Scholarship Funds, and the Huntington's Disease Society of America have greatly benefited from his service. His experience in this regard has emerged as a yardstick by which all such future dedication is measured. Furthermore, in conjunction with the Interfaith Nutritional Network, Delta Funding has created the Delta Funding Inn, which caters to the needs of disadvantaged youths.

Mr. Speaker, in a time when we search for heroes and leaders, it is most reassuring to know that people such as Hugh Miller are tirelessly striving for the betterment of society. I ask my colleagues to join me in honoring Hugh Miller for his constant dedication in the regard.

METHAMPHETAMINE CONTROL ACT OF 1996

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to introduce legislation which will be a powerful tool in the fight against methamphetamine production and usage in our country.

The production and usage of methamphetamine, also known as meth, speed, crank, or ice, in the United States has grown alarmingly over the last several years. Meth has accounted for a dramatic escalation in the number of overdoses, emergency hospital admissions, drug shootings, and related violence in America's largest western cities and rural areas. Meth has unfortunately become the crack of the 1990's.

Meth causes psychotic and violent reactions in its users because it interferes with the brain's production of the natural chemical dopamine which plays an important role in governing movement, thought, and emotion. Users can go on binges which last as long as 24 hours and result in permanent psychological and physical injury. While most users are young males, meth has inevitably affected the very young. In fact, a generation of meth-addicted crank babies requiring constant care is rapidly filling our Nation's hospitals. These babies appear comatose, often sleeping 24 hours a day. Caretakers are forced to wake them in order to feed them, forcing their mouths open to accept nourishment.

Meth-related deaths increased nationally by 145 percent between 1992 and 1994. In California, which has been identified by the Drug Enforcement Administration as a source country of methamphetamine, more than 400 deaths and suicides have been blamed on meth use. Other States have reported similar record numbers.

Meth production also poses severe environmental problems. It literally poisons the communities where it is produced. For every pound of meth that is produced, seven gallons of waste are also produced. A record 465 meth labs were seized in California in 1995, each a toxic waste site requiring immediate and expensive cleanup by hazardous materials teams. In rural areas, this waste is dumped into waterways and on to fertile farming soil. In 5 to 10 years, this poisonous sludge is found in the ground water of nearby communities. In urban areas, abandoned meth labs in apartment buildings make these units and buildings virtually uninhabitable.

This bill is a straightforward solution to the problems created by meth production and usage. First, the bill establishes new controls over the key chemicals necessary to manufacture meth by forcing chemical supply houses to control more strictly the sale of the legal substances which are the precursor chemicals of methamphetamine. Second, the bill increases the criminal sentences for possession and distribution of these chemicals or of the specialized equipment used to make meth. Civil penalties collected will be used by the Environmental Protection Agency to clean up clandestine meth labs seized by law enforcement.

The problems posed by meth are real. This highly addictive drug is cheap, readily available, and easy to manufacture. By more closely regulating the raw materials used to manufacture methamphetamine and by strengthening the criminal penalties for possession of key chemicals and meth paraphernalia, this bill will be an excellent tool in the war against the crank cartels.

TRIBUTE TO GEOFF PIETSCH AND CARLOS BARQUIN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to give my congratulations to two remarkable individuals, Geoff Pietsch and Carlos Barquin, who have used their great skills and exceptional dedication in order to bring their respective cross-country teams, Ransom Everglades School and Belen Jesuit Preparatory School, to State victories in Class 4A and Class 3A.

Coach Carlos Barquin, who has been coaching Belen's boy's cross-country for the last 26 seasons, was finally able to feel the joy of victory when his Wolverines took home the school's first State title in any sport, winning the Class 4A race at the State championships with 75 points.

Coach Geoff Pietsch also has had much to cheer about with his boys cross-country team at Ransom Everglades as he watched them capture first place with 71 points and as they went on to win their fourth State title.

Both Belen Jesuit Preparatory and Ransom Everglades are Dade County Schools whose coaches and students exhibited the importance of good coaching, excellent team effort, the skills to go ahead and the drive to be No. 1. Coaches Pietsch and Barquin are exceptional individuals who have dedicated their lives to not only teaching their students how to win, but have also shown that team effort and individual dedication are the key to ultimate success. They were both recognized as Florida Coach of the Year for their respective divisions.

I congratulate both coaches on their great work and dedication and I hope that they will continue to keep up the exceptional work in the future as they have done in the past. They are both truly a fine example to all of us.

COMMENDING THE BROOKLYN IRISH-AMERICAN PARADE COMMITTEE ON ITS 21ST ANNUAL PARADE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. SCHUMER. Mr. Speaker, I rise today to honor the Brooklyn Irish Parade Committee by including a draft resolution into the CONGRESSIONAL RECORD.

DRAFT OF PROCLAMATION/LEGISLATIVE RESOLUTION

COMMENDING THE BROOKLYN IRISH-AMERICAN PARADE COMMITTEE ON ITS 21ST ANNUAL PARADE

Whereas, The Brooklyn Irish-American Parade reflects and records the ongoing history of the United States and Ireland, our people, their heritage and the many contributions and accomplishments of the Irish to their Community, Borough, City, State and Nation; and

Whereas, This parade encourages an appreciation of an ancient Irish heritage; and

Whereas, This event is a celebration of Brooklyn's cultural diversity and richness; and

Whereas, This Parade takes place on the historic site of the Battle of Brooklyn, August 27, 1776 in which Irish Freedom Fighters and Americans of other ethnic cultures gave their lives to secure Independence for our America; and

Whereas, The Spirit of '76 was, and still is, the ideal of the Brooklyn Irish-American Parade, this year the Parade Committee and it's officers take particular note and recall the bicentennial of the United Irishman leader, Wolf Tone's invasion of Bantry Bay in West Cork and the prospects for peace in a United Ireland; and

Whereas, The people of Ireland and America have always shared a common heritage in the struggle of free men and women to govern their own affairs and determine their own destiny; and

Whereas, Despite religious persecution, famine, colonial occupation and political oppression, the sons and daughters of Ireland, scattered throughout the world, never forget their ancestral home; and

Whereas, This parade is dedicated to the memory of Eddie Farrell of Farrell's Bar, well-known Brooklyn Irish-American Businessman, benefactor of numerous charitable causes and long time supporter of the Brooklyn Irish-American Parade; and

Whereas, This year's Grand Marshal is Patrick D. Brennan, Deputy Chief, New York City Police Department, a life long resident of Our Lady of Perpetual Help Parish, Bay Ridge, Brooklyn and a native of County Mayo, Ireland, his wife Monica and their six children: Maureen, Tara, Martin, Dermott, John and Patrick, now therefore, be it

Resolved, That this Legislative Body/Office pause in its deliberations to commend the Brooklyn Irish-American Parade Committee on its 21st Anniversary Parade to be held on Sunday, March seventeenth, nineteen hundred ninety six; its Grand Marshal, Patrick D. Brennan, Deputy Chief, New York City Police Department and his Aides, Sister Kathleen Sullivan, (Education) Principal of St. Francis Xavier School; Christopher Byrne (Irish Culture) of "Black 47" Band; Seamus Lang (Business) of Bear Stearns; Catherine Mitchell-Miceli (United Irish Counties); Sean Egan (Gaelic Sports) of Brooklyn Shamrocks Football Club; Kay O'Keeffe (Ladies A.O.H. Kings County Board); Matthew Kehoe of Kings County Ancient Order of Hibernians and Parade Chairperson: Kathleen McDonagh; Dance Chairperson: Peggy Lynaugh; Journal Chairperson: James McDonagh; Parade Officers and Members and all the citizens of Brooklyñ, participating in this important and memorable cultural and civic event; and be it further

Resolved, That copies of this Resolution, suitable engrossed, be transmitted to Patrick D. Brennan, his Aides and the Brooklyn Irish-American Parade Committee in Brooklyn.

LESSONS FROM JAPAN: EMPLOYMENT FIRST

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. STARK. Mr. Speaker, they say Japan learned about quality and modern manufacturing from the United States, but we clearly have things we should learn from Japan about how to create a sense of society and community.

The following column by Thomas Friedman from the New York Times of February 25 explains how Japan avoids the job massacres that mar American businesses so often and so casually.

[From the New York Times, Feb. 25, 1996]

JAPAN INC. REVISITED

(By Thomas L. Friedman)

TOKYO.—I found the source of our trade problems with Japan.

I went shopping at the Mitsukoshi Department Store, the Bloomingdale's of Tokyo, and when I walked in the front door I counted 14 sales clerks in the jewelry department alone. They bowed politely and offered to help with any purchases. The American in me immediately said: "What a waste of labor! Who needs 14 sales clerks? This store needs downsizing immediately!" But that is not the Japanese instinct. And that's one reason why we have a structural trade deficit with Japan.

Let me explain: Unlike the U.S. or Western Europe, Japan long ago decided that is top priority was not to have the lowest prices for its consumers, not to have the highest dividends for its corporate shareholders, but to keep as many of its people (particularly the men) employed in decent paying jobs—preferably for a lifetime with the same firm. The Japanese understand that a job gives dignity and stability to people's lives and pays off in much greater social harmony. Just walk the streets of Tokyo: few homeless sleeping on grates, no muggers lurking in the shadows.

But to maintain such high levels of employment, to keep 14 clerks behund one store counter, Japan basically had to fix the game. Japan had to regulate its economy in a way that would protect its domestic companies from foreign competition, by controlling access to is markets. That way Japanese companies could maintain a duel price system. They could charge high prices at home, in a protected market, in order to maintain full employment, while charging lower prices abroad in order to get into everyone else's market and export like crazy. That is why those who think that Japan's trade barriers will easily give way, or that is economy will be "deregulated" as its Prime Minister keeps promising, are fooling themselves.

Many economists argue that in an integrated global economy, Japan will have to become more like America. Its corporations will have to cut costs and downsize to remain globally competitive. Maybe. But for now, the Japanese are resisting that. Despite five years of zero growth, Japan still has only 3.2 percent unemployment. The sort of job massacres that have become the norm in America—like 40,000 workers at AT&T in one chop—have been unheard of here. "I am sure that eventually we will be somewhat forced to think American, but we are moving very slowly in that direction," says Yotaro Kobayashi, the chairman of Fuji Xeros. "For social and moral reasons, we will try to avoid going all the way to a U.S. model. We will look for a middle ground."

How? In part it will be by trying to maintain hidden trade barriers. But in part it will be by trying to maintain Japan's unique corporate values. For Japanese executives, says Glen Fukushima, vice president of the American Chamber of Commerce in Japan, "laying off employees is the last option they look for, not the first." And far from being rewarded for layoffs, corporate executives here are censured for them, by both peers and the press. The first priority of a Japanese company is its employees, then come its customers and last its shareholders—just the opposite of the U.S. corporate mentality.

Instead of ordering massive layoffs, Japanese companies cut overtime, they freeze the hiring of college grads, they freeze dividends, they offer early retirement packages, they shift workers to subsidiary companies, they shift low-skilled jobs to cheaper labor markets in Asia and keep the best jobs here, they inhibit mergers and acquisitions that lead to layoffs, they buy up U.S. high-tech companies to maintain the competitive edge that their own regulated economy sometimes stifles and the even (are you ready?) order pay cuts for top executives—anything but lay off people.

That's why Pat Buchanan is only partly right. Yes, American workers are being hurt by unfair trade barriers erected by some foreign countries, including Japan, and the U.S. should fight hard to bring those barriers down. But U.S. workers are being hurt just as much, if not more, by the skewed sense of priorities that now dominates the U.S. business community, where executives get bonuses for massacring their employees. Maybe the economists are right. The Japanese will have to become like us. But they are sure trying not to, and its' worth watching to see if the they can pull it off. This is one economic war I'm rooting for Japan to win.

AMERICA'S YOUNG LEADERS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. WALKER. Mr. Speaker, "Why can't Johnny * * *" This question is one of the most often posed to parents, educators and policymakers. It strikes at the heart of the performance of the American education system. Sometimes the answers aren't what Americans want to hear.

The Westinghouse Foundation, the philanthropic arm of Westinghouse Electric Corp., however, is the bearer of good news about our Nation's schools. Not only is Johnny learning, he/she is excelling in math and science.

For the 55th year, the Westinghouse Foundation, in partnership with Science Service Inc., is recognizing America's best and brightest young scholars by awarding the most prestigious and coveted high school scholarships the Nation has to offer in math and science.

This year, the Westinghouse Science Talent Search has selected 15 young women and 25 young men from across the Nation as finalists in the national competition. These outstanding young Americans are in Washington this week and as finalists join the ranks of the Nation's most eminent scientists.

For thousands of students who dream of careers in science, the Westinghouse competition has helped make those dreams come true. Since 1942, this nationwide competition has identified and encouraged high school seniors to pursue careers in science, mathematics, or engineering. This year's competition included almost 2,000 high school seniors from 735 high schools located throughout the 50 States, the District of Columbia, and Puerto Rico. Their independent science research project entries covered the full spectrum of scientific inquiry, from biology to solid state luminescence.

Since the scholarship search program was founded 55 years ago, 113,000 young men and women have entered the competition.

Half of the winners from previous years are today teaching or conducting scientific research programs. They hold five Nobel Prizes, two Field Medals in mathematics, three National Medals of Science, and nine MacArthur Foundation Fellowships. The alumni include 56 Sloan Research Fellows and 30 members of the National Academy of Sciences. In all, Westinghouse Science Talent Search alumni hold more than 100 of the world's most coveted science and math awards and honors.

There's much going on in Washington these days, but the presence here of these young Americans who represent the finest scholars our secondary schools have produced, should not go unnoticed or unheralded. They are here with their research projects which are on display in the Great Hall of the National Academy of Sciences, so that we can see first hand the kind of work being done at the high school level.

Often times those of us in Congress can contribute more to quality education by simply calling public attention to outstanding work achievements beyond the walls of the Federal Government, than by casting our votes on the floor.

The Westinghouse Science Talent Search is just one example of the private sector taking a lead role in initiating programs to meet the many serious challenges facing the next generation of American leaders. These most prestigious science awards have been around for more than half a century, but their luster and impact on young students has not diminished. The opposite is true. They have motivated students, encouraged scholarship, and inspired scientific excellence. That is what we want American education to be.

The time I have served on the House Science Committee has impressed upon me the tremendous challenges we, as a nation, face in the fields of science and mathematics. These years also have taught me the futility of too much dependence upon Government alone to meet those challenges. Government can be a motivator, a facilitator and an inspiration, but it can never do all we need to do.

So I salute the young high school students in Washington this week and I hope this city, with a plate full of legislation, politics, controversy, and consternation, will take a moment to join in that salute and urge them on to greater heights of individual achievement and excellence.

This year's Westinghouse Science Talent Search finalists are among 1,869 high school seniors from 735 high schools located throughout the 50 States, the District of Columbia, and Puerto Rico. The research completed by the finalists is on the level of that performed by college graduate school students, even though the authors range in age from only 16 to 18.

THE 25TH ANNIVERSARY OF CHILDREN'S HOSPITAL OF PITTSBURGH'S MR. YUK POISON PREVENTION PROGRAM

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to an important member of the public health community who celebrates a 25th anniversary this month. Since his arrival in 1971, Mr. Yuk has served an important symbol in preventing child poisonings. His green grimace is a familiar reminder to children and adults alike that many common household goods can be deadly if ingested. His important contribution to the effort to reduce childhood poisonings deserves special notice this month, as March is National Poison Prevention Month.

Mr. Yuk was developed under the direction of Richard Garber, former director of the Institute of Education Communication at Children's Hospital of Pittsburgh. In the effort to replace the traditional skull and crossbones symbol—it had become associated with swashbuckling pirates and buccaneers rather than with harmful substances—the fluorescent green and black face was determined to be the most revolting to children.

Mr. Yuk and the Pittsburgh Poison Center comprise the first and largest poison prevention awareness program in the Nation. In the 25 years that Mr. Yuk has been around, over 650 million Mr. Yuk poison prevention stickers have been distributed to households across the United States and the United Kingdom. This year, Reykjavik, Iceland joined the Mr. Yuk poison prevention program as part of its effort to reduce the incidence of childhood poisonings.

The Pittsburgh Poison Center, affiliated with the Children's Hospital of Pittsburgh, has grown from a small, local initiative in 1971 to a major center—one of only 42 certified regional poison information centers in the United States—that responds to 140,000 calls per year, of which 40,000 are actually poison emergencies. The center is open 24 hours a day and employs registered nurses who are clinical toxicologists and certified specialists to provide lifesaving poison information to residents of Western Pennsylvania. Research shows that 90.4 percent of all poisonings occur in the home and 54 percent of all human exposures in 1994 occurred in children under 6 years of age. Since Mr. Yuk's arrival, the number of poison-related deaths has dropped in Allegheny County, PA; from between three and five per year to between one and two.

Mr. Speaker, I hope that my colleagues will join me in recognizing the critically important work of the dedicated staffs at poison centers across the country in preventing illness, injury, and death from poisonous substances. I also wish a happy 25th anniversary to Mr. Yuk and the Pittsburgh Poison Center and urge that, as a nation, we continue to support successful and cost-effective public health programs like the Pittsburgh Poison Center's Mr. Yuk Program.

TRIBUTE TO THE LATE MORTON GOULD

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. HOKE. Mr. Speaker, a few weeks ago America lost one of its most celebrated musicians. I am speaking of Morton Gould—a man whose entire life was dedicated to enriching the lives of those around him. Anyone who has attended a Gould-conducted concert, or has heard his works performed knows the power of his music. From classical orchestral movements to rap arrangements, Mr. Gould's work was particularly American—making use of jazz, blues, spirituals, and folk music.

A musical genius, Mr. Gould published his first work "Just Six" at the age of 6. As a teenager, he played the piano for the 1932 opening of Radio City Music Hall. As an adult, he continued to thrill audiences with his work. Mr. Gould joined the American Society for Composers, Authors, and Publishers in 1935, and served as that body's distinguished president from 1986 to 1994. A tireless advocate for new American composers, he constantly sought opportunities to showcase their work. As a conductor, Mr. Gould led countless orchestras throughout the world and recorded over 100 albums.

Morton Gould's contributions span eight decades and include significant works for film, theater, and the ballet. While his honors and accolades are too numerous to recount, a few highlights are worth mentioning: the Kennedy Center Honor in 1994, the Pulitzer Prize in Music in 1995, membership in the American Academy of Arts and Letters in 1986, and a Grammy Award in 1966.

The night before Morton Gould's death, the U.S. Military Academy Band honored him with an exclusive performance of his works. Mr. Gould attended the concert and received a standing ovation for not only his own distinguished accomplishments, but for the legacy he leaves future generations of musicians. Rising out of the ashes of the Great Depression, with a strength of spirit and a dedication to his art, Mr. Gould used his music and his humanity to touch others. How fitting it is that the last musical experience of his earthly life was a tribute to those ideals.

On a personal note, I was first touched by Mr. Gould's music as a first grader, when a recording of "American Salute" was played in my music appreciation class at Lakeview Elementary School in Lorain, OH. It is a splendid piece—weaving the patriotic march theme of "When Johnny Comes Marching Home Again" through a tapestry of other well known American folk songs. What an honor it was, 35 years later, for me to meet the maestro himself in my Capitol Hill office and thank him for the musical gift he gave me as a child. Thank you, Mr. Gould. We shall miss you.

HONORING THE RETIREMENT OF DANIEL R. SMITH

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. UPTON. Mr. Speaker, today I would like to honor a man who has dedicated his career to the betterment of banking and has continually voiced the banking industry's message loud and clear to the Members of this Congress. At the beginning of May, Daniel R. Smith, chairman and CEO of First of America Bank Corp., will be retiring after four decades of service in the banking industry.

Throughout his career, Dan has made many contributions to the furtherance of constructive banking legislation. While he was president of the Michigan Bankers Association, legislation was passed that allowed statewide branching in Michigan. During his tenure as president of the American Bankers Association in 1994, interstate banking legislation, regulatory reform and bankruptcy legislation was passed. Dan also conceived an important market share study of the financial services business, which the ABA completed, that clearly demonstrates the continued strength of banks in their respective markets. He also previously chaired both the MBA's and the ABA's government relations councils and is currently a member of the Bankers Roundtable.

Dan spent the first 21 years of his banking career in the trust department for First National Bank and Trust Company of Michigan, which later become First of America Bank—Michigan. In 1974, he was elected to the bank's board of directors and became president of the Kalamazoo Bank in 1977. He was named president of First of America Bank Corp. in 1983 and CEO of the corporation in 1985. During his tenure as CEO, the company grew from $5 billion in assets and 255 branch offices in Michigan, to the 33d largest holding company in the country with $23 billion in assets and over 600 branch offices in Michigan, Illinois, Indiana, and Florida.

I would like to thank Dan for his strong leadership in the banking industry and his continued determination to reach beyond the traditional boundaries of banking.

TRIBUTE TO MARIE HANLON

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Marie Hanlon, a dedicated teacher who is retiring after 44 years of consecutive service with the Hillsdale Public Schools in Bergen County, NJ. Perhaps in some small way this CONGRESSIONAL RECORD will serve as a well-deserved "Mrs. Hanlon's Opus." Mrs. Hanlon is a wonderful educator who has committed her life to helping young people. She has been in the forefront of innovation and progress, improving the standards of public education at every turn.

Mrs. Hanlon joined the staff of the Hillsdale school system in 1952 as a fifth-grade teacher at the George White Elementary School. She taught at that school for 4 years until Smith Elementary School opened in 1956. At Smith, Mrs. Hanlon became a team teacher with Howard Schultz and together they introduced the school's class in astronomy. Their fifth grade classes would return to the school at night for star-gazing from the front lawn. Since the school had no library, the two teachers spearheaded the Library Club of America.

Mrs. Hanlon changed schools again in 1964, with the opening of Meadowbrook Elementary School. As a pioneer in team teaching, she was chosen as team leader for the fifth grade and developed a superior program in team teaching. She studied team teaching in Massachusetts and designed an open classroom and open media center at Meadowbrook.

During 28 years at Meadowbrook, Mrs. Hanlon established Colonial School Day, which evolved into Colonial Capers. She also established Explorer Day, the Heritage Fest and Pioneer Day. Mindful of the value of community cooperation and participation, she developed and orchestrated the Listening Mothers and Teacher Aide programs.

In 1992, with the reorganization of the Hillsdale schools, Mrs. Hanlon was transferred to George White Middle School as the fifth-grade team leader, continuing all the programs she developed at Meadowbrook.

Over the course of her career, Mrs. Hanlon was a finalist for the New Jersey Teacher of the Year and was a recipient of the Governor's Teacher Recognition Award. She has taught two generations of students, including those who have since become fellow members of the faculty, and prominent community members such as Karen Arrigot, wife of Mayor Timothy O'Reilly.

Members of the Hillsdale school system staff, members of the community and countless former students and their parents all have fond memories and deep debts of gratitude for the dedication to their lifetime learning of this outstanding teacher. I wish her much-deserved health and happiness and many years of continued community service.

THE DANGERS OF NEWTSPEAK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. FRANK of Massachusetts. Mr. Speaker, there is an increasing agreement in America that we suffer from the excessively violent and negative tone of political rhetoric. As is often the case when people find something they dislike, there is a good deal of discussion as to how this unfortunate situation came about. In an excellent article in the Wednesday column of the March 6 issue of The Hill, reporter David Grann analyzes this issue and makes the point, persuasively and accurately, that

Speaker GINGRICH bears a great deal of the responsibility for this situation, because of his creative efforts to encourage his fellow Republicans to escalate the vehemence of their rhetorical attacks on the Democrats. As Mr. Grann notes in the article, "In 1990, Gingrich's now-famous political action committee, GOPAC, sent out a leaflet to Republican candidates nationwide * * * (which) recommended 60 of the Speaker's favorite words to demonize Democrats and the establishment,".

Speaker GINGRICH in his pre-Speaker days proved very effective in using extremely negative, demeaning language about his opposition, and unfortunately, in politics as in other ventures, success often breeds imitation.

We cannot effectively diminish the unfortunate excessive reliance on rhetoric of this sort without understanding what causes proliferation, and I therefore ask that David Grann's very thoughtful analysis be printed here.

THE DANGERS OF NEWTSPEAK

In 1989, Rep. Newt Gingrich (R-Ga.) declared that "nobody would notice if you decapitated the top 12,000 bureaucrats and started over." In 1994, sensing a GOP victory, the leader of the Republican revolution denounced the Democratic Congress as "the enemy of ordinary Americans."

Today, Pat Buchanan beckons his brigade of "peasants with pitchforks" to storm the corrupt establishment and "lock and load" their weapons.

But this time the insurgents' guns are pointing at Speaker Newt Gingrich. If ideas have consequences, then Buchanan's peasant rebellion is the logical culmination of Gingrich's relentless rhetorical warfare against Washington. And if lawmakers need to censor TV violence with a V-chip, then Americans may soon need a V-chip for politicians.

In 1990, Gingrich's now-famous political action committee, GOPAC, sent out a leaflet to Republican candidates nationwide titled: "Language, a Key Mechanism of Control." Saying many people "wish [they] could speak like Newt," it recommended 60 of the Speaker's favorite words to demonize Democrats and the establishment, including such poll-tested treats as "destroy," "traitors," "devour," "lie," "cheat" and "threaten."

"This list is prepared so that you might have a directory of words to use in writing literature and mail, in preparing speeches, and in producing electronic medium," the leaflet reads. "The words and phrases are powerful. Read them. [Emphasis added.] Memorize as many as possible. And remember that, like any tool, these words will not help if they are not used."

Republicans, like kids discovering matches, used them again and again. Gingrich, who lit the biggest torch, derided the House as a "corrupt institution." "There are two realities to the current system," he railed. "One is the government is trying to cheat you; and the second is the government is lying to you about what it's doing."

Other GOP candidates mixed and matched the words, finding rich new combinations: the "liberal" "welfare state" "devours" ordinary Americans with its "traitorous lies." These verbal assaults fueled Americans' distrust of, and disgust for, Democrats and paved the way for the Gingrich revolution. Who, after all, could trust "a trio of muggers" like former Speakers Jim Wright (D-Texas), Tip O'Neill (D-Mass.) and Tom Foley (D-Wash.)?

The problem is that talking "like Newt" has de-legitimized American democracy to the point that no one—not even Gingrich—can redeem it. Even as the GOP tries to reform the Washington culture and balance the budget, Buchanan decries the current establishment—to a standing ovation—as "hollow to the core."

In such an anti-Washington climate, protest candidates like Steve Forbes and Buchanan rise because they have never held public office, while the GOP freshmen, the insurgents of 1994, are suddenly derided as part of the problem.

Which begs the question: How can a country be governed if anyone who governs it is unworthy of governing?

Gingrich, realizing the consequences of his own words, has sheathed his rhetorical sword and tried to muzzle the same freshmen who memorized his list. He understands, more than anyone, that burning down the establishment in 1996, as some of the upstart Republicans have suggested, "threatens" to "devour" a Republican Congress, not a Democratic one.

None of this seems to bother the bombastic Buchanan, who has his eye on the White House. The commentator of "Crossfire" has his own personal political dictionary. (Remember "pusillanimous pussyfooters?") But Gingrich, however ruefully, has given him something more important than works: a receptive audience.

The irony is that Gingrich's revolution, despite the rhetoric, is relatively mainstream; a balance budget amendment, a line item veto and tort reform are not exactly radical. Yet, as Gingrich has long noted, words have power. And political cries for revolution, however figurative or fashionable, eventually corrode even the healthiest democracy.

What can be done? To begin with, Republicans can turn to another list of words included in Gingrich's 1990 mailing. These "optimistic positive governing words," the leaflet says, "help define your campaign and your vision of public service. In addition, these words help develop the positive side of the contrast you should create with your opponent, giving your community something to vote for!"

Some gentle words for Buchananites: "share," "humane," "listen," "dream," "peace" and "common sense." But if Republicans keep barking from the other script, Gingrich may soon look out the Capitol window and see an army of peasants with pitchforks rising over the Potomac.

THE 100TH ANNIVERSARY OF THE FORMATION OF THE ASSOCIATION OF FOOD AND DRUG OFFICIALS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize a milestone in the United States: the 100th anniversary of the formation of the Association of Food and Drug Officials.

During the latter half of the 19th century, a genuine need existed in the United States for an organization to work with the States, Federal regulatory officials, and industry representatives on the problems that existed within the food and drug industries. Numerous foods were adulterated with a variety of preservatives and chemicals, and, as a result, public safety was an omnipresent threat. The purity of drugs represented another health issue, for the promotion of fraudulent remedies was common practice.

As a consequence of these harmful practices, numerous States began to pass consumer laws, often with the support of manufacturers seeking relief from inequitable competition with the impure products. Despite the positive intentions of the laws, they were often deficient and unenforced due to a lack of control over out-of-State manufacturers. In addition, the manufacturers were subjected to varying State requirements, which led to difficulties with regard to interstate commerce. These problems introduced the need for Federal food and drug laws to impose uniform safety regulations in order to protect the citizens of every State.

In 1896, in Toledo, OH, Joseph Blackburn, the Food and Dairy Commissioner for Ohio, met with his counterpart from Michigan, Elliot Grosvenor, to develop the foundation for an organization whose mission would be defined by the promotion of regulatory uniformity.

The initial meeting of the National Association of State Dairy and Food Departments, which later became the Association of Food and Drug Officials, occurred on August 25, 1897, at the Cadillac Hotel in Detroit, MI. This meeting was attended by representatives from ten States.

Since it's inception 100 years ago, the AFDO has provided the basis for the furthering of uniform and rational regulations and the forum for the exchanging of ideas and the creation of solutions that win approval of both government and industry. The AFDO has also successfully ameliorated the status of consumer protection in the United States, and it has been in the forefront in support of crucial legislation such as the Pure Food and Drug Act of 1906 and the Federal Food, Drug, and Cosmetic Act of 1938.

Mr. Speaker, I am honored to celebrate the centennial anniversary of the formation of the Association of Food and Drug Officials. I know they will continue their proud tradition on into the next century.

TAIWAN NEEDS US

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. SOLOMON. Mr. Speaker, I am happy today to give strong support for the resolution introduced yesterday by Mr. COX, myself, the Republican leadership and 82 bipartisan Members, expressing our continued and unequivocal support for the Republic of China on Taiwan. Mr. Speaker, the Clinton administration's response to the increasingly strident threats made toward the Republic of China has been almost nonexistent. They have pointedly refused to commit to the Republic of China's defense in the event that Communist China should invade or attack our friends in Taiwan. The administration's deliberate ambiguity in this matter sends absolutely the wrong message to Beijing, and practically invites an escalation of an already tense situation.

The Taiwan Relations Act—the law of the land in our dealings with the Republic of China, despite what Beijing would care to think, has at its core our desire to see disputes between Communist China and the Republic of China settled peacefully. We must make it clear to the rulers in Beijing that the United States intends to live up to its commitments under this law, and I think that this resolution will help to demonstrate in no uncertain terms that we take this obligation very seriously.

I would ask all of my colleagues here in the House to support House Concurrent Resolution 148. The people of the Republic of China on Taiwan need us, and the dictators in Beijing need to hear from us.

THE FAMILY SERVICE IMPROVEMENT ACT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. HOYER. Mr. Speaker, I am very pleased to introduce the Family Service Improvement Act of 1996 this afternoon. I have been working on the concepts behind this legislation for a number of years. The Family Service Improvement Act will eliminate Federal redtape and unnecessary regulation. It will give local programs the flexibility they need to address local problems. It should create incentives for program coordination which serves kids and families better while making more efficient use of our resources. And it will demand accountability based on program results, not on process and paperwork.

I believe that a concerted Federal effort to rationalize and coordinate programs for children and families is long overdue. Over the years, Congress has created hundreds of categorical programs to help communities and families deal with the myriad of issues confronting them. Each of the programs was created with its own rules and regulations to deal with a particular problem. Over time, the list of rules and regulations has grown to stifle, rather than support, the very objectives we are trying to achieve.

In some areas, where local needs don't fit the problems covered by our categorical programs, our services for children and families are vastly inadequate. In other areas, services overlap and duplicate each other. For example, multiple programs may provide caseworkers to a single family, but each caseworker deals only with one aspect of that family's needs.

In many programs, caseworkers spend far too much time dealing with redtape and paperwork, juggling multiple programs with multiple eligibility criteria, application processes, and service requirements. The Federal Government has created hundreds of different taps through which assistance flows—and communities, programs, and families must run from tap to tap with a bucket to get the help they need.

As an appropriator, I am particularly concerned that our tax dollars be spent efficiently and effectively. In 1994, I asked the Department of Education to convene a working group on coordinated services to make recommendations for such a Federal effort. The working group was headed by Jeanne Jehl from the San Diego public schools, whom I would like to thank for her outstanding work. The working group, which met through 1995, included Federal employees and people from State and local governments and organizations across the country. I was particularly pleased that Maryland's outstanding Superintendent of Schools, Dr. Nancy S. Grasmick, was able to participate in this effort. The Family Service Improvement Act is based on the recommendations of that group.

FEDERAL FIXES FOR FEDERAL PROBLEMS

While I applaud the efforts of several of my colleagues in developing waiver bills which are now under consideration by this Congress, I believe that the Federal Government—not local programs—should have the responsibility of fixing the problems the Federal Government created. Under the Family Service Improvement Act, a Federal Coordination Council is designated to oversee the effort to eliminate regulations, simplify requirements, and make waiver requests unnecessary. The Council's responsibilities include eliminating unnecessary and burdensome regulations; developing a single eligibility and application form for a range of services to children and families; developing a single information release form which can be used to authorize exchange of information among a number of service providers; and developing RFP's which can be used to apply for funding from multiple Federal programs.

INTERDISCIPLINARY COORDINATION

No effort to make services to families more effective and efficient will succeed unless programs which meet different aspects of family needs are better coordinated with each other. Cross-program coordination is the key to improving service quality and efficiency. The Family Service Improvement Act allows the creation of consortia of program providers in a community. Consortia members could include State, local, or tribal governments, and not-for-profit organizations. Each consortium must include providers in at least three of the program areas of education. Head Start, child care, job training, housing, nutrition, maternal and child health, family support and preservation, juvenile justice, and drug abuse prevention and treatment. In addition, it creates several incentives to encourage coordination, reduce program duplication, and improve services.

INCENTIVES FOR COORDINATION

As any State or local official who has been involved in the process will tell you, requesting a waiver from the Federal Government is time consuming and complicated. Where multiple programs are duplicating the same steps, common sense dictates that they ought to be able to join forces without going through the hoops of requesting a waiver.

For example, authorizing legislation requires many programs to assess community needs each year and to provide case managers to assist families. We certainly want programs to plan based on community needs, and to perform case management, but it simply doesn't make sense for each program to repeat work done by several others. Under the Family Service Improvement Act, a consortium of three programs which are required to do a community needs assessment and to provide a case worker to the same family would be automatically exempted from meeting such duplicative requirements as long as the requirement was met by the consortium or one of its members. Consortia will then be permitted to spend these funds to expand or improve their services.

In addition, the Family Service Improvement Act would allow consortia to set aside up to 10 percent of their Federal funds in a flexible fund. This flexible fund must be used to expand or improve services consistent with the programs run by the consortium. This provision will give service providers much needed flexibility to meet local needs which might not be anticipated by our Federal rules and regulations.

ACCOUNTABILITY

What counts in human service programs is performance: Are our programs working? Instead of measuring input and process, we should be measuring outputs. Is the infant mortality rate going down? Are kids staying in school? Are kids learning more in school? Are parents getting—and keeping—jobs?

In an atmosphere of waivers, flexibility, and interdisciplinary coordination, the challenge of program evaluation becomes even more difficult. The Family Service Improvement Act creates what I believe is a workable system for both tracking and evaluating the impact of our Federal investment in these programs.

Many States are moving toward this focus on results, and have already identified State goals such as improved employment, reduced crime, increased high school completion and decreased infant mortality. Under the Family Services Improvement Act, a number of consortia will develop plans which identify goals taken from their State's list. The consortia will be responsible for collecting data over time to measure progress toward these goals. Data will be collected on a community-wide basis as well as disaggregated by appropriate subgroups as identified by the consortium, and published.

I believe the results of this demonstration will show that four purposes are met by collecting and publishing data in this way. First, collection of data will show how well the programs accomplish their goals for all people in the community, and allow the consortium to improve and adapt services as necessary. This information will become a valuable diagnostic tool for improving services. Second, publication of data will create bottom-up pressure within the community to serve all segments of the community. Third, disaggregation of data will help to prevent programs from cherry-picking the best clients just to improve their outcome statistics, and will create incentives to address the needs of the hardest to serve as well as the easiest. And fourth, collection of this type of data will allow the Federal Government to evaluate the effectiveness of its financial investment in these programs.

The Federal Government must demonstrate its leadership in promoting flexibility, demanding accountability, and eliminating redtape. We must get rid of the "taps and buckets" approach, and instead create a seamless flow of assistance that truly meets the needs of children and families. The Family Services Improvement Act is an important step in that direction.

COMMEMORATING THE RETIREMENT OF NANCY FASIG

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to a dear friend. Nancy Fasig of Marion, IL, is retiring after 17 years of service with the Nutrition Education Program [NET], which is administered by the Southern Illinois Regional Education Service Center [SIESC]. I was the assistant director of SIESC in the mid-to-late 1970's, and had the pleasure to work with Nancy during these years. She was not only a model of efficiency and skill, but the kind of person who truly brightened the work environment and made it a better place to be. It is with great admiration that I wish her a happy retirement and best wishes on her future endeavors.

Politics is full of talk these days about family values and positive role models. There are few greater examples of family values than Nancy. She has given her all to her family. Nancy and her husband, Joe, have 5 kids, and have been blessed with 11 grandchildren. Nancy stayed home with the children until they were in school, and then went to work for NET. In many ways these two roles were similar. As a mother, she guided her kids through the trials and tribulations of growing up, while at work she made sure the office functioned on an even keel. The effort involved in doing both of these roles well is monumental, and the true embodiment of dedication, sacrifice, and love.

Mr. Speaker, in a larger sense, we all owe a debt of thanks to Nancy and other committed parents like her. To raise healthy and productive children is too often an unsung accomplishment in our society. It is in fact, the heart of family values. It has been my great honor to know and represent Nancy Fasig in the U.S. Congress. It is also my sincerest hope that she now reaps the reward of her labors by enjoying her family for years to come.

STATEMENT BY RABBI ISRAEL ZOBERMAN CONGREGATION BETH CHAVERIM VIRGINIA BEACH, VA

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. PICKETT. Mr. Speaker, I offer for inclusion into the CONGRESSIONAL RECORD this statement made by Rabbi Israel Zoberman of the Congregation Beth Chaverim in Virginia Beach, VA, on February 16, 1996, at his request.

A JEWISH RESPONSE TO THE RELIGIOUS RIGHT

One of the poignant lessons of the Jewish people's story is not to take for granted a hospitable environment which confers equality on all its children. That must mean that we have a stake in preserving and enhancing the quality of American Life. Eternal vigilance is the non-negotiable price that comes along with the previous benefits of a great democratic system of government.

The United States has flourished due in large measure to its built-in pluralism, a complex and delicate texture that would unravel without one essential thread—the traditional separation between church and state as guaranteed in the First Amendment to the Constitution.

That principle has been under attack by powerful forces committed to replacing the enviable American way of life with their own sectarian vision. The Religious Right, potentially embracing fifty million Americans, first flexed its considerable muscle at the 1980 presidential elections and has kept faithful to its promise to try to change America as we know it. The proponents of our nation as an exclusively Christian one, have proven to be creative and resourceful.

Let us not take lightly a movement with a sense of mission, particularly one with a mixture of religious and political aspirations that also happens to have friends in some of the highest offices in the land. In spite of its flirtation with the State of Israel, I assume that the Religious Right counts the Jews among those who will yet have to see the light.

There is surely a no better place to begin implementing one's radical plan than in the mind of a child. It is no wonder then that our public schools have turned into contested arenas, with children becoming pawns in a scheme to recreate American society. I believe that God should, indeed, be present in our public educational system, but not in a subjective manner upholding a certain religious approach clearly identified or nebulous. God is found where caring, sensitivity, concern and learning permeate the classroom, where a student's and teacher's sacred heritage and secular curriculum are not compromised by undue pressure to conform to enforced guidelines of religious expression of whatever type. The Book of Genesis was not intended to be a scientific textbook. Its thrust was and remains to instill an appreciation for revered ideas and principles. The cause of religion is best served when its teachings and guidelines are expounded upon in one's church, synagogue and mosque, where interpretation is offered according to one's traditions.

While we should be candid about our fundamental disagreement with the Religious Right, we are duty-bound to emphasize to its supporters and to ourselves that we also share a common agenda.

The urgent need to stringent family life, though we part ways on the issues of reproductive choice and life styles. The significance of transcendent values and time-tested ideals in a pervasively secular and materialistic environment. The positive contribution religion can and should make to the individual and community. The obligation to consciously remedy the ills and shortcomings we face.

Working together on these weighty themes which unite us all, would hopefully provide us the indispensable platform to discuss differences of purpose and approach. Our opponents need to know that a wrong kind of medication can be fatal to a patient. So it is with improper means employed toward beneficial ends.

We Jews are not alone in our apprehension, joined as we are by concerned fellow-Americans across lines of religious and political affiliation. Only through such a wide coalition, will we respond most effectively to the challenges confronting the entire American system. A time of crisis is a time of opportunity. May we all dedicate ourselves anew to the kind of America we dare not do without.

Rabbi Israel Zoberman is the spiritual leader of Congregation Beth Chaverim in Virginia Beach, Virginia, and past president of the Hampton Roads Board of Rabbis and the Virginia Beach Clergy Association.

TEEN PREGNANCY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Ms. DELAURO. Mr. Speaker, I rise in support of the President's National Campaign to Prevent Teen Pregnancy.

The mission of the National Campaign to Prevent Teen Pregnancy is to reduce teen pregnancy by promoting values and stimulating actions that are consistent with a pregnancy-free adolescence. This is a mission that everyone can support. Furthermore, the campaign establishes the goal of reducing the national teenage pregnancy rate by one-third by the year 2005.

I wholeheartedly support the methods and targets set by the President's campaign. If we are to stop the cycle of children having babies in this country we must make the President's goal a reality. The success of this campaign is imperative to the healthy development of young girls and children throughout the Nation.

As poverty is a strong predictor for teen pregnancy, teen pregnancy is a near certain predictor of poverty. In my home State of Connecticut, the Department of Public Health Records reported 3,757 teen births in 1993. In New Haven, the biggest city in my district, there were 354 teen births reported that year. These figures do not account for all the teen pregnancies in a given year, but they do indicate the enormity of the problem and the need for immediate action.

We must instill in our children the importance of making responsible choices in life. Clearly, bringing a baby into the world without the emotional maturity and financial resources to raise a healthy child is not in the best interest of either the parents or the newborn. Discussing the value of personal responsibility and providing information to children on this issue are tools that will work to prevent teen mothers and fathers. The President's campaign expands the scope and reach of this dialogue through the media, schools, and civic activities.

I am a proud supporter of the National Campaign to Reduce Teen Pregnancy. Through education and communication the campaign will be an effective tool to assist young women and young men with the dilemma of teen pregnancy.

FOREIGN RELATIONS AUTHORIZATION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. PALLONE. Mr. Speaker, the Foreign Relations Authorization Act which the House passed today in a vote that went largely, though not entirely, along party lines, was an uneven piece of legislation at best. I opposed the bill because I think it represents a retreat from America's historic mission to promote democracy—particularly in those lands that were until recently ruled by tyranny and dictatorship, such as those nations formerly part of the Soviet Union.

But I rise to express praise for one provision of the bill included by the gentleman from New Jersey [Mr. SMITH], known as the Humanitarian Aid Corridor Act. I was an original cosponsor of this legislation, which has broad bipartisan support. As the cochairman of the Armenian Issue Caucus, along with the gentleman from Illinois [Mr. PORTER], I have worked for enactment of this provision.

Mr. Speaker, the Humanitarian Aid Corridor Act would withhold U.S. aid to nations which are blocking congressionally approved humanitarian assistance to other countries. It requires all U.S. aid recipients to allow unencumbered delivery of humanitarian assistance. The Republic of Turkey has imposed a blockade on the neighboring Republic of Armenia, preventing the delivery of food, medicine, and other humanitarian relief supplies to Armenia. Much of this aid originates in the United States. While we may not be able to deter every country in the world from resorting to the disruption of humanitarian aid as a weapon against their neighbors, we can make sure that such countries do not get a dime of American aid as long as they undermine our foreign policy objectives.

Luckily, Mr. Speaker, this provision was also included in the Foreign Operations Appropriations bill that the President signed into law last month. Mr. PORTER and I currently have a Dear Colleague letter circulating urging the administration to strictly enforce this provision of law. While it is my hope that we can ultimately enact the Corridor Act as a permanent law in a constructive, bipartisan manner, I am prepared to work through the appropriations process, as we successfully did last year, to keep the Corridor Act in force.

CONGRATULATIONS ON 25 SUCCESSFUL YEARS

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor any friends at Southfield Christian School on their 25th anniversary celebration.

With a deep-seated commitment to a strong program of moral and character development, Southfield Christian has set new standards for excellence among Christian schools.

In fact, Southfield Christian was one of only two schools nationally to receive the prestigious Blue Ribbon Exemplary School Award from the U.S. Department of Education.

With a program emphasizing both academic excellence and a commitment to developing character and integrity, Southfield Christian has a solid track record of success.

More than 75 percent of their student body achieves honor roll status. The annual college acceptance average is over 95 percent and, in last year's senior class, 99 percent were accepted to colleges. And finally, nearly 77 percent of the students at Southfield Christian score nationally in the top quarter on national standardized tests.

Not only are they academically outstanding, the school and its student body is involved in the local community as well. The annual fall drive for the needy yielded more than 800 winter coats, hundreds of cans of food and more than 7,000 quarters—in honor of their 25th anniversary—for the purchase of children's Bibles.

With state-of-the-art facilities and a loyal, committed alumni, the future looks very bright for the next 25 years and beyond.

Strengthened by their commitment and resolve to install morals and values in our future leaders, I extend my heartiest congratulations on your 25th anniversary. I am very proud of Southfield Christian, their staff, and the student body. Keep up the great work.

SPEAKER PRINGLE'S STRAIGHT TALK ON WELFARE REFORM

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. RADANOVICH. Mr. Speaker, President Clinton has talked a good game on welfare reform, particularly when the cameras were focused on him during the State of the Union Address. But his two vetoes of welfare reform legislation speak much louder than his crowd-pleasing rhetoric. As we, in Congress, continue to pursue an overhaul of the current system, the California legislature has moved ahead with its own welfare reform legislation, designed to restore work incentives and help people on welfare become independent and productive citizens.

The speaker of the assembly, Curt Pringle, has been a leader in California's welfare reform effort. In the March 4, Los Angeles Times, Speaker Pringle correctly pointed out that President Clinton, far from being a leader in welfare reform, is actually its major impediment. California and the other States cannot reform their welfare programs without Federal approval. If President Clinton had approved the legislation sent to him by the 104th Congress, California would not have to go through an extremely difficult and time-consuming Federal waiver process in order to implement its own reforms. California could be moving forward with its reforms right now.

Given the continued urgency of this issue, I would like to request that Speaker Pringle's excellent commentary be entered into the RECORD at this point.

[From the Los Angeles Times, March 4, 1996]

CLINTON ISN'T DOING CALIFORNIA'S POOR ANY FAVORS

(By Curt Pringle)

President Clinton said, "I believe we should ship decision-making responsibility and resources from bureaucracies in Washington to communities, to states and, where we can, directly to individuals." When he makes statements like that about welfare reform, does he seriously expect us to believe him any more?

Since his campaign pledge in 1992 to end welfare, the president has blocked every serious reform effort presented. Last year he vetoed important congressional block grant legislation, for which he had earlier indicated support, which would have given state and local governments more flexibility and control over reform efforts. And last week before a Senate panel, Health and Human Services Secretary Donna Shalala announced that the president will reject the National Governors Assn.'s bipartisan plan to salvage welfare reform this year.

The president's words of reform offer up hope, but his actions betray us at our most desperate hour.

California, like so many states, is hurting. Our social fabric is being ripped apart by federal welfare programs that discourage work, deprive citizens of self-respect and dignity, create long-term intergenerational dependency and compromise the well-being of our children. After $5.4 trillion spent over the last 30 years for social welfare, we now realize that the federal government's failed "war on poverty" has actually been a war on the values of its own citizens.

We must replace the welfare system in California immediately, before we lose another generation of poor children. Unfortunately, the Clinton administration is standing in our way.

In July 1994, California passed commonsense "family cap" welfare reform legislation to end the perverse practice of increasing payments to welfare recipients who have additional children. This practice usurps the role of husbands and drives men away from their families. But officials at the federal Department of Health and Human Services have denied the necessary federal waiver that would allow California to implement its law.

Our citizens are being held hostage by the federal welfare system, and there is nothing we can do about it.

How can we possibly move Californians into the work force when federal welfare programs pay them the equivalent of $11.59 an hour not to work? That's 270% more than they can earn with a full-time, minimum-wage job. And how can we discourage teenage girls from getting pregnant and dropping out of school when Washington tells them that for as long as they don't work, don't get married and don't live at home, the government will provide them with free money, free food and a free apartment?

We must take matters into our own hands. California will soon pass the most sweeping welfare reform legislation in the nation's history. The plan will replace the current welfare system with temporary assistance that focuses on reuniting broken families and moving the abled-bodied back into jobs.

The plan also removes disincentives to marriage, work and self-responsibility by establishing flat grants, no higher than minimum wage, that do not increase according to family size. After all, it is unfair to tax low-income working mothers whose wages are not based on family size and use the money to subsidize welfare recipients who choose to have more children. Fairness and self-reliance will be the cornerstones of California's new welfare system.

But without federal approval, these reforms cannot be implemented.

The president says that states must be given more flexibility to do the things they want to without seeking waivers. But by blocking reform efforts in Washington, the president has proved again that he cannot be trusted.

California must be allowed to implement its welfare reform measures without seeking waivers.

We will fight destructive federal welfare programs all the way to the Supreme Court if necessary, until out citizens and families can once again set their own course for opportunity.

TRIBUTE TO JOEL VATTENDAHL

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to my friend, Mr. Joel Vattendahl, who retired from the United Steelworkers of America in December 1995.

Throughout his career, Joel worked tirelessly on behalf of the working men and women of Wisconsin. Joel's career in the labor movement began in 1965 when he was appointed staff representative with the United Steelworkers. In 1981, he was elected to the position of director of United Steelworkers District 32. Joel effectively served in this position until June 1995. He announced his retirement in December 1995.

In addition to his outstanding work with the Steelworkers, Joel has played a crucial role in directing the course of Wisconsin's labor movement and has also been very active in a variety of local and community affairs. From 1981 until his retirement, Joel served as a member of the executive board of the Wisconsin State AFL–CIO. He also was a member of the Worker's Compensation Advisory Council and the University of Wisconsin Board of Regents. His outstanding efforts with these and many other organizations have helped to improve and maintain the quality of life for people throughout our State.

Mr. Speaker, on behalf of the working men and women of the State of Wisconsin, I would like to thank Joel Vattendahl for his three decades of service and dedication. I wish him a happy and healthy retirement.

COMMEMORATION OF WOMEN'S HISTORY MONTH

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. DELLUMS. Mr. Speaker, I rise today to commemorate Women's History Month. This is a time to remember that women in this country and all over the world have historically been subject to oppression. This is a time to remember that women in this country and all over the world have been fighting and overcoming this oppression within the context of their own cultural traditions. This is a time to mourn the oppression of the past and present and celebrate the empowerment of women in the present and in the future.

Let us remember that the same fundamental rights and freedoms held by men are also held by women, that women have the same rights to freedom of expression and religion, to individual autonomy and privacy, and to vote and hold government office; that women have the right to an equal education, equal opportunity in employment, and equal pay for equal work; and that women have the right to be free from sexual discrimination and harassment, sexual and physical assault, and spousal abuse.

I challenge my colleagues to remember and honor women who have made their mark on history, and whose work for recognition of women's rights and freedoms has benefited both women and men. These countless women include: Susan B. Anthony, Sojourner Truth, Belle Hooks, and Flo Kennedy, advocates for the rights of women and African Americans; Elizabeth Cady Stanton, Lucy Stone, Lucretia Mott, Eleanor Roosevelt, Hillary Clinton, Gloria Steinem, Eleanor Smeal, and Dr. Homa Darabe, advocates for women's rights; and Margaret Sanger and Emma Goldman, advocates for education, autonomy, and responsibility concerning sexuality, reproduction, and birth control.

We should also remember and honor women civil rights leaders, such as Rosa Parks, Dorothy West, Dorothy Height, Juanita Jones Abernathy, LaDonna Harris, Loretta Armenta, Nadine Gardimer, Lani Guinier, and Fannie Lou Hamer. We should remember and honor other social reformers, such as Harriet Tubman, Jane Addams, Mother Jones, Dorothy Day, Clara Barton, Dorothy Dix, Helen Keller, Florence Nightingale, Mother Theresa, and Marian Wright Edelman. We should remember and honor women scientists, such as Marie Curie, Margaret Mead, and Rachel Carson; and women educators, such as Mary McCleod Bethune and Maria Montessori.

We should remember and honor women writers, such as Jane Austen, Mary Wollstonecraft Shelley, Harriet Beecher Stowe, Gertrude Stein, Virginia Woolf, Amy Chan, Alice Walker, Maxine Hong Kingston, Toni Morrison, Simone de Beauvoir, Bing Xin, and Taslima Nasrin; and poets, such as Elizabeth Barrett Browning, Emily Dickinson, Maya Angelou, and Juana Ines de la Cruz. We should likewise remember and honor women artists, such as Georgia O'Keefe, Maria Martinez of San Ildelfanso, and Frieda Kahlo.

And we should remember and honor women government leaders, such as Barbara Jordan, Bella Abzug, Shirley Chisholm, Geraldine Ferraro, Janet Reno, Dr. Joycelyn Elders, Wilma Mankiller, and Agnes Dill; and such international women leaders as Sylvia Kinigi, Prime Minister of Burundi, Lidia Geiler, President of Bolivia; Siramezo Bandaranaike, Prime Minister of Ceylon; Corazon Aquino, President of the Philippines; Indira Gandhi, Prime Minister of India, Benazir Bhutto, Prime Minister of Pakistan; and Mary Robinson, President of Ireland. We should also remember such international leaders as Wangari Maathai, Kenyan environmentalist; Aung San Suu Kyi, Burmese democracy activist and Nobel Peace Prize winner; Rigoberta Menchu', Guatemalan Nobel Peace Prize winner; Radhika Coomaraswamy, Sri Lankan academic and U.N. Special Rapporteur on Violence Against Women; Gabriela Mistral, Chilean educator, poet, and member of the U.N. Subcommission on Women; Sonia Picado, Judge on the Inter-American Court of Human Rights; and Gertrude Mongella, Tanzanian government minister and organizer of the Fourth U.N. Conference on Women.

These are only a few of the many noted women of the arts, sciences, and leadership who deserve mention. In addition to these women, we should acknowledge and honor all the unsung women who work tirelessly for little or no pay in the home and in the charitable sector.

Women's rights has been on the international agenda since 1975, when the U.N. General Assembly declared 1975 the International Women's Year, and when 1976–85 was declared the U.N. Decade for Women. In 1985, a U.N. Conference on Women was held to evaluate achievements made and work still to be done to realize women's rights. Much progress has been made since 1975, but still much remained to be done.

Consequently, last September, in Beijing, China, the United Nations held the Fourth World Conference on Women. At that conference, women from all over the world came together. These women came from every continent, from every cultural and religious tradition, from countries of every economic situation, but these women all agreed that women's rights are human rights. They reached consensus on a Platform for Action that will be the cornerstone for realizing equal rights and freedoms for women throughout the world.

The Platform for Action recognizes that empowerment of women and equality between women and men are prerequisites for achieving political, social, economic, cultural, and environmental security among all peoples. It aims at removing the obstacles to women's active participation in all spheres of public and private life through full and equal share in economic, social, cultural, and political decision-making. It promotes the principle of shared power and responsibility between women and men at home, in the workplace, and in the national and international communities. It advocates eradication of all forms of discrimination against women.

The Platform for Action calls for strategic action in the following areas of concern: poverty, education and training, health care, women-focused violence, armed conflict, economic structures and policies, the sharing of power and decision-making, advancement of women, promotion and protection of women's human rights, stereotyping of women in the media, natural resources and the environment, and discrimination against girls.

Realizing these goals and addressing these areas of concern will require a commitment by governments, international institutions, non-governmental organizations, and the private sector throughout the world. Let us all here in Congress commit to doing our part to help realize these goals and address these concerns in our country and in other countries. To this end, I am pleased to join my colleagues in the House in cosponsoring and supporting H. Con. Res. 119, a resolution to support the commitments made by the United States at the Fourth World Conference on Women, and ask the entire body to do so. Additionally, we should ask our colleagues in the Senate to do their part by immediately considering giving its advice and consent to the Convention on the Elimination of All Forms of Discrimination Against Women, now before the Senate. This Convention will do much to help realize women's rights around the world. It entered into force on September 3, 1981, and more than 80 nations are already parties.

Again, Mr. Speaker, on this day, it is an honor to pay tribute to women and celebrate Women's History Month.

URGING MEMBERS TO READ ABOUT HUMAN RIGHTS IN BOLIVIA

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 12, 1996

Mr. McDERMOTT. Mr. Speaker, I would like to take this opportunity to enter into the RECORD this letter to Secretary of State Warren Christopher regarding human rights in Bolivia. Twenty-eight nongovernmental organizations from the United States wrote this letter to ask the United States Government to ensure that Bolivian antinarcotics police receiving United States assistance comply with Bolivian and international laws when carrying out arrests and that the United States support Bolivian measures to improve human rights.

I am particularly interested in this letter because it highlights the human rights situation in the Andean nations receiving antinarcotics assistance from the United States. I think it is important that we monitor how U.S. assistance is used to ensure that it is used for its stated purpose, and that it does not contribute to human rights violations in the Andean nations. Our commitment to support human rights around the globe requires congressional attention to this matter.

FEBRUARY 15, 1996.

Hon. WARREN M. CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: We are writing to express our deep concern regarding human rights violations occurring as a result of antinarcotics operations in Bolivia. On March 1, 1996 the Administration is slated to announce its annual "certification" of countries cooperating with U.S. antinarcotics objectives. As you undertake your review of antinarcotics efforts in Bolivia, we urge you to look closely at those violations to seek ways to work with the Bolivian government to implement measures that could improve the protection of human rights in that country.

Human rights abuses remain pervasive in the Chapare, the rural area in which most of Bolivia's coca is grown and cocaine base produced. For years, the antinarcotics police—trained and funded with U.S. assistance—has run roughshod over the local population, carrying out arbitrary searches and arrests, stealing the meager possessions encountered, and manhandling and beating individuals during raids and interrogations. Impunity for abuses committed by antinarcotics police is the norm. If investigations are initiated, they are cursory and incomplete; sanctions are rarely imposed.

Social unrest and conflict in the Chapare increased significantly over the second half of 1995, as a result of stepped-up coca eradication efforts. Last spring, the U.S. government sent the Bolivian government a letter stating that Bolivia would be treated as "decertified" and therefore ineligible for U.S. assistance if it did not, among other conditions, meet coca eradication targets. In response to the U.S. ultimatum, the Bolivian government stepped up antinarcotics operations despite well-founded fears that these actions would unleash a wave of violence. As predicted, the eradication efforts sparked violent confrontations with coca growers, resulting in at least seven deaths, scores wounded and hundreds arrested. Careless and indiscriminate use of force by the Bolivian police against those opposing coca eradication policies is disturbingly frequent.

Since mid-January, the Bolivian antinarcotics police have undertaken massive sweeps in the Chapare, arbitrarily detaining over three hundred people. Those detained are typically held several days and released without charges; indeed, without ever being presented to a judge. On January 29, the police also broke up a peaceful hunger strike in support of the women protesting the government's coca policies and threw over fifty people into jail. Neither Bolivian law nor international human rights standards permit these warrantless arrests of individuals against whom there is no evidence of participation in criminal conduct. The government is clearly using police powers to stifle lawful political opposition to its policies. Given the proximity of a decision on certification, we also suspect the Bolivian government is detaining hundreds in the hopes of impressing the United States with its antidrug commitment.

The Bolivian antinarcotics efforts also continue to rely on special judicial procedures that violate fundamental due process considerations. Under Bolivia's Law 1008, those who are formally charged with drug offenses—no matter how minor—are imprisoned without the possibility of pre-trial release and must, even if acquitted, remain in prison until the trial court's decision is reviewed by the Supreme Court, a process that takes years. The U.S. government provides funding for the salaries and expenses of special prosecutors for the antinarcotics courts.

We recognize the United States does not encourage or condone human rights abuses by Bolivian antinarcotics forces. Nevertheless, the United States shares responsibility for those abuses. The U.S. government provides funds and technical assistance to all of the Bolivian agencies involved in counternarcotics activities and, as just noted, to the antinarcotics courts. Bolivia has passed laws, created institutions and adopted antinarcotics strategies shaped by U.S. concerns and pressure.

We urge you to ensure that the U.S. government no longer underwrites human rights abuses in Bolivia by adopting policies more sensitive to the political, economic and social cost of antinarcotics operations in Bolivia. Specifically, we urge the U.S. government to:

Support revisions in Law 1008 which would ensure that Bolivia's judicial procedures for drug offenses meet international due process norms and standards.

Ensure that Bolivian antinarcotics police receiving U.S. assistance and support comply with Bolivian and international laws when carrying out arrests.

Provide the necessary support to enable the Bolivian antinarcotics police to establish effective complaint and review procedures to hold abusive agents accountable.

Expand reporting on human rights abuses stemming from antinarcotics operations in the State Department's annual human rights report for 1996.

The issue of drug abuse is important to the American people and deserves the attention of our nation's leaders. U.S.-supported coca eradication efforts in Bolivia, however, have yielded little results in reducing the amount of cocaine coming into the United States, and few independent observers believe they can ever succeed in reducing the flow of cocaine to our country. At the same time, they have increased social tensions and fostered human rights abuses. In crafting future policy, adoption of the measures we have outlined could result in significant improvements in the human rights situation in Bolivia and would send an important message to the Bolivian people regarding U.S. concern for human rights.

Thank you for your attention to our concerns.

Representatives from the following organizations signed on to the February 15, 1996 letter to Secretary of State Warren Christopher addressing human rights concerns as a result of U.S. anti-narcotics policy in Bolivia:

Washington Office on Latin America.

Maryknoll Society Justice and Peace Office.

American Friends Service Committee, Washington, Office.

Carnegie Endowment for International Peace.

Catholics For Justice, Latin American Task Force, Diocese for Kansas City-St. Joseph, Missouri.

Center for Concern.

Church of the Brethren.

Clergy for Enlightened Drug Policy.

Columban Justice and Peace Office.

Comboni Peace and Justice Office, Cincinnati, OH.

Latin American Studies Program, Cornell University.

Criminal Justice Policy Foundation.

Drug Policy Foundation.

Fellowship of Reconciliation Task Force on Latin America and the Caribbean.

Foundation on Drug Policy and Human Rights.

Inter-American Dialogue.

North American Congress on Latin America (NACLA).

Guatemala Human Rights Commission/USA.

International Labor Rights Fund.

Maryknoll Society.

Office of Social Concerns, Maryknoll Sisters.

NETWORK: A National Catholic Social Justice Lobby.

Open Society Institute.

Pax Christi U.S.A.

Peru Peace Network.

Sisters of Saint Joseph of Carondelet.

U.S. Catholic Conference.

Unitarian Universalist Service Committee.

The following individuals also signed on to the letter: Melina Selverston and Cynthia McClintock.

HOUSE OF REPRESENTATIVES—*Wednesday, March 13, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 13, 1996.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For the beauty of life's gifts and for the splendor of Your grace, we offer our thanks, gracious God, for the new day. Though we must know the details of the particulars of each event, yet may we not only focus on what is in front of us, but lift our eyes to glimpse the vision of the opportunities You have prepared for each of us. O loving God, from whom has come our creation and the sustenance of the heavens and the earth, may Your strong arm support us along life's way and may Your spirit sustain us in all we ask or think or do. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania [Mr. KLINK] come forward and lead the House in the Pledge of Allegiance.

Mr. KLINK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will entertain fifteen 1-minutes on each side.

JUSTICE FOR THE VICTIMS OF PAN AM FLIGHT 103 AND THEIR FAMILIES

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, on December 21, 1988, Pan Am flight 103 was blown out of the sky by a terrorist's bomb. That brutal, cowardly act killed all 259 aboard, including 189 Americans, 1 of whom, John Cummock, was a constituent of my congressional district.

Months of detective work finally uncovered the hand of Libyan dictator Mu'ammar Qadhafi behind this tragedy.

Since the identification of the Libyan agents who committed this crime, diplomatic pressure has been applied in an effort to force the extradition of these murderers. Qadhafi has refused to surrender them for trial, in either the United Kingdom or the United States.

Today, this House will have the opportunity to allow the families of these murder victims a chance to seek justice against Qadhafi, by passing a bill that will allow these families the chance to present the facts of this crime in American courts.

I urge my colleagues to remember the victims of Pan Am flight 103 and the need to seek justice for their families.

REPUDIATION OF EXTREMIST CUTS IN EDUCATION

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr Speaker, the other body yesterday by a vote of 86 to 14 handed out a repudiation of the extremist cuts in education that have been promoted by the Republicans in this House. Many schools are only a few weeks from notifying teachers that they will not be rehired next year. Local and State governments will have to eliminate needed education programs, or they are going to have to raise the property taxes on people who are already overtaxed, who are business owners or homeowners.

The 103d Congress was the education Congress. It passed Goals 2000, national service, school-to-work funding for students who are not going to college but need to be headed into a job. The 104th Congress now wants to cut those programs, along with title I, summer youth jobs, dislocated workers, Head Start, drug-free schools. It was the robber barons of the 1800's that did not want to fund education for the children of their workers, so the public funded education. Now the new robber barons of this generation want to take the public investment out of public schools. We should not let them.

THE ERA OF BIG GOVERNMENT IS ALIVE, WELL, AND LIVING IN THE WHITE HOUSE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr Speaker, 50 days ago President Clinton stood before the American people right here behind me in this Chamber and said, "The era of big government is over." I am here to announce that, unfortunately, rumors of the demise of big government were premature. Big government is in fact alive and well, and living in the White House.

In case Members have not heard, Mr. Speaker, Bill Clinton has requested billions more in spending on many of his pet projects and liberals' constituencies. The President wants more money for corporate welfare, more money for ineffective job training programs, more money for the National Endowment for the Arts, and more money for Goals 2000, and on and on and on.

Mr. Speaker, let us not delude ourselves into believing that big government is over. The President's pork barrel package proves that liberal Washington special interests and the bureaucrats still want big government. Let us continue the fight against big Federal Government, reduce the tax burden on hard-working Americans, and let us balance the budget.

THE WHITEWATER INVESTIGATION HAS REACHED THE FINAL FRONTIER OF JURISPRUDENCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, some people say that politics in America is getting real strange. Take Whitewater. Please, somebody take Whitewater. Whitewater has now gone where no man or woman has ever gone before, as evidenced by juror Barbara Adams, who shows up in a sleek red and black

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Star Trek uniform, complete with phaser and communicator. Adams said she is constantly prepared to be beamed up by Captain Kirk.

Surprised? Not me. I would not be surprised to see some of those witnesses show up wearing a beanie with a propeller on top. Mr. Speaker, this has taken American jurisprudence to a whole new dimension. Trial by a jury of your peers is getting a whole new definition, and I pronounce here today and acclaim that Whitewater has now entered the final frontier. Beam me up, Mr. Speaker.

THE PRESIDENT IS STILL TRYING TO INCREASE GOVERNMENT

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, just this past January President Clinton stood on this very House floor and proclaimed that the era of big government is over.

Well, once again President Clinton's actions speak louder than his words. He's now threatening to shut down the Government again in an attempt to bully Congress into giving him $8 billion more in the appropriations bill to spend on his liberal agenda. Instead of working to balance the Federal budget, the President wants to increase spending in order to appease his liberal base of support in this election year.

Mr. Speaker, this is not what the American people want. They want a smaller, less costly, more efficient Government. They want their elected officials to represent their priorities and their values, not Washington, DC, values. And, once again, the President has let the American people down by trying to increase, not decrease Government spending.

BIG GOVERNMENT, NO; BUT EDUCATION, YES

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would simply say that big government is over, but I think my Republican colleagues think that opportunity for children is over as well. This Republican Congress is the bashing education Congress. They refuse to include in this continuing resolution resources for education. In fact, in my home State of Texas, we will lose $97.8 million in title I funds, $8.5 million in funds for the safe and drug-free schools program, and Harris County alone will lose $7.9 million in title I funds.

Do my colleagues know what school boards around this Nation are doing? They are presently wondering whether we are going to be able to hire teachers to teach our children. Big government is one thing. We all agree we must reinvent government. But what do Members believe about educating their children and having Goals 2000 that emphasizes quality education? Republicans apparently do not believe in it. The Congress will not even fund good education programs—promoting computer and reading literacy among disadvantaged children.

The irony of it is that the Senate has agreed that we need job training and education. They voted 84 to 16 to put in some $2.7 billion for education. We are not listening over here. What else do we not have? Summer job programs. We do not have summer jobs for our youngsters, the Senate agreed summer jobs for our youth should be funded. I wish they would listen. Education, yes; big government, no.

THE PRESIDENT SHOULD BALANCE THE BUDGET

(Mrs. KELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KELLY. Mr. Speaker, you can lead a horse to water, but you can't make him drink. We have led the President to at least agree to the principle of balancing the budget, but he just won't take the next step and do it.

No matter how hard we try to make the President understand the importance of a balanced budget, for our future and for the future of our children and grandchildren, he fights us at every turn.

As a new Member of the House of Representatives, I came here to get a job done.

The American people sent us here to put a stop to the reckless spending practices that have saddled us all with a mountain of debt.

But the Clinton administration fights us at every turn. Somehow, President Clinton wants us to believe that in a budget of about a trillion and a half dollars, we're still not spending enough.

Mr. Speaker, the American people are listening; they have a Congress committed to a balanced budget and a President that isn't, despite his rhetoric to the contrary. If we cannot convince him to do what's right, perhaps the American people will.

REPUBLICAN EDUCATION CUTS ARE WRONG

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, the extreme agenda of House Republicans was repudiated by their own Republican colleagues in the Senate. The Senate voted 84 to 16 to pass a Democratic amendment that restored vital funding for education.

They restored $2.7 billion in funding for education and job training programs cut by House Republicans. That means $814 million more in basic skills training in reading and math; $635 million restored for summer youth jobs; and $200 million added for safe and drug-free schools.

Education is a priority for the American people. They understand that we live in an age when a good wage is tied to a good education.

Let us not turn our backs on the schoolchildren of America by cutting education funding so vital for them to live a secure and prosperous life in the 21st century.

Mr. Speaker, I hope my Republican colleagues in the House will hear the wake-up call from Senate Republicans, rather than blindly charging ahead with education cuts that are both wrong headed and hard hearted, and that will hurt working middle-class families of this country.

LIBERALS ARE ADDICTED TO BIG SPENDING

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, liberals like to wrap themselves in conservative roles, partially at election times. This was the case 50 days ago when Bill Clinton said that the era of big government was over. Fat chance, Mr. Speaker.

Liberals are very good with disguises. But they can't hide their addiction to spending other people's money. Recently, the President submitted a request to spend an additional $8 billion for what is, essentially, a reelection pork package. The President wants to spend money on all kinds of Federal programs that will appease his liberal base. But the spending request totally contradicts the President's claim that the era of big government is over.

Mr. Speaker, our Government is now responsible for a $5 trillion debt. That debt will be shouldered by our children and grandchildren. It is outrageous that our President would masquerade as a fiscal conservative while asking Congress to add billions more to our debt.

DO NOT BALANCE THE BUDGET ON BACKS OF CHILDREN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is amazing. Never did I think I would be down here saying, "Listen to the Senate," but here I am saying, "Listen to the Senate," because they are speaking words we should hear here.

Yesterday they voted 84 to 16, and they said very clearly, "You do not balance the budget on the backs of America's children. You do not balance the budget on the backs of America's future." These are not the people that caused this deficit. B-2 bombers caused this deficit. All sorts of other pork projects caused this deficit.

Mr. Speaker, I think we have to get down to the specifics of how we do it. And to do this on children, children that do not have political action committees, children who do not have Gucci-shoed lawyers, they are the easy ones to shove out in the cold and say, "We have to balance the budget." We do that, and we have shortchanged the future of this Nation.

Listen to the Senate. They have understood how extreme the other side of this aisle is on those issues. Do not cut Head Start, do not cut drug-free schools, and do not demolish our future.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 45. Concurrent resolution authorizing the use of the Capitol Rotunda on May 2, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1494) "An Act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.".

The message also announced that pursuant to section 9355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints Mr. BURNS, from the Committee on Appropriations, Mr. KEMPTHORNE, from the Committee on Armed Services, and Mr. EXON, at large, to the Board of Visitors of the United States Air Force Academy.

The message also announced that pursuant to section 4355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints Mr. COCHRAN, from the Committee on Appropriations, Mr. REID, from the Committee on Appropriations, Mrs. HUTCHISON, from the Committee on Armed Services, and Mr. LEVIN, at large, to the Board of Visitors of the United States Military Academy.

The message also announced that pursuant to section 6968(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints Mr. HATFIELD, from the Committee on Appropriations, Ms. MIKULSKI, from the Committee on Appropriations, Mr. McCAIN, from the Committee on Armed Services, and Mr. SARBANES, at large, to the Board of Visitors of the United States Naval Academy.

□ 1115

CUT FUNDING FOR NEA

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the President has again issued an ultimatum that we, as Republicans, must allow an additional $8 billion to be spent on a host of Federal programs which many of these programs are nothing but pork barrel type projects. This spending is to satisfy the liberal groups that he needs for the upcoming election. Especially, the supporters of the National Endowment of the Arts.

I appreciate art as much as the next person. But, Mr. Speaker, it simply makes no sense to continue to tax working people's incomes to pay for works of art which insults and demean the values they hold dear.

It especially makes no sense to lay off Federal employees—with children to feed and bills to pay—so that the Government can continue to spend the taxpayer money on art which insults the religious values of the people who are being forced to pay for this so-called art.

We must stop this misuse of the taxpayers' money.

EDUCATION BUDGET CUTS

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

(Ms. VELÁZQUEZ. Mr. Speaker, I rise today to voice my deep concern over the massive budget cuts by my Republican colleagues to education programs. We can no longer tolerate this. These are cuts that will not heal.

Their slash and burn approach to educating our children has many casualties. One example under the current continuing resolution is the Safe and Drug-Free Schools and Communities Program. How can children learn in an environment where they must fear for their lives? We must give children every chance to live and learn—not take them away.

Anyone concerned with the health and safety of our children would find these cuts distressing. Who among you could look a child in the eyes and tell them that tax cuts to fat cats are more important than their education—or their life?

Mr. Speaker, it is time that we stop shortchanging our most vulnerable citizens. Hasn't enough havoc been wreaked in children's lives? We stand on the brink of another shutdown and a CR with the largest education cuts ever. Let's stop this assault on our children and restore education funding now.

PASS H.R. 739, DECLARATION OF OFFICIAL LANGUAGE ACT

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, much has been said this morning about education and wasting of money. We spend some $12 billion a year in this country, $12 billion a year on bilingual education, which means we teach kids in other than the English language.

Let me tell Members about the Ninth Street Public School in Los Angeles. Many of the students in this school are children of new Americans, and they want to learn English. Their parents want them to learn English, too, but they were so frustrated recently by the bilingual education program being foisted on their children that they took their kids out of school, boycotted the school for a week.

What does it say about our educational system when the second largest city in America has 300,000 students in bilingual education programs, where they are not taught in English, where they are not learning anything, and we are wasting billions of dollars. The parents have no recourse but to yank their kids out of school to articulate their demand for English in the classroom.

I think it is a disgrace. The students of the Ninth Street School are lucky to have parents that will fight the system for their education. Let us teach English in our schools again.

SUPPORT EDUCATIONAL OPPORTUNITY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, the real language problem in this country is not the one we just heard about, but it is the fact that our Republican colleagues cannot understand in any language the call of the American people to deal with the real problems that affect their lives. Instead, we have a House Republican majority that has produced one failure after another in the last 14 months.

As if that were not enough, they are proposing to chalk up yet again another failure this weekend as they head home in the face of a third Government shutdown. It is as if no matter what language you speak, they cannot hear the voice of the American people, because instead of solving these problems, they continue to bicker among themselves.

The House Republicans cannot agree with the Senate Republicans concerning how many American young people they should deny an educational opportunity to. The Senate yesterday rejected the extreme House Republican cuts in education. They have got a great battle going on between the far right, the extremists who want to cut out any Federal commitment to education, and the not-so-right that say, "Well, let's just cut a few children."

The American people, whatever the language is, want to support educational commitment and opportunity for our young people, and we ought to get about that job.

STOP THE CENSUS BUREAU BEFORE IT DESTROYS FAMILY FARMS

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute.)

Mr. FUNDERBURK. Mr. Speaker, the Bureau of the Census, in its infinite wisdom, has recently proposed to change the definition of a farm. This is a bad idea for America. America's most basic industry is agriculture and the family farm. In North Carolina, under the current definition of a farm, we have over 50,000 farms, but under one of the new proposed definitions, we would magically be reduced to only 25,000 farms. Mr. Speaker, changing the farm definition will affect the allocation of Federal funding since it also changes the distribution of the farm population among States. The Cooperative Extension and many other agriculture agencies use farm population to allocate funds. Small farms in my State represent a significant share of total production of commodities such as tobacco. Over 65 percent of minority farms would no longer be defined as farms. Mr. Speaker, now is the time for Congress to take action to stop this proposal before it economically destroys the small family farms in the Second District of North Carolina and throughout the Southeast.

GIVE THE MIDDLE CLASS A RAISE AND A DECENT EDUCATION

(Ms. McKINNEY asked and was given permission to address the House for 1 minute.)

Ms. McKINNEY. Mr. Speaker, in their infinite wisdom, House Republican leaders are once again pushing the Government of the United States to the brink of another Government shutdown.

The reason this time is their insistence on cuts to education and the environment. These cuts are so egregious, however, that even the Republican Senate voted 84 to 16 in favor of a Democratic amendment restoring education and job training funds.

Mr. Speaker, in this changing economy, the last thing we should be doing is cutting funds for programs that will help our children compete against highly educated workers in Germany and Japan.

This Congress, Mr. Speaker, should be concentrating on how to give the American middle class a raise and a decent education, not a Republican-sponsored wedgy.

WHEN WILL WASHINGTON LEARN?

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, President Clinton, in his recent State of the Union Address proposed another Federal education program to provide merit based scholarships to the top 5 percent of high school graduates. This despite the fact that there are already 47 scholarship and fellowship programs operated by the Federal Government. In fact, President Bush's Presidential Access Scholarship Program—a merit based program—is still on the books.

This highlights an important point. The Education Committee has discovered over 760 Federal education programs spanning 39 separate agencies, departments, and commissions. Many of these programs were designed to meet the exact same goals—yet each has its own application process and regulations.

So why does President Clinton propose one more education program—program 761? Is it to improve the education of our children or merely to make us feel like we are educating our children by spending money and creating programs? This is a critical question we must answer—the education of our children is at stake.

REPUBLICANS DECLARE WAR ON EDUCATION FUNDING

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I would like to draw attention to the war that has been declared on education funding at the elementary, secondary, and postsecondary levels by the Republican majority.

If the Republican majority's continuing resolution is extended at its current level, it would mean a $3.3 billion cut in education programs from the fiscal year 1995 level, and this would be a devastating blow to many of the educational services our children depend on. For my State of New Jersey, this would mean a cut of $23.5 million to title I, $2.6 million to Safe and Drug-Free Schools, $2.2 million to goals 2000, $3.7 million to vocational education, $3.7 million to the professional development grant programs, $36 million in New Jersey alone cut in our children's educational future.

The majority's war on education is coming at a time when New Jersey's unemployment rate is above the national average of 7.3 percent. It comes at a time when we ought to be preparing our children for a more globally integrated, more technologically advanced and more competitive workplace.

Shortchanging our students today means shortchanging the Nation tomorrow. We should not be shutting down the Government, and we should not be shutting down our children's educational future.

HOW DO WE JUSTIFY THE DEPARTMENT OF EDUCATION?

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, when you think you have heard it all from this administration, they never cease to amaze me. In today's Washington Times, the U.S. Education Secretary Richard Riley responded to an editorial that questioned the role of the Department of Education.

To justify the Federal Department of Education, let me read what Secretary Riley said: "Most recently, the President asked me to distribute the manual on school uniforms," and I have got a copy of it here, the manual on school uniforms.

I have not read this invaluable tool that helps justify the existence of the U.S. Department of Education. Maybe Secretary Riley suggests color coordination on uniforms. Maybe Secretary Riley suggests now mixing plaids and stripes. Or maybe, in fact, this manual justifies the employment of 4,876 Department of Education employees, of whom 3,322 are in Washington, DC, working on this manual on school uniforms.

REPUBLICANS HURT LOCAL EDUCATION

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, the Republicans have our citizens facing the largest education tax cuts in history. The Republican right wing extremists in Congress seem to enjoy the prospect of bringing public education in this country to its knees.

The Republicans have slashed funds for reading and math programs, they have slashed funds for safe and drug-free schools, for vocational education and adult education programs. There seems to be no end to this madness.

Mr. Speaker, public education is the foundation of our democracy. Public education must be maintained to preserve and protect our democracy. The Republican madness must not be tolerated, but, Mr. Speaker, it must be stopped.

GENERATIONAL ACCOUNTING ASKS: WHO IS GOING TO PAY THE BILL?

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Mr. Speaker, I came to the House with one speech in hand to give but I feel compelled to give another.

I just came from a committee meeting of the House Budget Committee where we talked about generational accounting. I just want to say that we have heard many passionate pleas from the other side of the aisle about how we cannot reduce spending, we cannot cut funds in education, in the environment, so on and so forth.

The bottom line is, who is going to pay that bill? It is going to be many of the young people sitting in the House Chamber at this very moment that are going to have to pay that bill.

Generational accounting does this. It says if we continue the current policies that we have in place today, what will the tax rate be on the future generations, my children and my grandchildren? Those experts that testified before that committee said this: that children that are born today will face an effective tax rate of 84 percent over their lifetime if we continue current policies.

Yes, we have tough decisions that we have to make, but it truly is about the future of our country and the future of our children. Just imagine yourself keeping 16 cents of every dollar you earn in the future if we do not make these tough decisions.

HOW CAN WE IMPROVE THE LIVES OF OUR CHILDREN?

(Mr. FRAZER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRAZER. Mr. Speaker, we are about to lose two generations of young people due to our failure to act. Corporations are downsizing and factories are closing. Parents are working two jobs, spending less time doing homework with their children. Summer jobs are being cut along with summer school.

So I ask my colleagues, what will we do to make a difference? How can we improve the lives of our children?

I suggest that we work to pass legislation which promotes and sustains a healthy nation. That means passing legislation which funds Head Start, public education, and student loans programs.

We must all work together to insure that the Government decisionmaking processes are deliberative and open. We must also insure that Government institutions are accountable and responsive to the public.

I urge my colleagues, let's do the work of the people. We are elected to serve.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1591

Mr. FROST. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1591.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1130

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee on the Whole House under the 5-minute rule: Committee on Banking and Financial Services; Committee on Commerce; Committee on Government Reform and Oversight; Committee on International Relations; Committee on National Security; Committee on Resources; and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 380 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 380

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2703) to combat terrorism. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution and amendments en bloc described in section 2 of this resolution. Each amendment printed in the report may be considered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment. The chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. It shall be in order at any time for the chairman of the Committee on the Judiciary or a designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution that were not earlier disposed of or germane modifications of any such amendments. Amendments en bloc offered pursuant to this section shall be considered as read (except the modifications shall be reported), shall be debatable for twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. All points of order against such amendment en bloc are waived. The original proponent of an amendment included in such amendments en bloc may insert a statement in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

SEC. 3. After passage of H.R. 2703, it shall be in order to take from the Speaker's table the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, and to consider the Senate bill in the House. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2703 as passed by the House. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendments to S. 735 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I be permitted to insert extraneous material on House Resolution 380, the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. PRYCE. Mr. Speaker, House Resolution 380 allows for the orderly, but fair, consideration of H.R. 2703, the Effective Death Penalty and Public Safety Act of 1996. The rule provides for 1 hour of general debate equally divided between the chairman and ranking minority member of the Committee on the Judiciary, followed by the consideration of 17 amendments which are specified in the report accompanying this rule.

While we could not make in order every amendment submitted to the Rules Committee, the committee has tried to be as fair as possible in crafting this resolution. Amendments are made in order which encompass major areas of controversy surrounding this legislation, including those related to material support for terrorist acts, international counterfeiting, immigration, and death penalty reform, to name just a few. I would also note that several amendments included in this rule have bipartisan sponsorship. So I would just emphasize that the more significant areas of concern to members will have an opportunity to be fully debated.

Mr. Speaker, the rule waives all points of order to allow consideration of the amendments listed in the Rules Committee report. The amendments will be considered in the order printed in the report, and will not be subject to further amendment. Debate time for each amendment is also prescribed in the report, with input from the sponsors, so that the House can work its will in a timely manner.

In order to expedite consideration of amendments where there is bipartisan agreement, the rule also allows the chairman of the Committee on the Judiciary to offer amendments en bloc. The rule permits the original proponent of an amendment included in the en bloc format to insert a statement in the CONGRESSIONAL RECORD immediately prior to the disposition of the en bloc amendments. Members should also take note that the rule allows the chairman of the Committee of the Whole to postpone and shorten votes during consideration of this bill.

While the rule provides for the consideration of an amendment in the nature of a substitute, the rule also includes the customary motion to recommit, with or without instructions. Finally, if the House passes this legislation, the rule provides for the necessary steps to consider the Senate bill, S. 735, and to request a conference.

Mr. Speaker, as many of our colleagues know, April 19 marks the 1-year anniversary of the devastating terrorist attack that claimed 168 innocent lives in Oklahoma City. Combined with the nearly 500 people who were injured in that blast, the wanton attack on the Alfred P. Murrah Federal Building ranks as the worst terrorist incident ever to take place on U.S. soil.

Unfortunately, it was not the first such terrorist act to take place here in the United States. The bombing of the World Trade Center in New York City in February 1993 catapulted the threat of domestic terrorism to the forefront of American consciousness, as our citizens slowly began to realize that terrorism is not confined to foreign countries.

Up until that time, most Americans saw terrorism in an international light, brought to life by such events as the bombing of the U.S. Embassy in Lebanon, the murder of American tourist on the *Achille Lauro*, the downing of Pan Am flight 103 over Lockerbie, Scotland, and more recently, the string of terrible bombings that has disrupted the flow of daily life in Israel.

These latest attacks on the Israeli people make it clear that terrorism remains a serious threat worldwide. But, in the wake of the bombings which shook New York and Oklahoma City, we are faced with the sobering prospect that terrorists are at work right here in the United States.

In the months which have followed these tragic events, this Congress, and this House in particular, have faced the challenge of defining the appropriate Federal response to the threat of domestic terrorism. As one member put it yesterday in the Rules Committee, in the fight against terrorism, government must balance the need for public safety and security with individual rights and liberties. Ideally, what keeps us safe from violent crimes, such as terrorism, should not negate those constitutional restraints which also keep us free.

It is vitally important that our citizens have complete confidence in law enforcement's ability to do its job without trampling on any constitutional restraints. To help address these concerns, the rule makers in order the Bartlett amendment, to evaluate the current state of Federal law enforcement and its impact on public confidence.

In my view, this bill represents a serious, bipartisan attempt to protect American citizens against terrorism, while also protecting their fundamental constitutional rights. I commend Chairman HYDE and Representative BARR for working together in recent weeks to address a number of concerns about the constitutional boundaries to giving law enforcement the enhanced capability to deter and punish terrorist acts.

H.R. 2703 contains a variety of tools designed to strengthen law enforcement's hand against terrorists, including, but not limited to: Expanded investigative methods for combatting terrorism; special procedures for removing aliens suspected of terrorist activity; and important reforms to curb the abuse of habeas corpus by convicted criminals.

In addition, H.R. 2703 contains a provision that supports the growing national concern for innocent victims of all forms of crime. Specifically, it includes the language of H.R. 665, the Victim Restitution Act, which the House passed last February as part of the Contract With America's anticrime package.

Mr. Speaker, throughout my years as a judge and prosecutor. I worked closely with victims of crime whose courage and strength in the face of adversity and personal loss was both moving and uplifting. Like the families of those who lost their lives in Oklahoma City and elsewhere at the hands of terrorists, these individuals did not ask to be victims. But after experiencing crime firsthand they bravely began the process of recovering from their unwanted and undeserved trauma.

After years of elevating the rights of criminals, society has begun to recognize that crime victims have equally important rights. Increasingly, their voices are being given a more meaningful role in developing public policy, helping them turn their personal anguish into positive action, but additional reforms are needed to bring some balance, to a process that often seems especially to them, one-sided. Crime victims clearly should not have to suffer twice—first at the hands of the criminals, and then by an inadequate justice system.

One of those reforms, which is included in section 806 of the bill, is the right to adequate restitution from the perpetrator for losses incurred as a result of the crime itself. While restitution can never erase a victim's suffering, it can provide victims and their families with a small measure of satisfaction that our criminal justice system cares about their needs, too.

Mr. Speaker, this debate is not about who, or which political party, is more committed to fighting terrorism. I think we would all agree that keeping America safe and secure is not a partisan issue—it is one of the most fundamental responsibilities of government. Sadly, domestic terrorism has emerged as a new threat to the safety and security of our cities and communities. In response to that threat, we need a tough, no-nonsense policy that gives law enforcement reasonable and legitimate tools to prevent and punish terrorist acts, and a policy that puts our sympathy with the victims of crime, not with the criminals.

Mr. Speaker, in closing I would say to my colleagues that this rule provides a fair way to consider a very complex piece of legislation. It will provide the House ample opportunity to debate a number of important issues related to the basic question of what constitutes the appropriate Federal response to combatting terrorism. The Rules Committee voted unanimously last night to approve this rule, and I urge its adoption by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been waiting a very long time for this bill. It has now been almost 1 year since that tragic day last April when the United States was forever changed by the madmen who blew up the Murrah Federal Building in Oklahoma City. We continue to witness senseless slaughter of innocent men, women, and children around the world because terrorists and extremists choose not to use legitimate political channels to register their dissent.

Oklahoma City taught us we are not immune from internal threats to our safety and security. The December 1993 World Trade Center bombing made it very clear that external threats are a clear and present danger to us all.

It was clear, however, that the original legislative response to these threats had substantial opposition from both conservative and liberal Members of the House. And, while the Judiciary Committee chairman, Mr. HYDE, has fashioned a substitute which addresses the concerns of a number of conservative Members, there are still other civil liberties concerns that have been raised by both liberals and conservatives. While the Committee on Rules has reported a rule which will allow many of these issues to be brought to the floor for the consideration of all Members, the committee majority did not provide for some amendments which might have significantly improved this vitally important legislative proposal.

Mr. Speaker, I am not going to oppose this rule. But, I do believe that the Rules Committee Republicans, in their effort to craft what they call a delicate balance, have missed an opportunity to truly open the debate on these issues. The Committee on Rules majority has, in spite of its assurances at the beginning of this Congress, seen fit to limit debate in the House.

This is one legislative proposal that deserves full and truly open debate. We are about to undertake consideration of legislation that seeks to afford us some measure of protection from nameless and faceless terrorists, but in so doing, the bill necessarily grants new powers to law enforcement authorities. These are matters which affect each and every one of us and we have a responsibility—a duty, really—to make sure that what we do will protect both our safety and our civil liberties.

Mr. Speaker, I reserve the balance of my time.

☐ 1145

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I know that we all agree on the urgent need to combat foreign and domestic terrorism. I wish the Committee on Rules had adopted an open rule, which is the only way that we can fully debate such an important and controversial issue. Several of our colleagues were denied the opportunity to offer important amendments, including one which would ban armor-piercing bullets, something we badly need.

I was denied a chance to offer an amendment which would have closed loopholes in the current explosives law and mandate a background check for individuals purchasing explosives. Although the FBI has documented that criminal bombings have doubled in the past 6 years, this unprecedented increase will continue to go unchecked and the legal loopholes in current law will persist because I was not allowed to bring the amendment to the floor.

Despite the restrictive rule, I want to commend the chairman and members of the Committee on the Judiciary for including measures to protect innocent people from bombs made of plastic explosives. As my colleagues may know, a plastic explosive was used in a devastating terrorist bombing of Pan Am flight 103 in 1988 which killed all 270 passengers on board, including 2 young women from my district.

After that disaster, the United States worked closely with other nations to negotiate the Montreal Convention on Plastic Explosives. One of the most important provisions within this bill requires that plastic explosives include a special chemical that would make the material detectable at security checkpoints. If such a system had been in place in 1988, the explosives would never have reached the plane.

Although the Senate ratified the convention, Congress has yet to pass the implementing legislation that will formally bring our laws into compliance. The bill I introduced earlier this year, the Bombing Prevention Act, would make these necessary changes, and I am pleased to see that the Committee on the Judiciary included the bill's language to implement the Montreal Convention in the bill before us.

Mr. Speaker, the antiterrorism bill does have some positive provisions, but we can do better than the rule and the bill before us. I cannot understand why the Committee on Rules will not allow the House to consider measures which would have traced explosives purchases. It would have mandated better recordkeeping by the sellers of explosives and would better have protected all of our constituents.

For this reason, I urge my colleagues to reject yet another closed rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the member of the Committee on Rules for his good work on the Committee on Rules. But I rise this morning in opposition to a closed rule that blocks some 74 percent of the amendments that were offered to the Anti-terrorism Act of 1996.

Let me indicate my commitment to obliterating terrorism in this Nation. I, too, experienced the trauma of the Pan Am 103 where 270 people lost their lives. A young woman by the name of Myra Royal in my community, a bright and energetic young person with an enormous future, lost here life in that tragedy. But whenever we begin to tamper with the Constitution, I think it is also important that we view it as a traumatic event. The Constitutional Convention might be historically considered a serious undertaking to provide a document to provide for the liberty of Americans.

I was denied the opportunity in presenting two amendments that I think would have brought about both vigorous debate, but were warranted in this legislation: The first one was a suneting provision on subtitle F, that had to do with the designating of terrorist groups. We recognize that it is important for our State Department and President to list those groups that might engage in terrorist activities. At the same time, we believe in civil liberties and the right to due process.

This particular title would in fact eliminate the opportunity for anyone who might have previously been involved in a group that had some terrorist association to justify their position in this country and to defend themselves if they were not involved in any terrorist activities or in fact they were really advocates for peace in such group. Sunset provisions allow this Congress to come back after a 6-year period and fully review this legislation to determine, has it been effective or has it not been effective?

Likewise, I offered an amendment, a sunset amendment for the entire legislation. Why? Not because I do not believe in eliminating terrorism from these shores but because I believe in the civil liberties of this Nation and the Constitution. This would have allowed us, Mr. Speaker, to have a full hearing to address the pros and cons of this legislation and determine whether it should continue or not in 6 years.

This is a bad rule. It eliminates the opportunity for debate. I ask the Speaker and the House to reject it.

Ms. PRYCE. Mr. Speaker, I yield 4 minutes to my friend, the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, when Pan Am Flight 103 was destroyed by a terrorist bomb, 270 lives, including 189 Americans, were cruelly snuffed out. These numbers included men, women, infants, students, tourists, and business people, and, most importantly, wives, husbands, and children. That tally included 35 Syracuse University students going home to celebrate the holidays with their families and, it also included John Cummock, a vice president of Barcardi Food Co. and a constituent of my congressional district, who left behind a wife and three young children. While these individuals are beyond our power to help, we have today the opportunity to help the surviving families to secure a measure of justice.

I would like to share with my colleagues today a letter I just received from Victoria Diaz Cummock, the widow of John Benning Cummock, and president of Families of Pan Am 103 at Lockerbie. I would like to share Ms. Cummock's letter with all of my colleagues this morning.

Ms. Cummock says:

DEAR CONGRESSWOMAN ROS-LEHTINEN: On December 21, 1988 terrorists killed my husband, John (age 38), along with 269 people aboard Pan Am 103. The bombing of Pan Am 103 was the single largest act of terrorism against Americans in this country's history. More Americans died aboard Pan Am 103 than in Desert Storm or in the Oklahoma City bombing. I was left widowed with three small children, Ashley 3, Matthew 4, and Christopher 6. For over seven years we have waited for our country's help and support. As with all American families victimized by terrorism . . . we continue to wait . . . still without our country's help.

Today, Congress has the opportunity to help us, so we can help ourselves. The antiterrorism legislation H.R. 2703, contains a limited provision to waive sovereign immunity in cases of state-sponsored terrorism. This gives all Americans the right to pursue justice and have their day in civil court against these countries. Congress can not continue to allow countries that kidnap, torture, and murder Americans the right to hide behind sovereign immunity. The resounding message sent to countries sponsoring terrorism is that it is safe to target and kill Americans because there is no accountability.

There are over 30 million Americans that travel abroad each year who are not aware of how easily their lives can become unraveled by terrorism. These terrorist acts are tragic and devastating enough for victims' families to live with. To provide no avenues for help or justice to our families or the hostage survivors, like Joseph Ciccipio and David Jacobson, leaves thousands of Americans with both the physical and mental scars, thus allowing terrorists to win over our lives, (the survivors families), as well.

In contrast, for commercial reasons, U.S. corporations have the right to their day in civil court, to seek accountability and restitution for their damages under these same circumstances. In other words, our nation's present law allows restitution for a terrorist bombing of an airplane full of children—but not people. This is an outrage.

Today our legislators can set the record straight and send a message of hope and support to all the orphans, widows and American families victimized by terrorism. H.R. 2703, containing "the right to sue" provision allowing us to help ourselves. Please, as our legislators, don't continue to turn your backs on the families of Americans who have paid the ultimate price and sacrificed so much for this great nation. Let me be able to tell my children, who daily pledge allegiance to the American flag, that America stands with us in our pursuit of justice and accountability. Our hopes and prayers are with Congress today.

Sincerely,

VICTORIA DIAZ CUMMOCK,
Widow of John Binning Cummock,
President, Families of Pan Am 103/Lockerbie.

Mr. Speaker, the past several decades have taught us a great deal about international terrorism. We know that, to function in the international arena, these criminals require state sponsorship. As our colleague, Representative TOM LANTOS, has stated:

Terrorists do not operate in a vacuum, but rather rely on certain nations where they know they will find safe haven after carrying out their murderous acts. They must have at least tacit governmental approval of planned operations and millions with which to continue to buy the tools of death and destruction.

The physical evidence recovered from the wreckage demonstrated the truth of that observation. The explosive was identified: it turned out to be an exotic plastic explosive, an explosive formulated to evade detection by conventional airport security. The electronics were similarly specialized and while helping to solve the crime, did not bring justice.

When this forensic evidence identified the regime of Libyan dictator Múammar Qadhafi as responsible for this crime, diplomatic pressure has been applied in an effort to force the extradition of these murders. Qadhafi has refused to surrender them for trial in either the United Kingdom or the United States.

To avoid civil action, the regime has hidden behind the Foreign Sovereign Immunities Act of 1976. This is the classic situation of a criminal regime invoking the protection of the law while acting in contempt of it. This bill contains a provision that will, under the narrow circumstances of terror and genocide, allow victims to reach beyond the Foreign Sovereign Immunities Act to seek redress for these crimes from the governments that sponsor these atrocities.

I urge my colleagues to remember the victims of Pan Am Flight 103 and the need to seek justice for their families.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the 60th restrictive rule reported out of the Rules Committee this Congress. In fact, 89 percent of the rules this session have been restrictive.

Mr. Speaker, for the RECORD I include a compilation of floor procedure in the 104th Congress as compiled by the Committee on Rules Democrats.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park and Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment; waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted, it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr. of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3⁄5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3⁄5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H. Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee.	N/A
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee.	2D/2R
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735.	6D; 7R; 4 Bipartisan

*Contract Bills, 67% restrictive; 33% open. **All legislation 1st Session, 53% restrictive; 47% open. ***Legislation 2d Session, 89% restrictive; 11% open. ****All legislation 104th Congress 60% restrictive; 40% open. *****Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just assert that this is a very fair way to consider a very complex piece of legislation. It will provide the House ample opportunity to debate a number of very important issues to the basic question of what constitutes our appropriate Federal response to combating terrorism.

Mr. Speaker, I include for the RECORD a report of the amendment process under special rules reported by the Committee on Rules, 103d Congress versus 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 12, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	59	62
Modified Closed [3]	49	47	23	24
Closed [4]	9	9	13	14
Total	104	100	95	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 12, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 376 (3/7/96)	Debate	H.R. 2703	Effective Death Penalty	
H. Res. 380 (3/12/96)	MC			

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. GOSS. Mr. Speaker, I urge my colleagues to support this very fair rule allowing us to consider a host of important issue relating to crime, terrorism, punishment, the proper role of the Federal Government, and the rights of all Americans. The Rules Committee had a tough assignment in wading through some 70 amendments to this bill—and I believe we have done a fair job of selecting amendments to ensure a broad and inclusive debate.

Mr. Speaker, in a nation that is accustomed to extraordinary personal liberties, we have had to consider the terrible reality of terrorism hitting home. The World Trade Center bombing made us painfully aware of the risks associated with living in a free society in a dangerous and unsettled world.

We agree that all Americans deserve to be safe in their homes, at their schools, on their jobs, and in their neighborhoods. And we are attempting with this bill to improve our ability to meet that challenge. There is a delicate balance, however, between the necessity of empowering Government entities to protect the peace and the necessity of preserving the constitutional rights of free people in our society. I have heard in recent days from many southwest Floridians who are concerned that this bill as now written upsets that balance, overextending the power of the Government at the expense of individuals' rights. They have urged us to be sure that we do not fall into the trap of responding to the risk of terrorism at home simply by passing new legislation that does not effectively attack the problem. As have many of my colleagues, I have been reminded by my constituents that Federal law enforcement already has significant tools with which to combat terrorism—and all the new powers in this bill may not be necessary. Given this serious concern, I am pleased that this rule allows for ample time to debate the merit of the antiterrorism provisions of this bill—and to consider alternative proposals.

Mr. Speaker, that being said, I believe that this bill has many positive aspects, most notably the important judicial reforms that were part of our Contract With America, passed by this house but have not yet become law. For example, we are going to offer victims of crime the opportunity to gain fair restitution. Long-overdue reform will make the death penalty a real punishment, ending in timely execution instead of the never-ending court proceedings that keep justice from being carried out. And marking dangerous plastic explosives will help the FBI solve crimes faster and more effectively.

Mr. Speaker, I am pleased that we have the opportunity to debate these issues—since they matter very directly to every family in this country. Public safety and the security of our neighborhoods is of prime concern to all of us and this bill offers a solid foundation upon which this body can build. I look forward to the debate.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 251, nays 157, not voting 23, as follows:

[Roll No. 60]

YEAS—251

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—157

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brewster
Browder
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Dingell
Dixon
Dooley
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hefley
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
LaHood
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Rahall
Rangel
Reed
Rivers
Roemer
Roybal-Allard
Sabo
Salmon
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Tiahrt
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Woolsey
Wynn
Yates

NOT VOTING—23

Brown (CA)
Bryant (TX)
Chapman
Chenoweth
Collins (IL)
Collins (MI)
de la Garza
Hoke
Laughlin
Livingston
McDermott
Moakley
Nadler
Neumann
Ortiz
Porter
Riggs
Rush
Sisisky
Stokes
Waxman
Whitfield
Wilson

☐ 1220

Messrs. KENNEDY of Massachusetts, RAHALL, and BARCIA changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RIGGS. Mr. Speaker, on rollcall No. 60, I was unavoidably detained on personal business and unable to vote. However, had I been present, I would have voted "yes."

☐ 1515

PERSONAL EXPLANATION

Miss COLLINS of Michigan. Mr. Speaker, this morning I was unavoidably detained and missed rollcall vote No. 60 by about 1 minute. Had I been present, I would have voted "no."

Ms. PRYCE. Mr. Speaker, I ask unanimous consent that House Resolution 376, providing for consideration of H.R. 2703, which was a general debate rule only, be laid on the table. This has been cleared with the minority.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 380 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2703.

☐ 1217

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2703) to combat terrorism, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this bill comes to us against the background of domestic and foreign terrorism that has caused countless murders of innocent men, women, children, and the elderly. So bloody, and so cowardly, a series of crimes that to ignore them and to ignore the frightening potential for future atrocities amounts, in my humble opinion, to a dereliction of duty. The World Trade Center bombing in New York prompted this legislation. That cost 6 lives, and it was a miracle that it did not cost 600. Had the bomb been placed differently, it might have knocked the entire building down.

Mr. Chairman, this bill is spurred by the Pan-American 103 tragedy, which cost 270 lives. It was spurred by Leon Klinghoffer's murder on the *Achille Lauro*; by the American hostages in Lebanon; by the use of chemical warfare in mass transportation in Japan; by the Oklahoma City bombing that cost 168 lives; by the bombings in Tel Aviv and in Jerusalem, and by the IRA in London.

Mr. Chairman, as the tragedies mount, as the efforts at international intimidation mount, what is our response? We are told by some that we do not need any new laws. After all, we caught McVeigh, did we not? Yes, we did, we caught him speeding. Talk about lucking out.

There is an old saying, "God takes care of drunks, children, and the United States of America." I hate to rely on that for our future national security. I do view our sworn duty, and upholding our Constitution, not to prefer the criminals and criminal aliens, but to provide for the common defense within the four corners of our Constitution. All I ask, Mr. Chairman, is that the Members do not consign their common sense to certain groups who belittle what we are trying to do. In the end, we have to live with ourselves and how we vote on this life and death issue.

What is in this bill, I would ask, Mr. Chairman? There are three things that ought to be of interest to all of us: the effective death penalty provisions, H.R. 729 recapitulated, and which has been passed by the Senate; that is habeas corpus reform. There is the Criminal Alien Deportation Improvements Act. That is, after a criminal alien has served his time, an expedited deportation of that person. There is mandatory victim restitution. That brings the criminals to justice and brings justice to the victims.

Mr. Chairman, we have taken out, after months, and I mean 3 months at least and more of negotiation with people out of sympathy with every aspect of this bill, we have taken out emergency wiretap provisions, although I wish they were in. We have taken out the roving wiretap authority, because criminals go from one phone to another. God forbid that we should be able to tap into the person's conversations, rather than specifically to the phone, but we took that out.

We took out military involvement in civil law enforcement provisions. That is where they use chemical warfare in mass transportation. We take that out, even though the military is probably the only organization available that has the technology and know-how to cope with that. We have taken out a definition of terrorism that they complained was overly expansive.

We have taken out the funding for a domestic counterterrorism center that the FBI and the CIA wanted, and the Justice Department wanted. We have taken out funding for additional FBI personnel, as though we have enough FBI agents. We have taken out provisions to pay for digital telephony that will permit our law enforcement people to tap into fiber-optic wires. We will not have that capacity. We took out machine-readable visa provisions.

What is left in the bill? As I said, there is habeas corpus reform, criminal alien deportation, and mandatory victim restitution. Those are largely crime, rather than antiterrorist, but we do require the marking of plastic explosives with chemicals to aid in detecting their presence before they explode. If we had had that capability, we could have prevented PanAmerican 103 and the loss of life.

We prohibit unlawful nuclear material transactions. There is a serious threat of nuclear terrorism from diverted stockpiles from the former Soviet Union. This is deterrence by legislation.

We do not repeal the sixth amendment's protection of our right to confront our accusers in criminal cases. But, in deportation cases, under certain circumstances, when to confront the accused by the source of the information would reveal the source and compromise our security, there is a very useful and, I think, justifiable process in the bill to protect justice and at the same time protect America from alien terrorists. That is taken out by an amendment to be offered by the gentleman from Georgia [Mr. BARR].

Mr. Chairman, this bill bars representatives and members of designated foreign terrorist organizations from entering the United States. That is taken out by the Barr amendment, which we will debate later.

This does include a provision that was part of the Contract With America that provides a good-faith exception to the statutory exclusionary rule. If the court finds a law enforcement officer's violation of the wiretap statute was a good-faith error, the evidence will not be suppressed. That was taken out by the Barr amendment, which we will debate latter.

□ 1230

This bill incorporates the Criminal Alien Deportation Improvements Act, which already passed the House and we are going to try and pass it again. It has not passed the Senate.

This bill changes asylum laws to avoid manipulation by terrorists.

This bill prohibits fund-raising in the United States by designated foreign terrorist groups. That is stripped out of the bill by the Barr amendment, which we will discuss later, by way of stripping the designation process of who is a terrorist or a terrorist organization.

Parenthetically, this morning's Washington Post has an interesting story on page A-18: "Freeh," meaning Louis Freeh, the director of the FBI, "Says Hamas Raising Money Here." That seems to me to be outrageous, but we will come to grips with that later in the debate over the amendments.

But the people of the United States should not bankroll terrorist activity.

The effective death penalty provisions are habeas corpus reform, a major plank in Republican anticrime policy. I can only say when a John Wayne Gacy murders 27 young boys and it takes 14 years from the time of his sentencing to the time he is executed, something is seriously wrong with justice. We try to correct that.

The widow of the Secret Service agent who died in Oklahoma City, Diane Leonard, told us the other day, that for victims there are no indictments, no pretrial hearings, no trials, no appeals, no chances for remorse and no doubt of their innocence. Yet for those who commit these crimes, where there is no doubt of guilt, there is only appeal after appeal after appeal.

We have the Victims' Restitution Act in here, another Contract With America anticrime item that previously passed 431 to 0.

Mr. Chairman, we have a good bill here, a bill that I think is helpful in a situation where danger lurks internationally and domestically. As Israel's best friend in the world, it would be naive in the extreme to assume that we will not be targeted by those forces that are cowardly and promiscuously bombing in Jerusalem and Tel Aviv, where buses and public places get bombed.

To me it is, I hate to use the word insanity, but it is, not to be prepared for this. There are things we can do and we ought to do. I respectfully urge Members to listen to this debate. It will not be pleasant, it will not be easy, but it involves our national security. I commend it to Members' preferred attention.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the distinguished chairman of the Committee on Judiciary for opening up the discussion around a very sensitive and important matter. He has worked very hard on this matter and he feels very strongly about it. I hope we will all stay down on the planet, right down here on terra firma as we discuss a very emotional, very difficult, very sensitive, very terrible circumstance that this House of Representatives is called upon to try to resolve.

I begin our part of this debate by referring all of my colleagues, including my chairman, to a Monday, March 11 New York Times op-ed piece by Anthony Lewis. It describes succinctly how terrorism wins.

It wins by undermining the Constitution unwittingly as we rush out with an omnibus bag of about every anticrime piece of legislation that has been laying there, and we throw it all together and we throw it at those awful terrorists. It might help, and it will do some good, and there are some good parts of the bill that was authored by the chairman of the Committee on Judiciary.

Another piece that I refer to the gentleman is the New York Times editorial dated today: "The Wrong Answer To Terrorism." We are going to discuss this, because there are several proposals on the floor today. One is the Hyde-Barr bill passed in the Committee on Judiciary. One is the Barr bill, which is not antithetical to the Hyde-Barr bill, but they go along together in some parts and they fly apart in some places. I will leave them to explain where there are similarities and differences.

But I would like to bring to Members' attention that the bill that many of us are supporting has some very important, good features of the Hyde provision in it, identical. I would like to recite them at the very outset of the debate, because our chairman has made a number of comments that I will be commenting again on with more particularity.

He has talked about the Victims' Restitution Act. It is good. We support it. He has it, we have it, "we" being the Conyers-Nadler substitute that will come up at the end of this debate.

We check off one. We both agree on that.

We have significant other agreements in antiterrorism. We both agree that we should have prohibitions on providing material support for terrorists and on fund-raising efforts on their behalf.

He cited Hamas. I cite Hamas. I agree that we should not allow terrorist to raise funds and we should not provide material support for their fund-raising efforts where there could be confusion of whether they are charitable or not charitable. We think that there should be very careful, precise distinctions made about that. I think we may do a better job in the substitute than the chairman's bill, but that is what we are here to figure out this afternoon.

There are new criminal provisions in both bills protecting Federal employees and their families, prohibiting the sale of nuclear materials and the threatened use of weapons of mass destruction, and new criminal provisions for combating terrorism overseas. It is in the Hyde-Barr bill, it is in the Conyers-Nadler bill. Identical provisions. We agree. There is no dispute about that. We think these are effective remedies.

Another area of agreement: Increased criminal penalties for burning or bombing Federal property. Agreement. Conspiring to take hostages and commit air piracy, increase the criminal penalties. Agreement. Transferring explosive material knowing it will be used to commit a crime of violence, increase the penalties. We agree.

We also, on our last point of agreement, have both determined that there should be enhanced investigative authority given to parts of our Government. In the area of requiring the marking of plastic explosives, more investigative authority. In the area of requiring telephone companies to preserve their records for at least 3 months, more investigative authority. And in authorizing monetary awards to assist in the prosecution of felony cases, more enhanced authority. It is in the Hyde-Barr bill, it is in the Conyers-Nadler bill. Agreement, point after point after point after point after point after point.

But I would like to submit, Mr. Chairman, that the substitute bill is tougher on terrorists than the Hyde-Barr bill in two key respects:

First, in our bill we make it a crime to target children when engaging in an act of terrorism, thereby specifically responding to the shocking crime in Oklahoma City. We make it an additional crime to target children when engaging in the act of terrorism. Then we include even stronger protections for American citizens who are the victims of violence in terrorist States like Libya. How? By allowing suits against terrorist nations to be brought directly in an American court.

Mr. Chairman, I would like to invite all of our colleagues to inquire, which bill is more effective? Which one has more expanded authority? Which one has more increased criminal penalties? And which one has more new criminal provisions, as we wind our way through this debate?

Mr. Chairman, I concede that the Hyde-Barr bill came out first, so it was easier for us to improve on their bill than for them to improve on our bill. We might say we are the new, final, refined, updated version on the subject. We are the latest product of a lot of hard work that went into these bills and these provisions by the members of the Committee on the Judiciary.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, it is no secret that 80 percent of the people of the country in one way or another have registered their support of the imposition of the death penalty for those vicious types of cases that too often find their way into the headlines of our newspapers and on the evening television news. We have tried mightily from the very beginning to make sure that the Federal establishment has a workable death penalty on the statute books.

When I first came to the Congress, I was appalled by the then Committee on the Judiciary, of which the gentleman from Michigan was a potent part, where the Democrat-controlled committee smacked down every conceivable attempt we made at trying to install a Federal death penalty to cover, of all things, assassination of the President, God forbid, and felony murders, multiple murders, all these heinous crimes that occur on a daily basis. Anyway, it took us until 1988 with a parliamentary maneuver to make an entry into this field by having the House approve, at long last, a death penalty for at least those drug dealers who kill in the furtherance of their enterprise.

We were joyous in the fact that we made this breakthrough and that we had this deterrent effect on the books, after long last. But then we are faced with another phenomenon.

□ 1245

It appears that the inmates on death row who have been convicted of these horrible killings are able to escape the final justice, to escape the noose, as it were, by filing appeal after appeal after appeal, sometimes lasting on inmates row, on death row for as long as 15 years.

Those same statistics that show that 80 percent of the American people want the death penalty properly applied, that same statistic, also yields an outrage on the part of the American people at the inability of the final word to be placed on the killer on death row.

What the provisions in this bill do is to limit the number of appeals that can be filed by the inmate so that justice can be served. That inmate will then meet his justice at the hands of the Federal Government even though he will have tried to avoid justice.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who has been on the committee since he arrived in the Congress, has worked on these matters with great diligence.

Mr. FRANK of Massachusetts. I thank the senior minority member of the Committee on the Judiciary, who made such a good statement. I appreciate his reminding me that I have been on the committee, because I could have sworn I was on the committee. I went to a lot of meetings of something that I was told was the Committee on the Judiciary, and I was voting on something called the terrorism bill, but then I see the bill that is on the floor today, and it is not the bill that we worked on in committee.

I very much regret the way the leadership of the House, and I do not believe this is a decision of the committee leadership, I am talking about the House leadership, the House leadership and the Committee on Rules. I regret the way they are systematically denigrating the work of the committee. That is not simply a matter of jurisdiction of turf, it is a matter of legislative procedure that goes to substance.

We are dealing here with about as important a set of issues as we can. How does a democratic society committee to democracy, committed to individual rights, committed to openness, deal with the murderous threat of a small handful of people, internationally based, who are trying to wreak harm in that society? There can be no more important or more difficult task than to arm the law enforcement people, the decent and hard-working and well-intentioned law enforcement people of this country, with the tools that allow them to counter the terrorists who are increasingly a worldwide group, although obviously our domestic people contributed sadly a great deal to this, how do you arm them while at the same time preserving democracy and individual rights? That is a process that takes some balance.

I did not agree with everything in the bill that came out of the Committee on the Judiciary, but the chairman presided over a very fair markup, gave consideration to legislation on the merits offered to amendments, and that bill came out that I voted for because I thought it achieved that balance, and then once it was no longer in the hands of the committee and the committee leadership, the Republican leadership made the decision that they had to conciliate their own right wing, and we therefore have a bill today which is so different than the bill that came out of committee.

Let me give you an example. One of the provisions that was in the committee bill, and it was narrowed in committee. I did not agree with the narrowing. That is the way the committee process worked out. It allowed the Attorney General of the United States to call on the U.S. military if she could certify that she had no civilian expertise and needed military expertise to deal with certain weapons of mass destruction, biological and chemical weapons.

That was included in the committee bill. It was narrowed in committee, but no one in committee even moved to knock it out. Lo and behold, words I do not often get to use, lo and behold, the bill comes on the floor of the House, and that language is missing.

I went to the Committee on Rules yesterday and said I have an amendment. I would like to restore to the bill language that was in committee, and the chairman of the Committee on Rules said, well, it is not germane. Language that the committee adopted modified, giving the Attorney General of the United States the ability to call on the military of the United States for expertise if she can find that expertise nowhere else, specifically, said the military cannot arrest, the military cannot do detention, the military expertise, special expertise in weapons of mass destruction can be made available.

It was in the committee bill. The right wing, sadly, tragically, increasingly, regards the U.S. armed services to some extent as a bad guy. It is a very interesting factor here. Why did language empowering the Attorney General to ask the U.S. military for assistance that was in the committee bill not only disappear but it is not germane, it is not allowable to be offered? Because the right wing had to be palliated. The right wing, maybe they thought these military people were going to come in black helicopters. I do not know what paranoia on the American right that is involved here. I know it is tragic the Committee on the Judiciary was compelled by its leadership to give in. We are going to see this with the immigration bill, by the way. We had a very good process on the immigration bill once again. Once it left the Committee on the Judiciary, where the chairman presided over a fair and deliberative markup and we came up with a bill, balanced, although some liked it, some did not, it leaves the committee, and right wing pressures are applied through the Republican leadership to change, and presto chango, how things happen, things disappear, things appear, and this terrorism bill, things affirmed in committee have been knocked out. Things not in are put back in. Things in the committee with amendment, amended, and it is critical for this reason: We need to draw a balance.

I am in favor of enhanced law enforcement powers to deal with terrorism, but I want those powers to be accompanied by safeguards tailored to make sure the powers are exercised well. I want judicial review in a reasonable way. I want people who may have had their rights interfered with able to sue in reasonable fora.

I voted for the bill in committee. I am going to have to wait and see how we vote on this. We no longer have the careful product from the committee. We have something that has been jerked out of shape by the leadership of this House giving in to right wing pressure.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 2703, and since this is general debate, I want to say, meaning no pun whatsoever, that I am generally in favor of this bill. I think some further modifications are still indicated, and I intend to vote for some of the amendments that are being offered here today.

However, I believe that we should pass H.R. 2703 and move on this front. I think international terrorism is a reality. It has happened in the United States. It is happening all over the world. It is something that we are going to have to do ever stronger efforts in order to confront.

I want to say that the Federal Government has the chief responsibility in countering threats against this country that originate from outside of this country. Other than modifications, which, as I have indicated, some of which I support, I have heard two general objections to this bill. One is why do we need to give the Federal Government any more responsibility, since a terrorist act by definition, when it occurs, would violate State law? In other words, if a bomb is set, a bomb goes off, that would violate the law in any State of the United States. Of course, it would. But I can tell you from a career in State and local law enforcement that State and local law enforcement simply is not geared to do the intelligence and investigation of processes that would be necessary to try to counter foreign-based terrorism.

Second of all, the argument has been raised that there have been certain events where law enforcement procedures may have been abused by Federal law enforcement agencies, and portions of incidents at Waco and Ruby Ridge are argued, and indeed law enforcement, I think, in both of those incidents fell short. But that does not mean that we do not give law enforcement responsibility to act because there are problems, because there are problems in every law enforcement agency. We clear up those problems, and we move forward when we have to, and I believe this bill does so.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. WATT], an able member of this subcommittee, a practicing attorney for decades.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding me this time on this important subject, and I want to congratulate the members of the Committee on the Judiciary who have dealt with this very difficult issue over a period of time and tried to craft a bill that has a sense of balance to the in the face of a lot of emotionalism that exists on these issues.

I think the chairman of our committee, Chairman HYDE, has framed the issue in this debate a little bit differently than I would frame it. He has said the issue is do we need a bill or some additional laws in the area of international terrorism? I think if you polled every Member of this body, you would get no dispute on that issue. All of us would agree that additional laws are needed to address this dynamic and changing area that we historically have not had to deal with in this country.

So the issue is not do we need additional laws. The way I would frame the issue is not do we need additional laws, the question is do we need these laws that are being proposed in this particular bill. And I will submit to you that there are some very, very troubling aspects to this bill. What we are called upon to do really is to draw a balance between the need for additional laws to address terrorism and, on the other hand, the individual rights that individual citizens in the United States are guaranteed under the Constitution of the United States of America.

When we are stepping across the bounds to make new laws that substantially cut back on our individual rights and freedoms in this country, then we must begin to ask the question, what price are we willing to pay in terms of our individual rights and freedoms? What price are we willing to pay as citizens of this country to make ourselves more secure?

Now, let me illustrate this to you. We can build walls around everybody in this country. We can take away all of our individual rights that are guaranteed to us in the Constitution and lock everybody up whether they have committed any crime or not, and none of those people inside those walls or in those jails who have been deprived of their rights can commit any crimes.

But are we willing to pay that price? Are we willing to pay that price for security? Because the more we take away our rights and lock people up without giving them due process and take away the right of habeas corpus that protects the individual citizen when the Government is engaged in some illegal act, the more we have moved toward a totalitarian society and away from the democratic society which is so important to each and every one of us.

So as we listen to this debate, I encourage all of my colleagues to constantly think about what this balance ought to be. What price am I willing to pay as an individual citizen in terms of my own individual rights and freedoms and liberties and protections? What price am I willing to pay to address this issue? And if we can arrive at some appropriate balance, then that is where we ought to be going in this bill.

☐ 1300

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. LUCAS].

Mr. LUCAS. Mr. Chairman, I stand before you today in a position that I never would have envisioned for myself when I was elected to Congress. I am here today as a champion of habeas corpus reform. This is not because I have had a change of heart, but because of the heartbreak of the people of my State.

April 19, 1995, the day of the ruthless bombing of the Alfred P. Murrah Federal building in Oklahoma City, will be etched in the minds of all Americans for years to come. To the people of Oklahoma, and especially to the families of the 168 people that died in the bombing, this year has been especially long and difficult as we have tried to begin the process of healing and putting our lives back together.

An important part of the healing process for the survivors will be to see that those who committed this heinous crime are punished. The habeas corpus reform that is included in this bill will ensure that those who committed this crime will not be able to delay punishment through endless appeals.

Last week, many of you had the opportunity to meet with the Oklahomans who have suffered the most in the past months. They are real people with real stories. For example, there is Clint Seidl, an 8-year-old boy who will never see his mother again or Nicole and Kylie Williams. Nicole's husband Scott was making a delivery to the Federal building that fateful day. Nicole was 6 months pregnant at that time and now Kylie will never know her father.

The message of these victims and survivors is that they will never see their loved ones again, while those who committed this heinous crime, if convicted, will. And even if they are sentenced to death, they could languish on death row for as long as 17 years. I believe a fellow Oklahoman, Diane Leonard, who lost her husband in the bombing, said it best. She said, "The victims had no judge, no jury, no pretrial hearing, no trial, no defense, no appeals, no convictions except that found in a sick mind. My husband and others were executed with no dignity, no time to prepare, no chance to repent, no opportunity for their family to know of their love or to be reassured of their families' love for them. They had no guarantee of a painless and swift death. These innocent were left to linger and die in the rubble."

Mr. Chairman, this bill is about these victims and preventing what happened to them from ever happening again in this country. I stand here today and say enough is enough. Support fundamental habeas corpus reform. Support mandatory victim restitution. Support closed-circuit broadcasting of the Oklahoma City bombing trial for its victims. Support H.R. 2703.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is known as the accuracy in debate portion of our activities on the floor today.

The chairman says that somebody is telling him we need no new laws. Now, maybe somebody is, but nobody on the Committee on the Judiciary that I know of has been telling anybody that, Republican or Democrat. I think everybody knows we need new laws.

The question, sir, is, what new laws, which new laws?

Now, I know we have to refer to the Oklahoma City tragedy, the Klinghoffer, *Achille Lauro*, and other terrorist activities. Hamas will be mentioned 999 times today, and maybe it should be. But what do these have to do with habeas corpus?

Here, Chairman HYDE, is where you went wrong, because you made this a grab bag crime bill and lost sight of the fact that this is an antiterrorist piece of legislation of the first moment. So you gathered up every old sack of legislation that has been laying around. And since you thought you were on a fast track, you stuck it on.

Here is the first train coming out of the station. Well, we have been debating habeas corpus for 10 years. Stick it on. Let us go get the death penalty. Stick it on. Let us get alien deportation. We have immigration coming up. But stick it on.

Now you are paying for it, because you have got a junk bag crime bill, and not what we came here for today, namely, a bill to fight terrorism. Because I have got the best antiterrorist bill that will hit this floor today, the strongest, the most effective, the one with the most additional penalties. And you have got a great crime bill that ought to be debated some other place, some other time. And that is the problem.

Mr. Chairman, the gentleman says somebody took wiretaps out. Well, read the bill. We did not take wiretaps out. That is an inaccurate statement.

We have got plenty of good things in here, and I just want to close with one: Prohibiting material support to terrorist organizations. That is in my bill: Prohibiting the providing of material support or resources to organizations designated as terrorist by the Secretary of State. But it provides expedited judicial review of that designation in a hearing in which the organization will have the opportunity to call witnesses and present evidence in rebuttal of that designation.

You do not mind that, do you? We are in America. Since when can one Cabinet official come up with a list? Do you not remember the McCarthy era, sir? That is what the Attorney General did. Now here we are within the same generation coughing up the same nonsense. And we say, "Well, let's give people a chance to rebut the designation."

What for? I would not want the Secretary of State Buchanan designating who is a terrorist organization in this country, America, anytime soon. I do not really think most of the Members do either.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I yield myself this time simply to express my profound appreciation for being instructed by the distinguished gentleman from Michigan. I always learn when he talks.

However, I beg to disagree. I think terrorists who kill ought to die, and they ought not to linger for 16 or 17 years. That is why habeas corpus is in there.

I commend the text of the bill to my friend. He said one cabinet officer can come up with a list of terrorist organizations. No, it is the Secretary of State in conjunction with the Attorney General. That is two, the last time I looked. They come up with the evidence, they submit it to Congress, the facts behind it, and a judicial review is available to the organization or the person. So I commend the text to my friend.

Mr. Chairman, I yield 1½ minutes to the learned gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I rise in support of the foreign sovereign immunity amendments contained in this legislation. We must make foreign state sponsors of terrorism responsible for their actions. Recent events make clear now more than ever the grave threat posed by international terrorism to the interests of the United States at home and abroad. Outlaw states continue to serve as sponsors and promoters of this reprehensible activity, providing safe haven, training, weapons, and other support to terrorists.

Terrorists are responsible for the deaths of our citizens and other innocent civilians in senseless acts of violence and the destruction of property throughout the world. You will recall, with horror and profound grief, the murders aboard the *Achille Lauro* cruise liner, the bombing of Pan AM Flight 103, the World Trade Center bombing and the four recent bombings in the State of Israel. The list of other such shameful and cowardly acts is endless.

In addition to the horrible human and economic costs of terrorism, it is also a serious attack on United States foreign policy across the globe. Terrorist acts create instability, detract from our efforts to secure peace, and directly assault the United States and our closest allies.

We cannot tolerate support for terrorism from foreign governments. No member of the community of nations should condone or assist such reprehensible violence. And no foreign state should be able to hide behind its immunity as a sovereign government to avoid having to pay the consequences of supporting terrorism. Accordingly, I introduced H.R. 1877, the State-Sponsored Terrorism Responsibility Act to allow American victims to have a means of redress in the courts. I am pleased to see that under Chairman HYDE's leadership, this measure has been included in the legislation before us today.

We must make a clear statement that support for terrorism is unacceptable in the international community. Allowing lawsuits against nations which aid terrorists will allow us to increase the pressure against these outlaw states which would deprive our citizens, our Nation, and our allies of their freedom and safety.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Chairman, I listened to my colleague on the other side of the aisle say we have debated habeas corpus reform for 10 years. I think that is plenty of time. If we debate it another 4 years, that will be about the average time that a convicted murderer sits on death row before his sentence is executed, if that occurs in that amount of time, 14 years.

Mr. Chairman, I came to Washington to shape legislation to reflect a reliable sense of right and wrong. But when murderers who rape or kidnap their victims are convicted and sentenced to death, it is wrong to delay their sentence year in and year out with appeals challenging the constitutionality of their conviction. It is not uncommon, as I mentioned before, for criminals to be clothed, fed, and housed for 14 years while their habeas appeals are considered.

Put yourself in the place of a parent of a murdered child. That parent must deal with the pain and the loss, and know full well that their child's killer is escaping the sentence decided by a fair jury. This is cruel and unusual punishment.

Habeas corpus reform contained in this bill limits the number and purposes of habeas petitions, and it is the right thing to do.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to my friend, the gentleman from New York [Mr. SCHUMER] who has served as the chairman of the Subcommittee on Crime for many years and is still its ranking member, and a distinguished member of the Committee on the Judiciary.

Mr. SCHUMER. Mr. Chairman, I thank my good friend, the ranking member, for his generous yielding of time.

Mr. Chairman, I rise in strong support of this legislation. I wanted to congratulate the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], for the fair and balanced bill he has brought to the House today.

Mr. Chairman, I would like to see even a tougher law. Certain provisions that belong in this bill were knocked out, but I still strongly support the bill. It presents us with a clear choice between two courses of action: We can reject extremism and its spawn of terrorist violence, or we can give in to overblown fantasies of Government oppression that have been advanced against this bill by the fringes on both our right and our left.

The great moderate mainstream of this House can stand up, unite across party lines, and pass this bill. We can reject the creeping paranoia that encourages any nut with a gun and a grudge to take up arms and terrorize the rest of us. Or we can pretend we are powerless to stop the bombing of children and the murder of innocent men and women in future terrorist violence. These are our choices, and they are crystal clear.

Now, I understand and sympathize with the legitimate concerns of those who say we should be careful to protect our liberties as we consider this bill. I share their concerns. I supported and sponsored amendments that are built into this bill to help meet our shared concerns, and I am absolutely convinced that as this bill stands before us today, it has been well crafted to protect those liberties.

But what I do not understand and what I do not share are the extreme hypotheticals that extreme advocates who have lobbied this House from both the right and the left have invented to oppose this bill. Anyone can dream up these tortured fantasies. Anyone can invent an extreme hypothetical under which someone, somewhere, somehow will be treated unfairly by Federal laws we pass. These may be interesting academic exercises for law professors, but we cannot allow these tortured fantasies to paralyze Congress and the Nation. We have to balance.

If there were no bombings at all, no terrorism at all, we would not need this bill at all. If there were bombings everyday, we would need even much stronger action. I do not want us to be too late with too little. Everything is a balance. You cannot, cannot, do nothing without some hypothetical coming up there and rearing its head.

□ 1315

I originally introduced the terrorism legislation similar to this last year before the Oklahoma City bombing. People then said we are overreacting. Oklahoma City proved them wrong.

What will we say if America suffers another such catastrophe? The point is that we already had a process that built safeguard after safeguard into the bill. We have had enough deliberation, enough debate. It is time to act. This bill does not trample our rights. Terrorism, terrorist violence, tramples our rights. Terrorist violence is not a clever hypothetical; it is a harsh fact.

Go be briefed by the FBI counter-terrorism unit and find out what is going on in America. Ask the survivors of the bombings of Pan Am flight 103 and the World Trade Center, and Oklahoma City. These terrorists are raising money in this country today; they are using that money to blow up children and innocent people. They hate America and all it stands for, and they will hurt us again and again and again unless we give law enforcement reasonable tools to stop them.

Make no mistake; terrorism from overseas is real, terrorism from these shores is real. They are real, not hypothetical.

So, my colleagues, we must act. We must act.

I would ask my colleagues, all of them, which is the greater threat? A fanciful hypothetical under which the Attorney General of the United States turns into a power-mad rogue using this law to go after the Girl Scouts, or some sick, twisted terrorist willing to be able to blow up children sleeping in their nursery? Both are horrible scenarios. Which one is the more real? That is what I would ask my colleagues to weigh.

And so in conclusion, Mr. Chairman, we need a hard, cold, strong, balanced, and effective response to the fact of terrorism. This bill provides it. I ask my colleagues from both sides of the aisle, because we will not pass this bill without help from both sides of the aisle, to answer the plea of the overwhelming majority of Americans and vote for this bill.

Mr. CONYERS. Mr. Chairman, I yield myself 15 seconds because our distinguished colleague from New York was not on the floor. I want to commend to him Anthony Lewis' op-ed of March 11, 1996, which pointed out how terrorism wins when we undermine the Constitution, and today's New York Times editorial, which is entitled "The Wrong Answer to Terrorism," and I think they were referring to the bill that he champions.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, the New York Times is a great newspaper, but even they sometimes are wrong.

Mr. CONYERS. But not when it comes to you, sir.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the New York Times editorial was wrong, and I will be happy to show my colleague where they are not quite up to speed.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Indian [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me. Let me compliment the gentleman on a lot of great work on this bill. It has taken a lot to get through the committee, and we still have a lot of ground yet to cover. The Senate passed theirs last week. I compliment the chairman on permitting a cooling-off process after the Oklahoma City bombing so we could move legislation with good intellect, and thought and reflection.

I believe that the threat to Americans from international acts of terror is very real. From 1990 to 1994, Mr. Chairman, 40 percent of reported international terrorist acts worldwide were directed against United States' interests. Although many Americans do not realize the risk, U.S. citizens and their property are the targets of choice, often called soft targets. They are either business sites or tourist sites. Because of our status as a world superpower, our economic success and our military prowess, we have, in fact, acquired adversaries throughout the world. Whether we like it or not, we must face the dark truth, that there are those who wish us ill on not only our system of liberty, freedom and justice, but that of the American people. These groups or individuals can be highly structured or have more loose networks, but their aim is the same, to disrupt our systems, thwart our democratic policies. Unfortunately these groups do not hold life in the same light as we do and are willing to use innocents to further their aims.

In this bill also is the effective death penalty, and I think that is extremely important. We have individuals who serve on death row for life. What an oxymoron. I think that it is extremely important that we also send a message that those that participate in acts of terror, indiscriminate acts of cowardly terror, should experience the death penalty.

I know that there will be a great debate here on the floor of what to take from the bill and what to leave in the bill. Recognize that there is a process left here. I think that to my colleagues on both sides of the aisle it is important to move this bill, and let us get it to conference. But the most extremely important is let us have a good, effective bill. If we absolutely live in fear, then we have no freedom. So if we have the World Trade Center bombing, and we have it repeated, or the Oklahoma City bombing, and it is repeated, we are living in fear and, therefore, we really cannot enjoy freedom or liberty.

So when we as a people hold the power and we then extend the Government to ensure that we protect ourselves, it is called national security. We think of national security so often internationally, but it is also domestic.

I compliment the chairman for this bill.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. I thank the gentleman from Illinois [Mr. HYDE] for yielding this time to me.

Mr. Chairman, Islamic fundamentalists are good people, by and large, but there is a radical group of them that control a country called Iran and control a country called Sudan who have a vision of the world that is quite different from ours. They have a vision of controlling with their movement a Messianic totalitarian movement, a southern Europe, the Middle East, northern Africa, the Near East, all the way through India, and over to much of where the Philippines is today, through Southeast Asia, because they believe it is their destiny to do that. They do not think the same way that we do about matters, and they see the United States, in particular, as standing in their way to do this, and they use terrorism as the means of trying to accomplish their end and to drive us out of a region where we have an obligation to be, where we have national security interests that require our being there in those regions of the world where they want to be dominant and where we have national security interests that dictate preventing a Messianic totalitarian organizational scheme of things from controlling the matters at hand. They are, therefore, going to continue to try to bring terrorism into the United States.

And that is why this legislation is so darned important. It is absolutely incredibly important that we pass this bill today.

I hope people understand what is really in here. The guts of this bill have to do with cutting off their ability to raise money in the United States, not just to raise it as in organizations, but to get material support for terrorists individually who may be in this country by giving them lodging, by giving them free rides to the airport, by providing them with explosives, or whatever else. We have created new crimes in here and new punishments in order to aid us in trying to stop this kind of terrorist act coming from abroad into the United States. This is a terribly important bill.

In addition to what it does in that regard, this bill also contains three provisions from the Contract With America that are also critical: the death penalty provision, the provision that says finally, after all these years, we are going to pass a law that ends the seemingly endless appeals that death row inmates have so that we can begin to carry out their sentences much sooner than we have been, not by ending all right to appeal at all, but by making the appeals responsible so that when they finish their ordinary appeals from their conviction they can only go into Federal court one time under routine circumstances and say, hey, I did not get a lawyer who fairly represented me, or I did not get a proper jury being picked, or there was something irregular. They can go in under what is known as habeas corpus one time and one time only, and that will be it, and we will not have 15- and 20-year delays of carrying out of the death penalty again, and we can put some determinate sentencing back into place and send a message to criminals again that when they do the crime, if it is bad enough, they are going to get the death penalty. And we have victim restitution from that Contract With America to mandate at the Federal level paying money back from the criminals to the victims, and we have in here a criminal alien deportation provision that we passed earlier that we are attaching to this bill that is very fundamental to both the terrorist threat and to getting the aliens out of this country more quickly who may come here, and many times the threats to our national security from abroad come in the form of those who are here in some fashion who should be deported and should not be allowed to hang around.

I cannot overemphasize the importance of this.

I also want to make one point; that I am disappointed to compromise with some who saw things of mischief in this bill that was not there that we had taken out, and I did not get the opportunity under the rule to offer an amendment which would have handled the problem with wiretapping that really should not have the emotion it has today in this bill. The truth of the matter is that today we have an ability for our Federal Bureau of Investigation to go to a judge to get a wiretapping order to tap a phone. We should be giving him the power and the FBI the power to go to the court and ask the judge permission to follow the bad guy, whoever he is, because we have portable phones, we have cellular phones, et cetera, and that is all that that provision that was taken out of this bill would have done. But it is out of the bill, so those who are worried about somehow undermining civil liberties can rest assured that this bill does not do it.

But what is in this bill is very, very important to fighting terrorism, and we need to pass the bill.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. NADLER], a cosponsor of the bill.

The CHAIRMAN. The gentleman from New York is recognized for 1¼ minutes.

Mr. NADLER. Mr. Chairman, I am not going to go into how desperate the situation is and how important it is that we pass a strong and tough antiterrorism bill. I think everybody here agrees on that. The question is what is an effective antiterrorism bill that will effectively fight terrorism without doing violence to the liberties of the American people.

That is the question before us, and we do not have to make speeches about how important a bill is. We know that; we all know that. Let me simply suggest, and I will have to speak later in greater detail, that to have tough-sounding provisions in a bill that are unconstitutional and, therefore, unenforceable gives us the illusion of being tough, but not the reality of doing anything about the problem, and that is one of the problems of the bill that we solve in the Conyers-Nadler-Berman substitute.

Second, we will talk later about some of the real civil liberties problems. We cannot have a procedure for deporting aliens who are allegedly terrorists where they have no opportunity to cross-examine their accusers, no opportunity to see the evidence against them, no opportunity even to know the specific charges, and that is possible under this bill, and that provision is rewritten to provide basic due process in the substitute that we will be talking about later.

Mr. GILMAN. Mr. Chairman, I rise to offer my support to Chairman HYDE for his work in the area of antiterrorism. It has been 1 year since the bombing attack in Oklahoma and over 2 years since the bombing of the World Trade Center in New York. In an effort to help protect against such events from happening again, we have before us today a measure that will ensure the protection of both our Nation's citizens and its borders.

Included in H.R. 2703 are many important provisions aimed at combating terrorism here at home and around the world. First is a provision establishing criminal asset forfeiture authority for visa and passport offenses. This initiative comes about after the revelation that 9 of 35 Federal indictment counts in the World Trade Center bombing were for visa and passport fraud, with the criminal penalties no more than a mere slap on the wrist. Initially we changed this in the 103d Congress. This is the next logical step.

Second is waiver authority of written notice based upon denial of certain visa applications, allowing the FBI, DEA, and other law enforcement and intelligence agencies to share data with the State Department for visa denial purposes, without disclosure to alien applicants who have no right to enter the United States. It will also encourage greater information sharing.

Third is an expansion of nuclear material prohibitions to cover nuclear material no one had ever envisioned would be in commerce before the fall of the Soviet Union, which is very similar to provisions in a bill I introduced at the beginning of the 103d Congress. Finally, the bill will allow the FBI to conduct police training in the former Soviet Union and abroad.

It is imperative that Congress do all it can to combat terrorist attacks, both overseas and here at home. Some may argue that we can approve a better bill than H.R. 2703. However, as a member who represents families that lost relatives with the tragic Pan Am 103 bombing, and as chairman of the International Relations Committee, I am confident that the bill we consider today will provide adequate tools to assist our law enforcement community in combating terrorism and will not infringe upon our constitutional rights.

Accordingly, I urge my colleagues to support this measure.

□ 1330

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as read for amendment under the 5-minute rule.

The text of H.R. 2703 is as follows:

H.R. 2703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Antiterrorism Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study to determine standards for determining what ammunition is capable of penetrating police body armor.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Pen registers and trap and trace devices in foreign counterintelligence investigations.

Sec. 302. Disclosure of certain consumer reports to the Federal Bureau of Investigation.
Sec. 303. Disclosure of business records held by third parties in foreign counterintelligence cases.
Sec. 304. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 305. Application of statutory exclusionary rule concerning intercepted wire or oral communications.
Sec. 306. Exclusion of certain types of information from wiretap-related definitions.
Sec. 307. Access to telephone billing records.
Sec. 308. Requirement to preserve record evidence.
Sec. 309. Detention hearing.
Sec. 310. Reward authority of the Attorney General.
Sec. 311. Protection of Federal Government buildings in the District of Columbia.
Sec. 312. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Removal procedures for alien terrorists.
Sec. 602. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Membership in terrorist organization as ground for exclusion.
Sec. 612. Denial of asylum to alien terrorists.
Sec. 613. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Payments to political subdivisions for costs of incarcerating illegal aliens.
Sec. 671. Miscellaneous provisions.
Sec. 672. Construction of expedited deportation requirements.
Sec. 673. Study of prisoner transfer treaty with Mexico.
Sec. 674. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 675. Prisoner transfer treaties.
Sec. 676. Interior repatriation program.
Sec. 677. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist States.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.
Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows or should have known is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§ 2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a, or 2332b of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

"(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

"(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

"(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

"(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

"(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall be punished—

"(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

"(e) PROOF REQUIREMENTS.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

"(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

"(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking "In addition to any other" and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "AGAINST A NATIONAL OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section

844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 112. STUDY TO DETERMINE STANDARDS FOR DETERMINING WHAT AMMUNITION IS CAPABLE OF PENETRATING POLICE BODY ARMOR.

The National Institute of Justice is directed to perform a study of, and to recommend to Congress, a methodology for determining what ammunition, designed for handguns, is capable of penetrating police body armor. Not later than 6 months after the date of the enactment of this Act, the National Institute of Justice shall report to Congress the results of such study and such recommendations.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) Increased Penalties for Damaging Certain Property.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.".

(b) Conforming Amendment.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) Statute of Limitation for Arson Offenses.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) Title 18 Offenses.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) Aircraft Piracy.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended—

(1) by inserting "or having reasonable cause to believe" after "knowing"; and

(2) by striking "imprisoned not more than 10 years, fined in accordance with this title, or both." and inserting "subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.".

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) Application.—Section 3122(b)(2) of title 18, United States Code, is amended by inserting "or foreign counterintelligence" after "criminal".

(b) Order.—

(1) Section 3123(a) of title 18, United States Code, is amended by inserting "or foreign counterintelligence" after "criminal".

(2) Section 3123(b)(1) of title 18, United States Code, is amended in subparagraph (B), by striking "criminal".

SEC. 302. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following:

"SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

"(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer—

"(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) IDENTIFYING INFORMATION.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds, that—

"(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, after the court or magistrate finds, in a proceeding in camera, that—

"(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(i) is an agent of a foreign power; and

"(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

"(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

"(1) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

"(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to any person harmed by the violation in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the person harmed as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

"(l) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

"624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes.".

SEC. 303. DISCLOSURE OF BUSINESS RECORDS HELD BY THIRD PARTIES IN FOREIGN COUNTERINTELLIGENCE CASES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 121 the following:

"CHAPTER 122—ACCESS TO CERTAIN RECORDS

"Sec.

"2720. Disclosure of business records held by third parties in foreign counterintelligence cases.

"§2720. Disclosure of business records held by third parties in foreign counterintelligence cases

"(a)(1) A court or magistrate judge may issue an order ex parte, upon application by the Director of the Federal Bureau of Investigation (or the Director's designee, whose rank shall be no lower than Assistant Special Agent in Charge), directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the court or magistrate judge finds that—

"(A) such records are necessary for counter-terrorism or foreign counterintelligence purposes; and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is—

"(i) a foreign power; or

"(ii) an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section.

"(c)(1) The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside the Federal Bureau of Investigation, except—

"(A) to the Department of Justice or any other law enforcement agency, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

"(B) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(2) Any agency or department of the United States obtaining or disclosing any information in violation of this paragraph shall be liable to any person harmed by the violation in an amount equal to the sum of—

"(A) $100 without regard to the volume of information involved;

"(B) any actual damages sustained by the person harmed as a result of the violation;

"(C) if the violation is willful or intentional, such punitive damages as a court may allow; and

"(D) in the case of any successful action to enforce liability under this paragraph, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(d) If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(e) As used in this section—

"(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate carrier for the delivery of packages and other objects;

"(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

"(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

"(4) the term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 121 the following new item:

"122. Access to certain records .... 2720".

SEC. 304. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 305. APPLICATION OF STATUTORY EXCLUSIONARY RULE CONCERNING INTERCEPTED WIRE OR ORAL COMMUNICATIONS.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, if any law enforcement officers who intercepted the communication or gathered the evidence derived therefrom acted with the reasonably objective belief that their actions were in compliance with this chapter.".

SEC. 306. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF "ELECTRONIC COMMUNICATION".—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

(b) DEFINITION OF "READILY ACCESSIBLE TO THE GENERAL PUBLIC".—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 307. ACCESS TO TELEPHONE BILLING RECORDS.

(a) SECTION 2709.—Section 2709(b) of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting "local and long distance" before "toll billing records";

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by adding at the end a new paragraph (3), as follows:

"(3) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director or the Director's designee (in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized international terrorism investigation (as defined in section 2331 of this title).".

(b) SECTION 2703.—Section 2703(c)(1)(C) of title 18, United States Code, is amended by inserting "local and long distance" before "telephone toll billing records".

(c) CIVIL REMEDY.—Section 2707 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "customer" and inserting "any other person";

(2) in subsection (c), inserting before the period at the end the following: ", and if the violation is willful or intentional, such punitive damages as the court may allow, and, in the case of any successful action to enforce liability under this section, the costs of the action, together with reasonable attorney fees, as determined by the court"; and

(3) by adding at the end the following:

"(f) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.".

SEC. 308. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 309. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 310. REWARD AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 3059 through 3059A and inserting the following:

"§3059. Reward authority of the Attorney General

"(a) The Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who provides any information unknown to the Government leading to the arrest or prosecution of any individual for Federal felony offenses.

"(b) If the reward exceeds $100,000, the Attorney General shall give notice of that fact to the Senate and the House of Representatives not later than 30 days before authorizing the payment of the reward.

"(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall not be subject to judicial review.

"(d) If the Attorney General determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as the Attorney General deems necessary to effect such protection.

"(e) No officer or employee of any governmental entity may receive a reward under this section for conduct in performance of his or her official duties.

"(f) Any individual (and the immediate family of such individual) who furnishes information which would justify a reward under this section or a reward by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program under chapter 224 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the items relating to section 3059 and 3059A and inserting the following new item:

"3059. Reward authority of the Attorney General.".

(c) CONFORMING AMENDMENT.—Section 1751 of title 18, United States Code, is amended by striking subsection (g).

SEC. 311. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 312. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"Sec. 501. Definitions.
"Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
"Sec. 503. Application for initiation of special removal proceeding.
"Sec. 504. Consideration of application.
"Sec. 505. Special removal hearings.
"Sec. 506. Consideration of classified information.
"Sec. 507. Appeals.
"Sec. 508. Detention and custody.";

and

(2) by adding at the end the following new title:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"DEFINITIONS

"SEC. 501. In this title:

"(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

"(5) The term 'special removal court' means the court established under section 502(a).

"(6) The term 'special removal hearing' means a hearing under section 505.

"(7) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

"SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

"(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under sections 506 and 507(c)(2)(B) in accordance with (and subject to the penalties under) this title.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing with the special removal court of a written application described in subsection (b) that seeks an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

"(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

"(3) The identity of the alien for whom authorization for the special removal proceeding is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

"CONSIDERATION OF APPLICATION

"SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

"(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

"(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

"(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

"SPECIAL REMOVAL HEARINGS

"SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(c) RIGHTS IN HEARING.—

"(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

"(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

"(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

"(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

"(A) Asylum under section 208.

"(B) Withholding of deportation under section 243(h).

"(C) Suspension of deportation under section 244(a) or 244(e).

"(D) Adjustment of status under section 245.

"(E) Registry under section 249.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—Classified information that has been summarized pursuant to section 506(b) and classified information for which findings described in section 506(b)(4)(B) have been made and for which no summary is provided shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary (if any) provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and after coordination with the originating agency, elect to introduce such evidence in open session.

"(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

"(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceeding the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

"(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

"(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

"(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

"CONSIDERATION OF CLASSIFIED INFORMATION

"SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

"(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

"(1) PREPARATION.—The Department of Justice shall prepare a written summary of such classified information which does not pose a risk to national security.

"(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

"(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

"(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

"(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

"(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

"(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

"(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

"(i) the continued presence of the alien in the United States, and

"(ii) the provision of the required summary,

would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

"(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

"(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

"(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

"(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney (as defined in section 501(4)), (and the alien facing deportation under these procedures, may choose which special attorney shall be so designated, if the alien makes that choice not later than 45 days after the date on which the alien receives notice that the Government intends to use such procedures) to assist the alien and the court—

"(A) by reviewing in camera the classified information on behalf of the alien, and

"(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

"(A) shall not disclosure the information to the alien or to any other attorney representing the alien, and

"(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, and imprisoned for not less than 10 years nor more than 25 years.

"APPEALS

"SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(1) any determination by the judge pursuant to section 506(a)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

"(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

"(c) APPEALS OF DECISION IN HEARING.—

"(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

"(d) GENERAL PROVISIONS RELATING TO APPEALS.—

"(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

"(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

"(A) the entire record shall be transmitted to the Court of Appeals, and

"(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

"(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

"(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

"(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

"(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

"(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

"(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

"(f) APPEALS OF DETENTION ORDERS.—

"(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

"DETENTION AND CUSTODY

"SEC. 508. (a) INITIAL CUSTODY.—

"(1) UPON FILING APPLICATION.—Subject to paragraphs (2) and (3), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

"(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

"(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

"(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

"(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

"(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

"(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

"(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

"(c) CUSTODY AND RELEASE AFTER HEARING.—

"(1) RELEASE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

"(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

"(2) CUSTODY AND REMOVAL.—

"(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

"(B) REMOVAL.—

"(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

"(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

"(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of section 276(b).

"(d) CONTINUED DETENTION PENDING TRIAL.—

"(1) DELAY IN REMOVAL.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) MAINTENANCE OF CUSTODY.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) SUBSEQUENT REMOVAL.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

"(e) APPLICATION OF CERTAIN PROVISIONS RELATING TO ESCAPE OF PRISONERS.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(f) RIGHTS OF ALIENS IN CUSTODY.—

"(1) FAMILY AND ATTORNEY VISITS.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) DIPLOMATIC CONTACT.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) JURISDICTION OVER EXCLUSION ORDERS FOR ALIEN TERRORISTS.—Section 106(b) of the Immigration and Nationality Act (8 U.S.C. 1105a(b)) is amended by adding at the end the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) concerning an alien excludable under section 212(a)(3)(B) shall rest exclusively in the United States Court of Appeals for the District of Columbia Circuit.".

(c) CRIMINAL PENALTY FOR REENTRY OF ALIEN TERRORISTS.—Section 276(b) of such Act (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to section 235(c) because the alien was excludable under section 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(d) ELIMINATION OF CUSTODY REVIEW BY HABEAS CORPUS.—Section 106(a) of such Act (8 U.S.C. 1105a(a)) is amended—

(1) by adding "and" at the end of paragraph (8),

(2) by striking "; and" at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 602. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND FOR EXCLUSION.

(a) IN GENERAL.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (I),

(B) in subclause (II), by inserting "engaged in or" after "believe,", and

(C) by inserting after subclause (II) the following:

"(III) is a representative of a terrorist organization, or

"(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,"; and

(2) by adding at the end the following:

"(iv) TERRORIST ORGANIZATION DEFINED.—

"(I) DESIGNATION.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

"(II) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

"(III) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

"(IV) CONGRESSIONAL AUTHORITY TO REMOVE DESIGNATION.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

"(V) SUNSET.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

"(VI) OTHER AUTHORITY TO REMOVE DESIGNATION.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

"(v) REPRESENTATIVE DEFINED.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity. The determination by the Secretary of State or the Attorney General that an alien is a representative of a terrorist organization shall be subject to judicial review.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 612. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 613. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except that the Attorney General", and

(2) by inserting after "title 13, United States Code" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6)" after "consent of the alien", and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

"Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.".

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by adding at the end the following new paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).".

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes" and inserting "(A) Except as provided in subparagraph (B), for purposes", and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or

false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. PAYMENTS TO POLITICAL SUBDIVISIONS FOR COSTS OF INCARCERATING ILLEGAL ALIENS.

Amounts appropriated to carry out section 501 of the Immigration Reform and Control Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

SEC. 671. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103-416).

SEC. 672. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 673. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 674. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 675. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 676. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 677. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

"(A) an action under this paragraph shall not be instituted unless the claimant first affords the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

"(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act); and

"(C) the court shall decline to hear a claim under this paragraph if the foreign state against whom the claim has been brought establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following new subsection:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a write of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§ 2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§ 2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§ 2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

The CHAIRMAN. No amendments are in order except the amendments printed in House Report 104-480 and amendments en bloc described in section 2 of House Resolution 380. Amendments printed in the report shall be considered in the order printed, may be offered only by a Member designated in the report, shall be considered as having been read, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question. Debate time for each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

It shall be in order at any time for the chairman of the Committee on the Judiciary or a designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of or germane modifications of such amendments.

The amendments en bloc shall be considered read—except that modifications shall be reported—shall not be subject to amendment or to a demand for a division of the question, and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in House Report 104-480.

AMENDMENT NO. 1 OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. HYDE: On the first page, beginning in line 4, strike "Comprehensive" and all that follows through "1995" in line 5 and insert "Effective Death Penalty and Public Safety Act of 1996".

Page 6, line 1, strike "should have known" and insert "has reasonable cause to believe".

Page 34, strike line 19 and all that follows through the matter appearing before line 3 on page 47, and redesignate succeeding sections and any cross references (including the table of contents) accordingly.

Page 137, line 15, insert "the court shall decline to hear a claim under this paragraph" after "except that".

Page 137, beginning in line 16, strike "an action under" and all that follows through "affords" ending in line 18, and insert "if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded".

Page 137, beginning in line 21, strike "an action under" and all that follows through "national" and insert "if the claimant or victim was not a national".

Page 138, line 2, insert "when the act upon which the claim is based occurred" after "Act)".

Page 138, line 2, strike "and" and insert "or".

Page 138, line 3, strike "the court shall" and all that follows through "has been brought" in line 5, and insert "if the act occurred in the foreign state against which the claim has been brought and that state".

Page 138, beginning in line 9, strike "new subsection".

Page 138, line 22, strike the close quotation mark and the period that follows it.

Page 138, after line 22, insert the following:

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.".

Page 151, after line 5, insert the following:

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection

(e) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any other possession or territory of the United States.

Modify the table of contents accordingly.

Page 52, strike line 1 and all that follows through line 17 on page 53.

Redesignate succeeding sections accordingly, and modify cross references and the table of contents accordingly.

Page 125, strike line 13 and all that follows through line 20.

Redesignate succeeding sections accordingly, and modify cross references and the table of contents accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment that we are discussing now changes the short title of the bill to the "Effective Death Penalty and Public Safety Act of 1996."

It conforms the language in section 102, "prohibiting material support to terrorists," to the language already used in section 204. In other words, it says, "has reasonable cause to believe," instead of "should have known." This amendment would codify current case law on actual and constructive knowledge of criminal activity.

This amendment strikes both section 302 and section 303. Section 302 has to do with disclosure of certain consumer reports to the FBI, and section 303 has to do with disclosure of business records held by third parties in foreign counterintelligence cases. Both of those sections are stricken in their entirety.

Next, the amendment amends section 803, having to do with jurisdiction for lawsuits against terrorist states, which in turn amends the existing Foreign Sovereign Immunities Act, 28 U.S.C. section 1602–1611. This section would allow lawsuits by U.S. citizens against terrorist states who are responsible for state-sponsored torture, extrajudicial killing, aircraft sabotage, hostage-taking, or the provision of material support or resources for such acts which result in death or personal injury.

The manager's amendment would change the language in the committee-reported bill requiring that plaintiffs filing suit under this section must first give the foreign state an opportunity to arbitrate the claim. The manager's amendment would only require pretrial arbitration if the terrorist act upon which the lawsuit is based occurred within the boundaries of the country being sued.

The manager's amendment also contains a statute of limitations provision for such suits. The manager's amendment makes it clear that these lawsuits must be filed within 10 years after the terrorist act, but allows cases to be filed after the enactment of this provision, so long as the suit was previously blocked in Federal court based upon sovereign immunity grounds.

This amendment provides for closed circuit televised court proceedings to allow victims to watch a criminal trial where the trial is moved out of the State and a significant distance from where it originally would have taken place; that is, Oklahoma City to Denver. The provision authorizes the acceptance of donations to pay the cost. No new spending is authorized.

The amendment adds section 807, giving the FBI authority to conduct law enforcement training and instruction to foreign law enforcement officers in order to improve the effectiveness of the United States in investigating and prosecuting transnational criminal offenses. With so many countries emerging from Soviet dominance, it is imperative that the United States establish ties and help create professional law enforcement organizations so that our efforts to investigate and prosecute international criminal offenses is enhanced.

The amendment also strikes section 310 of the bill, relating to the Attorney General's reward authority. This provision violates rule XXI, clause 5(a), of the House rules in that it would provide different uses for appropriated funds than those which were originally intended. In addition, reward authority for the Attorney General has been enacted into law elsewhere. The Justice Department supports this change.

Lastly, the amendment strikes section 670 of the bill because it also violates rule XXI, clause 5(a), of the rules of the House. It proposed to allocate fiscal year 1995 funds for the Department of Justice for purposes other than those originally intended in that appropriations bill. Moreover, the provision is moot because all fiscal 1995 appropriations have already been expended.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Michigan [Mr. CONYERS] seek the time in opposition?

Mr. CONYERS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan will be recognized for 10 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the manager's amendment is not all bad. There are parts of it with which I think those of us on our side would agree.

It does, however, raise issues which were not debated or even discussed during the committee markup. Why do we stay for weeks and months in the committee and then come on the floor to get the latest version? I agree that obligation to require pretrial arbitration and lawsuits against terrorist states where terrorism occurs outside our Nation's borders is a good idea. But why not go all the way and eliminate this procedural obstacle completely, as does Conyers-Nadler?

That is the difference. We are not talking about whether these are good points or bad points. We are talking about which one is better, which one is more complete, how one deals more effectively with antiterrorism. Here is a very compelling example. In Conyers-Nadler-Berman, we have the stronger protections for United States citizens who are the victims of violence in terrorist states like Libya by allowing the suits against the terrorist nations to be brought directly in the United States court.

Notice that, please. Mr. Chairman, this is not fine print. This is a huge, enormous difference in dealing with the people that everybody keeps decrying that we have to deal with. This is not rhetoric. We are talking about whose bill is going to be more effective.

Currently, Mr. Chairman, the Foreign Sovereign Immunities Act prevents suits against foreign governments, even if they sponsor terrorism. This manager's amendment by my friend, the chairman, will allow such suits against foreign terrorists in some instances. We allow it in the U.S. courts in all instances. Please, this is a very important distinction. I therefore, reluctantly, oppose the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3½ minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. Mr. Chairman, I rise in support of the amendment, as well as the legislation to which it is offered.

Mr. Chairman, in Oklahoma City last April 19 when we had the horrific bombing that occurred, several things happened that have still not come to rest that affect the 168 families of the 168 people that were killed in that explosion.

I appreciate the fact that the gentleman from Illinois, Mr. HYDE, the chairman, has incorporated in this amendment language that was suggested to him by my colleague, the gentleman from Oklahoma, Mr. LUCAS; language that was suggested to him by myself, and language that I know Senator NICKLES has expressed great interest in.

Mr. Chairman, the trial has been moved from Oklahoma City to Denver, a distance of some 600 miles. When we have 168 stricken families with spouses, husbands, fathers, children, grandparents, grandchildren, and other relatives, all of whom have a great interest in the trial proceedings, we need to understand that we have a law on the books that says a victim of a violent crime has a statutory right to attend the trial. But unfortunately, when this many people desire to attend the trial to exercise their right as victims, they cannot do so if the trial has been moved 600 miles away. It is a great understaking and a great difficulty.

Fortunately, Mr. Chairman, this portion of the amendment specifies that shall be a closed circuit rebroadcast back to the original location, to Oklahoma City, for the benefit of those who are victims and have the right to attend that trial, who have a great desire and interest and a need to attend that trial.

Mr. Chairman, the language has safeguards. The proceedings are not to be rebroadcast elsewhere. They are not available for Court TV or CNN or anyone else that might wish to do so, because we want to minimize the disruptive effect that some might fear would otherwise occur. Certainly the judge retains his ability to say, if someone is a witness who might be affected by hearing the proceedings, then they can be excluded, as the law already requires.

But to the people who otherwise would have to relocate 600 miles for who knows how long, for an extended period of time, because of this trial, this takes into account their need. This allows them to exercise their rights as victims, for what little comfort and help it might be to them; but whatever we can provide to them, we certainly want to do. Mr. Chairman, this makes that possible.

I was pleased to hear this morning, Mr. Chairman, that the Judicial Conference of the United States has endorsed this approach. It is a very narrowly crafted exception to the normal rule against televising criminal proceedings in Federal court; but it will be of great benefit, we hope, for those who had family members who suffered either by loss of life of injury in that terrible explosion.

Finally, Mr. Chairman, the death penalty reform provisions in this measure are very important to those same family members. As one person who lost a family member said to me, she does not want her newborn child to grow to adulthood before she can experience the resolution of knowing that the person or persons responsible have been brought to justice, and that justice, including the death penalty, can be carried out on that person. We do not want these persons to have those multiple years of uncertainty which this bill will remove by reforming the death penalty procedure so, again it can be swift as well as sure.

Mr. CONYERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAZIO].

Mr. LAZIO of New York. Mr. Chairman, I want to begin by complimenting the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary, for putting in a bill that strikes a delicate compromise between those who would cry out for personal freedom and those who understand and recognize the tremendous threat to national security that terrorism poses to Americans, both here and abroad.

I rise today in support of the amendment and to the underlying bill, H.R. 2703. This is a bill that goes a long way toward enabling us as a Nation to protect ourselves from terrorism. Providing physical security is, and it should be, the first order of business of any government.

The preamble to the United States Constitution states that the foundational reason the Federal Government is formed is to establish justice and to ensure domestic tranquility. Undoubtedly, as the Oklahoma bombing and the bombing of the World Trade Center have reminded us, the presence of terrorists is both homegrown and abroad. They are here in our communities and they are there overseas. Recent events in Tel Aviv and Jerusalem and Israel and Japan have also demonstrated how tragically simple it is to commit terrorist acts in a crowded place.

What terrorism does is to create a paralyzing fear in a targeted populace. It is murder for political gain. Taking precautions against terrorist acts does not allow the terrorists to win, as some have suggested, but rather it renders terrorists impotent by eliminating access and the means to perpetrate the terrorism.

What we seek to do here today is to strike a balance between preserving freedoms we hold so dear and still protecting ourselves from terrorist acts. Our society places an extremely high value on liberty and privacy, but this bill does not compromise it. How free are we if we live in constant fear of organized murder on a massive scale in the places we work, travel, and live? This bill achieves a balance by combating this threat while maintaining the values that make America the freest Nation in the world.

☐ 1345

This bill is a good compromise and collectively reflects society's outrage and commitment to defeating terrorism here and abroad. It ends the spectacle of organizations like Hamas raising millions of dollars here in America to finance terrorism and murder abroad, including murder of Americans.

I urge my colleagues to vote a resounding "yes" on this bill.

Mr. LUCAS. Mr. Chairman, I rise today in support of Mr. HYDE's amendment to H.R. 2703. I support this amendment because among other things, it provides for closed-circuit broadcating of court proceedings in cases where a trial has been moved out of State, and more than 350 miles from the location where the proceedings would have taken place. I appreciate the chairman and his staff's efforts on this provision.

As the Member of Congress who represents downtown Oklahoma City, I believe this provision is crucial, especially in light of the upcoming trial of the suspects in the bombing of the Alfred P. Murrah building. Recently, this trial was moved from Oklahoma City to Denver, and the judge ruled cameras impermissible in the courtroom.

For the victims and survivors of this, the worst terrorist attack to occur on U.S. soil, the trial and any subsequent punishment of those who committed this heinous crime are part of the healing process. For most, this is a time to rebuild their lives, therefore the upheaval of going to Denver to watch the trial seems cruel and unfair.

I believe victims deserve the opportunity to view the trial of those accused of committing a crime. Although it is uncommon for a trial to be moved out of state, this manager's amendment would provide relief for those victims. This is the least we can do for those that experience such a great loss.

Support the manager's amendment and show your support for victims of crime.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 104–480.

AMENDMENT NO. 2. OFFERED BY MR. BARR

Mr. BARR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 28, strike lines 10 through 20, and insert the following:

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under 18, §921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests or bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

Page 34, strike line 6, and all that follows through the matter following line 2 but before line 3 on page 47.

Redesignate succeeding sections accordingly.

Page 48, strike lines 3 through 14.

Redesignate succeeding sections accordingly.

Page 63, strike line 14 and all that follows through line 23 on page 94.

Redesignate succeeding sections accordingly.

Page 95, strike line 10 and all that follows through line 17 on page 100.

Redesignate succeeding sections accordingly.

Page 6, line 1, strike "or should have known".

Page 32, line 22, strike the one-m dash and all that follows through "(2)" on page 33, run in the material before and after the matter so stricken, and realign the margins of lines 1 through 5 on page 33 so as to be flush to the margin.

Page 47, after line 22, insert the following:

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

Page 47, line 23, strike "(b)" and insert "(c)".

Page 49, strike line 12 and all that follows through line 7 on page 51.

Redesignate succeeding sections accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Georgia [Mr. BARR] and a Member opposed each will control 30 minutes.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment, and I claim the 30 minutes in opposition.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

Mr. HYDE. Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. CONYERS], and I ask unanimous consent that he be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are debating here today fundamentally important legislation. It is fundamentally important legislation because there is no more basic, more critical, more fundamental and more important duty of our Government than to protect its citizens, their homes, their businesses, our public institutions from acts of terrorism, from acts perpetrated by criminals in whatever capacity whatsoever.

Mr. Chairman, I think it is also important as we debate this important bill, the effective Death Penalty and Public Safety Act of 1996, to be careful and mindful of how best to frame the debate over these issues.

I do not think it would be appropriate, Mr. Chairman, to think of our framing this debate in terms of preventing every act of terrorism. If we framed the debate thusly, then we would be forever frustrated in our analysis, in our efforts, because we will never stop criminal activities, no matter how many laws we pass, no matter how effectively or how broadly all of those criminal laws are enforced.

Rather, Mr. Chairman, we need to keep this debate focused on two things. First, Mr. Chairman, how can we most effectively and most comprehensively minimize the chances for acts of terror being committed against our citizens, our institutions, and our homes? The second point that we must keep in mind, Mr. Chairman, throughout this and other debates that we will have in this great body, is how would we do so, how do we pass laws that minimize the chance for terrorist acts and other criminal acts being committed, balanced against the very important, fundamentally important civil liberties that all of us here in this country enjoy enshrined in that great document, our Constitution.

Indeed, Mr. Chairman, the balancing of these concerns is fundamental to the very makeup, the very structure of our Government; the balance between individual freedom and government power, and another balance that is important to keep in mind, Mr. Chairman, the balance between government accountability and absolute government power.

Mr. Chairman, this bill that we are considering here today, crafted in large part by my esteemed colleague from Illinois, the great chairman of the Judiciary Committee, in almost every respect properly balances those concerns, and indeed should be a hallmark for the American people to look to in terms of how to craft legislation that does protect our citizens while being mindful of the important civil liberties guaranteed to all of us.

But, Mr. Chairman, I have before this House today at this time an amendment that includes several provisions that I believe strengthen that balance on the side of protecting individual liberties, while at the same time giving to the Government those tools that it needs to effectively investigate and prosecute acts of terror.

With regard to the various provisions in H.R. 2703 that my amendment seeks to delete, Mr. Chairman, I think it is also important to note that in many of these instances I have proposed their deletion knowing that there are existing, current Federal laws which will remain on the books and fully available to our law enforcement agencies and our Federal prosecutors, laws and adequate safeguards to protect us against acts of terrorism.

I would draw attention, for example, Mr. Chairman, to section 212(a)(3)(b) of our Immigration Act, which clearly defines and gives the Government full and plenary power to exclude and deport not only terrorists but terrorist organizations. I would also draw attention, Mr. Chairman, to the provision in my amendment which would seek to delete section 601 of this bill that relates to special, read that secret proceedings to exclude or deport aliens with provable terrorist connections.

If the Barr amendment is adopted, Mr. Chairman, on this particular point, as one example of the balance in my amendment, we will be doing nothing, absolutely nothing to weaken the very strong tools that our Government currently has under the Immigration Act, for one example, to exclude and deport terrorists or terrorist organizations.

My amendment, with regard specifically to section 601, would simply say we must do so openly, in the light of day, without having the entire proceedings not only secret but so secret that the defendant himself or herself is not even made aware of the evidence against them other than in at best a summary form, with that summary provided by the Government.

I would also want to ensure that my colleagues know that again, for example, with regard to my proposed deletion of section 601, that the provisions of the Classified Information Protection Act or CIPA remain fully available to the Government. If my amendment is adopted, it does not weaken the ability of our Government to protect against disclosure of classified, important national security information in whatever proceeding, including exclusion or deportation proceedings.

I would also like, Mr. Chairman, to focus on many of the limitations that the chairman and others who support this legislation have very properly crafted into the bill, that provide a very real and very substantial limit on expansion and abuse of Federal authority, and we all know that from time to time that does in fact occur.

For example, Mr. Chairman, with regard to title I of this bill, there is protection afforded to all Federal employees and former Federal employees against somebody seeking to kill them because of their Federal employment. This corrects, I think, Mr. Chairman, an imbalance in the current laws of our country that would afford that protection only to certain covered, explicitly listed in our statute, categories of Federal employees.

I do not think, Mr. Chairman, that if a person who works for our Social Security Administration goes to work, that he or she should do so knowing that they are any less valuable to our country and should receive any less protection than somebody that works across the hall from them, that may work for the U.S. attorney's office instead of for the Social Security Administration.

This bill properly protects against abuses of Federal authority in these areas. It is not a vast expansion of Federal authority. For example, further, Mr. Chairman, with regard to title I, the bill does prohibit material support to terrorist organizations. It is clearly limited to those who provide material, demonstrable, substantive support to terrorist organizations, not any organization but terrorist organizations.

Further with regard to title I, it is important to recognize the very strict limitations included in H.R. 2703. For example, with regard to acts of terrorism transcending national boundaries, there are several explicit limiting provisions in this legislation. The underlying predicate with provides for the basic Federal jurisdiction, in the first place, it must cross national boundaries. There must be one of several additional jurisdictional bases before the Federal Government can become involved.

Third, the Attorney General must certify explicitly in writing that the proposed case which it seeks to prosecute is also a Federal crime of terrorism that explicitly, and I repeat explicitly, requires that the crime be designed to influence or to affect U.S. Government policies or conduct. It must relate, then, to a series of explicitly laid out provisions in our current criminal code.

For those Members, Mr. Chairman, who are very properly fearful of abuse of Government power, which does occur from time to time, and are hesitant to grant ever-increasing powers to the Government without a firm constitutional and practical basis for doing so, I say to them that those provisions in title I are replete with provisions that explicitly limit the reach of the Federal Government only to those instances of criminal behavior directly affecting our Federal public institutions and personnel.

Returning, Mr. Chairman, to my proposed amendment and its constituent parts, I believe it does correct some remaining imbalances in H.R. 2703 on which the chairman and his staff and I and my staff and dozens of other individuals have worked mightily for the better half of a year on this. For example, Mr. Chairman, there are provisions in this bill currently which I would seek to delete, which do not affect the underlying important substance of the bill but which would avoid potential problems in the future.

If the Government, for example, Mr. Chairman, is going to prosecute someone who sells a firearm to somebody who then later uses it in the commission of a crime, I do not believe it is unreasonable to require the Government to prove beyond a reasonable doubt that the person that sold that firearm knew that it was going to be subsequently used in the commission of a crime.

Changing and lowering that burden substantially, Mr. Chairman, as the current provisions of H.R. 2703 would do, to the person having reasonable cause to believe, for example, that the firearm might be used in a future crime, is too vague. It is unnecessary. The Government can currently reach the person that sells a firearm with reasonable knowledge that it will be used in the commission of a crime.

A further provision explicitly dealt with, Mr. Chairman, in my omnibus amendment addresses section 305, the so-called Mack truck provision. I call this a Mack truck provision, Mr. Chairman, because it is so broad, in looking back over it, that one could drive a Mack truck through it.

☐ 1400

This is the so-called good-faith exception to the exclusionary rule for wiretap evidence. In layman's terms, Mr. Chairman, this provision would allow the Government to use whatever it overhears in any electronic surveillance activity, whether related to a crime of terrorism or any other crime or other behavior which the Government seeks to stop, even if that evidence was acquired illegally, as long as the Government can go into court and show that it believed or its agents believed that they were operating in good faith.

Mr. Chairman, in title 18, there are very extensive steps which the Government must take in each and every instance in which it seeks to surveil one of our citizens or anybody else electronically in this country. As a former United States attorney, Mr. Chairman, I had to be involved in that process on numerous occasions. It is a very powerful law enforcement tool. But by the same token, Mr. Chairman, those safeguards built into the current title 18 of our code which restrict the ability of our Government to engage in electronic surveillance are very proper because of the very invasive nature, inherent nature of electronic surveillance.

I do not believe, Mr. Chairman, that we should in any way at this time be granting such very broad exception authority to the Government as the current section 305 would do. H.R. 2703 also, Mr. Chairman, would require a study of so-called armor-piercing ammunition. My proposed amendment improves on that requirement. It improves on that requirement, Mr. Chairman, by requiring that the Secretary of the Treasury, in carrying out this important study to protect the lives of our police officers, is conducted in a comprehensive way and in a comprehensive context, studying not only the effects, the availability of armor-piercing ammunition, which, I would hasten to add, is currently illegal under U.S. law. My proposed amendment, which changes and expands the nature of that study, does nothing as does H.R. 2703 currently does nothing to amend or weaken or delete the provisions currently in Federal law in title 18, section 922, that make the importation or sale of armor-piercing ammunition illegal in this country.

This provision, though simple, Mr. Chairman, in my proposed amendment will strengthen that study that is required currently by H.R. 2703. With regard, Mr. Chairman, to what I consider the linchpin of this legislation, and that is habeas corpus reform, it is important to recognize that the proposed amendments in H.R. 2703 to our Federal habeas corpus laws strike a very appropriate balance between Federal and States' rights that is not currently in place. The reforms contemplated by H.R. 2703 will stop the endless, pointless, and abusive delays currently available to those in our State court system to avoid the carrying out of a death sentence.

I was dismayed, though not surprised, to read, Mr. Chairman, that recently in my home State of Georgia a new trial had just been granted to an inmate in a State institution in Georgia who had committed murder and who had been sentenced to death. Not 2 years before, not 5, not 20, but 23 years before, and had just been granted a new trial.

The reforms of our habeas corpus laws in this bill strengthen us and get us back to what our habeas corpus laws were intended to be, and that is a true safety valve for serious abuse by either a Federal or a State court judge. They bring a better balance, because under this bill no longer would a Federal judge be able to arbitrarily take in any habeas corpus case that he or she wants for whatever reason they want. Rather, they would have to, under H.R. 2703, they would have to show that there is an articulable and reasonable basis for bringing that case into the Federal system. It is a true safety valve. Yet it would not be one that could continue to be abused as the current provisions allow.

Moreover, Mr. Chairman, the provisions in H.R. 2703 that relate to reform of our Federal habeas corpus laws would place reasonable time limits on the use of the Federal habeas corpus provision. There have to be reasonable limits. There has to be a reasonable balance, else it will be an unreasonable system and wreak havoc on the American people, as we have seen in decade after decade.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very interesting and important debate. Frankly, as the distinguished gentleman from Georgia said, we negotiated for 3 months trying to get a bill in proper shape that would be acceptable to people of different points of view in this matter. We took out emergency wiretap provisions, to my regret. We took out roving wiretap provisions, to my regret. We took out use of the military to protect against the use of chemical warfare, say, in mass transportation, to my regret. We took out funding provisions for that domestic counterterrorism center, which the intelligence agencies and the FBI wanted, to my regret.

We have no way to pay for digital telephony, which will permit our law enforcement to wiretap fiber optics, which is the wave of the future, to my regret. But, we bent over backwards to accommodate the distinguished gentleman because we wanted his support. Evidently, we did not bend over far enough, because now we have several other objections to our bill that he seeks to strike.

First of all, let me make clear I resist with whatever strength I can muster the gentleman's amendment without in any way diminishing my profound respect for his sincerity and for his scholarship.

But, for example, he strikes section 301 of the bill relating to pen registers and trap and trace devices for foreign counterintelligence investigations. We are talking about counterespionage cases where one is suspected of being a spy for a foreign government. Pen registers record the telephone numbers called from a telephone; trap and trace devices record the telephone numbers calling into a telephone. The law requires that a court order must be obtained before these devices can be installed, and it does not seem to me too big a stretch for our law enforcement to learn who is calling whom in an appropriate criminal investigation after a court order.

This is especially vital in espionage cases because of the necessarily secretive nature of the contacts between a spy and a foreign government agent. There is no fourth amendment protection for one's telephone number. But, in striking this from the bill, we seem to imply one.

Strike section 305, this is serious. This provides in the bill a good-faith exception to the statutory exclusionary rule for wiretap evidence. In other words, if you get a court order, a warrant to wiretap, and there is a defect, a technical defect, but it was made in good faith as determined by a judge, you still have a suppression of that evidence, because it did not comply with the fourth amendment.

Well, I hate to remind our people, but this Contract With America, which was signed by myself and the gentleman from Georgia and others, specifically provides, on page 62, for a good-faith exception to the exclusionary rule. The contract says too many guilty go free because of simple technical errors committed by officers who believed they were conducting proper investigations.

May I say, the gentleman from Georgia was a leading defender of the good-faith exception to the exclusionary rule on February 7, 1995. I have his remarks here, and they do make stirring reading, and I commend them to my colleagues. But that is out, under the gentleman's amendment, somewhat to my surprise.

Another part of the bill that the gentleman from Georgia strikes is section 601, the alien terrorist removal provisions. I vehemently oppose effort to strip these provisions from the bill. These were thoroughly discussed, debated in committee, and the bill will be incomplete without these alien terrorist removal provisions. They do not deny due process rights to aliens. An alien will not find himself in these proceedings unless a Federal district court judge finds that there is probable cause to believe that the alien is a terrorist and that the use of normal deportation proceedings would pose a risk to the national security of the United States.

The alien in entitled to court-appointed counsel at these special hearings, which will be open to the public. The alien gets extensive rights to confront and cross-examination witnesses and examine any nonclassified information.

Now, when you get to classified information, it may be used as evidence in the deportation proceedings, but only if the alien is given an adequate summary of the classified information that will enable him to defend the allegations.

Legal permanent resident aliens will be given an attorney at Government expense who can challenge the classified information if no summary can be provided. The only circumstance in which classified information can be used without providing a summary to the alien is if the judge finds that providing the summary would cause serious and irreparable harm to the national security of the United States or serious bodily injury to any person, and the continued presence of the alien in the United States would pose the same risks.

The Government's burden of proof, as in regular deportation proceedings, is to establish by clear and convincing evidence that the alien is a terrorist.

Now, please hear me, the Supreme Court and lower Federal courts have upheld the authority of the Immigration Service to use classified information in the cases of aliens who seek discretionary relief from deportation without disclosing such information to the applicant.

I have got all the citations here. The sixth-amendment protection of our confrontation rights has no application in deportation proceedings, because they are purely civil matters. They are not criminal. Striking these provisions, as the gentleman does, would lead to alien terrorists being allowed to remain in the United States, to harm our citizens and lawful residents.

Now, the next thing I object to is his striking of section 611. Section 611 bars entry of representatives and members of designated terrorist organizations and the process by which those foreign groups are designated as terrorists. By passing the Barr amendment, you remove from the bill the process by which groups are designated terrorists. These are not done arbitrarily with the Attorney General, who provides the factual evidence to Congress, and judicial review is provided to the group or the individual.

I do not know how much more protection you can have to protect us from alien terrorists, who really have no right to come in this country, anyway. In any event, that is barred, and the process by which these groups are designated as terrorists. And, so, with Hamas, Hezbollah, Islamic Jihad, there is no way to designate them as terrorist organizations.

We can designate a terrorist country under another law, thank God. They have not found that yet or they would take that away.

But here they are not going to let you designate terrorist organizations. Your Washington Post today, on page A18, says Hamas is raising money in the United States today. Are you comfortable with that? I am not.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will yield to the gentleman.

□ 1415

Mr. SCHUMER. Is the gentleman saying that under the Barr amendment, Hamas would continue to be perfectly allowed to raise money here in America, members of Hamas would be allowed to come to America? Is that correct?

Mr. HYDE. That is correct.

Mr. SCHUMER. Mr. Chairman, that is amazing. I thank the gentleman.

Mr. HYDE. Last, Mr. Chairman, the gentleman strikes the reasonable-cause-to-believe language in section 102 relating to knowingly providing material support to terrorist organizations, and section 204 relating to knowingly transferring a firearm to another, knowing or having reasonable cause to believe it will be used in a crime of violence or drug trafficking offense.

The key here is knowingly or having reasonable cause to believe. Now, what the gentleman from Georgia [Mr. BARR] objects to is reasonable cause to believe, thinking that is too amorphous a standard. I just submit that it is the law in all other places in the code. I suggest 18 U.S.C. section 922 (f)1 and (i), for instance. So this is nothing new or strange.

I just submit it will be unfortunate if the Barr amendment passes, because we eviscerate the bill. It still has some good in it, but it is a frail representation of what started out as a robust answer to the terrorist menace.

Mr. Chairman, I reserve the balance of my time.

Mr. BARR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with regard to the comments made by my distinguished colleague, the chairman of the Committee on the Judiciary, I would want our Members to understand that in deleting section 301 of this bill as my amendment would do, we are not in any way preventing, prohibiting, or weakening the Government of our country from seeking information by court order against any person, whether they are foreign or domestic, terrorist or somebody that simply violates one of the other provisions of our criminal laws. We are not weakening that capability which our Government now has.

With regard to my distinguished chairman's reference to the good-faith exception, oh, how I wish it were as limiting as he would have us believe. It does not simply say, if wiretap evidence is sought to be introduced into evidence and yet is excludable because of a technical defect in the wiretap documentation, that it can be admitted.

It is not so limiting. It applies to any evidence whatsoever, in whatever type of case whatsoever, that is obtained by our Government pursuant to electronic surveillance, gathered in violation of those provisions of our law that set limits on the admission and the gathering of electronic surveillance, so long as the Government agents can come into court with a straight face and say we did it in good faith.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. BARR. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, this is one of our major concerns among the groups called the conservative action team in the House. I just want to make absolutely clear to all of our colleagues what the gentleman is saying right now, and I want them to understand it. This is going to expand the ability for people to be wiretapped way beyond where it is right now.

Mr. BARR. Mr. Chairman, the gentleman is correct.

Mr. BURTON of Indiana. So any citizen of the United States might be subject to this good-faith exception which would allow the Government to find something out about them inadvertently through a wiretap that could cause them unbelievable problems.

Mr. BARR. The gentleman is correct.

Mr. BURTON of Indiana. I think my colleagues ought to think long and hard about that. One of the things we are concerned about is expanding the Government's ability to spy on or to find out everything about any individual in this country. Expanding this wiretap provision, I think, is something that is very, very disconcerting to me and many of my colleagues.

Mr. BARR. I thank the gentleman for his insightful comments.

Mr. Chairman, I would also direct my learned colleagues who oppose this very limiting and responsible and reasonable amendment that I am proposing to our Immigration and Nationality Act laws. There could be no broader definition of terrorist activity or terrorist organization or of the activities in this country in which those people would want to engage, such as raising money for a terrorist organization, than is currently found in our Federal laws. We have the protection currently. We have the capability currently to deal with these problems.

What I have a great concern with are those provisions in H.R. 2703 that would give this President or any President and his or her Secretary of State unilateral plenary authority to declared some group they do not like a terrorist organization.

Our current laws, which we are not seeking to amend, provide the necessary safeguards and capability for our Government.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New York [Mr. NADLER], the cosponsor of the Conyers-Nadler substitute.

Mr. NADLER. Mr. Chairman, let me begin by commending the gentleman from Georgia [Mr. BARR] for his diligence and some of the provisions in his amendment, many of which I would point out are not copied, but included in identical form in the Conyers-Nadler-Berman amendment.

We agree, I certainly agree, and I commend the gentleman for his provision, that would remove section 301, granting the FBI new authority on pen registers and trap and trace devices. We agree with and I commend the gentleman on his section disallowing the provision in the bill to allow wiretapping evidence obtained in good faith against defendants, as the gentleman points out, the Mack truck provision, without any court order. It is a terrible violation of civil liberties and a very dangerous expansion of Government power. Again, we do this in the substitute that will be considered later.

There are a number of others. We agree with the gentleman and include in our bill the deletion of section 112 and modification of section 304.

Unfortunately, I cannot support the amendment, though I agree with a lot of what it does. As I said, much of what it does is included in the substitute we will be offering later, because, to quote the Congressional Quarterly's Washington Alert of yesterday, it says that this amendment would dump most of the provisions aimed specifically at terrorist activities and would turn the package into a simple anticrime bill.

There is nothing wrong with an anticrime bill, but we are supposed to be dealing here with an antiterrorism bill.

Now, I understand the concern and why the gentleman wants to delete the provision allowing the Secretary of State to brand any organization as a terrorist organization and put it out of business. We agree with the gentleman's concern. But we cannot go so far as to delete it. What we have done in our substitute we will consider later is to subject that to a meaningful judicial review, to rein in that power. But without that, we have no prohibition that can be enforced against the funding from the United States of terrorist organizations.

Likewise, the gentleman's deletion of the provision in I think section 601 permitting use of secret evidence against criminal aliens, whom we want to deport, I call that the Star Chamber court provision, to reinstate the court of Star Chamber that our ancestors rebelled against in this country. I agree that this provision is unconstitutional and is overbroad and is very destructive of civil liberties, but we in our amendment modify it. We provide basic due process protections. Again, without that we could not deport criminal aliens, not aliens, but alien terrorists in many situations.

So I commend the gentleman from Georgia [Mr. BARR] and commend many of the provisions of his amendment, which, as I said, we duplicated in our amendment, but, unfortunately, I cannot support this amendment, because it removes the anti-terrorist provisions which should be modified but not removed.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, reasonable men differ on issues reasonably, and I agree with the gentleman from Georgia that we need balance in this area. But I do not think he is striking the balance, and I must oppose strenuously this amendment, because I frankly think it guts this terrorism bill. If we enact the provisions that he is asking us to enact to strike from this bill those things he wants to strike in toto, the sum of that would be highly irresponsible.

I particularly am concerned with a provision just mentioned, the exclusion of the denial of asylum for alien terrorists. The ability of the Secretary of State to name foreign organizations in the Federal registry as terrorist organizations is absolutely essential. Somebody has got to do that.

We very strictly confine in this legislation who does it. But, by golly, we have to identify who they are and what the foreign terrorist organizations are, and then kick those people out and do not let them come in.

We are talking now about asylum seekers. We do not want people to come into our airports in New York and Miami and San Francisco and have the opportunity when they set foot in this country to claim political asylum, "hey, I will be persecuted if I am sent home," and use that as a cover to stay here, as we have had terrorists already do involving the World Trade Center and other activities in this country. We cannot afford to allow that to happen. If you take away the naming of the terrorist organizations, as he does, and do not allow them to be identified and then have the power in this law to exclude them when they come into those airports and deny them asylum, you have taken away an incredibly important tool we are going to all rue to fight terrorism.

The next time we have some major foreign organization, a state from Libya, Iran, Iraq, or Hamas or whoever come over, bomb a building, kill a lot of people, we are going to be the ones to blame for it, not somebody else.

Some of the things in the Barr amendment we can differ on, we can say we agree with or fudge around the corners. But the gentleman does not allow us to break it apart. It is a total package. you either take it or leave it, and we must leave it. In the strongest possible terms I urge the defeat of the Barr amendment. It is irresponsible.

Mr. BARR. Mr. Chairman, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, if we knew that government was perfect and it was all goodness and light, we might not need this amendment. We know from the Travelgate revelations that justice is not always blind. In fact, it is not even always just when administered by individuals. We know that the government will mess up a one car funeral, and, when dealing with our civil rights, that is a mistake we do not want to make.

I support the Barr amendment because it would protect innocent firearm vendors who could be held liable for failure to know they are lending support to those who may commit crimes.

The amendment corrects privacy concerns by eliminating the right of law enforcement officers to access certain consumer, hotel, telephone, and employer records in order to conduct a criminal investigation. Most importantly, the Barr amendment corrects the overreaching language in title III which would allow for good faith exceptions to the exclusionary rule for permitting evidence obtained by wiretaps. I have serious concerns about giving law enforcement officers even more power to use wiretapped evidence, and therefore I support the Barr amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. HEINEMAN], a distinguished member of the Committee on the Judiciary.

Mr. HEINEMAN. Mr. Chairman, I stand in opposition to the Barr amendment. There are great sections of this terrorism bill, effective death penalty reform, victims restitution, criminal alien deportation, that are great. That is fighting crime. But what does it do substantively for the cops?

This is not a cops bill. What the gentleman's amendment does is it guts the bill. As stated in section 112 of the overall bill, 112 states that the National Institute of Justice shall test every single commercial bullet in this country against every single piece of protective armor that the policemen carry, that they can buy commercially.

Have you ever ridden downtown at midnight? Were you ever scared? Cops handle 911 calls. They cannot turn them down. They have to go to a 911 call. When people are running out of banks, the cops have to run into banks, and they have to feel secure that their protective armor is good and contains integrity.

I say that we need to deal with the cops. This is not a cops bill. We need to retain section 112, which is a cops bill. I say let us leave politics out of this.

□ 1430

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], former chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. SCHUMER. I thank very much the gentleman for yielding this time to me.

Mr. Chairman, like the gentleman from North Carolina [Mr. HEINEMAN], I consider myself a strong friend of law enforcement. I consider this amendment, the Barr amendment, to be the most anti-law enforcement amendment that we will see in this entire bill.

Mr. Chairman, if we ask police officers, if we ask FBI agents, about the Barr bill, they will be amazed that anyone who considers themselves pro-law enforcement would vote for this, and let me make one thing perfectly clear:

Under the Barr amendment, Hamas will be allowed to continue to raise funds here, and an individual can write on their passport that they are part of Hamas, and the State Department cannot prevent them from coming here.

I would ask my good friend from Georgia, does he remember the sheik, a man who came in, who was part of a terrorist organization, and blew up the World Trade Center and killed innocent people? Under the Barr amendment the sheik could say I am part of a terrorist organization and walk right into America, and then he could raise money and send it back home to be used for blowing up innocent people.

This amendment is a travesty. If this amendment passes, and I have put my guts into this bill, I have taken a good amount of flack from people on my side. But I cannot vote for this bill with the Barr amendment because it will become a total sham. It will not be an antiterrorism bill, it will not be a pro-law enforcement bill. It will just be a shred of something that is left.

And do my colleagues know what? If we in this body dare vote for this amendment and then vote for the bill, we will understand why the American people think we are hypocrites. Because we cannot say we are passing an antiterrorism bill, and then put nothing in it, and take out every provision because of some hypothetical. What are we thinking of here? People's lives are at risk. We have had people die of terrorism. It was not even thought about that on these sacred shores terrorists could kill our citizens, and now we have seen several events where people are dead.

The bill that the gentleman from Illinois has put together is a carefully crafted measure. There are those on both the far right and the far left who oppose it; I know that. But this amendment, this amendment, just eviscerates that bill.

I will not support an amendment that panders to either side. I will not support an amendment that says it is fighting terrorism and does nothing to stop a Hamas or any other terrorist organization from raising money here in America. I will not support an amendment that makes fighting terrorism, something we should all care about, a sham. I strongly urge my colleagues on both sides of the aisle to oppose this amendment.

Mr. BARR. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding this time to me. Let me just say that I want to vote for this bill, but I cannot vote for it without the Barr amendment in it, and I want to tell my colleagues why.

If the Government of the United States can through, quote-unquote, good faith tap our phones and intrude into our lives, they violate our constitutional liberties, and that is something that we should not tolerate, and that is in section 305 and section 307. The FBI can gain access to individual phone billing records without a subpoena or a court order. Once again I believe that infringes upon our constitutional rights and liberties, and while we are trying to deal with terrorism, and we should, we should not violate our constitutional rights and liberties, and I believe this bill in its present form does. And that is why I think the Barr amendment is absolutely essential if we are going to pass something that will really deal with terrorism crime, but protect the liberties that we fought so hard for in the Revolutionary War.

Mr. CONYERS. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, I am not quite sure where the gentleman whose amendment this is is coming from because of his very strong prosecutorial and law enforcement background, and it leaves me confused that his amendment does not stop the FBI from intercepting stored e-mail and electric funds transferred information, although he does prevent the FBI from obtaining information from 10 registers which record the numbers dialed on a telephone. Was there some law enforcement reason that the gentleman drafted his amendment in that way?

Mr. Chairman, I would yield to the gentleman if he chooses to make a response about it.

Mr. BARR. I will address those and other issues on my time. I have learned early on that it is not best to do it on somebody else's.

Mr. CONYERS. The gentleman does not have much time left. My colleague, I am being super-generous this afternoon.

Mr. BARR. I appreciate the gentleman's generosity.

Mr. CONYERS. Does the gentleman know what I think? I think I can come to my own conclusion, then, with the gentleman declining to explain this.

Mr. Chairman, I have two conclusions. One, he intended to do it this way; and, two, it was sloppy draftsmanship. Who knows? But we have got a problem, I would say to the gentleman, and it has been delineated very carefully in the discussion so far. Five minutes from now the gentleman will never have a chance to explain anything about this before 435 people vote on it. It is a very important subject matter. Some people are saying that whether this amendment succeeds or fails will determine the fate of the antiterrorist bill in the House of Representatives.

We have a lot of things floating around here, and I just think that the gentleman might want to make us at least understand what he is doing. He is a respected person, a former leader in the Department of Justice. What in the world is going on here? Does the gentleman know that he would allow the Islamic Jihad to come into the United States and not be denominated a terrorist organization in his bill?

May I get the gentleman's attention? If the gentleman does not want to talk to me, he does not have to, but does the gentleman know that? That is a fact.

Mr. BARR. Do I know what?

Mr. CONYERS. Well, if the gentleman would listen to me, I will repeat it again so the gentleman can respond to me.

Does he know that the Islamic Jihad would be not denominated a terrorist organization under his provision? Does he understand that?

Mr. BARR. If the gentleman would yield, I know that current law would so designate it; yes, I know that. Current law would designate Hamas.

Mr. CONYERS. And is that why the gentleman left it out of the bill, of his amendment?

Mr. BARR. It is under current law.

Mr. CONYERS. Is the gentleman suggesting that the chairman of the Committee on the Judiciary does not understand that, that the chairman of the Subcommittee on Crimes does not understand, that all the members on the Committee on the Judiciary do not understand what the gentleman alone understands? Of course we have got to denominate that. We have got to denominate them as terrorists. That is why we are having—I am not yielding anymore, I am not yielding anymore.

That is why we are here today, I would say to the gentleman, legislating an antiterrorist bill, not a criminal law bill, but an antiterrorist bill. And for the gentleman to hold up an orange book and tell me that it is already in the law, I think I understand what I am going to do with the gentleman's amendment.

Mr. BARR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Chairman, I rise today in support of this amendment. I, too, want to support this bill, but I think that there is a balance that has been drafted very carefully by the gentleman from Georgia [Mr. BARR] to balance what we need to do and, at the same time, protect individual rights and liberties.

Terrorism in this country obviously poses a serious threat to us as a free society. It generates fear. But there is a far greater fear that is present in this country, and that is fear of our own Government. We should not further that fear. We should not do anything to promote further lack of confidence in our own Government. Public officials must recognize that our citizens fear not only terrorism, but our Government as well.

A recent Gallup Poll found that an astounding 52 percent of the people believe the Federal Government has become so large and powerful that it poses a threat to the rights and freedoms of ordinary citizens. Four out of ten thought that this danger was imminent. We can ill afford to pass legislation in the name of antiterrorism that is seen by many law-abiding citizens of this country as a threat to their freedoms.

The Barr amendment deletes provisions of the bill that I feel are essential to protect individual rights. I believe this bill violates constitutional rights without the Barr amendment, and it takes away personal liberties which are so precious, and we should not sacrifice them for any cause.

For that reason I urge my colleagues to join me in support of the amendment. The Barr amendment protects our precious individual liberty.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member very much; I thank him for his leadership. I thank the chairman of the Committee on the Judiciary for his leadership as well.

Mr. Chairman, this is an important issue. It is against a backdrop of an incident that none of us in our lifetime would have imagined, the tragedy in Oklahoma City. So we are facing this issue, trying to emerge into unison around ensuring the safety of Americans on our shores without having experienced a long history of dealing with the terrorism of Oklahoma City. We have, of course, seen the tragedy of Pan Am 103 and the Korean Air Flight 007. With that in mind, then, we must strike a very fine balance.

And the gentleman from North Carolina [Mr. HEINEMAN], Chief of Police, please let me agree with him. I stand in opposition to the Barr amendment because we have got to be focused and strong on terrorism, and terrorism includes our law enforcement officers who day after day after day are confronted by surprises in the community. We have in this bill an appropriate response to cop killer bullets. That is to ensure that we look at the ammunition to determine whether they kill and whether, in fact, they provide a terrorist atmosphere for our law enforcement.

What does the Barr amendment do? It simply provides a study to see if we have killed any cops. Would not my colleagues say that we did not want Oklahoma City to happen? If we have an opportunity today on the House floor to prevent terrorist activities against our law enforcement officers in communities like St. Louis, MO, or Houston, TX, Detroit, MI, Atlanta, GA, is not it our responsibility to, in fact, go in front of it and avoid cop killer bullets from getting on the street?

What about terrorist fund-raising activities? We have just seen the United Way stopped from fundraising if they do a little lobbying to increase more dollars to help kids in our neighborhoods and our communities. But yet we are going to allow, through the Barr amendment, the opportunity for individuals to fundraise and to encourage terrorist activities in this community, in this Nation, with taxpayer dollars. Our constituents' dollars, fundraising for terrorist activities; this is not a good approach to terrorism. Let us vote this amendment down.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I rise in opposition to the Barr amendment.

In the wake of the World Trade Center bombing and Oklahoma City, it is unbelievable to me that we could be standing here today debating an amendment that would weaken the ability of law enforcement officials throughout the United States to protect us from this ever-growing menace in our country.

□ 1445

Mr. Chairman, I had a recent conversation with the FBI Director. The FBI is recognized worldwide as the most effective law enforcement agency in the world. Their efforts in the World Trade Center bombing and the Oklahoma City bombing can stand as an example of effective law enforcement, but they need the tools to do that. My concern is that the Barr amendment limits those tools that they use.

Mr. Chairman, let us have some faith in our judicial system and our law enforcement capabilities in this Chamber. If we pass the Barr amendment, the antiterrorism bill, as it is labeled, will not be worthy of the name. Let us reject this amendment and pass a good bill.

Mr. BARR. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT], my distinguished colleague on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, let me say at the outset that I am disappointed that the gentleman from Georgia [Mr. BARR] did not include in his amendment a provision to take the habeas corpus provisions out of this bill. But he did not do that. I have to evaluate his amendment on its merits.

Mr. Chairman, I want to say this to my colleagues. There is politics all over this place, on the right, on the left. But I want to tell my colleagues that the Constitution of the United States protects conservatives, protects liberals, protects moderates. The Constitution of the United States protects black people and white people and Mexican-Americans, and the whole range and array of people.

To the extent that we undercut the provisions of the Constitution of the United States, we do our whole Nation a disservice. The gentleman from Georgia [Mr. BARR] is putting back in some sanity and some constitutional provisions. I think we ought to support his amendment.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me ask my friend, the gentleman from North Carolina, who told us that we ought to remember how color-blind the Constitution is and that the provision of the gentleman from Georgia [Mr. BARR] does something good, tell me, why is the gentleman supporting the Barr amendment, just for the record?

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I would tell the gentleman, I am supporting the Barr amendment because he restores the good faith exception under the fourth amendment.

Mr. CONYERS. Mr. Chairman, I take my time back. That is all the gentleman is getting.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the committee.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE], the former Governor.

Mr. CASTLE. Mr. Chairman, I thank the gentleman, not only for yielding time to me, but for his tremendous work as the chairman of the committee in drafting the antiterrorist bill, which I think is a very strong and needed piece of legislation.

Mr. Chairman, I rise in opposition to the Barr amendment. I do not know if it weakens the bill or if it eviscerates it or guts it, as some of the other speakers have said, but there is no question it deletes it in some way or another.

Mr. Chairman, we must try in this country to prevent every act of terrorism we can. We must do all that is legal to apprehend and convict perpetrators of such acts, to protect the American people. We must give law enforcement every tool possible. That is what this bill does. The amendment, for reasons stated by many speakers, and I do not have the time to enumerate them here, takes away some of the ability of law enforcement to enforce acts dealing with terrorism in this country.

Mr. Chairman, I look at the problems that have happened in Ireland and England, I look at Tel Aviv and Jerusalem. I know that the individuals who have committed these acts, terrorists, are international terrorists. We know they take airplanes, they have contacts in various places. We do not want them to come to our shores. We want them to know that we have the strongest possible law. So for that reason, Mr. Chairman, I support the legislation, the antiterrorist legislation, and hope we will all oppose the Barr amendment.

Mr. BARR of Georgia. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of the Barr amendment.

Mr. Chairman, I have to tell the Members that our original antiterrorism bill was terrorizing the good constituents of our district. I have had numerous calls from them. They were genuinely concerned, and I think rightfully so, about the possibility of infringing on their constitutional rights.

Mr. Chairman, I hold here the primary reason I am supporting this amendment. That is because I believe that without this amendment, the original bill seriously threatens some very important constitutional rights. We have to have a proper balance here. If I am going to err, I am going to err on the side of supporting the Constitution. I took an oath to do that when I came here.

I am going to vote for this amendment, and if it passes, and if my amendment which I will offer passes, I will vote for the bill. I did not think we could make a silk purse out of a sow's ear. Our Congressman did that. I thank him very much for his diligent efforts.

Mr. BARR of Georgia. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Georgia [Mr. BARR] is recognized for 1½ minutes.

Mr. BARR of Georgia. Mr. Chairman, this, obviously, has been a very vigorous debate, as it should be, and hopefully will continue year after year after year, because these concerns that we are debating today are not going to be concluded in one piece of legislation.

However, Mr. Chairman, I do think it is important to realize that our Government already has at its beck and call vast powers with which to stop, investigate, prosecute, and sentence to lengthy prison times people who commit terrorist acts in this county.

As the gentleman from Michigan [Mr. CONYERS] said previously, I am a former prosecutor, a U.S. attorney. I know from having prosecuted cases involving international figures that they do not come into this country frequently because they are afraid of our criminal justice system because of its strength, because of its expanse, because of its ability to stop them, to put them away.

Mr. Chairman, we do not need to grant our Government now vast new powers. They already have them. What we need to do, Mr. Chairman, is to finetune what we already have to make it better. My amendment strikes that very delicate but absolutely essential balance with regard to accountability in Government, individual rights, and Government need to protect us.

Mr. Chairman, I urge all of my colleagues on the left, on the right, in that vast middle, to recognize the balance that is struck through the Barr amendment. Vote for it, so we can tremendously strengthen this habeas-death penalty-crime prevention package so it protects all of our citizens without infringing on the rights of law-abiding citizens.

Mr. HYDE. Mr. Chairman, I would ask how much time I have remaining.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has 1½ minutes remaining.

Mr. HYDE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, it is kind of a sad day for me, and I will tell the Members why. Earlier in the day, standing back there I heard a dear friend of mine, a great Republican, say "I trust Hamas more than I trust my own government." Those words hurt. That is a very tragic situation, because our Government is made up of a lot of people, including me and you, a lot of good judges, honest judges with families.

Yes, there are corrupt judges. There are corrupt clergy. So what? Our Government is run by people in a democracy, and "I trust Hamas more than I trust my own Government"? I heard the distinguished gentleman from Oklahoma say almost the same thing, about how paralyzed with fear we are of our own Government. We should get rid of the bad apples.

Mr. Chairman, my friend, the gentleman from Indiana, asked my friend, the gentleman from Georgia, does this expand wiretapping; how intrusive. Well, it does not expand wiretapping. It provides for a good faith exception to the exclusionary rule, which the gentleman supported on February 7, 1995; which the gentleman supported when he signed the contract. What happened? Why has it suddenly become a terrible thing to have a good faith exclusion?

Mr. Chairman, I will tell the Members what happened. The ACLU and the National Rifle Association, in a strange, bizarre marriage, the Jack Klugman and Tony Randall of national security policy, decided it was a bad idea, and people who supported it then, including the gentleman from Georgia, enthusiastically did 180 degrees.

Mr. Chairman, I do not care. It is bad policy. We have a real threat. We either do something about it, or take a pass and pretend we are. With the Barr amendment, this is not an antiterrorism bill.

Mr. HEINEMAN. Mr. Chairman, earlier today, I stood in opposition to the Barr amendment as I would on any amendment that compromises the health and safety of police officers. The Barr amendment strips this crime bill of necessary procedures to safeguard the lives of police officers.

Effective and enforceable death penalty reform, victim restitution, expedited criminal alien deportation—these are great law enforcement tools. That is why I support H.R. 2703.

But what about supporting our Nation's cops?

The Barr amendment removes protection for our law enforcement officers and flies in the face of effective law enforcement.

Have any of you ever run into a bank when everyone else is running out of it? I have.

You need to remember a 911 call means you must respond. You have no choice. Are we satisfied that we are protecting the men and women who protect us?

Cops protect all of us, gun enthusiasts as well as gun control advocates. This should not be a political issue.

Let's stop the demagoguery and analyze the facts.

Currently, there are no cop-killer bullets available on the market. In 1986 Congress banned specific types of cop-killer ammunition based on weight and composition. After the M39B bullet was manufactured in Sweden and imported into the United States, Congress expanded the definition of a cop-killer bullet to encompass all alloy coated ammunition which would pierce body armor. This was done in the 1994 crime bill. Thus, Congress not only has the authority and responsibility to ban cop-killer bullets, it has shown a decisive willingness to do so in the past.

The original section 112—the so-called cop killer bullet study does not grant the Attorney General unfettered discretion to ban broad types of ammunition—including some ammunition used solely for hunting. Rather, the National Institutes of Justice [NIJ] will develop a standard to be used to identify any future cop-killer bullets. I have utilized the NIJ's expertise during the 24 years I was the Raleigh chief of police. Under the provisions of H.R. 2703 NIJ can only develop the standard to identify cop-killer bullets, it does not have the power to arbitrarily ban ammunition.

The Barr substitute does nothing for cops. At best the Barr substitute is smoke and mirrors. All of the issues supposedly to be studied in the Barr amendment have in fact already been studied. The FBI already has published the results in the "Law Enforcement Officers Killed and Assaulted 1994."

Over the last 10 years, 708 officers were killed in the line of duty with firearms. During 1994, 76 officers were killed in the line of duty. Of those, 31 officers lost their lives during arrest situations. Firearms were used in 74 of the 75 slayings. Handguns were used in 63 of those killings. Of 223 officers wearing body armor when slain during the past 10 years, 130 suffered gunshot wounds to the head, 61 suffered gunshot wounds to the upper torso, and 18 suffered gunshot wounds below the waist.

The original section 112 study of H.R. 2703 was a win-win for cops. It directed NIJ to formulate standards for Congress to use to determine whether ammunition can pierce body armor and thus be designated cop-killer. These standards do not currently exist. Using these standards, Congress would have been able to scientifically ban any future cop-killer bullets. Development of these standards will prevent arbitrary exclusion of ammunition and allow Congress to intelligently address this life and death issue.

I hope NIJ will formulate these standards unilaterally.

UNIFORM CRIME REPORTS—LAW ENFORCEMENT OFFICERS KILLED AND ASSAULTED, 1994

SECTION I: LAW ENFORCEMENT OFFICERS KILLED

During 1994, 76 law enforcement officers were killed in the line of duty. Officers' deaths were recorded by law enforcement agencies in 29 states, the District of Columbia, and Puerto Rico. Of the victims, 45 were employed by city police departments, 14 by county police and sheriffs' offices, and 8 by state agencies. Three deaths were reported by two federal agencies, and Puerto Rico reported 6 killings.

The total was higher in 1994 than in 1993 when 70 officers were slain. Comparisons for 5- and 10-year periods showed the number of officers slain in 1994 was 15 percent higher than in 1990, but 3 percent below the 1985 total.

Victims

Of the 76 officers killed in 1994, 73 were males and 3 were females. The average age of officers slain was 36. Six of the victims were under the age of 25; 20 were between the ages of 25 and 30; 29 were aged 31 through 40; and 21 were over 40 years of age. Sixty-four of the slain officers were white, 11 were black, and one was Asian/Pacific Islander.

The law enforcement officers killed in 1994 averaged 10 years of experience. Twenty-seven officers had over 10 years of law enforcement service; 26 had 5 to 10 years of service; and 15 had 1 to 4 years. Eight officers had less than 1 year of law enforcement experience.

Circumstances surrounding deaths

During 1994, 31 officers lost their lives during arrest situations. A further breakdown of these situations showed 16 officers were killed by robbery suspects, 3 by suspects during drug-related situations, 3 by burglary suspects, and 9 by assailants suspected of other crimes.

Fifteen officers were slain investigating suspicious persons or circumstances; 11 were killed while enforcing traffic laws; 8 were killed while responding to disturbance calls; 6 were ambushed; 4 were killed while dealing with mentally deranged individuals; and 1 was killed while handling or transporting a prisoner.

Types of assignment

Patrol officers accounted for 50 of the 76 victims in 1994. Of those officers killed while on patrol, 43 were assigned to 1-officer vehicles, 6 to 2-officer vehicles, and 1 was on foot patrol. Fourteen victims were on detective or special assignment, and 12 were off duty but acting in an official capacity when slain.

Figures for 1985 through 1994 also show that the largest percentage of victim officers were assigned to vehicle patrol when they were slain. Fifty-four percent of the vehicle patrol officers were alone and unassisted at the time of their deaths, while 31 percent of the victim officers on other types of assignments were alone and unassisted.

Alleged assailants

Seventy-one of 76 slayings of law enforcement officers in 1994 have been cleared. Of the 106 suspects identified in connection with the murders, 102 were male, and 4 were female. Fifty-six of the suspects were white, and 45 were black. Sixty-eight of the 106 alleged assailants were under the age of 30.

Sixty-one of the suspects identified had previous arrests, and 41 had a prior conviction. The records showed that 46 suspects had previous arrests for crimes of violence, 26 for drug-related offenses, and 41 for weapons violations.

Of the 106 persons identified, 75 have been arrested by law enforcement agencies. Sixteen were justifiably killed (5 by victim officers), 11 committed suicide subsequent to slaying the officers, and 4 are fugitives. No suspects have been identified in connection with six slayings.

Dispositions of 973 persons identified in connection with officers' murders during the decade, 1983–1992, were reviewed. By moving the period back 2 years, the number of pending cases was only 15. Of the 973 identified, 787 were arrested and charged; 129 were justifiably killed; 1 was murdered in an unrelated incident; 51 committed suicide; and 5 remain at large.

Among those persons charged for whom final disposition is known, 73 percent were found guilty of murder; 8 percent were found guilty of a lesser offense related to murder; and 4 percent were found guilty of some crime other than murder. Nine percent of the suspects were acquitted or had charges against them dismissed, and 2 percent were committed to psychiatric institutions. One percent of the persons charged with the officers' murder died in custody before final disposition was determined.

Available data revealed that 112 of the 580 offenders found guilty of murder were sentenced to death, 274 received life imprisonment, and 190 were given prison terms ranging from 5 to 450 years. Two were placed on probation, and 2 were given indeterminate sentences.

Weapons

Firearms claimed the lives of 92 percent of the 708 officers killed in the line of duty from 1985 through 1994. Seventy-three percent of the murders were committed by the use of handguns, 13 percent by rifles, 6 percent by shotguns, and 8 percent by other weapons.

Eight-nine officers were slain with their own weapons during the 10-year period. In the same time frame, 169 officers fired their service weapons, and the weapons of 122 officers were stolen.

More than half of the officers killed by gunshot wounds during this 10-year period were within 5 feet of their assailants at the time of the attack. Forty-seven percent of the firearm fatalities were caused by wounds to the head, 47 percent by upper torso wounds, and 6 percent by wounds below the waist.

During 1994, firearms were used in 75 of the 76 slayings. Handguns were the murder weapons in 63 of the killings, rifles in 8, and shotguns in 4. Six officers were shot with their own service weapons.

As in previous years, the most common handgun cartridge types used against officers in 1994 were the .38 caliber, .380 caliber, and 9 millimeter. These three weapons jointly accounted for more than half of the handgun deaths.

One officer in 1994 was intentionally struck with a vehicle.

Body armor

Of 223 officers wearing body armor when slain during the past 10 years, 130 suffered gunshot wounds to the head, 61 suffered gunshot wounds to the upper torso, and 18 suffered gunshot wounds below the waist. Of 61 officers killed by upper torso wounds, 31 officers were killed when bullets entered between the panels of the vests or through the arm openings. Seventeen were killed by wounds above the vest area, and 11 officers were slain when the bullets penetrated their protective vests. Two officers were killed by the wounds in the back area and/or lower abdominal area not protected by their vest.

Also wearing vests, 8 officers were intentionally struck by vehicles, 3 officers were stabbed, 1 was beaten, 1 was struck on the head with a bucket of spackling compound, and 1 pushed to his death.

See the following special report on body armor.

Places

The most populous region, the Southern States, reported 24 of the 76 officers' fatalities in 1994. The Western States reported 18, and the Midwestern States reported 16 officers slain. The Northeastern States reported 12, and Puerto Rico reported 6.

A comparison of regional totals for the two periods, 1985–1989 and 1990–1994, showed that the number of officers killed during the latter 5-year span declined in all regions except the Midwest.

Times

In the past 10 years, 63 percent of the incidents resulting in officers' deaths occurred from 6:01 p.m. to 6 a.m. The figures show the periods from 4:01–6 a.m. and 6:01–8 a.m. to be the hours when the fewest officers are slain and the 2-hour period, 8:01–10 p.m., to be when the greatest number are killed.

Daily figures for the decade, 1985–1994, showed more officers were slain on Fridays than on any other day of the week; the least number of fatalities was recorded on Sundays. A review of the monthly totals for the same years showed January with the highest figure, 74.

Accidental killings

Sixty-two officers lost their lives due to accidents occurring while performing their official duties in 1994. Fifty officers were killed in automobile, motorcycle, and aircraft accidents; 7 were accidentally struck by vehicles; 2 were accidentally shot; and 3 were killed in other types of accidents such as falls, drowning, etc.

Regionally, the Southern States recorded 26 accidental deaths; the Midwestern States, 13; the Western States, 12; and the Northeastern States, 6. Five officers were accidentally killed in Peru.

Mr. BUNNING of Kentucky. Mr. Chairman, I come to the floor today to lend my support to the Barr amendment. Without this important amendment, the bill, despite the good intentions behind it, is fatally flawed and should not be supported.

We do not need another so-called antiterrorism provision to add to the ones that are already on the books. We do need the kind of death penalty reform that the Barr amendment would provide without the trampling of our civil liberties.

The Barr amendment will give us the ability to enforce the death penalty and end the frivolous appeals that keep legitimate cases from being heard in a timely manner. But, the Barr amendment strips away the threat of big brother snooping into the private affairs of American citizens.

In my view, it is important that we adopt the Barr provision so that private records about consumer credit, public accommodation, and common carrier information do not become tools of the Federal Government without a search warrant.

The amendment will also block Federal authorities from digging around in citizens' telephone billing records without a court order.

Equally important, the Barr amendment will prevent the wrongful use of wiretaps by Government agents simply claiming a good faith exception to the exclusionary rule.

Mr. Chairman, fear of terrorism is no excuse for infringing on the civil liberties of the American people.

I think that the author of the base bill, while completely well-intentioned in this effort, would be the first to admit that there is nothing in this bill that would have prevented the tragedy in Oklahoma.

Terrorists act outside of the law. The Congressional Research Service has compiled a list of the current antiterrorism laws on the books that spans 17 pages. We do not need to add to that list.

To the extent that a committed terrorist can be deterred by the law, I believe the knowledge that we have a swift and sure justice system would be a far better deterrent.

That is why the death penalty reform portion of the bill is so important. Criminals need to know that if they are given the death penalty it will be enforced and the people need to know that their government will protect them from the predators of society.

Stripped of the intrusive provisions, the underlying bill will provide us with much needed change in the criminal justice system.

The bill will provide the mandatory victim restitution that so many of us have wanted for so long. It will make it easier to deport criminal aliens and of course it enhances the ability of the justice system to carry out the execution of violent criminals.

These are all laudable provisions and I congratulate my dear friend from Illinois, HENRY HYDE, for including these measures. We just need to make sure that we attach the Barr amendment so that we can keep the bill focused on punishing criminals rather than expending the power of big government.

We should not indulge ourselves in legislation simply because it makes us feel good to pass something—so that we can go home and say that we passed a bill.

If we are going to pass something, lets make sure that it is consistent with the constitutional freedoms that we Americans enjoy and guard so jealously.

Without the Barr amendment, the bill before us may make us feel better; but, it will be just one more expansion of Federal power and one more restriction on the civil liberties of the people.

As the late Justice Felix Frankfurter said, "Personal freedom is best maintained * * * when it is ingrained in people's habits and not enforced against popular policy by the coercion of adjudicated law."

I urge my colleagues to support the Barr amendment and the bill as amended.

Mr. WATTS of Oklahoma. Mr. Chairman, for the last few months, I have been in contact with hundreds of my constituents in Oklahoma City and throughout my district regarding this legislation that we are considering today.

There is a consensus among Oklahomans that we critically need the habeus corpus provisions that are included in this bill to assure that criminals, including those who perpetrated the Oklahoma City bombing—cannot abuse America's judicial system.

However, there is great—and I believe legitimate—concern and fear that other provisions in this bill attack fundamental constitutional liberties.

The Barr amendment addresses these problems in a thorough and comprehensive way.

The Barr amendment will delete the fatally flawed provision that would hold innocent firearms vendors criminally liable for failing to know that their customer was planning a felony.

The Barr amendment will eliminate the wiretapping provision that would expand the use of wire communications as evidence in federal criminal prosecutions.

The Barr amendment will delete the provision that authorizes the government to brand organizations as terrorist.

The Barr amendment strips out those sections of the bill that undermine our civil liberties, and I know that many of my colleagues agree that without these deletions, we cannot support this legislation.

I commend the gentleman from Georgia for his leadership on this issue, and I urge my colleagues to support the Barr amendment that underscores and protects the constitutional rights of our constituents. If the Barr amendment passes, we have clean legislation that will stop criminal abuses of our American justice system and merit our strong support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. BARR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 171, not voting 14, as follows:

[Roll No. 61]

AYES—246

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bentsen
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Chabot
Chambliss
Christensen
Chrysler
Clement
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fields (TX)
Foley
Forbes
Fowler
Frisa
Frost
Funderburk
Gekas
Geren
Gillmor
Goodlatte
Gordon
Goss
Graham
Green
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hutchinson
Inglis
Istook
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Manzullo
Mascara
McCrery
McDade
McHugh
McInnis
McIntosh
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Montgomery
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Oberstar
Obey
Ortiz
Orton
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Young (AK)
Young (FL)
Zeliff

NOES—171

Ackerman
Andrews
Baesler
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Canady
Cardin
Castle
Clay
Clayton
Clinger
Clyburn
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Dunn
Durbin
Engel
Eshoo
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Heineman
Hilliard
Horn
Houghton
Hoyer
Hunter
Hyde
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Luther
Maloney
Manton
Markey
Martini
Matsui
McCarthy
McCollum
McDermott
McHale
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mink
Molinari
Moorhead
Moran
Morella
Nadler
Neal
Nussle
Olver
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Porter
Quinn
Rangel
Reed
Regula
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Sabo
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Slaughter
Stark
Stearns
Studds
Stupak
Thompson
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Walker
Ward
Weldon (PA)
Wolf
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—14

Bryant (TX)
Chapman
Chenoweth
Collins (IL)
de la Garza
Duncan
Laughlin
Martinez
Moakley
Rush
Sisisky
Stokes
Waxman
Wilson

□ 1513

The Clerk announced the following pair:

On this vote:

Mr. Duncan for, with Mr. Waxman against.

Mr. PACKARD and Mr. WELDON of Pennsylvania changed their vote from "aye" to "no."

Messrs. MCHUGH, SAXTON, BATEMAN, FROST, BENTSEN, and COX of California changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1515

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of section 101 of the bill before us dealing with the protection of Federal employees allowing for the Federal prosecution for murder, attempted murder of all officers and employees of the government while engaged in official duties, and I commend the chairman for taking up this measure and making it part of our bill.

Mr. Chairman, our colleague, and an outstanding member of your committee and the House International Relations Committee, Mr. CHABOT of Ohio, joined me earlier this year in introducing H.R. 2737. That particular bill was introduced after we learned of a death of a U.S. Customs inspector along the Mexican border at a drug hearing held last year.

Along the Southwest border not long ago, a Customs Service inspector was run down and killed by a drug trafficking port runner. We were appalled to learn at the hearing that the prosecution was handled not by the U.S. Attorney's Office, but by the local prosecutor.

This should not be the case. Those courageous and dedicated Federal officers such as Customs Service Inspectors, Agents, Canine Enforcement Officers, and other employees engaged in official duties protecting us from drug trafficking and other criminal elements, should be protected under Federal law, and we should not have to rely on local law and local prosecutors in such cases.

Our Department of Justice must be fully empowered and be prepared to prosecute those who would murder or attempt to take the lives of all of the Customs Service personnel engaged in official duties. H.R. 2737 was introduced to ensure that would be the case.

I am informed that section 101 of the bill before us will fully cover and help provide full protection for all those Customs Service employees, and all other Federal employees in the future, under appropriate circumstances.

I applaud the chairman's efforts to bring about that worthy goal, and I appreciate this opportunity to work together to solve a serious problem. I thank him for his time and leadership.

AMENDMENTS EN BLOC OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, pursuant to the authority granted in the rule, I offer the following amendments en bloc. No. 3, Mr. HASTINGS of Florida; No, 8, Mr. TRAFICANT, No. 11, Mr. BACHUS and Mr. SPRATT, and No. 14, Mr. KENNEDY of Massachusetts, and Mr. KASICH.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. HYDE:

Page 6, beginning in line 23, strike "32" and all that follows through "2332b" in line 25 and insert "32, 37, 81, 175, 351, 831, 842(m) or (n), 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A".

Add at the end of title VII the following:

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE — INTERNATIONAL COUNTERFEITING

SEC. 01. SHORT TITLE.

This title may be cited as the "International Counterfeiting Prevention Act of 1996".

SEC. 02. INTERAGENCY TASK FORCE ON INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Secretary of State shall establish, and appoint the members of, an interagency task force (hereafter in this title referred to as the "task force") to—

(A) monitor the use and holding of United States currency in foreign countries;

(B) produce a statistically valid estimate of the amount of counterfeit United States currency that is produced, passed, and possessed outside the United States each year; and

(C) coordinate the activities of the agencies represented on the task force in carrying out the duties described in subparagraphs (A) and (B).

(2) COMPOSITION OF TASK FORCE.—The task force shall consist of the following:

(A) The Under Secretary of the Treasury for Enforcement, or a designee of the Under Secretary.

(B) The Director of the United States Secret Service, or a designee of the Director.

(C) The Director of the Bureau of Engraving and Printing, or a designee of the Director.

(D) Such other officers of the Department of the Treasury, including any officer in any bureau, office, or service within the department, as the Secretary of the Treasury may determine to be appropriate, or any designee of any such officer.

(E) A member of the Board of Governors of the Federal Reserve System as designated by the Chairman of such Board, or a designee of such member.

(F) The general counsel of the Board of Governors of the Federal Reserve System, or a designee of the general counsel.

(G) Such other officers of the Board of Governors of the Federal Reserve System as the Chairman of such Board may determine to be appropriate, or a designee of any such officer.

(H) Such officers of the Department of State as the Secretary of State may determine to be appropriate, or a designee of any such officer.

(3) CHAIRPERSON.—The Secretary of the Treasury shall serve as the chairperson of the task force.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The task force shall establish an effective international evaluation audit plan that is designed to enable the agencies represented on the task force to carry out the duties described in subparagraphs (A) and (B) of subsection (a)(1) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The task force shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The task force shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The task force shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the task force may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to detect counterfeit currency.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and an analysis of the statistical significance of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) The total amount of United States currency and the total quantity of each denomination found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(F) An analysis of the types of counterfeit currency discovered and any recurring patterns of counterfeiting, including currency that fits the family of counterfeit currency designated by the United States Secret Service as C—14342.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the task force determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

SEC. 03. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information request by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

Add at the end the following:

TITLE —BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 001. SHORT TITLE.

This Act may be cited as the "Biological Weapons Enhanced Penalties Act of 1996".

SEC. 002. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting "attempts to acquire under false pretenses," after "acquires,"

SEC. 003. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting "recombinant molecules," after "toxin," each place it appears.

SEC. 004. DEFINITIONS.

Section 178 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "or naturally occurring or bioengineered component of any such mircroorganism, virus, or infectious substance," after "infectious substance";

(2) in paragraph (2)—

(A) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances" after "means"; and

(B) by inserting ", and includes" after "production";

(3) in paragraph (4), by inserting "or a molecule, including a recombinant molecule," after "organism".

SEC. 005. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting ", threatens," after "uses, or".

SEC. 006. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking "disease organism" and inserting "biological agent or toxin, as those terms are defined in section 178".

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] will each control 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I would ask the gentleman from Michigan to proceed.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise to commend Congressmen CONYERS and NADLER on crafting a true antiterrorism substitute which balances the fundamental rights of the American people with a firm stance against domestic and international terrorism.

Unfortunately, the Hyde legislation before us today threatens personal liberties and constitutional rights. Once again, the Republicans have taken a great idea—combating terrorism—and turned it into a avalanche of extreme ideas. Why has this bill become bloated with controversial provisions? The answer is simple—leverage. It's time for this body to say enough is enough. The Republican leadership should have learned by now that the American people will not be blackmailed into accepting radical new laws from this Congress.

The Hyde bill dramatically weakens the fourth amendment by allowing illegal search and seizures if they are conducted in so-called good faith. It also allows for a sweeping definition of terrorism by politically appointed officials without judicial review. Lastly, the bill places too many limits on the right to appeal a conviction under habeas corpus. I urge Members to vote for the Conyers/Nadler substitute which corrects some of these problems, while retaining the good sections of the underlying bill.

Worthy of particular mention is the first section of the substitute—and the Hyde bill—which expands the protections for Federal employees. Under the substitute, "any officer or employee of the United States" and any person assisting that employee in the performance of his official duties is protected from violent, threatening, or harmful actions.

These simple protections are long overdue. Almost an entire year has passed since the Nation was jolted by the Oklahoma City bombing and the concept of domestic terrorism. Long before that tragic day, however, many of our Federal employees, especially in the western United States, have been putting their lives on the line in order to implement and enforce the laws of the land—the laws this Congress created. Although I have repeatedly requested that the chairman of the Resources Committee schedule hearings on this issue, my requests has been either ignored or deemed an inappropriate "use of the committee's resources."

The hostile climate toward our Federal employees, often the result of an extreme faction of the citizenry that opposes the enforcement of land use laws, has been translated into threats or acts of physical violence with increasing frequency.

Last January, a U.S. Forest Service office in Santa Fe, NM, was bombed. The blast resulted in structural damages to the building with repair costs estimated to rise as high as $25,000. No one was injured, this time.

And last August, a bomb was detonated outside of the Nevada home of a U.S. Forest Ranger. His wife and daughter were home at the time of the incident and only escaped serious injury because of sheer luck.

Unfortunately, these two incidents are neither as uncommon nor as isolated as the 5-month window between them may suggest. Throughout the past few years, other offices of the Forest Service and Bureau of Land Management have experienced bombings, Federal employees' and their families have received threats, employees have been physically prevented from performing their duties, ranger stations have been vandalized, unexploded pipe bombs have been discovered on public lands, and, as a result, many struggle with daily fear and social isolation.

It is about time for Congress to beef up the legal protection of Federal employees. Those who carry out the laws of the land every day deserve nothing less.

This substitute warns would-be violators in no uncertain terms that there will be serious consequences if you threaten or harm a Federal employee.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

We are now in the portion of the bill where we are now combining four amendments that have been agreed to by the chairman of the Committee on the Judiciary and myself. We support them, and I would like to allow at least one of the sponsors to be recognized, and I will shortly recognize the gentleman from Florida.

But before I do that, I would like to clarify where we are in the proceedings on the antiterrorist bill. Because with the last vote cast, we have just eviscerated the heart and soul of the antiterrorist bill. Here we are, the House of Representatives, with the last vote cast on this bill, we have now eviscerated the antiterrorist bill that was brought by the Committee on the Judiciary. There are no new penalties. Terrorist organizations can now raise funds on our shores, inside of the United States. There are no new tools for Federal law enforcement agencies. And with the National Rifle Association, we have just put to rest the parts that I supported in the bill brought by the committee.

We now have only the Conyers-Nadler-Berman substitute that will have any hope, if we really want to respond to the victims of Oklahoma, the other tragedies that have been recounted almost with Members with tears in their eyes, and now we have turned around and done this.

I continue to move forward to better provisions of the bill.

Mr. Chairman, in that regard, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the ranking member for yielding me this time. Also I would like to thank the chairman of the Committee on the Judiciary for offering initially to extend to me a small amount of time.

Mr. Chairman, my amendment is simple. It makes it easier for our Government to prosecute those persons who provide material support knowing that the support will be used in acts commonly associated with terrorism. It is designed to buttress existing Federal law and to make those who knowingly support these crimes accountable.

The crimes are enumerated, and in the interests of everyone's time, particularly the chairperson and the ranking member and any other Member who may wish to speak, I merely wish to add in spite of the matters that have gone before us, and I do agree with the ranking member that this matter now has been eviscerated, we must somehow or another get at the roots of terrorism by giving our law enforcement authorities the ability to prosecute those persons who, while they may not actually carry out the activities themselves, enable the terrorists to operate here in the United States as well as elsewhere.

My amendment had hoped to be able to address that specific subject by expanding the enumerated crimes.

I ask support for this version and the en bloc amendments.

Mr. Chairman, it is time to get tough on terrorism. The amendment I am offering today will do just that. I am proposing a very simple, yet very important modification to title I of H.R. 2703.

Title I provides criminal jurisdiction to the United States to investigate and prosecute certain terrorist offenses carried out by or against American citizens as well as terrorist offenses that are planned within the United States but carried out overseas.

Section 103 of title I states that persons who provide material support "knowing or intending" that it be used for certain criminal acts will be subject to a fine or imprisonment. The section does not specify that a terrorist must be the one to knowingly provide material support; it states that anyone who knowingly provides material support for terrorist activity shall be punished.

My amendment adds specific criminal violations to the list of crimes currently found in this section. This modification does not tread on civil liberties; it simply expands the list of crimes in the material support provision to cover other acts commonly associated with terrorism. These acts, from title 18, section 2339A, United States Code, include: Arson with special maritime-territorial jurisdiction; development, production, or transfer of biological-nuclear weapons; transferal or possession of plastic explosives which do not contain a detection agent; destruction of communication lines, energy facilities, national defense materials; production of defective national defense materials; and conduct relating to torture.

This amendment is timely and necessary. Here is why:

One of the crimes my amendment will be adding relates to nuclear weapons, as in "Whoever knowingly provides material support, for the delivery, possession, use, transferal, receives, possess, alteration of, disposes of, or disperses, disposes of, any nuclear material and knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property" shall be punishable by fine or imprisonment.

Therefore, if I, ALCEE HASTINGS, give money to Hamas, knowing that the funds would be used to transport nuclear material to Tel Aviv, where it would be used against civilians, I would now be punishable under section 103 by imprisonment or a fine. Without this addition, the person who knowingly provided material support for the crime would go unpunished.

By expanding the current list of crimes to include other acts associated with terrorism, we are making the bill more comprehensive. And in the shadow of recent terrorist bombings in Israel and England, as well as an increase of terrorist attacks within the United States, it is vital that we provide law enforcement with sufficient tools to fight these atrocities. Support the Hastings amendment.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Traficant amendment is a sense-of-Congress resolution to Buy American wherever practicable. We certainly support that.

Mr. Chairman, on the Bachus-Spratt-Leach amendment, I yield 3 minutes to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Chairman, the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Iowa [Mr. LEACH] and I have been working with the Secret Service to address a problem that is critical to our Nation, and that is international counterfeiting.

Members of this body may not know that over half of the counterfeit U.S. currency circulates overseas, and in recent years over half of the U.S. counterfeit currency which circulates domestically was produced overseas.

We, in this legislation, have addressed it in three regards. We have increased the penalties for international counterfeiting. We have worked with the Secret Service on enhancing penalties. The Secret Service has less than 20 agents overseas working on this problem. They simply do not have the manpower. So this bill would require the orderly placement of additional agents overseas.

I am happy to report the Congress has already appropriated funds for those agents. They would be in place by the end of this year.

The third thing that the bill does is it calls for an evaluation of the extent and location of counterfeiting overseas. The gentleman from South Carolina [Mr. SPRATT], I think, is the expert on this area, and I am going to reserve to him discussion of that.

I will close simply by saying this, Mr. Chairman. International counterfeiting funds terrorism. Counterfeit currency is the currency of choice for terrorists. It makes their activities less traceable. It lowers their cost of doing mischief.

Mr. Chairman, at this time I yield to the gentleman from South Carolina for any additional remarks which he would like to make.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding me this time.

I would like to rise in support of this amendment and say that it is the result of nearly 2 years of investigative effort by the General Accounting Office, a committee hearing by the gentleman's Subcommittee on Government Reform, and it is fully warranted.

Now I understand that it also meets with the approval of Treasury Department. We made changes to accommodate them. This deals with a potential problem which needs attention, and we give a mandatory charter to a task force that already exists, but we give them broader authority.

We also ask this task force to report periodically to the Congress, which is a time-honored way of getting the executive branch's attention. This warrants support. And I appreciate the gentleman yielding.

☐ 1530

Mr. BACHUS. Mr. Chairman, reclaiming my time, I do want to acknowledge the work of the gentleman from New York [Mr. HINCHEY] on this bill, and I have also mentioned the gentleman from Iowa [Mr. LEACH] for his strong work on the bill, and to again commend the gentleman from South Carolina [Mr. SPRATT], who a year and a half ago realized that we needed more of a handle on the problem.

Mr. Chairman, I would simply close by saying every time we have witnessed a terrorist act throughout this world, we can know that they have probably used counterfeit currency to fund their operations. Not only that, but drug smuggling money laundering, gun running, and the corruption of public officials throughout the world.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Massachusetts [Mr. KENNEDY], an author of one of the en bloc amendments.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I want to thank the gentleman from Michigan [Mr. CONYERS] and the gentleman from Illinois [Mr. HYDE] for including an amendment which the gentleman from Ohio [Mr. KASICH] and myself and the gentleman from Massachusetts [Mr. MARKEY], have worked hard on, to try and deal with what is an astounding gap in Federal law, a gap which allows toxic chemicals, such as sarin, bubonic plague, and a range of other toxins to not only be made by labs which we support, but then to be readily made available to anyone that might write in and care to request from our labs thousands and thousands of samples of these very, very dangerous materials.

We have laws on our books which make it illegal to make a nuclear bomb, but we have no laws on our books which prevent the same kind of destruction to take place from these kinds of chemicals and biological toxins.

The legislation that is contained en bloc I think will go a long way toward making activities illegal, toward the licensing of individuals and universities and the like. We have worked closely with our universities, we have worked closely with the FBI, and we have worked closely with the CIA to deal with the incidents that have taken place, such as the potential sarin attack against Disneyland late last year, and the incidents that have taken place in both Ohio, Minnesota, and Mississippi by other fringe groups.

This is important legislation, and I appreciate and thank the committee for accepting it en bloc.

MODIFICATION TO AMENDMENTS EN BLOC OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I ask unanimous consent that a revised amendment to H.R. 2703 which the gentleman from Alabama [Mr. BACHUS] has just handed me, which makes important corrections which are agreed upon, be substituted for the text that we have been discussing and that we will vote on with regard to Amendment No. 11.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment en bloc offered by Mr. HYDE:

Add at the end the following new title:

TITLE —INTERNATIONAL COUNTERFEITING

SEC. 01. SHORT TITLE.

This title may be cited as the "International Counterfeiting Prevention Act of 1996".

SEC. 02. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 03. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Illinois?

Mr. BACHUS. Mr. Chairman, reserving the right to object, I would simply say this is a change that the Secret Service requested.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the modification offered by the gentleman from Illinois?

There was no objection.

Mr. CONYERS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Illinois [Mr. HYDE].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 104–480.

AMENDMENT NO. 4 OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. DELAURO:

At the end of title II, add the following:

SEC. 206. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

Amend the table of contents accordingly.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from Connecticut [Ms. DELAURO], and a Member opposed will each control 5 minutes.

The Chair recognizes the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our police officers and the public are facing a deadly new threat on the streets of my home State of Connecticut and across the Nation: Laser sighting devices aimed at our law enforcement and law abiding citizens. These laser sights mounted on the barrel of a gun emit a tiny red beam of light the shooter uses to line up a target, thereby, if you will, creating a supergun. In the hands of a criminal, these high-technology weapons turn ordinary street thugs into sharpshooters.

My amendment directs the U.S. Sentencing Commission to increase penalties for individuals convicted of crimes involving laser sighting devices. The amendment will deter the use of laser sight technology in street crime and require the Sentencing Commission to collect data on laser sighting devices and criminal activity throughout the Nation.

Let me stress, this bill does not ban laser sight technology nor does it ban guns equipped with laser sights. This is not about gun control.

I crafted this legislation with the help of local law enforcement in Connecticut, with their input. This legislation has one endorsement from the National Fraternal Order of Police, the International Brotherhood of Police and others. Let me read directly from the letter of support that I received from the National Fraternal Order of Police regarding the amendment:

> The police and citizens of this Nation already suffer far too much from tragedies precipitated by firearms crime. This problem is exacerbated by criminals using laser sights to make their criminal activity even more deadly.

I urge my colleagues to protect the public and our men and women in blue who put their lives on the line every day and vote in favor of this vital amendment.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want the gentlewoman to know we have examined the amendment, we find it important, and we are very pleased to support it.

The CHAIRMAN. Does anyone seek the time in opposition?

Mr. VOLKMER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, members of the committee, this amendment seems innocuous if we look at it, but what it is is an attempt by those who are in favor of gun control legislation to try and isolate certain paraphernalia that is used by law-abiding citizens in an attempt to make its use illegal.

By going to the Sentencing Commission and saying that certain devices, if used in an act of crime, could be used to further make a person be further incarcerated.

Now, that may appear to be innocuous, but when you analyze it, it is a further attempt by those who have in the past few years been in favor of taking away all guns to also take away devices.

Mr. Chairman, I remind Members that those that are supporting this amendment also when we had the ban back in 1994 for semiautomatic weapons said that we need to ban bayonet mounts on rifles. Now, bayonet mounts on rifles do not kill anybody. They do not hurt anybody. Yet, they said they had to be banned. It is a similar thing here.

Ms. DELAURO. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Chairman, I would like just to let my colleague know that this does not ban anything.

Mr. VOLKMER. It is a step to doing that.

Ms. DELAURO. No, it is an attempt to say that the criminal, the individual who commits the crime with this new technology, bears the burden of doing it and that the penalty would be increased on the individual. It is specifically what a lot of my colleagues have talked to me about, that it is the individual, the criminal, who ought to be penalized, and not the gun owner.

Mr. VOLKMER. Mr. Chairman, reclaiming my time, as a former prosecuting attorney back in Missouri and as one who has been in constant contact with my law enforcement officials back there, I have not from my local people had any great desire to ban laser sighting devices. In the first place, I do not know very many people that actually have them. So I just do not see the necessity to put this into a bill of this magnitude for antiterrorism.

Mr. Chairman, I reserve the balance of my time.

Ms. DELAURO. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I want to point out to my good friend from Missouri that they may not have invented laser sighting devices when he was a prosecutor.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield, I keep in contact. They have been around for some time.

Mr. CONYERS. Mr. Chairman, the gentleman is still prosecuting law on the side?

Ms. DELAURO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, if I just might to my colleagues say the following: It is my understanding that this is something that the NRA has always emphasized and said: Punish the criminal; do not punish the gun owner; do not punish the technology.

This incident occurred in the city of New Haven, and it has on several occasions, where we are turning thugs into marksmen and sharpshooters with this device. Again, over and over again, the emphasis has been, place the responsibility on the criminal. If you are going to commit the crime, then you are going to do the time, and more.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, that is the point I was going to make to my friend from Missouri. In all the debates we have had on gun control, the gentleman has always reminded and said: Do not ban the gun, just go after the criminal who uses the gun illegally.

That is just what the gentlewoman from Connecticut is doing here. She is not banning the device, she is not curbing its technology. She is simply saying, when you use it in a criminal act, you will get an enhanced penalty. That seems to me to be completely consistent with what the gentleman from Missouri has been advocating. I might say ban the device, but I am not on this case. But just going after the criminal with an enhanced penalty seems to me to be something that everybody in this Chamber might be able to accept. I hope we will support the gentlewoman's amendment.

Ms. DELAURO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would just like to close with a comment from the Connecticut Police Chiefs Association president:

> As you are well aware, the law enforcement community is faced with many challenges today, including the use of sophisticated weapons by individuals who are committing very serious crimes. Your legislation is a step in the right direction to reaffirm that society will not tolerate sophisticated weapons by criminals against the citizens or law enforcement personnel.

This bill punishes the criminal, not law-abiding gun users or gun owners, and I urge its immediate passage.

Mr. VOLKMER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would like to remind the Members of the House that when the Judicial Sentencing Commission was initiated, and since it has been, it was done for the purpose of taking the Congress and the political arena away from sentencing and letting the Commission itself set sentencing. They can make this if they so desire. They can put anything that they determine to be legal and warrant additional punishment within it. But we have in the past always taken the attitude that we do not direct the Commission to do certain things. We let the Commission make their own decision as to what guidelines are to be set.

Now, there may be minimums or maximums we may wish to put on it, but I do not believe it is appropriate at this time to direct the Sentencing Commission to make the enhanced penalties for this type of technology. As a result, I still oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Connecticut [Ms. DELAURO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentlewoman from Connecticut [Ms. DELAURO] will be postponed.

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The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 104–480.

It is now in order to consider amendment No. 6 printed in House Report 104–480.

It is now in order to consider amendment No. 7 printed in House Report 104–480.

It is now in order to consider amendment No. 9 printed in House Report 104–480.

AMENDMENT NO. 9 OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. SCHUMER: At the end of title VIII (Miscellaneous) add the following:

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

Conform the table of contents accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. SCHUMER] and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is an amendment that was in the bill that left the House. It is one of the amendments that law enforcement considers of great importance. It would allow the various agencies to coordinate the fight against terrorism.

Let me stress that these days the fight against terrorism is something that involves not just one agency, and so what the amendment does is put back in the bill three important resources that the FBI asked for that were included in the bill as originally reported out of committee and was stripped out of the bill before it came to the floor.

They were, first, additional personnel to investigate both domestic and foreign terrorism; second, the establishment of domestic counter-terrorism to coordinate a domestic counter-terrorism center to coordinate the resources of Federal, State, and local law enforcement against domestic terrorism; and finally a fund for protecting against terrorism at major public events such as the upcoming Olympics.

It seems to me there should not be too much opposition to this. We need a great deal of coordination among the various agencies. We are now getting information from satellites and NSA and everything else, and I hope that the amendment will be adopted.

The CHAIRMAN. Does any Member seek time in opposition?

Mr. SCHUMER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 104–480.

AMENDMENT NO. 10 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. WATT of North Carolina: Page 151, strike line 6 and all that follows through line 25 on page 176.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. WATT] and a Member opposed will each control 15 minutes.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will control 15 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to advise the Members that the gentlewoman from Idaho [Mrs. CHENOWETH], who is a cosponsor of this amendment, is apparently en route from her district and may not make it in time for the debate.

Mr. Chairman, let me just point out to my colleagues that, as the prior vote on the amendment of the gentleman from Georgia [Mr. BARR] indicated, there is a substantial division in our ranks about the extent to which we must go to protect constitutional rights and freedoms and still feel that we are making a concerted and effective effort against terrorism. It is a very, very difficult issue, and there are some of us, myself included, who believe that we cannot afford to undermine our Constitution and the rights and protections our Constitution provides to individual citizens in this country because, when we do that, we undermine the very fabric of our Nation.

What has happened in this amendment is that we are trying to remove from the ambit of this bill a provision which was not in the bill which came out of the Committee on the Judiciary. The Committee on the Judiciary considered the antiterrorism bill, went through a long, drawn-out evaluation of that bill, and voted out a bill which had no provisions in it dealing with habeas corpus.

Apparently, after the bill was voted out of committee, the leadership, in an effort to expand the coverage of the bill and pick up votes from various places to try to pass the bill, saw fit to add habeas corpus provisions to this bill. Habeas corpus has nothing to do with terrorism in our country. If it does, it has such a small amount to do with it that it certainly was not something that was in the contemplation of the Committee on the Judiciary.

Let me explain to my colleagues that the habeas corpus provisions were put in the Constitution of the United States years and years and years ago for the purpose of protecting individual citizens and giving them the right to seek an independent review and have the court determine that their government, in some cases, was doing an injustice to them in that the government was holding them improperly.

The habeas corpus language in the Constitution has no color, it has no political ideology. It is not designed to protect one group of people against other groups of people. It is designed to protect individuals, individual citizens of our country, when the government makes a mistake and puts an individual in jail improperly. It gives that individual citizen the right to seek a review by the court and have the court make an independent determination of whether the incarceration is proper or not proper.

This bill, as it is currently written, not the bill that came out of the Committee on the Judiciary, but the bill that is proposed on this floor, substantially cuts back on the rights of individual citizens under habeas corpus, and I want to encourage my colleagues to vote for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

First of all, the remark made by the distinguished gentleman from North Carolina [Mr. WATT] that habeas corpus has nothing to do with terrorism; I have heard that several times, and I am kind of at a loss as to the logic behind that because a terrorist who murders somebody, and that is what they do, that is their business, deserves the death penalty, and if they get the death penalty, they ought not hang around like John Wayne Gacey did for 14 years, or like William Bonner did for 16 years, or like Kermit Smith did for 14 years, or like Robert Alton Harris did for 13 years. Justice ought to be imposed surely and swiftly.

Now this amendment simply maintains the status quo on habeas corpus by striking the entire title. We are not ignoring due process for the convicted. We seek closure and finality for the judgment that has been rendered and some compassion for the families of the victims who wait years and years and years. And that is the name of the game: Stretch it out, and then maybe get a new trial 10 years later where there are no witnesses to be found. We understand that. These things ought to be adjudicated reasonably swiftly, reasonably with dispatch, fairly. But 14 years is an absurdity; it makes the law a joke.

Diane Leonard, the widow of a Secret Service agent who died in the Oklahoma City blast, said this:

> For victims there are no indictments, no pretrial hearings, no trials, no appeals, no chances for remorse, and no doubt of their innocence; yet for those who commit these crimes where there is no doubt of guilt there is only appeal after appeal after appeal.

The same provisions in the bill, our bill, passed the Senate in June 1995 as the vote was 91 to 8. This is a major plank in the Contract With America anticrime policy.

Now under our bill it simply requires that all claims be brought in the single petition. The time period for filing is 1 year after the U.S. Supreme Court rejects a direct appeal. Subsequent petitions will be allowed if the convicted defendant can show cause for not including the claim in his first petition. Government suppression of evidence, newly discovered evidence proving innocence, are also grounds for a new appeal. Deference is given to State courts' legal decisions if they are not contrary to established Supreme Court precedent. The prisoner can rebut any presumption by clear and convincing evidence. But now it takes more than a decade to carry out a death sentence, and that is an injustice.

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Mr. Chairman, I ask that the amendment of the gentleman and the gentlewoman be defeated, and that we proceed with habeas corpus reform.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. CONYERS], the ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, this is a bill that is supposed to be dealing with terrorists. It is an antiterrorism bill.

Mr. Chairman, habeas corpus got onto the antiterrorism bill in the following way. Everybody thought that this was a fast train that could take on anything that was hanging around the Committee on the Judiciary. As it turned out, antiterrorism is not a fast train to anywhere, because it is really a crime bill. Now it is a gutted antiterrorist bill. Now we have a gutted antiterrorist bill, and habeas corpus reform that we have been trying to get through, restricting constitutional rights, for years. It has never gotten anywhere.

Mr. Chairman, it would not do for the ranking member on the Committee on the Judiciary to explain that again for maybe the 25th time in my career, but what about a former Attorney General named Ben Civiletti? What about the comments of a former Attorney General named Nicholas Katzenbach? What about of the comments of a former Attorney General named Edward H. Levy? What about the comments of an Attorney General, former Attorney General, named Elliott L. Richardson? Two Republicans, two Democratic former Attorney Generals.

Here is what they say: "The habeas corpus provisions which the House will soon take up are unconstitutional." They did not say that maybe they will be found unconstitutional, or that they could be challenged for unconstitutionality. They said "They are unconstitutional," four Attorneys General. "Though intended in large part to expedite the death penalty review process, the litigation and constitutional rulings will in fact delay and frustrate the imposition of the death penalty."

Do Members understand that? Is this partisan? Are these liberals? Is this the left? Four Attorneys General are telling us this provision is going to be ruled unconstitutional.

Mr. Chairman, what that means, nonlawyers in the Congress, is that it will then take longer to execute people than it does now. Mr. Chairman, I get a little tired of hearing somebody telling me about one 14-year case. If we check the one 14-year case, it was not because the judges were sleeping, it was not because the prosecutors were not prosecuting. There might have been some reason that one case took 14 years. There are a lot of cases where people get executed, and if we had had more time, they would be alive today.

Mr. Chairman, let us get off of this unusual example of three people whose cases took years and years and years.

Mr. Chairman, the same person who is telling me not to believe in this process was the same person that just told me on the previous amendment that we ought to believe in the system.

Mr. HYDE. Mr. Chairman, I yield myself 30 seconds to respond to the very learned gentleman from Michigan.

Mr. Chairman, the gentleman has given us some distinguished names of Attorneys General. I would like to give him a few: Griffin Bell, Dick Thornburg, William Barr, and the late William French Smith. Also, all of the State attorneys general in the country have signed onto habeas corpus reform. Yes; we should not talk about that one horrible case, or those three horrible cases. Let us talk about the average. The average is 8 to 10 years, from sentencing until execution.

Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I want to add to what the gentleman from Illinois [Mr. HYDE] is, I think, saying. What the chairman is trying to explain to all of us today is that we have been waiting for years to get an effective death penalty, for years to get a death penalty that has the meaning of swiftness and certainty of punishment for those who might perpetrate murders and other heinous crimes that are subject to the death penalty.

We are not sending the message. That is, the primary reason why we have a death penalty is to send the message to people. Another reason, of course, is to execute people because that is their just desserts, and because we ought to be doing that, in certain heinous cases, to get them off the streets.

However, to me, the primary reason for the death penalty always has been to send a message to would-be perpetrators of murder and other violent crimes that get the death penalty, "If you do it, you are going to get the ultimate sentence, the sentence of death." People do not tend to believe that if they can delay and delay, and see other people delaying and delaying the carrying out of their sentences. Whether it is 8, 10, 14 years, whatever it is, it is far too long.

If anybody is truly innocent, if they have evidence that they did not commit the crime, there is nothing in the procedures we are putting in this bill today or we passed on the floor of the House last year in this Congress that would keep them from raising it at any time, and stopping the execution. But if we look at what we are doing today, we are getting at the procedural problems that have caused these delays; the opportunities, after you have had your regular appeal all the way to the U.S. Supreme Court on the issue of guilt or innocence, and all the procedural matters, your opportunity to go into Federal court and seek a petition to give you freedom, based on the fact that maybe you did not have a proper attorney, or maybe you did not have the jury selected properly, or maybe there is some other technical deficiency in the way the trial was conducted and you ought to get relief from Federal court, after you have exhausted your normal appeals.

All we are saying is, instead of being able to carry them one after another, ad seriatim, with excessive petitions to the Supreme Court and delaying the carrying out of the sentence, you have to put them all into one at one time, or lose your opportunity. Mr. Chairman, I think that is very critical.

We are asking for a deference in those kinds of rulings to State court decisions; not that it cannot be overcome, but on the facts in the trial that has occurred underlying it. Why should the Federal courts go back and review all of these matters over and over again on a procedural basis, if they have a clear record in front of them?

It has just simply been the fact that in this country we have delayed the carrying out of these sentences it seems to me almost forever. It is long since past due that we put this into law. Yes; we have passed this out before. Yes; the President has said he will sign it if we can ever get it to him, but it looks to us as though it is a logical place to put it, to put it on this bill today. It is why the bill has been renamed, to try to emphasize the fact that now we think we have a vehicle, with a few other things, we can finally get to the other body, send to the President, and get this signed into law to end the seemingly endless appeals of death row inmates. It is about time we passed it.

Anybody that votes against this, votes for this amendment, has to know they are gutting this provision out, and they are going to delay the process even further.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking member.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the reason Attorney Generals Levy, Richardson, Katzenbach, and Civiletti have explained they tried hard to explain that what the Members are trying to do is unconstitutional. I know you want to fry them as soon as you can, I know that any time is too long. How dare a Member of Congress that serves on the committee that makes the law on this get up and say in broad daylight that it takes too long to execute a person in America, under the process we have? And instead of bringing this up on its own merits, we wait until we get an emotionally charged piece of legislation and bring up habeas corpus, which has no relationship to terrorism whatsoever. How long is too long?

Mr. Chairman, by the way, Attorney General Edwin Meese, did he join the gentleman on that, too?

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the gentleman, no, that was Griffin Bell, Dick Thornburg, William Barr, William French Smith. I forget Dan Lundgren, the attorney general of California. But all, all of the State attorneys general and their association have signed on.

We do not try them and kill them as soon as possible. The average now is 8 to 10 years. If the gentleman would think of the victims' families waiting for justice to be done, the gentleman might have a more moderated tone toward this issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for describing what my tone ought to be for the victims' families. However, I know victims' families that oppose the death penalty. They do not want them executed in 10 years or 2 years or 2 days, because they happen to have another view from the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. I understand that, and there are more people who support the death penalty overwhelmingly than oppose it.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield one more time, I will never ask him again.

Mr. HYDE. I would hate to think that the gentleman would never ask me again.

Mr. CONYERS. Then I will take it back.

Mr. Chairman, let me say this, sir, is there not something redeeming about us passing legislation on its own bottom, since more people want this, since the gentleman has as many Attorney Generals, and then throw in Dan Lundgren on top of it? Could we not just have a bill that studies the death penalty, and we come up on it? Why do we have to tack it onto a piece of antiterrorist legislation which, unfortunately for both you and I, has been gutted?

Mr. HYDE. I am going to have to reclaim my time. Again, I have been illuminated by the gentleman, although I totally disagree.

Mr. Chairman, I am pleased to yield 1½ minutes to the distinguished gentleman from San Diego, CA [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, first of all, I would like to say that regardless of what your position is on this issue, whether political or personal belief, it is a legitimate issue, the death penalty. For 40 years we have not been able, as the gentleman said, to have habeas corpus or death penalty reform. There is a new majority that represents the majority of people that feel that there should be some reform.

Let me explain, the gentleman mentioned the frivolous cases. We just had a gentleman in California to kill 14 kids, we just executed. That is one case. We have another one which the gentleman knows about, Alton Harris. This is a confessed killer in my district. He went out and killed two young boys, after eating their hamburgers and taunting the second one, and then killed him. Yet, even an admitted killer took 14 years to execute.

Mr. Chairman, the gentleman talks about we are building more prisons than we are facilities for education. Let us press on with it. let us take care of the people that are the criminals, and have justice be done. Think about the injustice to the families that have to suffer all the way through this, for the period of time.

Again, I would say to the gentleman, he speaks of a legitimate issue and what he believes in, but we need to press on with this. The American people support it. I ask Members to support the position of the gentleman from Illinois [Mr. HYDE].

Mr. WATT of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

WITHDRAWAL OF DEMAND FOR RECORDED VOTE ON DE LAURO AMENDMENT

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to withdraw my demand for a recorded vote on a previous amendment, the DeLauro amendment. Even though I do not agree with this amendment, I do not believe it is appropriate to take the time of the House for a recorded vote on it.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The DeLauro amendment was agreed to by a voice vote.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I would like to argue that we should not, in an illogical way, attribute to those who oppose the language of adding habeas corpus gutting to this terrorist bill as being against the death penalty. I think what we should focus on, Mr. Chairman, and I rise in support of the amendment offered by the gentleman from North Carolina [Mr. WATT] is the fact that we are destroying an historic relationship between the Federal courts and the State courts. That is, to give another level of constitutional privilege to those who would be subjected to the death penalty.

It is a historic role. It is a confirmed role. The real direction that we should take, if we are serious about any habeas corpus reform, would be, frankly, to address it head on. That is, to have hearings, to address the situation, and not worry about whether it took 4 years or 3 years. It is important to do it right. This is the wrong way. We should support the Watt-Chenoweth amendment, and ensure that we have liberties for all Americans.

☐ 1615

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, may I inquire who has the right to close?

The CHAIRMAN. As chairman of the committee the gentleman from Illinois [Mr. HYDE] has the right to close.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, many Members of this body have asked how we could have a coalition on this issue between myself and the gentlewoman from Idaho [Mrs. CHENOWETH], those people knowing of course that we are not always philosophically in tune with each other, the two of us. I want to spend the balance of my time talking about that, because I think it reflects something on this issue.

The writ of habeas corpus was inserted into the Constitution of the United States to provide protections for individual citizens vis-a-vis their Government. I am not an individual who believes that the Government is constantly out to be insidious with its citizens, but sometimes the Government makes mistakes. When that occurs, individual citizens ought to have the right and the ability to petition the judicial branch of Government to have that mistake redressed.

That is a proposition that is not unique to people on the left end of the political spectrum or the right end of the political spectrum or the middle of the political spectrum. It is not a proposition that is unique to black people in our country, white people in our country, or any shades between. It is a right that our U.S. Constitution provides to each and every citizen in this country.

What has happened is that people in the middle have now decided that, "Well, the government is never going to take any action that is contrary to my rights, so I do not need habeas corpus any more." That is what is happening in this bill. This bill essentially destroys the writ of habeas corpus in our country.

What I am entreating my colleagues to do is to stand up and understand the tremendous value that this great writ provides to the citizens of this country, regardless of their political persuasions, regardless of their political beliefs.

The gentlewoman from Idaho [Mrs. CHENOWETH] and I are far, far apart on many, many issues, but on this one we agree with former Attorneys General Benjamin Civiletti, Edward Levi, Nicholas Katzenbach, and Elliot Richardson, the American Bar Association, and we believe that we agree with every single citizen of the United States of America that this is a right and protection in our Constitution that is worth being preserved. Please help us preserve it.

Mr. Chairman, I yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I respect the writ of habeas corpus. It is a great writ. I want to preserve it. I want it to be strong. I do not want it to be weakened.

So those of us who simply want justice not to be delayed for an average of 8 to 10 years, those of us who are concerned that the families of victims have a right to see that justice is done, those of us who look at the case of one Kermit Smith, it is not that it took 14 years from the sentencing to his execution, but 46 different judges considered his case and it went to the U.S. Supreme Court five different times.

Now, we have to have some answer not to the use of habeas corpus but to the abuse of habeas corpus. All we are asking, we are not bloodthirsty. We simply say look, if you have been convicted, if you have had your direct appeal, then you have had your habeas appeal through the State courts, through the Federal court, let us come to closure and let justice be done.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

Mr. HYDE. Mr. Chairman, I ask unanimous consent that the vote be held until tomorrow. The mother of the gentlewoman from Idaho [Mrs. CHENOWETH] is ill and the gentlewoman cannot be here.

Mr. CONYERS. Mr. Chairman, I join with the gentleman in that request.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The vote will be held tomorrow.

The Chair will still put the question to a voice vote before rolling the vote.

The question was taken; and the Chairman announced that the noes appeared to have it.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from North Carolina [Mr. WATT] will be postponed.

It is now in order to consider amendment No. 12 printed in House Report 104–480.

PREFERENTIAL MOTION OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer a preferential motion.

the CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. VOLKMER moves that the Committee do now rise and report the bill back to the House with a recommendation that the enacting clause by stricken.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, as I have reviewed this legislation, I have some serious misgivings about it. I am desirous that we continue to have the provision in the bill that is sponsored by the gentleman from Illinois on habeas corpus.

I am sorry I have to disagree with the gentleman from North Carolina in regard to that matter, and the gentleman from Michigan, but I believe that that matter should remain in the bill. The bill, other than that, I have some serious misgivings. I surely think that if this bill was reported back and we had to go back to committee, I think the committee could probably do a lot better job than what you have done so far.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman's parliamentary finesse has always stood the House of Representatives in good standing and credit. I only wish I could have thought of this motion and then had the courage to follow through on it, being the ranking member of the Committee on the Judiciary.

But am I not correct that we are at this situation? We have had the principal vehicle of the Committee on the Judiciary gutted. We now only have a substitute remaining. The measure is probably a lower grade crime bill, certainly not an antiterrorist bill. So I do not have a reason in the world why I should object to the gentleman's amendment.

Mr. VOLKMER. We cannot get all excited about what we have left, Is that that the gentleman is saying?

Mr. CONYERS. Not just not excited but disappointed.

Mr. VOLKMER. Mr. Chairman, I would be glad to yield to the gentleman from Illinois.

Mr. HYDE. No. I would like to get my own time in opposition. May that be done?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is recognized for 5 minutes.

Mr. HYDE. Mr. Chairman, the gentleman is moving to strike the enacting clause and to kill this legislation. I know that would please him and it certainly would not disappoint the gentleman from Michigan, but I think it would disappoint a lot of people, such as the families of the victims at Oklahoma City whom I have met, such as the families of the victims of pan Am 103 whom I have met, such as the hostages who returned from Lebanon who were here the other day, such as the daughter of Leon Klinghoffer, who was murdered by thugs on the *Achille Lauro*. These are people who would like to see us pass this legislation.

You may think there is nothing left, but there is substantial good left in the bill, despite the Barr amendment which I deplore. One of the things left is the ability of the victims' families to sue terrorist countries and perpetrators of terrorist acts in this country and get a judgment, because some of their assets are here have been frozen. So that alone makes this worthwhile.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, the gentleman makes a very strong argument for the bill, and I will have to continue to consider it as a result of his statement and elucidation about all the good things in the bill.

Mr. HYDE. Does the gentleman mean I am persuading him?

Mr. VOLKMER. I will not ask for a recorded vote on this motion. We will just let it pass and go on with the regular amendments.

Mr. HYDE. I certainly thank the gentleman for his vote of confidence in my persuasive ability.

The CHAIRMAN. The gentleman from Missouri is controlling the time.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I agree with the gentleman from Illinois [Mr. HYDE] every time I get a chance, but he has just witnessed what I have. Now, crying for the victims after this bill is gutted does not do a service to anybody connected with this measure.

This is not an antiterrorist bill any longer. It is a low-grade crime bill that we could have gotten out any day in the week. It has a very sad and shaky future, and I am very disappointed that the gentleman from Missouri may not ask for a record vote. Anybody on this floor can ask for a record vote.

Mr. VOLKMER. Reclaiming my time, I recognize that. I was hoping that we could be able to continue with the legislation.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Missouri [Mr. VOLKMER].

The preferential motion was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in House Report 104–480.

AMENDMENT NO. 12 OFFERED BY MR. BARTLETT OF MARYLAND

Mr. BARTLETT of Maryland. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. BARTLETT of Maryland: Add at the end the following new title:

TITLE —COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 01. ESTABLISHMENT.

There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (in this title referred to as the "Commission").

SEC. 02. DUTIES.

The Commission shall investigate, ascertain, evaluation, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 03. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

SEC. 04. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 05. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 06. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 07. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

The CHAIRMAN. Pursuant to the rule, the gentleman from Maryland [Mr. BARTLETT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Maryland [Mr. BARTLETT].

☐ 1630

Mr. BARTLETT of Maryland. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will be brief. This amendment is a very simple amendment. What it does is to set up a blue-ribbon commission that will function for 2 years. The commission will have responsibility to look over our Federal law enforcement agencies and to make recommendations relative to their charter as to how they operate and as to how they can better function so that we can again achieve the high level of public confidence in our Federal law enforcement agencies that is necessary for them to act efficiently and effectively.

As you know, there have been some incidents, like Waco and Ruby Ridge, that have caused a great number of our constituents to lose confidence in our Federal law enforcement agencies. We have many brave people in these law enforcement agencies that every day put their life on the line. It is unfair to ask them to function in an environment in which far too many of our people lack the kind of confidence that they should have in our Federal law enforcement agencies and in the individuals who work there.

It is the intent of this amendment that we will, as a result of their findings and their recommendations, reestablish, reestablish confidence in our Federal law enforcement agencies so that they can be more effective in their work.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT of Maryland. I yield to the gentleman from Illinois.

Mr. HYDE. I would like to state, Mr. Chairman, that the majority accepts the amendment of the distinguished gentleman from Maryland. We find it is useful, and it makes a contribution to this generic problem. We are pleased to accept it.

Mr. BARTLETT of Maryland. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition?

Mr. CONYERS. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not surprised that a commission to evaluate public confidence on the current state of Federal law enforcement would be put into this sandwich that we have got on the floor now. We do not have anything in it. We have got to put something in it. So let us go back into, Mr. BARTLETT, Waco. We had three committees spend millions of dollars. We had every law enforcement office in the Federal Government before the House and Senate. But you did not get enough, did you? The gentleman from Maryland did not get enough, did he? The gentleman wants to go into it some more.

Let us look at Waco some more, please. The Attorney General, the Secretary of the Treasury, the head of three other agencies, the two top-ranking members other than the Director of the FBI, 50 other witnesses, lawyers from all over the planet, the witnesses, people that survived Waco, and we now come to it under this antiterrorist bill and want to set up a blue-ribbon commission.

May I ask one question? Who would be on this commission?

Mr. BARTLETT of Maryland. Mr. Chairman, if the gentleman will yield, law enforcement experts. Law enforcement experts.

Mr. CONYERS. Who?

Mr. BARTLETT of Maryland. Law enforcement, really, experts.

Mr. CONYERS. Law enforcement experts like who?

Mr. BARTLETT of Maryland. I cannot designate who would be appointed by those who have the responsibility of making the appointment under this.

Mr. CONYERS. Who would make the appointments?

Mr. BARTLETT of Maryland. Speaker, minority leader, there would be five, and they are all designated by individuals like that, bipartisan.

Mr. CONYERS. Would the gentleman be very greatly disappointed in the legislative product that is on the floor, which is antiterrorism, if his measure happened to not succeed?

Mr. BARTLETT of Maryland. Yes, I would. I think that we have a major——

Mr. CONYERS. Wait a minute. That is all I wanted to know.

Mr. Chairman, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I want to back the gentleman's comment.

Ladies and gentlemen, we hear from the other side all the time another commission, another commission. We should not have commissions. All of a sudden, we know what this is all about. It is about Waco. The Waco hearings in the Committee on the Judiciary, and the Gov Ops Committee did not accomplish what those acolytes of the NRA wanted. It showed what David Koresh was. It showed our law enforcement people did an estimable job, it showed very simply that the conflagration that occurred was the fault of David Koresh himself. But now they are going back to it. I suppose they do not want it to be in Congress anymore. We would show them up again. Instead they are going to a commission. I think this is a total waste of money here. We strike out provisions that would fight Hamas and fight other terrorist organizations, and we put this commission in.

We know what this bill is becoming. This bill is becoming an NRA wish list.

That is all it is. And I do not think it should be here. This does not belong here. It makes no sense at all. And what we have learned here is that this body is less interested in fighting terrorism and more interested in showing their obeisance to the NRA. It is an absolute disgrace.

Mr. CONYERS. May I say, my colleague from New York is always temperate in his remarks and is thoughtful in analyzing the contributions or problems that other organizations raise that lobby us all the time.

I just think that this would strike a blow at the confidence in our judicial system and criminal justice system that Chairman HYDE reiterated his strong confidence in only a few hours earlier.

I have got confidence in this system. Doggone it, it has been wrong a lot of times, but do we really think a blue-ribbon commission of ladies and gentlemen appointed by the Speaker and the minority leader would get to the bottom of this?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I wanted to answer your question. Yes, I think so, because we may need that to get enough votes to pass this bill.

Mr. CONYERS. I know we are grabbing for votes, sir, but I do not know if the Bartlett amendment will help in this quest or not.

Well, one person has volunteered that the gentleman from Maryland [Mr. BARTLETT] is doing the work of the Lord on this bill. Well, if we need it, fellows, what the heck.

Mr. Chairman, I yield back the balance of my time.

Mr. BARTLETT of Maryland. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to say that my colleagues have made an overemphasis of the exploration of episodes like Ruby Ridge and Waco. The real intent of this is, as I stated, to reinstill public confidence in our Federal law enforcement agencies.

I would point out to the gentleman from Michigan [Mr. CONYERS] that this is apparently also the dream of the ACLU, because they have endorsed this amendment. LEAA and ACLU have both endorsed this amendment. So it has very broad support from the public community.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. BARTLETT].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in House Report 104-480.

AMENDMENT NO. 13 OFFERED BY MR. BRYANT OF TENNESSEE

Mr. BRYANT of Tennessee. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mr. BRYANT of Tennessee:

Add the following at the end:

TITLE —REPRESENTATION FEES

SEC. 01.—REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (e) by adding at the end the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES IN CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time. Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

"(B) The amounts paid under this paragraph for services in any case shall be made available to the public.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Tennessee [Mr. BRYANT] and a member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a narrow amendment, one that I think is very appropriate and necessary, given the apparent loss of credibility that our judiciary system is suffering in this country. It is narrow in the sense that it amends the law which allows a Federal judge in death penalty cases to award court-appointed lawyers for these death row inmates an unlimited amount per hour, completely in the court's own discretion, as to what that rate may be.

We think it would be appropriate that we set some constraints on this. We want to ensure that the judiciary does remain independent, and as part of that fee-setting this is necessary. On the other hand, we think also that the courts should be accountable to the taxpayers, in particular, for some potentially outrageous awards per hour that they award the court-appointed attorneys. We have heard instances in the past where the courts have awarded these lawyers up to $250 an hour for their work both in court and out of court, which is much higher an hour than the rate allowed for other cases.

We also think that in these awards of attorneys' fees and expenses, there ought to be a requirement to the American public, to the taxpayers, that these be made public. And this amendment also requires public disclosure of these fees.

We have also asked that, rather than leaving the discretion completely in the hands of the judge, that we allow that judge to award fees in the range of $75 to $125 per hour. This is consistent with the judge's own guide to judiciary policies and procedures. We think, again, that this is a fair, a commonsense balance that we can reach here.

I hope we will have the support of all Members of Congress as, again, we close, I think, a very signature loophole in the law which allows this, I believe, travesty to occur. Again, we maintain a fair balance between the independence of the judiciary as well as set some standards, set some accountability for the American people and the American taxpayer.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition?

Mr. HYDE. Mr. Chairman, I do not rise in opposition, I really rise in support, if that is appropriate.

Mr. WATT of North Carolina. Mr. Chairman, I rise in opposition.

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes in opposition.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time and I as I may consume.

Mr. Chairman, I think that we have already basically wiped out any rights if we passed the hebeas corpus provision that someone on death row has to defend themselves.

The appropriations process is in the process of wiping out the death penalty centers which provides any semblance of legal representation to people who have been sentenced to death in our country. And here we are now trying to do even more to speed up our Nation putting people to death. We should be ashamed.

There is not any other place in the judiciary or decisionmaking process where judges do not have discretion, when they have the statutory ability and right to award legal fees, to determine what a reasonable legal fees, to determine what a reasonable legal fee is or is not.

So this is not different in any respect from any other area of the law. It is already virtually impossible to find lawyers who have any background in providing the kind of representation that I thought our legal system insisted that every defendant in this country ought to have. It is something that we have supported as a proposition for as long as this country has existed, the right to legal representation.

Yet here we are saying, give me a novice lawyer who has no experience to defend a person whose life is on the line. We ought to be ashamed of ourselves in this body if we have gotten to this point.

Let the judges continue to exercise the degree of discretion that they have had in this area. There has been no showing in the Committee on the Judiciary that that has been abused. Let us vote down this amendment.

Mr. Chairman, I reserve the balance of my time.

□ 1645

Mr. BRYANT of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not an argument on the validity of the death penalty. It is simply setting a cap on what is, I am embarrassed myself as an attorney to stand up and tell the American public we are paying people in Tennessee at least $250 an hour, which I do not know of a single lawyer in Tennessee that makes that much outside of this range. We are simply saying that these attorneys are entitled to fair compensation.

The figure that I choose, leaving discretion to the judge to award anywhere from $75 an hour to $125 an hour, which I think will hire a good, competent attorney anywhere in this United States, within that range, which is the range actually suggested by the courts' own guide to judiciary policy and procedures. So this is nothing unusual. This is a range they are comfortable with, and I think we need to cap that, again. To allow judges that unfettered discretion to come in and award in cases up to $250,000, when we multiply the rate times $250 an hour, is certainly an embarrassment to me as an attorney.

What we are doing is taking here reasonable, not draconian steps, but reasonable steps; $125 an hour is again very appropriate in certain areas of this country. We do not violate anyone's rights here. It is common sense, reasonable legislation. I would urge my colleagues to close this loophole and vote for this very good amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], the ranking member of the committee.

Mr. CONYERS. Mr. Chairman, I would say to the gentleman from Tennessee [Mr. BRYANT], I do not know where the gentleman has been practicing law, but even in the gentleman's State, I can assure the gentleman, and I hope we can get some statistics for the gentleman for his benefit, but the lawyers who represent people in bankruptcy law, the corporation lawyers, the litigators, the trial lawyers, all of those who represent transnational, if the gentleman would talk to them about representing corporations, inanimate objects, at $175 an hour, they would laugh the gentleman off the floor of the House of Representatives. If the gentleman has been a lawyer, the gentleman knows it, just like I do.

Now, I know capping is the big thing in the 104th Congress; whatever it is, we want it cap it. But these are death penalty cases. This is a human being's life that hangs in the balance.

Mr. Chairman, do my colleagues know the one reason that the gentleman from Illinois [Mr. HYDE] can cite all these years that cases went before getting a final disposition in death penalty cases? The reason is there were young lawyers, new lawyers, untrained lawyers.

Mr. BRYANT of Tennessee. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let be begin my remarks by saying I will put a statement in the RECORD.

Mr. Chairman, I might also say for noncapital cases, for people who are appointed in Federal court to represent people who go to jail for life sentences, it might not be capital cases, but who go to jail for 20 or 30 years of their life, are appointed at a fee schedule of $40 per hour out of court, $60 per hour in court, and $75 per hour in high expense areas. The judges have the right to increase those amounts, and they have not done so for 10 years.

So those folks have the attorney to keep people out of jail for years. What we are talking about here is very appropriate for death penalty cases. Again, I urge adoption of this amendment.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is the height of micro-management, the Congress of the United States debating a provision that would set attorney's fees and take that discretion away from judges.

Mr. Chairman, it is the height of hypocrisy for people who believe in States rights to now say that all of a sudden we are going to set attorney's fees. This amendment is not even limited to Federal cases. It is the height of inhumanity to say that a person who has his life in the balance and has not even been found guilty or innocent, has his life in the balance, we ought to be passing an amendment like this.

Mr. Chairman, we ought to be ashamed if we pass this amendment.

My colleagues, come to your senses and defeat this amendment today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. BRYANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Tennessee [Mr. BRYANT] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in House Report 104–480.

AMENDMENT NO. 15 OFFERED BY MR. MARTINI

Mr. MARTINI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. MARTINI: Add at the end the following:

TITLE —DEATH PENALTY
AGGRAVATING FACTOR

SEC. . DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.".

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. MARTINI] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. MARTINI].

Mr. MARTINI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer my amendment in response to a horrible tragedy that occurred in my congressional district almost 1 year ago. On March 21, 1995, in the early evening, a man walked into the Montclair, NJ postal substation and summarily killed two postal employees and two postal customers. Postal workers Stanley Walensky and Ernest Spruill were killed in that incident, along with Robert Leslie and George Lomaga, who also had their lives senselessly lost in that criminal act. Another victim by the name of David Grossman fortunately survived, despite two severe gunshot wounds.

Immediately thereafter, a manhunt began to find the individual who committed such a heinous crime. Within several days, law enforcement officials captured a Christopher Green, who shortly thereafter admitted that he murdered these four individuals.

As a former assistant U.S. attorney, I and others in the community naturally expected that the U.S. attorney would seek the death penalty under the Federal statute for such a heinous incident. Myself and others were frankly shocked when we learned that the U.S. attorney, in her review of the statute, concluded there was not a sufficient aggravating factor that would clearly apply though this type of an incident.

Mr. Chairman, the Martini amendment, formerly known as the Death Penalty Clarification Act of 1995, H.R. 1811, would simply expand the list of aggravating factors in the Federal death penalty statute to include situations in which a defendant "Intentionally kills or attempts to kill more than one person in a single criminal episode."

My amendment is simply and straightforward. It will simply provide Federal prosecutors with the option of pursuing the death penalty in cases like the Montclair postal shooting. I would like to restate, it would only apply to Federal crimes.

Mr. Chairman, this proposal sends a clear message to the criminal that execution-style multiple killings in Federal facilities will not go unpunished because of some oversight or loophole in Federal law. It is supported by the House Committee on the Judiciary, the leadership, and, most importantly, the American people.

Tragedies like the Montclair postal shooting carry an impact far beyond its immediate effect on the victims and their families. Every time we are exposed to such a heinous act like this, one more parent is reluctant to let their child play outdoors, one more senior citizen stays home at night, and one more guard bar goes on our windows and one more lock goes on the front door.

Mr. Chairman, let me conclude by saying if you believe that execution-style multiple murders should be punishable by the death penalty, then you should certainly support this very simple, direct, straightforward amendment. The people of Montclair and surrounding communities are still trying to heal from last year's tragedy. Let us give them part of that healing process.

Mr. Chairman, I urge my colleagues to support the Martini amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition?

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank my colleague for bringing this amendment forward. It must have a useful purpose besides filling the gap in the anti-terrorist legislation. Is this directed at terrorists, sir?

Mr. MARTINI. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. MARTINI. Mr. Chairman, this is directed at anyone. It could be directed at terrorists, or also directed at anyone who in one incident were to execute more than one individual.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I would ask the gentleman, in other words, this is not germane particularly to the anti-terrorist legislation. This is a anti-crime measure, is it not?

Mr. MARTINI. This is certainly directed at that.

Mr. CONYERS. Now, let us figure out how many times in the Federal jurisdiction that the gentleman can remember there have been multiple killings or multiple attempted killings in which the gentleman's provision, if it became law, would have application? I would yield to the gentleman for an answer to that question.

Mr. MARTINI. If the gentleman will yield enough time for me to answer the question?

Mr. CONYERS. Mr. Chairman, I am yielding for an answer, not a lecture.

Mr. MARTINI. I do not have the number of incidents.

Mr. CONYERS. Mr. Chairman, that is all I wanted to know. The gentleman does not know, and neither do I, but it sounds great.

I am telling the gentleman one thing: If we ever get somebody that fits this description in this amendment, they are going to really get it, because the death penalty as an aggravating factor, multiple killings or attempted killings, has nothing to do with terrorism, but that is really not that important.

Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just want to point out as I read this amendment, it is not limited to any Federal issue. In the last crime bill that this body passed, we made carjacking, whether the car went interstate or not interstate, a Federal offense. We made drive-by shooting, whether the bullet was fired across State lines or not, a Federal offense. Now, apparently under this amendment, we would make any multiple killing, manslaughter, any kind of circumstances, a Federal offense.

Where are the people who for so long in this body have been advocating for States rights? Where have you gone? This is not an issue that ought to be a Federal issue. If we are going to do it for Federal offenses, at least limit it to Federal offenses and not State offenses.

Mr. MARTINI. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time.

The World Trade Center bombing, which was a terrorist bombing of the first impression, killed dozens of people. New York State did not have a death penalty. The Federal establishment at that point did not have a Federal death penalty, so the gentleman's amendment, had it been in place, would have covered that situation to the letter.

This is an excellent way for the jury to have an extra dimension, extra guideline, extra standard against which to weigh the difference between a life sentence and the death penalty. Therefore, I would support the gentleman's amendment, because it is simply an additional tool that the jury of one's peers would have to determine whether or not the death penalty should apply.

Everyone in the world knows when there is a mass killing or multiple killing, that that is much worse than a single killing, as sad and horrible as that single killing could be. But to mount up the terror with three and five and seven killings gives the jury additional weight to determine whether or not the death penalty should apply.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just wanted to make it plain to the gentleman that what I am complaining about is not the Federal offenses, but there is no reason that we ought to say to the State of New York, which has their own legislative body and has, based on the gentleman's party's proposition, a right as a State to make its own laws, that every multiple killing in the State of New York ought to carry the death penalty, if the State of New York has made a decision of its own that they will have no death penalty in State offenses. That is the point that I am making.

This is way, way too broad, and it is totally inconsistent with the philosophies that I have heard espoused from the other side of this body consistently during this term of Congress.

□ 1700

Mr. MARTINI. Mr. Chairman, I yield myself such time as I may consume.

Just in response to my colleague, first of all this only applies to the Federal death penalty statute, and if he read and took the time to read the other 15 aggravating factors that would make someone eligible for a Federal death penalty as punishment, he would see that there are far less aggravating factors than this particular amendment would add to it.

Moreover, the gentleman mentioned where would this apply? This would simply apply to an incident that occurred in my district less than a year ago in which four people were basically shot down in one incident in a postal Federal facility, and under the review by the U.S. Attorney at that time in reviewing this statute she felt that that type of an incident would not be eligible for consideration of the death penalty adding aggravating factors.

In conclusion, let me just add this. This does not change State law. This only affects Federal prosecutions in which there is more than one person in the same criminal episode that is actually killed during that episode. If my colleague would take the time to read some of the other 15 aggravating factors, my colleague would see how, in comparison, this is certainly a more aggravating factor than the other aggravating factors that exist already in the statute.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I just wanted to make sure that everybody understood that this must have been a terrorist attack in the district of the gentleman from New Jersey [Mr. MARTINI] that this terrorist bill is designed to take care of.

Was it, in fact, a terrorist attack as the gentleman from Michigan [Mr. CONYERS] understands it?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, I doubt it very seriously.

But may I use the few seconds that I have to gain the attention of the gentleman from Pennsylvania [Mr. GEKAS] with whom I worked for many years on the Committee on the Judiciary?

See, New York, I would say to the gentleman, has a death penalty now. But the gentleman is living in the past. Sir, I am not going to yield, I regret.

Mr. GEKAS. I thought the gentleman from Michigan was a friend of mine. Not that friendly.

Mr. CONYERS. But the fact of the matter is, sir, that New York does now have a death penalty. So if the gentleman's excuse for supporting this was because of the past, it is no longer appropriate.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. MARTINI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New Jersey [Mr. MARTINI] will be postponed.

The point of no quorum is considered withdrawn.

Mr. HYDE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GOSS) having assumed the chair Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2703) to combat terrorism, had come to no resolution thereon.

PERMISSION FOR MEMBER TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 2703, COMPREHENSIVE ANTITERRORISM ACT OF 1995

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that during further consideration of the bill H.R. 2703, pursuant to House Resolution 380, I may be permitted to offer the amendment numbered 7 in House Report 104–480 out of the specified order and immediately following amendment No. 15.

I spoke with the ranking minority member about this, and he indicated that he would have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. COLEMAN. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from California a question, if I might, and I would be happy to yield to him for that purpose. As I understood the amendment, it was gone over because the gentleman was not ready for presentation at the time it came up; is that correct?

Mr. DOOLITTLE. Mr Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, the estimates we were given—they did not—a couple of amendments were dropped before us, and they did not hold a vote on one of them, so, yes, I was not here and I could not get over in time. I was here, but I just missed it by the time we got here.

Mr. COLEMAN. Mr. Speaker, further reserving the right to object, let me only ask one question that I had an interest in.

I do not know; it may have just been the analysis of the amendment that was in error, but I did not understand, and I just wanted to ask this one question, if I might, and I would like to not object because I think what happened to the gentleman happens to a lot of Members, and I think it is right for all of us to try to accommodate them. But I certainly had a question with respect to the amendment with respect to a statement that I had read before. It said that before arresting individuals who had been reported as having been here illegally, State and local law enforcement agencies would have to confirm their status with the INS before arrest. Is that the gentleman's understanding of what the amendment reads?

Mr. DOOLITTLE. If the gentleman will yield further, they are authorized to arrest and detain, but only after they have obtained confirmation from the INS. So they would have to call into the INS and get their confirmation that indeed this person is a criminal alien.

Mr. COLEMAN. But, of course, that is before they are arrested. So a person could not even be detained while that is going on, is that the gentleman's understanding?

Mr. DOOLITTLE. If I may add, typically this situation arises when they have stopped an individual for a traffic offense, and in the course of running the check this pops up. So that is kind of the normal circumstance when it would occur.

Mr. COLEMAN. But of course that is not all circumstances.

Mr. Speaker, I just want to say to the gentleman, if the gentleman will help me answer that question during the time he has for the debate, I would not object because I think people ought to be entitled to offer their amendments that are made in order.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER ADDITIONAL TIME FOR DEBATE ON AMENDMENT NO. 10 TO H.R. 2703, COMPREHENSIVE ANTITERRORISM ACT OF 1995

Mr. WATT of North Carolina. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes proceedings on the request for a recorded vote on the amendment which is the Watt-Chenoweth amendment, amendment No. 10, it may be first in order to debate the amendment for an additional 10 minutes equally divided and controlled by an opponent and a proponent of the amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

APPOINTMENT OF CONFEREE IN LIEU OF CONFEREE H.R. 956, COMMON SENSE PRODUCT LIABILITY AND LEGAL REFORM ACT OF 1995

The SPEAKER pro tempore. Without objection, the Chair appoints the gentleman from Massachusetts [Mr. MARKEY] as conferee on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, to replace the gentleman from Oregon [Mr. WYDEN].

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

The SPEAKER pro tempore. Pursuant to the House Resolution 380 and rule XXIII, the Chair declares the House in the Committee of the Whole

House on the State of the Union for the further consideration of the bill, H.R. 2703.

□ 1708

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2703) to combat terrorism, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, a demand for a recorded vote on amendment No. 15 offered by the gentleman from New Jersey [Mr. MARTINI] and on which the "ayes" prevailed by voice vote had been postponed.

Pursuant to the order of the House of today, it is now in order to consider amendment No. 7 printed in House Report 104–480.

AMENDMENT NO. 7 OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. DOOLITTLE:

Page 133, after line 17, insert the following new section (and conform the table of contents accordingly):

SEC. 678. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States, and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I held a meeting recently with many of our key law enforcement people in my part of northern California to help identify reasonable and constitutional ways in which Congress can assist them in their fight against violent crime in our communities. Not surprisingly, many of them pointed to California's increasing problem with illegal immigration as an issue they felt deserved Congress' immediate attention.

I am pleased to see that H.R. 2703 has taken major steps in addressing the problem of illegal immigration by specifically focusing on the deportation of criminal aliens from our country. However, I feel that the bill fails to address a critical problem associated with criminal aliens, and that is the fact that almost all of those deported eventually find their way back to our country with a potential of committing crimes again.

In California alone, the INS deports thousands of illegal immigrants every year who have committed felonies in our State, and every year thousands of those same criminal aliens return back again. In fact, the California Department of Justice recently reported that 98 percent of all immigrants who are deported for committing felonies in California will eventually return to the State, and of those, 40 percent will commit crimes again.

Unfortunately, this epidemic is not unique to urban areas, but has started to infest rural America as well. Just a few years ago, in the small rural community of Lincoln, which is located in my district, an illegal alien was found guilty of a driveby shooting, which was the first driveby shooting ever in that area. After spending a short time in prison, the criminal alien was deported out of the country by the INS. Now, despite his deportation, he returned to the area after only 1 week and, without hesitation, committed another crime.

With such a threat to our public safety posed by criminal aliens, one would think that we would give law enforcement all the tools it needs to remove these criminals from our streets, but unfortunately just the opposite is true. In fact, the Federal Government has tied the hands of our State and local law enforcement officials by actually prohibiting them from doing their job of protecting public safety. I was dismayed to learn that the current Federal law prohibits State and local law enforcement officials from arresting and detaining criminal aliens whom they encountered through their routine duties. In fact, a low re-entry into the United States by deported aliens was considered a felony. Our State and local law enforcement officers are only permitted to release the felon and contact the INS with the details of the incident.

Mr. Chairman, current Federal law in this area places our communities at risk and has led me to offer this amendment to H.R. 2703, an amendment I feel will help put some sense back into our laws dealing with the reentry of criminal aliens into this country.

My amendment would also permit State and local law enforcement officials to assist the INS by granting them the authority in their normal course of duty to arrest and detain criminal aliens until the INS can properly take them into Federal custody.

With my amendment, law enforcement officials would no longer be required to release known dangerous felons back into our communities. Instead, this amendment would give those with the responsibility of protecting our public safety the ability to take a known criminal alien off our streets and put him behind bars.

Mr. Chairman, you will be interested to know that shortly before my district was victimized for the second time by this criminal alien I spoke of earlier, an area police officer actually stopped him for a traffic violation. With my amendment the police officer would have been able to put him in jail for being back in the country illegally until the INS could take him into Federal custody. Without it, the officer had to release him, and our area became the victim of yet another crime.

My amendment is supported by our local law enforcement because they know that fighting illegal immigration can no longer be left solely to Federal agencies. Let us untie the hands of those we ask to protect us and include my amendment in H.R. 2703 today.

Mr. Chairman, by way of summary, I would like to allay fears or concerns that Members may have about the scope of my amendment.

First, my amendment does not require anything of State and local law enforcement. There is no Federal mandate. The provision I seek to add would merely authorize local law enforcement agencies to hold the criminal alien until the INS has taken him back into Federal custody.

Second, my amendment is very narrow and only covers situations in which the State or local officer encounters criminal aliens within his routine duties. In addition, the subject can only be held if the State or local police have obtained appropriate confirmation from the INS of the illegal status of the individual. Only confirmed criminal aliens are at risk of being taken into custody.

In closing, Mr. Chairman, I think my amendment represents commonsense reform. It is narrow in scope but will help mightily people on the ground who have the primary responsibility of keeping our children and families safe from crime.

□ 1715

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Chairman, I would tell the gentleman from California [Mr. DOOLITTLE] that a lot of us who represent border districts understand and appreciate the gentleman's effort. A lot of us believe that we need to have a process and a system that works in the way that the gentleman's amendment attempts to describe it.

Mr. Chairman, I have to say that I noted the gentleman pointed out that there are no unfunded Federal mandates. I will tell the gentleman that the transferring of any person taken by my local police department into custody over to the INS will require some amount of paperwork. It may be, I hope, de minimus. I truthfully hope that is the case. But I must tell the gentleman that in that process, in and of itself, there will be some expense; perhaps not even just to the local department, but certainly to the Federal agency called INS as well.

Mr. Chairman, I would hope that there is an understanding, and perhaps if this amendment does survive the House and makes it into the conference, we would have an opportunity to discuss how it is that we will ensure that there will be sufficient funds to pay for the process that the gentleman has attempted, I think, to outline and describe in his amendment. It is one which I think most Members would be supportive of, except for the fact that a lot of us are not quite sure exactly how it is going to work in terms of the dollars and cents.

It is easy for us to say, Here is what we want. Americans do it all the time. Yet, they do not say how we are going to pay for it. I am one of those who has an interest in the process and want to ensure, as I know the gentleman does, the rights of the arrested individual, the guarantee and assurance that that is a person who is in violation of an immigration law, in addition to the fact that that person may have committed an offense within the United States. As the gentleman and I know, we think NCIC works pretty well. We on the border think it does work fairly well. There are exceptions, but nonetheless we would like to see it work.

Mr. Chairman, as long as the gentleman has a procedure and process now being required, as I understand his amendment would require, that some action at least would be taken by State and local officials, as well as the INS, I have to say, I am convinced there will be some costs associated with it.

Mr. DOOLITTLE. Mr. Chairman, let me say to the gentleman that I would be delighted to work with him on this issue. Obviously, the primary responsibility for dealing with the control of our borders rests with the Federal Government. Representing California, we have had a number of problems getting, really, reimbursed for the costs that have been incurred.

On this amendment I bring today, the intent is to give the option to local law enforcement. It really came at the suggestion of one of our local police departments within the city of Roseville, which has had problems in this area, and the others who were there felt that this made perfect sense.

The gentleman is correct, of course, that if they detain an illegal, there will be some additional expense involved with the processing of that. They seemed willing, at least at this point, to incur that. But I would be more than happy to work with the gentleman to see if there is a way we can help the Government to live up to its primary responsibility of dealing with the control of our borders

Mr. COLEMAN. Mr. Chairman, if the gentleman will yield further, I would just point out that since, in fact, the ability to deal with some of the costs are directly related to the property values of a given district or a given area which is represented by a local police department, I must tell the gentleman that some communities will be unable to come up with those kinds of funds that are necessary, I think, for some of these additional costs, unless they are budgeted in some way; that there is some provision made at our level to say that we intend to hold harmless those departments who are working in that area, or at least provide some assistance to them, maybe through the INS.

That is the kind of thing I would like to work out, and maybe we can find a mechanism for funding it. I do not think that people would object, as I said earlier, to the thrust of the amendment. I am very concerned about its workability. As I say, I welcome the opportunity to work with the gentleman.

Mr. DOOLITTLE. As do I, Mr. Chairman. We will proceed ahead.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

Does any Member seek time in opposition? Hearing none, the question is on the amendment offered by the gentleman from California [Mr. DOOLITTLE].

The amendment was agreed to.

WITHDRAWAL OF DEMAND FOR RECORDED VOTES ON AMENDMENTS NOS. 13 AND 15

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that the demand for recorded votes on amendments Nos. 13 and 15 be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Amendment No. 13, offered by the gentleman from Tennessee [Mr. BRYANT], is agreed to by voice vote.

Amendment No. 15, offered by the gentleman from New Jersey [Mr. MARTINI], is agreed to by voice vote.

It is now in order to consider amendment No. 16 printed in House Report 104–480.

AMENDMENT NO. 16 OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. MCCOLLUM: Add at the end the following:

TITLE —FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. . FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

§ 2332c. Financial transactions

"(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section—

"(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

"(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

"2332c. Financial transactions.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. MCCOLLUM] and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the centerpiece of the existing bill as far as terrorism is concerned is the provision which denies the right of a terrorist organization or state to come to the United States and raise money to then take back abroad and presumably use it to engage in terrorist activities, perhaps in a foreign country, wherever that might be, northern Africa, southern Europe, the Middle East, or wherever.

The converse or the complement to this is equally important. That is what my amendment addresses. It addresses the situation where a terrorist organization, in an effort to be able to be involved in the United States in some terrorist activity, actually has some American citizen, a recipient, to bring into this country from a terrorist state government a certain amount of money that might be used to further the cause of terrorist activities in the United States.

As opposed to the underlying bill's provisions, the amendment I am offering only applies when a terrorist country, one designated in law by existing law that we already have, which currently includes Iraq, Iran, Libya, Syria, Sudan, Cuba, North Korea, are the donee countries, rather than to the organizations, because that becomes a more complicated technical problem.

It seems to me, Mr. Chairman, that we should not permit American citizens or American permanent resident aliens to bring money into this country under any guise from a country that has been put on the terrorist state list. We do not know what that money might be used for, but more likely than not, when we think about it, for terrorist activities it would be used to buy explosives or to perhaps harbor some people who are going to actually commit the technical acts, or maybe to buy the taxicab fare or the plane fare, or who knows what. Certainly it could be used for those purposes. We have no business having financial transactions with terrorist states coming to American citizens.

There is some existing law, but it is very weak law in this regard. The definition in the amendment I am proposing with regard to a financial transaction that would be prohibited is the one currently used in our money laundering statutes. It is a fairly broad definition, defined as "any movement of funds, use of any monetary instruments or financial institution or the transfer of any real property or certain types of personal property."

The Secretary of State under this amendment could make certain exceptions in cases of an inconsequential nature, perhaps something connected with the United Nations activity by one of these countries, such as postal, telephone, travel services, for specific purposes and the like.

Mr. Chairman, why is this important? It is obviously important. We want to protect our citizens from terrorist acts just as much as we want other countries to be protected. The bill just is not adequate as it is now.

An example of what might be, and I do not know that it is, a situation of this nature came to my attention reading the newspapers recently, when Louis Farrakhan went abroad and visited a number of terrorist states. It has been reported that in Tripoli during his stop, Farrakhan received a pledge of $1 billion from the Libyan Government, from Mu'ammar Qadhafi. I do not know whether that is true or not, but that is what has been reported.

I do not believe that the Libyan Government ought to be giving Farrakhan or any other United States citizen $1 billion to come to the United States. Who knows what that might be used for? I am not trying to disparage Mr. Farrakhan's purposes, although he is reported as having said during his tour, "You can quote me, God will destroy America by the hands of Muslims."

I do not know his motives or his intent, and I do not wish to bring up his situation to disparage him, because I really do not know. But it does call to our attention the fact that there are states like Libya and the Sudan and Iran who could provide money to the wrong hands in the United States in large quantities, potentially under current law. We need to close that loophole. That is what my amendment does. That is why I offered it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me.

I support the amendment, Mr. Chairman, for a simple reason. I think it is wrong for anyone in the United States, I think it is wrong for anyone in the United States to knowingly deal with a country that sponsors terrorism. Why should we allow countries that sponsor such horrible acts as blowing up our barracks or blasting our airliners out of the sky to benefit from dealings with U.S. citizens?

As I understand the measure, it essentially ties together in one place existing prohibitions that depend on a series of executive acts. I want to salute the gentleman for doing it. I think it is not controversial, and hope we can move the amendment with alacrity.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was agree to.

Mr. HYDE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. DOOLITTLE] having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2703) to combat terrorism had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 163, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 163) making further continuing appropriations for the fiscal year 1996, and for other purposes, when called up; and that it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by myself and the gentleman from Wisconsin [Mr. OBEY]; that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, and I certainly would not object, I would like to inquire of the chairman if he has any idea what time tomorrow this would be brought up on the floor.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would advise the gentleman that we expect to bring this up sometime midafternoon tomorrow. I would tell the gentleman that, had we received a more speedy process on the current bill that passed the House last week, that this might not be necessary. But in view of the fact that we have not been able to go to conference, it does become necessary.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

□ 1730

AUTHORIZING USE OF CAPITOL ROTUNDA FOR PRESENTATION OF CONGRESSIONAL GOLD MEDAL

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 45) authorizing the use of the Capitol rotunda on May 2, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. DOOLITTLE). Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 45

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on May 2, 1996, at 2 o'clock post meridian for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359.

Mr. LONGLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the Following Members' are recognized for 5 minutes each.

WOMEN IN THE HISTORY OF THE NATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for giving me this time. I guess we are not finishing the bill today. I must say I hope Members think about the bill that we had under debate when the committee rose, because at this moment we still have the President in Egypt talking about terrorism, and what I think has happened is we have gutted the terrorism provisions in this bill. So while the President is away trying to say we will not allow terrorists to terrorize us into not pursuing peace, we are here undoing the terrorism bill, and I do not think that is a happy conclusion for anybody. I feel like we should ring him up and say, hello, President, guess what we just did.

I do not think the President is going to be too happy about that. I think tomorrow we are going to have an opportunity to reinstate the terrorism provisions, and I hope Members think about that. This was a very strange day procedurally.

While I have the floor and while it is still March, I would like to also continue talking a bit about Women's History Week, because it has been a very interesting month in that every time I talk about it, it seems there are some people who absolutely cannot stand the fact that women have done anything in the great history of this Nation. I have been talking about women in the history of the military, the fact that there were women in the revolutionary war. In fact, one of them is buried at West Point. About Mrs. Washington going off there. Today let me talk about Mary Goddard. Let me talk about Dr. Walker, who was one of the surgeons during the civil war.

There are so many women in history that contributed to this country and so few of us know about it that that is why we have this month, to try and reinstate some of the history that we know about.

On July 4, we all celebrate the wonderful independence day, the Declaration of Independence, how exciting it is, but the thing that very few people really realize is that while these esteemed forefathers wrote this, writing it was not a crime. Printing it was a crime. Because obviously you didn't have radio, you did not have television. Printing it was how you could distribute it. If you had to sit down and hand write every copy of the Declaration of Independence, we would probably still be waiting for the revolutionary war. So as a consequence, printing such a document was treason by virtue of an act of the crown, and when they got done with this, they went around trying to find somebody who would print this document.

Everyone, many, anyway, would see it and say, well, thank you very much. We wish you well with the revolution, but we are not really into treason this year. You know, that is kind of a high price to pay, and it will be my neck that they will come after.

After searching diligently to try and find a way to get this printed so they could disseminate it to the 13 colonies, they found a woman named Mary Goddard who had a printing press, agreed to print this, and in fact wrote her name on the bottom because the register of the press had been in the name of one of the male members of the family, and she wanted the king to know that she had done this because she had not transferred the seal over to her name yet.

I think that was a very courageous thing to do. If this thing had not worked, she would have been the first one they would have gone after and she would have been the first one to lose her head by order of George III. Now, for that she became the highest paid Federal employee in the history of America and that was postmistress of Baltimore.

If you look at where we got freedom of religion, it is no secret that many of our forefathers who came here really were about freedom of religion. They were about freedom to practice their way but they did not want anybody practicing any other way, so they were very repressive once they got here to anyone who did not agree with them.

It was Anne Hutchinson, her husband and her followers who were chased out of Massachusetts, the Massachusetts Bay Colony, through a trial that took them two or three times to finally try and convict her because she was so popular in the area. They tried her for heresy, and she left and went down to what we now know as Rhode Island.

It used to be called Rogues Island because they thought only a bunch of rogues would live together and be for freedom of religion. It went from Rogues Island to Rhode Island. It is wonderful and many women are very proud that a woman founded the colony, and it was the first colony that had freedom of religion in its charter.

There were many, many women who were forgotten. We all remember Abigail Adams, wife of John Adams, who kept writing him during the time that the Constitution was being drafted. She kept saying, "Remember the ladies," and he wrote back sarcastic things like many of our radio hosts fire off over the radio every day. He would write back these sarcastic things, and of course they did not remember the ladies. They wrote the Constitution and left women out.

But Abigail raised her son very properly, and many years later he was writing in his memoirs and letters how tragic it was that with each year that passed, people knew less and less about the contributions many brave women had made during the colonization of America and during the Revolutionary War period. We all know about Paul Revere riding through Boston, but we do not know about Sarah Luddington saving Connecticut, riding through there.

These things are all important. These things we celebrate. I must say I get very, very tired of people trying to minimize this. It is not that we are saying we did it all and men did nothing. We are saying both men and women contributed to this great country.

That is our model of standing shoulder-to-shoulder, and this is a time where we should really go back and reinstate women in history rather than continuing to pretend like they did not do anything, they came here on cruise ships, they sat around and ate bonbons, sat around and got their hair done and nails done, waiting for everything to be done so they could celebrate.

CUTS IN APPROPRIATIONS FOR EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, as we have progressed in this House through the appropriation for the education program, especially for our title I program, we have found a continuation of the philosophy on the majority side that these funds for elementary and secondary education can be cut without causing any harm to the students in the school systems throughout the United States, that the majority of the

Republicans feel, under the leadership of NEWT GINGRICH that these funds can be cut and no harm will be done.

I would suggest, Mr. Speaker, that you and other Members of this House do as I have done, and that is to contact your local school districts and talk to them about what a 17- or 20-percent cut in title I funds for remedial reading and reading recovery or math, remedial math, and those programs will do to those local districts.

I have done so and I would like to read to you, without naming the names of the school districts, some of the comments that have come from those schools. One says a 17-percent cut in funding will be a cut of $15,000 to $16,000 real program dollars. They currently have two full-time teachers, elementary level, who teach remedial reading and math. Since the calculation for change this year, they actually get more money and will have a little carryover. They plan to use the carryover to fund a reading recovery program. They do not have a summer school program.

Another one currently has 35 or 36 full-time teachers, about 18 aides, who serve 400 to 500 students. They deal with remedial reading and math during the regular school year and summer school, which includes pre-kindergarten level, to start a reading recovery program for at-risk first graders which is working out wonderfully. A 20-percent cut, which is what is heard, will be a great impact on their schools. Off the top of his head, the superintendent said that they would do all they could to save the reading recovery, but cuts will be done to regular remedial programs.

□ 1745

Another one, currently one of every two teachers with two aides full-time; they deal with two remedial reading classes. Total program costs $75,000 to $80,000 to fund, no math program, no reading recovery program. They have had astounding success with remedial reading, do not want to lose this program, program serves grades 1 through 6. Majority emphasis is on 1, 2, and 3, although it continues to grade 6, and they have students in 4, 5, and 6 who still participate in the program. The majority of students graduate after grade 3. Cuts in the program would hurt this system.

Another one currently has 3½ teachers in grades 1 through 6 teaching remedial reading and math, are anticipating loss of 1 full-time teacher. Each teacher there serves 45 to 60 students. If you lose one teacher, 60 students will not be served in remedial reading. Feels that remedial reading is a good program, has had good results.

Here is one from another school district. They get a little over $200,000 in title I funding, have about 7 full-time teachers plus two aides. Figures they would be cut about $40,000. This means a loss of one teacher, probably one aide and one program. Currently have remedial reading and math in extended-day kindergarten and a transition program for first graders. Those who seem to be struggling are placed in classroom with two teachers. Figures the program that would be cut would be the extended-day kindergarten. They currently serve about 200 kids. Said they are not a high-impact district.

And there are other local school districts closer by that are high-impact and would have more adverse effects on those.

Here is another one. They are every dollar they receive from the title I to directly benefit a child. Currently have three full-time teachers who teach remedial reading and math. Besides regular program during the day, they have had an evening program which provides tutoring. The three teachers serve about 500 students, 25 percent of school population. Cuts in the program funds would directly cut one or more of the teachers. Could not absorb the cuts, and they thank our staff for calling. They say they are quite concerned with it.

I have many others here that have answered our questionnaire, and all of them are to the gist that with a couple of exceptions where the school districts are fairly well funded, that they would not be able to replace these programs with local funds, that they would have to do without, and many children would be hurt by these cuts that are being made in education for the title I programs.

Every one of them said that these moneys, our Federal dollars, are being used wisely to help educate, they are being used to make sure our children learn as they progress through the elementary grades. And I think it is poundwise, very foolish for their House to continue on the road to cutting education for our youngsters. They are the future of our country. To say we do not need to educate them, I think is a vast mistake.

Another thing I would like to comment on is some of these school districts are in very economically low-grade or poor areas, and they need this money. They are not going to be able to replace it with local tax dollars.

So I urge the House to restore the funding for our educational programs.

ENVIRONMENTAL CHANGES AND FUNDING OF THE EPA

The SPEAKER pro tempore (Mr. DOOLITTLE). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I wanted to address the House this evening and talk about the Vice President's speech today. The Vice President was on a mission to distort what the Republicans are actually doing in Congress relating to environmental changes and funding the EPA. I think it is important that the Congress and the American people know what is happening.

Today Vice President GORE said we are putting our kids in danger. He said that today more than 10 million American children under 10 currently under 12 currently living within 4 miles of a toxic waste site are at risk. The Vice President also said, yes, the era of big Government is over.

My colleagues, unfortunately, I think, the Vice President is talking out of both sides of his mouth to us. I think we need to set the record straight, and let me share with you some of the facts relating to what is going on with this great current Superfund site.

First of all, the Superfund Program has been in existence for 15 years, and only 75 sites out of several thousand identified sites out of several thousand identified sites have been cleaned up, an average of 5 sites per year. The average cost of a cleanup of a site is $30.7 million. The total cost to date in the Superfund Program to the Government and private sectors is about $25 billion. The Superfund costs the Government and private sector $4 billion annually for nonfederally owned sites.

However, only 53 percent of the total Superfund dollars are spent on cleaning up the sites. The rest of the money, and this is the Paul Harvey part of the story, the rest of the money, $1.3 billion annually, is spent on attorneys and studies.

So we are, under this current system of Superfund that the Vice President is so concerned about protecting, the money does not go to clean up these sites. The money goes back for attorneys' fees and studies, and you see out of all of the sites identified, several thousand, only a handful have, in fact, been cleaned up.

What about those children the Vice President spoke about today when he addressed group here in Washington? Are we taking care of the risk to human health and safety and welfare? How did the GAO report? This GAO report is June 17, 1994. Let me read this GAO report about the sites we are cleaning up.

Although one of the EPA's key policy objectives is to address the worst sites first. Relative risk plays little role in the agency's determination of priorities. EPA headquarters leave the task of setting priorities to the regions. Yet the regions do not even rank the sites by risk. So we find that we are not cleaning up the sites that pose, in fact, the most risk to our children, public health, and safety, and that the system that President GORE is protecting is really out of whack.

Ladies and gentlemen, we have also heard comments that EPA is going to, in fact, make polluters pay. We have to look at the record. The Vice President says this great system, in fact, currently makes polluters pay and we do not want to change that. In fact, look at these headlines, "EPA Lets Polluters Off the Hook." In fact, under the current system, you find that very few of the dollars are collected by EPA.

The Lincoln Star reported, June 21, 1993, that internal EPA figures obtained by Associated Press showed the Agency has recovered only $843 million, or less than one-fifth of the $4.3 billion, in cleanup costs that could be recovered from polluters under the current law. So they are not doing it now. And these are the kinds of changes we want to make here.

Finally, ladies and gentlemen, let me tell you what this is about. This is about command and control bureaucracy here in Washington, DC. This is about how many employees EPA has. EPA has 5,924 of its nearly 17,850 employees in the entire agency. There are 6,000 here in Washington, DC. This is about command and control and bureaucracy, not about the environment.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mr. BARCIA. Mr. Speaker, I lent my name to the Independent Contractors Simplification act without fully comprehending the implications of this bill. I ask unanimous consent to have my name removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DEVASTATING EDUCATION CUTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, tomorrow we are likely to take up another temporary spending bill to keep the Government open. Unfortunately, that bill will very likely contain the same devastating education cuts that were put in place by the current continuing resolution.

These cuts in education are causing a crisis, truly a crisis in American education. I know in my school district and school districts all over this country, what they are trying to do at the moment is struggle and grapple with a plan for the upcoming school year.

How much money will they have available in order to carry out what their mission is, that is, to educate our children in this Nation? They have no idea today how much money they are going to have to carry out education functions.

The budget plan will have a tremendous, a tremendous impact on the lives of schoolchildren all over the country, and, in fact, they are going to have a tremendous impact on what happens for our future and the future of these young people.

My Republican colleagues offer no relief to these school districts. What we are likely to do tomorrow is extend the uncertainty for yet another week.

Let me pause a moment here to say that I often hear my colleagues on the other side of the aisle for the past year and 3 months talk about what they felt their mandate was in 1994. That is, they were going to come here, revolutionize the Congress, make it run like a business, a laudable goal. But what business do you know of that is open for 2 weeks, that closes for 2 weeks, that says to its vendors or the people who supply it with services, that maybe we will pay you, maybe we will not pay you, or maybe we will pay some and not others?

What business do you know that says we are only going to extend our services a week at a time? I do not know any business that does that that could stay in business.

So that this way of managing is truly incompetent, total mismanagement. And what is at stake here in the education area is the future and the lives of our young people and their ability to be able to compete in an international world, their ability to have an education, that they ultimately can work and work and get a living wage.

School districts, let me repeat, all over the country, are in the dark about the type of Federal assistance that they will be able to count on in order to continue what they are doing.

I went to a school in my district where I met with parents. I went to a kindergarten class, several of them, and I watched these little bits of kids at their computers with their earphones on and reading, identifying the alphabet, and looking at the letter C and saying yes, this is a cake, looking at the letter D and say this is a duck, this is a deer, and doing this with the computer, listening to stories with comprehension and then writing down what they hear there.

These are the kinds of initiatives that are in jeopardy because of the irresponsibility of this congressional majority.

The funding of these kinds of efforts is unknown, and therefore we do not know whether these programs will be able to continue, in addition to which one of the things we talk about in private education and private schools is that classroom sizes are very small so you have individual attention. Well, in our public school system, the classes are larger, and therefore we deal with aides who work with the teacher, who can get around to all the kids in the class. So that we are not only dependent on private education in this country which, but in fact that we have a good strong public education system.

□ 1800

Mr. Speaker, my kids went to public school. I believe in the public school system. Now, with a cutback, we will see those aides removed. So in public education, where you have an expanded and larger classroom, these children are not going to get the kind of attention that they need in order that they might learn and learn quickly and have opportunities available to them.

Worst of all, my Republican colleagues in the House are promising to continue the deep cuts in education that they have made so far this year, at a time when we know in this Nation that Americans are rightly anxious about their job security and at a time we all know that a good education is the key to a good job, congressional Republicans are launching an assault on American education.

Poll after poll shows that the American public overwhelmingly supports education and schools. As public servants, it is our duty to ensure that our schools are able to provide quality academic foundations for our kids to be able to meet the challenges of the 21st century.

Despite this obligation, and that is one of the reasons we are sent here, congressional Republicans are making tough times even tougher for kids trying to get a good education and for their parents who want to see their kids get ahead. They are making the largest cuts in the history of Federal aid to education.

In addition, money is being cut for a school-to-work program. We have young people in this country who go to high school and then go to work. The majority of our young people do that. It is a small percentage that go on to a 4-year liberal arts college. It may be that that is okay. We may have enough history majors and enough English majors to take care of ourselves forever. But the aspirations and the values of these young people who want to go from school to work, those aspirations are being crushed.

We began the school-to-work program and it works. Talk to the business community, talk to the academic community, talk to the youngsters involved, they need to bridge that time between high school and the job market in order to go in and to be good, solid, professional workers.

We are going to pull away that funding for school to work.

The new temporary measure that funds education, which is known as a continuing resolution, is expected to continue to cut basic skills training, reading, and mathematics, by 17 percent; funding to keep our schools safe and free of drugs is expected to be cut once again by 25 percent.

Talk to any of the DARE officers, any of our law enforcement community who work in the program, in a DARE program, they tell you that this program is working, let us give it a chance. Let us work the bugs out. Let us start with our youngsters in the elementary grades and follow them along to see if this training has made a difference in what happens with drugs in our school and with our young people today. Let us give this program a chance. People who are working in it believe that it is working.

I also might add that our colleagues in the Senate, which I think is interesting to note, our colleagues in the Senate yesterday voted overwhelmingly, I think the vote was 84 to 16, to restore some of this funding in education for Head Start, for skills training, for school to work, for reading and mathematics readiness.

Yet, in today's Washington Times, the majority leader of the House of Representatives, the gentleman from Texas [Mr. ARMEY], commented, and this was only restoration of money for education because there is a recognition of how important education is in our lives, what kind of opportunity it provides to people in this country, Mr. ARMEY said: "Well, isn't that typical of the Senate? All they want to do is spend money."

Mr. Speaker, it was 84 to 16, a bipartisan vote on a Democratic amendment, I might add, but a bipartisan vote to restore some of the funding to education.

Before we can expect our kids to do all of the great things we wish for them, we indeed have to provide them with the essentials, training and basic skills, a safe place for them to learn.

It is in these areas where my Republican colleagues have made crippling cuts. Congress will soon face a choice: Will we allow my Republican colleagues to extend these cuts, or will they restore the funds that they have taken from America's classrooms and America's children? I can tell you in my State of Connecticut these cuts spell disaster. We cannot continue to do this; $8.6 million will be taken from the State of Connecticut for basic skills training; 9,200 needy students will go without. Schools in my district will lose $1.5 million. Under the safe-and-drug-free program, $729,000 will be cut for the State of Connecticut.

Mr. Speaker, what makes these cuts so wrong-headed is that our Nation now stands at this crossroads. We can either choose to give our people the skills they need to compete and win in a global marketplace, or we can allow our citizens to fall further and further behind as they compete with low-skill workers around the world for the lowest paying jobs in the world.

Getting a good education has always been a tremendous part of the American dream. It is what has enabled our people to succeed. Public education has been the great equalizer in this Nation. It is said to all children, let us emphasize your God-given talents. Let those talents take you to the highest pinnacles that you can reach.

These cuts will dash that dream for too many of our kids and for too many of the working families in this Nation.

As Congress considers a new spending message for the rest of the year, I urge my colleagues to remember the children in the classrooms all over America and the parents who have a bright hope for their kids' future. We need to restore the Federal funds that enable our children to make those dreams a reality.

I am delighted to be here this afternoon with several of my colleagues to talk about this issue of education, its importance in this country, and what the importance of these cuts are and what a devastating effect they will have on our kids future.

I yield to my colleague from West Virginia.

Mr. WISE. Mr. Speaker, I thank the gentlewoman for taking this time.

The title I program which you have talked about some, I decided it was time to put some faces in front of the statistics. You just look at programs as title I, what is wrong with cutting it 17 percent? I have been visiting title I programs across the State of West Virginia.

Of course, there is a problem too that you pointed out. All of our States have to prepare their budgets for the next school year now in the spring. In the State of West Virginia, on April 1 they have to post the list of transfers and layoffs by State law on April 1. So the fact that this Congress has not gotten around to getting them a 1996 budget, even though the Congress is working on a 1997 budget at this point, doubly compounds the problem. They are presently operating under the assumption there will be a 17-percent cut.

What that means to the State of West Virginia is on April 1 they will have to announce the layoffs of 226 title I teachers and 90 aides. Of the roughly 38,000 students that take advantage of the title I program across the State, title I being assistance in math and reading, but it has actually expanded far beyond that to be a total classroom approach in many of our schools, in addition to the 226 teachers and the 90 aides, 6,500 out of 38,000 students will not be able to get title I services.

Some would suggest maybe this perhaps needs to be cut. I would point out it has been cut and restricted significantly in past years. In one school district I was in yesterday, a few years ago there were seven schools that participated in it. Right now it is at three. If these cuts go into effect, it will probably be only two. Whether you are talking about Chesapeake Elementary School in Kanawka County, Rock Branch Elementary School in Putnam County, or Ransom Elementary School in Jefferson County, every one of them came out and parents took time off from work to come educate me about what title I meant.

If you listened to Melissa's mother at Rock Branch grade school begin crying as she pointed out how Melissa had been earning F's before the title I teacher intervened, Melissa is now earning B's and has a positive outlook on life.

If you listened to Mrs. Clark yesterday in Ransom Elementary School talk about how much her children had benefited from it and how concerned she was that this program would be cut back, or Patty Lavendar at Chesapeake Elementary School, who really saved the program when the Kanawha County Board of Education was having to look at where they would cut, that one was on the block. They were able to save the program because of the outpouring from the parents, the parental involvement. That is one of the things that title I focuses on, is parental involvement, not just teacher involvement.

So title I is a vital, vital program. It has always had strong bipartisan support. The interesting thing is we are now having to look to the Senate, which did restore basically the funding for title I yesterday, and hope that same spirit follows through over here.

This is a program that has blossomed. At one time it used to be a teacher pulling a few kids out of class and working on math and reading, and in some cases that is still the appropriate educational forum. But it is also a case where the title I teacher and aides are actually working in the classroom. They are working with the entire class in some situations, assisting that classroom teacher, as well as providing additional skills.

It is true that title I is a program that the formula is based upon free and reduced lunches in schools. But yet students benefit far beyond just those receiving free and reduced lunches.

In closing, my visits to title I programs have caused me to think anew what it is we are asking from Government. The fact of the matter is that for many parents, they do not have the resources of a Steve Forbes. They are not able to go out and hire resource rooms and teachers. They, by the same token, most parents do not have the resources to have a library of 1,000 or 2,000 volumes and CD-ROM disks and the computers that go with it. What we do as a people is pool our resources in something called education, and we pool it in title I.

One mother pointed out to me the other day her real concern that if title I was not there, what would be the outlook for her children in years to come? She says the very worst case would be possibly jail or prison, but at the least, a child has an increased frustration level, a child is not succeeding.

The one common element to every program I visited was self-esteem. The children were doing better because they felt better. There is nothing worse than a child, a young child who is having trouble reading and no one is reaching out to them, or having trouble with a certain subject and no one is reaching out to them. This helps them to develop those skills and move on.

So, as I say, I consider the cuts that have been passed by this House, 17 percent in title I alone, shortsighted. My concern is that the boards of education across the country are having to implement those even before they are finally passed, because they have to make some assumptions, and that the title I program is already suffering some impact, adverse impact, by actions, even though there has not been finality or closure yet on what the budget situation is.

My advice to every Member of the House is go visit a title I program.

Ms. DELAURO. You just encapsulized it. I think it is so critical. When I told you I went, there were 20 youngsters around the table. They had their sheets of paper and they were counting. You had the teacher, and what they had to do was count each of the lines, whether it was 7 or 6 or 8 in a row, and then they put their number in. The teacher took one-half, the aide had the other, and individually going to each child. And when they saw the answer, if the answer was correct, they put a C on it, and if it was not, they would go back and count with the youngster so that they would get it right and understand where they had made the error.

What we talk about in this body all the time, there are folks here who want to provide vouchers to families to be able to go to private schools where they get individual attention and they have all of the resources that are there. For God's sakes, we have got a resource. We have public education. We have a program that is providing this kind of individualized attention to these children. What we want to do is end it. It is to have half of that classroom or a fourth of that class there not have individual attention, and someone there who can help them with their self-esteem if they get it right, show them where they may have had an error, and let them move on and allow them to learn and progress. And it is mindless what is being done here with regard to education.

I would like to yield time to my colleague from New York, MAJOR OWENS. No one has spent more time on this issue of education than the gentleman has. We are grateful to you for your commitment and vision.

Mr. OWENS. Mr. Speaker, I want to thank my colleague from Connecticut for the special order. We cannot come to this floor too often. We cannot say too much about education at this critical hour.

☐ 1815

It is a critical hour, and I would like to use it to make one last appeal to our colleagues on the other side of the aisle. The majority, the Republican majority, has the power, and they can use that power to strengthen education and do a great deal for this Nation. They can use that power to wreck what has been accomplished to date in this country in terms of building some meager Federal support for the great educational apparatus that we have spread out across the country.

The Federal Government only has a small role, you know, of all the money spent for education. It is about 7 percent to 8 percent, and a large part of that goes into higher education.

So we only have a small role to begin with, but that role is critical. We are like the gyroscope on an airplane. That role is critical in terms of giving guidance and direction and inspiration and encouragement to the rest of the country.

When you do not have that support coming from the Federal Government, all kinds of things begin to happen at the local level. The commitment is lessened at the State level, the commitment is less than at the local level. We have had a retreat which has followed the drumbeat of the Republican majority here in Washington, a retreat across the country, in terms of Governors and legislatures and local mayors, in terms of commitment, their commitment to education.

What the Republicans have done, the majority of Republicans have launched a savage guerrilla warfare against education. I am baffled. I do not understand why the attack has been launched against the children of America, starting with the School Lunch Program, which baffled me greatly in terms of the amount of money. They squeezed some savings out, but the amount of money they saved is relatively small.

Yes, we want to eliminate inefficiencies; yes, we always want to eliminate waste. And that is a constant process. We must constantly strive to eliminate inefficiencies, to eliminate waste. We must constantly strive to get rid of incompetence and to replace it with competence and the best possible management. But more than that is being attempted here, and money seems not really to be the problem. We are not really talking about saving money. There seems to be a concerted effort to wreck, to recklessly destroy, the education improvement effort in America.

They call for the elimination of the Department of Education as key, and anyone observing the situation and understanding what is going on here, it is not about saving money only. It is about destroying the public education effort in America. Someone has made a determination that they can take care of a small elite group of children, students that they want to take care of, but they do not want the burden of educating all Americans, a commitment that is made from the very origins of the Nation. It is made not so much by the Federal Government, but certainly by the various State governments, and as the society has gotten to be more complex, that part of our Constitution which talks about promoting the general welfare is a joke if you do not focus your attention on improving education.

No modern society can prosper and grow without paying a great deal of attention to education, and all of our competing industrialized nations, they all clearly understand this. It might be that we may never want to go as far as Japan or Germany in terms of centralizing the direction of education through a Federal department; that is not necessary. But we are a long ways from that when you only have a 7-percent investment at the Federal Government level, a long ways from any centralization that is going to destroy local initiative.

Local control is there now. Local control will be there for a long time to go. If you increased education, the Federal share of education expenditures, by 25 percent, and we have a comparable amount of control, then you might have 25-percent Federal control, using that word, and 75-percent State and local control. Well, with 75-percent State and local control, it is still basically a State and local control operation. We have no danger of that happening with our 7-percent commitment.

We have to understand, however, that we cannot go forward and promote the general welfare, we cannot go forward and produce the kind of population, which is the greatest resource that any civilized nation can have right now, is an educated population. Our military might will do us no good if we do not have an educated population to win the economic competition. Our military might will not do us any good if we do not have an educated population, and we cannot maintain basic law and order, and we cannot have a society which is a viable society.

You know the kind of recklessness that we see first with the missiles aimed at the Department of Education and then the guerrilla warfare conducted against school lunches, and even the summer youth employment program is not a part of the school system, is not a part of the Department of Education; it is a basic part of the orientation of children as a basic part of a message that the Federal Government sends to children that it cares. And that, too, is under attack. Small amounts of money within the context of the overall Federal budget, but they have chosen to go after it anyhow. They have chosen to deal with the one area where there is some possible relief for local and State governments.

Local and State governments are under a lot of pressure, the expenses for education expenditures are increasing to deal with some of the modern requirements of education, and some of the myriad of problems faced by our schools means they need more money. Where can the money come from? It should come from the Federal Government. Certainly research and development, certainly support for populations that need extraordinary attention; that is the whole philosophy behind Title I and the Elementary and Secondary Education Act. We need more help from the Federal Government.

All taxes originate locally. Tip O'Neill used to say all politics is local. All taxes originate locally. The taxes that run the Federal Government come out of the pockets of people who live in cities and towns and school districts, and some portion of their taxes they should be able to get back in order to deal with the crisis in education. We ought to be able to get back more than 7 percent. To cut it off completely, however, and to wage a guerrilla warfare on the commitment that has been made, and chip away at it, as we are presently, is a reckless and savage act.

Jonathan Cozel uses the term "savage inequalities" when he is describing the differences between the best in America and the schools that are usually serving our poor and minority populations. But what we have here is a savage attack on the whole public school system, a savage attack that will destroy the effort that has been made over the years, and we were making some progress, even through Republican administrations, the steady movement from President Reagan's recognition of the fact that something had to be done when he commissioned the report that led to, commissioned a group that produced support called a Nation at Risk. Following that, George Bush and his efforts with America 2000, and all of it has just been one seamless effort, not such a disjointed partisan effort.

And suddenly, after President Clinton follows through on George Bush's goals, and we are moving in the same direction that the Governors and a whole lot of very intelligent and powerful people have decided we should move, suddenly the Republican majority in this House decides they want to wreck it all, they want to destroy it all. They are barbarians, and this is a barbaric act.

Mr. MILLER of California. I thank the gentleman from New York, and I thank the gentlewoman from Connecticut, for taking this time.

I think the gentleman from New York [Mr. OWENS] makes an important point. It would be one thing if what we were considering was a well-thought-out proposal about the reform of one of these programs, if we were trying to better target the money, if we were trying to put it into a reducing the class size where we have students who are educationally handicapped or economically disadvantaged, some of the intensive title I. It would be different if we were asking people to refocus on a path that we thought would bring these young people a better education.

But this is simply the crass withdrawal of resources, and the gentleman from New York is so right. We have in the private sector, in the nonprofit sector, and in the public sector under the leadership of Presidents of both parties, we have tried to continue to develop the means by which we can improve the Nation's schools for all of our students, for those going to college and for those who are going to work and maybe to continuing education in connection with their employment.

But this is the first time where we just see the radical withdrawal of resources and say that is it, you take care of it, but with less resources.

You know, in the district that I represent in the San Francisco Bay area of California the school districts that are going to lose this money, the West Contra Costa School District, is going to lose $837,000. It has no ability to go out and to replace that money.

So, as I think the gentlewoman from Connecticut pointed out, this program is simply going to be withdrawn wholesale from schools as they start to retrench. That does not mean that children in that school are not deserving or needing of the additional resources that title I brings to that school, but they simply will be cut out of that because you are retrenching and trying to serve these. The same is true of the Mount Diablo School District. They have no ability to make up $324,000 of this, or—I see the gentlewoman from San Francisco here—$2 million. Here is a school district that just took an initiative on its own to try and reduce class size in the first 3 years of school because of the returns that they believe they will get with these children, and now they are going to withdraw $2 million from the school district.

This is not just about title I students, or title I classrooms, or title I schools. It is the entire drawdown on education resources that this kind of arbitrary and capricious decision—because this decision is simply a number picked out of a hat. It is not related to education reform, it is not related to educational preference. The gentleman from New York is exactly right. This is a dramatic and historic reversal of what has been a bipartisan trend to try and to improve and to upgrade the education and resources of this Nation so that the children can be gainfully employed, so they can go on to higher education, so they can take their place in the American economy.

And all of a sudden what we see is the wrecking crew comes in, and the wrecking crew says we are going to cut your resources by 17 percent. They do not ask you whether or not this is going to interrupt their reforms, they do not ask you whether or not this means our children are going to go without research. They just picked this number out of a hat.

Now fortunately, as you both mentioned, the Senate maybe sees it another way and maybe wants to continue the notion of the reforming of our schools. And I just want to say this. You know, if people had been visiting their schools and visiting with the parents, and we had the President in for Nut Day in the Mount Diablo School District in my district, and a number of parents showed up with their children in tow, excited about the expanded educational opportunities that being on the Internet would mean for their children.

People again, because of the economy, because of this problem of sliding wages and living standards, are revaluing, revaluing education, and they know that they need more out of it, that their children need more out of it, and at the exact same time of course the Republicans have been out of step with the public on most of their agenda, but at the exact same time where America is revaluing education and the teachers of education, the Republicans walk in with the wrecking ball and just knock it all down and remind you. This is a lesser of the cuts. The House Republicans, these cuts would have been much deeper. They were looking for deeper cuts than this.

And I think the gentleman from New York just makes an excellent point, that this is not a strategy to improve or reform our schools. This is just the wholesale withdrawal of resources, and we should reject it, if we get a second chance in the House. Hopefully maybe the Senate provision will hold, and we will stop this just arbitrary playing of politics with the future of our Nation's children.

I thank the gentlewoman for yielding and the gentleman from New York.

Ms. DELAURO. I just want to add one point. Your notion about when you are retrenching is that you pull out that money. If the school districts decide that it is important enough to do and they want to do it, where are they going to go for the funding? They are going to a property tax, and they are going to look at increased revenues, and most of that comes with increased taxes for people in your district and my district and districts everywhere.

And then the other piece is that they cannot do that, they do not want to risk raising the taxes; so, as you said, it is gone, and the ripple effect of that going is just enormous, and you cannot even calculate it.

Mr. OWENS. Why should they raise property taxes and other taxes when the Federal Government has a tremendous amount of waste that ought to be transferred into education? Just to give one example. Most Americans are not aware of the fact that auditors at the CIA found $2 billion. Hear me carefully; I use the word B—billion—$2 billion was found in the petty cash funds that they had lost track of.

Ms. DELAURO. At the CIA.

Mr. OWENS. At the CIA.

□ 1830

Two billion dollars. There is an agency that the President does not know has $2 billion, the director does not know has $2 billion, it is just wandering around there. Think of what that could do for the education budget. One and one-tenths billion dollars of those $2 billion could go to end the cuts. That is the exact amount of the cuts, the $1.1 billion proposed for title I.

You could take another $300 million for Head Start. Those are the Head Start cuts proposed. You could take $600 million for the summer youth employment program. It is $2 billion. That adds up to quite a bit for education funding.

People of America should not rally to fill up the gaps when our Federal Government really has the resources, and the resources are still going in the wrong directions. They are being wasted, and not being directed at the priority of the moment. The priority of the moment is an educated population in America. We need more money in education from the Federal Government.

Ms. DELAURO. Mr. Speaker, I yield to the gentlewoman from California [Ms. PELOSI] to join the conversation.

Ms. PELOSI. Mr. Speaker, let me thank the gentlewoman from Connecticut for her leadership in this body, and particularly this evening, for calling this special order on education.

I would like to follow up on what has been said earlier by my colleagues. As a member of the Permanent Select Committee on Intelligence, and also as a member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations, I saw firsthand the budgeting for the intelligence budget, and I agree with the gentleman from New York [Mr. OWENS] on his observation about our spending priorities; and then also on the front line in our subcommittee, when we saw the $1 billion being slashed from title I, with the blink of an eye.

When we said to our Republican colleagues, "But what will happen to the 1 million children who will not be able to have access to Title I services," they said "We have to cut somewhere." As our colleague, the gentleman from California, said——

Ms. DELAURO. In reading and mathematics.

Ms. PELOSI. It would be one thing if they brought in a critique or criticism of title I, and they said, "This is where we think the same number of children or even more children could be served with the same money or less money by addressing some reforms," but they could not criticize title I. Title I is effective. It does the job. The money will mean that 1 million children will not be served.

In California, and I would like to put some observations on the record, in California, that will mean over $123,000,000 out of our one State, over 100,000 children will no longer have this special assistance for reading and math. That is why I rise also and join you to express my great concern about the future of our Nation's education programs at the hands of the Republican majority in the House.

So drastic was this cut that even the Republicans in the Senate abandoned it. So drastic was it that they agreed to add back billions of dollars for education, because they knew that they were slashing right at the heart of America.

Following up on something the gentleman from New York [Mr. OWENS], said earlier about our entire budget, we hear a great deal of talk around here about how we have to reduce the deficit, and therefore we have to cut the budget to do that, cut spending to do it. But the very idea of cutting education, and that is going to increase our deficit, unless we invest in our children, enrich their lives, make them productive members of society, increase our competitiveness internationally, we are going down a path of increasing the deficit and increasing the national debt, because we are not investing in our greatest resource, our children.

Our Federal commitment to education is truly a measure of our sincerity about economic recovery, social progress, and our children's future, again. In the House omnibus appropriations bill, as has been mentioned, $3.3 billion is cut from the Department of Education, $3.3 billion, or 13 percent; as has been mentioned, a 17-percent cut in compensatory education, title I.

Ironically, just this week, March 15, the Ides of March and the last day for this CR is also the day that California school districts are required to notify teachers whether or not they will have jobs in the fall. Unless funding for title I is restored, thousands of California teachers and teachers' aides will lose their jobs. Tell me how that is going to help the children of California.

In the House bill also, funding for safe and drug-free schools, an issue that I know that the gentleman from California [Mr. MILLER] has worked very hard on, will be cut by $12 million or 25 percent. The safe-and-drug-free-schools program is vital, especially to urban school districts like the one I represent in San Francisco.

The drastic cuts proposed by this funding would place in jeopardy the most vulnerable students. Basic needs that help young people survive cannot be addressed. At-risk children need the assistance that these programs offer.

Funding for bilingual education in California would be cut by $18 million, or 32 percent, one-third of the funding for bilingual education. We talk about wanting everyone to speak English and making English the official language, and yet we are cutting funding for bilingual education. Anyone who supports any initiatives for English-only has to be a staunch supporter for bilingual education. That funding should follow. I, myself, do not subscribe to that theory of English as the official language, but ironically, those who do are just the ones who want to cut the funding for bilingual education.

No funds for Goals 2000, the bill the President requested, $750 million. As the gentleman from California [Mr. MILLER] said earlier, these programs were developed under a Republican President, President Bush, with bipartisan cooperation of Republican and Democratic Governors across the country, passed in a bipartisan fashion in the House, signed by a Republican President, and yet zeroed out in the labor, health, and human services, and education bill.

I almost think we should strike education from the name of the committee, because we have taken such a blow at the education funding. I have more facts and figures, but I know my colleagues need time. I do not know how much time can be allocated. Perhaps I can resume later.

Mr. MILLER of California. Mr. Speaker, on the point of the Goals 2000, which unfortunately has become a political football, it has become a political football in Washington, DC, but not in the States. In the States where it was originally designed by the Governors and brought to the Congress with recommendations made, it is being embraced now as, again, parents hunger to know that their children are going to have to meet world class standards; that this education is the very best education; that we should not accept the dumbing down of education, we should not accept a second-class education; that our children not only deserve the very best education, but in fact the world's economy requires that they be given that.

Now we just see that swept aside in a fit of ideology, in just an absolute fit of some kind of extreme ideology that says that the Governors should not have a right to apply for this money, to upgrade the quality and the class.

These standards that are being developed are being developed with private sector associations. The American Electronics Association wants to be able to develop standards and have them incorporated so a young student can take that and go anywhere in the United States and work, and the employer will know that that certificate, that diploma, means that that person is qualified to do that job and to enter that industry, and to participate in that.

What do we have today? We have in many instances diplomas that do not mean anything. That is what Goals 2000 is about, it was about upgrading that. It is swept aside in this provision. It is just crazy that this kind of extreme ideology would drive these kinds of education decisions, because it is not even a matter of debate. It is just a matter of pulling these numbers out of the hat. As the gentlewoman said, in her committee, unfortunately, the attitude was "Well, we have to cut somewhere."

All things are not equal. Whether or not a child gets a first-class education, as the gentlewoman so correctly pointed out, the gentlewoman from San Francisco, that is the beginning and the end. That is either the beginning of a wonderful life in this country, or it can be the end of that. It is a question of whether that is the beginning of your productivity, that is the beginning of your being able to provide for yourself and have economic self-sufficiency, or if you choose to start a family. That is what that education is about.

Somehow the people who cheapen that education are now the Republicans, because they slash it again without blueprint, without detail. They simply pick a number and say "This is the number we are going to give the President to spend, because we are angry at him because we got caught shutting down the government," or something. The whole thing is just a tantrum and a fit of anger that really is an insult to parents of this Nation who are struggling to educate their children. I want to thank the gentlewoman again for taking this time.

Ms. DELAURO. I want to thank my colleague. I would like to mention a couple of things. One is that there is all this talk about how we cannot spend this money and we have to cut, and it is the Democrats who want to spend all of this money. But what they do not want to tell us about is where they do want to spend money, and that is on the tax breaks for the wealthiest Americans.

They will deal with repealing the alternate minimum tax, and expatriots getting a break for renouncing their citizenship and being able to not pay any taxes. They do not have any problem at that end. But with kids and their future, they say, "We have to cut back, we have to tighten our belts."

The AmeriCorps Program, let me just say this, this is a program that says to young people, "We will help you with your college education if and only if you give back something to your community, you exercise some responsibility for getting this assistance. We want you to participate in the life of your community."

We are trying to teach our young kids values and responsibility. We are caught up today with saying young people do not have any responsibility, the "me generation," the x generation; that they just want to take something and not do anything. This is a program that goes after that very fundamental value that we have tried to instill in people of responsibility and taking on something, and it is working.

Again, it is working all over this country. Young people are involved in the lives of their communities and are given some help to be able to further their college education. Now we are saying "Forget it. No. It is over." We have about 800 kids in Connecticut who are going to be just cut off of that program, not only the work they are doing in the community, but their ability to be able to go to school.

Mr. OWENS. Mr. Speaker, in less than 2 years the barbarian Republican majority has destroyed all of that. A piece of civilization that has been wrecked by the pressure that has been put on them, budget-wise. We have large numbers of people being forced to sort of retire early and drop out. Experienced administrators and experienced teachers are going. You have large numbers of people who are planning to get out, and are just marking time in the system. You have reductions in any investment in equipment and plant buildings.

They have, in less than 2 years, done an amazing job. I tremble when I watch what the blitzkrieg against education has accomplished so far. The American people had better take note of what you can do with the appropriations process, how you send a message out there. As well as take away the dollars, you send a message to every level of government that public education is expendable, public education is no longer a part of the grand design of a great America. They have accomplished that in less than 2 years, the Republican barbarians.

Ms. PELOSI. If the gentlewoman will continue to yield, and when we think that this is done in the context of a $250 billion tax break to the wealthiest people in our country, $250 billion, and we are here talking about $3 billion or $4 billion. Could they not make the tax break that much less? It is penny-ante. It is change to them. It is a little bit of money when it is a tax break, but it is all the money in the world when we are trying to deal with education.

Mr. OWENS. They are not rational. That is the most foolish thing.

Mr. PELOSI. I think there is a lack of understanding by some of our Republican colleagues about how this issue is understood in the country.

As a member of the subcommittee, I get many calls and letters, et cetera, from very different people; not the usual folks who usually call, but members of PTA's across the country. This has gone beyond the usual advocacy groups who will pay attention to what goes into legislation in Congress. This is well beyond that. This is parents, members of PTA's and the rest, members of school boards across the country. They are not particularly political, but they understand how this is going to affect their neighborhood schools. That is critically important.

I certainly think the Senators understand, because they put back almost all of the $2.7 billion. I think nothing speaks more eloquently to the bankruptcy of the policy in this House on education funding than the fact that even the Republican Senators disassociated themselves from it and came back with $2.7 billion, which I hope we can get into the House bill, or in conference back in.

The other point I want to make is that in the course of all of this appropriating, our colleagues on the Republican side say, "We will put more money back into some of these programs, contingent upon the House passing a separate bill, a reconciliation bill, and then we will have money for education, if you pass a balanced budget bill in 7 years, a reconciliation bill."

We can never let that stand, that children are contingent upon some reconciliation bill. Children are a first priority. This is not something we do when we see how much money we have left over from tax breaks and an increased defense budget that the Pentagon did not even ask for. This is what we do first, take care of our children, educate them; that is, if we have, I think, our priorities in order.

Our budget must be a statement of our national values. It must reflect what is important to us, and that is what we would put our resources to. It certainly is not, in the case of the budget we have before us.

☐ 1845

Of course, that goes on to higher education, as well. Eliminates 13 percent for student financial assistance, less than 1995, eliminates the Perkins Loan Program, and the direct loan program is capped at 40 percent, and further reductions, which will again pose an obstacle for people without means or middle-income people in our country to receive the benefits of higher education.

Then it goes on and on to what has happened to job training, school-to-work, lifetime learning, reflecting that our economy is a different one and that people in the work force must be constantly educated in a lifetime, but much of that job training funding is also cut on the labor side of the Labor, Health and Human Services and Education. I might say that the Senators restored the education cuts, but there are other problems that we have with the bill for cuts that were not restored.

I would be happy to yield to my colleague.

Mr. MILLER of California. The gentlewoman from Connecticut mentioned that our Republican colleagues and sometimes the editorial boards get mad at us when we talk about the cuts to children that were scheduled in the school lunch program or in student loans or in title I or Medicare and Medicaid cuts. We say they are taking from the neediest people in this country to provide this tax cut, and yet here is the graphic example.

Here are children that are identified as economically disadvantaged, as educationally disadvantaged, and we try to target some resources into the schoolrooms where those children reside, and yet we find out that as we read down the impacts in the State of California, district after district, school after school, 150 students, 170 students, 694 students, 1,000 students, 131 students, it goes on and on and on, these children.

This is not abstract. I have been teaching the last several Monday mornings at a continuation high school, and I visited with the teachers at Olympic High School after I was done with my class period, and they said, here is the impact of the cuts. This woman, who is helping these young people with business subjects and is here as a student assistant, she is gone if we lose this. In their budget, they had some upgrades for the computers. They thought maybe they were going to get hooked up to the net. That is not going to happen now.

Those children are losing those kinds of resources and that kind of access. These are among some of the most disadvantaged children in our society, and we have decided that we would rather cut them than ask if the wealthy could just wait until there is a balanced budget, just wait until there is a dividend, and let us see if that is what the country wants to do.

But here we are whacking up the education budget on an arbitrary manner, and the job opportunity budget, the AmeriCorps budget that is trying to send a message to young people in this country that they care, that they matter, that they are a resource, that they can make a difference in our communities.

The brilliance of AmeriCorps, like Vista that was before it, is not what that individual does, but they become a catalyst for other resources in the community. They attract somewhere between $10 and $25 for every dollar they get in in-kind services and help from other organizations. That is the message we want to send young people.

We keep blaming young people. We keep getting mad at young people. We blame the education establishment after we withdraw the resources. The next thing what will become is the same people who cut these budgets are going to tell us, they could not educate the kids, so give them a voucher and send them down the road. They will be cutting the vouchers once that is accomplished.

As MAJOR OWENS said, people better wake up and understand the kind of systematic, comprehensive assault that public education is under in this Congress by the Republicans. This is not an accident. We say it is arbitrary. It was not arbitrary in their minds. They made the decision that this is where they were going to cut the budget, not in the waste in the CIA, not in the waste in other programs, programs that you cannot even debate on this floor. This is systematic. This is intentional, and it is about the destruction of the public education system in this country and certainly the Federal contribution to that effort.

Again, I thank the gentlewoman for yielding.

Ms. DELAURO. Again, it was MAJOR OWENS who mentioned the issue of military might. If we only measure this Nation in terms of its military might, our national security is at great risk. Education is as much a part of what the national security of this country is all about as is the number of weapons that we have in our arsenals.

I come from a State that is defense dependent, that depends on tanks and aircraft and engines. But I will tell you that if we do not have the young people who are smart enough and competent enough to be designing and manufacturing and doing all those things, our national security is at great risk. When we cut preschool and when we cut school lunch and we cut summer employment, and when we cut skills training and when we cut higher education, we are doing an enormous disservice to the national security of this country.

Mr. OWENS. Our economic viability is directly threatened. Education is the basis for the kind of skills that we need in order to compete economically. Bangalore, India is now called the computer programming capital of the world, Bangalore, India which is in a country which is considered a developing nation. But they have as good a computer program in English as you have anywhere in the world, and many of the companies of this country are contracting their computer programming to Bangalore, India where they can get a year's worth of work for a month's salary, what they pay to computers in this country.

Economically the competition is going to broaden, and the competition economically will be more dependent upon the educated population that a nation has and the way it utilizes that educated population. People are not going to have the jobs if they do not have the skills and the education.

The corporations that are now uniting with the Republican majority to cut the budget for education are the same corporations that are asking for, in the immigration bill, that we allow them to keep bringing in technicians.

Ms. DELAURO. Foreign workers.

Mr. OWENS. And people at high levels, especially computer programmers, in order to fill the gap they have here for computer programmers. So it is all interwoven, interconnected, and we cannot maintain a military power if we do not maintain our economic might.

We cannot provide for average families and keep the economy healthy unless we have a strong school system which is dedicated to the education of all children, not an elitist system seeking to get away with just educating one portion of the population and allowing the other portion of the population by triage to go overboard and not provide them with a decent education.

Ms. DELAURO. My colleague, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Yes. I know the focus of this special order is education and the Republican cuts, and that is most appropriate, but I want to also point out that these cuts are not made in a vacuum. Our colleague, the gentleman from California [Mr. MILLER], talked about community service in AmeriCorps, as did the gentlewoman from Connecticut [Ms. DELAURO], and I wanted to just add something briefly there because I think we will have to have our own special order on community service cuts, too, but they are related to education.

In the same Labor, Health and Human Services and Education appropriations bill there are drastic cuts in community service, and some of the programs affected are RSVP, foster grandparents, et cetera. In our testimony, all the testimony that we get from professional judgment opinions and testimony of those who have to justify the spending in their agencies, looks to what the gentleman from California [Mr. MILLER] said.

For every dollar you spent on an AmeriCorps volunteer, you get at least $25 return on your investment. So, too, with community service across the board, also contained in this bill. It flies in the face of the trend, because what we are saying here is everybody wants to reduce the deficit, right? So how do we use the spending to the best advantage? Of course we educate our children. That is an investment.

But we also had what they call the twin engines of paid supervisors and thousands of volunteers, but who need the employees in place to organize their work and them, in order for us to have the big payoff in our society of people coming together and helping children to read or taking seniors to the park or whatever it happens to be to meet the need. It was referred to as the catalytic power of community service.

This is what we should be doing if we want to reduce the deficit, is make sure that the dollars that we spend are investment and that they have a multiplier effect across the board. When we cut those dollars for community service, we are really going backward. It does not take an economic genius to see the worth of all of that, the power of men and women across the country volunteering.

But subtract the Federal commitment there and you lose the supervision, the organization, the guidance and the catalyst for making all of that work. So these education cuts are taking place at the same time as we are making community service cuts. Begging off of AmeriCorps captures both aspects of it, education and community service, and it does a grave disservice, whether it is to civic associations or volunteerism in our country or, as President Bush so aptly called it, 1,000 points of light. Let us support President Bush's 1,000 points of light by fueling and funding the community service agencies that we have in Government.

Ms. DELAURO. I want to thank my colleagues for joining me tonight. If there is a place we can cut, we do not have to repeal the alternate minimum tax. We could apply $17 billion to either the deficit or doing some of these other things.

THE REAL WORLD OF PUBLIC EDUCATION FUNDING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. GOODLING] is recognized for 60 minutes as the designee of the majority leader.

Mr. GOODLING. Mr. Speaker, now let us move from fantasy land to the real world. I think that would be a good approach. I would have thought, after what I heard, that somehow or other the Federal Government was in charge of public education in this country, even though we only spend 6 percent of all the money that is spent, 6 percent.

Under our plan, incidentally, we spend $340.8 billion over the next 7 years on education. Compare that with the former majority that was just speaking. During their last 7 years, they spent $315.1 billion. All those cuts you heard about does not quite add up, does it? Because ours is an 8.1 percent increase.

Now, what is the problem? the problem is that we want to do something differently. I agree with the former chairman that I sat beside who would say to me on occasions, "Bill, these programs are not working," and I would say, "I know it, Mr. Chairman. Let's change them."

The chairman would always say, "We cannot do that because the money might not get to the right place." And I would say, "Well, if it isn't doing any good getting there, what good does it do to get to it the right place?"

But all those years I sat there saying there were different ways to do this. We have to make changes. All the studies, I wish the last group would have unveiled all of their studies showing all of the accomplishments, because every study we have from the department, every study we have from an outside group would indicate, as a matter of fact, that we are doing more poorly today than we did 10 years ago, after we poured all of this money into these programs.

Let me also point out that when we talk about spending on education, spending on education in the States alone rose from $60 billion in 1983 to $115 billion in 1993. During the same period, local contributions to education grew from $55 billion to $120 billion. State and local governments have increased their spending over that 10-year period by 100 percent.

What results do we have from all of this spending? According to the national assessment of education progress, reading, average reading proficiency among 9-year-olds was about the same in 1992 as it was in 1971. Math average, mathematics proficiency among 9 to 13, was slightly higher in 1992 than 1973, but for 17-year-olds the same. Science. Science, we went backwards for 17-year-olds. It is lower.

So on and on you go, and all we are saying as a new majority is that we have scarce dollars. We know that. Therefore, we have to make sure they work well. For whom? Not the people that are employed in the businesses out there, the programs they are trying to protect, but for the children that we are trying to help.

□ 1900

Now, here is a good example. We recently had a study done, and it took a long time to do this, because when I became chairman, I said, now, for once we are going to look at all the programs that are on the books and see how many are duplicating each other, how many are doing well, how many are doing poorly, how many should be eliminated.

The President said in his budget we should eliminate 41. We have discovered that there are 760 education programs, spending $120 billion spread out over 39 agencies downtown. You see, this was my argument when we created the Department of Education. I said I could be wholeheartedly in support of that if I thought all education and training programs were going to come under one roof so we really could get a handle on it and see what is being done and whether we are having any successes. I know that would not be the case, and here is a good example.

Now, some will tell you, oh, you have all sorts of programs in this. Yes, but they all come back to education and training, in many instances duplicating what somebody else is doing in another agency. We cannot continue to do that, because now you are talking about 1,760 programs, $120 billion spent, you have 50 States, D.C., and territories to spread it over. You have 14,000, almost 15,000 school districts, and you have over 80,000 schools. We have to get a handle on this so that we can provide quality education, and that is what it is all about.

We are not trying to attack public education. Most of us are products of public education and proud of it. What we are saying is we play a very small role on the Federal level and the local level, and the State wants it to remain that way. They do not want us to be involved in public education. But we play a small role, and in that small role we have to guarantee quality.

Access will not get these young people anywhere. So we need studies that are not individuals that benefited from chapter I or benefited from this, we need concrete stories that can tell us the magnificent successes I just heard about that we cannot find anyplace in any study that exists today.

I yield to the gentleman from California, who I noticed was taking prolific notes and will be tremendously educated by the fantasy land.

Mr. CUNNINGHAM. The gentleman from New York [Mr. OWENS] says what we are doing is barbaric. Everything we are talking about here in Washington in this political year, Mr. Speaker, is about power. It is the power to disburse money to get reelected, so you have got the power and you need a bureaucracy to sustain that.

What we are doing is removing the bureaucracy, combining programs that are efficient, and those that are not efficient, we are doing away with them.

Let me give you a classic example. And first I would say, though, that every nation scores above the United States in every category in education. In many cases, the Brits and Japanese score twice of what our students do in scores. We have less than 12 percent of our classrooms that have a single phone jack when we are talking about Net Day. This is 40 years of bureaucracy and Democratic-run House that has destroyed education.

We have some of the best school programs. And I taught in Hinsdale, we had Evanston and New Trere, you go right outside of Chicago, where you have 7½ miles of Federal housing, and the kids have no hope.

What we are trying to do is take and fund down to the local level where you have quality, where you have parental involvement, you have teacher involvement, where we can pay teachers what they really deserve and where we can upgrade the classrooms instead of dumping money into these programs.

They talk about title I. They talk about Head Start. Well, every study, including the Department of Education, little liberal, and the President's own administration and every study says that title I is not doing its job. It should take two students at the end, there is no difference, and we are putting billions of dollars. Did we kill it? No, we reduced it until we said, is there quality, is there a standard, and is it effective? And I do not think that is too much to ask.

Look at Goals 2000. There are 45 instances in Goals 2000 that say States will, one of those instances you have to set up a special board, every school, that board reports to the principal. The principal reports to the superintendent, the superintendent then has got to send it to Sacramento in California. Think about all of those schools doing that and the paperwork that has got to go through the State, and then think about all the schools in the United States and generating all that paperwork.

Guess what there is back here in Washington, DC? There is a big bureaucracy here that receives all of that paper and all of that information to see if they are in compliance.

What we are saying is let us send the money to the Governors and to the departments of education if the State Constitution says, and do a Goals 2000 on a State level. Do away with the rules and regulations. Do away with the paper, and you be the masters of the destiny of your education program in the State.

But I have heard the gentleman from New York [Mr. OWENS] sit up here and say we do not trust the States, we are the only people in the world that can decide and make those decisions here in River City in Washington, DC. Why? Because they want to keep the power here.

We are saying that the power belongs with the people, it belongs with the students, it belongs with the teachers and the principals to master the destiny that we think is right.

My wife writes grants for Goals 2000. She works 5 nights a week. There are other schools that hire people to write grants for Goals 2000. Many of them never get a single grant, and in some cases I have documented where you have got people that are hired to write a Goals 2000 grant that the grant that they get in does not even pay for the grant writer. And in some cases, if it does, by the time you go through the administrative fees, paperwork, and extra people you have to have to force it, you get no money. Some of the big schools do not. We are saying that that is a waste, and it is a system that, yes, Goals 2000, on a State level, do it if it works in your State. Title I, if it works in your State, do it. There are programs.

And drug-free schools, we have a whole block grant for drug-free schools. I happen to think DARE works, and very, very effectively. That is taken care of in that block grant. And if DARE works in your State, do it. But we are not reducing education. What is cutting education is the President's title I, for example, costs a billion dollars more just in administrative fees, capped at 10 percent. He wants all the direct lending programs GAO said it would cost $3 to $5 billion just to collect the dollars. We took those savings, the gentleman from California [Mr. McKEON], his committee, and spread it across and increased student loans by 50 percent, increased Pell grants, IDEA, we level funded for special education and the other programs. But, yes, we are consolidating some of those 760 programs, doing away with the ones that do not work and focusing the dollars down.

A vision, for 5 years I have been talking about let us get high-technology and computers and fiber optics into the classrooms with only 12 percent, and the President jumps on the bandwagon. I am glad the President jumped on the bandwagon. It took 40 years of misrepresentation. Why? We have so many schools that are not up to speed. If we really want to educate our kids, we need the Federal Government to get involved in research and development, working with telecommunications, get AT&T, the Baby Bells, get the folks that can invest in our school systems an get our kids ready for the 21st century. You listen in the hearings, we have a large portion of the kids coming to our education programs do not even qualify for an entry-level job because they cannot read, they cannot write, they cannot do the math, or they cannot speak the English language. That is not a legacy, Mr. Speaker, I want to leave with our kids.

I repute, and every single Member that spoke in the last hour is among the most liberal left of this House in every case, they will spend money on everything and drive us further into debt and deficit except for one area, and that is the field of the Department of Defense, and they will cut. But in every instance they are the left of the left, and they want to keep the power here in River City so they can get reelected and scare children and scare students, and I am not going to stand for it.

Mr. GOODLING. Mr. Speaker, I yield to another subcommittee chairman from California, the gentleman from California [Mr. McKEON].

Mr. McKEON. I appreciate the opportunity of being here with you tonight and participating in this special order.

You know, sometimes the best intentions can do the worst harm. When we attempt to help, we often simply burden. When we attempt to inspire, we may only discourage. With all the helping that the Federal Government has done in the last 30 to 40 years, you would think that the previous majority should have admitted that something was not working and that some of these programs maybe could have been eliminated. Perhaps we needed to explore other methods of giving our children the first-rate education that they really need and deserve.

You know, a few weeks ago Chairman GOODLING held a hearing about what was working in public education. A few months earlier Mr. HOEKSTRA held a similar hearing in Chicago to highlight public and private schools in low-income areas that were successfully educating their students.

I personally have visited several schools in my district and elsewhere that are having a positive impact on children. The good news is there are many good things that are happening in education, and they are working quite well under the jurisdiction of local school boards and administrators and teachers and parents that really care and want to make things happen, and they are able to do that across this land. They do not have to wait until someone from Washington decides what is best for them and what program we decide they should participate in.

These hearings and site visits have all led to the same conclusions about what factors are behind that success; namely, success is not a matter of how many Federal programs the school participates in or how much money a school spends per student. Rather, the picture that is quickly developing from these hearings and site visits is that committed parents, strong local leadership, and an emphasis on basics is the recurring theme behind successful schooling.

The success stories that we have seen are about what local administrators, parents, and teachers are able to do together to make academic achievement a reality in their schools for their children.

This message, however, is not being heard in Washington. You know, we held a press conference a few days ago, and we had a pile of paperwork, you know, the chart there that you have of the 760 programs. This paperwork was only what was required for about a third of those programs. And yet it was a pile stacked this high.

The Clintons believe that it takes a village to raise a child. What we have found is it really takes a village to fill out the paperwork. Duplicative Federal programs begat State paperwork, State paperwork begat local paperwork, and local paperwork takes teachers away from their job of teaching our children.

I spent time on a school board, and I know how much work is done to write grants, how much work is done to fill out reports to send somewhere, and, hopefully, maybe somebody reads them. You never really knew. You just knew that you had to fill out the paperwork. The out-of-control paperwork load required for these programs too often leaves out rural and poor school districts that do not have the sophisticated grant writers, so they simply do not apply for the programs.

There has been such a severe focus on an investment in bureaucracy surrounding education that we really have failed our children. It should be an assault to our sensibilities, with the massive increase in spending citizens have supported through their taxes over the years.

You know, it is interesting in this chart here, it shows, and I do not know if we can focus in on that down in the corner, it shows the taxpayers, and the money goes from the taxpayers to Washington, siphons through those 760 programs and then eventually some of its reaches the children.

When I first came here, I figured out that from California, just in rough numbers, we send over $2 billion a year to Washington, more than comes back to California, to benefit the children just by running it through this siphon here in Washington.

We saw we still have a great deal of work to do in identifying the breadth and depth of Federal intrusion here. This 760 that we have, I would add, is we know is not complete. We know we have to do more, but we are going to work on this until we complete this project.

You known, we do not currently know how much of each Federal dollar gets down to the local classroom after the large amounts are siphoned off here in Washington. We do know the cost is extremely high. Just one example, the cost of Boston University. According to their provost, the university spent 14 weeks and about 2,700 employees hours completing the paperwork required to complete funding for title IV. They were hampered by the use of separate definitions in 26 separate schedules required to complete their application.

□ 1915

They were slowed by repeated corrections and clarifications requested by the department. In the end, after spending the equivalent of 1.5 personnel years compiling what turned out to be a 9-pound application, the university delivered its final product, this despite the fact that the form said this should take 3 hours to fill out. I do not know if anybody in Washington determined that and ever spent the time to figure it out.

Now, if you figure there are 6,500 institutions of higher education that participate in title IV across the country, each one responsible for their own 9-pound pile of paperwork, assuming similar burdens as experienced by Boston University, it would take 9,750 full-time employees to merely complete the applications submitted in title IV. That makes one wonder how many employees it takes to read, review, process, and file these forms here in Washington once they are submitted.

We talked to the Department of Education. They did not know how many employees they had.

Title IV is only the tip of the iceberg, only one of those 760 programs, compared with the enormity of the universe of Federal education spending.

As we continue to pursue this aggressive review, we fully expect those who benefit from the status quo to challenge us, as we see here tonight, in an attempt to defend the current state of education. It is inconceivable to me how anyone can defend this bureaucracy and say this is what is best for the children of this country.

Mr. Speaker, we welcome the debate. We hope at least to have an energetic dialogue that results in the best education system we can give our children and grandchildren. I thank the gentleman again for this opportunity to participate here tonight.

Mr. GOODLING. Mr. Speaker, I thank the gentleman. The gentleman from Michigan [Mr. HOEKSTRA], our subcommittee chairman, who has been doing a lot of oversight work, is here to participate also.

Mr. HOEKSTRA. Mr. Speaker, I thank the chairman for giving us this opportunity.

I have got good news, bad news, and some more good news. The good news is there are a lot of people around the country that recognize we have this difficulty, and on the chart up there we are focusing too much on the dollars spent. We are focusing too much on the Washington Bureaucracy and not spending enough time talking about students and teachers.

Christy Todd Whitman, the Governor of New Jersey, in her State of the State Address, identified the problem that my colleague from California was talking about: We must stop chasing dollars and start creating scholars.

We found that in the hearings that we have done in Chicago and Milwaukee and around the country, one goes into a successful school and says, "What is making your school work? How come your kids are scoring better than the national average?" They don't come back and say, "It is this program, it is title I out of Washington that has really made the difference." They said, "We have got even parents involved in the schools, and these are some of the toughest neighborhoods in Chicago. We have parents involved in the school. We have liberated teachers and principals to create special programs for special needs." You started talking to them about Washington programs, and they started talking about the bureaucracy.

Even Secretary of Labor Reich, I think one of the staunchest defenders of the status quo here in Washington, said we must stop throwing money at education and training programs that do not work.

There is a realization that focusing on the bureaucracy and dollars is not where we should be, and we need to start talking about what is going to help kids, parents, and help the kids become scholars.

In my role as chairman of the Subcommittee on Oversight and Investigations of the Committee on Economic and Educational Opportunities, I get the opportunity to identify some of the ancedotal things that we find. The gentleman from California [Mr. MCKEON] identified the 9-pound document for title IV. I was going to multiply 9 pounds times 6,500, and it is in the tons of documents. That is why we need these big buildings.

Mr. Speaker, one of the other anecdotal things we found in the drug free schools, somebody had spent $1,000 preparing all of the paperwork and writing the applications and filling out the grant requests. By golly, we went out and helped them. They got a grant for $13.

Now, it is kind of like somewhere in this process.

Another example, and this does not directly relate to education, but this was in the Wall Street Journal today. A document roughly this size, nine pages, two-sided, actually this one is one-sided, it is nine pages, two-sided document, 1994, President's State of the Union speech. This is how Washington defines an emergency. It was 4 or 5 o'clock in the afternoon and the Labor Department said, "We need to have these available to hand out before or after the President's State of the Union speech. It is so critical. We cannot do it in black and white. We better do it in color."

They avoided all the Government regulations we have put in place about how to purchase and these things. We have a Government Printing Office. They went to Kinko's. I don't know if I can give advertisements, but it is in here, in the document. They went to Kinko's and said, "Can you print this for us?" Being the entrepreneurs they were, they said sure, but we are going to have two people working overnight to create these documents.

So they said, "This is an emergency. This 9-page document is an emergency and has to be ready. It is called the Middle Class Bill of Rights. It has to be ready tomorrow morning." The Government Printing Office could have printed it in 24 hours. Kinko's could do it in 12.

Kinko's did it for the grand total of, 1,500 documents, they did it for the price of $21.33 apiece, $32,000. The Government Printing Office could have done it for $500.

Now, I am not sure who is educating who here, but when you take the average family income for the American family today and you define a 9-page document as being an emergency, and you are willing to spend one family's entire income for the year to get that document out in 12 hours faster, I am not sure that we know best here in Washington.

The bottomline on this bill is we do have a great chairman of the Committee on Government Reform and Oversight, the gentleman from California [Mr. THOMAS]. I am surrounded by Californians tonight. We had to approve that bill. He came back, and I have got to give him credit, he said, "No, you went outside the rules. This does not meet my definition for an emergency. We are not going to pay it." The problem is right now Kinko's has not received their funding. But it was $32,000, or $21 a document, versus 33 cents.

If I can have a couple of more minutes, because there was a lot of discussion about a program that, if I do not say it, my three colleagues will remind me very quickly that I voted for in 1993.

Mr. GOODLING. I will remind you.

Mr. HOEKSTRA. I am sure you will. I was warned about what might happen with this program. Many of my colleagues were correct. The reason I am bringing this up is because it returns $1.25 and $1.50, is what the speakers before us talked about.

Here is what was said about AmeriCorps that maybe helped me decide I should vote for it and give it a chance. In 1993, April 30, Bill Clinton said, "We are going to set up a National Service Corporation that will run like a big venture capital outfit, not like a bureaucracy."

President Bill Clinton, April 30, 1996:

> The National Service Corporation Act will establish an innovative entrepreneurial Corporation for National Service to offer Americans educational awards in return for vital service to our country. The corporation is designed to cut waste, promote excellence in government, encourage locally driven initiatives, and create flexibility.

Here is what the new Chairman of the Corporation for National Service said in his confirmation hearings in October of 1995. "At our corporation, we want to do what any business person would do, and that is make our product the best it can be."

Sometimes we get critiqued for actually going and taking a look at these 760 programs. AmeriCorps is a good reason why we go and take a look.

There was a press conference today and some reforms were announced on AmeriCorps. But there was one reform not announced today that I am very, very disappointed and upset about. Later on this week, we have gotten some preliminary documents and the President of the Corporation for National Service, Harris, sent us a letter telling us what this document is going to be. It is a requirement the Corporation for National Service, a $500 million corporation, which would put it into the Fortune 500, it has to have its books audited. Fairly reasonable. BUCK, you are a business guy.

Mr. MCKEON. Good idea.

Mr. HOEKSTRA. Good idea, let's audit the books. I bet you had that done, Mr. GOODLING, when you were on the school board. You had your books audited. But this a Fortune 500 company.

So I called my stockbroker today, and I was going through a scenario with him, and I said, "If you know of a Fortune 500 company traded on the New York Stock Exchange that had the auditors come in for their yearly audit," and, we are benchmarking against business excellence. Actually it is the business minimum. "And the auditors came back and were going to announce publicly that the books and the financial systems were in such disarray that the auditors could not audit the books, what would happen?"

My stockbroker is trying to figure out what company this is. He says, "Well, No. 1 is trading of that stock would be suspended immediately. When trading opened on it, the price of the stock would plummet, because shareholders, the brokers, the employees would have no idea of what the financial stability of that company would be. The CFO would be fired immediately. The rest of the executive team would be brought in front of the board of directors to explain how they got to this point and come up with a corrective action, not 60 days, not 90 days, but what are you going to do now?"

Well, what we are going to find later on this week is that for our $500 million corporation, the Corporation for National Service, the books are unauditable for 1994, and we are going to find and discover that for 1995 the auditing company has basically said, "We do not think it is appropriate to invest any money in even taking a look at the books, because from what we have seen, they have not changed their procedures and they are still running on the same outdated models of what they are using in 1994."

Think about it. Finally, when by broker said, "Who is it," I said, "It is the Corporation for National Service." His response was "Oh. That is government."

It is expected. That is why we are going to go through those 760 programs. We have got a $500 million program where the books cannot be audited. That is not Washington's money, that is the parents' money who decided to send it or were told they had to send their money to Washington, and not use it at home for their family and their own kids' education. We are entrusted with that money, and we cannot even meet the minimum standards for what a corporation is. And this is Government at its best.

If this happened to a publicly held company, it would be the front page of the Wall Street Journal. Because it is Government, it is going to be a footnote on page 10, and it is going to be "Oh, there they go again. This is what we expect."

We have got to set a higher standard. We are going to go through those 760 programs, and we are going to see whether there are any more like this, and we are going to see whether they are effective, whether they are efficient, whether they are getting the kind of results we want, and whether they are even the Federal Government's role.

We will still have the debate about whether AmeriCorps is appropriate or not. When they are using $500 million like this, they should not get one more dollar until they come back in front of us and convince us they have put in place the changes that are necessary. I do not think they have a chief financial officer right now that has an accounting or finance background.

Mr. GOODLING. The tragedy is that when you talk about that system of federally financed volunteer programs, contrast that with what happened in my district recently, where the Brethren Nursing Home had a contract with a local high school where the students would come in and volunteer their time to give those seniors what the paid people would not give them, because they do not have time to give them, and the Department of Labor moved in and said, "That is a $15,000 fine, and it is $13,000 back wages you must pay to these students who came to volunteer."

So I called the secretary and said, "Wait a minute. Your President got the Congress to pass a program for volunteers that costs $20,000 to $30,000 to $35,000 for every volunteer. Here you are going to zap this nursing home because these kids volunteered to help seniors, read stories to them, push them in a wheelchair?"

Oh, he did not like that. I said, "I don't like it either. Because on one hand it was stupid to pay volunteers, and then on the other hand, you zapped those who volunteer their time. Not only that, how are you going to determine then which was work and which was volunteer? Was pushing the wheelchair work, or was that a volunteer? Was reading the story to the senior citizen work, or was that a volunteer".

□ 1930

It is just—well, I will refrain from saying what I really think it was, but nevertheless these are the inconsistencies. The important thing is to remember, when we talk about education, is that 6 percent, that is what we are involved in. Why are we involved in that? We were to deal with special population. Why were we to deal with special population? We were supposed to try to give them an even start. We were supposed to try to give them a quality program that would help them compete with youngsters who were not from disadvantaged homes.

Our problem was, right from the beginning, that a lot of people then decided, well, this is the most those students can do. In other words, in many instances we dumbed down. In many instances we did not require more. In many instances we did not demand enough.

The hearing we had recently where we were talking about good things happening in public education, and there are wonderful things happening all over this country in public education, but you noticed every person's testimony, when they talked about why it is working and why it is a good program, it all came back to: We demand excellence, and we insist. The one program, if you will remember, the parent had to sign up to participate daily in the classroom so that they were right there helping those children and learning a lot what it is you do to help children when you are at home.

I mean, these are the inconsistencies that we are faced with a limited amount of money, and so we have to improve.

IDEA was mentioned by that group.

Where do the mandates come from? Federal Government.

What did we tell them we would send them? Forty percent of the money.

What did we end up sending them? Eight percent of the money.

So I am very proud that last week in the bill that we sent, which I hope the President will sign, we increased funding for special education. Why did we increase funding for special education? Because we mandated the programs.

Second, why did we increase it? Because then the local government, the local school district, can take their money and spend it on all of the students rather than having to take their money to spend it on a program that we mandated.

So I am proud that we made that change, and I know that the gentleman from California [Mr. CUNNINGHAM], the chairman of the subcommittee, has some other thoughts on tonight's discussion to bring us back into the real world.

Mr. CUNNINGHAM. Mr. Speaker, this special order makes my heart soar like an eagle because you know you are able to talk about that I know the chairman was an educator, and I know the gentleman from California [Mr. MCKEON] owned a business, and I was a teacher, but not only in the high school, but the college level, and the dean of a college. And I have got children. And if the other side is trying to say that we are barbaric, that we are trying to destroy education, and I have got children in elementary and secondary education, and I want them to go onto college education, the last thing I am going to do is to bleed the public system that is going to help them. And the notice that they are giving to the American public, that we are cutting those programs, is upsetting to me.

And I would say that you mentioned we control only 6 percent of the spending, but what does that 6 percent do? It represents over 50 percent of the rules and regulations on the States in the school systems, over 75 percent of the paperwork, and it is inefficient. That is not a legacy that we need to continue, and we are trying again to get the dollars down to the local level so that we can have better quality, we can have parental involvement to work with the teachers and the administrators and let them make the decisions instead of someone like MAJOR OWENS, or Mr. MILLER, or DUKE CUNNINGHAM, or anybody else here in Washington, DC.

They talk about title I and Head Start and Goals 2000. Every study, including HHS, the Department of Education, the inspector general; here is the quotes: Over a 1-year period title I participants did not improve the relative standings in reading or math. The progress of title I participants on standardized tests, on criteria references tests, was no better than a nonparticipant. Two students, both parallel programs, one participating in Head Start or title I, no difference at the end.

When you got 760 programs, we only have 6 percent of the funding to spread those dollars so thinly, there is not enough money in the world to function. And they said more generally the relative performance of students in very high poverty schools, one with at least 75 percent of poor children, actually declines from the earlier to later grades.

But yet I do not think it is too much to ask that a Head Start or a title I program has standards, that we insist on quality, that we insist on results.

Mr. GOODLING. See, this goes back to the idea that I used to hear, year after year after year. They say, well, we need more money in the program because we are only covering a small number of the children. And I would say what are you covering them with because that is very, very important.

So we had a 180 percent increase in Head Start funding which translated into a 39 percent increase in participation. Now, if we have to increase funding 180 percent every time to get a 30 percent increase, there is not enough money in the world to ever get around to full participation.

So, you know, it was just the idea: more money, more money, more money. Nobody paid any attention about quality. Just more money.

Mr. CUNNINGHAM. That is the liberals' and socialists' excuse to just keep dumping more money into a program, regardless if it is effective or not. And you know the other side would say that we are cutting.

First of all, for every dollar the government spends, it has got to take it away from somebody in the first place. It is not free money. We have the charge of making sure that those dollars are effectively spent, and when you look at our school systems, that where our systems across this country are last in most—below all nations in math, and reading, and writing, and science; I mean that is not a good system and we need to change it, and to effectively do that instead of just continually dumping money.

They say, well, you are cutting. We are not cutting. What we are doing is focusing the dollars in the most effective means and letting local districts control it, and what we are cutting, whether you are talking about any other program outside of even education, is we are cutting the precious bureaucracy that they can control, and that is what their whole thing is about right now. You are cutting. What we are doing is cutting their ability to spend money so that they can get reelected. We are cutting their ability to spend money so they can get reelected so they got the power here in Washington, DC. And that power represents even a bigger bureaucracy, 760 programs all the way down the line.

That is wrong. Forty years has brought us to that point.

Talk to anybody, Republican or Democrat in your district. They feel something is wrong with the system. And what is wrong is we are not managing the Government, whether it is the Department of Defense, the Department of Education. Government is not and does not have the ability to manage money and get effective results. People do that work directly with the program, and I want to personally thank the chairman.

And all of this results in a $5 trillion debt. Think what we could do with, you know, $365 billion. We pay nearly a billion dollars a day on just the interest. What we could not do for education. And when we talk about the deficit, every one of those Members I checked did not vote for a balanced budget. Why? Because it takes their power to spend money away.

Mr. GOODLING. I yield to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, as my colleagues know, Mr. CUNNINGHAM just made a good point on the debt. Our country is a little over 200 years old, and the first 200 years, the debt increased very, very slowly, until, at the end of 200 years, we had a debt in 1980 of about a trillion dollars. And then it started accelerating because spending accelerated, taxes were cut, revenue increased, but spending went up even greater. And so from 1980 to 1982 that debt increased from $1 trillion to $4 trillion. And then in the last 2½ years, 3 years, it has gone up even faster, now to $5 trillion. So it does not take a rocket scientist to figure if the curve is like this, and then it goes like this, what we can look forward to.

When we are talking about education, we are talking about children, and I have 6 children, I have 11 grandchildren, and one more on the way, that I know of. And you know I think that many times they, the other side, paints us as not caring. Well, if I did not care, I would not be here, and if I did not care about those children and grandchildren and nieces and nephews that I have, I would not be here.

Mr. Speaker, I think it is important that we get a handle on our fiscal responsibility. Maybe these 760 programs would be good, and maybe they should all be funded fully, and if we had the money, maybe that is something that we should do.

I personally think that is probably not the case, and I think we are on the right track in trying to look at these programs, especially when we find out that they are also showing very poor fiscal responsibility. But we do not have the kind of money. When we are in that kind of debt, to pass that $187,000 onto that new granddaughter that I just had born does not make very good sense to me, and that is what she is going to have to pay in her lifetime just to serve interest on the debt, if we do not get this taken care of.

You know, we used to spend—hardworking people, the people that settled this country, the pioneers that moved across the plains to establish this country, did not look to the Government to help them. You know, if their wagon wheel broke, they did not send a telegram or a Pony Express rider to Washington to ask somebody to come out and fix their wagon wheel. You know, they took care of themselves.

And when the President said the other night in the State of the Union something about the effect that people—it was terrible that they should have to depend on themselves. You know, I think some way we missed the boat.

Mr. Speaker, I think we should also mention tonight a little bit about student loans. You know, there has been a lot of talk about how we killed student loans, and I have some real concerns that there are young people out there that maybe will not even go to school this year because they will believe some of the rhetoric that they have heard emanating from Washington, that when the other side says that we have killed student loans they may think what is the use; you know, why even try? I think that we ought to set the record straight, that, if anything, we have increased student loans from $24 billion to $36 billion in the next 7 years, and every single student that goes to postsecondary education, that applies for a loan, can get a loan. Whether they are poor, whether they are wealthy, has nothing to do with it. The money is there, it is available, we increased that money, and every single student can get a student loan, and I think it is important for us to clarify that.

Mr. HOEKSTRA. If the gentleman would yield, the Secretary of Education has said that the forms are not available because the Government shutdown. Is that correct?

Mr. GOODLING. I think it was rather humorous. It was rather humorous. The forms are not available because they had 21 days of bad weather and shutdown. The forms had to be printed long before the shutdown and long before the bad weather if, as a matter of fact, they were going to meet their deadline. So you have all of these students and parents and schools up in arms because they did not have the free forms to fill out in order to apply for the loans.

Now these are the same people, keep in mind, who are also now going to manage direct lending. They could not seem to manage the lending that would be taken care of by the private sector if they just get the forms finished in time. But they are now also, and the President would have his way, they will manage 100 percent of all of the loan.

So you know this excuse when summer comes, I hope they forget about the bad weather as an excuse, and hopefully they will not have another shutdown so they cannot use that as an excuse, and they will really have to do the job.

Mr. HOEKSTRA. If the gentleman will yield, the Federal family education loans, I mean just printing the documents which were the things that were late, why it is not available, printing documents is not that tough. We talked a little bit about AmeriCorps not meeting the minimum requirements to be auditable. FFEL, the Federal Family Education Loan Program where they cannot print the applications so that——

Mr. GOODLING. In time.

Mr. HOEKSTRA. In time, also just happens to be the largest funded program of those 760 programs. So for a program that is a half a billion dollars, we cannot keep the books. When you get to a program, the Federal family—or Federal family education loans, $18 billion. I am not—you know, I do not think we have to audit those books. I would love to have an accounting firm take a look at those books.

□ 1945

Mr. Speaker, if we cannot manage $500 million, these have to be a disaster. We have a clue. The books are probably bad, because they cannot even print the forms on time.

Mr. McKEON. That $18 billion, by the way, is just in 1 year.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will further yield, I just want to add a couple of things.

We really are talking about focusing on how do we make kids scholars, the quote from Christine Todd Whitman. You would think if we were focusing on making kids scholars we would go through those 760 programs and say, the problem is we just have too many programs focused on science, or too many focused on reading and math, and we ought to really just consolidate that. I will bet there are a lot of science programs there, a lot of reading, and a lot of math. That is what we want kids to excel in.

Seven hundred and sixty programs. The number of programs for arts promotion and education, and arts are important, are 39. What I did not know is that the arts are more important than science. We only have 28 programs promoting science. But it is good, science is twice as important as reading, because for reading, we only have 14 programs.

We know that reading is more important than math, because for math, out of 760 programs, we have all of 9 programs. So we have 28 for science, 14 for reading, 9 for math, 39 for the arts.

There is one other little program in there that you ought to know. I guess it is not Monday night, but for those who have the TV's that you get the menu, and if you figure out how to use it, you can also put closed captioning on. Out of those 760 programs, there is an option that is provided to you by the Department of Education for closed captioning of "Baywatch." So when you turn on "Baywatch" on whatever night it is on, you can go through your menu, and you push the button that allows you to watch it with the closed captioning on. It will say at the bottom, at the beginning of the program, "Brought to you by funding through the Department of Education."

So the reading scores are not what they ought to be, math is not what it ought to be, science is not what it ought to be. I am not even sure, they may even classify that as a reading program. Tell your kid to go watch "Baywatch" and turn on the captioning, and read the words going along on the bottom of the page.

Mr. GOODLING. I want to point out how important the captioning is. But what a foolish way to spend money for captioning, when you could spend money to really help the people who need the captioning on programs that are meaningful and important to them, as far as their future life is concerned. I doubt whether "Baywatch" is one of those.

Mr. HOEKSTRA. Mr. Speaker, I would tend to agree with the gentleman.

Mr. GOODLING. I think what I would like to point out, Mr. Speaker, in my closing remarks is that I want the parents and the students who are high school seniors and college students to understand that there is a program out there called disinformation, disinforming the public. They are trying to scare you into the idea that somehow or other, because we are in the leadership at the present time, we are going to destroy your loans and we are going to destroy your grants. They know very well that we increase both the Pell grants and the student loans.

To those who are not going on to a 4-year institution, they would probably have you believe that somehow or other we are not concerned about that 75 percent who never complete a 4-year education. The opposite is true. That is why we worked so hard in the last couple of years to get the careers bill through the House of Representatives, through the Senate, so we can concentrate on that 75 percent who are going to have to have the best skills, the highest skills, the best work ethic, in order to have our country compete with the rest of the world, or otherwise there are no jobs for anybody.

For those who are in high school, all we ask from our Federal expenditures is quality. All we demand is excellence. To the preschoolers, all of us want to make sure that those who are from disadvantaged families, those who do not have the normal opportunities that your children and my children had to become reading ready, that we want to do what we can to make sure they are reading ready, but we do not do that simply by throwing money.

We do that by insisting that they are quality programs, so we do not find that, by the time the children get to third grade, they have lost any head start that they ever had. They will have quality programs that will help them compete with all students, no matter what background they may come from.

So, Mr. Speaker, it is important that the American public understand that there have been billions of dollars, I suppose, by this time spent on advertising to disinform the American public. All we are telling you is that we are here to make sure that all education programs are the very best programs that anybody can provide, and that every child will have an equal opportunity for those good programs.

It does not come just by simply throwing more money at 760 programs. It comes from making sure that, first of all, sufficient money gets to program that are working well, rather than spread it out all over these programs. Second, its means that we have a limited amount of money, and therefore must demand quality, must demand excellence. That is the only way we are going to make it in a very competitive world.

Mr. CUNNINGHAM. If the gentleman will continue to yield, I will make my summation real quick, so I can give the time to my colleagues.

Mr. Speaker, I would say what is really cruel is to leave the system, in view that we have some very good schools across the country, but across the board, a system in which I think every American sees there is a lot wrong with that system, and to where the majority of our children who are applying for entry-level jobs do not even qualify for that entry-level job, because they cannot read, write, do the math, or speak English; that we have only been in the majority for 1 year. This is after 40 years of letting the Government manage and control even the 94 percent from the rules and regulations and paperwork.

Mr. Speaker, I do not think it is asking too much that they give us a chance to prove that we can ensure quality, we can ensure results, by focusing more dollars down not to the Washington bureaucrat, but to the teachers, the principals, the parents, and the children. And they should make those decisions on a local level. I think that concept is worth taking a look at. We are not killing education, but we are focusing those dollars down the maximum to local control.

Mr. McKEON. The gentleman from Pennsylvania mentioned the careers bill. I think it is important that people understand this is an effort that you started in the last Congress and could not even get a hearing on the bill. This year, with the change, we were able to take it and on a bipartisan way, take 128 Federal programs, like we are looking here tonight at 760. And while it is not into law yet and we are still working on it with the Senate, we have taken those 128 programs down to three block grants, made efficient use of the dollars, and we have.

We block grant that money out to the States and local communities where it will really be efficient, instead of having several cross programs working at odds with each other.

Mr. Speaker, I want to commend the gentleman for his leadership on that, and for the continued effort. I think it is important that people understand that we are doing some very positive things here that will bear some great results as time goes on.

What we need now is a President that will sign some of the bills that we have passed, so we can have true welfare reform, so we can have a balanced budget, so we can really get this country moving forward to get our fiscal house in order. I thank the gentleman very much.

Mr. GOODLING. We are here to support those teachers back there on the firing line, and we want to help them as they try to produce the quality that we need to order in be successful.

Mr. CUNNINGHAM. My wife is one of them.

Mr. HOEKSTRA. Just in closing, at the beginning of the year we got together and talked about what our vision was for our committee, where we wanted to drive the education agenda. We started out not with the bureaucracy, not with the dollars, not with the number of programs. We started out with the kids.

We said, we know what works in schools. We know what works in educating kids. We need to empower kids. We need to empower parents to get involved in their kids' education. We need to take a look at whether the bureaucracy and the 40 Federal programs and the $120 billion, whether all that influence out of Washington is empowering parents, enabling students, or whether it is getting in the way. Are the programs getting in the way between parents and the local school board, so the school board looks more to Washington than they do to parents?

We are focused on kids. We are focused on good education. We have the same goals in mind. We just have a different way of getting there.

Mr. GOODLING. Children is the name of the game as far as our program is concerned. We are here to make sure that anything we do will not hinder there getting a good education, but will enhance that possibility.

THE MOST IMPORTANT ISSUES FACING THE AMERICAN PEOPLE

The SPEAKER pro tempore (Mr. ROGERS). Under the Speaker's announced policy of May 12, 1995, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, as the only Independent in the Congress, what I would like to do is touch on a few thoughts that my Republican and Democratic colleagues often choose not to address. There are a lot of very, very important issues which Congress discusses every week, but somehow or other we seem not to talk about some of the most important issues facing the American people.

The first issue that I would like to talk about is heightened by an article which appeared in the February 5 Washington Post National Weekly edition. The article touches on an issue which I think all of us in this country should be very concerned about. That is the quality of American democracy, and to what degree we in America remain a vibrant democracy.

Mr. Speaker, all of us should be deeply concerned, no matter what our political persuasion is, that in November, 1994, when the so-called Republican revolution took place, and the gentleman from Georgia, [Mr. GINGRICH] became Speaker of the House, all of 38 percent of the American people voted in that election. Sixty-two percent of the American people did not vote. The vast majority of low-income Americans did not vote. Young people in large numbers did not vote. Working people did not vote.

What does it mean, Mr. Speaker, when in Europe and in Scandinavia and in Canada and in other industrialized democracies, 60 percent, 70 percent, 80 percent of the people come out to participate in the political process, but in the United States of America, we have a major national election of great consequence and 38 percent of the American people participate? What does that mean?

I think it suggests, Mr. Speaker, that the vast majority of American people are giving up on the political process. They are hurting. They are in trouble. But they look to the Government, and they do not see a government which responds to their needs. I think what they instinctively understand is that by and large, what happens here in Congress and the decisions that we make here in Congress reflect to a very large degree the interests of the wealthy and the powerful, the people who can contribute $10,000 a plate to a Newt Gingrich-sponsored fundraising dinner; the people who contribute $16 million in one night to a Republican Party fundraising dinner.

Meanwhile, the folks back home are working longer hours for lower wages. They are concerned that they cannot afford to send their kids to college. They cannot afford health care. They are worried about the health care bills for their parents. They are deeply worried, and they look to Congress, and essentially what they see is a Congress which represents the interests of the wealthy and the powerful, and forgets about the needs of the middle class and the working people of this country.

Mr. Speaker, in the article in the Washington Post on February 5, their National Weekly edition, there is some information that they received from a national poll which should be of major concern to all Americans, regardless of their political persuasions. Let me quote a little bit from that article.

I quote: "To measure how much Americans know about politics and the political system, the Washington Post, the Kaiser Foundation, and Harvard interviewed 1,524 randomly selected adults in November and December. These Americans were asked 18 general knowledge questions about how their government works and who their leaders are. An additional 21 political knowledge questions were asked in 4 other national Washington Post polls. The surveys revealed a knowledge gap that is deep and wide." I would hope that people listen to the following paragraph.

□ 2000

This is based on polling by the Washington Post working with other institutions. Two-thirds of those interviewed could not name the person who serves in the U.S. House of Representatives from their congressional district. In other words, two-thirds of those polled did not know who was representing them in the House of Representatives. Half did not know whether their Representative was a Republican or a Democrat.

Then they go on, "Who is the Vice President of the United States?" Who is the Vice President of the United States? Four in ten, 40 percent of Americans surveyed, did not know or got it wrong. Forty percent of the American people did not know the name of the Vice President of the United States.

It goes on, two out of three could not name the majority leader of the U.S. Senate, ROBERT DOLE, who will be likely a candidate for President. Nearly half, 46 percent, did not know the name of the Speaker of the U.S. House of Representatives, NEWT GINGRICH, and on and on it goes.

It seems to me when 62 percent of the people do not participate in an election, when 40 percent of the people do not know the name of the Vice President of the U.S., when two-thirds of the people do not know the name of their Representative to the U.S. Congress, when many people, a majority of the people cannot name their two U.S. Senators, it seems to me that we have a serious problem regarding democracy in America. If we do not change the circumstances in a variety of ways, I fear very much that in the years to come we are going to lose the democracy that we have today.

Why is it that so many people do not have faith in Government, and why is it that so many people do not participate in the political process? As I said earlier, I think that has a lot to do with the belief that most people have that despite all of their problems and all of their needs, that the elections do not mean much because the people who are elected end up not representing ordinary people, but end up representing the wealthy and the powerful.

Unless we can create a political revolution in this country by which Government begins to stand up not just for those people who have huge amounts of money but for ordinary Americans, unless we can reaffirm the faith of the American people in the political process and in their Government because they see the Government responding to their needs, I fear very much that we are not going to increase voter turnout or get young people to understand what democracy is all about.

I think one of the problems that we have in this whole area is that there has been a tremendous misstatement of reality that has been going on for the last number of years by the corporately controlled media, I believe, and also by our two-party system. What has been going on is that when people turn on the television and they watch CBS or NBC, or they pick up their local newspapers, what they are hearing is the economy is booming, the economy is growing, the economy is doing very, very well.

Then the television people will tell them, well, gee, the stock market is at an all-time high. Then they will tell them corporate profits are doing very, very well this year for the major American corporations. Then they will say inflation is down and that is very good for the economy. The economy is growing and millions of new jobs are being created, all of which may be true, but it does not bear on the most important economic reality, and that is what is happening to the average American.

It is not a question of whether the stock market is soaring for the wealthy people who own most of the stocks. It is not a question of whether corporate profits are at an all-time high. The question is what is happening economically to the average American? The corporate controlled media, and I think to a large degree—there are exceptions—the two political parties represented here have not addressed that issue.

That reality is that for the average American, for the middle-class American, the economy of the United States is in a depression-like situation, and I use that word advisedly.

The reality is that since 1973, 80 percent of all American families have either seen a decline in their incomes, decline in their standard of living, or at best their incomes have remained stagnant. Now, if 80 percent of American families are seeing a decline in their standard of living, or at best economic stagnation, how can anybody with any sense of integrity talk about a growing or dynamic economy? For the middle class of America, we are in the midst of a major depression.

When I go back to Vermont, and I go back to Vermont almost every weekend, and I talk to the people throughout my State, we hold many town hearings on what is going on here in Washington. We talk to people. What do we find? I do not think Vermont, by the way, is terribly different from the rest of the country. What we find from our dairy farmers in the State of Vermont, our small farmers, they are working 60, 70, 80 hours a week. Their income is declining, and many of them are being forced off the land.

What we find is for many of our working people, they no longer work one job at 40 hours a week. Forget about that. That is ancient history. Nobody works one job at 40 hours a week. What they have to do now is work two jobs, on occasion three jobs, in order to bring home the income that their family needs to survive.

Mr. Speaker, 20 years ago American workers were the best compensated in the world, and when people would say America is No. 1, what they were talking about it that for the middle class of this country, their wages, their benefits, their pension plans, their health care, we were No. 1.

But something has happened over the last 20 years. CBS does not talk about it too much. The Speaker of the House does not talk about it too much. Most of the people in Congress do not talk about it too much. But in that 20-year period, Mr. Speaker, we went from first in the world to 13th in the world, and now our standard of living is far behind many of the countries in Europe and in Scandinavia.

One of the very interesting things that is happening, and it is a sad statement to make, is that increasingly we see European companies coming to the United States and starting factories here. There is nothing wrong with that. That is a good thing.

But why are European companies coming to the United States of America? The answer, and it really would have shocked our parents or any of us 20 or 30 years ago, they are coming to the United States today for cheap labor. They are coming to America for the same reason that American companies are going to Mexico.

In my State of Vermont we have skilled workers, hard-working people, who earn $7 an hour, who earn $8 an hour and less without benefits, who are skilled and hard-working people. You cannot get the type of labor in Europe, you cannot get that type of labor in Scandinavia, because the wages paid in those countries are much higher. So all over America, what we are seeing is companies coming to America to hire our people at low wages, minimal benefits, and I would say that that is a real tragedy that this Congress has got to address.

Mr. Speaker, adjusted for inflation, the average pay for four-fifths of American workers plummeted, declined by 16 percent, in the 20 years between 1973 and 1993. In 1973 the average American worker earned $445 a week. Twenty years later, accounting for inflation, that worker was making $373 a week.

Today the reality for the middle class of America is that they are working longer hours for lower wages. So despite what CBS or NBC or the New York Times may tell us, the reality is that for ordinary Americans, we are in the midst of a severe depression.

How many women all over this country, we hear a whole lot of discussion about family values here, and many of us believe that if a woman wants to stay home—and many women do not, and that is fine—but if a woman wants to stay home with her kids, she has the right to do that. But what we are seeing in this country now are millions of women forced to join the work force because their family cannot make it with one breadwinner, and I think that that is pretty unfortunate.

Just the other day, just last week in Burlington, VT, my hometown, I talked to a woman who said that between her and her husband they are receiving eight separate sources of income. Both of them are working different part-time jobs. They have one kid. They very rarely have a chance to have the whole family together.

That is happening all over America. Husbands do not see wives. Wives do not see husbands. Parents do not see their kids together. This is a tragedy, and it is a tragedy that the U.S. Congress must address.

Mr. Speaker, as bad as the situation is for middle-aged, middle-class workers, there is another phenomenon going around and going on that deserves a whole lot of discussion. As bad as it is for middle-aged folks, it is far, far worse for young workers, and this is pretty scary stuff.

When we ask why the average American is angry or why the average American is nervous or anxious, it is not just that he or she is working longer hours for lower wages. That is pretty bad. But they are terribly worried about what is going to happen to their kids, and I speak as somebody who has four kids.

What is happening is in the last 15 years, the wages for entry-level jobs for young men who are high school graduates has declined by 30 percent, three-zero percent. For young women it has declined by 18 percent. Wages for entry-level jobs for college graduates have also declined for men.

What about young families? Families headed by persons younger than 30 saw their inflation-adjusted median income collapse by 32 percent from 1973 to 1990. What the result of that is, is many young people are not getting married. They cannot afford to get married. Young families are not buying their own homes. They cannot afford to buy their own homes.

Most of the new jobs that are out there are not paying working people a decent wage. Very often they are in the service industry. They are flipping hamburgers at McDonald's. They are working in a ski resort. They are not jobs that are allowing people to come into the middle class.

Mr. Speaker, the dream of America, what the American dream is about, it is a dream that my parents had. My father came to this country from Poland without a nickel in his pocket and our family never had much money. But the dream of what America is about is that as parents you work hard, you are prepared to sacrifice so that your kids can do better than you did, so that your kids will have the opportunity to have the education that you never had.

I think one of the areas of anxiety and panic that so many middle-class families are feeling now is not only what is happening to them, it is the great, great worry as to what is going to happen to their kids. It is not just the kids who do not go to college. It is even the college graduates, as well.

Mr. Speaker, we are creating so many low-paying jobs that right now, Americans at the lower end of the wage scale are now the lowest paid workers in the entire industrialized world. That means if you look at what goes on in Europe, what goes on in Scandinavia, many other countries, what you are seeing now is that American workers at the low end are now, if you can believe it, the lowest paid workers in the entire industrialized world, and I think that is quite unfortunate.

Mr. Speaker, the majority of new jobs in this country today pay only $6 or $7 an hour. They offer no health care benefits. They offer no retirement benefits, and they offer no time off for vacations or sick leave. In fact, more and more of the new jobs being created are part-time jobs or temporary jobs.

In the State of Vermont, I hear from people who say, well, I have to go out and have two 20-hour jobs because the local grocery store is not hiring anybody at 40 hours anymore. They hire two people at 20 hours so that they do not have to pay benefits or provide health care or any other type of benefits that a full-time employee might receive. Many employers now consider 27 hours a week full-time jobs.

In 1993, if we can believe this, one-third of the U.S. work force was comprised of, quote-unquote, contingent labor.

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The largest employer in the private sector today is not General Electric, it is not General Motors, it is Manpower Inc. So more and more of our workers are having to go out and find a job for 2 months, they are finding a job for 3 months, but they are not having any security on the job. They are not moving up the ladder. They are working for a couple of months, then they are gone, no benefits no security. Then they have to go out, and they have to hustle a new job. That causes, to say the least, a great deal of stress for the American work force.

Mr. Speaker, when we talk about why wages are in decline in the United States and why the new jobs that are being created are primarily low wage, part time temporary jobs, one of the reasons for that is the major decline in manufacturing jobs in America and the major decline in middle-level white-collar management, middle-level white collar management jobs as well.

In the past 10 years, the United States lost 3 million white-collar jobs; 1.8 million jobs in manufacturing were lost in the last 5 years alone. There is a wonderful word that is out there now in the American vocabulary, and that word is downsizing. Corporate America does not even have the guts to use the word firing any more. But they are using the word downsizing.

All over this country, in virtually every major American corporation, we are seeing massive layoffs at a time, I should mention, when corporate profits are at an all-time high.

Mr. Speaker, five companies alone, Ford, AT&T, General Electric, ITT, and Union Carbide, laid off over 800,000 American workers in the last 15 years. While decent-paying jobs continue to disappear, the number of involuntary part-time workers tripled between 1970 and 1993.

Mr. Speaker, there have been studies that have been done which have shown, if you can believe it, a correlation between the compensation that the CEO's for the largest corporations in America receive and the downsizing that they do. It appears that it is a wonderful thing to be rewarded, that the heads of AT&T and the large corporations are throwing thousands of American workers out on the street and in return what they get are very large bonus increases and salaries and very positive and beneficial stock options for them.

The more workers you can throw out into the street, the more money you make. And I think this is a very sad statement about the culture of corporate America at the present time.

Mr. Speaker, when we talk about industries, clearly one of the reason is a very simple fact: The average American today is working far harder and far more hours than was the case just 20 years ago.

Mr. Speaker, according to recent studies, the average American is now working 160 hours a year more than he or she worked in 1969, 160 hours. That is 1 month extra. That means people are now forced to work, not to bring in income, to work overtime, they are working two jobs, working three jobs, women are now forced to go out into the work force. The number of Americans working at more than one job has almost doubled over the last 15 years.

Now, it is important again to reiterate the kind of jobs that are being created. President Clinton, and President Bush before him and Reagan before him, they touted the growth of millions and millions of new jobs. Well, they are right. Millions of new jobs are being created. But what kind of jobs are they? Are they jobs that people can work at and become members of the middle class, or are they jobs that people work at and after 40 hours of work they are further behind the 8-ball than when they started?

Mr. Speaker, between 1979 and 1987, there were over 4.4 million jobs created. That is pretty good, 4.4 million jobs. And that is the information that we see in the newspapers, that we hear on television, millions of new jobs being created. That is the good news.

But what is the other side of that equation? Of that 4.4 million new jobs being created between 1979 and 1987, 3.6 million of them were at poverty-level wages. So what you are having is new jobs being created, but, unfortunately, the vast majority of them are at poverty level wages.

Mr. Speaker, as I mentioned earlier, we now have the dubious distinction of being the country in which our low-wage workers are now poorer than in any other country in the industrialized world.

Mr. Speaker, in addition to that, if parents and working people cannot earn a decent living, how are they going to take care of their children? And the answer is they are not.

One of the areas we should be terribly ashamed of, and I fear Republican policies are only going to make a disaster even worse, is that 22 percent of our children today live in poverty. We have by far the highest rate of childhood poverty in the industrialized world. We have some 5 million children who go hungry every single day.

Now, Mr. Speaker, I have talked for a moment, actually for more than a moment, about what is going on for the middle class and the working people of this country.

But there is another reality out there. And that is, while the middle class is shrinking, while more and more workers are receiving poverty level jobs, there is another reality that is taking place, and it is a reality that we do not talk about enough on the floor of the House, and it is a reality that we do not hear about on television, virtually at all, and that is that today, at the same time as the United States has by far the highest rate of childhood poverty in the industrialized world, we also by far have the most unequal distribution of wealth in the industrialized world.

I know we are not supposed to talk about that. That is something that is kind of a little bit dirty, and we are not supposed to talk about that here in the Congress. But the reality is the wealthiest 1 percent of the population in America own over 40 percent of the wealth of America. They own more wealth than the bottom 90 percent.

Further, in terms of income distribution, that means what people are earning every year, the highest earning 4 percent make more money than do the bottom 51 percent. Prof. Edward N. Wolf, who is a professor at New York University, concluded the most recent study of America's concentration of wealth by saying, and I quote—

> We are the most unequal industrialized country in terms of income and wealth, and we are growing more unequal faster than the other industrialized countries.

You know, I think it is appropriate every now and then that we talk about things like justice, like decency, terms we do not hear too much on the floor of the House. We have got to ask ourselves some basic questions: Is it just, is it right, that the wealthiest 1 percent of the population in America owns more wealth than the bottom 90 percent? Is it appropriate to be seeing in our economy today a significant increase in millionaires and people on top, while at the same time more and more people are forced to work for poverty level jobs?

Mr. Speaker, during the 1980's, the wealthiest 1 percent of families saw their incomes rise by 80 percent. So, for the people on the top, the economy is doing fantastically. In the same decade, the 1980's, the bottom 90 percent of families saw their income rise only 3 percent. Most people saw a decline in their standard of living. No wonder that the richest 1 million families today own more than 84 million middle-class working and poor families put together.

Mr. Speaker, when we talk about economic growth, all of us are in favor of economic growth. But there is something wrong when the vast majority of that income growth goes to the people on the top, the people who make $200,000, $300,000, $400,000 a year; meanwhile the middle class is shrinking, people work longer hours for lower wages, and the jobs available to millions of working Americans pay $5 an hour or $6 an hour.

Mr. Speaker, there is another issue that really needs to be addressed because I think it really smacks of obscenity, and that is that in 1980 the average CEO in America, the corporate, the chief executive officer of a major corporation, that CEO earned 42 times what the average factory worker earned.

Today, according to recent reports, the CEO's of the major corporations are now earning 200 times what their average worker is earning.

Just this last year, a report that I saw indicated that the compensation, that is, salaries, bonuses, stock options for the major CEO's went up by over 23 percent. Meanwhile, workers were getting 2 or 3 percent increases in their income.

I think ultimately we have to ask ourselves whether the CEO's of the largest corporations need to eat 200 times more than their workers, need to spend 200 times more for education for their kids than the average middle-class person, should have 200 times more income, to take care of their health care needs of their parents than the average middle-class person.

I think we have got to bring the issue of justice back home again and say to the CEO's of the major American corporations, the people who are downsizing all over this country despite recordbreaking profit, the people who are taking our jobs to Mexico and to China, it is wrong, it is wrong for you to be earning 200 times what your workers are earning. It is your workers who have created wealth in your company, and you have got to have a little bit of decency, and you have got to share it, and you cannot gobble it up all for yourselves and your families. There is a limit to the number of automobiles you can have, a limit to the number of cars you can have, the working people of this country, the middle class of this country, they also have a right to have health care for their kids and their parents, they also have a right maybe to go on a vacation every once in a while, they have a right to send their kids to college also.

The fact that we have such a grotesquely unfair distribution of wealth and incomes is an issue that this Congress must address, and it has to address.

Mr. Speaker, one of the areas that has been discussed a great deal lately is taxation. Taxation, everybody wants tax reform. I would just simply point out that, according to a study conducted by the House Committee on Ways and Means, the top 1 percent of taxpayers saved an average of $41,000 in 1992 over what their taxes would have been at 1977 rates. In other words, one of the scandals that we have seen is the result of the tax reforms of 1977, 1981, and 1986 is a major cutback in the tax rates of the largest, the wealthiest people in America, and the largest corporations.

In fact, in 1977, if Federal 1977 individual tax rates had still been in effect in 1992, the Nation's wealthiest top 1 percent would have paid $83.7 billion more in taxes which is about one-half of the Federal deficit today.

So, maybe Mr. GINGRICH and his friends would not have had to propose slashing Medicare, Medicaid, education, environmental protection, veterans' programs, the needs of our littlest kids, maybe they would not have had to propose that the wealthiest 1 percent of our people, whose incomes are soaring, had paid, were able to pay, had paid their fair share of taxes.

Mr. Speaker, let me chat for a moment about some suggestions that I and other Members of Congress are making. I am the chairman of the House Progressive Caucus, which now has 51 members, and the Progressive Caucus has been attempting to lead the effort, with success, against the disastrous policies of the Contract With America and Mr. GINGRICH's Republican Party.

But more than that, we are attempting to come up with sensible solutions that would allow the middle class of this country to expand, to grow, rather than to see it shrink. So let me, if I might, just suggest six or seven areas that I think this country and this Congress should been moving forward in.

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Mr. Speaker, given the fact that most of the new jobs that are being created are low wage jobs, many of them are part-time jobs, many of them are temporary jobs, this Congress must raise the minimum wage. In my view it should be raised to at least $5.50 an hour.

Mr. Speaker, the current minimum wage of $4.25 an hour is in terms of purchasing power 26 percent less than it was 20 years ago. In other words, our minimum wage workers today are far poorer than was the case 20 years ago.

Mr. Speaker, we hear a whole lot of discussion about welfare reform and the need for people to go out and work. I believe that. But I believe that, if somebody works 40 hours a week, they are entitled to live above poverty. I do not think that people are making it at $4.25, $4.50, or $5 an hour without benefits. You cannot raise kids on those wages.

So I think that, given the fact that the minimum wage in terms of purchasing power has declined by 26 percent over the last 20 years, we have got to have the courage to raise the minimum wage. In my view it should be raised to at least $5.50 an hour.

What is happening around this country because of the failure of Congress to act, a number of States, including the State of Vermont, are themselves trying unilaterally to raise the minimum wage. I applaud that matter. But the truth of the matter is the best way for it to be done, it should be done in 50 States in America, not in 5, not in 10. Let us do that. Let us raise the minimum wage here in Congress to at least $5.50 an hour.

Mr. Speaker, the second area that I think we need to take a hard look at is creating jobs right here in America rather than continuing to defend Europe and Asia against a nonexistent enemy. Many taxpayers may not know this, but our Government continues to spend about $100 billion a year defending Europe and Asia against whom we are not quite sure. It seems to me we should take that $100 billion, being it back home to rebuild both the physical and human infrastructure of the United States of America.

Mr. Speaker, we can put a heck of a lot of people back to work doing meaningful work, rebuilding our roads, our mass transportation, our bridges, our schools, our libraries. In terms of human needs, we can save a whole lot of misery by hiring qualified people in terms of disease prevention, getting people out, working against smoking, against teenage pregnancy, against AIDS.

We can save a lot of lives by having people going out into our communities. We should be putting more money into Head Start, not less money; hiring more people for child care, not cutting back on those important areas.

So it seems to me that, rather than spending $100 billion a year defending Europe and Asia, bring the money back home, put our people to work, making the country a richer country, improving our physical and human infrastructure.

Mr. Speaker, there is another area that needs to be discussed which gets relatively little discussion on this floor, and that is our current trade policy. In my view, our current trade policy is a disaster. I think that, sadly, tragically, all of us in the House who stood up and said "NAFTA was not going to work," unfortunately, we were proven right.

What we have seen is many tens of thousands of American jobs lost to NAFTA. We have seen a trade deficit grow with Mexico. We have learned that the Mexican Government lied to us about the state of their economy. They devalued their peso which necessitated President Clinton to propose a $50 billion bailout loan guarantee for Mexico, which many of us opposed. I brought forth legislation on the floor of this House which would have forced the President to come to Congress before lending Mexico any more money as part of the bailout. Unfortunately, that did not get through the Senate.

But it is not just NAFTA and it is not just GATT, it is our entire trade policy. This year the United States will have a trade deficit of about $160 billion. People say, so what? What does it mean to me? I don't care.

Let me tell you what it means to you. The economists estimate that, if a company were to develop a plant in the United States that produced $1 billion of export, exported $1 billion on product, on average, that company would be hiring 20,000 American workers at decent wages. What that means is when you have a $160 billion trade deficit, when you are importing $160 billion more in goods and services than you are exporting, that equates to the loss of 3 million decent jobs.

Mr. Speaker, just this last weekend I was at a mall in Vermont. I was just looking around at the goods that were available and went into one of the stores where they were selling televisions and VCR's, went into another store selling clothing. I would urge Americans to do that and take a look at the labels as to where these products are made. Increasingly what you see is: Made in China, made in Malaysia, made in Mexico, made in El Salvador.

What is going on is that major American corporations have basically deserted the United States of America, taken their factories to very desperate Third World countries where people have to work for horrible wages.

I remember several years ago going to Mexico as part of the NAFTA debate, and going into a factory there where it was a very state-of-the-art factory, a very sophisticated modern factory. Most of the people there were women who were hard-working, good people. They were earning $1 an hour. We left the plant and walked a quarter of a mile down the road to see where the folks were living. Where they were living was in shacks, often without running water, often without electricity.

Even worse, as bad as the economic situation is in Mexico, it is, of course, worse in China. When our friends at the Nike sneaker company or the other major sneaker companies leave the United States and go to set up their plants in China, what they are doing there is hiring workers at 20 cents an hour; 20 cents an hour.

So what you are doing, it is a worthy exercise. Take a walk through the mall and see where products are manufactured. Increasingly where you are going to see these products manufactured is in desperate Third World countries.

Mr. Speaker, whenever we have a war, our multinational corporations become very patriotic and tell us how much they love America and how much they support the young men and women who are prepared to put their lives on the line defending America. They have big parades and are just ever so patriotic.

I hope very much that the CEO's of the major American corporations would begin to show us their love of this country and patriotism by maybe not running to China and Mexico, but reinvesting back home here in the United States of America.

I think this is an issue I know that the Progressive Caucus and other Members of Congress are prepared to address. It makes zero sense to me, Mr. Speaker, that we continue to give huge tax breaks to large corporations who are downsizing their work force, despite record breaking profits, who are taking our jobs to Mexico and China. It seems to me those are not the companies that should be receiving major tax breaks.

Frankly, Mr. Speaker, it seems wrong to me that, given the fact that the U.S. Government is the largest purchaser of goods and services in the entire world, not just military, but many, many products, that we should begin to think about preferential treatment for those companies, and there are many of these companies who are reinvesting in their communities, who are hiring American workers at decent wages.

We have got to take a hard look at this issue. We have got to give support to those American companies that are doing the right thing. And they are out there. They are treating their workers with respect and with dignity. They are showing us their patriotism, because they are not running to Mexico or China, but they are supporting their communities, the communities that made them money in the first place.

So I think, Mr. Speaker, we have got to take a fundamental look at our entire trade policy. Do we build a wall around America? No. Do we think that trade is a bad thing? No. Trade is a very good thing. But we want to develop a trade policy which allows us to export roughly as much as we import.

We want to have the option of purchasing foreign products. There is nothing wrong with that. But we need a trade policy which puts Americans to work building the goods that we can build so well. Our workers are second to none in the world, if they are given the chance. But the truth of the matter is, we do not talk about it too often, but corporate America is selling out the middle class and working class of this country when they run to China and they run to Mexico. We need a series of policies to get those companies to reinvest here in the United States of America.

Mr. Speaker, there is another issue which I am working on, which some other Members of Congress are working on, that needs to be addressed, and that is that when we try to understand why the standard of living of working people has declined, when we try to understand why the middle class is shrinking, it is important to understand the correlation between the decline of the standard of living of working people and the decline in the trade union movement in America.

It seems to me that if working people are going to get justice, if working people are going to earn decent wages at the place that they work at, if working people are going to get decent representation here in Washington or in their State capitals, it is important for the U.S. Congress to develop policies which allow working people to join unions, if that is what they want to do.

Mr. Speaker, there are a whole lot of workers who do not want to join a union, and that is their right. No question about it. But in my view, and I think the studies indicate this, there are millions of working people who want to join unions, who understand that workers who are in unions earn significantly more than nonunion workers.

The problem right now is that the deck is very much stacked against workers who want to join unions. Despite the law, which is routinely ignored by company after company, those workers who are trying to form a union are fired, they are laid off, they are disciplined. Workers are terrified they are going to lose their jobs. Companies threaten workers that they are going to go to Mexico or shut down the whole place if a union comes.

It seems to me if we are interested in raising income for the working and middle class, we need major labor law reform. The essence of that labor law reform must be that if 50 percent of the workers in a shop vote to join a union, plus one, they have a union. We need legislation that compels the company to sit down and negotiate in a serious way with those workers.

Too often in America, after workers go through all the blood, sweat, and tears of forming a union, they sit down to negotiate their first contract, and the owners refuse to negotiate in good faith and they drag it on and on and the union gets lost. It seems to me that should be illegal. An owner should negotiate in good faith with a union, and if the company does not do that, disciplinary action is taken against that company.

Mr. Speaker, another issue that I think needs to be addressed that is an issue that we hear very, very little discussion about on the floor of this House now, which is the crisis in health care. Many of us right now are, of course, preoccupied fighting against GINGRICH'S massive cuts to Medicare and Medicaid and other health care programs.

What we are trying to do is see that these cuts do not take place, to see that elderly people do not have to pay double the premiums that they are paying today in 7 years, that we do not see massive cutbacks to hospital, general rural hospitals in particular, which might close down hospitals.

In terms of the cuts in Medicaid, we do not know what will happen to the elderly people who need nursing homes, who will not be guaranteed nursing home care. We do not know what will happen to the middle-class families who today can see their parents taken care of well in a nursing home through Medicaid, but will no longer have that guarantee that that will take place. So while we are fighting those terrible cuts, we must not lose track of the real need for fundamental health care reform in America.

When we talk about health care, we have got to understand several basic facts. No. 1, the health care crisis today is worse than it was 3 years ago when we had this big debate on health care. It is not better, it is worse. Today, over 40 million Americans have zero health insurance. More than that have inadequate health insurance. These are the people with very high deductibles. They do not go to the doctor because they cannot afford the deductible, they cannot afford the copayment.

Furthermore, what we have got to understand is that despite the fact that 40 million Americans have no health insurance and so many people are under insured, that the United States today continues to spend far more per capita on health care than does any other major industrialized nation on Earth.

☐ 2045

We are spending more for a terribly bureaucratic and wasteful system that rewards the insurance companies with huge profits, that pays the CEO's of the major insurance companies huge salaries, that rewards certain doctors with huge incomes, that allows our pharmaceutical companies to charge our people in America far more for the same product that they sell in Europe, or in Canada, or in Mexico. So I think we have got to move toward a simple, nonbureaucratic health care system which guarantees health care to every American. That is what our vision must be when we talk about family values. What we must be saying is that every family in America knows that they will be able to go to the doctor of their choice without worrying that they are going to go bankrupt.

So, Mr. Speaker, while we continue the fight against these disastrous cuts in Medicare and Medicaid, we must hold out the vision for a single-payer, State-administered health care system which guarantees health care to all people, and in fact we can guarantee health care to people, to every man, woman, and child in America, and we can spend less than we are right now with our wasteful, and bureaucratic, and inadequate system.

Mr. Speaker, I think the last point that I want to touch on has to do with campaign finance and election reform, and that is, as I think many Americans understand, it is not a level playing field in terms of what goes on here. We have our freshman Republican class who are revolutionaries, and they certainly are. Mr. Speaker, as I understand it, they have broken all of the records from any other class in the history of Congress in raising corporate PAC money. The biggest corporations; that is pretty revolutionary, I suppose, getting far more than any other class has received.

Mr. Speaker, 29 percent of the members of the United States are millionaires. My understanding is 25 percent of the freshman Republican class are millionaires, millionaires, and it seems to me, Mr. Speaker, that if we do not want to convert the House of Representatives, the people's body, into a House of Lords, we need some pretty fundamental campaign finance reform which takes away the ability of big money interests to continue to dominate what goes on here in the Congress.

Let me just briefly touch upon some of the issues that I think must be addressed in any serious campaign finance reform legislation.

No. 1, we have got to revisit the issue of very, very wealthy people being able to buy elections. I have nothing personally against Steve Forbes, or Ross Perot, or anybody else, so it is not a personal criticism of them. But I really think it is unfair that people who are just born or perhaps made hundreds and hundreds and millions of dollars, that they have the freedom to get up and say, well, you know, getting boring, you know, middle age, tired of my business career. I think that I am going to run for the President of the United States. Why not? Let us take out $25 million, $50 million out of the old checking account. No problem. We are worth a billion dollars, we are worth a half a billion dollars, and guess what? We will break the monotony. We will run for the President of the United States. Gee, that must be a lot of fun.

So I have nothing against Steve Forbes or Ross Perot; they are fine people. But I think that we have got to create a situation in which every American has the ability, should be able to run for President of the United States, should be able to run for the Senate, should be able to run for the House, should be able to run for Governor, and not just millionaires. And what we are seeing is not just on the presidential level. Do not kid yourself. More and more people who are running for the United States Senate or running for the United States House of Representatives are millionaires. The leadership of both parties is soliciting those people. It is pretty easy. You do not have to worry about raising funds for these guys. They are millionaires; they will pay for it themselves.

And we are seeing this also not only here in Washington, you are seeing it in State capitals as well. Millionaires, you know, became Governor of Louisiana not so long ago, and that is the pattern.

Is that what we want for America? Is that what people fought and died for, to defend democracy for, that we end up having people with huge amounts of money running the government? I do not think so. I do not think that is right.

So I think we want to revisit Butler versus Valeo, the very wrong-headed Supreme Court decision which basically said, gee, millionaires and billionaires have a constitutional right, a freedom of expression, to buy elections. I think that is wrong, and I think through a constitutional amendment or perhaps rethinking on the part of the Supreme Court we have got to revisit that issue. Wealthy people should not be able to buy elections.

Second of all, if we are talking about fairness and elections, the most important issue is to limit the amount of money that can be spent in an election, and we can argue whether for a House race that should be $400,000, $500,000, or $600,000, but that is the most important thing. If somebody has $2 million, somebody has a hundred thousand dollars, the guy with the $2 million is going to win the vast majority of the time, no matter how good or bad that person may be. So we want to limit the amount of money that can be spent.

And third, we want to make sure that the money itself is not coming from wealthy, powerful interests, but from ordinary people, and I think what we probably want to do is have a combination of small contributions balanced off against public funding of elections so we do not have to have spectacles of the Republican National Committee, I guess it was, holding a fundraiser in Washington, DC, and on one night raising $16 million, and Mr. GINGRICH going around the country at $10,000 a plate fundraisers, and in fairness it is Republicans who do this; the Democrats do it as well. And I think we want to end that type of politics.

Mr. Speaker, I would simply conclude my remarks by suggesting that this country faces some serious problems; there is no question about that. But I think those problems are solvable. I do not think there is anything that I have discussed today, the lack of a national health care system, decent wages for our middle class growing out between the rich and the poor. I think those problems are solvable. But I want to say this. Those problems are not going to be solved if tens of millions of American people continue to turn off to the political system. People fought and died to continue this country as a democracy, and we are insulting those people when we say, oh, politics, hey that is all crap, they are all crooks, I am not going to get involved. Wrong.

And I want to say this also; that there are people in Congress and in government who really do not want ordinary Americans to vote and to participate in the political process because, if you only have a small number of people who are voting, as in the last election where we had 38 percent of the people, then big money can dominate what goes on if ordinary people in the middle class do not participate.

So let me simply conclude by saying this country has serious problems, but they are solvable problems. We can create policies by which the middle class will expand rather than shrink. We can create policies by which we do not have $160 billion a year trade deficit. We can create policies which move us toward a balanced budget in a fair way, by dealing with corporate welfare and defense spending rather than slashing Medicare and Medicaid. We can improve education in this country and make college affordable for every middle-class and working-class young person. We do not have to continue to have, by far, the highest rate of childhood poverty in the industrialized world. We can address those issues. But we will not address those issues unless ordinary people begin to stand up, and fight back, and make the effort to reclaim this government which belongs to them. It does not simply belong to the millionaires and billionaires who have used this government for their own interests. It belongs to ordinary Americans, middle class and the working people of this country.

So I hope, Mr. Speaker, that we can see a reinvigoration of democracy in this country, serious political debate about how we can improve life for the vast majority of our people. That is my hope, and I think if people do that, we are going to see some really good changes in this country.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbough, one of his secretaries.

THE NEW POPULISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 60 minutes.

Mr. SCARBOROUGH. Mr. Speaker, I certainly enjoyed listening to the last speaker that came to this floor, and I think there are a few things that, despite the differences in opinion on many things, I think there are a few things that we can agree on. I think we can agree on the fact that more Americans do need to get involved in the political system, and I do believe that a lot of people have tuned it out, and that has been unfortunate, but that we have to do what we can to help middle-class families expand that middle class and to contribute.

But I have got to say that is about where the similarities end, because unlike the previous speaker, I do not believe the answers lie in Washington, DC. In fact, I think most of the problems that afflict middle-class Americans come from Washington, DC. Now that is not demagoguery, it is not simple-mindedness. It is just reality.

He spoke for some time about what I would call class warfare, talking about, oh, the big business men and women that make all that money, that steal from the middle class, that steal from the working class. And we have heard that type of class warfare come out of the White House for the past few years, we have heard it on the floor of the House here, and I just—it strikes me as being very interesting because I look back over my background, look back over my history, and I remember growing up in a very middle-class family. We certainly were never wealthy by any stretch of the imagination growing up, and I remember, in fact, my father, being one of the first people in his family to graduate from college, and to go off and get a good job and work for the first 7, 8 years of my life. But then, when there was a recession, he lost his job, and I remember him driving around across the southeast, small towns throughout Georgia, Alabama, and Mississippi looking for a job, and I was with him. We spent, in fact, a summer doing that in the car, driving across the southeast looking for gainful employment for my father.

But you know during that entire time, when we went through the difficult times that we went through, I cannot remember one single time when my parents said to me, "Joey, look at that doctor's house over there," or "Look at that lawyer's house," or "Look at that person that started their own business. We should resent them. How dare they actually go out and make money?"

I mean I just do not understand where this idea comes from that we are somehow going to build up the middle class and working class and blue-collar Americans by tearing down those who actually get up early in the morning, like many of our blue-collar workers and working-class families do that go to work all day, that have invested their time, and their money, and their effort over 10, 20, 30 years, and built up a business and have become successful. That to me is the American dream. That is not something we should discourage. That is something we should encourage and something that we should be excited about.

But let me tell you something, and let me just say, if the previous speaker has been in Congress for the past 4 years, I will guarantee you that he made more money over the past 4 years than I made and my family made.

Now I understand what it is like to be in the working class, to barely make enough money to get by every 2 weeks, to not have enough money to put aside for health care, to not have enough money to put aside for your children's college programs. I understand what that is like, and it is extremely difficult and excruciating. But at the same time I am not going to run around and try to whip up class warfare simply for my own political purposes or agenda. It just does not make good sense.

But if you want to talk about what Americans are really angry about out there today, it is not the populism of old, it is not the populism of William Jennings Bryant when he stormed across the country almost a hundred years ago talking out against rich people, and people who dared to be successful, and corporations. Now we have a new populism, and it is a populism that helped elect me and others, and it is a populism that focuses on big government more than big business, because for an American family earning $30,000 or less, or $40,000 or less, that is having trouble getting by week after week after week, and paying those bills, and being able to afford health care, being able to afford to take their children to the doctor, or to the hospital, or to get the prescriptions filled, or to afford to put aside a few dollars for their children's education fund, it is not big business that is taking away all their money. It is big government.

And look at the historical trends. Back in the 1950's, the average family spent 4 percent of their revenue, their take-home pay, on Federal taxes, 4 percent.

□ 2100

Four percent. Today the average family spends at least, on average, 26 percent to pay taxes to the Federal Government. Now, if you add up the impact of taxes, fees, and regulations that the Federal Government throws on the average American family, they work 50 percent of their year paying off taxes, fees, and regulations placed on them by the Government. They see it every 2 weeks in their paycheck. Look and see how much the Federal Government takes out.

Yet, we still have people standing on the floor of the House of Representatives in 1996 wondering why Americans are angry with the Federal Government, wondering why a revolution that started in 1994 is going to sweep through the turn of the this century and into the 21st century, and why the American people are standing up and saying enough of big government, enough of government telling me how to spend my money, enough of government telling me how to educate my children, enough of government telling me how to protect my family, how to protect my streets.

Americans have had enough of big Government. We have failed. The Congress of the United States, over the past 40 years under liberal rule, has failed to achieve its mandate. Back in 1965 LBJ started the Great Society, the war on poverty. But it is a war not on poverty but on families, on hard work, on discipline, on personal responsibility, and a war against those very people that LBJ thought he was going to help.

All you have to do is drive through the torn-out ghettoes in South Central L.A., or in the South Bronx, or in Gary, IN, or in Philadelphia, and ask yourself a basic question: Are those people today better off than they were 30 years ago, before the Federal Government started tampering with their lives and trying to micromanage every social ill that was out there? The clear answer is no.

The Federal Government is ill-equipped. Our Founding Fathers knew that. Thomas Jefferson knew that, when he said, "The government that governs least governs best." Jefferson did not say that because he was anti-government, he said that because he was pro-freedom, and because he believed in the goodness of the American people, because he believed in the greatness of the American character, because he knew from his experience with King George III in Great Britain that the answer did not lie with a highly centralized monarchy, the answer was out in the community, was out in the country, was out on the farms with the goodness of the American people.

There was a debate earlier this evening on education. We had people that have supported the liberal view for the past 40 years, the centralization view for the past 40 years, come to the floor and say what was causing the problems in this country was simple, that we were not spending enough money on our Federal education bureaucracy; that these bureaucratic programs needed to expand, that we needed to raise taxes, send more education dollars to Washington, drain more education dollars out of the community, drain more education dollars out of schools, drain more education dollars out of teachers' paychecks, drain more education dollars out of computers, send them to Washington, DC, so Big Brother, a Federal bureaucracy, could decide what to do with those education dollars.

Mr. Speaker, some of the people that were on the floor today were condemning what we are trying to do, but what we are going to do is empower the teacher, empower the parent, empower the local school system. However, they said that we "* * * wanted to destroy public schools."

Mr. Speaker, that is very disturbing to me. Of course, I have to recognize who the source is, because these were the same people that called us Nazis for wanting to balance the budget, for trying to only spend as much money as we take in. They called us Nazis because we did not want to rob from future generations, we did not want to rob from our children or from our grandchildren. They called us Fascists because we believe that Americans deserve to be able to control their destiny more than a Federal bureaucracy in Washington does. But anyway, let us fast forward it to tonight, they said that we wanted to destroy the American public education system.

Let me tell the Members something, Mr. Speaker, I can give two good reasons why we do not want to destroy the public school system in this country, why I do not personally, two very personal reasons. One is Joey, age 8, and another is Andrew, age 5, who are my two children, my two boys who are in Pensacola, FL, this evening, and who tomorrow morning will go to public school.

I have a vested interest in education. I have a vested interest in public schools. I have a vested interest in trying to end the insanity that this Federal Government has been pursuing for the past 15, 20 years on education. It is my two boys.

Mr. Speaker, there was a study from a report called "Nation at Risk." In that study, this was the conclusion that they came to on what the Federal Government has been doing in education. It was this. They said "What has been done to America's educational system, had it been done by a foreign power, would have constituted an act of war." Yet, this bizarre bureaucratic experiment with education that started in 1979 continues, continues today unabated.

Back in 1979, when we started our Federal education bureaucracy, we were spending $14 billion on education in the Federal bureaucracy, $14 billion. Fast forward to 1996. We are now spending $36 billion, and soon it will explode to $50 billion, just on our education bureaucracy. That is taking $50 billion out of the communities, out of the educational budgets of the local school boards, out of teachers' salaries, out of school upkeep, and bringing it to the Federal education bureaucracy.

Of course, what has happened? The same thing that has happened when we tried to micromanage these other social ills: We have fallen behind. Our children have suffered, because we have people in Washington, DC, today that still believe, despite the failures over the past 30 years, that Washington has all the answers, and that Americans are either too stupid or too lazy to teach their own children without Washington's intervening.

Mr. Speaker, I am going to give the Members some basic facts to show that is not true. We have spent all this money coming up to Washington, DC, and yet, if you go through the State budgets for education departments, the average State only receives 6 percent of their money on education from Washington, DC. Yet, an Ohio study showed that they get over 55 percent of their paperwork and their bureaucratic redtape from Washington, DC, so they are not getting a return for their investment.

The money is sucked up to Washington, DC, out of the schools and the communities, and as it comes up here, what do we get for it? What do they send back out? All you have to do is look at last year's budget to find some pretty strong anecdotal evidence on what the Department of Education is doing with my money and your money. They have cut $100 million in upkeep to keep schools safe, to keep infrastructure safe, to keep ceilings from falling down on children, cut $100 million out of school upkeep budgets. Yet, last year they increased funding for their own bureaucracy's upkeep, for their own single building down the street, by $25 million. Basically, they take $100 million away from our children and their schools and their safety to make their building a little more plush, a little more inhabitable. Again, it is a classic example of how we are not even robbing Peter to pay Paul, we are robbing our children to pay off bureaucrat salaries. I think it has to stop.

Compare what has happened since 1980, when we started this colossal mistake with what is going on today. We have fallen behind on test scores with industrialized Western nations. Dropout rates have gone up, test scores continue to fall down, violence in schools continue to rise. We are spinning rapidly out of control with our educational system. All some people want to do is what we have been doing for the past 25 years on education, spend more money on a bureaucracy and less money on schools. To me, that is morally indefensible.

Mr. Speaker, I heard somebody talk also, talking about anecdotal evidence, talking about the fact that one of the programs that the Department of Education spends our money on is closed captioning. That sounds great, right, closed captioning for the hearing-impaired. But it is closed captioning for the hearing-impaired for the TV show Baywatch. I do not know what Federal education dollars are doing for closed captioning for Baywatch.

It seems to me we could spend our money better. We could spend our money in our local communities better than in Washington, DC. We could spend our money better on teachers' salaries and on improving students' living conditions than on spending it on bureaucracies in Washington, DC.

That is what this fight is about. We are trying to send power back to the communities, back to the States, back to local governments, so we can have what I called before, and what even Alice Rivlin has called, "legislative laboratories," where we allow 50 States and hundreds of communities and thousands of school boards to experiment with education and to decide how they want to educate their children, instead of having this cookie cutter approach.

Mr. Speaker, if you tell people that you want to do this, they throw up their arms and they say what would we do without a Federal education bureaucracy? What would we do without the Federal Department of Education? We would do the same thing that we did for the first 204 years in this constitutional Republic. We would keep it out of Washington, and we would empower the communities and the teachers and the parents and the students. That makes good sense.

Our Founding Fathers knew that made good sense. James Madison said:

> We have staked the entire future of the American civilization not upon the power of government, but upon the capacity of the individual to govern themselves, control themselves, and sustain themselves according to the Ten Commandments of God.

The 10th amendment to our Constitution that Madison helped draft said "All powers not specifically given to the Federal Government are reserved to the States and to the citizens."

There is nothing in our Federal Constitution, the United States Constitution, that Madison helped draft about an education bureaucracy in Washington, DC., but if we look at all 50 State Constitutions, we will see in all 50 State Constitutions mentioning of education, because that is the way our Founding Fathers and those that wrote our State Constitutions envisioned the American educational system being, an educational system that would be a bottom-up system, where teachers and parents and principals and school board members and community leaders would get together and decide how they were going to educate their children, instead of having an education bureaucracy in Washington, DC., or to go back to what our Founding Fathers looked at it as, instead of having King George III tell everybody how they were going to teach their children.

It just makes good sense. We have to empower our schools once again. We have to do that by getting it out of Washington, DC. That may be a radical concept, I suppose as radical as James Madison was considered to be radical or Thomas Jefferson was considered to be radical all those years ago when they started what continue to be the greatest living experiment in the history of government, and that is, the United States experiment.

Last year there were 72, 73 freshmen that were elected who said "Enough is enough. We are going to stop draining all the power out of the communities, stop taking it all up to Washington, DC., stop consolidating money and power and authority and prestige in Washington, and start sending it back out to the States, back out to the communities, back out to the parents, back out to the teachers."

One of those people who is here tonight is the gentleman from Pennsylvania, JON FOX. JON has been an instrumental player not only in these education issues, but in other issues on fighting to take our country back and reclaim our heritage, and return this constitutional Republic to what it was meant to be.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding to me. The gentleman has been a leader, and I would like to extend my gratitude to you on behalf of the others in the Congress for your leadership in speaking out on important issues.

Frankly, we are looking to the point that the status quo does not live here anymore; how can we make the Congress more responsive, how can we make sure that we in fact look forward to some substantive and important changes.

That is why, from my perspective, and I think as well, from yours, we need to look and make sure that the local school boards are making the decisions. Yes, we want the Federal funds for textbooks and school lunch and for transportation to go to our school districts, but we do not need national policy to tell our local school districts how to in fact make sure we are giving educational policy that our students need and our parents want. Frankly, I think the teachers want that, too. We want minimum standards, of course, but we can get maximum results by empowering local governments.

Mr. SCARBOROUGH. Mr. Speaker, I agree with the gentleman 100 percent. I have to tell him, though, if we do go through a process where we block grant some of these programs back to the States, I think the important thing is that we do empower them and allow them to make the decision, just like you said.

□ 2115

Because Pennsylvania's issues on education, on transportation, on school lunch programs are different, I can guarantee they are different from Pensacola, FL.

Mr. FOX of Pennsylvania. No question.

Mr. SCARBOROUGH. We come from different parties. I lived in upstate New York for a few years. I recognize that. Our society and our country is huge. So I do not think Bill Clinton or any President should say this is what our education agenda is going to be and we have got to stick to it.

Mr. FOX of Pennsylvania. Would the gentleman yield?

Mr. SCARBOROUGH. Sure.

Mr. FOX of Pennsylvania. On the school lunch program, what I think is exciting about the new Congress is that in the 104th Congress, in a bipartisan fashion, we have seen the school lunch and the WIC programs, how we have expanded the amount of money for those programs, and we said in a block grant, we are going to make sure it meets National Science Foundation standards for quality of the food.

Instead of spending 15 percent on administrative costs, as the Federal Government has for many, many years, we told the States and the governors who want the programs, "You can only spend 5 percent on the administrative costs. With the extra 10 percent we are giving you, you have got to feed more kids more meals."

That is a better way of doing it. Less bureaucracy, more direct services. That is what I think is the kind of reform that is positive.

Mr. SCARBOROUGH. That is right.

It is very interesting, you were talking about the school lunch program, and we saw and actually I talked about how we had been attacked as being extremist and Nazis and all these other things. Just absolutely ridiculous attacks on our character, and it showed just how desperate they were.

They even paraded little children around here in a shameless display. Everybody was wearing their ties with children on them, and all they talked, children, children, children, that is all they talked about. I have got two children. I do not need anybody to tell me that I am more or less compassionate than they are simply because they have more faith in the Federal bureaucracy than in local communities.

I think what we need to do is, while the school lunch programs went up, I think we need to reexamine if this is something that the Federal Government should in the end, in the perfect world, even be involved in. Because let us say, for instance, in my area, and we are talking about getting to the ideal situation on school lunch programs, to make sure that we feed the most disadvantaged and those students that need to be fed.

In my area, let us say that you take, and I, of course, because I am a working class type of guy, I probably do not even have a dollar so I cannot even hold it up. But let us say you take a dollar and you pay taxes coming up on April 15 in my area. Well, that dollar for school lunch programs, for instance, that dollar first goes to Atlanta, GA, to the regional IRS office, which is our regional southeastern IRS office.

That dollar that was for school lunch programs first gets channeled through the IRS office in Atlanta. Of course they have got copying machines. They have got to pay their people to work. They have got to pay rent. They have got to do all these other things, so a little bit of that dollar is gone, sort of a brokerage fee.

Then where does it go next? It comes up to Washington, DC, goes to the IRS office in Washington, DC, and the Treasury Department. They take off their little bit.

Then of course if gets funneled over to the next agency, I suppose the Department of HHS. They take off their part of the dollar, and then of course it goes to the subdivisions within the Department of HHS, and then over to the Department of Education.

Everybody got their brokerage fee on it, so that dollar that started out for school lunch programs continues to get cut up more and more. Then does it come back to the students and get put on the table in Pensacola, FL? No. Then it goes to Tallahassee, FL, and they start figuring out how they are going to cut up the money. Then it comes on over to Escambia County and they have to cut it up.

Finally, by the time that dollar that got out of my pocket on April 15 and went through this maze of bureaucracy up to Washington, DC, and back down to Tallahassee and back to Pensacola, and finally to pay to put a lunch or a breakfast on the table for that disadvantaged child, we have blown most of our money, instead of keeping the money in the community and having the communities raise the revenue and pay for the school lunch program. That is where we need to be. Not only does it make sense, not only is it constitutionally correct, but it just makes good basic sense.

Mr. FOX of Pennsylvania. Will the gentleman yield?

Mr. SCARBOROUGH. I certainly will yield.

Mr. FOX of Pennsylvania. The point is well taken. The fact is that our local communities, local officials, schools, parents, teachers, they know best what they need in their community. If it goes through all the layers the gentleman from Florida described, what happens is, as he well knows, all the pieces that are taken out is less for the child.

After all, what it is about, we want to help more children, we want to help more of our constituents get the services they need that cannot be provided by the private sector. Where the private sector can handle it best, they should. Where State government and local government can handle it best, they should.

But if it cannot be handled in the local government, then the Federal

Government has to get involved, obviously in national defense and in other areas like Medicare and Medicaid. Those things that cannot be handled in the local government, certainly of course the Federal Government needs to take care of it.

Under this new Congress, the new vision I like is we are trying to eliminate the fraud, abuse and waste in the system, and that is where the big differences are coming. For instance, if we want to save Medicare for our seniors and make sure they get all the services they need with the appropriate increases, so they are always covered for health care, there is $30 billion a year right now in fraud, abuse and waste just in Medicare, $14 billion in Medicaid.

Under the new legislation we passed, the new Health Care Fraud Act is going to make sure we go after that fraud, abuse and waste and the savings go back to health care for our people. That is the difference in the new Congress, direct services, more for the people, less waste, fraud and abuse. By going after these kinds of problems in our Government, we are going to make sure we get some real reform.

Mr. SCARBOROUGH. I go through the panhandle, hold town hall meetings all the time. As I hold town hall meetings, I hold Medicare town hall meetings, and I ask people what they think the problem is with Medicare.

I cannot tell you how many people cite waste, fraud and abuse inside the system. They will tell me that a medical provider will overcharge them and that they will call up, they will say, "You have overcharged me here. You need to correct my bill." And the provider will say, "Don't worry about it, it's not your money."

The sad fact is, it is their money. I will tell you what, if I added up all of the waste, fraud and abuse cases I heard in those town hall meetings, I think it would be enough to take care of the Federal debt.

We cannot close our eyes to the fact that there is waste, fraud and abuse in the system, and we also cannot close our eyes to the fact that this system continues to lose money. I was shocked, like I know the gentleman was, and quite frankly worried for my parents and for my 93-year-old grandmother, shocked to find out that the Clinton administration actually had knowledge that Medicare was losing money this past fall and that, unlike what the President had told us in the Medicare trustees' report back in April of 1995, that Medicare was going to go broke much faster than the 7 years they had originally told us. It was actually going to go broke a lot earlier.

That is what excites me about this problem, despite all the sound and all the fury and all the demagoguery, and I can say demagoguery. That is not coming from me. That is coming from the Washington Post. The Post accused Bill Clinton and the Democrats of shamelessly demagoguing on the issue.

Robert Samuelson, who wrote a Washington Post editorial, called the President a liar, said he lied on Medicare and said he did not like using that term, but that the President had so twisted the facts on Medicare that he really felt like there was no other term that fit him.

I guess my last example of how the media has caught on to the President, and they have already told us what they are going to do there this fall, they are going to continue this shameless parade of lies, trying to scare senior citizens, but my favorite was Nightline.

They had a program they called "Medicare." The first clip, and I am sure you know about this, JON, but the first clip they showed in the introduction of Nightline, they go, "this is Nightline." The first clip they show is Hillary Clinton testifying before Congress a few years ago, a few short years ago, to Democrats in Congress, talking about how to save Medicare. She said we must slow down the rate of growth in Medicare to twice that of inflation, twice the rate of inflation. I suggest 6.9 percent.

The next clip they showed was Speaker GINGRICH saying we must slow down the rate of growth in Medicare to twice that of inflation. I suggest 7.2 percent. So already in these first two clips in 10 seconds you see that we are actually suggesting a higher increase of growth in Medicare than the President and Hillary did in 1993, the First Lady.

Then the next clip was Bill Clinton saying, "I will not allow the Republicans to destroy Medicare," when we were doing the exact thing or even a little bit better than they were suggesting just 2 short years ago.

I cannot tell you how many senior citizens have said, "My gosh, am I going to have Medicare next year? Are you guys abolishing Medicare?" I sit there and I go through the numbers. After I go through the numbers, and I explain to my 93-year-old grandmother and to others that they are going to go from getting $4,600 this year in benefits to an average of $7,200 in benefits 7 years from now, I apologize to them. I apologize to them because of the shameless demagoguery that we have heard from this side by people who have admitted they are using this for political leverage to try to scare senior citizens, to maintain power, to try to get reelected.

Now, if that is not a signal of the end of a party, and if that does not signal intellectual dishonesty and bankruptcy of the lowest order, I do not know what does.

We are doing what we have to do, what the Washington Post recognizes we have to do, what the New Republic has recognized in a cover story that we have to do, what a lot of liberal publications even have realized that we have had to do to save Medicare for senior citizens and for those that are in the baby boom generation.

I yield to the gentleman.

Mr. FOX of Pennsylvania. The fact is the gentleman is absolutely correct. It was we Republicans who led in this Congress for several issues before we even got to Medicare. We are the ones that said we want to roll back the 1993 unfair tax on Social Security when we passed that bill in the House.

We are the ones that said that seniors under 70 should earn more than $12,800 without having deductions from their Social Security. In fact, that legislation will allow them to make up to $30,000 a year without any deductions for Social Security.

Third, we are the ones who said we read the report from the President's trustees saying that Medicare was going to run out of funds in 7 years. So we came up with a proposal, which we hope the Congress will eventually adopt and the President sign, which does several things that you outlined:

No. 1, eliminate the $30 billion in fraud, abuse and waste by going through the Attorney General's office and working with the HHS Inspector General to make sure we root out that waste; give a 10-year penalty for those who violate the law. No longer can you be a provider. And put those savings back into health care for seniors.

No. 2, make sure that the minimum education for the indirect and direct costs for interns and residents which is now part of Medicare be a separate line item, fully funded but not part of taking dollars away from seniors.

No. 3, let us reduce the cost of the paper work, 12 percent cost now in Medicare, just on paper work. I want to see that down to 2 percent, like you do, and use electronic billing, and give an extra 10 percent back for seniors for health care.

We also have a provision in there for managed care for Medicare, as well as Medisave accounts, which lets a senior determine how much money they want to spend each year on their health care and they can pocket the savings or roll it over the following year.

The fact is we are trying to be innovative and we are trying to make sure that Medicare will be there for next year, the year after, and the year after. Whatever it takes to make sure seniors have health care, we are going to do it, because we are the ones who have been leading the way to help make sure that seniors live longer, live better, live independently and really can make sure that they have the quality of life that we want for your grandmother, for my grandmother, for our and for your parents.

Mr. SCARBOROUGH. The gentleman brought up a good point, reclaiming my time for a second here. I remember back to 1993, the largest tax increase in this country, in fact in the history of mankind. I think back to that night when the vote was taken that increased taxes on Social Security up to 85 percent, where you had the Federal Government reaching in and taking more money out of senior citizen's pockets.

I think back to that night. I think back to how they lowered the earnings limit that you talked about from $34,000 to $14,000 and basically told our senior citizens, "Do not dare to be productive, my friends, because if you do, we are going to take your money away from you."

☐ 2130

You know, I think back to that night when they raised taxes, estate taxes. I think back to that night when they raised taxes that affected seniors' incomes a million different other ways. And, you know, the thing that is striking is that night it was this side of the aisle, the Republican side of the aisle, that unanimously voted for the rights of senior citizens. Not one single Republican cast a vote to raise taxes on senior citizens and their social security benefits. Not one single Republican cast a vote under Bill Clinton's tax plan to lower the earnings limit, to punish seniors for being productive. Not one single Republican signed off on the largest tax increase in the history of this country.

It was an initiative that was rammed through the House, through the Committee on Ways and Means, by liberal Democrats, signed on by President Bill Clinton, the same man who had promised a middle-class tax cut only a few months earlier when he was campaigning for President.

Yet these people, a lot of these people, have the nerve to actually stand up now and act as though they are the protectors of senior citizens, when, in fact, when they were in power, they were the ones that were taxing senior citizens, making it harder for them to get by from Social Security check to Social Security check and who are now pretending to be friends of senior citizens. All they are doing is fiddling while Rome burns.

They know the system is going bankrupt. The Medicare trustees told them the system is going bankrupt. The headlines this past month have shown it is going bankrupt even faster than we were led to believe by the President and by the liberal Democrats. And yet it is like they are a doctor that opens up a patient, sees cancer in that patient, and instead of operating, closes the patient back up, pats them on the head and says, "Go in peace. You are fine."

We cannot turn a blind eye to the waste, fraud and abuse that is in the system. We cannot turn a blind eye to the fact that the system is going bankrupt. We have got to protect it and preserve it and make it stronger, and I ask you who cares for senior citizens more: those that actually dare to make a difference and save Medicare or those who want to be elected this coming November and that is all they care about? So they are willing to just sort of let it go on for another 6 months or a year or 2 years until we wake up one morning and Medicare is gone.

Mr. FOX of Pennsylvania. I will be glad to answer your question, if you will yield. The fact is the Republican majority has led the way to protect seniors, not only having in that legislation all the things we discussed previously, but also a clause to return in case there has to be a further increase if we have not been able to save as much as we hoped to through the fraud, abuse and waste.

We will not let seniors go without the proper Medicare and senior health care services they deserve and need, but we are not going to tolerate a system that will lose money and have the waste go out the door when the services those dollars could have brought the seniors should go to our people. We are going to be vigilant that way.

What is also important is to note, and the people, our colleagues should also know, Social Security is off the table. That is not part of our budget. We are not going to let that be touched by anybody, not anybody anyhow.

The fact is Social Security deserves to have funds brought back to it prior Congress borrowed from the Social Security. The Social Security trust fund is owed about $358 billion. Hopefully, through things like the line item veto, other savings we are going to have reducing agencies, the sunset review legislation I have, other ways to reduce the cost of programs that have outlived usefulness, we can restore those funds to the Social Security fund, the Social Security trust fund.

The Social Security trust fund is solvent, doing well. We want to make sure it is going to be solvent for many years to come. Many on the other side of the aisle try to take things from it to balance the budget for seniors and those who have given their whole life to train us, to give us the right to be here. We have to protect them.

Mr. SCARBOROUGH. I agree. Exactly.

I want to try to bring this together, in closing, and just say this, that we have been talking about Medicare, we have been talking about education, but you know, the Democrats, some of the leadership, some of the liberals have tried to say, tried to tie some things together for a campaign slogan. And I guess it sounds great as a campaign slogan. Unfortunately, it is just not true.

What have they said time and time again, the Republicans are cutting taxes for the rich to pay for Medicare and have said that we are actually cutting Medicare to pay for tax cuts for the rich. And we cannot talk about Medicare until—

Mr. FOX of Pennsylvania. First of all, nothing could be further from the truth.

Mr. SCARBOROUGH. Exactly. Exactly. We cannot end this discussion on Medicare without discussing these tax cuts, I think, just to totally blow it out of the water, because nothing could be further from the truth. Not only are we strengthening and preserving Medicare, not only are we allowing Medicare to grow at a rate that is sustainable, not only are we going to be giving senior citizens more options than they have ever had and going to be allowing the Medicare benefits to continue to increase, and that shows that we are telling the truth on Medicare.

On the tax cuts for the rich, you and I both know those are not tax cuts for the rich. You take the $500 per child tax credit, let me tell you something, that is a tax credit to help the struggling middle-class family that is having trouble getting by from paycheck to paycheck.

And here is an interesting fact for you on it: They call it tax cut for the rich; the fact is 89 percent of those tax cuts, 89 percent of that tax relief goes to working families earning less than $75,000. So what does that tell us? It tells us one or two things about the liberals calling them tax cuts for the rich. It tells us that, first of all, either they are not telling the truth on tax cuts either, on tax relief for working-class Americans, it tells us that. Or the second thing it tells us is that they truly believe that a working-class family of four earning $35,000, $40,000, is rich in their book.

Now, whether they are lying about it or whether they truly believe that working-class Americans making $40,000, a family of four is now rich in America, either way, I do not think they are fit to govern this country anymore.

I think it is a sad commentary when people would actually stand up and say those are tax cuts for the rich and try to scare senior citizens. This is about empowering senior citizens if we are talking about Medicare. It is about empowering working class Americans if we are talking about working-class family tax relief. And it is about empowering parents, teachers, principals, and school boards if we talk about educating our children in the classroom and not in a bureaucracy in Washington, DC. And that is what this whole, they have called it, a revolution, we have barely taken the first step.

That is what this whole movement is about, getting power out of Washington, DC, and once again relying on the goodness of the American people and the greatness of the American civilization, which I believe today truly is the last great hope.

Mr. FOX of Pennsylvania. I agree with you. You are absolutely right. The fact is that when it comes to the tax reform, it is going to help most Americans. And we have done it after we have already taken the spending cuts, $190 billion, deficit reduction of $90 billion. It is only when we start looking to the tax reform to help us create jobs, over 300,000 a year, to help encourage savings to help encourage investment, and that is what America is all about. If we can create more jobs, not Government jobs per se, but real private sector jobs, we will have more people paying taxes and more, a more stable tax structure for everybody. Everybody can pay less toward the Government and get more in their pocket so they can help this economy drive forward.

We have the elder care tax credit, the new IRA's are part of that program. We have the new adoption tax credit. All of those tax reform packages will help seniors, help working families, will help children.

So, frankly, when you talk about it here in this Congress, we have had bipartisan support for that program, but the President unfortunately vetoed the bill, and I am hopeful the next time when welfare reform comes before the President, tax reform comes before the President, and a balanced budget, we can make a difference, because with that balanced budget we are going to reduce the costs for working families, college education interest expense, car expense, and on the mortgage expense. And that is basic to the country. And by doing that, we are going to have a stronger country. The last time we balanced the budget was 1969.

Mr. SCARBOROUGH. That is right. For the first time in a generation, this Congress actually dared to say enough is enough, we are going to balance the budget, we are going to only spend as much money as we take in.

A lot of people do not realize how much $5 trillion is. I heard somebody on this floor say one time, in explaining how much $5 trillion debt is, if you earned a million dollars every day from the day Jesus was born, Jesus Christ was born, to today, you would not make enough money, making a million dollars a day, you would not make enough money to pay off that debt. And yet we still have people telling us we do not have to do it in 7 years.

Mr. FOX of Pennsylvania. What is interesting is we can still balance the budget and still have the safety net for those who are in need. This is a compassionate country, and this Congress does care but it does not mean we need to spend money on every program. Frankly, we have a private sector doing a great job, whether Habitat for Humanity, community service block grant where we take existing Federal funds and raise three times as much in the private sector to serve the community, we can do it all. We do not have to bankrupt the country or the next generation in doing that.

Mr. SCARBOROUGH. I will tell you what we have done in Pensacola, FL. What we have started up, we started a community service network. I got together 3 or 4 months ago with community leaders. One is a doctor, Reed Bell, who has just been instrumental. He has cared. He is a pediatrician. He has done great work in the community for years, caring for disadvantaged children, caring for those in need. I talked to Dr. Bell, and he had come up with an idea, a private sector welfare reform, where when people come off of welfare, we create a community service network of all of these different community service organizations that would work together, that would draw in churches and synagogues, and get these people when they come off of welfare and help them get on their feet and do everything they can to empower those people without going back on the welfare rolls a month or two later.

You know, at the time I came up with the idea, Dr. Bell had already come up with the idea, had been doing it for some time before me. I thought, hey, I have got a great idea. He had already been thinking about it, and we got together, and, with Dr. Bell's leadership, we have launched this community service network. And it is going to make a big difference. But that is something that is spreading throughout this country.

I saw on the front page of the New York Times a few Sundays ago that there has been an explosive growth of these groups, that people are no longer waiting for the Federal Government to come in and help them out. Communities are now sort of digging in and doing their part and saying, "Forget the Federal Government, we have got this American can-do spirit. We are going to do it ourselves." That is what we are doing in Pensacola. That is what Dr. Bell is doing. That is what the New York Times is talking about.

Again, this is not a political revolution that is sweeping the country. It is a revolution of thought, again, that Americans are once again reclaiming their country and saying we are not going to just depend on the Federal Government for everything.

Mr. FOX of Pennsylvania. I will say, in summation, the spirit of voluntarism also is alive and well in Montgomery County, PA, where we have hundreds of organizations working to help with shelters for the homeless, food cupboards, you name it, health care. They are involved. But with our welfare reform legislation, in the Congress, I think that is also very sensitive. We are going to have a safety net for those in need, when they are taking care of children at home, those who are able-bodied, in 5 years we are looking to help them get a job, job counseling, job placement, day care, if they need it. We want to make sure it is those who are able-bodied get in the world of work if that is what they are able to do and we can train them for it.

Mr. SCARBOROUGH. Of course, that debate will continue. I personally think our welfare bill that ended the Federal Government's oppressive mandates on States for the first time in 62 years is a great bill. Obviously, 88 Senators out of 100 Republican and Democrat alike thought it was a great idea.

The President unfortunately vetoed that bill. Obviously, the 50 Governors, when they came to town, all 50 endorsed our welfare reform bill, thought we had a pretty good idea. Again they thought we had a good idea, because it keeps going back to the ideals of Jefferson and Madison and our Founding Fathers that we are in the end a Nation of communities and not a Nation of bureaucracies.

We have got to rely on the goodness of Americans as we go into the 21st century, because we have seen the Federal Government only goes so far.

Mr. FOX of Pennsylvania. I want to thank you for taking this hour so we have a chance to discuss some of the basic achievements we have had in the 104th Congress, so we can continue the enthusiasm to make sure we continue our reform goals. I thank you for your leadership.

Mr. SCARBOROUGH. I thank you for your leadership.

□ 2144

PROPOSED RESCISSIONS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. CHRYSLER) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report five proposed rescissions of budgetary resources, totaling $50 million. These rescission proposals affect the Department of Defense.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 13, 1996.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MYERS of Indiana (at the request of Mr. ARMEY) for today from 5 p.m., on account of medical reasons.

Mr. SISISKY (at the request of Mr. GEPHARDT) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. FATTAH, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Members (at the request of Mr. MCCOLLUM) to revise and extend their remarks and include extraneous material:)

Mr. SHADEGG, for 5 minutes, today.

Mrs. SEASTRAND, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. HAMILTON.
Ms. LOFGREN.
Mrs. THURMAN.
Mr. MARTINEZ.
Ms. DELAURO in two instances.
Mr. HINCHEY.
Mr. VENTO.
Mr. SCHUMER.
Mr. BENTSEN.

(The following Members (at the request of Mr. MCCOLLUM) and to include extraneous matter:)

Mr. QUINN.
Mr. GOODLING.
Mr. GILMAN.
Mr. RAMSTAD.
Mr. KOLBE.
Mr. BUNNING.
Mr. POMBO.
Mr. CASTLE.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. DAVIS.
Mr. CHRISTENSEN.
Mr. HINCHEY.
Mr. MARTINEZ.
Ms. DELAURO.
Mr. VENTO.
Mr. SCHUMER.
Mr. BENTSEN.
Mr. MANTON.
Mr. HORN in two instances.

ADJOURNMENT

Mr. SCARBOROUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Thursday, March 14, 1996, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized by various committees of the U.S. House of Representatives during the fourth quarter of 1995 in connection with official foreign travel, as well as an amendment to the fourth quarter report of foreign travel authorized by the Speaker, U.S. House of Representatives, pursuant to Public Law 95–384, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995

Name of Member or Employee	Date		Country	Per Diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Thomas Foglietta	11/24	11/26	Haiti		384.00						384.00
Commercial airfare							1,196.95				1,196.95
Hon. John Murtha	10/8	10/9	Italy		100.00						100.00
	10/9	10/10	Bosnia		100.00						100.00
							[3]5,658.00				5,658.00
Hon. John Murtha	12/9	12/9	Haiti				[3]998.00				998.00
John Blazey	11/8	11/13	Japan		2,000.00				722.82		2,722.82
Commercial airfare							4,464.38				4,464.38
Gregory Dahlberg	10/8	10/9	Italy		100.00						100.00
	10/9	10/10	Bosnia		100.00						100.00
							[3]5,658.00				5,658.00
James W. Dyer	10/8	10/9	Italy		100.00						100.00
	10/9	10/10	Bosnia		100.00						100.00
							[3]5,658.00				5,658.00
James W. Dyer	12/9	12/9	Haiti				[3]998.00				998.00
Gregory Dahlberg	12/9	12/9	Haiti				[3]998.00				998.00
Stephanie Gupta	11/8	11/13	Japan		2,000.00				722.82		2,722.82
Commercial airfare							4,464.38				4,464.38
Richard Efford	12/9	12/11	England		592.00						592.00
	12/12	12/14	Belgium		660.00						660.00
	12/14	12/15	Switzerland		304.00						304.00
Commercial air							4.412.45				4,412.45
John Plashal	10/8	10/9	Italy		100.00						100.00
	10/9	10/10	Bosnia		100.00						100.00
							[3]5,568.00				5,568.00
John Plashal	12/9	12/9	Haiti				[3]998.00				998.00
John Shank	12/20	12/22	Belgium		660.00						660.00
Commercial airfare/ground							3,203.15				3,203.15
Committee total					7,400.00		44,275.31		1,445.64		53,120.95
Survey and investigations staff:											
Alfred L. Espostio	11/25	11/29	Germany		758.00		4,408.49		396.08		5,562.57
	11/29	12/2	The Netherlands		627.00						627.00
	12/2	12/5	England		812.00						812.00
Joseph R. Fogarty	11/5	11/9	Italy		622.25		3,528.27		79.52		4,230.04
Michael O. Glynn	11/27	12/1	Japan		1,492.00		4,260.95		236.72		5,989.67
	12/1	12/7	Korea		1,481.00				234.33		1,715.33
Rahul Gupta	11/27	12/1	Japan		1,492.00		4,260.95		113.22		5,866.17
	12/1	12/7	Korea		1,481.00						1,481.00
Terrence E. Hobbs	11/5	11/9	Italy		622.25		3,528.27		103.77		4,254.29
Robert W. Lautrup	11/25	11/29	Germany		758.00		4,408.49		376.32		5,542.81
	11/29	12/2	The Netherlands		627.00						627.00
	12/2	12/5	England		812.00						812.00
L. Michael Welsh	11/27	12/1	Japan		1,492.00		4,260.95		114.96		5,867.91
	12/1	12/6	Korea		1,214.00						1,214.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995—Continued

Name of Member or Employee	Date		Country	Per Diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Committee total					14,290.50		28,656.37		1,654.92		44,601.79

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation; cost shown is comparable first-class commercial rate.

BOB LIVINGSTON,
Chairman, Jan. 30, 1996.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Debi Bodlander	12/26	12/31	Jordan		1,175.00						1,175.00
Commercial airfare							4,613.55				4,613.55
Scott Feeney	12/16	12/18	Haiti		266.50						266.50
Commercial airfare							648.95				648.95
Victor O. Frazer	12/13	12/18	Russia		1,700.00						1,700.00
Commercial airfare							3,424.95				3,424.95
Richard Garon	10/13	10/17	Bosnia		[3]580.00						580.00
Commercial airfare							3,416.55				3,416.55
John Herzberg	10/13	10/17	Bosnia		700.00						700.00
Commercial airfare							3,416.55				3,416.55
Mark Kirk	10/13	10/17	Bosnia		[3]580.00						580.00
Commercial airfare							3,416.55				3,416.55
John Mackey	11/29	11/30	Ireland		145.00						145.00
Lester Munson	11/19	11/20	Morocco		331.00						331.00
Commercial airfare							3,676.95				3,676.95
Roger Noriega	12/16	12/18	Haiti		266.50						266.50
Commercial airfare							648.95				648.95
Daniel Restrepo	12/18	12/18	Haiti		266.50						266.50
Commercial airfare							648.95				648.95
Marty Sletzinger	10/13	10/17	Bosnia		700.00						700.00
Commercial airfare							3,416.55				3,416.55
Scott Wilson	12/16	12/18	Haiti		266.50						266.50
Commercial airfare							648.95				648.95
Committee total					6,977.00	6,977.00		27,977.45			34,954.45

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refund of unused per diem.

BENJAMIN A. GILMAN,
Chairman, Jan. 31, 1996.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Ed Bryant	12/28	12/29	Haiti		136.50		(3)				136.50
Committee total					136.50						136.50

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

HENRY J. HYDE,
Chairman, Feb. 29, 1996.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Bill Richardson	12/9	12/11	Africa		900.00						900.00
Commercial airfare							7,166.95				7,166.95
Calvin Humphrey	12/9	12/11	Africa		900.00						900.00
Commercial airfare							7,166.95				7,166.95
Louis Dupart	11/13	11/18	Middle East		701.75						701.75
Commercial airfare							5,407.35				5,407.35
Committee total					2,501.75		19,741.25				22,243.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LARRY COMBEST,
Chairman, Jan. 26, 1996.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky		9/30	United States				3,077.55				3,077.55
	10/1	10/7	Poland		1,368.00						1,368.00
		12/11	United States				3,424.95				3,424.95
	12/12	12/19	Russia		2,000.00						2,000.00
John Finerty		10/5	United States				2,881.95				2,881.95
	10/6	10/14	Poland		1,586.00						1,586.00
		12/11	United States				3,486.95				3,486.95
	12/12	12/18	Russia		1,728.00						1,728.00
	12/18	12/19	Denmark		209.00						209.00
Chadwick Gore		9/30	United States				3,082.15				3,082.15
	10/1	10/12	Poland		2,508.00						2,508.00
Robert Hand		10/24	United States				1,517.55				1,517.55
	10/25	10/31	Croatia		1,620.00		128.00		690.00		2,438.00
Janice Helwig	10/1	10/10	Austria		1,707.39		905.00				2,612.39
	10/10	10/18	Poland		1,824.00		41.95				1,865.95
	10/18	10/27	Austria		2,086.81		572.00				2,658.81
	10/27	10/30	Croatia		463.05		25.24				488.29
	10/30	12/6	Austria		7,019.27		458.15				7,477.42
	12/6	12/9	Hungary		486.00		22.77				508.77
	12/9	12/13	Austria		758.84		1,860.00				2,618.84
	12/13	12/19	Russia		1,728.00		110.00				1,838.00
	12/19	12/21	Austria		379.42						379.42
									[3] 533.76		533.76
Marlene Kaufmann		11/4	United States				4,098.75				4,098.75
	11/5	11/12	Romania		1,981.00						1,981.00
	11/12	11/14	Switzerland		508.00						508.00
	11/14	11/18	Bulgaria		788.00						788.00
Richard Livingston		10/5	United States				3,160.55				3,160.55
	10/6	10/18	Poland		2,498.00						2,498.00
	10/18	10/22	Austria		752.00						752.00
Michael Ochs		9/9	United States				6,451.45				6,451.45
	9/10	9/14	Poland		912.00						912.00
	9/14	9/15	Turkey		212.00		50.00				262.00
	9/15	12/3	Azerbaijan		8,785.00		100.00				8,885.00
	12/3	12/6	Georgia		639.00		87.00				726.00
	12/6	12/7	Azerbaijan		107.00						107.00
	12/7	12/13	Turkmenistan		1,242.00		100.00				1,342.00
	12/13	12/19	Russia		1,728.00						1,728.00
Erika Schlager		10/1	United States				3,133.85				3,133.85
	10/2	10/6	Poland		912.00						912.00
	10/6	10/8	Czech Republic		438.00						438.00
	10/8	10/14	Poland		1,192.00		40.55		256.52		1,489.07
Samuel Wise		9/30	United States				2,288.15				2,288.15
	10/1	10/6	Poland		1,368.00						1,368.00
		10/10	United States				2,620.95				2,620.95
	10/11	10/19	Poland		1,824.00		17.00				1,841.00
	10/19	10/22	Switzerland		723.00		16.00				739.00
	10/22	10/25	Austria		564.00						564.00
	10/25	10/28	Czech Republic		657.00		10.00				667.00
		12/5	United States				3,176.95				3,176.95
	12/6	12/9	Hungary		636.00						636.00
Committee total					55,937.78		46,945.41		1,480.28		104,363.47

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Shared administrative conference costs.

CHRIS SMITH, Jan. 30, 1996.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, UNITED STATES-RUSSIA JOINT COMMISSION ON POW/MIA AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN NOV. 6 AND NOV. 11, 1995

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Pete Wilson	11/6	11/7	Germany		297.00						297.00
	11/7	11/8	Kyrgyzstan		171.00		(3)		[4] 21.00		192.00
	11/8	11/10	Turkmenistan		514.00		(3)				514.00
	11/10	11/11	Germany		297.00						297.00
Commercial airfare							3,270.65				3,270.65
Suzanne Farmer	11/6	11/7	Germany		297.00		546.65				843.65
	11/7	11/8	Kyrgyzstan		171.00		(3)		[4] 21.00		297.00
	11/8	11/10	Turkmenistan		514.00		(3)				514.00
	11/10	11/11	Germany		297.00						297.00
Committee total					2,558.00		3,817.30		42.00		6,417.30

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Meals on military air transporatation.

PETE PETERSON, Jan. 28, 1996.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2240. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-221, "Prison Industrial Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2241. A letter from the Chairman, African Development Foundation, transmitting the 1995 annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to Public Law 100-504, section 104(a) (102 Stat. 2525); to the Committee on Government Reform and Oversight.

2242. A letter from the Chairman, Consumer Product Safety Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2243. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2244. A letter from the General Counsel, Office of National Drug Control Policy, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2245. A letter from the Director, Office of Personnel Management, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2246. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

2247. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting a copy of the final rulemaking governing bidding for OCS natural gas and oil leases, pursuant to 43 U.S.C. 1337(a)(4); to the Committee on Resources.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRANE (for himself, Mr. Shaw, and Mr. Rangel):

H.R. 3074. A bill to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 3075. A bill authorizing participation by the United States in the North American Free-Trade Agreement Coordinating Secretariat; to the Committee on Ways and Means.

By Mr. SMITH of Texas (for himself, Mr. Kasich, Mr. Miller of Florida, Mr. Largent, Mr. Bass, Mrs. Myrick, Ms. Molinari, Mr. Hoke, Mr. Herger, Mr. Radanovich, Mr. Kolbe, Mr. Brownback, Mr. Shays, Mr. Inglis of South Carolina, Mr. Allard, Mr. Lazio of New York, Mr. Smith of Michigan, and Mr. Condit):

H.R. 3076. A bill to amend the Congressional Budget Act of 1974 and chapter 11 of title 31, United States Code, to require that reports accompanying concurrent resolutions on the budget include analyses, prepared after consultation with the Congressional Budget Office, of generational accounting information and that Presidents' annual budget submissions include generational accounting information; to the Committee on the Budget, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself and Mrs. Johnson of Connecticut):

H.R. 3077. A bill to establish a Commission on Retirement Income Policy; to the Committee on Economic and Educational Opportunities.

By Mr. CLINGER (for himself, Mr. Tauzin, Mr. Gilman, Mr. Shuster, Mr. Young of Alaska, Mr. Goodling, Mr. Livingston, Mr. Stump, Mr. Hansen, Mr. Roberts, Mr. Wolf, Mr. Burton of Indiana, Mrs. Vucanovich, Mr. Barton of Texas, Mr. Myers of Indiana, Mr. Bunning of Kentucky, Mr. Hastert, Mr. Hefley, Mr. Shays, Mr. Smith of Texas, Mr. Parker, Mr. Cunningham, Mr. Ewing, Mr. Zeliff, Mr. Bachus, Mr. Calvert, Mr. Hoekstra, Mr. Horn, Mr. Hutchinson, Mr. Lazio of New York, Mr. Mica, Mr. Smith of Michigan, Mr. Talent, Mr. Bass, Mr. Cooley, Mr. Davis, Mr. Ehrlich, Mr. Fox, Mr. Gutknecht, Mr. Hayworth, Mr. Hostettler, Mr. LaTourette, Mr. McIntosh, Mr. Scarborough, Mr. Shadegg, Mrs. Seastrand, Mr. Souder, Mr. Stockman, Mr. Tiahrt, Mr. Hobson, Mr. Bliley, and Mr. Nethercutt):

H.R. 3078. A bill to amend title 31, United States Code, to prohibit the use of appropriated funds by Federal agencies for lobbying activities; to the Committee on Government Reform and Oversight.

By Mr. COBURN (for himself and Mr. Brown of Ohio):

H.R. 3079. A bill to amend title XVIII of the Social Security Act to assure access to services under the Medicare Health Maintenance Organization Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING:

H.R. 3080. A bill to amend title 18, United States Code, to impose stiffer penalties on persons convicted of lesser drug offenses; to the Committee on the Judiciary.

By Mr. RICHARDSON:

H.R. 3081. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; to the Committee on Commerce.

By Mr. LIVINGSTON:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. MARKEY (for himself, Mr. Solomon, Mr. Kasich, Mr. Frank of Massachusetts, and Mr. Scarborough):

H. Res. 381. Resolution expressing the sense of the House of Representatives regarding sanctions on nations that assist in the development of nuclear weapon programs of non-nuclear weapon states; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

206. By the SPEAKER: Memorial of the Senate of the State of Washington, relative to requesting that a public and a private sector representative of the Pacific Northwest Economic Region be appointed to the National Tourism Board and the National Tourism Organization respectively; to the Committee on Commerce.

207. Also, memorial of the Senate of the State of Washington, relative to the Senate of the State of Washington opposing any proposal that would levy a fee on any individuals crossing the borders of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CASTLE introduced a bill (H.R. 3082) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Magic Moments;* which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Hastings of Washington and Mr. Hunter.

H.R. 103: Mr. Luther and Mr. Doyle.

H.R. 294: Mr. Frank of Massachusetts, Mr. Thompson, Mr. Faleomavaega, and Mr. Durbin.

H.R. 303: Mr. Hastings of Washington and Mr. Hunter.

H.R. 491: Mr. McInnis.

H.R. 559: Mr. Sanders.

H.R. 620: Mr. Hastings of Florida, Ms. McKinney, Mr. Yates, and Mr. Frazier.

H.R. 852: Ms. Rivers.

H.R. 1000: Mr. Ward.

H.R. 1023: Mr. Rangel and Mr. Stark.

H.R. 1073: Mr. Johnson of South Dakota, Ms. Waters, Mr. Neal of Massachusetts, Mr. Meehan, Mr. Kennedy of Rhode Island, Mr. Rangel, Mr. Wise, Mr. Jefferson, Mr. Mollohan, Mr. Kleczka, and Mr. Scarborough.

H.R. 1074: Mr. Johnson of South Dakota, Ms. Waters, Mr. Neal of Massachusetts, Mr. Meehan, Mr. Kennedy of Rhode Island, Mr. Rangel, Mr. Wise, Mr. Jefferson, Mr. Mollohan, Mr. Kleczka, and Mr. Scarborough.

H.R. 1352: Mr. Cremeans and Mr. Walsh.

H.R. 1386: Mr. McKeon.

H.R. 1591: Mr. Borski.

H.R. 1610: Mr. Roberts.

H.R. 1627: Mr. Graham and Mr. Kolbe.

H.R. 1684: Mr. Shuster, Mr. Burton of Indiana, Mr. Cardin, Mr. Frank of Massachusetts, Mr. Wamp, Mr. Matsui, Mr. Frazer, and Mr. Hutchinson.

H.R. 1776: Mr. Bereuter, Mr. Gilman, Mr. Hyde, Mr. Franks of New Jersey, Mr. Canady, Mr. Traficant, Mr. LaHood, Mr. Dornan, Mr. Thomas, Mr. Saxton, Mr. Cox, Mr. Schaefer, Mr. Pombo, Mr. Hancock, Mr. Schiff, and Mr. Gunderson.

H.R. 1946: Mr. Ewing and Mr. Skeen.

H.R. 1998: Mr. Gene Green of Texas, Mr. Hastings of Washington, and Mr. Cooley.

H.R. 2019: Mr. Burr.

H.R. 2182: Mr. Horn.

H.R. 2200: Mr. Shuster, Mr. Schaefer, and Mr. Clinger.

H.R. 2270: Mr. Norwood.

H.R. 2320: Mr. Greenwood, Mr. Ehlers, Mr. Allard, Mrs. Roukema, Mr. Upton, Mr.

WELLER, Mr. BAKER of Louisiana, Mrs. KELLY, Ms. PRYCE, Mr. ENSIGN, and Mr. MINGE.

H.R. 2333: Mr. CALVERT and Mr. BENTSEN.

H.R. 2416: Mrs. ROUKEMA.

H.R. 2458: Mr. COOLEY, Mr. DEFAZIO, Ms. PELOSI, and Mr. LINDER.

H.R. 2500: Mr. PAXON.

H.R. 2548: Mr. ENGLISH of Pennsylvania, Ms. NORTON, and Mr. BAKER of Louisiana.

H.R. 2723: Ms. PRYCE.

H.R. 2757: Ms. RIVERS.

H.R. 2881: Mr. CLINGER and Mr. MINGE.

H.R. 2909: Mr. ZELIFF.

H.R. 2919: Mr. FRELINGHUYSEN.

H.R. 2925: Mr. BALLENGER, Mr. CUNNINGHAM, Mr. UPTON, Mr. PARKER, Mr. ZELIFF, Mr. HOBSON, and Mr. WALSH.

H.R. 2932: Mr. GANSKE.

H.R. 3002: Mr. CRANE and Mrs. ROUKEMA.

H.R. 3003: Mr. PALLONE, Mr. TOWNS, Mr. KENNEDY of Massachusetts, Mrs. CLAYTON, Ms. WATERS, Mr. TORRES, and Mr. GUTIERREZ.

H.R. 3065: Mr. WELDON of Florida and Mr. NORWOOD.

H.J. Res. 127: Mr. MCKEON and Mr. ROYCE.

H. Con. Res. 10: Mr. BONO.

H. Con. Res. 51: Mr. YOUNG of Florida, Ms. SLAUGHTER, and Mr. BERMAN.

H. Con. Res. 103: Mr. HOKE and Mrs. KELLY.

H. Con. Res. 120: Mr. BAKER of Louisiana.

H. Con. Res. 127: Mr. JACOBS and Mr. HOKE.

H. Con. Res. 136: Ms. SLAUGHTER, Mr. PORTER, Mr. TORRICELLI, Mr. FRAZER, Mr. BERMAN, Mr. TORRES, Ms. ROYBAL-ALLARD, and Mr. WOLF.

H. Con. Res. 139: Mr. RAMSTAD.

H. Con. Res. 140: Mr. RUSH.

H. Con. Res. 145: Mr. HOKE.

H. Con. Res. 148: Mr. COBLE, Mr. WELDON of Pennsylvania, Mr. WICKER, and Mr. HUNTER.

H. Con. Res. 151: Mr. CLAY, Mr. WATT of North Carolina, and Ms. BROWN of Florida.

H. Res. 360: Mr. PASTOR, Mr. HINCHEY, and Mr. BRYANT of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 359: Mr. LONGLEY.

H.R. 1591: Mr. FROST.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2202

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 3: At the end of subtitle A of title I insert the following new section:

SEC. 108. REPORT.

The Attorney General, in consultation with the Secretary of State and the Secretary of Defense, shall contract with the Comptroller General to track, monitor, and evaluate the Administration's border strategy to deter illegal entry, more commonly referred to as prevention through deterrence. To determine the efficacy of the Administration's strategy and related efforts, the Comptroller General shall submit to Congress a report of its findings within one year after the date of the enactment of this Act and, for every year thereafter, up to and including fiscal year 2000. Such a report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry. Such a report shall also include recommendations to improve and increase border security at both the border and ports-of-entry.

SENATE—*Wednesday, March 13, 1996*

The Senate met at 9:15 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, Your power is given in direct proportion to the pressures and perplexities we face. This gives us great courage and confidence. You give more strength as the burdens increase; You entrust us with more wisdom as the problems test our endurance. You never leave or forsake us. Your love has no end and Your patience no breaking point.

Today, we affirm what You have taught us: You have called us to supernatural leadership empowered by Your spiritual gifts of wisdom, knowledge, discernment, and vision. You press us beyond our dependence on erudition and experience alone. Thank You for challenges that help us recover our humility and opportunities that force us to the knees of our hearts.

Bless the women and men of this Senate. You have given them the awesome responsibility of being attentive to You and obedient in following Your guidance for our beloved Nation. Give them that sure sense of Your presence and the sublime satisfaction of knowing and doing Your will. Replenish their strength, renew their hope, and refresh them with Your grace. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Missouri is recognized.

SCHEDULE

Mr. BOND. Mr. President, on behalf of the majority leader I would like to announce that today there will be a period for morning business until the hour of 9:30 a.m., with Senators permitted to speak for up to 5 minutes each with the following exception: Senator BOND for up to 10 minutes.

At 9:30, the Senate will resume consideration of the continuing appropriations bill. At that time there will be 30 minutes of debate between Senators HUTCHISON and REID regarding the pending endangered species amendments. Following that debate, those amendments will be set aside and Senator DOLE will be recognized to offer an amendment.

Under a previous order, at 1 p.m. the Senate will begin 1 hour of debate on the motion to proceed to the Whitewater Committee resolution with a cloture vote beginning at 2 p.m. Following that cloture vote, there will be a vote on the motion to table the Hutchison amendment to the continuing resolution. Senators should be reminded of those votes beginning at 2 p.m., and Senators should be aware that a late night session is possible in order to complete action on that measure.

It is also hoped that the Senate may still reach an agreement with respect to the small business regulatory relief bill.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until the hour of 9:30 a.m., with Senators permitted to speak up to 5 minutes with the following exception: Senator BOND is recognized to speak for up to 10 minutes.

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 1610 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. Mr. President, I yield the floor.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOOD MARKETING POLICY INSTITUTE'S MISDIRECTED PRIORITIES

Mr. GRAMS. Mr. President, yesterday a mock hearing for the press was hosted by Congressmen SCHUMER and GEJDENSON, along with Prof. Ronald Cotteril, director of the Food Marketing Policy Institute at the University of Connecticut. The topic was price collusion in the cereal market, a charge which has not been proved over the past 20 years.

After review of all of the evidence which refutes the collusion theory, I find it difficult to understand why the three continue this curious drama.

I would like to present to my colleagues some history on this issue, which began with the dismissal of an antitrust complaint by the Federal Trade Commission after 10 years of tedious and costly examination of the industry by the FTC.

Last year Federal Judge Kimba Wood, former nominee for Attorney General during the Clinton administration, rejected an antitrust suit brought by the State of New York to prevent the Post Co. from buying Nabisco Shredded Wheat.

Judge Wood indicated at the time that the cereal industry was "highly competitive." She indicated that there was no collusion, and no one company was able to control prices in any market segment. She characterized the testimony of the State's star witness, Professor Cotteril, one of the hosts of today's mock hearing, as "unreliable," "flawed," and "erroneous."

Last year Congressman SCHUMER and GEJDENSON asked the Justice Department to initiate a criminal investigation into cereal prices. Justice declined the case, based on Judge Wood's decision.

Judge Wood has also noted in her decision that cereal prices rose only 6.6 percent between 1989 and 1993, while food prices rose 12.8 percent and the cost-of-living index rose 16.5 percent. Widespread use of coupons lowers the average retail price by 30 percent. Further, Judge Wood found that industry concentration declined about 27 percent between 1970 and 1994 and that store brand cereals' market share rose to 9 percent in 1993 from 4.8 percent in 1988. This trend is expected to double in the next 3 to 4 years, surpassing the market share of three of the five manufacturers.

Judge Wood also noted little brand loyalty among consumers. She also indicated that retailers may have had more to do with increasing prices. In 1994, one producer reduced its prices 40 percent, yet less than two-thirds of this price cut was passed on to consumers.

Anyone who has been in a grocery store recently knows that the range of options and prices is nearly overwhelming. Imports are adding new competition. Cereal manufacturers not only compete head on but also with other breakfast alternatives, which are also proliferating significantly. The business climate is hardly ripe for price collusion. It is hard to understand why a trend toward more competition and price increases well under cost of living increases would encourage the two Congressmen and Professor Cotteril to continue these efforts.

Professor Cotteril's Food Marketing Policy Institute has received earmarked funds from the Congress for quite a few years. If this is an example of its priorities, I believe the Congress should reconsider funding this institute.

I look forward to this debate as we pursue the fiscal 1997 appropriations.

CHAPLAIN OGILVIE'S 1-YEAR ANNIVERSARY

Mr. HATFIELD. Mr. President, a year ago today, my good friend, Dr. Lloyd Ogilvie joined the Senate family by becoming the 61st Senate Chaplain. I was fortunate to have known him before he became the Chaplain and now 99 other Senators have had the opportunity to be enriched by his friendship. But it is not just Senators who have been fortunate to experience the ministry of Chaplain Ogilvie. Following the example of his predecessor, Richard Halverson, Dr. Ogilvie has ministered to everyone he encounters.

I cannot speak for all of my colleagues, but I have thoroughly enjoyed Dr. Ogilvie's morning invocations. It is one of the highlights of my day. Each prayer is a poetic weaving of theological wisdom and spiritual encouragement. When I hear the Chaplain's resonant voice, I feel as if the Heavenly Father himself has entered our midst and is speaking to us here on the Senate floor. The Chaplain has the voice of God, but he is also a man after God's own heart. He has said that he sees himself as an intercessor for the Senators, and I know that he is faithful in his prayers for this body and its Members.

I have appreciated Dr. Ogilvie's careful efforts to keep the chaplaincy nonpartisan, nonpolitical, and nonsectarian. His concern is genuine and he ministers indiscriminately to all who need encouragement. He is keenly aware of the spiritual needs of this body, and he makes himself readily available to address those needs.

We are fortunate to have Dr. Ogilvie among us. While I know that Dr. Ogilvie feels a special calling to his ministry as Chaplain, he has made some sacrifices to be with us. Before becoming Chaplain, Dr. Ogilvie was a prolific writer, authoring over 40 books. This literary passion has taken a backseat to the pressures of the Senate. But you will hear no complaints from the Chaplain. He is engaged in his new ministry and he is committed to his new parish.

I want to congratulate the Chaplain for his year anniversary and thank him for his invaluable ministry. I am grateful for what he has done for us in the past year and I am excited about the many years ahead.

ON THE RETIREMENT OF DETECTIVE CHARLES J. BENNETT

Mr. MOYNIHAN. Mr. President, some while ago, the New York Historical Society conceived the notion of collecting holograph accounts of notable events in our city from contemporary New Yorkers, and thereafter auctioning them off to help with the expenses of that venerable institution. I was asked to participate and was happy to do. As would anyone my age, I have all manner of memories of our city, going back, for example, to December 7, 1941, when I learned about Pearl Harbor from a man whose shoes I was shining on the corner of Central Park West and 81st Street, across from the Planetarium. I do not really recall what I thought about all that; all I do recall for certain is that when I got home later in the day, the regular radio programming had been interrupted by bulletins from the Pacific. Between bulletins, the station played martial music. Well, sort of martial music. It seemed the only such record they had on was the "fight song," as they say, of the Fordham football team.

Pearl Harbor brought war to the United States but only seemed to enhance the greatness of our city. At war's end, it seemed only natural that New York should be chosen as the site of the headquarters of the United Nations, the victorious alliance that won that war.

The years since have not been so generous. At times, they have been ominous, putting our city in peril in a way world war never did, albeit much of the peril has come from abroad.

I thought of this matter, and, of a sudden, knew the event I would relate—with a penmanship that would mortify the brothers to this day. Here is what I wrote, on New Year's Day, 1995.

> Early in 1985, I flew up from Washington to New York. As is our custom, I was met by Detective "Chuck" Bennett of the N.Y.P.D. On our way into town we discussed events of the day. Bennett, with a detective's eye, commented that men were appearing on street corners snapping their fingers for no apparent reason. Two month's later he reported that they were selling something called "crack," the finger snapping being a form of street cry. It remained for Douglas Hurd, then British Home Secretary, to visit New York and tell our Drug Enforcement Agency that a new form of cocaine, which had appeared in the Bahamas in 1983, was known as "crack" and was spreading. The Plague had reached New York.

Charles Joseph Bennett, the detective who had met me at LaGuardia, was and remains a preternaturally subtle, observant, normally silent, at times near-to-invisible presence on our city streets for near quarter of a century. For 20 of those years, he has been keeping me out of harm's way. Not an easy thing to do, for public figures in our time are commonly threatened, sometimes openly, sometimes not. It has been his lot to assess the threats involved, first having learned of them or divined them. It was in this latter gift that "Chuck" excelled. Be it a U.S. Senator, the least of his worries, a head of state, a peace delegation, a terrorist infiltrator, a building, a bridge, a tunnel, there has been no threat of violence or subversion or sedition in a quarter century that he has not been involved with or aware of.

His personal qualities are legendary. Affable until the moment of danger when he can be terrifying; near-to-invisible until he must make everyone in the room stop instantly and do as he says; self-effacing, funny, deadly serious. It may seem an unusual quality for an officer of a very old organization, set in its ways and fixed in place, but "Chuck" Bennett has proved an extraordinarily adept ambassador. First with our own law enforcement organizations such as the Federal Bureau of Investigation and the Capitol Police here in Washington, but notably also with foreign detective forces, ranging from London to Melbourne. He has formed lasting friendships not just between individuals but also between organizations that have hugely benefitted all concerned.

This April 28 he retires: at the top of his grade and the top of his form. He goes with the profound thanks of Liz, Tim, Tracey, John, Helen, and Maura for his friendship and his guardianship. And the great good wishes of all manner of New Yorkers for how well he has served us. Only Chuck Bennett would notice odd gestures on street corners and spot an epidemic on its way. Let us hope he returns regularly to New York, keeping an eye on things, and keeping in touch with those of us who love him so.

DR. RODNEY BELCHER

Mr. LEAHY. Mr. President, it is with great sadness that I rise today to inform the Senate of the tragic death of Dr. Rodney Belcher, an orthopedic surgeon from Arlington, VA, who was murdered in Kampala, Uganda, on March 13.

I was fortunate to have known Dr. Belcher. Seven years ago, shortly after I established the War Victims Fund, a $5 million appropriation in the foreign aid program to provide medical and related assistance to war victims, Rod Belcher signed on with Health Volunteers Overseas. He had lived in Uganda before the civil war there, and the Agency for International Development sent him back to start a War Victims Fund program to assist people who had been disabled from war injuries. He and his wife Dawn had been there ever since.

There were tens of thousands of amputees, many victims of landmines, without access to artificial limbs. The Mulagro hospital and medical school, once the pride and joy of that country, were in ruins. There were not even basic medical supplies. There was not a single trained orthopedic surgeon in the country. The Ugandan Government was bankrupt.

Rod embraced that enormous challenge with enthusiasm, good humor, patience, and a deep, personal commitment to the Ugandan people. Over the years he won the trust and respect of the Ugandan Government, and of successive United States Ambassadors and the ambassadors of other countries who witnessed the impact he was having on the lives of so many people. He rebuilt the orthopedic clinic and trained every orthopedic surgeon in Uganda today.

When my wife Marcelle and I visited Uganda in 1990, Dr. Belcher took us around the orthopedic clinic. We saw what a difference the War Victims Fund had made, as a result of his efforts and the efforts of the Ugandans who worked with him. It was an experience that neither of us will ever forget. We saw what a difference this one American had made.

Since then I have often thought of that trip, and Rod Belcher became the model for the volunteers that have been recruited for other War Victims Fund programs. He exemplified what we looked for in others. He had a warmth and gentleness, and a commitment to Uganda that was extraordinary.

Mr. President, on March 13, on his way to his office, Dr. Belcher was murdered when two men stole his car. He was shot in the chest and died right there.

It would be hard to conceive of a more senseless, horrible crime. Rod Belcher was a wonderfully generous human being who devoted his professional life to improving the lives of others. For the past 7 years he lived and worked in a country where getting even the simplest thing accomplished often required incredible ingenuity and persistence. Rod had both.

At his funeral, Dr. Belcher was honored by the Ugandan Vice President, the Minister of Health, the director of the hospital, the dean of the medical school, the American Ambassador, the British High Commissioner, and many others. The orthopedic clinic that he worked so hard to establish was formally named after him. The streets were lined with people who knew him personally or had heard of the American doctor who had done so much for the Ugandan people.

Rod Belcher will be terribly missed. But he leaves a legacy that anyone would be proud of. He gave the War Victims Fund its start, and for that I will always be grateful. And he leaves a core of trained Ugandan orthopedic surgeons who loved and admired him, who will carry on in his place.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

BALANCED BUDGET DOWNPAYMENT ACT, II

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 3019. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Reid amendment No. 3478 (to amendment No. 3466), to restore funding for and ensure the protection of endangered species of fish and wildlife.

Hutchison/Kempthorne amendment No. 3479 (to amendment No. 3478), to reduce funding for endangered species listings.

AMENDMENT NO. 3479

The PRESIDING OFFICER. The amendment of the Senator from Texas to the amendment of the Senator from Nevada is in order.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that the Chair advise the Senator from Nevada when I have 5 minutes remaining of the 15.

The PRESIDING OFFICER. The Senator may proceed.

Mr. REID. Mr. President, I have here a letter from the Evangelical Environmental Network consisting of a number of people, including Dr. Robert C. Andringa, president of the Christian College Coalition; Dr. George Brushaber, president of Bethel College and Seminary; Mr. Roger Cross, president of Youth for Christ/USA; Rev. Art DeKruyter, pastor of Christ Church of Oakbrook, and on and on with other religious leaders of this country.

The letter, written to all Senators, says, among other things:

> This week the Senate will be voting on an omnibus appropriations bill that contains a subtle attack on God's handiwork. Buried in the legislation is a provision to continue the moratorium on listing plants and animals as endangered or threatened, under the Endangered Species Act.
>
> Certainly there are scientific, economic, and medical reasons for saving endangered creatures, but for many individuals and congregations linked to the Evangelical Environmental Network, the moral and spiritual aspects are the more important. The Bible records "the everlasting covenant between God and all living creatures of every kind on Earth" and God affirms that covenant after using Noah to bring the creatures through the Flood and save their lives.

Mr. President, the letter continues:

> If I am going to be in the right relationship with God, I should treat the things he has made in the same way he treats them.
>
> The moratorium on listing species is nothing more than a back door attack. While we stand by and do nothing, this supposedly "temporary" measure may stretch over more than two years, with the cost of recovering species becoming greater and greater as time passes.
>
> The moratorium was a bad idea when instituted; it is a bad idea today. . . .
>
> Despite anti-ESA propagandists claim, neither law nor our environmental stance values plants or animals above people. At issue is not favoritism but just and moral treatment of all of God's creatures. God placed us here as stewards, not as exploiters, and we have no right to act in a callous manner toward any living creature.
>
> With respect to the Endangered Species Act, we are compelled to speak out because this matter relates to the core of our faith and respect for God.

Mr. President, I have read only part of the letter, but the indication from these religious leaders is that the moratorium on the Endangered Species Act is wrong and it is immoral.

Mr. President, we have received letters from all over the country, not the least of which is a letter from a group of physicians. I talked about some of the things they said yesterday. But, in effect, what they say is that it is wrong to have this moratorium; it is wrong for health reasons to millions of people throughout the world.

This letter is signed by representatives of the Physicians for Social Responsibility, the National Association of Physicians for the Environment, someone from the Pennsylvania Medical Society, the Massachusetts Medical Society, the Nevada Medical Society, the Vermont Medical Society, the Arthritis Foundation, AIDS Action Council, Harvard School of Public Health, Boston University, and on and on, Mr. President, with people from the medical community who say that this moratorium is not only wrong from a political standpoint; it is wrong from a moral perspective.

Mr. President, last night I went back to the office and asked my staff to look at some of the things we have received over our computer, over our e-mail network. We received—and I just at random picked a few—we received something from Basking Ridge, NJ, from a woman who says:

> I implore you—

It is written to various Senators.

> I implore you to support Senator REID's amendment.
>
> This matter is of critical importance because:
>
> Listing a species under the Endangered Species Act is not a trivial matter that can be delayed indefinitely. The moratorium on listing and critical habitat designations must be lifted.
>
> The integrity of the ESA is extremely important to your constituents. Do not allow

this Congress to weaken this important legislation.

That letter was from Merideth Mueller.

I received a letter from Minnesota from one Todd Burnside of Roseville, MN. He says:

> The extinction of species and the degradation of the environment are things that future generations may never forgive us for.

I received also, Mr. President, a copy of an e-mail written to all Senators:

> With all my heart I beg you to vote yes to REID's amendment to H.R. 3019, so that the awful moratorium to the ESA will end. I cannot express to you how angry and disappointed I am at this government for allowing for an ESA moratorium in the first place. This act completely goes against the needs of the country in terms of economics, morality, responsibility, and common sense. At a time when we urgently need solidarity on all fronts to protect what little we have left of the natural environment and to leave something for our future generations to cherish, and to stop the massive onslaught on our natural world, we as citizens need you to protect the environment, our home.

Mr. President, it is obvious what has happened here. The second-degree amendment calls for emergency listings only. We know that this will allow people to file all kinds of lawsuits to have emergency listings. We know that there were listings prior to this moratorium being pronounced. They should proceed in an orderly fashion.

What this second-degree amendment will do is force the Department of the Interior to defend numerous lawsuits to show that what they are doing is adequate. We need to get rid of this moratorium and get back to good science and good protection of the environment and these species. What is taking place now is an assault on good science and good government.

It also allows this body to simply not go forward with reauthorizing the Endangered Species Act. As long as this moratorium is in effect, there will be no further listings, and that is wrong. This moratorium, I think it is clear, is going to continue throughout this Congress with all we have to do with all the problems with the balanced budget and 13 appropriations bills, 5 of which we did not pass last year.

I think it is going to be extremely difficult to reauthorize this bill. This is a license to repudiate the Endangered Species Act. I think we as a country and we as a Congress should be ashamed if we allow this to happen. Mr. President, I reserve the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I have submitted an amendment to the amendment because I think it is most important that we keep the integrity of what we are trying to do to protect the endangered species. The authorization for the Endangered Species Act ran out several years ago. That is because of the ridiculous excesses that have been perpetrated on the private property owners in this country. So we called a moratorium on the old act so that we could reauthorize it, so that we could protect private property and protect the endangered species. And we want to have good science, we want to have cost-benefit analysis, we want to have economic impact analysis because, after all, Mr. President, there is no reason for people in the Northwest to have the entire timber industry shut down because of the spotted owl. There is no reason to have put people who had worked for generations in the timber industry there out of work and untrained to do other things.

In fact, Mr. President, you and I are paying $250 million to retrain those people because we were protecting a spotted owl that could have been put somewhere else in a national forest to protect. We could have had it both ways if we had just used common sense, Mr. President. But we did not do that. And that is why it was necessary and why this Congress voted overwhelmingly to put a moratorium on the Endangered Species Act listing—not the preparation for listing, not the research, just the final listings—until we could have a reauthorization of the act that would put common sense into it, that would put people into the equation, because after all, people should be in the equation as well. I like to joke sometimes and say that the only endangered species not protected is Homo sapiens.

Now, Mr. President, it is time that we started putting common sense into this act. Let me talk to you about a few of the excesses that have caused us to be in the situation where we are, needing to do a drastic reorganization and reauthorization of this bill.

In Texas, my home State, there is a golden cheek warbler. Fish and Wildlife originally said they were going to set aside an area the size of the State of Rhode Island to protect a golden cheek warbler. Mr. President, we want to protect golden cheek warblers, but I think it is a little excessive to cause property values in that entire area to plummet to save this golden cheek warbler when we can do it with other means. Not only that, but what they said you could not do on your property is cut cedar. Now, cedar has a very bad impact on people's health. People have what we call cedar fever. People are miserable with cedar fever. So they cut cedar trees to keep people from having this very annoying sort of sneezing attack.

Well, in addition to that, even more important to the farmers and ranchers in the area, cedar absorbs water so that we lose the ability to use water downstream because the cedar trees are absorbing the water upstream. So it really is a hindrance and something that our farmers and ranchers need to deal with. One Travis County, TX, owner, Margaret Rector, invested in land 25 years ago to help her in her retirement years. In 1990, her land was worth $830,000. After it was designated a golden cheek warbler habitat, its value plunged to $30,000.

Mr. President, that is not a guess, that is an assessment on the county tax rolls in Travis County, TX. Mr. President, that is ridiculous. Next is the southwestern willow fly catcher in California. The Army Corps of Engineers built the Isabella Dam in Kern County, CA, to catch the runoff of melting snow from the southern Sierra Mountains to save it for use in the summer. It has saved millions in flood damage, increased the water supply, and it is the third largest food-producing county in the entire country now. But the listing in February 1995 of the southwestern willow fly catcher has put the dam's use at risk, fearing the reservoir will flood fly catcher nesting areas, a harm to the bird's habitat. Now Fish and Wildlife may force the Corps of Engineers to release water from the reservoir to protect the habitat that did not exist until the dam was built.

These are two examples, Mr. President. The jaguar in Texas. Mr. President, they have not seen a jaguar in Texas since 1948 when one wandered up from Mexico, they think, and it was cited as sort of an anomaly. Now they are talking about listing the jaguar as an endangered species in Texas, having not seen one since 1948, and it could cause restrictions on land use in 30 counties along the Rio Grande River.

Mr. President, that is why so many groups and private property owners—the American Farm Bureau is alarmed by what is happening with this Endangered Species Act. They are in total support of my amendment, which does the following. My amendment just says that we will protect the ability to have emergency listings. It has been said on this floor that we might lose some of the very important endangered species. Well, we will not. With my amendment, we give the Secretary of the Interior the right to do an emergency listing so there would not be a danger of losing an endangered species on an emergency basis.

But, Mr. President, I think it is very important that we realize that the people who are holding up the progress on the reauthorization are also the people who are here wanting to lift the moratorium. I do not understand that. I do not understand why they would want to lift the moratorium on a bill that they have all said has problems. I have pointed out a few of those problems here this morning. Why would they lift the moratorium under the old act that they say has problems when they have the power to reauthorize and to protect everyone—private property rights, private property owners, and to protect the animals under the Endangered Species Act, as well? Why would we not do things the right way, Mr. President? That is my question here today.

Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Texas has 7½ minutes remaining.

Mrs. HUTCHISON. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. REID. Mr. President, I yield 4½ minutes to the Senator from Rhode Island, [Mr. CHAFEE].

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. I thank the distinguished Senator from Nevada.

Mr. President, what is wrong with the Hutchison amendment, the second-degree amendment? First of all, it maintains the moratorium on final decisions to list species through the end of this fiscal year.

Now, Mr. President, let us briefly review the bidding. Last March, the Senate approved a 6-month moratorium, a brief time out on listings under the Endangered Species Act. That was 6 months. That was extended another 5 months under the continuing resolution. Now, under this bill, the moratorium would be extended for another 7 months. That means that for a minimum of 18 months no work will be done toward conserving species that warrant protection under the Endangered Species Act, species threatened with extinction or destruction, and a lot of ground can be lost in a year and a half.

Now, Mr. President, the second point is that although the Hutchison second-degree amendment would allow emergency listings —the word "emergency" is in there—that is not an adequate or practical way to recover a species. Mr. President, you come up with emergency listing when the situation is really desperate. It is sort of a last-ditch effort to save a species, when the species is about to become extinct either through disease, or destruction by man in some fashion, or the last remnant of the habitat has been wiped out.

At this point, Mr. President, there is little hope of recovering the species. Recovery, after all, is the goal of the Endangered Species Act. That is what this is all about. If we do not want an Endangered Species Act, just let us say so. But we hear constantly on the floor of this Senate—when these amendments are brought up to really demolish the Endangered Species Act, it is prefaced by, "We are all for the act, we just want to make these corrections." But this "correction," so-called, really is devastating to the recovery of a species.

If you are only listing it as endangered when it reaches the emergency situation, then the cause is practically lost, in most instances, due to the destruction of the animal, bird or plant, or lost due to the destruction of the habitat that is so essential for the survival of that.

Furthermore, Mr. President, I point out that emergency listings are only temporary. Under the Endangered Species Act, they last for 240 days. You go in—it is not like a listing for an endangered species. It is an emergency situation. Normally, the Fish and Wildlife Service promulgates a final rule to list a species at the end of the 240-day emergency listing period.

Under the second-degree amendment that is presented, the Fish and Wildlife Service could not make a final rule to protect the species under the Endangered Species Act because you cannot do that. They have to go through a whole series of emergency actions—240 days, and then another 240 days. That is not the kind of situation that is really going to lead to the saving of a species. It is not going to permit long-term decisions to be made and expenditures of money, perhaps, for the saving of habitat.

So, Mr. President, I do hope the second-degree amendment will be tabled, as the distinguished Senator from Nevada will move at some period.

I reserve the remainder of my time.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, in the Endangered Species Listing Handbook published by the Division of Endangered Species, under Procedures Guidance for the Preparations and Processing of Rules and Notices Pursuant to the Endangered Species Act:

> An emergency listing is a temporary measure, providing the Act's protection for only 240 days. It is only used in extreme situations of dire imminent threat to a species' continued existence.

Mr. President, there is going to be a flood of lawsuits if this amendment of my friend from Texas is not tabled. The listing moratorium must be lifted. The motion to table that I will make should be granted, and the listing moratorium must be lifted.

First, over 500 species are dangerously close to extinction along with their life-sustaining ecosystems.

Second, the moratorium on the listing process is a display of lack of faith in the legislative process. Really, it is arrogance, because everyone knows that as long as this moratorium is in effect, there will be no endangered species reauthorization. It removes the incentive for opponents of the Endangered Species Act to reauthorize the act.

Third, it is argued that a time out is what was needed to get reform measures in place and better science procedures in the listing process. I have two responses. The first is that there is no time out for the species who may face habitat degradation and extinction. Finally, the science is irrelevant if a species has become extinct. My second response to a time out is that the show of good faith in reauthorization that my colleagues talked about last night and this morning would be the lifting of the moratorium and proceeding with the business of reforming the act.

Fourth, I received letters from 38 physicians, chemists, dentists, and others from around the country advocating the repeal of the moratorium. I read some of their organizations today. They state with clarity: "What is often lost in the debate over species conservation is the value of species to human health."

They continue. "* * * [R]ecent studies have shown that a substantial proportion of the Nation's medicines are derived from plants and other natural resources. The medicines of tomorrow being discovered today from nature * * *."

They conclude: "When a species is lost to extinction, we have no idea what potential medical cures are lost along with it."

I have talked about the evangelicals and representatives of religious organizations. I have read in detail from their letters. They believe that this is a moral issue and not a political issue.

My response to the second-degree amendment is, among other things:

First, the amendment fundamentally maintains the listing moratorium. That is all it does. It fails to mitigate the devastating impact of the listing moratorium because it does not allow for a final determination of an emergency listing. This means that no real recovery can take place. It is a meaningless exercise in paperwork.

Second, the second-degree amendment only creates wasteful bureaucratic procedures and would be a heyday for lawyers.

Third, the Kempthorne amendment has agreed in the past that we should try to avoid emergency listings. This is directly in the offset.

Finally, Mr. President, there is no justification, no logic, to this inactivity when the net result will be a greater cost to the taxpayer, fewer management options, and, most importantly, greater increase in the likelihood of extinction.

The amendment is a superficial legislative ploy.

I reserve the remainder of my time.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized, and the remaining time is 7 minutes.

Mrs. HUTCHISON. I had 7½ minutes the last time I asked.

The PRESIDING OFFICER. Seven minutes remain.

Mrs. HUTCHISON. I yield 5 minutes to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am very happy to be here to support my colleague from Texas. I think on this issue she is absolutely right. Let me explain why.

In 1973, we passed the Endangered Species Act. We have gone back periodically and rewritten that law, and in the last rewriting we put in a date by which the law had to be updated in order to still have force, a sunsetting provision. The logic of the sunsetting provision was to assure that periodically as situations changed, such as the power of the bureaucracy to expand the law beyond any limit anyone foresaw when the law was written, that by that date we were going to have to go back and rewrite the law or it was going to stop having any force of law. That act expired in 1992. This is 1996. For 4 years, we have had no Endangered Species Act because the law is sunset. Granted, we have continued to allow it to operate by providing funds for that purpose. But the whole purpose of sunsetting is to modernize legislation to reflect the new reality.

Then in April 1995 we took a time out. This time out basically said, "It has been 3 years since this law expired." We should not allow the Fish and Wildlife Service to continue to designate endangered species without any limit, without any congressional check, until this law is reauthorized. That was eminently reasonable. It was adopted right here on the floor of the U.S. Senate, and it became the law of the land.

Now we have an effort by Senator REID to go back and, in essence, to make the endangered species law a law that operates in perpetuity where there is no requirement that it be modernized and where it can simply continue to do things like the effort by U.S. Fish and Wildlife to designate 33 counties in central Texas as being affected by an endangered species called the Golden Cheek Warbler. In the face of widespread opposition in Texas, they backed off.

But the point is we have a right to say that when Congress wrote this law, it wanted the right to periodically review it. That time for review occurred 4 years ago.

I think the Senator from Texas, Senator HUTCHISON, has proposed a reasonable compromise that will allow emergency designations and allow us to rewrite this law and make changes that the American people clearly want but which will put the pressure on those whose viewpoint is a minority viewpoint.

This is not just about endangered species. This is about whether or not we are going to let a small group of people who do not agree with the mandate of the 1994 election ride roughshod over that mandate by extending a law which expired 4 years ago and by allowing bureaucrats to continue to not consider cost and benefits. Everybody in the Senate knows that if we rewrite the Endangered Species Act in this Congress, there are going to be dramatic changes in it.

If the underlying Reid amendment which Senator HUTCHISON has amended is adopted and becomes law, we will not rewrite the Endangered Species Act—and everybody knows it. As a result, even though the majority of the American people and the majority of the Members of Congress are ready to make the changes, even though the law has expired, we will end up continuing to expand the power of the Federal bureaucracy.

I want to urge my colleagues to support the Hutchison amendment.

Let me also say that, if the underlying Reid amendment is attached to this bill, I intend to oppose this bill and I intend to vigorously fight its adoption. I think it would be an absolute outrage if we went back now and eliminated the time out we declared in April 1995 on a law which expired 4 years ago.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Texas has 2 minutes and 11 seconds.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, the argument has been made in the Chamber that we might lose some very important endangered animals in America. I submitted an amendment to the amendment to make sure that that would not happen. We allow emergency listings if there really is a danger of losing any animal or any species that is under the old act.

Let us look at what the Reid amendment does. You have heard people on the other side argue that there are problems with the act, but nevertheless they are urging you in the Reid amendment to go forward under the old act which we acknowledge has problems, regardless of the fact that it costs people jobs, that it hurts the economies of many States, and that it takes away a fundamental constitutional right in this country, and that is the right to private property.

That is wrong. It would be ridiculous for the Senate to vote today to go forward, take away jobs, hurt the economy, and take away private property rights under an act which everyone has acknowledged has problems.

If we are sincere about doing what is right, if we are sincere about reauthorizing the bill with some common sense, with some protection for private property, if we are sincere about making sure that private property rights and people's jobs have some part in the equation in the decisionmaking, then we should vote for the Hutchison-Kempthorne amendment. The Hutchison-Kempthorne amendment protects emergency listings. If there really is a danger of losing one of the endangered species, it protects that right.

However, what we must do is also protect the right of the people in this country. The jobs and the people who work for a living ought to have some protection by the Senate. If we vote for the Hutchison-Kempthorne amendment, their rights will be protected and we will also reauthorize the Endangered Species Act to protect the animals in our country as well. Let us do it right. Vote for Hutchison-Kempthorne.

I thank the Chair.

Mr. FAIRCLOTH. Mr. President, I first want to commend the Junior Senator from Idaho for his leadership on this issue. I know that reforming the Endangered Species Act is a critical issue to Idaho. It is a make or break issue for many of our constituents. I am certain that he will approach the reauthorization with the reasoned, commonsense perspective it desperately needs.

Mr. President, as a life-long farmer, I understand the value of wildlife. I have grown up with wildlife and protected it without government forcing me to. But also as a farmer, I understand the incredible burden being placed on private landowners and public resources to meet the mandates of this act.

The problem comes when the bureaucracy gets out of control and government hurts people in order to protect animals. That is precisely what is happening all around the country. And where it is not already happening, it will happen soon.

For instance, in North Carolina we have thousands of acres of valuable timberland which cannot be cut because the U.S. Fish and Wildlife Service believes it may harm red cockaded woodpeckers. Some changes have been announced recently that should help matters some. But there remains a big problem back home. By any reasonable measure the government has seized the land of many of my constituents without offering them a dime of compensation.

Unfortunately, the bureaucracy and the environmental industry do not care about the reality outside of Washington. They seek to use the Endangered Species Act and the animals themselves as tools to create Federal land use regulations nationwide. The ultimate result being thousands upon thousands of overlapping habitat ranges for each and every bug, snail, and fly the bureaucrats think we need more of.

Mr. President, the important question is: What happens when virtually all land is home to a protected animal—what happens then?

This is a very serious question. It has happened in Idaho, Senator KEMPTHORNE's State. As he has shown the committee, virtually all of Idaho is regulated as home to some sort of government protected animal. Thousands of acres of valuable farmland have been locked off to protect an underground water snail called the brunei snail. This kind of thing is going to happen everywhere when the environmental industry gets its way.

I will oppose Senator REID's amendment because we need to restrain the bureaucracy that is now operating under a flawed law. A law that gives too little consideration for the livelihood and property of people, and too much for bugs, bees, and bureaucrats.

Mr. REID. Mr. President, I ask unanimous consent that each side have an additional 1 minute.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

Mr. REID. I yield my 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I note that in the second-degree amendment it provides $1 to the Fish and Wildlife Service to do the entire emergency listing. That shows you how serious the other side is about this whole proposition.

In other words, in the underlying bill, there was $750,000 which was available for the downlisting and the other activities in connection with this program. And now they are saying that we are out to take care of this situation because there is an emergency provision, and in order to take care of it they provide $1.

It seems to me that shows you how serious really the other side is in proposing this second-degree amendment. And so I hope that the Reid effort to table the Hutchison amendment will succeed.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield 30 seconds to my colleague from Texas and 30 seconds to my colleague from Wyoming.

Mr. GRAMM. Mr. President, I hope nobody is confused by the statement that was just made. When we took a time out in April of 1995, we did not take all the money away from the Fish and Wildlife Service. We left them the money to continue to trample on private property and the rights of citizens and to continue to fail to look at reason, responsibility, and cost and benefits. But we simply took away the right for them 3 years after the law had expired to continue to limit jobs, growth and opportunity in America. The only reason the Senator from Texas added a dollar in her amendment was because this is an appropriations bill and it was strictly a technicality. The Senators amendment does not reduce the $750,000 available. So I hope no one is confused.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

I rise in support of the Hutchison amendment. We have worked very hard now for almost a year and a half having hearings going on in the country, and clearly all of us want to have endangered species protection. But very clearly, it needs to be changed, and it needs to be upgraded.

We need to learn from the experience of the past 20 years. This is the way to do it. If we do not have passage of the Hutchison amendment, then we will not get to making the changes that need to be made. I fully support the Hutchison amendment.

The PRESIDING OFFICER. All time has expired. Under the previous order, the amendment will be laid aside and the majority leader is recognized to call up an amendment.

The Chair recognizes the majority leader.

AMENDMENTS NOS. 3480 AND 3481 TO AMENDMENT NO. 3466

(Purpose: To provide economic reconstruction funds to Bosnia-Herzegovina subject to compliance with the Dayton Accord's requirement for withdrawal of foreign troops)

(Purpose: To provide economic assistance to Bosnia and Herzegovina subject to certain conditions)

Mr. DOLE. Mr. President, I am going to offer two amendments on behalf of myself and the distinguished chairman of the Foreign Operations Subcommittee, Senator MCCONNELL. One amendment would prohibit the release of funds to Bosnia under this act until the Bosnian Federation is in compliance with article III of annex 1-A of the Dayton agreement which simply means that all foreign forces must leave Bosnia before funds for civilian implementation can be released.

I will also send to the desk another amendment on behalf of Senator MCCONNELL and myself which establishes several conditions for the use of the funds provided for civilian implementation projects in Bosnia. In my view, these two amendments should enjoy bipartisan support. As far as I know, there is no objection to the amendments, but I will offer the amendments and not ask for final disposition until everyone has had an opportunity to take a look at them.

I am pleased to cosponsor with the chairman of the Foreign Operations Subcommittee these two amendments to the Bosnia supplemental portion of the continuing resolution. I wish to address first the issues of offsets for this $200 million in civilian implementation funding. I understand that this portion of the supplemental was designed as an "emergency" by the Appropriations Committee but was offset by the House. I hope that the conferees will ultimately offset this $200 million request.

As we have seen over the past few months, the military aspects of the Dayton agreement have been the easiest to implement. It is the civilian side of the equation that poses the toughest problems. Among them, facilitating the return of refugees, conducting free and fair elections, and establishing a professional civilian police force.

Indeed, the reports we are getting from Sarajevo have demonstrated that integrating the capital is more difficult than separating the various military forces. The military task is limited and clear, while the civilian task is wide-reaching and complex, with only vague lines of authority.

The United States has made a tremendous commitment of personnel and resources in Bosnia and Herzegovina. While many of us disagreed with the administration's decision to send troops to Bosnia, while many of us advocated a different policy, those American forces are now there, and therefore it is essential that we succeed. Our credibility and that of NATO is on the line. It is essential that we in the international community get Bosnia back on its feet. Otherwise, this risky deployment of thousands of American and NATO soldiers will be for naught. It will end up being a brief interlude in a long war. The challenges are immense. There are more than 2.5 million Bosnians who have been displaced from their homes. At least 60 percent of housing in Bosnia has been damaged or destroyed. Most Bosnian Moslems and Croats have no paying jobs and have been dependent on humanitarian assistance for nearly 4 years.

No doubt about it, the Bosnians need and deserve our help. However, there are problems that we cannot and should not ignore. First and foremost is the continued presence of Iranian military personnel in Bosnia and Iranian intelligence officials.

They pose a potential threat to our forces—but also to Bosnia's place in the international community. The McConnell-Dole amendment requires the President to certify that the Bosnians are in full compliance with article III of annex 1-A of the Dayton Agreement mandating the withdrawal of foreign forces, and to certify that Bosnian Government-Iranian Government cooperation on intelligence matters has been terminated.

It seems to me that through our actions today we can send two beneficial signals: That we are seriously committed to assisting Bosnia, but that the Bosnian Government's continued military and intelligence relationship with Iran must be halted.

We know that Iran provided military aid to Bosnia when the rest of the world refused to. I opposed the policy of refusing the Bosnians the means to defend themselves. The Congress opposed that policy. But, that is the past.

And now the Bosnian Government must make choices that will affect Bosnia and Herzegovina's future. Will

Bosnia be part of Europe and the West or not? A continuing military and intelligence relationship with Iran clearly jeopardizes Bosnia's future as a pluralistic democratic state in Europe.

Looking further at developments within Bosnia, we need to make sure that our economic assistance has a positive effect on the social, economic and political situation there and that other donors are doing their fair share. So, besides limiting U.S. aid to projects in the U.S. sector, the second McConnell-Dole amendment would add criteria including:

Prohibiting funds for the repair of housing in areas where displaced persons or refugees are refused the right of return due to ethnicity or political party affiliation;

Establishing, in advance, GAO audit access to the banking and financial institutions that will receive AID assistance;

A certification by the President, after 90 days, that the total U.S. contribution to reconstruction for this year, $532 million, has been matched by a combined total of bilateral donor pledges.

These amendments do not address all problems related to the civilian effort in Bosnia, but they go a long way. For example, more congressional oversight and work will need to be done on the matter of civilian police and the international police task force which is partially funded in this supplemental. This week we saw houses being looted and burned in Sarajevo and a handful of international police are standing by and watching—because they have no arms and no authority. Another vital issue is that of arming and training Bosnian Federation Forces—which is critical to the long-term stability of Bosnia. That of course, can also only be achieved once the Bosnian Government ensures that Iranian military units are no longer on its territory.

Mr. President, helping Bosnia and the Bosnian people is the right thing to do. However, we must do so wisely—and these two amendments will ensure that U.S. dollars are spent prudently and in a manner that supports our broader goals. It is not only in Bosnia's interest, but in our interest, to have a Bosnia which is pluralistic, democratic, multiethnic and able to defend itself.

I certainly urge my colleagues to support these amendments, and I now send these amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. McCONNELL, for himself, Mr. DOLE, Mr. BENNETT, and Mrs. HUTCHISON, proposes an amendment numbered 3480 to amendment No. 3466.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

No funds may be provided under this Act until the President certifies to the Committees on Appropriations that:

(1) The Federation of Bosnia and Herzegovina is in full compliance with Article III, Annex 1A of the Dayton Agreement; and

(2) Intelligence cooperation between Iranian officials and Bosnian officials has been terminated.

Mr. DOLE. Mr. President, I do not know if anybody now wishes to speak on these amendments, but I wanted to offer the amendments. I think Senator McCONNELL will speak after his hearing.

I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, is there a time limit on this amendment?

The PRESIDING OFFICER. There is no time limit.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I believe I sent two amendments to the desk. I ask unanimous consent to lay aside the first amendment and call up the second amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the second amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. McCONNELL, for himself, Mr. DOLE, and Mrs. HUTCHISON, proposes an amendment numbered 3481 to amendment No. 3466.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 751, section entitled "Agency for International Development, Assistance for Eastern Europe and the Baltics," insert at the appropriate place, the following: "*Provided further*, That funds appropriated by this Act may only be made available for projects, activities, or programs within the sector assigned to American forces of NATO military Implementation Force (IFOR) and Sarajevo: *Provided further*, That priority consideration shall be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list": *Provided further*, That no funds made available under this Act, or any other Act, may be obligated for the purposes of rebuilding or repairing housing in areas where refugees or displaced persons are refused the right of return due to ethnicity or political party affiliation: *Provided further*, That no funds may be made available under this heading in this Act, or any other Act, to any banking or financial institution in Bosnia and Herzegovina unless such institution agrees in advance, and in writing, to allow the United States General Accounting Office access for the purposes of audit of the use of U.S. assistance: *Provided further*, That effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for the purposes of economic reconstruction in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the bilateral contributions pledged by non-U.S. donors are at least equivalent to the U.S. bilateral contributions made under this Act and in the FY 1995 and FY 1996 Foreign Operations, Export Financing and Related Programs Appropriations bills."

Mr. DOLE. Mr. President, I do not know of any other speakers, but there may be requests from both sides of the aisle. I know Senator McCONNELL wishes to speak briefly. He is now involved in a hearing. I ask the amendments be temporarily laid aside, and I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise to speak on behalf of the amendments that have just been laid down by the majority leader and by Senator McCONNELL of Kentucky. I think it is very important that we continue to keep in mind that the agreement that was made by the Senate, over my objection, frankly, that we would send the troops to Bosnia, nevertheless did include some very important points.

After the United States has expended so much to try to keep this peace agreement, it is most important that the agreement be kept in force, including the arming and training of the Moslems. That was a key reason that so many people on this floor voted to support sending the troops. It is most important that we get on with that part of the agreement. Otherwise, after all the money that we have spent trying to bring peace to the Balkans, the results will be short-lived, because if there is not some sort of parity there among the three parties, I think it will be difficult to keep the peace for a long term. The one chance that I think we have is if there is parity among the parties. So I hope the President will remember that part of the agreement that was made and get on with the other parts of the Dayton agreement that would give the best chance for this to be a successful mission.

So I am very pleased to support and ask unanimous consent to be added as a cosponsor of Dole-McConnell amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3479

Mr. REID. Mr. President, very briefly, my friend, the senior Senator from Texas, in his closing remarks regarding the Reid and Kempthorne amendments, indicated that when the moratorium was originally placed that there was no money involved. That factually is not so. Mr. President, $1.5 million was rescinded at the same time that the original moratorium was passed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I rise in support of the Hutchison-Kempthorne proposal with regard to a final listing moratorium for the Endangered Species Act.

I think a lot about this issue because I have had to confront it frequently in my State of Mississippi. I have also heard of many instances in other States where major problems have been caused by the Endangered Species Act. I say this as one who voted for this act way back in 1974, I think, when we originally passed it. I thought we were passing an act that would be aimed narrowly at truly endangered species.

I was thinking about perhaps, you know, crocodiles. I was thinking about maybe white tigers. I was thinking about elephants. I had no idea the extent to which this law would be contorted and twisted and used by the bureaucracy to harass people who are trying to create jobs and provide economic opportunities.

There seems to be no end to the lengths bureaucrats will go to use the Endangered Species Act to take private and public property. I really think that common sense has been lost when it comes to this particular statute.

I do not think when I originally voted—in fact, I know that when I originally voted for this act, I had no idea that this would lead to the spotted owl situation in the Northwest. I had no idea that it would create a problem in my own State of Mississippi with species like the gopher tortoise or the ring-necked snake or the red cockaded woodpecker. I believe it never occurred to many of us who voted for this bill over 20 years ago that it would destroy jobs, cripple economic development, and put private property at risk. It has placed individual rights behind those of a ring-necked snake.

In my own State of Mississippi, we have had a real problem with the Forest Service because they want to set aside not a few hundred, not a few thousand, but 100,000 acres of timberland for the red cockaded woodpecker.

I thought that a lot of birds were involved. Unfortunately, I was wrong. As a matter of fact, it involved just three colonies. Then I thought, well maybe a colony represents a lot of birds. Unfortunately, I was wrong again. A colony is just two birds, one male and one female. My State of Mississippi will have a total of seven red cockaded woodpeckers in this 100,000-acre set-aside in the Chickasaw District of the De Soto National Forest. Seems a bit excessive, but all done in the name of the Endangered Species Act. And, guess what—the Forest Service wants still more acreage.

Most Senators can cite similar examples of unbelievable experiences and excesses with this law in their States. I think that there is a need to provide some commonsense protection for birds, fish, and plants, but a responsible balance must be reached because the Endangered Species Act is costing us millions of dollars. It is costing us thousands of acres. I think it is getting out of control. Many in this city talk about extremism by one side or the other on policy issues, and perhaps the bureaucracy's implementation of the Endangered Species Act has reached that stage.

It is time that Congress pull the Endangered Species Act back from the abyss and take a calm, reasoned look at it. That is what Senators HUTCHISON and KEMPTHORNE are requesting through their amendment. A narrow and limited pause for only one aspect of the statute.

That is what this debate is all about. Last year the Congress—not some alien group—this Congress put a hold on future listing of endangered species and the designation of critical habitat until the basic statute had been reauthorized. It should be noted that this statute is long overdue for a full review and reauthorization. The Endangered Species Act authorization and its appropriations expired in 1992. And, a pause would enable this Congress to work in a measured manner to correct the statute before more funds are spent and more economic turmoil can occur. The authorization process is the accepted method to establish and adjust public policy.

So why has it not been reauthorized? Because those that want to continue this abuse under the guise of protection are afraid that the American people will insist that the Congress apply common sense to this act. And so the debate has been stalled in the authorization committees making it impossible to bring it forward.

This leaves the appropriation process as the only legislative vehicle to address the issue. And to the credit of Senators HUTCHISON and KEMPTHORNE, they are not trying to gut or repeal the statute. Rather they are asking for a pause until the authorization work can be completed.

It should be noted that the committee with jurisdiction here in the Senate, through the efforts of Senator KEMPTHORNE of Idaho, and others, has made a valiant effort to move this authorization forward. But until it is reauthorized, we should not continue to act. Abuses that have been heaped upon many Americans as a result of this act should be stopped.

The underlying amendment by Senator REID would lift the moratorium accepted and adopted by this Congress last year. Senator REID would just take it away, saying that proper authorizations for public policies are unnecessary.

The second-degree amendment by Senators HUTCHISON and KEMPTHORNE would maintain the original moratorium, but with some changes. It would now only affect final listings and critical habitat designations. This means it will permit emergency listings to go forward if the well-being of a species is at significant risk. This is a major change because it will permit activities to go forward, but they just cannot take the final action. Again, I think that this is common sense and responsible.

There are very few areas where my constituents get absolutely livid at what is happening in America—but this is one. We have lost control of this act. Congress needs to rethink it. Congress needs to correct the problem. We can protect truly genuinely endangered species but we have gotten down to the area of subspecies—down to single blades of grass, this does not reflect our original intent. It appears that only Congress can refocus the basic statute that a bureaucracy has taken over.

So I urge my colleagues to take a serious look at what is going on across America, as well as what is being proposed here. We should not lift the Endangered Species Act moratorium without a proper reauthorization. Nor should we allow the abuses to continue.

We should support the commonsense proposal by Senator HUTCHISON. It is the right thing to do. It will give Congress time to do the reauthorization without impacting emergency listings. So I commend her for what she is trying to do. And I urge the adoption of the amendment by Senators HUTCHISON and KEMPTHORNE. I yield the floor, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition this morning to comment briefly about the significant amendment which was enacted yesterday adding funding for the Departments of Labor, Health and Human Services, and Education, the subcommittee of Appropriations that I chair, and to say at the outset, again, my compliments to the distinguished Senator from Iowa, Senator HARKIN, who is the ranking Democrat on the subcommittee, for his tireless work and the work of his staff, as well as my staff, in crafting that legislation in a bipartisan compromise. But I am very fearful that if the partisan bickering and the political credit-taking continues, we are going to jeopardize our chance to see that amendment as the cornerstone of this omnibus appropriations bill go through in the House of Representatives and be signed by the President, so that it becomes law.

We have seen political gridlock in Washington in the hours of the past many months of an unprecedented nature. We have seen the Government close down twice, and we have seen the American people recoiling in disgust at the kind of fighting for political advantage which is taking place in this city. I believe that it is a matter for blame to be equally proportioned, 50 percent on each side of this aisle.

I think that what the American people are looking for is to have an accommodation and to work out these differences of opinion so that we can keep the Government going and not have another shutdown, and work in the interests of the American people.

Yesterday, Senator HARKIN and I submitted a bill which we had worked on jointly in accordance with our responsibilities as chairman and ranking member of that subcommittee and on which we had reached a good-faith, bipartisan compromise. And there was a very, very strong vote in this body—84 to 16—an unusually strong vote on an issue which is as highly contested as that one was yesterday, or what would be expected. And 37 of 53 Republicans joined in supporting that expenditure, although there were many questions as to whether that was a wise approach in the overall matter, because we are looking for a settlement on the overall budget dispute. But those differences were laid aside in the interest of funding for education, for health, and for labor and plant safety, to get that done.

No sooner was the issue resolved on the Senate floor than we had back to usual political posturing—taking credit for what had been done in a very, very partisan way. Today's New York Times quotes one Member of the Senate on the opposite side of the aisle saying—and this is attributed—"Many of our Republican friends that have been reluctant to indicate their support for this, really fell over themselves to support this measure."

Well, that is not so, Mr. President. There has been a lot of Republican support for education—both on the subcommittee with Senator JEFFORDS being the leader for education funding, and Senator DOMENICI, as well as my own participation. When an amendment was offered on the other side of the aisle several weeks ago to add substantial money for education, it received 51 votes, and there were many on the Republican side of the aisle who joined there.

Then that Member is quoted going on to say, "They expected Republicans in the House to bridle at the agreement, but they predicted that the overwhelming bipartisan support in the Senate for the White House stance on the issue would help them prevail in the final legislation."

Mr. President, I had hoped that would be the case, and I still hope that will be the case. But I am not so sure when we have this kind of political credit-taking by Democrats for what was clearly a bipartisan movement. It is a move headed by Senator HARKIN and myself. It is a move that received an 84-to-16 vote with 37 Republican Senators supporting the measure. If we are going to go back to politics as usual and a claim of credit by the Democrats, I think this is going to be a very, very hard matter to hold in conference. There have been some very key legislative proposals that have been defeated this year when somebody crows and takes credit in the political context before the ink is dry and before the bill is finally worked through a conference committee and is finished.

Another Member on the other side of the aisle was referenced in the Washington Times today saying:

> Senator Arlen Specter, Pennsylvania Republican and coauthor of the amendment, "knows how politically vulnerable Republicans are on education."

That is not true, Mr. President. When a reference is made to what ARLEN SPECTER knows, the best source is ARLEN SPECTER. I do not believe that Republicans are any more vulnerable than Democrats on these volatile issues of public policy. I think the American people are coming to the conclusion that they ought to throw out all of the incumbents because of dissatisfaction for what is going on and the political infighting and political bickering which leads to gridlock.

When we work through a very, very tough, bipartisan amendment and accomplish the goals of adequate funding for education and do it in a way which protects the balanced budget concept, because there are offsets on all of these lines, I would ask for a moratorium on the political infighting and the political credit-taking so that we can get on with the business of the American people.

There is an old saying that "a lot could be accomplished in Washington, DC, if people were not too concerned about who got credit for what was being undertaken." I would say to my colleagues on both sides of the aisle that we ought to tone down the political rhetoric and we ought to get on with the business of the country. What we have hanging in the balance from the additional funding which we passed yesterday of $814 million for title I school districts, which is very vital for education in America, is: $182 million for school-to-work programs; we have some $200 million for safe and drug-free school programs; we have some $635 million for summer youth job training; we have very substantial funding for training for dislocated workers, a matter of enormous importance in America today with a downsizing of American business. All of this is in jeopardy if we are going to go back to crass politics and political credit-taking and political bickering as usual.

I anticipate great concerns in the House of Representatives when they exercise their legislative discretion. In the United States, we have a bicameral form of government. We have the views of the Senate. We have the views of the House. I have great respect for what the House of Representatives has to say.

This kind of political bantering, political dialog, and political credit-taking is going to be very, very difficult to deal with, because I expect to hear all about it when we go to conference with the House of Representatives. They have their own points of view. They have their constituencies. They are elected on a 2-year basis. They have certain commitments that they have made. This does not help the process at all.

So, it is my hope that the political rhetoric and the political credit-taking will be toned down as we move ahead to try to get this omnibus appropriations bill completed.

Mr. President, beyond this omnibus appropriations bill, it is my hope that the leadership and the Government coming from the President, the administration, and the leaders of the Congress will go back to the bargaining table and try to work out an overall global settlement. We are about to undertake now the appropriations process for fiscal year 1997. We are already scheduling the appearances of the Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor for the fiscal year 1997 budget. It is a little hard to look to the next year's budget when we have not even completed this year's budget.

We were able to have this revenue-neutral on a tough vote for many Senators, Democrats as well as Republicans, because we offset it against expenditures which are available only on a one-time basis. There had been talk on a global settlement where we addressed the issue of entitlements and had savings there. There might be as much as $10 billion available for the issues arising out of the Department of Labor, Health and Human Services, and Education. If we are to find a way to have a budget which can be adopted for fiscal year 1997, again looking to the concerns of education, we are going to need a global settlement. If we have the same allocation, 602(b) allocation for my subcommittee, for next year as we had for last year when we go through the budget resolution, I do not know how it will be possible to find light at the end of the tunnel to add the kind of money which we added yesterday in the amendment. And we are looking to a very, very tough political season.

My thought is that, if the Congress of the United States and the administration cannot come to terms, it is not only going to be bad public policy for the schoolchildren who very badly need the money which we passed in the Senate yesterday and hope we can get through conference, but what will happen in fiscal year 1997? It is not going to get any easier as we move from March into April, May through to October and November. So it is my hope that the people who have been negotiating on that overall budget global settlement will come to terms, or I think we are all going to have havoc to pay when we look to fiscal year 1997.

But first things first. Let us focus on the bill which is currently on the floor. Let us try to get the job done without rushing to take the credit.

Again, I thank my colleague, Senator HARKIN, for his outstanding work and leadership on this important matter and for setting a bipartisan tone which, if carried out by all Members in this body on both sides of the aisle, I think will lead us to sound public policy for the education interests and the labor interests, the funding of Labor, Health and Human Services, and Education programs.

Mr. President, in the absence of any other Senator in the Chamber, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3482 TO AMENDMENT NO. 3466

(Purpose: To provide funding for important environmental initiatives with an offset)

Mr. LAUTENBERG. Mr. President, this morning, I send an amendment to the desk for myself, Senator MIKULSKI, Senator DASCHLE, Senator JOHN KERRY, Senator KENNEDY, Senator LIEBERMAN, and Senator LEVIN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. KERRY, Mr. KENNEDY, Mr. LIEBERMAN, and Mr. LEVIN, proposes an amendment numbered 3482 to amendment No. 3466.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LAUTENBERG. Mr. President, this amendment has a very simple task, I think a very important task, and that is to restore funding for a critical national priority, and that is the protection of America's environmental heritage.

There is broad support for protecting our environment. Americans across the country want to drink clean water. They want to breathe clean air. They do not want to live near toxic waste sites that pose health risks to their families, regardless of whether they are urban or rural dwellers and regardless of the region of the country. Unfortunately, despite the public's commitment to environmental protection, this Congress has mounted a full-scale attack on our environment. The contract on America may not have mentioned the environment, but deep in the recesses of the presentation is a full-scale attack on our environment.

The contract on America does not have to mention it, but the signers of the contract appear committed to doing everything possible to gut environmental protection. First, the House of Representatives passed a series of riders on the EPA appropriations bill to essentially repeal laws protecting our air, our water, our land, and our families. Also in that legislation, EPA's budget, already underfunded, was cut by a third from the 1995 funding level, and more riders were added on the Interior appropriations bill.

One banned new listings of endangered species. Another rider essentially turned over the old growth forests to private timber interests. And then the House passed changes to the Clean Water Act. That bill dramatically weakened EPA's enforcement authority, wrote off the Nation's valuable wetlands, and included numerous other provisions apparently drafted not by legislators but by lobbyists for corporate polluters. Bills have also been introduced to cripple the Clean Air Act, to weaken our program for cleaning up toxic waste sites, and to exempt various industries from critical environmental regulation.

Another legislative proposal which passed the Senate would weaken something called the community right-to-know law. I am the author of that law, and it has been on the books for some time. It simply requires polluters to tell the public the truth about emissions that come from their place of business. It has been responsible for a 46-percent decrease in toxic emissions in 4 years. It has been a smashing success, as they say, and yet a rider to the omnibus regulatory reform bill would gut that law and allow any company to easily remove chemicals from the listing requirement.

As one can see, the list of congressional attacks on our environment goes on and on, and it is a source of great concern to millions of Americans. A poll, a Republican poll, commissioned by the Republican Party, by Linda DiVall, showed that only 35 percent of the voters would support a candidate who supported the one-third cut in EPA funding proposed by the House Republicans. Mind you, a Republican poll showed that only 35 percent of those who vote would be willing to support a candidate who supported this one-third cut in EPA funding. That is quite a revelation.

The same poll showed that while 6 out of 10 Americans say there is too much Government regulation, generally only 2 in 10 believe that the statement applies to EPA. The public, even those who consider themselves Republicans, do not trust their party on the issue of the environment.

In years past, I have been proud to work closely with many of my Republican colleagues to pass strong and effective environmental legislation. Frankly, I look forward to that opportunity this day. I know that there are Members from the other side of the aisle who care about the environment that we are leaving to our children and our grandchildren. We want to leave them the best, the cleanest available.

I wish to single out for commendation the distinguished Senator from Missouri [Mr. BOND], chairman of the subcommittee on EPA and NASA and the Veterans Administration, who has made a serious effort to increase funding for EPA over the proposals that came from the House. He has had to deal with an inadequate 602(b) allocation from the Budget Committee. He has worked hard within these constraints, and he deserves real credit for that.

Unfortunately, despite his efforts and despite the efforts of the ranking member of this subcommittee, Senator MIKULSKI from Maryland, laboring hard to try to improve the funding, because of the inadequate funding in the Republican budget for almost all domestic needs, the funding in this bill for environmental protection is just not enough to do the job. And, although better than proposals from the House, the legislation would require real cuts in critical environmental programs. Compared to last year's budget, even after the enactment of the Republican rescissions bill, the bill before us would cut EPA by over 11 percent.

So, my amendment proposes to restore funding for the environment to bring EPA's budget back up to, essentially, last year's level after the rescission.

And, perhaps most importantly, the amendment will add $365 million for States to fund sewage treatment and drinking water programs through State revolving funds.

Our State and local governments need these funds to meet Federal standards related to the control of sewage waste and to ensure safe tapwater. States leverage this money so its real value will be many times the amount appropriated. Yet the needs are enormous. Local governments need to meet Clean Water Act mandates that will cost over $100 billion. So this is not the time to be stingy with aid. It is critical to many hard-pressed communities and to citizens who rely on safe drinking water coming from their taps.

In addition to the $365 million to keep our water clean, my amendment includes various other provisions that will improve our environment. These include $50 million more for the Superfund Program to clean up toxic waste sites, and success and progress can be directly measured there. But what is going to happen as a result of the funding levels that we presently have is we will be shutting down work on sites that had begun, that show some promise for cleanup. That will grind to a halt.

We have $62 million for environmental technology to do the research necessary to find different ways and more effective ways to treat the environment.

We have $75 million for the Department of Energy included in here, for its excellent weatherization program which will provide weatherization grants for 12,000 homes, and give people a chance to protect themselves against the cold so they do not have to spend as much for fuel and also do not add to the consumption levels.

Mr. President, we have $75 million for the National Park Service, to stop the degradation that is taking place in our national parks. The National Park Service needs money. It needs staff. It needs resources to keep these parks up to the level that makes them available and makes all of us proud about these national monuments.

There is also $5 million to advance research for methyl bromide replacements. Methyl bromide causes nausea, headaches, convulsions, and ultimately death in some cases. Research in this area is badly needed.

Unlike the underlying bill, which provides funds on the assumption that Congress and the President reach some type of budget deal, this amendment has sufficient offsets so that we can immediately get on with our efforts to protect the environment.

First, the amendment includes legislation, proposed by the administration and adopted in the House reconciliation bill, that will improve the Federal Government's ability to collect delinquent debts. The Federal Government is owed almost $50 billion in nontax debts. We simply have to do a better job of collecting them.

The other offset included in the amendment calls for the sale of Governors Island in New York harbor. This also enjoys broad bipartisan support and was included in the House reconciliation bill. Governors Island is no longer going to be used as a Coast Guard station as it has been for so many years. It is now deemed to be inefficient and unnecessary as a place for the Coast Guard. With these offsets, our amendment is budget neutral.

Our Nation has made enormous progress since the environmental movement was ignited by Earth Day in 1970. Environmental laws have made our water safer to drink, cleaned up our oceans and rivers, made the air cleaner, and protected our land from dangerous waste disposal practices. This is no time to turn back.

Because of our work, there have been measurable improvements in our air and our water. In 1975, 60 percent of our waters—streams, tributaries—did not meet water quality standards. Today, only 40 percent fail that test. That is a remarkable improvement, and we can continue to build on that. But if we let it slip back, it does not take long for pollution to take over.

Thanks to our environmental laws there is now a generation of children in many parts of the country who have no conception about the terrible air pollution that spoiled our air not too long ago. Even our biggest cities have fewer days of unhealthy air pollution than they did 20 years ago, despite economic growth and population increases. Lead has been taken out of gasoline, which has had a significant positive impact on children's mental health. Today, ambient levels of lead are down 89 percent since 1984.

Sulfur dioxide concentrations in urban areas are down 26 percent since 1984, improving the ability of people with asthma and other respiratory diseases to lead normal lives.

Carbon monoxide levels are down 37 percent since 1984, largely due to cleaner cars and fuels, and more effective vehicle inspection and maintenance programs. These gains have come while the number of cars and vehicle miles has grown substantially.

Ozone levels have dropped since 1984, so 43 million fewer Americans now must breathe unhealthy ozone levels.

These advances occurred because this Congress passed the laws to make it happen, not in recent sessions, but over the years, and because we provided the funding to do the job. We made an investment in the environment and that investment has paid handsome returns. But now, if we back off on our commitment to the environment, successes of the past no doubt will be reversed in short order.

The environmental challenges of the future are substantial and in many ways more difficult than those of the past. We need to control emissions from many smaller businesses, something not easy to implement or to police. We will need to develop new technologies and we need to develop alternative approaches to controlling pollution. All of these require a real commitment of resources. That fact cannot be wished away or ignored.

We have heard it said many times that we need to balance the budget because we are piling debt upon our children. But what about the environment we are leaving to our kids? In my view, and the view of the American people, the environment simply must be a national priority. We can agree on balancing the budget and at the same time making certain that we provide a cleaner environment for our future generations. If we want to balance the budget we ought to find other ways to do it than restricting environmental cleanup activities.

This amendment would simply maintain funding for environmental protection at about the same level as last year's budget, after the rescission. I think it is a modest and certainly a reasonable proposal. I hope my colleagues on both sides of the aisle will support it.

Mr. President, we all ought to agree here, and we will agree when we cast our votes, that the environment is a priority for those of us who can do something about it. We have to decide here and now what it is that we want to leave for our kids by way of environmental protection. Do we want them to be able to breathe the air without getting sick? Do we want them to be able to go to the water tap? Sales of bottled water in this country continue to escalate. I am sure, when the original settlers came here they never dreamed they could do anything else but drink the water that was naturally available, and now some 40 percent of the population is buying bottled water. We ought to be able to assure people that, when kids go to the tap to take a drink, they are not jeopardizing their health, nor is the ground they are playing on dangerous for their well-being.

Those are the decisions we are going to make with this amendment, Mr. President. I hope that all of our friends on both sides of the aisle, Republican and Democrat, will agree that while we can discuss budget priorities, at the same time we can agree that we want to send a message on a cleaner environment.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to join Senator LAUTENBERG and other of my colleagues in offering this amendment to restore critical reductions taken in the funding for environmental programs. I compliment the Senator from New Jersey for his steadfast advocacy on the environment, and I look forward to working with him on these important issues.

Mr. President, we in Maryland are budget weary. We have been battered by the budget, we have been battered by floods, and we have been battered by the shutdowns that have occurred. What has been so terrible about the shutdowns that have occurred is that they have shut down our ability to enforce America's vital, crucial environmental protection laws relating to Superfund, safe drinking water, clean water, to be able to help our people be in a safe environment and help local communities.

The full committee and the subcommittee chairmen, Senators HATFIELD and BOND, have taken important steps by restoring $240 million in real money to this omnibus CR. This important effort, I think, will move us beyond this weariness that we have with shutdowns. I hope that at the end of this week, we have not shut down the Federal Government, we have not shut down the Environmental Protection Agency, and we have not shut down our ability to enforce public health and safety, nor that we have shut down the funding to go to environmental contractors.

But the fact remains that despite the efforts of the chairman of the Appropriations Committee and the chairman of the Subcommittee on VA and EPA, this appropriation, this CR continues to be $750 million below the 1995 level. It is the defunding of EPA. That is unacceptable to us on this side of the aisle, and it is unacceptable to the American people.

The American people want clean air, clean drinking water, they want contaminated and hazardous waste sites cleaned up, and they want their local communities to have the resources to provide wastewater and clean water to these communities.

The American people are absolutely opposed to efforts to weaken the environmental laws and are opposed to budget and staffing cuts that do that.

There was a recent poll that showed that 46 percent of the American people want no changes in either clean or safe drinking water.

When we talk about the impact on these budget cuts, this has a tremendous impact not only on local communities and on public health and public safety, but it absolutely has a direct impact on business.

A recent study by the University of Maryland's Jacobs Center, which is a business evaluation center, said that businesses are concerned that cuts to regulatory agencies lead to delays in permitting, and poorly trained staff also lead to a delay in permitting, which is a delay to business.

In my home State of Maryland, good environment is good business. That is why we have been such strong supporters of the Chesapeake Bay Program and the cleanup of important rivers and polluted rivers, like Back River. So the American people do not want any more cuts in EPA, and neither do I.

This amendment restores $738 million and puts us at 1995 levels. It is essentially a freeze on EPA, but it does restore funds to implement those important standards.

It also does something else. This amendment restores programs relating to the environmental technologies initiative. That is an initiative to spur, working with the private sector, new technologies, new products that we can manufacture in the United States and sell overseas.

Mr. President, these environmental cuts have a great impact on the United States of America and its citizens, but also this has a great impact on our national reputation. The world is coming to the United States of America for our environmental expertise in Government and its form of regulation, in terms of academia, in terms of its scientific research on the environment and in terms of a private sector that has developed techniques and products in manufacturing biotechnology to clean up the environment.

What we want to do in this legislation is to restore the Environmental Protection Agency to do this. To keep the funding cuts, I believe, will have a devastating effect on American citizens and will be a loss of national honor, as well as a national opportunity to go global.

This national opportunity will enable us to take our environmental expertise that the world wants access to and to go around the world giving out information, ideas, science and actual products.

We talk a lot in this U.S. Senate about how we need to have good jobs at good wages. I believe the frontier to do that is in the field of environment, using the expertise of EPA, working with America's academic institutions, encouraging these new technologies in the private sector. If we do that, we will not only protect our environment, but we will also be able to create jobs and be able to have an important contribution internationally.

So I hope, therefore, that my colleagues will support the Lautenberg-Mikulski-Lieberman and Kerry amendment to restore these cuts to EPA. We believe we have sound offsets to be able to do it, and I believe then we can move this process forward.

Again, I thank the chairman of the full committee, Senator HATFIELD, and the chairman of the subcommittee, Senator BOND, for taking the first step by restoring the $240 million. We look forward now to taking the next step to put EPA at the 1995 levels.

I thank the Chair and my colleagues for their attention, and I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair, and I particularly want to thank the Senator from Maryland and the Senator from New Jersey, Senators MIKULSKI and LAUTENBERG, for their leadership and efforts to try to guarantee that we have a sensible environmental policy in this country.

What is really astonishing is that this is the 10th time this year that we are debating the environmental programs of this country, the 10th time we are debating the 1996 budget. We are now in the sixth month of the current fiscal year, and we are setting a historic first for the United States of America. In the 11 years that I have been in the U.S. Senate, never—never once—have we had to go into a succeeding fiscal year and still be debating the items of the last fiscal year.

I would say, without any question at all, that the responsibility that fell to the majority last year or the year before, when they won the election, has really not been discharged properly. I remember when we were in the majority, in the last occasion of 1994, all 13 appropriations bills were passed on time. Whatever compromises were necessary in order to achieve that, we understood the Constitution of this country, we understood the nature of the system.

What has really happened here in Washington in 1995 and 1996 is that a small band of radicals in the House of Representatives have fundamentally hijacked the Constitution of this country. In the name of ideological purity and of their particular point of view, they have disavowed the balance of power between the executive and the legislature. They have taken into their own hands their own definition of timing.

They are breaking the law, Mr. President. They are breaking the law. The law says that these bills will be accomplished by a specific point in time. They have not been.

So we are here for the 10th time debating where we are going. People will say, "Well, the President won't agree." Well, the President has the veto power. That is what the Founding Fathers gave him, and when the President has the veto power, and there is not a sufficient political force in the country to undermine whatever sustaining capacity there is in the Congress with that veto, then the President gets to have that balance.

The reality is, you are supposed to compromise. But that is not what is happening. I think it is very unfortunate for all concerned. I know that there are moderates on the Republican side, many in the Senate, who are uncomfortable with what is happening, who do not agree with it, who would rather see the Congress of the United States do its business. I think it is entirely inappropriate for the country to pay the price for this small group in the House of Representatives.

It is revealing that while a certain group of appropriations bills have made it into law, it is revealing that the bills that fund the agencies with primary responsibility for the environment and our natural resources, the Environmental Protection Agency and the Department of Interior, have not been signed into law. I think, Mr. President, that the fact that those particular bills have not been signed into law underscores the clash of priorities that is evidenced in the Republican approach to the funding of those bills and the Democratic approach.

The fact that the Republican leadership is still fighting for large cuts in environmental programs is, in my judgment, an indication that they are not in touch with the real concerns of the American people and their desire for clean air and clean water. The response from some will quickly be, "Wait a minute. Of course we're in touch. Being in touch means you balance the budget. We have shown that you can balance the budget." But you do not have to do it at the expense of these environmental programs.

So, in the final analysis, it really comes down to a fundamental confrontation between choices—the choices you make to balance the budget. And the choices that you make to balance the budget are the final evidence of your priorities and of your values.

That is why, Mr. President, I am here once again in this 10th series of efforts on the environment with Senator LAUTENBERG and Senator MIKULSKI and others, to speak in support of increasing the funding for specific environmental programs. What we are seeking to do is to add back over $900 million for environmental programs at four Federal agencies—at the Environmental Protection Agency, at the Department of Energy, at the Agriculture and Interior Departments. It is our judgment that this money is critically needed in order to fully protect America's health and safety at a level that Americans have come to expect and that they believe is their right.

Mr. President, if we succeed in passing an omnibus spending bill, we are going to set the environmental budget for the EPA through the end of this fiscal year. If we pass a bill that includes environmental funding increases in this amendment, all we will have succeeded in doing is bringing us back to last year's level of protection. I think Americans need to understand that.

This is not a Democrat effort to try to add huge sums of money, even though many of us believe that in certain areas we ought to be spending more. This is simply an effort to hold our citizens harmless from a reduction below the level that we were at last year.

If, however, this amendment is defeated, Congress will have turned its back and turned the clock back on some 25 years of environmental gains. Ironically, for 19 of the last 25 years, Republicans were in charge of the EPA. It was Richard Nixon who signed into law the National Environmental Policy Act and delivered protection of the environment as a national priority. I think it is particularly ironic that after George Bush joined with us to help sign into effect the Clean Air Act, and after the many efforts of the last years that have been bipartisan, that we are suddenly thrown into this partisan clash over whether or not we can keep the funding at last year's level.

Regrettably, our friends on the other side of the aisle have made a different choice, and it is different from what most Americans are telling us that they want. I think almost every poll in the country has shown that Americans want to protect their environment: they want cleaner air, they want cleaner water, they want pristine rivers, they want our ecosystems protected, they want an abundance of species, plants, and animals, they want clean beaches and national parks, and they want public lands that are safe and they want them protected. They want cities with breathable air and industries and businesses that are willing to join in the effort to guarantee that these kinds of protections exist.

Unfortunately, Mr. President, you cannot reconcile that stated desire of the American people with the budget figures that we are being presented. So the central question in this debate is really: What priority do you place on protecting the Nation's environment and natural resources and the health of our citizens?

I am confident that we are going to hear Senators on the other side of the aisle say, "I take no second seat to anybody in the country on protecting the environment." We will hear Senators say, "Let's not kid ourselves; nobody is against the environment. Nobody wants to have bad water," and so forth. It is fine to say that, Mr. President, but if you are in favor of cutting inspections, if you are in favor of cutting a community's ability to be able to provide that clean water, if you are voting for an amendment or a bill that reduces the commitment from last year, even though no American is asking for a reduction except for some companies, it is very hard to follow through and say, you are, in truth, voting for what you are talking about.

That is the real difference here. What are you voting for? What are you putting into the budget? What numbers do you really support? While the bill that is being brought to the floor is an improvement from the conference report, it is still a budget that is hundreds of millions of dollars below the level that most people in good conscience and good faith have decided is necessary in order to continue the level that we have committed to the American people.

In addition to that, Mr. President, the bill contains a series of legislative riders that cripple the EPA's ability to be able to protect the Nation's wetlands, which is precisely what some people want to do. They have never liked the wetlands protection. They want to develop wetlands, and they do not care about the standards. So they are intentionally setting out to cripple it. And it would also halt the Department of Energy's work on setting energy efficiency standards for appliances.

Mr. President, we have, as I have said before—but I think it needs repeating again and again—shown that you can balance the budget in 7 years without doing what the Republicans are choosing to do here. I hope that we will recognize that without restoring some of this funding, the cuts to the EPA are going to deal an extraordinarily harsh blow to efforts to be able to protect us.

I would like to bring it down to a local level, if I may, Mr. President, to my State of Massachusetts. We are trying, in this bill, to increase the State revolving fund by $365 million over what the Republicans have provided. Every State will benefit. All cities in each of our States that are in need of new infrastructure will benefit by adding to the State revolving fund.

We have communities in Massachusetts, a community like New Bedford, for instance, about 100,000 residents, is building a sewer treatment facility that will cost more than $200 million. It has to build this under Federal law. Yet the tax base is such that the citizens cannot really afford to do that on their own. In the 1980's we had a partnership with the Federal Government where the Federal Government would provide anywhere from 55 to 75 percent of the money. That is not happening today. As a result, local communities are being harder and harder pressed to be able to try to live up to the standards that we have set at the Federal level. Because they are harder and harder pressed to do that, they get angrier and angrier over those Federal standards and begin to blame the standards themselves.

What happens here, you get caught in a vicious circle. People begin to lose their commitment to the standards and to wanting to clean up because they feel oppressed by them. The reason they feel oppressed by them is they are required to do things they do not have enough money to do. The reason they do not have enough money to do it is the Federal Government has pulled out of the partnership and taken away the help that was given in the 1970's and the 1980's. That happened, as we all remember, in 1982 when Ronald Reagan came along and stripped away title II of the Clean Water Act and left the mandate. All of a sudden the anger was directed at mandates.

Mr. President, we desperately need that kind of funding assistance. In a city like Fall River, a partner city to New Bedford, you have a similar sort of tax base, similar difficulties. You have a combined sewer overflow problem which the community desperately needs to be able to refurbish, rehabilitate the sewer overflows, 100-year-old infrastructure, a current population, and the current population is required to pay for the next 100 years. That is not fair. You have to try to spread that out.

Nowhere is that more felt, Mr. President, than in the city of Boston where we are living under a court order, Federal mandate, Federal court order, that you have to go ahead and clean up the harbor; at the same time, put in a secondary treatment facility for water, billions of dollars of expenditure. So the citizens of our State and city have seen a 40 percent increase in their water rates in the last few years. It has gone up to about $618 per family and will go up to $800. This drives out business, drives down the value of property, and most importantly, it is just impossible for the average family, already struggling on a lower income, to be able to pay these increasing costs.

Once again, what is the result? The result is people get angry at the mandate, even though it is a legitimate mandate that you have clean water. The result is we begin to lose the consensus in this country to be able to do these things.

Mr. President, in the 1970's and 1980's, many communities got money to the tune of 90 percent, 75 percent, 55 percent of their project being paid for by the Federal Government. In 1996, Boston has received a total of 18 percent funding, contrary to the 55 percent, 75 percent, 90 percent of years past. Even President Bush saw fit to put $100 million each year into our budget to help us with that. We desperately need the State revolving funds and those kind of commitments. That is an example of one State. That can be replicated all across this country. There are other communities in need of additional money.

Mr. President, there is another area that is a concern. That is the area of the funding for the cleanup of toxic waste sites. This bill provides an increase, for which we are obviously grateful, over the conference report which devastated this program. Our amendment would restore an additional $50 million to the Superfund which is still several hundred million dollars below what the President of the United States has asked for. Now, while our amendment is not everything we would have liked, we believe what the Republicans are doing will slow the cleanups. It will continue to stall cleanup efforts in communities that have very, very patiently waited for Federal intervention.

Let me just share with my colleagues a story that I think underscores why this is so important. The toxic waste cleanups are critical to our ability to be able to provide the fundamental protection that our citizens are looking for. There was a young man in Woburn, MA, named Jimmy Anderson who got sick from a contaminated well in Woburn. He died from lymphocytic leukemia in 1981. His story underscores why this $50 million is important. About 30 years ago, his mother, Ann, suspected that something was wrong and that their water was bad because it smelled bad. She went to authorities and said, "There is something wrong with our water." The authorities just said, "No, don't worry about it. It's OK. It will be all right." Then in 1972 her son Jimmy got sick. Despite her concerns, the wells that they were drinking from remained in use until 1979, when an environmental inspection that was triggered by a totally different event revealed that in those wells there were, indeed, high levels of toxins.

Eventually, other leukemia victims came forward. It turned out that between 1966 and 1986 there were 28 cases of leukemia among Woburn children with victims concentrated in the two sections that were served by those wells. Now, investigations revealed when they analyzed the water, that there were whole lagoons of arsenic, chromium, and lead that were discovered on a tract of land that had once housed a number of chemical plants, and from a nearby abandoned tannery that had left behind a huge mound of decades-old rotting horse hides that gave off a smell that commuters used to call the Woburn odor as they drove by.

I say to my colleagues, before we rush into adopting a budget that is going to reduce the level of inspections and give us more Jimmy Andersons, why do we not just stop and think about what the environmental protection effort is trying to achieve and what it has achieved in its previous years. Jimmy Anderson's mother came to Congress to testify. This is what she said: "It is difficult for me to come before you today but I do so with the realization that industry has the strength, influence, and resources that we, the victims, do not. I am here as a reminder of the tragic consequence of uncontrolled toxic waste and the necessity of those who are responsible for it, to assume that responsibility."

Mr. President, in no uncertain terms, the budget that the Republicans are offering empowers those polluters and takes away the responsibility. The budget that we are offering tries to hold those people accountable and provide power to the victims.

I hope, Mr. President, that in the hours ahead we can find the same kind of bipartisan coalition that we found yesterday on education. This should not be a partisan issue. I regret that there are some who have stated their priorities different from other people's.

Finally, I hope we will rectify the legislative riders that open up more timbering, that create a greater imbalance in the relationship between our natural resources and the people of this country. There is nothing, frankly, more important, than education. This is part of our education effort. It is also part of our fundamental responsibility to the next generations. I hope we will add the money that is necessary.

Mr. BOND. Mr. President, I rise in opposition to the Lautenberg amendment. I also must point out to my colleagues that the partisan rhetoric that we are hearing about the environment is reflective of the fact that this is an election year. I have listened with great interest to some of the wild charges and political claims being made. I keep checking to find if it has anything to do with the measure before the Senate. I find, unfortunately, that it has to do more with somebody's campaign than with talking about the issues that are relevant to this bill.

My colleague from Massachusetts has just denounced the fact that we are breaking the law because there has been no appropriation for veterans, housing, environment, and space—the main subject areas of the subcommittee I chair. Well, I can tell you, Mr. President, quite simply why there has been no bill passed and signed by the President. It is because the President vetoed the bill that we presented to him that was within the budget allocation and passed by both Houses of Congress.

I can tell you, also, that beginning last November when we sought to work with the White House to find out what would be acceptable, what we need to do to accommodate their interests, we were stonewalled, absolutely stonewalled. Leon Panetta came and said, "Well, the only way we can sign this bill is to spend $2 billion more." This was at a time when the President was stating that he was for a balanced budget. However, he was asking that we break the budget by $2 billion. He vetoed the bill and said we need $2.5 billion. No longer the original $2 billion.

Mr. President, how much is enough? How much is enough? How far do they want to break the budget? I have fought hard on this bill, and I believe we have fought responsibly to raise the amount of money appropriated for vital environmental cleanup efforts, and within the appropriations available to us under the budget agreement, we have done a good job.

(Mr. ASHCROFT assumed the chair.)

Mr. BOND. In this measure before us, we have added additional funds and we have put in a provision that if the President will agree to sign a balanced budget amendment that would make the budget balance in 2002, there will be even more money available for what I regard as a high priority, and that is environmental cleanup.

My friend from Massachusetts said, "You are supposed to compromise and negotiate." Well, on that matter, I agree with him 100 percent. But let me ask my colleagues, Mr. President, if we are supposed to negotiate and compromise, if we are supposed to come to an agreement with the White House, how do you do it when they do not show up? This Chamber is essentially empty. But this Chamber is just what I have had in attempting to deal with the White House—nobody. I have talked to the Agency head, Administrator Browner. I have talked to Ms. McGinty in the White House, head of the Council for Environmental Quality. I have talked to the Vice President. I have talked to OMB Director, Alice Rivlin. I said, We want to compromise and work with you to make sure we meet the objectives of the programs funded by this bill. We do not have a bill, Mr. President, quite simply, because the President has chosen the political tack. His political advisers say it is far better to veto and throw hot rhetoric than to sit down calmly and negotiate.

I hope the time has come when we are ready to negotiate, because I believe we have made great progress in the environment in past years. I want to see that continue. I believe the bill before us will continue that progress. I will be happy to work along with the leadership on this side and the leadership on the other side of the aisle to come to a reasonable compromise that keeps us on our budget goal of balancing the budget, so we do not put the burdens of our debt on future generations, but which will meet the objectives that are funded in this bill in the environmental area.

Let me return to the Lautenberg amendment. The Lautenberg amendment is about pumping up the rhetoric and the polarization surrounding environmental issues. I must say that the supporting remarks are completely in that vein. It is not about ensuring that limited dollars are spent on EPA programs and activities which most effectively reduce risk to human health and the environment.

The Lautenberg amendment includes funding for the administration's entire wish list for EPA, totaling $726 million. I would like another billion dollars, too. It is always nice to have that. Maybe the stork or the tooth fairy will bring it. I am sure we can spend more money well. But it is not possible, unless we reach other agreements that will lead us to a balanced budget, that we can accomplish that goal and put additional sums in.

There are additional sums in this measure introduced and presented by Senator HATFIELD, which will provide more funding when we come to an agreement on a balanced budget. The offsets proposed in the Lautenberg amendment are phony. They are being used in the other Democratic leadership amendment to be offered to the bill. How many times can you trod out that same old ghost of imaginary cuts? Imaginary cuts are a great offset, but they make awful thin soup because there is nothing there.

As chairman of the VA-HUD subcommittee, I have worked very hard to fund EPA adequately within the very constrained budget allocation available to the subcommittee. The bill before us today increases EPA's budget by $402 million above the conference level, including $240 million within title I that would be available upon the passage and the signing into law by the President of this bill, and another $162 million in title IV of the bill, the contingency section. We can spend the $162 million if we reach a broader budget agreement.

The total for EPA is $6.1 billion. This, I believe, represents a good-faith effort to meet the administration's concerns, even though they are not willing to discuss those concerns with us or present us with an honest prioritized list of needs and wants.

We have made these efforts because we are concerned about the environment. We have made these efforts, and we have taken these steps because Members of this body on both sides of the aisle are interested in protecting the environment. This is a bipartisan issue.

The arguments about the Republican opposition to the environmental cleanup are absolute hogwash. It is embarrassing that we have to answer those inane charges on the floor of the Senate. It is appalling to me that someone would come down and make those assertions. But they have been made, and they are nonsense. They do not deserve further discussion.

The additional funds in title I, which are funded within the subcommittee 602(b) allocation, are provided for State revolving funds, for the Superfund and the enforcement activities, all of which were included on the administration's wish list. As a matter of fact, they were the first ones mentioned by the Administrator of EPA when I asked her to set priorities—assistance to the States for water infrastructure construction, toxic waste cleanups for sites posing real and immediate risks, and funding to ensure that there are no employee furloughs or RIF's. Reductions to ongoing contractual support are high priorities.

Let me be clear. The amount provided in title I—that is not subject to contingency. The only contingency is that it be passed by the Congress and signed by the President. This appropriation ensures that the EPA does not have to fire or furlough a single employee. And the enforcement budget is increased, Mr. President, by $10 million over fiscal year 1995, in a year when total funds available for commitments by this subcommittee were reduced by 12 percent from the preceding year.

We have held EPA at a higher level and even increased the enforcement budget. In addition, this legislation recommends another $162 million in title IV, the contingency section, for additional State revolving funds operating programs and a new laboratory facility in the North Carolina Research Triangle Park, where EPA space is sadly deficient.

This legislation recommends a total of $6.1 billion—just $300 million, or 4 percent, less than the total fiscal year 1995 actual spending level in a bill that is 12 percent overall below. Where did we have to cut? We had to choose priorities. We cut earmarked water and sewer projects—the pork that Members love to bring home. Bringing home the bacon is unfortunately a sport that is still popular around here.

Last year's appropriations contained some $800 million in these bringing home the bacon projects. This bill all but eliminates such earmarks.

I note that the Senator from Massachusetts, a staunch defender of the amendment that is being offered, would see funding for his State to go up by another $75 million. Certainly it does enhance one's enthusiasm for an amendment. But I will address that part later.

H.R. 3019 provides $1.825 billion for State revolving funds. This includes an increase of $100 million over the President's request of $500 million for drinking water—State revolving funds to be distributed by a formula based on need—a formula based on need and not a formula based on who can offer an amendment. It is a formula for which we hope the Environmental Protection Agency and State agencies will use good, sound science and prioritizing in determining where the money needs to go.

In fiscal year 1995 the States received only $1.235 billion in revolving funds. This year's bill ensures that States will receive $1.725 billion, and an additional $100 million if title IV spending is released; that is, if the President agrees on a balanced budget. That would be an increase of almost 50 percent. The occupant of the chair and I have served as Governors. We know where the pedal hits the metal and where the rubber hits the road, which is in the States where they actually do the cleanup. In Washington we talk about it and we pontificate about it. It is the States that have to do the cleanup. It is the States that take care of the needs of their communities. It is the States that take care of the environmental risk to their citizens. And we increase that money by 50 percent in this bill.

I note that it is especially ironic that the pending amendment seeks to add back pork barrel sewer projects. This is not environmental protection so much as old-fashioned parochial political pork. That is what is involved here.

In addition to the State revolving funds this legislation fully funds State agency grants. We have recognized that the States have been assigned burdensome responsibilities by the Federal Government to protect and clean up the environment. We have tried to provide sufficient funds for them to do that despite the budgetary constraints under which we must act.

Despite very serious concerns with the Superfund program—and there are serious problems with that program, Mr. President, and everybody in this body knows there are problems with it and reservations about putting a lot of money into a program which virtually every one agrees needs to be reformed—the legislation before us actually recommends $1.263 billion for Superfund, $100 million more than the conference agreement. This appropriation would result in an increase in the dollars spent on actual cleanups in fiscal year 1995 and would provide level funding for enforcement activities.

The Senator from Massachusetts and other proponents of this measure have talked about the slowdown in Superfund. Slowdown is synonymous with Superfund. That is what Superfund has become—a tremendous slowdown project. It has had some tremendous benefits. It has had tremendous benefits for the lawyers who file the lawsuits and argue over who is going to be responsible. The more money we put in the Superfund the more fees we generate. This is a litigation machine. This is a lawyer's dream. The law provides more dollars for lawyers and too little for cleanup. We cannot just throw more and more dollars at it without changing the law.

If we are serious about the Superfund and toxic site cleanups—and we must be—then we have to reform the program. We are working to reform the Superfund Program so that the money in Superfund goes to what people thought it ought to, and perhaps think it still goes to; that is, cleaning up the sites.

Mr. President, many of the recommendations included in the committee reported bill for EPA were made by the National Academy of Public Administration. This is a nonpartisan organization which was asked by my predecessor, my Democratic colleague and ranking Member, Senator BARBARA MIKULSKI, to undertake a report on reforming EPA 2 years ago. I want to say once more for the Record that Senator MIKULSKI has been a leader in promoting environmental progress and using the best management and the best science to do so, and the work that was done at her request in the National Academy of Public Administration, I think—in common forums away from the political diatribes on the floor and on the hustings—is recognized as the way we should go to make sure that we deal with the threats to health and the threats to the environment from toxic waste.

We followed the recommendations in this bill of the National Academy of Public Administration. They were presented to Congress almost a year ago, and they said turn over more responsibility to the States; turn over responsibility to the States which have developed capacity over the past 25 years to manage environmental programs. Do not step on their efforts, if they are doing a good job. If they are not doing a good job, Mr. President, there is every reason to have a Federal agency which says, "You are not doing a good enough job." If we in Missouri were polluting the air of Illinois, polluting the water of Arkansas or Mississippi or Louisiana, the national agency should step in. But if we are doing the job in Missouri in cleaning up the environment to standards set on a national basis to protect the national health and well being of the environment, then we ought to give the States the flexibility to do it.

According to NAPA, "EPA should revise its approach to oversight, regarding high-performing States with grant flexibility, reduced oversight, and greater autonomy."

That sums it up. This is what we have tried to do through the appropriations bill. We have even included authority for EPA to begin issuing block grants for maximum flexibility. We have tried in this bill to get EPA to focus on the areas of highest risk to human health and the environment, and to reduce spending for the time being on those programs which produce less bang for the buck, either in terms of the cleanup progress or the risk that they are dealing with. Rather than spending time organizing press conferences and news events, I believe that EPA should follow the recommendations of NAPA to get its own house in order. Despite EPA's claims to support NAPA's recommendations, we have seen little in terms of real change.

As I have mentioned before, Mr. President, I have been trying unsuccessfully—I have been waiting for 5 months to forge a compromise with the White House within the allocation available to my subcommittee. Since last November I have placed phone calls, I have written letters, and I have held hearings—nothing, zip, nothing. Unfortunately, the White House seemingly has decided that portraying me and those on this side of the aisle as antienvironment is a better political strategy than compromise. My phone calls have not been returned. My letters have not been responded to.

I held a hearing on January 26. EPA administrator Carol Browner refused to admit there can—and, indeed, must be—priorities within the EPA's budget. The Administrator, when I asked her for her priorities, claimed that the entire $966 million of add-backs demanded by the White House were critical, including earmarks for sewer construction, the pork barrel part of it. Is there anything that is more important than the environment? When you cannot set any priorities you do not have any priorities. If you refuse to prioritize, to live within a budget, then you do not have any idea of what you are trying to do.

Two weeks ago, I held a second hearing on EPA. We heard from former EPA Administrator Bill Ruckelshaus, State environmental commissioners, EPA Science Advisory Board members, and others. These witnesses confirmed the importance of setting priorities and reordering spending to achieve the most gains for the environment with the available dollars. These witnesses recognized that spending was not unlimited and there must be management discipline to ensure we allocate resources effectively.

Unfortunately, instead of attempts to compromise, we have seen nothing but incendiary rhetoric from the administration. Two weeks ago, EPA Administrator Carol Browner, at a press event staged by House Democrats, stated that the Republican budget would force her to choose between setting drinking water standards for cryptosporidium and controlling toxic water pollution in rivers, lakes, and streams.

There is not a shred of truth in that. I think cryptosporidium and controlling toxic water pollution are top priorities. How come she cannot see that?

How come she wants to put pork-barrel projects and corporate welfare projects in a budget and say that those are equal in priority? They are not establishing any priorities. If they give us some priorities, we will work with them. Let us talk about things that really can clean up the environment.

The appropriation for EPA does require EPA to begin to set priorities—a novel concept. The National Academy of Public Administration, the General Accounting Office, EPA's own Science Advisory Board, and other experts who have testified before our committee recognize that EPA should begin to do it, but in no way does it force the sort of tradeoff that the Administrator described.

Let me get to one of my favorites. I am sure you read or heard or saw on TV about the President's campaign event in New Jersey. Oh, that was a bell ringer. The political pundits and spin masters must have been rubbing their hands together in glee. He attacked Congress as being antienvironment. He accused the Congress of shutting down cleanup at a Superfund site in Wallington, NJ. He pointed out that right next to the site was a school and children were in danger. Why? It was because the Republicans in Congress wanted to subject these children to the dangers of toxic waste.

We listen to a great commentator named Paul Harvey back in our part of the country, and he says, "Now let me tell you the rest of the story." Well, the rest of the story gets pretty interesting because what he did not say, what the President did not say was that EPA chose—not Congress, EPA chose—to slow down the work at that site. We gave them the dollars and told them: You set the priorities. You prioritize your cleanup dollars to put them into the areas which pose the greatest risks to human health, and do that first.

Why did we do that? Why did we do that, Mr. President? Because we had a GAO study of existing Superfund cleanup actions. This study showed that 32 percent of the sites reflected an immediate threat to human health and the environment, and those are under present or current land uses; 15 percent would not pose any risk to human health in any event; 50 percent would pose a threat to human health only if they changed the land use.

Therefore, if you went into an industrial site where they had had manufacturing and transportation and did not clean it up and set up a kindergarten playground or a day care center, that would pose a risk. So you do not do that. Fifty percent of them pose no risk to human health under the current land use. And unless you brought in kids and had them eating the dirt, there would be no human health risks—15 percent, no human health risks. Only 30 percent of the taxpayer dollars were being spent on human health risks.

So we told EPA: Go out and spend your money where there is a human health risk. You have more than enough money to do that.

So either one of two things, Mr. President. Either EPA decided that the Wallington, NJ, site was not posing a risk to human health, which would have been a vitally important factor that reporters could ask the President about at his news conference. Or if there was a real risk to human health and EPA had staged the slowdown to give the President a political forum. One of two choices. Maybe EPA will tell us which. Did they allow the President to hype as a risk something that was not a risk, or did they slow down funding for something that really was a risk in order to give the President political gain and political mileage?

Whichever answer, it is not very pleasant. It is not something that I think the people of America would tolerate. If there is a risk to human health, we said we will give you the money; go forward and clean up those risks first. Prioritize them. EPA has a little trouble focusing on the priorities. It is about time they did.

The amount of spending provided in the current continuing resolution and in the conference agreement is the same as the fiscal year 1995 level for actual Superfund cleanups. That is $800 million. And the bill before us today would increase the Superfund cleanup budget by an additional $100 million, as I have already indicated. We have told EPA they have to prioritize Superfund cleanups—something they have never done in the past—and it needs to be based on real threats to human health and the environment.

If the Wallington, NJ, site where the President staged the press event meets EPA's own risk-ranking process, there is money and that site should receive cleanup funding this year under the terms of the bill before us today.

The Lautenberg amendment continues the misinformation campaign of the White House. It seeks to add more funds for programs we have already increased in this bill. It seeks to add funds for programs which are not high priorities such as the environmental technology initiative.

The environmental technology initiative has funded private sector conferences on energy efficiency lighting. In the past, they have funded studies on how large corporations can save dollars. That is a great idea if they save dollars by energy efficiency, but for a large corporation, I think that they probably ought to be willing to fund that themselves. We have heard in the past about studies to control and study bovine emissions and many other areas that may be of scientific interest, although not of great personal interest, I would say.

We add back money for funds for enforcement. We have already increased enforcement spending over the fiscal year 1995 level.

Now, perhaps most amazingly, the amendment seeks to add funds for Boston Harbor when this bill already has $25 million. We did accede to the request of Governor Weld of Massachusetts to continue funding it at a lower level because of the magnitude of the problem and the fact that they have to have some funding as we phase down the availability of dollars. But Boston Harbor has received almost $600 million over the past several years, even while such earmarks are not authorized and are unfair to thousands of communities which do not receive such largesse.

Surely, it cannot be a priority to move one site above every other site in the Nation. We have said that we are making funds available to be allocated on the basis of need, on the basis of sound science. If that, in fact, is such a need and sound science requires it, then money will go there.

But, as indicated by the Senator from Massachusetts, there are lots of requests in lots of other areas. I have had many, many Members tell me about the very difficult situations they face in their States. They have talked about water system supplies, and I said, "Yes, I understand that." And we have not done a good job in the political process of determining which of those projects has the highest priority need in terms of science, in terms of human health, and in terms of the environment. So we put the money into State revolving funds, we put the money into programs where it will be allocated on the basis of sound science, where it will be allocated on the basis of how much danger is posed. That is how the money should be allocated.

I believe we can establish decent priorities. Mr. President, if the Lautenberg amendment goes to a vote, I will oppose it because I believe in this bill there is adequate funding for EPA within the constraints imposed by the needs to balance the Federal budget. I think it is time for EPA to begin prioritizing and instill management disciplines to ensure Federal funds are spent effectively on environmental protection activities.

There have been encouraging words. I have been approached by the Democratic leadership. I have had a conversation with my ranking member and colleague, Senator MIKULSKI. They have indicated that perhaps we can reach a compromise with the administration. And if the administration does not want to play, we will reach a compromise with the Senate Democratic leadership on what we are going to do. I am tired of guessing what the priorities of the administration are.

We are more than willing to work in a reasonable manner to allocate the funds that are available and to make sure the EPA and the State agencies have the funds they need to move ahead as we work on reauthorizing and changing Superfund and other programs. If the administration is serious, if the Democrats are serious, in case they have lost my telephone number, my phone number is 224-5721. I have left a lot of messages. They have probably been erased from the e-mail screens by now, but I can be reached by fax or by message from the cloakroom. I will be waiting for a call.

This is serious business. It is time that we end the partisan charges that I think have been totally unwarranted, and talk about how we can pass a measure which actually provides funding within the budget constraints to do the vitally important environmental cleanup and enforcement work that the people of America have a right to expect.

Mr. President, because we are hoping there will be further discussion of this, we have conferred with the minority side and I have not heard objection. I therefore ask unanimous consent that this amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, seeing no other Member seeking the floor, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the pending business be set aside so that I might speak for no more than 5 minutes on the preceding Lautenberg amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

First, I ask unanimous consent that Senator LEAHY of Vermont be added as a cosponsor of the Lautenberg amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise in support of the amendment offered by the Senator from New Jersey to restore funding for the Environmental Protection Agency, the Department of Energy, the Department of the Interior, and the Department of Agriculture.

Senator LAUTENBERG and others have discussed the critical programs of environmental protection that would be funded by the amendment in some detail. I want to touch very briefly on a few of the key aspects of the amendment, particularly the provisions related to funding for technology.

First, Senator LAUTENBERG's amendment adds back a modest amount of funding for environmental technology, $62 million, for a total spending on environmental technology of $108 million. Unfortunately, the continuing resolution includes only $46 million for spending in this critical area.

Funding for the President's Environmental Technology Initiative, which is known as ETI, is slashed from his request by 92 percent to only $10 million. Mr. President, the failure of the continuing resolution to provide adequate funding for environmental technology is, in my opinion, very shortsighted. A small amount of funding on these programs can yield enormous savings for our regulated industries while providing superior protection for all of our citizens.

During the current debate on environmental protection, we often hear what at first appear to be conflicting messages. Some in the electorate clearly want less of the overly bureaucratic, heavy-handed command-and-control approaches we have turned to too often in the past to protect our environment. Those folks want new solutions that rely more on the marketplace. They have a good point.

On the other hand, it is clear that the public's commitment to protecting the environment has remained very strong, and understandably so. I was pleased that at a meeting with my staff recently, representatives of the Connecticut Business and Industry Association affirmed their support for strong environmental protection laws.

Of course, that should not be surprising. Folks who run our businesses, who are citizens, are as concerned as anyone else about the quality of the air they and their families breathe and the water they drink or swim in. They want to be good citizens, good corporate citizens, of our community.

What the conflicting messages tell me is that we have to be smarter in our approaches to environmental protection, not weaker. That is precisely what the Environmental Protection Agency is working toward in its Environmental Technology Initiative.

The program is developing and promoting new approaches to regulation and new technologies that will increase our efficiency, cut costs, expand exports, and produce a healthy, productive environment for our citizens. Under the Environmental Technology Initiative, EPA is working with the States to streamline permitting processes and to ensure that the permit approval process does not penalize those companies that are willing to try new, cheaper solutions involving technological improvements in order to control pollution. The National Academy of Public Administration's report on improving EPA's programs, mandated by the Appropriations Committee, emphasized the need to eliminate regulatory and policy barriers hampering use of new technologies.

Mr. President, 63 percent of the funds proposed by the President for the Environmental Technology Initiative would be spent on programs to promote just this kind of permit flexibility and other regulatory innovative practices. These are the type of programs that the Connecticut Business and Industry Association and other businesses are telling us they want to help them meet their environmental responsibilities in a more efficient manner.

During the last Congress, I worked with colleagues on ways to promote these new, more cost-effective environmental technologies. I learned that the single most significant barrier to investment in these new technologies is that many of EPA's regulations inadvertently lock in the old, existing technologies.

Under the Environmental Technology Initiative, EPA is working now to develop regulations that correct this mistake, that do not lock in any one existing technology. They are working at EPA with State and nonprofit and Federal laboratories to test and verify the performance of these new, promising technologies. We need to make sure that this verification program can be expanded.

EPA is investing in other programs that make good economic and environmental sense. One of the most successful environmental programs has been the market-based program to reduce emissions contributing to acid rain. Studies show that this very exciting new program is yielding enormous health benefits while costing the industries regulated by the Clean Air Act at least $2 to $3 billion less than estimated at the time of enactment of the law. ETI, the Environmental Technology Initiative, is investing in programs that will expand market-based approaches. And that is exactly what the Lautenberg amendment would support.

Over the long term, improvements in environmental technology, particularly when it comes to pollution prevention, are critical to the ability of American companies to compete. Not only do new technologies reduce compliance costs but they improve competitiveness by leading to greater efficiency. Saturday's New York Times had an exciting article about the success of the paper industry in vastly reducing its discharges of contaminated water into rivers or streams and in the process saving huge amounts of water and energy while still increasing production. Those companies have found that this approach provides a competitive advantage.

ETI is working in partnership with industry to develop these cleaner technologies. For example, it is working with industry to reduce toxic emissions released by metal finishing processes used by more than 3,000 metal finishing facilities nationwide. One of these projects already is reducing the use of chromium. Another project aims to slash the time EPA takes to approve new technologies that prevent dangerous contaminants such as cryptosporidium from entering our drinking water, and other technologies that will disinfect the water as well as provide quicker confirmation of drinking water safety.

In other words, at the most basic level, the development of innovative environmental technology will enable us to maintain strong environmental protection at dramatically lower cost. Involving Federal and State agencies such as EPA as partners in this effort is important because these agencies should have a good sense of the regulations that may be promulgated in the next decade. Working in partnership with the Federal Government is the best way to focus technology development on areas where the economic and environmental benefits will be the greatest. Involvement in technology development will also help increase awareness by EPA and other regulatory agencies of what is or is not possible from a technology development standpoint as they develop regulations.

ETI is also working with industries to promote the exports and diffusion of U.S. technologies throughout the world. There is an enormous market for these technologies and U.S. companies should lead. In Connecticut, the environmental technology industry—a $2 billion industry according to recent reports—has become a major exporter.

Mr. President, the second provision in Senator LAUTENBERG's amendment that I want to discuss briefly is the add-back for funding for the so-called Partnership for the New Generation of Vehicles. That is sometimes referred to more familiarly as the clean car initiative. This is an extremely important and innovative program that has transformed a traditional adversarial relationship between industry and Government—in this case the auto industry—into a relationship that is built on common goals and has produced a broad-based cooperation. The goal of the program is to develop an attractive, affordable, midsized car, much like the Ford Taurus, Chrysler Concorde, or Chevrolet Lumina, which achieves up to 80 miles to the gallon. It is mostly recyclable, accelerates from zero to 60 miles per hour in 12 seconds.

The occupant of the chair can remember our youths together, when how fast you could go from zero to 60 was truly a measurement of one's status in life. This car is aimed to hold comfortably six passengers and to meet all safety and emissions requirements and to cost about the same as comparably sized cars on the showroom floor.

This would be a revelation. Up to 80 miles per gallon. The program is really a win-win program. Government is working as a partner with industry to protect our environment. At the same time, it is stimulating new technologies that lead to increased competitiveness for American industry in the fiercely competitive international automobile marketplace.

The clean car initiative not only protects the environment, but also jobs—high wage jobs—for our work force. This program is cost shared. Industry is pulling its own weight. Government funding is used in long-term precompetitiveness research and development. And there is clear progress being made toward the program's goals. One representative of the partnership told Vice President GORE last year: "By the end of 1997, we will narrow the technology focus. By 2000, we will have a concept vehicle. And by the year 2004, we will have a production prototype." He added: "This is not just about jobs. It is not just about technology. It is not just about the environment. It is also about a new process of working together, for both industry and Government, in ways that have not been attempted before."

Again, the Lautenberg amendment pluses up the money available for this program. It is a very, very cost-effective investment of public funds.

Mr. President, I want to comment briefly on several other provisions in Senator LAUTENBERG's amendment. I strongly support the restoration of funding for the State revolving fund under the Clean Water Act. SRF money is critical for Connecticut and particularly Long Island Sound.

The SRF program espouses the virtues that the majority has been emphasizing this Congress—it provides low interest loans to States to meet community based environmental needs and offers flexibility in how money is spent. For example, Connecticut has received $170 million in Federal funds and has committed over $1 billion in State funds since 1987 to improve sewage treatment plants.

In Connecticut, clean water is not just an environmental issue—but an economic issue. Long Island Sound, for example, generates approximately $5 billion per year for the local economy—through fin and shellfish harvest, boating, fishing, hunting, and beachgoing activities. The commercial oyster harvest is a great example. In 1970, Connecticut's once thriving shellfish industry was virtually nonexistent. Today, its $50 million harvest has the highest value in the Nation. This improvement is due in large part to required improvements in water quality.

Our work on cleaning up Long Island Sound, however, has a long way to go. Health advisories are still in effect for recreational fish consumption, and disease-causing bacterial and viruses have been responsible for numerous beach closures. Connecticut still needs hundreds of millions of dollars to perform needed improvements on public sewage system, which continue to be the largest source of pollution for the sound. The total estimated cost of upgrading the outdated plants is estimated at $6 to $8 billion.

I am also very concerned that the comprehensive conservation and management plan for Long Island Sound will be curtailed without adequate SRF funding. Through this plan, representatives from EPA, New York, Connecticut, and other local governments have joined forces with businesses, developers, farmers, and environmentalists to work cooperatively to upgrade sewage treatment plants, improve stormwater management, and control nonpoint source runoff. A reduction in SRF funds will limit each State's ability to assess local conditions and move toward more site-specific and flexible watershed protection approaches.

Inadequate funding of the SRF delays needed improvements in Long Island Sound and in other greater water bodies in this country—improvements that have enormous economic, recreational, and environmental benefits. That is why I support the additional funding in Senator LAUTENBERG's amendment.

Finally, I want to express my strong support for the modest additions to the funding for climate change. I was pleased to be a cosponsor of an amendment offered by Senator JEFFORDS to restore a significant amount of funding for EPA's ozone depletion and global climate change programs. But I think it is critical that a minimum there be no decrease in EPA's programs from fiscal year 1995 enacted levels. Adequate funding for DOE's climate change programs is also critical.

Mr. President, the new scientific assessment by the world's leading scientists concludes that the best evidence suggests that global climate change is in progress, that the temperature changes over the last century are unlikely to be entirely due to natural causes, and that a pattern of climate response to human activities is identifiable in observed climate records. The assessment concludes that the incidence of floods, droughts, fires, and pest outbreaks is expected to increase in some regions. For example, we are experiencing a continuing rise in average global sea level, which is likely to amount to more than a foot and a half by 2010. To bring that home to Connecticut, sea level rises of this magnitude along the coast could result in total inundation of barrier beaches such as Hammonasset Beach, which is probably our most popular State park, and destruction of some coastal property.

The President's global climate action plan is modest . It commits the United States to reducing greenhouse gas emission to 1990 levels by the year 2000.

This is a modest step because our efforts at stabilizing emissions is different from stabilizing atmospheric concentrations. Constant annual emissions will still increase the total concentration of greenhouse gases and heat-trapping capacity of our atmosphere.

The President's plan relies on voluntary, public private partnerships which are based on building a consensus between business and Government. It does not rely on command and control regulation. If these types of innovative alternatives are to be the basis of our future approach to environmental protection, it is critical to support the programs now in existence.

I also strongly support the additional funding for the Department of Agriculture's Stewardship Incentive Program. This program provides financial and technical assistance to private nonindustrial forest land owners to manage their forest land for timber production, wildlife, recreation, and aesthetics. It is an important nonregulatory incentives program for preserving wetlands and endangered species across the country that has widespread support, including the Connecticut Forest and Park Association.

Mr. BAUCUS. Mr. President, I rise today in support of the amendment offered by Senator LAUTENBERG and Senator MIKULSKI.

We have to balance the budget, and everyone has to sacrifice a bit. The new Congress does deserve some credit for trying. But it has gone about the job in the wrong way.

It wants to give new tax breaks to wealthy people and corporations. And to do that, Congress has threatened a back-door tax increase on rural America through higher water rates, and threatened the creation of good jobs by turning its back on critical research and development in environmental technologies. This amendment will help set things right.

STOPPING THE BACK-DOOR WATER TAX

First, we will help small towns and rural communities meet their obligations without slapping folks with higher water bills.

How do we do that? Well, we provide money for the State revolving loan funds. These help communities and water systems treat their sewage and provide safe drinking water. Without this fund, these communities still have to keep the water safe. But they can only do it by raising water rates, sometimes through the roof.

With this amendment, small towns can keep their drinking water safe while keeping water rates low. Without this amendment, many just cannot do it. So if Congress does not pass the Lautenberg amendment, the 25 million Americans who get their water from a small drinking water system could see a back-door tax increase through higher water bills. That includes virtually everyone in rural America.

PROTECTING HIGH-WAGE JOBS

Second, by adopting this amendment we will protect high-wage jobs that make our country cleaner, healthier, and more competitive.

We do it by restoring money for the Environmental Technology Initiatives [ETI] at the Environmental Protection Agency. Through this program, companies and local governments can participate in research and development of new technologies.

In Montana, small businesses like Yellowstone Environmental Sciences in Bozeman and public-private partnerships like the Western Environmental Technology Office in Butte are some of the most innovative players in addressing our Superfund problems. They are also some of the most promising sources of high-wage jobs for the future.

Elsewhere in America, the ETI Program is verifying the performance of new technologies that are suitable to the special cost and performance needs of small drinking water systems.

It is helping to reduce dangerous toxic emissions released by the metal finishing processes used by over 3,000 metal finishing facilities nationwide.

It is speeding up approvals of new analytical methods which can rapidly determine the nature of contamination at toxic wastesites, and make cleanups faster.

The ETI is a great example of how Government and the private sector can cooperatively advance technology while protecting the environment.

CONCLUSION

So we need to balance the budget, but we need to do it the right way. This amendment keeps us on the path to a balanced budget while setting the priorities straight. It will protect good jobs and prevent Congress from imposing a large back-door tax on the average family's water rates. It will help make sure our country is the clean, healthy Nation our children deserve.

I urge support for the Lautenberg-Mikulski amendment.

Mr. WELLSTONE. Mr. President, I would like to take a moment to speak in support of the pending amendment, particularly for restoring operating funds for the National Park Service. Without these funds millions of Americans will not realize the full majesty and spectacle of our national treasures.

The $72 million restoration provides funding to manage the operational needs of our national parks. At its current level of funding the Park Service is merely treading water with respect to maintaining facilities. Additional funding provides for much-needed improvements and repair of our national treasures. This would also represent a boon to local economies as more visitors will be able to make use of upgraded parks. The proposed offset offered in the amendment ensures no additional taxpayer money will be spent. As some would seek to keep level funding in the face of increasing costs and demands, I think you now see sentiment throughout America that recognizes the need to stop irreparable damage being done to our national heritage. This funding restoration is necessary to ensure the future of a strong, accessible National Park System.

As you know, I have been a strong advocate of promoting and strengthening our national parks. Minnesota is home to a truly wondrous area, Voyageurs National Park—the crown jewel of the North. This unique water-based park is a pristine wildlife habitat where one can see wolves in the wild, bald eagles soaring overhead, and fish breaking the water in pastoral settings. Voyageurs provides Minnesotans the opportunity to explore this national treasure by boat, snowmobile, floatplanes, skiing, or hiking. Last summer I had the privilege of boating in the park and I don't believe I've ever been so thrilled with the beauty of nature as I was on that trip.

I want to see more people visit and enjoy this spectacular resource. As with other national parks, this cannot happen without adequate operating funds, money that will preserve and enhance the beauty of jewels like Voyageurs. I have fought to maintain the carefully managed multiple use nature of Voyageurs, to address water level problems, to achieve better safety for boaters, and at the same time benefit fish spawning and wildlife habitat.

Northern Minnesota has a rich history of individuality; the proud people of this area have worked the land and provided for their families through toil and sweat. Maintaining and improving facilities at Voyageurs, ensuring the multiple-use nature of the park, will allow more people to come and enjoy it, bring more jobs to the local economy, and lead to economic development. Northern Minnesota deserves it and I will work to make it happen.

Some of my colleagues are all too often willing to turn back the environmental clock, to say get rid of Government regulation, to go back to the days of unregulated extraction and exploitation of our lands. I say we cannot go back, we must preserve nature's wonders for generations to come. We cannot back down from the gains we've made in protecting our great heritage. This must be a shared responsibility, one that accounts for the needs of the many and the few.

When Congress voted to establish Voyageurs, we said yes to preserving this wonderful and pristine resource for all Americans. We said no to future lakeshore development, to building homes and putting up private property and no trespassing signs. We made a decision to provide multiple-use recreation in a natural setting, free of development, free of timbering, and free of the threat of losing this resource. Now we have to invest in this resource to ensure that all Americans and their children will experience our National Parks.

We often say that someone has good common sense, but we are losing sight of what constitutes common sense—or what makes sense. It makes no sense to risk the loss of this treasure. Common sense should compel us to guard and protect our parks. Once we walk away—once we fail to provide adequate funding, it is too difficult to recover what we have lost.

We must continue to support the gains we've made with respect to our national parks. We must maintain and improve the treasures we have set aside. We must make them accessible to all, to share the splendor of nature.

Take some time, come to Minnesota, enjoy the beauty of Voyageurs. I promise you my friends, once you've experience the wonders of our northern jewel, you will support full funding for our national parks and you will help to ensure their beauty for generations to come.

Mr. LEVIN. Mr. President, I am pleased to be a cosponsor of the amendment before us.

Americans have a core belief in protecting the environment, regardless of party affiliation. They may differ on the means to achieve conservation and protection of our natural resources, but they are in agreement that we cannot squander or waste this precious heritage. In this regard, we are the envy of the world. Few other nations have approached protection of the environment in such a comprehensive fashion. Our parks, our drinking and waste water systems, and our pollution prevention efforts are envied around the world.

Some seek to rewrite our environmental laws through the budgetary and appropriations process, rather than through the more deliberative process which gave us those laws. It is surely true that many of these statutes could be improved. In fact, I have introduced legislation to amend the Clean Air Act because I do not believe that it addresses adequately the matter of interstate transportation of air pollution. I have supported various bills to amend the Safe Drinking Water Act, the Resource Conservation and Recovery Act. And, as my colleagues are aware, I support improving and reforming the Federal Government's rulemaking process. However, I vigorously oppose wholesale changes in the bedrock protection principles underpinning these laws. Americans will not and should not accept such changes.

We have made huge strides in reducing pollution of the laws Congress, States, and local governments have crafted over the years. Our emissions of most toxics have been declining, recycling has become an accepted waste management strategy, and we're working hard to develop cleaner, more environmentally sound products and manufacturing processes. All of these trends have occurred while economic growth continues and exports rise.

There is a new approach to business and management catching on in the United States. Industries, businesses, and even governmental units, are carefully reviewing their production, procurement, and usage practices to root out waste and so become more competitive here and abroad.

Many experts say, and in some cases I agree, that we have already required and adopted the easy, most cost-effective pollution control technologies. From here on out, we have to focus more carefully on refining our laws to provide flexibility to the regulated community and ensure that benefits of any required investments in pollution prevention and control outweigh the costs. This is a difficult balancing act, but if we can carefully review the basic environmental status and very carefully adjust them we will further the goal of cheaper, but equally effective protection. The Federal Government can and should be an active participant in helping those regulated to develop technologies and processes that can meet these cost-effective criteria.

This is the direction that the Congress and the Clinton administration, and the Bush administration before it, have begun. EPA's resources are now being spent more often on commonsense pollution prevention efforts that provide environmental protection and flexibility.

But, rather than continuing that process, the bill seeks to cut items that are important priorities for environmental protection and conservation. Punitive cuts in Endangered Species Act activity, in Land and Water Conservation Fund matching grants to States, in Superfund, in environmental technology development, in wastewater treatment grants to States, in energy conservation and so forth don't add up to a balanced careful approach.

On a Michigan note, I must continue to express my opposition to the bills' reductions in the National Biological Service and its transfer to the U.S. Geological Survey, primarily because of its impact on research at the Great Lakes Science Center. And, I oppose the inclusion by reference of the conference report language accompanying the vetoed Commerce, Justice, State bill, which proposed transfer of the Great Lakes Fishery Commission to the Department of Interior.

Industry leaders, business managers, and local elected officials, have internalized the public's unquenchable desire for continued progress in environmental protection. That is a real revolution.

Now, we are halfway through the fiscal year for which this omnibus bill is providing funds. The uncertainty of funding has caused widespread havoc among local governments, businesses, and States. The stop and start approach harms good, solid planning and jeopardizes public and private sector jobs. It does not make any sense to do things this way.

Most Americans do not have the luxury of time necessary to fully monitor how things are being handled here. They don't know who to blame for the holdup of wastewater treatment grants or education loans. But, they are tired of the infighting and want it to end.

Americans want our laws fixed to relieve unnecessary burdens or gross inefficiency. But, they will not surrender what they know to be theirs—the right to clean air, clean water, and a safe environment.

Mr. KENNEDY. Mr. President, I strongly support the Lautenberg amendment to the Omnibus Appropriations Act. It gives the environment the high priority it deserves, by restoring some of the most serious cuts proposed in the pending bill.

We need to do all we can to see that the Nation's priceless environmental heritage is passed down from generation to generation. This amendment offers Republicans and Democrats alike a chance to give the environment the priority it deserves.

It restores needed funds for programs to improve the safety of our Nation's drinking water supplies, and helps protect our lakes, rivers, and coastal areas from harmful pollutants.

It maintains the Federal Government's commitment to provide needed assistance to communities struggling to meet the requirements of the Clean Water Act.

It gives States and localities the support and flexibility they need to bring their water systems into the 21st century.

In particular, the amendment will restore $190 million for the Clean Water Act's State revolving fund, which offers a vital source of Federal assistance for wastewater projects across the Nation.

The cost of implementing clean water mandates has put an extraordinary burden on families and businesses in thousands of communities.

In Massachusetts, the cost of these mandates has resulted in water and sewer bills that exceed many of my constituents' property taxes. Low-income families have had their water shut off because they were unable to pay their soaring bills. Some families are now paying $1,600 a year for water and sewer service, and the rates will continue to rise through the end of the decade.

In the communities of Fall River and New Bedford, businesses that use water-intensive processes—particularly textile companies—are considering leaving the State, because the projected rate increases will put them at a competitive disadvantage. To add insult to injury, these communities are also plagued by double-digit unemployment, and have not yet recovered from the ongoing economic recession.

Congress has a responsibility to help ease the burden of their rising water and sewer rates by providing additional support for the State revolving fund.

The Lautenberg amendment also adds $75 million in clean water funds for the cleanup of Boston Harbor. This addition will bring Federal assistance back to the $100 million level of annual support recommended by President Clinton and President Bush as well, and provided each year by Congress over the past several years.

Over the course of the past decade, the cleanup of Boston Harbor has received strong bipartisan support. Democrats as well as Republicans have recognized the crushing financial burden on the 2.5 million ratepayers in the area to meet the $3.5 billion in federally mandated cleanup costs.

State funds have been essential as well in bringing relief to these ratepayers. In addition, the Massachusetts Water Resources Authority, which oversees the cleanup of Boston Harbor, has successfully worked to reduce the costs of the project.

But continuing Federal assistance remains vitally important for this ongoing project, which still has several years to go before completion. The project has passed some important milestones already—it has reduced harmful metals dumped into the harbor from 3,000 pounds per day in 1984 to 500 pounds per day in 1993. It has reduced the number of harbor beach closings by 70 percent over the last 4 years. But much more remains to be done.

At the $100 million annual level, Federal assistance meets just 18 percent of the total Boston Harbor cleanup costs—far below the Federal share provided in the past for many other clean water projects throughout the United States.

Finally, the Lautenberg amendment will also restore $175 million to the State revolving fund under the Safe Drinking Water Act. This fund will, for the first time, provide Federal assistance to States and localities to improve their public water systems and ensure the safety of their drinking water supplies. Many communities urgently need this assistance to comply with Federal law and build new water treatment facilities, develop alternative water supplies, and consolidate small systems.

The creation of this revolving fund received the unanimous support of the Senate last November, by a vote of 99 to 0. The Lautenberg amendment will help make that commitment real and bring relief to cities and towns across America.

Communities across America will benefit from this amendment. This Congress should not go down in history as the anti-environment Congress. I urge the Senate to give this amendment the overwhelming bipartisan support it deserves.

I thank the Chair. I yield the floor.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

The PRESIDING OFFICER. The hour of 1 p.m. having arrived, there will now be 1 hour equally divided on the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum, with the time to be equally divided between the sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, for the past 16 days our Democratic colleagues have used the Senate rules to block consideration of a resolution to provide additional funds, funds for the Whitewater special committee. That is simply wrong. The Senate has a duty to get the full facts about Whitewater.

The Democrats are filibustering, for 16 days now, to prevent the Senate from voting on whether or not to provide additional funds for the Whitewater Committee.

So that the record is clear, we must understand how much we are asking for. We are asking $600,000. In addition, I have agreed to allow us to have a vote to curtail the committee's investigation to 4 months. They have said they wanted to negotiate with us. We are willing to negotiate. We have heard nothing except what is almost contemptuous because it says we would have to conclude our public hearings by April 5. That is silly.

The majority is committed to getting all the facts about Whitewater. It is now clear that our Democratic colleagues simply are not.

Let me ask the question: If Whitewater is much to-do about nothing, as the White House claims, why are Democrats afraid of the hearings? Why are they afraid to let them go forward? What are they afraid of? What does the White House want to hide from the American people? You cannot say it is much to-do about nothing, and then oppose having the hearings.

Second, it is absolutely disingenuous, as some have claimed, that this has cost the American people $30 million. The fact is our committee has spent about $900,000, and a total of about $450,000 last year; so, that when they come up with this $30 million, in an attempt to ascribe it to the work of the committee, it is disingenuous and they are playing fast and loose with the facts.

There are a number of unanswered questions. Let me just pose some of them.

Who put the Rose Law Firm building records in the White House residence? How do you think they got there? How? Do you think the plumber brought them there? The carpenter who was making repairs? The men who were working to fix the air-conditioning? Do we really believe they brought it there? Do we think the butler brought them there? Or, rather, did these records—that were being worked on by Mr. Foster and contained his handwritten notes in the margins—come from Mr. Foster's office? Did they come there at the explicit directions of the First Lady to her chief of staff? We have had the testimony of a young man, Mr. Castleton, who says that he was told that he was bringing the records up because Mrs. Clinton wanted to look at them.

Indeed, if she did not look at them as she claimed, how did the records wind up there? If all the records were just simply shipped off to her lawyers, how do they get over there?

So we have a question as to how did these billing records mysteriously appear. Remember, those records were subpoenaed by the special prosecutor. How did they get into the White House residence? My colleague from North Carolina has said that one of the most secure rooms in the United States of America would be one of the rooms in the residence of the President and First Lady. Incredible.

Another question is, did the Clintons know that James McDougal was covering their Whitewater losses for them? He is presently under trial in Little Rock, AR. He ran a bank that was a criminal enterprise—we found that out—Madison Savings & Loan. Some of the bankers I have met recently said, "Senator, please do not say it was a bank; it was a savings and loan." And, indeed, they lost over $60 million worth of taxpayers' money.

If one follows just some of what we have uncovered, one sees sham transactions, one after another, where insiders were asked to buy land and hold land for that bank, would be given 10 percent commissions for a land transaction in which it was a total sham, in the end costing the taxpayers—this S&L eventually collapsed and left the taxpayers with a $60 million bill to foot.

Did the Clintons take improper tax deductions on their Whitewater investment? It is a question. The committee is working on that and looking at that. Maybe, indeed, the White House does not want us to have those answers or hold public hearings. I guess if you took improper tax deductions, you might not want that to come out. Did Governor Clinton direct special favors to McDougal to keep Madison afloat? If the President—then Governor—did not do any of these things, fine, then let the record clear that question. It would seem to me if he did, maybe that is why we are hearing all of this puffery, smoke, and bellowing that this is politics having these questions answered.

Did the Governor help Dan Lasater, a convicted distributor of cocaine, get bond contracts with the State of Arkansas? Did he or did he not? I do not know. But again, the question is, if he did not, then fine, let us at least go through this and clear the record. Then, I would be the first to say that is absolutely an unsubstantiated allegation. Did Governor Clinton exchange favors for campaign contributions from officials of the Perry County bank? These officials, by the way, were just indicted last month. We did not just come out with these names. Did that happen or did it not? These are just some of the unanswered questions.

I think that we have an obligation to get the facts. Sixteen days of filibuster. Now, the New York Times said that a Democratic filibuster against a vote on additional funding would be "silly stonewalling". They said:

> No argument about politics on either side can outweigh the fact that the White House has yet to reveal the full facts about the land venture, about the Clintons' relationship to McDougal's banking activities, Hillary Rodham Clinton's work as a lawyer on Whitewater matters, and the mysterious movement of documents between the Rose Law Firm, various basements, and closets in the Executive mansion. The committee, politics notwithstanding—

This is the New York Times.

> has earned an indefinite extension, and a Democratic filibuster against it would be silly stonewalling.

That is not my statement. That is the New York Times, certainly not a spokesperson for the Republican Party or Republican philosophy.

Yesterday, the Washington Post said essentially the same thing. Let me quote what it said:

> Lawmakers and the public have a legitimate interest in getting answers to many questions that prompted the investigation in the first place and those that have been raised in the course of it by the conduct of many administration witnesses. If Democrats think that stonewalling or stalling will make Whitewater go away, they are badly mistaken. The probe is not over, whether they tried to call it off or not.

Again, that is the Washington Post.

So my colleagues on the other side may attempt to keep the investigation and the funding for it from going forth. Again, I have offered to curtail the committee's work to 4 months. I think we would be making a mistake in setting an arbitrary date certain, but in the interest of moving the process forward and of attempting to depoliticize it, I am willing to do so.

Let me suggest that there is a common theme to the number of lingering questions. As Pulitzer prize-winning author, James Stewart, states in his new book "Blood Sport":

> The question of whether specific laws were broken should not obscure the broader issues that make Whitewater an important story. How Bill and Hillary Clinton handled what was their single largest investment says much about their character and integrity. It shows how they reacted to power, both in their quest for it and their wielding of it. It shows their willingness to hold themselves to the same standard everyone else must, whether in meeting a bank's conditions for a loan, taking responsibility for their savings, investments and taxes, or cooperating with Federal investigators. Perhaps most important, it shows whether they have spoken the truth on subjects of legitimate concern to the American people.

Mr. Stewart is not some partisan author out to get the Clintons. He has a reputation for being fair and thorough. In fact, the Clintons, through their close associate, Susan Thomases, first asked Mr. Stewart to write this book. He even had direct access to Mrs. Clinton early on. Mr. Stewart has uncovered a number of important facts about Whitewater. He has identified new witnesses. In an excerpt published in Time magazine, Mr. Stewart raises serious questions about the Clintons' role in managing the Whitewater investment after 1986. Although the Clintons have always claimed to have been passive investors in Whitewater, Mr. Stewart found that Mrs. Clinton actively managed the Whitewater investments after 1986.

Mr. President, we will continue to seek a solution to this impasse. Yesterday—and I repeat it today—we offered to extend our hearings by 4 months. But I do not think that we can simply allow this kind of obstruction and stonewalling to keep us from attempting to get the facts.

Now, if those facts clear the Clintons and their associates, the American people have a right to know; they really do. The White House has the opportunity to help in insisting that we conduct these hearings expeditiously, yes, but in a manner that will get the truth out there, and if it vindicates them, then that should be the case. Now, if indeed they have no concern about their actions, then it would seem to me that the proper course of action would be to authorize the committee to do its work and get to the job of doing its work, and attempt to get those witnesses that we now do not have access to as soon as the case is over in Little Rock. Certainly, we would hope within the next 6 to 7 weeks it will be concluded. Maybe we will not be able to get some or any of those witnesses, but at least we will have made our good-faith effort in attempting to do so, and to do so in a way that does not impinge upon or impair the work of the special counsel.

So I believe that the facts are clear. I think the American people are entitled to get this information, and I think what we are facing here is a politically orchestrated attempt to stop the committee from doing its work. That does not reflect well upon the Senate, the White House, or either of the political parties. The process is one that should be continued. It should be continued because otherwise the questions will remain: What are they hiding? Why are they afraid?

Again, while the resolution calls for no time limitation, let it be clear that this Senator will be happy to amend that to 4 months. We have not gotten any satisfactory reply with respect to our offer. It is an offer that I make here on the Senate floor again. There are limitations when you do that, as described by the former Senate majority leader, a Democrat, George Mitchell, when he said, "When you set a time line, you then get people who look to work at that as a mark to delay the hearings, delay the release of information." Notwithstanding that, we would be willing to submit that as a timeframe in which to try to complete our work, the work of the committee.

Some people have said to me, "What happens if it appears that the Democrats are going to continue to filibuster, Senator? What will you do?"

We will be forced to go forward with our work. It will be more difficult, and we have a busy agenda for the Banking Committee, but, nevertheless, we have to do the best we can; come in early; work as many hours as we can; deal with the various maneuvers that our Democratic colleagues will undoubtedly employ in attempting to keep the committee from doing its work. But a large share of the work that we are embarked upon could be undertaken by the Banking Committee. It would be difficult in terms of resources, but we will do it. It will certainly be, I think, very burdensome as it relates to some of the burdens that will be placed upon the staff of the Banking Committee, the time of the Banking Committee and its members.

I also point out that there are certain perils for those who may want to circumscribe and carefully proscribe the scope of the inquiry. As authorized pursuant to the Resolution 120 we have limited the scope of our inquiry. If we were to take this up with the Banking Committee, in many cases the scope would not be nearly as limited. I can assure my friends and colleagues, if that is the route they choose to take, then they will create a situation in which they have to understand that the scope will be broadened.

I say that because they should understand there will come a point in time when we would then have to fall back to the use of the Banking Committee as opposed to going forward with the special committee that has carefully proscribed a methodology for which we could proceed. I think we would be making a great mistake. I hope we can work out a compromise. Let the chips fall where they may; the offer is on the table, and I hope that we can settle this thing without a prolonged debate. Otherwise, we will be back here tomorrow, we will be back here the next day, and we will be back here next week. The question is, What are my friends at the White House afraid of?

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland is recognized. He has 26 minutes 30 seconds remaining on his time, and the Senator from New York has 2 minutes 31 seconds on his time.

Mr. SARBANES. Mr. President, I yield 6 minutes to the Senator from North Dakota and then 6 minutes to the Senator from Hawaii.

Just before doing that, I want to put an editorial in the RECORD because sometimes we get caught up in the debate and we do not get them in. I listened to my colleague from New York cite editorials. This one is from Friday, March 8, just this past Friday, from Newsday, from the Nassau County edition of Newsday.

I ask unanimous consent that the full editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Newsday, Mar. 8, 1996]

ENOUGH WHITEWATER HEARINGS

> The Senate Whitewater Committee ran out of time and money on Feb. 29, but it still wants more of both to embarrass President Bill Clinton. Senate Democrats have threatened a filibuster to keep Chairman Alfonse D'Amato (R-N.Y.) from getting $600,000 to continue an open-ended investigation that could stretch to Election Day and beyond.
>
> The Democrats are right about this. In fact, their counteroffer to D'Amato—$185,000 to wrap up his inquiry in five weeks, at most—is too generous. After 41 days of public hearings and 121 witnesses, D'Amato has nothing of substance to show for the $950,000 the committee has already spent. It's time to hand off to Whitewater independent counsel Kenneth Starr and see how far he can carry the ball.
>
> This is all the more so now that Starr's office is actually trying a case against Bill and Hillary Rodham Clinton's former Whitewater partners. The defendants want the president to appear as a witness in that case, and he should. The only question is whether he should testify in person, on tape, via satellite or whatever. There's precedent for presidential trial testimony on tape, and that should be good enough this time.
>
> But no more money for Senate hearings. The Senate Watergate Committee, pursuing impeachable offenses by the Nixon administration, called only 37 witnesses. The joint committees on the Reagan administration's illegal arms deals with Iran and the Nicaraguan contras heard a mere 28. The Senate has had enough time for a partisan probe of decade-old Arkansas savings-and-loan deals. If the independent counsel leaves any loose ends, there'll be time to crank it up again.

Mr. SARBANES. Mr. President, I will quote from it just very quickly in part.

> The Senate Whitewater Committee ran out of time and money on February 29, but it still wants to embarrass President Bill Clinton. Senate Democrats threatened to filibuster to keep Chairman Alfonse D'Amato from getting $600,000 to continue an open-ended investigation that could stretch to election day and beyond. The Democrats are right about this. In fact, their counteroffer to Chairman D'Amato of $185,000 to wrap up his inquiry in five weeks, at most—is too generous. After 41 days of public hearings and 121 witnesses, Chairman D'Amato has nothing of substance to show for the $950,000 the committee has already spent. It is time to hand off to Whitewater independent counsel Kenneth Starr and see how far he can carry the ball.

Then later on in the editorial they say in the closing paragraph:

> But no more money for Senate hearings. The Senate Watergate Committee, pursuing impeachable offenses by the Nixon administration, called only 37 witnesses. The joint committees on the Reagan administration's illegal arms deals with Iran and the Nicaragua contras heard a mere 28. The Senate has had enough time for a partisan probe of decade-old Arkansas savings and loan deals.

I yield to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, sometimes I walk into the Chamber of the Senate and I think that I have stumbled into the wrong Chamber. I hear the debate, and I think that is not what is being discussed. In the debate a few minutes ago it was said that the Democrats are stonewalling on Whitewater. I guess I do not understand. I must have missed something. We commissioned a Whitewater inquiry last May—May of last year. We provided nearly $1 million for a special investigative effort in the Congress last year.

Now we are saying we are willing to provide additional resources, and you ought to wrap this up in the next 5 weeks—5 weeks. And somehow we are stonewalling on Whitewater? I mean, it is plenty cold in Montana and North Dakota these days, and the heat bills are plenty high. I was thinking maybe if we took some of this hot air out there, it would heat the two States for the entire winter. Stonewalling on Whitewater? What on Earth are people talking about?

This is a manifestation of Parkinson's law. If you study Parkinson's law, one of his laws was that the amount of time needed to do a job always expands to the amount of time available to do the job. This is the manifestation of Parkinson's law. This inquiry, after spending $26 million on the independent counsel and still counting—this inquiry which is the political inquiry—now they want to extend to election 1996.

Some of us say maybe you ought to get up early in the morning now. Maybe you ought to go 5 days a week now. Maybe you ought to get the witnesses in now for the next 5 weeks and finish this investigation. As for me, it does not matter with respect to these records. Get a rental truck, back it up to the White House, get a vacuum cleaner, find a bunch of people that can read, and read all the records. As far as I am concerned, whatever the truth is let the truth come out. But do you need from last May until the election day of 1996 to demonstrate what this issue is? I think not. That is not what the issue is here. There is a right way to do things and a wrong way to do things.

We have said, in the next 5 weeks finish this investigation. Do your work. And what we are told by the other side is we are stonewalling. What a bunch of nonsense. While we are doing this, we are saying this is the most important thing for the Congress to do. Do you know what we are not doing? We are not having hearings on the issue of health care and Medicare and what we ought to do to solve that problem. Nobody is having hearings on the issue of jobs. Why are we losing jobs in this country? Why are jobs moving out of our country? Why does our Tax Code contain this insidious incentive that pays corporations to shut their plants in this country and move them overseas, and why does not somebody in this Congress do something about that? Nobody is holding hearings about what our monetary policy is doing to this country. Why cannot we have more than a 2.5-percent economic growth? What about the Fed and the Fed's policies? Nobody is talking about hearings on a whole range of issues dealing with the things that are central to people's lives.

This is the number of hearings. There were 41 days of hearings since last May on Whitewater, 12 days on crime, 3 days on education, no hearings on the economy and jobs, and no hearings on Medicare and health care. The question is, What is the priority?

I want to get to the bottom of Whitewater. We have had 100 FBI agents and independent counsel that spent $23 million, and we have had a special inquiry in Congress since last May. Now we have people telling us we want to go for another 4 or 5 months. You know that some of us serve here because we are interested in doing the people's business, part of which deals with the issue of jobs, health care, the economy, education, and a whole range of things. Get every record you want. Get every record you can. Study it forever. But I do not think we ought to have an unlimited amount of money given by the taxpayers for an unlimited inquiry to take us to election day 1996. Let us finish this in the next 5 weeks. Let us decide to do this and do it right; finish the testimony, finish the report, report back to the Senate, and then let us get on with the other business that confronts the American people.

We have enormous challenges. We have budget challenges. We have deficits. We have jobs, health care, and education. I have recited plenty of them to do. But the interesting thing is that no one seems very interested in focusing on those challenges. My constituents are interested. They are very interested in the question about what makes our education system work better. How do we advance the interest of our kids to have the best education system in the world? What do we do about jobs that are leaving the country? What kind of policies can we put in place to deal with that? That is what my constituents are interested in.

I am not suggesting that you have no business in the Whitewater inquiry. I voted for the funding last May for $1 million, and I will vote for additional funding. My objection is to what I think is kind of a thinly disguised approach by some to say we want unlimited time here; we want to work 2 or 3 days a week; we want to sort of move along leisurely. If you were hauling mail, you would go out and hire horses, I guess, and create some sort of "Pony Express" these days. That is the speed with which we see this inquiry moving.

All we are saying is let us get this job done. We have said we will provide appropriations for 5 weeks' additional inquiry, write a report, and let us finish it. There has been no other inquiry in the history of Congress that I am aware of that accepts this as a precedent. Nothing comes close to what you are suggesting and what has been done here. The Senator from Maryland has made that point over and over again. Yet we have people stand with indignation and say, "You all are stonewalling." What a bunch of nonsense.

I yield the floor.

Mr. SARBANES. I yield 6 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, on May 17 of last year, this Senate voted 96 to 3 to create a special committee to investigate the so-called Whitewater affair. This bipartisan vote established the special committee with its primary purpose to get all the facts on Whitewater to the American people.

This bipartisan Senate vote imposed a February 29, 1996, deadline for the committee to complete its work to ensure that the facts were presented to the American people in a balanced and timely manner and before the country entered the politically charged atmosphere of a Presidential campaign.

Yet, as I listen intently to the ongoing debate, much of the bipartisan spirit which this body exhibited on May 17 no longer exists. Regretfully and sadly, it appears that the Republican majority has now chosen to forego bipartisanship in an effort to indefinitely extend the special committee's mandate, at a cost of $600,000, and prolong the investigation into the 1996 Presidential campaign.

This Republican extension request is unprecedented, and it is unreasonable. The U.S. Senate has never before conducted an open-ended political investigation of a sitting American President during a Presidential election year.

During the course of this debate, reference has been made to the 1987 Iran-Contra hearings. The committee was able to complete its investigation in a 10-month period within the deadline set by the Congress. The Iran-Contra affair was an international event that had major consequences beyond our shores. It involved the constitutional relationship between the executive and legislative branches in the shaping of foreign policy. It involved the credibility of our foreign policy. It involved our relations with other countries and it involved the actions of our intelligence service and some of our Nation's most closely held secrets.

Because of the profound issues in question, we in Congress were compelled to investigate the episode, and for precisely the same reason we were compelled to ensure that the Iran-Contra investigation was conducted in an atmosphere free of partisanship and theatrics. I strongly believed then, as I do now, that the Nation would be ill-served by a congressional panel wantonly weakening a President for presumed political benefit.

The Iran-Contra Committee was obligated to investigate the conduct of the highest Government officers, and we were determined to let the facts lead us to where they willed. But we did not perform this task in a way that suggested to our adversaries that we were a nation divided. I believed we avoided this impression because of the lessons learned during the Watergate investigation.

The Senate committee that investigated Watergate, on which I served, had the same mandate as do today's select committees: to seek the facts about the event in question and propose legislation to prevent a repetition.

The structure of the Watergate Committee encouraged partisanship. There were majority and minority lawyers, majority and minority investigators, majority and minority secretaries and clerks. Even the committee's budget was divided into Democratic and Republican portions.

After the conclusion of the investigation, the committee's minority counsel and now our very distinguished colleague, Senator FRED THOMPSON, wrote that loyalty to the Republican minority was "one all-important criterion" for hiring his staff. "We are going to try our best to have a bipartisan investigation, but if it comes down to the question of us and them, I don't want to worry about who is us and who is them."

Mr. President, my one condition for assuming the role of chairman of the Senate Iran Committee was that there would be no majority and no minority staffs but a unified staff whose members reported to the committee as a whole and not to Democrats or Republicans. Our chief counsel, Mr. Arthur Liman, regarded all members of the committee as his clients, and, under his direction, our staff members worked side by side unconcerned whether their neighbor was one of us or one of them.

The structure of the staff would have been meaningless if the members of the committee were determined to make the Iran-Contra investigation a partisan matter. This did not happen.

Our colleague, former Senator Warren Rudman of New Hampshire and vice chair of this Senate Iran-Contra Committee, was empowered to make decisions in my absence. We collaborated on everything, and we divided the responsibility for witnesses among all members of the committee so the hearings became a collective matter. At no time during our closed committee meetings did any member raise political issues or hint at a Democratic attempt to smear the President or a Republican scheme to cover things up.

In comparison, nearly 17 months had elapsed from the date the Senate created the Watergate Committee until the committee report was published. The Watergate hearing itself dragged on for more than 8 months. The Iran-Contra Committee worked hard to accomplish its work within a 10-month period, hearings included. Yes, there were requests by Democrats and Republicans that we seek an indefinite time limit on the hearings, but the chairman of the House committee, Representative HAMILTON, and I, in conjunction with our vice chairs, strongly recommended against an open-ended investigation. We sought to ensure that our investigation was completed in a timely fashion to preserve the committee's bipartisanship and to avoid any exploitation of President Reagan during an election year.

The Special Committee on Whitewater has had 41 days of hearings, five public meetings, and now has made an unprecedented and unreasonable request to indefinitely extend the special committee's mandate. It will be a $600,000 tab, and I suppose it will prolong the investigation into the Presidential campaign with a possibility of politically damaging and embarrassing the incumbent President.

Mr. President, the Democrats are committed to ensuring that the American people know the facts on Whitewater but that it be done in the same bipartisan fashion as the Iran-Contra hearings, and not for the exploitation or for the embarrassment of the sitting President.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. Without objection.

Mr. SARBANES. Mr. President, while the distinguished Senator from Hawaii is still in the Chamber, I commend him for his statement and underscore—underscore—the responsible manner in which he dealt with the Iran-Contra issue.

At the time, there were Members of the Congress, a Democratically controlled Congress, who wanted to extend those hearings well into 1988, a Presidential election year, for political purposes. And that was obvious. The Republican leader of the Senate, Senator DOLE, strongly urged there be a time limit on the work of the committee. He was fiercely opposed to the notion of an open-ended extension and was very clear in making that point in debate on the floor and off the floor in comments to the media.

Senator INOUYE, who chaired the special committee in the Senate, and Congressman HAMILTON, rejected this proposal by some Democrats to prolong the hearing into the election year and therefore exploit, for political purposes, President Reagan's difficulties, and they settled on a reasonable time period. In fact, they moved it up in response to the representation made to them by Senator DOLE.

It was Senator DOLE at the time who pressed very hard that there should be a reasonable time limit, that it should stay out of the election year. In fact, Senator DOLE, on the floor, said: "I am heartened by what I understand to be the strong commitment of both the chairman and vice chairman to avoid fishing expeditions. I am pleased to note that, as a result of a series of discussions which have involved myself, the majority leader, and the chairman and vice chairman designate of the committee, we have changed the date on which the committee's authorization will expire." And they moved it forward.

Senator INOUYE took the lead in achieving that constructive and responsible result. I simply want to underscore it and contrast it with the situation we are now facing, where we have a proposal, now, for an unlimited time period, an additional $600,000.

I yield myself 1 more minute.

Furthermore, in order to complete its work, the Iran-Contra Committee, on which I was privileged to serve, under the very distinguished chairmanship of the Senator from Hawaii, held 21 days of hearings in the last 23 days, in late July and August, in order to complete its hearings. Contrast that with the work of this committee, which held 1 day of hearings in the last 2 weeks of its existence in the latter part of February; which held only 8 days of hearings in the entire month of February, whereas the Iran-Contra Committee held 21 days of hearings in order to wind the thing up.

The minority leader has made, I think, a very reasonable proposal in terms of providing some additional time to finish this matter up. The committee should intensify its schedule and complete it on time, and it ought to follow the example set by the distinguished Senator from Hawaii when he chaired the Iran-Contra Committee and worked assiduously to keep partisanship and politics out of the inquiry and to keep the inquiry out of the election year.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Utah has 10 minutes remaining. The Senator from Maryland has 8 minutes, 30 seconds remaining.

Mr. BENNETT. Mr. President, I find all of this debate about Iran-Contra very interesting. I was not here for it, and so I enjoy being brought up to date on past history. It is interesting, but it is irrelevant to the issue before us because the issue before us is: Are there still things yet to find out about Whitewater which need to be found out? This has nothing whatever to do with whether or not the Iran-Contra Committee was able to find out what it needed to find out from Ollie North in the timeframe that it set for itself. This has nothing to do with the timeframe of the Whitewater Committee, which is trying to find out information that has been denied it by a series of circumstances, some of which I believe are deliberate.

I make that statement, recognizing that it, perhaps, is emotionally charged for some. I try to stay away from emotionally charged statements on this issue because I realize how easily this can get out of hand. But I have reluctantly come to the conclusion that there has been a deliberate attempt on the part of those who have been called before the committee to withhold information from the committee and to see to it that the committee does not receive that which it needs. I know of no such charges that have been made in past investigations, and, even if they were, frankly, they are irrelevant to this issue.

This issue is very simple, again, Mr. President. It is simply this: What is there yet to find? What will it take us to find it? It has nothing to do with any past investigation of any other circumstance. It has to do with this investigation of this set of circumstances. What is there yet to find, and what will it take us to find it?

The editorials that have been quoted here—I have quoted them, the New York Times, the Washington Post, others. The most recent one I will return to again, as my distinguished chairman has. But it makes this point, relating to the question of, "Can the committee not wind its affairs up?" This is what the Washington Post has said. I repeat it again:

> . . . here is part of the problem; The McDougals and Governor Tucker are currently unavailable for Washington testimony as they are defending themselves against a 21-count indictment handed up last August alleging fraud and conspiracy on their part. It came courtesy of independent counsel Kenneth Starr and a federal grand jury in Little Rock. Judge Hale, whose earlier guilty plea slims down considerably his chances of ever returning to the bench, is similarly occupied in Arkansas and unavailable to be heard by anyone in Washington. He is the prosecution's key witness against the governor and the McDougals. Their trial, which just got started, is one reason the Whitewater committee hearings have been dragged out.

I will repeat that, Mr. President. "Their trial is one reason the Whitewater Committee hearings have been dragged out."

It is not a conspiracy on the part of the Republicans. It is not an attempt on the part of the Republican National Committee to delay this into an election year. There is a trial going on, over which the Republicans on the committee have no control, that is preventing these witnesses from coming before us. This is why we are asking for a time that will allow us to deal with those witnesses when they become available. We do not know when this trial will be over. If we knew with certainty when the trial would be over and when these witnesses would be available, I, for one, would be willing to set a date, appropriately far off into the future, that would allow us time to deal with these witnesses. We do not know. We cannot know. And, therefore, it does not make sense for us to set a firm date.

Back to the editorial, quoting:

> The other reason is the protracted battle with the White House over subpoenaed documents and the very slow and uncertain way certain important documents finally are produced.

In other words, the delay in the eyes of the Washington Post has not been because the committee wants to drag it out for political reasons; it has been because the White House has been unresponsive.

I am a member of this committee. I have been to as many of the proceedings as I possibly could, given the schedule and the other challenges that apply. I thought I knew this controversy fairly well. I have now picked up the recent copy of Time magazine and read the first installment of a book that was written, initially at the recommendation of Susan Thomases, one of the President and First Lady's closest friends and confidants, in an attempt to make sure the whole story got out.

She went to the author and said, "Will you write a good book on this?"

The author spent an hour and a half in the White House with Mrs. Clinton, and she said, "I will cooperate with you, and I will see to it that everybody connected with me will cooperate with you. We want the truth to come out."

Now, we have the book that was created by that genesis and I can only describe it as devastating. It is devastating to those who say, "There is no there there." It is devastating to those who say the Republicans are on a partisan activity, because nothing significant really happened.

As I say, I am a member of this committee. I thought I knew this issue fairly well, until I read this week's issue of Time magazine and found out there is a whole lot more that I did not know about, and I have been a member of the committee attending these sessions.

So, Mr. President, I conclude by saying there is plenty more yet to find out, and I am sorry if it did not come out in the same timeframe as other investigations have had. But that is entirely beside the point.

The point is, I repeat again, what is there yet to find out and what will it take for us to find it? The answer to that question dictates that we proceed in the fashion that the distinguished chairman, Mr. D'AMATO, has asked us to proceed.

I yield the floor and reserve the remainder of the time.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BENNETT. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 42 seconds remaining on his side of the aisle.

Mr. BENNETT. I apologize to the Senator. I thought I had more time than that. I yield all 42 seconds to the Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, as we have just heard, Time magazine has released excerpts from a new book, "Blood Sport," which is one of the most revealing and down-to-Earth accounts of Whitewater we have had. It certainly is easier to follow than anything we have seen, doing the best we could with the Whitewater hearings: Coming in a day, skip days, a day out. It has been very difficult for the average citizen to follow what we have been doing and what we have been trying to pursue.

This book chronologically identifies exactly what went on and what happened. I think, again, it points to the very great need for us to continue the hearings, and the public will see the need, once they read the book and read the excerpt that was in Time magazine.

It shows the Clintons to be much more active partners in Whitewater than any of us believed at one time.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired on the chairman's side of the aisle.

Mr. D'AMATO. Mr. President, I ask unanimous consent that we provide 4 additional minutes to be equally divided, so that we each have 2 minutes.

Mr. FAIRCLOTH. Four additional minutes for each side.

Mr. D'AMATO. I asked for 4 minutes, 2 minutes for each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized for 2 minutes.

Mr. FAIRCLOTH. Mr. President, it shows the Clintons were much more actively involved than we had any idea; that the McDougals put far more money into the project than did the Clintons; and that they clearly used money from the savings and loan to supplement the Whitewater venture. I think we need to and should pursue it.

Further, there is a new revelation of how Mrs. Clinton received legal business from Madison. She told the public that a young associate, Mr. Massey, brought the business to the law firm. Then Mr. Massey appeared before us and said he did not bring any business to the law firm. So then she said it was Vince Foster who brought it. She changed her mind. McDougal said that Bill Clinton urged him to give business to Hillary Clinton because the Clintons needed the money.

The book reveals that there was a clear witness to that, Susan McDougal's brother, and I think we need him to testify as soon as possible.

Many people might say, "So what, 20 years ago, why is it relevant today?" There are a number of reasons. First, the White House is engaged in a massive coverup of the entire episode, an inept coverup, but at least an attempt to cover up.

We now know what the First Lady truly meant when she told Maggie Williams she did not want 20 years of her life in Arkansas probed by the Senate. We now know why. But it is a true indication of the way they ran things in Arkansas, and they clearly have demonstrated they are going to run them the same way in Washington. They sure tried to run them the same way. Old habits die hard, and we have seen the same characteristics that we know of in Arkansas come about in Washington.

I hope we can end the filibuster and let the Senate vote and then let the American people decide if Whitewater hearings are worth pursuing.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. SARBANES. How much time remains?

The PRESIDING OFFICER. The Senator from Maryland has 10 minutes, 30 seconds.

Mr. SARBANES. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 4 minutes.

Mr. SARBANES. Mr. President, I want to be very clear with respect to the reasonableness of the issue that is before us. When Senate Resolution 120 was adopted, it was adopted and encompassed within it certain premises, all of which are now being departed from or violated by the proposal offered by the Senator from New York.

The first premise was that there would be a fixed deadline in the proposal that would seek to keep the inquiry out of the election year. That was the February 29 date, and it was agreed to.

We had overwhelming bipartisan support for the resolution that was adopted last year for this inquiry. Regrettably, the majority has now gone down a different track and made impossible, up to this juncture, a further bipartisan concord with respect to this matter.

Senate Resolution 120 was consistent with Senate precedents. The proposal that is now before us is a complete departure from Senate precedents. The proposal last year for a fixed-ending date reflected the very argument that Senator DOLE made in 1987 with respect to Iran-Contra, where some Democrats wanted to extend it into the election year and he said that would not be a fair and reasonable thing to do. Senator INOUYE and others accepted that proposition, and they put on a deadline. It is very important that that be understood. The proposal before us departs from that essential premise.

Second, this committee had only 1 day of hearings in the last 2 weeks of its existence in the latter part of February. In Iran-Contra, we held 21 days of hearings in the last 23 days in order to complete the work. The distinguished minority leader, Senator DASCHLE, wrote to Senator DOLE in mid-January saying the committee should intensify its work through the balance of January and through February in order to complete on schedule. The committee did not do that.

Third, this resolution premises that there will be consultation between the majority and the minority. In fact, we had such consultation in the formulation of Senate Resolution 120, and when it was brought to the floor, it had been worked out on the basis of discussions between the majority and the minority. That has not taken place in this instance. In fact, Senator

DASCHLE's letter to Senator DOLE remained unanswered for a month, period. I know Senator DOLE was distracted with other matters, but nevertheless, we are still left with the problem with which we are confronted.

Finally, I want to underscore that the Office of Independent Counsel will continue its inquiry. It was an essential premise of the original resolution that we would not come in behind the independent counsel and, in fact, Chairman D'AMATO and I wrote to Mr. Starr at the beginning of October to make that very point. It was strongly argued that extending it out would turn it political.

Now it is becoming political; we simply have to recognize that. There are editorials around the country that are beginning to say that—here is one from Greensboro:

> A legitimate probe is becoming a partisan sledgehammer. The Senate Whitewater hearings, led since last July by Senator D'Amato, have served their purpose. It's time to wrap this thing up before the election season.

One from a Sacramento paper:

> Senator D'Amato, the chairman of the Senate Whitewater Committee and chairman of Senator Bob Dole's Presidential campaign in New York, wants to extend his hearings indefinitely or at least, one presumes, until after the November election. In this case, the Democrats have the best of the argument by a country mile. With every passing day, the hearings have looked more like a fishing expedition in the Dead Sea.

The minority leader, Senator DASCHLE, has made a very reasonable proposal.

The proposal for an indefinite extension, or this 4 months, which amounts to the same thing, is not reasonable. It is not consistent with the premises on which we got an overwhelming bipartisan consensus to pass the initial inquiry resolution.

I yield the remainder of our time to the distinguished minority leader.

The PRESIDING OFFICER. The distinguished minority leader is recognized.

Mr. DASCHLE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes 30 seconds remaining.

Mr. DASCHLE. I thank the Chair.

Mr. President, the distinguished ranking member of the committee has said it so well and ably. I applaud him for making the case once more prior to the time we are called upon to cast our vote this afternoon. There is very little one can add to what he has said so well.

This is an unprecedented request. Everyone needs to be fully appreciative of the nature of what it is we are called upon to vote on here—an unprecedented request, an open-ended, unlimited request to continue this investigation forever if the majority chooses to do so—forever. There is no deadline, none whatsoever.

So, Mr. President, we have looked back to try to find some other occasion when a committee has sought that kind of authority to say, "We don't know whether we're going to take a week, a month, 2 months, the rest of the session. We may even need to go into the next Congress. Who knows? What we do know is that we're not going to give you any specific timeframe within which we realistically think we can finish this investigation."

So what does that tell you, Mr. President? What it tells me is that they want to keep open the option to take this right up until the very last day of this Presidential campaign. We are unwilling to accept that. We have indicated, in as clear a way as we possibly can, that we want to find a way to resolve this once and for all. We want a way to find a resolution in the amount of time and the amount of money to be dedicated to this investigation, even though now we anticipate more than $32 million in total, within the Congress and within the special investigation that is ongoing, has already been dedicated to this.

If we need to spend another $100,000, another $130,000, $140,000, we will do that. Our amendment suggests $185,000. Our amendment suggests that the investigation go on at least through April 3, and then gives the opportunity to write a report through May 10.

If we had used every day we had available to us, if the committee had taken the opportunity that they had available to them in using Mondays and Fridays and days throughout the week for which they chose not to have any hearings, we would not have to extend it. But for whatever reason, the committee chose not to meet on a lot of Mondays, they chose not to meet on virtually every Friday. There were a lot of days during the week, for whatever reason, they chose not to meet.

So it was not that we did not have the time. We simply did not use the time very wisely. And the majority, if they could do it over again, I am sure, would use that time more wisely. But now, to say that is the reason we want to carry this thing out forever is just unacceptable.

Mr. President, the second point I emphasize is that we have made a good-faith offer. That offer stands, although I will say that the clock is ticking. We are simply not going to extend this thing out over and over farther and farther just because we are not able to resolve this difference today. The clock is ticking. The calendar pages are turning. The offer that we have been given is unacceptable. The counteroffer, this notion that somehow we now could go 4 or 5 months longer, is also unacceptable. We do not want to make this a convention issue. We do not want to make it a Presidential campaign issue. We want to get the facts. We want to resolve these matters. We want to resolve this issue once and for all.

We can do that in a time certain. We can do that in a bipartisan way. We can do that working together to make the best use of the time, whatever additional time is requested. We can do all of that. But we have to resolve this matter. The standoff that we are in today is unacceptable. We do not like it. We know the majority does not like it. So let us sit down and try to find a way to resolve it. But let us recognize an unlimited request or any request that takes us into political conventions and the campaign season for 1996 is unacceptable, too.

So, Mr. President, reluctantly, I urge my colleagues once more to vote against this cloture motion. I believe that we will continue to be able to defeat the cloture motion for whatever length of time this unreasonable request is, the one before us. We can resolve it this afternoon. It is time we do so.

It is time we get on with the real business of the Senate. I hope we can do it sooner rather than later. I yield the floor and yield the remainder of our time.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will report the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227 regarding the Whitewater extension.

Alfonse D'Amato, Trent Lott, C.S. Bond, Fred Thompson, Slade Gorton, Don Nickles, Paul Coverdell, Spencer Abraham, Chuck Grassley, Conrad Burns, Rod Grams, Richard G. Lugar, Mike DeWine, Mark Hatfield, Orrin G. Hatch, and Thad Cochran.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on Senate Resolution 227 shall be brought to a close? The yeas and nays are required under rule XXII. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski

Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3479

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Will the Chair explain to the Senate what the order before the Senate is now.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID] is recognized to move to table the Hutchison amendment.

Mr. REID. I so move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Hutchison amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Daschle
DeWine
Dodd
Exon
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Specter
Thompson
Wellstone
Wyden

NAYS—51

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Dorgan
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

So the motion to lay on the table the amendment (No. 3479) was rejected.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Hutchison amendment.

The amendment (No. 3479) was agreed to.

AMENDMENT NO. 3478

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment, as amended.

The amendment (No. 3478), as amended, was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

AMENDMENT NOS. 3480 AND 3481

Mr. McCONNELL. Mr. President, earlier today the majority leader sent to the desk two amendments relating to Bosnia on behalf of myself and him. I ask unanimous consent that Senator McCAIN and Senator BURNS be added as cosponsors to both amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, the first amendment regarding Bosnia, conditions the obligation of funds in this supplemental upon a certification that all foreign fighters, including Iranians are out of Bosnia, in compliance with the Dayton Accords.

Let me describe each amendment, turning first to foreign troops.

Article III of annex 1A is absolutely clear—Let me read it into the RECORD. This is part of the Dayton Accords. It says:

> All forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not of local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina or the Republic of Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within 30 days.

Just to make abundantly clear so that there was no misunderstanding of just what we meant by this provision, the annex spells out who was affected by this requirement. The accord explicitly states:

> In particular, all foreign forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other states, shall be withdrawn from the territory of Bosnia and Herzegovina.

In a December hearing before the Senate Appropriations Subcommittee on Foreign Operations, Assistant Secretary Holbrooke reiterated the "high importance" the administration attached to full compliance with this provision.

Let me cite his testimony:

> It is imperative that the commitment made to have these elements removed be honored. They have said publicly they will do so . . . President Clinton raised this directly with President Izetbegovic in Paris.

During questioning he noted that Iranian and other freedom fighters were concentrated in the sector where United States troops are operating, "so we are going to be watching this extremely carefully."

When I asked Secretary Holbrooke what happens if they choose not to go, his answer was absolutely unequivocal:

> Choose not go go? This is the Bosnian government's home turf. This is the core of the Federation position. It is not their choice. If the government of Bosnia-Herzegovina says they will go, then either they go or the Bosnian government was not sincere in what it said. They must get them out and we will know if they are out or not . . . President Izetbegovic has publicly committed himself, not only to the public and the press, but to the President.

The deadline for the withdrawal has now come and gone. January 19 passed with Iranian's terrorist forces still operating in the American patrolled sector.

Secretary Christopher acknowledged the administration's ongoing concern about this issue during an appearance on the McNeil-Lehrer Show on January 23. At that time, he said:

> We will not go forward with the equipment and training unless they are in compliance with the agreement. They'll not have a right to the reconstruction fund unless they are in compliance with the agreement.

At the time, I was reassured that the administration shared the view many of us have here in Congress—Iranian troops represented a direct threat to American soldiers and to American long-term interests in stability.

Yet shortly after the Secretary's remarks, NATO soldiers raided a house near Sarajevo and detained 11 people with a cache of weapons, ammunition and explosives. According to a senior State Department official, news accounts indicated five were Iranians believed to have already left the country, yet they were clearly involved in plotting attacks on NATO installations.

This past week, the Washington Post reported that members of the Iranian Interior Ministry are among the 150 or so men running vie to seven training camps. Western officials believe Iranian Revolutionary Guards joined by volunteers from across the Islamic world are engaged in building a secret security organization called the Agency for Investigation and Documentation.

U.S. Navy Adm. Leighton Smith conceded in a recent interview that the forces were of immediate concern to the security of American soldiers and cited the loss of 248 marines in Beirut in a suicide bomber attack.

In addition to our security concerns, Iranian forces and their role in the Agency for Investigation and Documentation directly undermine prospects for continuation of the Moslem-Croat Federation. In a letter to Izetbegovic, Federation President Kresimir Zubak said the Agency was "in direct opposition to the constitution of the federation and the law."

He, like others are deeply worried that the agency will be used to harass and investigate Izetbegovic's political opponents and over the long run, encourage the movement toward a separate Moslem state, a goal Iran has long pursued.

There are a number of other disturbing signs that President Izetbegovic is moving in this direction. However, the immediate concern we should all have is the continued presence of Iranian Revolutionary Guards.

In the last several days, administration officials seem to have abandoned the linkage drawn by the Secretary on January 23 between full compliance and economic and military aid. They are now asserting that we will only hold up plans to equip and train the Bosnians.

This is a decision which is bound to backfire. Withholding military support and training will only drive the Bosnian Moslems closer to Iran, a nation unfortunately viewed as one of the few reliable partners during the years that the embargo imposed an unfair disadvantage on their government and people.

Moreover, if not a part of a broader strategy, withholding only military support will call American credibility and commitment to the Federation into question. It will be seen as an excuse to reinstate the administration's long standing position opposing lifting the embargo. After all, only when faced with the imminent prospect of a congressional vote to lift the embargo, did the President make the commitment to move forward with a meaningful program to assure the Bosnian Federation receives the assistance necessary to achieve an adequate military balance prior to IFOR's departure.

If we are serious about the presence of foreign troops in Bosnia, and I certainly believe we should be, then we must use all necessary and appropriate diplomatic, economic, and security tools we have available to press for full compliance.

I believe the amendment Senator DOLE and I have offered sends a clear signal that the Congress expects full compliance with the Dayton accords if we are to move forward with this $200 million supplemental.

I think it is worth noting that none of the funds we have designated for emergency humanitarian programs would be affected by this amendment. In fact, $339 million provided in the fiscal year 1996 foreign operations appropriations bill for a variety of activities and programs would still be available.

We are simply withholding a portion of our total commitment to assure compliance with a provision of the Dayton accord which has an immediate impact on the well being of our troops and a long-term affect on the viability of the Federation and peace.

The second amendment Senator DOLE sent to the desk earlier today on behalf of myself and him, supports the broad goals and plans the President outlined in his Oval Office address announcing the commitment of U.S. troops. In separating the belligerents and patrolling the cease fire zone, he said the United States would "help create a secure environment so that the people of Bosnia can return to their homes, vote in free elections, and begin to rebuild their lives."

While many of us opposed the deployment of our troops, we now hope that they succeed in accomplishing this mission. I think every one of us also supports the President's determination to assure the mission is limited in nature and fulfilled within the year. Above all else, we are committed to protecting the security of our forces.

The amendment before the Senate advances these goals.

First, it requires that the funds in this supplemental may only be made available for projects and activities in Sarajevo and the sector where Americans are assigned. It also establishes that in making funding allocations, priority consideration should be given to projects identified by the Department of the Army on the so-called Task Force Eagle Civil Military Project List.

This list is a catalog of specific activities designating both the location and type of assistance necessary. The task force has identified a wide range of activities including the repair of roads, bridges, and railroads, and rebuilding municipal electricity, water, telecommunications, and sewer systems.

Although costs have not been assessed for each project—which will clearly have an impact on deciding which to pursue—the report makes clear that every project has been deemed urgently needed.

No other agency has been able to produce as comprehensive an assessment of Bosnia's urgent priorities. Since the administration deemed this supplemental an urgent emergency, designating these identified projects as high priorities will expedite the process of obligating funds and hopefully have an immediate, visible, and effective impact. My expectation is that by improving economic conditions in the American sector we will reduce the level of tension and stimulate popular support, which, in turn, should lower the security risks to our soldiers.

I should make one point perfectly clear. This amendment affects only the $200 million provided in this bill. An additional $339 million appropriated in 1995 and 1996 are not subject to these conditions or priorities. We have exempted the early appropriations because much of those funds are for emergency humanitarian activities which we in no way wish to impede or redirect. To date, these short-term, quick impact efforts have been very successful and should be continued.

It is my view that focusing the supplemental resources on the area in which United States troops are assigned and targeting projects that the Army has already identified as ready for funding enhances stability in Bosnia and strengthens the chances of achieving an early exit. While I have opposed setting a specific date for departure, I support the President's objective to complete the mission within a year. The effective administration of our aid contributes to this exit strategy.

There are a few other provisions in the amendment worthy of note. The administration has indicated it intends to deposit $65 million in a Croation-owned bank in Bosnia, convert the money to German marks and extend loans to small- and medium-sized businesses to generate jobs and income. I have made my reluctance to support this idea clear to AID in large part because there are no clear accountability mechanisms to prevent fraud or abuses. Blank checks to foreign banks invite trouble.

To solve this problem, the amendment requires the bank which will be the beneficiary of this substantial deposit to grant GAO access to audit the flow of U.S. funds. I am hopeful this will address congressional concerns about accountability while allowing the administration to test the merits of this approach.

Finally, the amendment offers the administration leverage in discussions with our friends and allies over their contributions to reconstruction. Late last year, the World Bank estimated Bosnian reconstruction would cost approximately $6 billion. The administration testified that half of the necessary funds would come from multilateral lending institutions such as the European Bank and the World Bank. The balance would be derived from bilateral donations, of which we have now pledged $539 million or roughly 20 percent.

So far, the pledging by other nations, especially our European allies has been anemic. I think it is important that they understand that we will not shoulder this burden alone. Thus, the amendment requires the President to certify that the total of bilateral contributions pledged by other donors must match our level of support. Failing that test, we should suspend obligation of supplemental funds. Here again, the emergency humanitarian program will not be affected.

Finally, the amendment makes clear that no funds may be made available to support building or refurbishing of housing in areas where refugees or displaced people are refused the right to return based on ethnicity or political party affiliation. As Senator DOLE points out, it makes no sense to use our limited resources to endorse or sanction what amounts to a variation of the repugnant practice of ethnic cleansing.

Mr. President, let me conclude by stating this amendment accomplishes three goals. It improves the operating environment where our troops are assigned thereby enhancing their safety, it targets the aid to support identified, ready-to-go projects improving prospects for success, and the combination of fulfilling those two goals contributes to achieving the third and most important—the timely withdrawal of U.S. troops.

I urge my colleagues to support these amendments.

I hope both of these amendments will be approved when they are actually submitted for a vote to the Senate.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Delaware.

AMENDMENT NO. 3483 TO AMENDMENT NO. 3466

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

I send it on behalf of Senators KERRY, WELLSTONE, DASCHLE, LAUTENBERG, LEVIN, and MIKULSKI.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for himself, Mr. KERRY, Mr. WELLSTONE, Mr. DASCHLE, Mr. LAUTENBERG, Mr. LEVIN, and Ms. MIKULSKI, proposes an amendment numbered 3483 to amendment No. 3466.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 8, add after "basis.":

COMMUNITY ORIENTED POLICING SERVICES

For public safety and community policing grants pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) and related administration costs, $1,788,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

On page 29, line 2, strike all after "('the 1990 Act');" through "That" on page 29 line 18 and insert in lieu thereof: "$1,217,200,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which".

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have spoken with the White House, and the President agrees that the only course to be taken on the 100,000 COPS Program is an unequivocal and unwavering support for adding 100,000 cops to our streets.

The irony of all ironies is, in my view, that after the years that Senator KERRY, Senator WELLSTONE, and others of us have fought for this program, we heard repeatedly—I mean, if I heard it once, I heard it a hundred times on this floor—"This isn't really going to be 100,000 cops."

I watched Charlton Heston on TV in paid television advertisements. He would say, "This is a phony thing. It is not 100,000 cops. This will not produce more than 20,000 additional police officers. It just simply is not"—and he went on and on and on and on.

I heard repeatedly from my Republican colleagues that all this was about was adding welfare workers. This was adding welfare social workers and no hard police enforcement.

We have only been doing this about a year, and we now have a total in the United States of America—and I will be repeating some of these numbers, because they warrant repeating—totally funded so far are 34,114 additional cops; direct hiring, 20,236; and the so-called COPS More Program, 12,678.

Bottom line, Mr. President, is more than 33,000 police officers are on the streets who would not otherwise have been on the streets doing community policing and have already been funded.

What is more, the results of the Community Policing Program, which all of my colleagues know now ad nauseam because the Senator from Massachusetts and I have been—for how many years now, I ask the Senator from Massachusetts, 5, 6 years we have been talking about community policing?

Because of community policing, because of the requirement that in order to get a single additional federally paid local police officer your whole department has to be involved in community policing, the results of these additional 33,000 police officers have been leveraged in a way that was not imagined by many. It was by the Senator from Minnesota, and that is, if you had a police force of five cops in a small town and they are not involved in community policing, in order to get one additional cop that you need, you have to put the other five in community policing. We have leveraged six cops into community policing, where there was none before, by merely one additional police officer.

Mr. President, there was only a total of about 525,000 local police officers before this began. There are those of us on this side, and I can speak for the President in this regard—and I seldom ever do that—bottom line is we want to make sure there are an additional 100,000 cops on the street when this is over, so we end up with 600,000-plus local police officers. As a result of what we have already done so far, community policing speaks for itself. More cops means less crime.

You know, there is not a lot we know about crime. We all think we know about it. We think we do not have to know the facts. I heard someone say—actually I heard Senator SIMPSON say it—everyone is entitled to their own opinion, but not entitled to their own facts. He was talking about something other than this, but the facts are that there is not a lot we know for certain about law enforcement and the criminal psyche.

But one thing we do know. If you have a cop standing on this corner and no cop on the adjacent corner and there is a crime that is going to be committed in that intersection, it will be committed on the corner where there is no cop. That is all we know. We think we know a lot of other things, but that we do know. So we need more cops.

To cite just one specific example, look what is happening in New York City. More police devoted to community policing has proven to mean less crime. In the first 6 months of 1995, compared to the first 6 months of 1994, let me read the statistics: Murder is down by 30 percent, robbery is down by 22 percent, burglary is down by 18 percent, car theft is down by 25 percent.

In the face of that success in fighting America's crime epidemic, it seems to me it would be folly to go back on our commitment of adding the remaining 67,000 cops called for under this crime law to the list. As a former President used to say, in a different context, "If it ain't broke, don't fix it." Well, the COPS Program is working. It is not broke. It is fixing things.

Why are we doing what this legislation calls for, backing off of that commitment in both dollars and numbers and the requirement that local officials use this money to hire cops? That, unfortunately, is exactly what this latest continuing resolution proposes to do. Instead of fully funding the President's request for the 100,000 COPS Program, this latest proposal would slash the 1996 request of the COPS Program to $975 million, about one-half of the $1.9 billion called for.

Let me go back and review the bidding here just a little bit. That is that, unlike any other program, we set up a trust fund to fund these cops. We are not talking about new taxes here. We are talking about we made a commitment, with the help of the Senator from Texas, Senator GRAMM, over 1½ years ago, that we were going to cut the size of the Federal Government work force instead of letting it continue to grow as it did under two Republican Presidents with the help of Democratic Congresses.

What happened was we have kept that commitment. We have essentially taken a check that we were paying the Federal bureaucrat—I do not use that word in a derisive way, but in which we paid a Federal employee—when that person left Federal employment, we did not hire one; we took that check and sent it back home for folks to hire cops. We traded bureaucrats for cops.

Now, here we are, with money in the till under that program, and effectively defunding by $1 billion the request for money for cops. Not only is the 100,000 COPS Program subject to extreme cuts, but the latest continuing resolution also makes nearly $813 million of that money that is supposed to go to the 100,000 COPS Program to fund those cops into what we call down here—and we think everybody at home understands it—we call it a block grant.

You know what a block grant is? A block grant for this is like the old LEAA program, Law Enforcement Assistance Act. When I first got here, one of the first things I did—I remember I had gotten in great trouble with a senior Democrat named John McClellan from the State of Arkansas. I had the temerity to come to the floor and introduce legislation doing away with LEAA because I had been a local official, and I know how it works. We would sit around the county council meetings in my State—which is the largest representative body in my State in this particular county I represented—and we would say, "You know something? We can save the county taxpayers' money." And a guy named Doug Buck, he and the county administrator said, "Here we have X number of firemen," or X number of policemen in this case, "on the county payroll. We'll fire half of them, we'll fire them, cut the budget. We'll tell the local taxpayers we're cutting the budget. And we'll take that Federal money for cops, and we'll rehire them. We'll rehire them with Federal money."

So what happened was all of us, as local officials, could go home and say, "You know, we didn't raise your taxes. We cut your taxes, and you didn't lose any services." But what happened was you did not get one additional cop. No new cops. The community was not one whit safer, but, boy, we local officials, we loved it. We thought it was a great idea. That is what a block grant is.

If you look at the language, I say to my Republican friends, if you look at the language closely under the block grant, the local officials can take this block grant money and they do not have to hire a cop with it, they can go out and use it for anything they think impacts on law enforcement. They can hire a public defender with it. They say, Who would do that? Well, the folks in Pennsylvania would do that. The folks in Delaware would do that. We both know it. You know why they do that? Because the local folks do not like telling the local taxpayers they are taking their tax money to hire a public defender. They do not want to do that. They know that is not a popular thing. But they know they have to have public defenders. They do not want to tell them they are taking the money to hire judges. They know that is not popular. So what do they do? They will take the Federal money and they will hire the public defender.

I say to my friend presiding in the chair, if this prevails, I will make him a bet—and anyone else in here—Pittsburgh; Scranton; Wilmington, DE; my hometown of Scranton, PA, Democrat, Republican, Independent alike will find a way to make sure that locally they look like they are getting tough, but there will not be more cops.

I support the public defender program. I think we need more judges. I think we need more protection. I think we need more social workers at the prisons. But let me tell you what I know I need: I need more cops. I need more cops in Delaware. Scranton, PA, needs more cops. Dagsboro, DE, needs more police protection. But that is not what will happen. So, $813 million that is supposed to go directly to hire new cops—do not pass go—go straight to hiring a cop, now can be used as a block grant. The approach just is not right. This so-called law enforcement block grant is written so broadly that money can be spent on everything from prosecutors to probation officers to traffic lights and parking meters, without having to hire a single cop. And that is not an exaggeration.

I challenge anyone on this floor or back in their offices listening or Senator's staff who are listening, go in and tell your boss, "Come to the floor and debate BIDEN." If you can prove to me that you cannot locally, with this block grant, go out and buy parking meters or get a probation officer, if you can come and tell me that, I will stand corrected. But until that, understand, all my tough colleagues, Democrat and Republican, who are getting tough on crime, you are sending money back home to hire probation officers. The same outfit that was worried that the Biden crime bill which became law would be soft and hire all these social workers, now apparently are concerned because you really are hiring cops. I guess you all want to hire those social workers. I guess that is what you all are about. That is what you want to be able to do.

Now, if you do not want to do that, amend this on the floor and say the block grant cannot be used—cannot be used—for anything—and I will give you a list—from parking meters to probation officers, to courts, to judges. Did you ever ask yourself, those who are listening, why this block grant is so broad? Well, it is because, I guess, we do not like having all these extra cops.

Second, the block grant has never been authorized by the Senate. My friends on the Appropriations Committee like to talk about how they follow the process. Well, let me tell you, we know the Judiciary Committee—to the best of my knowledge, neither House ever authorized this. Let us be clear about what is being done here.

What this continuing resolution does is take the crime bill that has been passed by only one House, the House of Representatives, whose funds have been authorized only by the House, whose block grant ideas already have been rejected by the Senate. We have come at this a couple of times in direct legislation. A couple of times I have come to the floor and we have debated it, and I have won. Not I have won, my position has won. Now we find it back in the appropriations bill. The block grant idea has already been rejected by the Senate and incorporated into an appropriations bill, so it is passed and funded all in one fell swoop, instead of people standing on the floor here saying, "I don't want to fund COPS."

Mr. President, we are going to legislate by fiat like this. If we are going to do that, then we might as well do away with the committees, with hearings, with subcommittee markups, with full committee markups, with careful consideration of authorizing legislation and with legislating in the sunshine.

I understand why you put it in the bill this way. You put it in the bill this way, in an appropriations bill in a continuing resolution, because then you can say, "I tell you what, I did not vote to cut those cops. Not me. I voted for that big continuing resolution, but I had no choice. We had to do that. We had to keep the Government going."

"It was not me, Charlie."

"Honest to God, Mabel, I know your store got held up three times. You did not get the four cops."

Let me give you an idea here. I will not take the time to submit the chart, but I will just give you a list of the pending requests that exist. I will repeat this again: Already more than half a billion dollars is pending in requests. Remember Republicans said local officials would not want this money, they would not come and ask for it because they kick in their own money? I know my friend from Massachusetts, a former prosecutor, understands this one. What are the reasons we wrote it this way? We knew cops were more popular than mayors. So they go, and the chief of police would say, "Mr. Mayor, got good news. We can get 75 grand from the Federal Government. The bad news is we have to come up with 50 or 60 or 70, depending on the cost and size of the jurisdiction."

The mayor always said, "I don't know. I don't want to do that."

"No problem. We will tell the folks we do not want the Federal money."

It happened twice in my State already. Guess what? The city council, county council, could not take the heat when the public found out they could get the money and they were not asking for it. Well, guess what? Mr. President, 7,766 cops beyond the 33,000 are already requested and pending. That means the town councils, the city councils, the county councils have already sat down and made the hard decision that they will keep a commitment to hire a cop for another 5 years and have to pay half the freight in doing that. They did it.

Take a look. In the State of Delaware, we already have something like 120 new cops already. We only have an entire police force, if you count every cop in the State, about 1,500 in the whole State. We have some pending. In the State of Massachusetts there are 276 cops asked for, formally requested, ready to be certified. In the State of Minnesota, 100 cops, 7 million bucks, an additional 100. The State of Pennsylvania, 280 cops. Say we turn this to a block grant. That will be like water going through your hands. You will not get 280 cops in Pennsylvania or 400-some cops in Massachusetts, and so on, because there will be other priorities.

I, for one, happen to believe that is a terrible way to proceed, and that is through this block grant approach on COPS. That is reason enough for me to oppose the bill all by itself. If the Republicans want to change the crime bill, they have a right to try that, but we should do it the right way and have a vote on it. Wiping out a major piece of this most significant anticrime legislation to ever pass the Congress on an appropriations bill makes a mockery of the Senate process. The importance of the program we are considering, not to mention the perception of our institution, I think, demands better.

Before turning to specific problems with the so-called law enforcement block grants, let me preview the specific success of the 100,000 COPS Program. I do not know a single responsible police leader, academic expert, or public official, who does not agree that putting more police officers on our streets is the single best, more effective, immediate way to fight crime. Community policing enables police to fight crime on two fronts at once: They are better positioned to respond and apprehend suspects when the crime occurs; but, more importantly, they are in a better position to keep crime from occurring in the first place.

I have seen this work in my home State of Delaware where community policing in Wilmington, DE, taking the form of foot patrols aimed at breaking up street level drug dealing, is turning the city of Wellington and neighborhoods into a combat zone. The efforts successfully put a lid on drug activity, without displacing it to other parts of the city.

In practice, community policing takes many forms. Regardless of the need of a particular community, the reports from the field are the same: It works, it works, it works, it works. I am delighted to debate anybody who wants to come and make the case that community policing does not work. I will stand here as long as anybody wants and come back after I yield to my friend from Massachusetts. I will hang around for anybody who wants to make the argument to me that community policing does not work. I would love to hear it. I would love to hear it.

I suspect no one will come and make that argument, and no one will come to the floor and say we need fewer cops, and no one will come to the floor and tell me, no, they do not want more cops in their home State. No one will come to the floor and tell me that they want more of this COPS money to hire probation officers. No one, I suspect, will tell me that.

That is what this all does. That is what it does. The 1994 crime law targets $8.8 billion for States and localities to train and hire 100,000 new police officers over 6 years. Now, we will all remember the criticism of last year's program, the COPS Program. Republicans in Congress got Charlton Heston to go and say there will never be more than 20,000 cops, and "Moses" Heston could not have been more wrong.

As indicated, we already have 33,000 new local cops—not Federal cops, local cops—only after 1 year. Because of the way we set it up with the match requirement in spreading out the cost over a period of a year, the money will continue to work and keep working for cops on the beat well into the future. This is not just 1 year the cops have been at it. The progress will come to a screeching halt if my Republican colleagues have their way.

The continuing resolution includes new enforcement block grants. They call it new enforcement block grants, which has loopholes so big that it would prevent all the money to be spent without hiring a single police officer—not one. Read the proposal. Money is sent not to the police, as it is now, but to the mayors. The money may be used not only for the cops but also for other types of law enforcement officers or anything that "improves public safety." Moreover, the money can be used for other vaguely defined purposes such as "equipment technology and other material."

Now, look, I am not trying to pick on local officials. They know what they need. They do not have to ask for a single cop. They do not have to ask for any of this. Let me point out, we are emasculating local budgets. As the Federal share of local budgets go, we are throwing many of our cities and States into chaos by our unwillingness to come up with some rational plan. Now, you are sitting there as a mayor; you already lost a significant portion of what used to be Federal funding for other programs, and now you have to make some tough choices. You have to make these really tough choices because you have less money and no growing tax base. Do you think you will put all the money into cops like we required to be done? What do you think? I wonder what the citizens back home who might listen to this think will happen? I wonder whether or not the mayor and the county executive and others, Democrat and Republican, would conclude it is better for us to spend this money on improvements of public safety because we need new traffic lights, we need new parking meters, we need new lights in the local playground, all of which are legitimate. They do not put a single cop on the street.

Let me repeat, under the Republican proposal, the dollars can be diverted to prosecutors, courts, public safety, and public safety officials. In addition, the block grants require any money spent for drug courts, crime prevention, law enforcement, educational expenses, security measures, or rural crime task forces be taken out of the money to hire new cops.

I see my friend from Utah just walking on the floor. He and I worked awful hard to make sure the rural crime task forces were funded and rural crime money—as I know my friend from Minnesota knows better than most of us here, rural crime is growing faster than urban crime, with less resources and training and capability to deal with it. That is why it is growing. That is where the drug cartels are moving. That is why the drug operations are moving to those areas. What do we do here? Right now, in the crime law that exists, there is money separately for rural law enforcement, separately for the drug courts, separately for all these things. This is the pea in the shell game of all the block grant stuff that relates to the money part of it. We are going to give you a block grant, give you more flexibility, and that is the good news if you are a local official. Even they like the good news. Here comes the bad news: Add it all up and it is less money overall. Less money is going home. A lot less money is going home. So they may think they can hire prosecutors and put in street lights with assets of hiring cops. But they have to do everything else they were going to do with less money.

Mr. President, look at the language of the bill. Not one new cop is required. All it says is—I am quoting—"Recipients are encouraged to use these funds to hire additional law enforcement officers." Encouraged to use these funds. That is a very strong directive, is it not? Encouraged. That is encourage, not require.

Mr. President, American communities do not need our encouragement. They need our help. They need more cops. We should not encourage the States to keep the commitment this Congress made to the American people. We should keep our word. We should keep our word. Let me also point out that this block grant will also force American law enforcement to wait for these dollars. It will take the better part of a year to draft regulations, preparing application forms to get these dollars out the door.

When we passed the crime bill last year, I did something that the Attorney General thought was a little strange. Two days after, I asked for a meeting with her in my office, and I said, "General, I really appreciate all your support on this bill." She was supportive and for it. I said, "Now, General, we have to make sure of one thing—that you are able to reduce this application to one page." They looked at me like I was nuts. My two colleagues here who know a lot about this know that the cops at home only have to fill out a one-page application. They do not have to go to the mayor, or to some grantsman, they do not have to go through the Governor, they do not have to go through the State legislature, they do not have to fill out forms in triplicate. One page. One. The cop sends it in. Guess who gets the answer? The cop. The cop.

When I told the cops back home this was going to happen, they looked at me and said, "Joe, I love you, you are always with us. But come on, we did not think you would get this passed, but do not overpromise now." Go back and ask your local law enforcement people how complicated this is. All my Republican friends are real interested in making sure we do away with redtape and regulations. Well, this is a prescription for redtape and regulation. This is a prescription for it. If you want to delay it all, pass this.

The implementation of the 1994 crime law stands in stark contrast to the typical scenario where you will have to go through drafting regulations, preparing additional forms, getting the dollars out the door, getting them to the mayor's office before they get to the cop's office. It is a stark contrast. Instead of requiring the burdensome application often filled with entire binders, one-page applications were developed. Instead of waiting until the end of the year to disburse the funds, the money was awarded in batches beginning only weeks after the passage of this law.

So let us not destroy the momentum. Let us not destroy our effort to add 100,000 additional cops to protect our sons and daughters. I make a recommendation with some timidity to my colleagues on both sides of the aisle. Go back home, find out every single cop that came to your State. You can get the names of the cops who were hired under the Biden crime law. You can get the names. And then just ask at the end of the year how many collars each of these cops made. Ask how many times the cop that was hired under that bill saved some young girl from being raped, arrested somebody who murdered somebody, broke up a drug ring working on the street. Look at the specific actions they took and then, after you do that, you come back and stand on the floor and you tell the people of your State and all of us here that it did not matter, that these additional cops did not matter. We down here talk in such broad strokes about things that sometimes we miss it. This is real simple stuff. If they hire John Doe or Jane Smith as a local cop in your town, your city, your county, just track them for a year. You tell me who would have arrested that person who burglarized your house or stopped it were it not for that cop.

In a word, Mr. President, the law is working. The crime law is already paid by the trust fund, is already being paid that way. Let me just add that the $30 billion crime law trust fund that uses the savings from cutting 272,000 Federal bureaucrats pays for every cop, every prison cell, every shelter for a battered woman and her child. That is provided for in the crime law without adding a single penny to the deficit or requiring one new penny in taxes.

The single-most important thing our communities need when it comes to fighting crime is more police. The current law guarantees that our money will be used for just that purpose. We should not abandon it, 1 year after enacting it, especially in light of the spectacular results that have already occurred. We must save the 100,000 COPS Program to ensure that the money for police is used only for police. We should not retreat now on this tough but smart crime package that is already hard at work preventing violent crime across the country. We should not retreat on the 100,000 COPS Program that we insisted on just a few months ago in this Chamber.

In conclusion, Mr. President—and then I will yield to my friend from Massachusetts—I want to make it clear. It seems to me an absolute travesty that we are out here trying to dismantle a law that nobody even attempted to make a case that it is not working. Not one single person has come to the floor of the U.S. Senate to make the case that this law is not working. I am anxious to hear and debate anyone who has that point of view. Yet, we are dismantling, and instead of dismantling it, we should be building on it. We should be dealing with an issue my friend from Minnesota knows about: violence among youth and the growing trend of violent youthful behavior. The growing trend is that crime is down in every category. The Senator from Utah and I are involved in a project through his leadership to deal with youth violence in this country. We should be spending our time on that. I should be spending less time having to constantly defend a bill that nobody has made the argument that it is not working.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to thank the Senator from Delaware, who, when he was chairman of the Judiciary Committee, shepherded the single-most comprehensive and important crime bill probably in this century, or ever, through the U.S. Senate. It was the first crime bill in history to comprehensively try to deal with the problem of crime in this country.

Generally speaking, previously, we came to the floor and we had a bill that sought to deal with guns, or we had a bill that sought to build prisons, or a bill that sought to deal with drugs, and occasionally something like the LEAA that sought to do something with the criminal justice system itself. But this was the first time, under the leadership of Senator BIDEN, that we stood back and said, "How do we deal systemically with the problem of crime?" To the credit of the U.S. Senate, we finally—after we got over the issue of guns—shed party lines and shed the partisanship, and came up with a comprehensive approach to try to deal with crime. We put slightly less than $10 billion into the building of prisons. We put up almost the same figure into prevention, and almost the same figure into police officers.

What I think is most significant about the approach that we adopted is that we recognized something that has been building in this country for perhaps 20 years and did something about it even as we recognized it. That is, specifically, we took note of the fact that for about 15 or 20 years we had been disarming our communities in this country. We had been losing numbers of police officers, losing the ratio of police officer to crime.

I think for any Member of the Senate who has spent time in the criminal justice system—there are a number of us here who have done that—or for anybody who spent a lot of time, like Senator MOYNIHAN or others, studying the relationship of values and other damaging trend lines in the disintegration of the fabric of our communities to law and order issues, I think most people have come to the conclusion that there is a relationship between people in the community and their perception of how the law is applied and how it is enforced to their sense of justice, their sense of deterrence, their sense that there is a linkage between the law and behavior.

Most people in America have been able to come to the conclusion that when you are properly administering the judicial system, when you have adequate police officers, when you have an adequate level of deterrence, there really is a relationship to how people choose to behave. That is no different from what we try to do in our schools at the earliest stage. When the teacher is out of the classroom, kids tend to run amuck a little bit and take advantage of it. When the teacher comes back in, usually to a greater degree or lesser degree, order is restored and people begin to have a sense that there is an authority figure there, and they know how to behave. The same is true at home. Depending on whether a babysitter is a strong, hard-nosed babysitter, or lax, or present or not present, at the refrigerator or the television versus taking care of kids, kids will make decisions about how to behave. It is no different in the rest of the world in which we live. In a community, when people perceive that there are not any officers of the law, they write the law. They take their behavior and start to do things that there is no outside influence to suggest to them they should not do. It is so elementary that it almost defies the imagination that we are here debating about it.

The word "cop" stands for constable on patrol. It is not rocket science. We learned years ago in America when we were this great immigrant Nation welcoming people from everywhere that one of the great ways in which we sort of brought people together was through the establishment of a set of laws and a standard of behavior which people followed as a whole. One of the critical ingredients of that was the cop, the constable on patrol, the person walking down the street with a billy stick in a uniform of blue who stood for the standards of that community.

Mr. President, during the 1960's and 1970's, we walked away from that. We took police officers off the streets, literally, putting them both into headquarters and into an automobile. We eliminated precinct after precinct after precinct station in America. This was part of the great new policing and cost-saving consciousness of that particular time period. What we did was kind of modeled our policing habits after the general sort of living habits of Americans. We all went for the automobile, and America moved its sense of community from the community into this transient status which we are in, fairly well to do, where people live in apartment buildings and do not even know each other. We have neighbors in these apartment buildings who are utter strangers. We have a whole new level of what we call stranger crime in America; murders that are committed by people who never met their victims.

In fact, we have learned in the past few years in America—thanks finally to our having required the Justice Department to report the truth of who kills whom—we have learned that the great story about most people committing murder being people who knew each other is a myth. It is not true that most murders in America are committed in this passion between lovers or family disputes. We now know that in the last 10 years in America, out of 200,000 or so murders, 100,000 of our fellow citizens were blown away by somebody they never met, an utter stranger. And we now know that, of those people who were murdered, two-fifths of their murderers have never set a foot across the threshold of a police station—not for an inquiry, not for an arrest, and certainly not for a prosecution.

That is why there is an increase of fear in America; that is why there is an increase of anger in America; because the average citizen feels this loss of freedom in this country. There is a dramatic loss of freedom in the United States of America—still the freest country on the face of the planet, but not the same free country that it used to be where we felt that we could go anywhere, travel anywhere, go to a restaurant, not have fear of our car being stolen, not having to pay extra money for insurance, not having to pay extra money for trauma in our hospitals, not having to pay for the price of this incredible wave of violence that has consumed our Nation.

What has happened at the same time as we have had this wave of violence? We have diminished the number of police officers. In community after community after community. We have less police officers on the streets of our country today than we did 15 and 20 years ago.

So here you have these two lines. One line is the increase in crime. It is going up. The other line is the presence of police officers, and it is going down.

What is the message? The message is very clear. If you are a criminal and you know that the police cannot even respond to the current 911's, if you know that if there is a burglary or an armed robbery, that their ability to track it down is limited because they are already having difficulty filling out their own overtime because they are already having difficulty going to court for the number of court appearances that they have to meet for the crimes already investigated, and they are having difficulty doing their patrols on the level that they ought to be doing them because, lo and behold, there are not enough officers to cover those patrols. What are you going to wind up sending as a message? The message has been crime pays. That is the message we have sent America—crime does pay.

All you have to do is talk to any hardened professional criminal out there, and most of them will tell you that you just learn in the undercurrent and the subculture of crime in this country that that is their perception. It is their perception because we have never had a serious war on drugs in America. Why? Because we only treat 20 percent of the addicts in this country. So what is the message? The message to 80 percent of the drug addicts of America is it does not make any difference if you are lying in somebody's doorway drugged out; it does not make any difference if you have committed your 50th household break-in to support your habit because there is nobody there to get you off your habit, and nobody to catch you for the crime you are committing.

Go to most cities and dial 911, and see what happens. We have had tales that baffle the imagination here in Washington where three blocks away from this Capitol people have dialed 911, and it took 20 minutes to half an hour for a cop to show up.

My wife was involved in an attempted robbery in the city of Washington a few months ago, stuck up by a man with a handgun, and a guy who happened to be driving by in his car called 911, reported it, and nobody showed up. And it was only thanks to that lucky citizen's presence that he took the license plate of the car that got away, and they caught the person who did it.

In Boston a few months ago, we had a guy who started to run amok out in the street at night. The cop came up to him, the guy pulled a gun and shot the cop and started running down the street. He went around a corner, but there happened to be an off-duty cop working a detail who heard it on his radio; he heard the call of what was happening, started looking around, saw the guy, ran after him, and the guy went around the corner and blew his own brains out before the cop got to him.

Another example in the 99 Restaurant in Charlestown just a few months ago. Guys walked in the restaurant with guns in the middle of the day, in the middle of lunchtime and started firing away at five people sitting in a booth. I think there were four people killed. It might have been five. I cannot remember—four anyway. Two guys come running out with their guns. They are taking off in the light of day, having committed murder, but two cops happened to be in the place eating, off duty again—off duty—and two other guys were out there, again off duty, on a detail. The four of them managed to make the arrest red-handed, right there in the parking lot.

What happened? Cops off duty, cops not part of the regular duty happened to be there. What is the message out of that? What is the message out of the cop who happens to be there when somebody runs amok in the street? The message is cops in the streets make a difference. You do not have to go to school to learn that a police officer walking down the street is an invitation not to commit a crime. Most people do not go out and rob a bank when the cop is standing on the corner. Most people do not run up to an old lady and pull her purse away when there is a cop in the lot.

That happened in Brockton, MA, just last week. A 73-year-old woman was murdered at random, in an act of senseless violence, when a young guy from a neighboring city, who was just caught a couple of days ago, came to that parking lot, grabs her purse and beats her senselessly, and she is dead. I tell you, if he had seen a cop in that lot, that would not have happened.

Now, obviously, we cannot cover every corner, we cannot cover every parking lot, but you know what we can do? We can guarantee that this priority of putting cops on our streets that we committed to only a year ago is not now taken away. For what? For what reason? Nobody has spoken here and said this is not working. The arguments that were made a year ago were that you are not even going to put 5,000 cops out there. This is a joke.

Well, we have put 33,000 cops on the streets of America in the last year and a half. We have added 265 cops alone to the city of Boston. The Federal Government is now paying for a 25-percent add-on of cops to the city of Chelsea, next to Boston, and we are taking back communities. I was over there the other day listening to the police chief and to the community activists tell me what has happened to the drug dealers and the crack houses since we put those cops on those streets. They are gone. They are painting the houses today. People come out in the community. They care about the community. They come back into it, and they suddenly have new life, Mr. President. Why would we want to not continue that commitment?

Now, I know some people will come to the floor and say: "Well, Senator, what we want to do is give the local community the power to choose and give these people the opportunity to have a big block grant, and they can pick and choose what they want to do." But that is totally contrary to the decision that we made based on the evidence a year ago. There are communities in America that need these cops.

When you make the cops competitive with a cruiser or floodlights for a jail or a drug court or another program, you are diminishing the number of cops that will be put on the street. That is the result. There is a fixed pot of money, and this block grant takes the fixed pot of money and makes cops competitive with everything else that is in the block grant. The end result is there will be fewer police officers on the streets of America.

Why would we want to do that when the Conference of Mayors says, do not do that; we want the cops. Why do it when the police chiefs across the country say, do not do that; we want police officers. Why do it when the police officers' unions and patrolmen themselves say, we need more cops to help us do our job. The mayors are against it, the police chiefs are against it, the district attorneys and attorneys general are against it, and we are going to go ahead and do it.

Now, why would we do it when it flies in the face of truly giving people local control? When small communities give it to the Governors, that is not local control. That is State control. When you give it to the Governors in the format of which it has been given, it is actually more expensive administratively. We are currently administering this program for less than a 1-percent administrative cost. You put it in a block grant with all of this competition at the State level and you drive your administrative costs up to at least 3 percent and maybe more.

Moreover, you enter politics into the situation. What is going to happen when you have a Republican Governor and a Democratic district attorney who may be thinking about running against the Governor and he is going to submit a plan to the Governor for this money? Do you think he is going to be the first to get it?

We took the politics out of this program. A cop, as the Senator from Delaware said, can directly send a single sheet of paper to the Justice Department and he can get an answer within days, and they have been doing that.

I do not know how you get more direct local control than that; a local police department goes to where the money is, says we need help and gets the money. Instead, we are going to go three tiers. We are going to go to the Federal Government, to the State Government, State Government through the process down to the local government. It just is not part of the revolution of restoring local community control. It flies directly in the face of that, and it is contrary to it.

I do not think this is politics. I think this is really common sense. This is how we are going to restore our communities. I think that 100,000 cops, as I said a year and a half ago, is a downpayment on what we need to do in America today. I think we ought to add 100,000 more cops to the 100,000 we have, and I absolutely guarantee you that if we do that, we will diminish the number of Americans in jail; we will restore whole communities; we will reduce the costs to our hospitals and all the trauma people suffer as a result of violent crime, and we will honestly send a message in this country about law and order.

I can take you to community after community. Lowell, MA. Let me read to you what happened in Lowell in the last year and a half. We were lucky in Lowell—not lucky. People made some good judgments. They hired a terrific police chief named Ed Davis. He came in 18 months ago, and he came in particularly committed to community policing. I went to a street in Lowell called Bridge Street with the chief where prostitutes and druggies were taking over the street and senior citizens literally did not dare to come out of their homes because they feared what was happening in the street.

I walked into the corner pizza store and the guy there who owns it told me, "Senator, you know, people don't come in here anymore. I am going to go out of business unless we do something about this." So the police chief put several police officers in a building right on that street, a new precinct, new storefront. And literally the street has been revived. The drug dealers left. The pimps and prostitutes are gone. Seniors come out of their homes. People take part in the community again and the store owner is thriving. That has been replicated in other parts of the community.

Let me just share with you what the Justice Department has reported about Lowell. In Lowell, MA, for the first time in 25 years, 365 days passed without anyone being murdered.

In a city plagued by heroin use and street gangs, many say the city changed over the last 18 months as a result of an intensive community-based policing effort now supported by a Federal COPS grant. The city's effort has provided 65 new officers, 6 neighborhood substations with bicycle patrols, a gang unit, and a mobile precinct for public events. Mr. President, that is the story. Over 60 new officers, 6 substations.

Bill Bratton used to be the police chief in Boston. I began working on community policing with him in Boston a number of years ago. As we know, he is now the police commissioner in New York City, and he graced the cover of Time magazine a couple of weeks ago because the crime rate in New York has gone down 20-some percent and it has done it, most agree, because of the presence of police officers and the commitment to community policing.

Mr. President, 15 years ago in America we had 3.5 police officers per violent crime. Today we have 4.6 violent crimes per police officer.

So I hope my colleagues will again reach across the partisan divide and agree that common sense and the experience we are seeing in our streets today dictate that we should not take this pot of money and divert it from cops.

Am I saying that the other priorities that they have included in the block grant are not important? The answer is no. They are important. I would like to see those funded too. That would truly be part of a comprehensive effort to deal with crime. But the first priority, beyond any of those other things, is to guarantee that our children can play in parks without fear of harm; that our seniors can come out of their homes and walk a street to go to the post office or the bank or the corner store; and that all of us in our communities can believe that the fundamentals of public safety are being attended to by putting police officers on the street.

I will tell you, even with all the computers in the world, all the other things people are looking for, until community after community of this country is sufficiently staffed by police officers on patrol, we will not regain our liberty and we will not restore the order that is so cared about by so many of our citizens. I think that is the first order of priority and that is why I hope this amendment will be adopted.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Utah.

Mr. WELLSTONE. Mr. President, I ask the Senator to yield for a second?

Mr. HATCH. I will be happy to.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to follow the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Elizabeth Kessler, Michael O'Neill, Steven Schlesinger, John Gibbons, and James O'Gara, all detailees from my staff, be granted the privilege of the floor for the remainder of this Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I have been listening to this debate, and it is an interesting one. But I rise in support of the compromise language addressing both the local law enforcement block grants and the COPS provision contained in this bill.

This bill strikes a good balance between the Local Law Enforcement Block Grants Act of 1995 and the COPS Program. This combination will better support the local communities' law enforcement needs, and it provides funds, guaranteed funds that will be used to hire new police officers. That is the way the bill is written.

This proposal—that is the bill, not the amendment before our body—this bill improves the notion of the current COPS Program. To begin, this program moves us away from the Washington-knows-best philosophy. The proposal returns responsibility and capability to local law enforcement officials: The police chief, the sheriffs, the district attorneys. Further, this compromise program allows just under 50 percent, 47 percent of the funds to be distributed directly to the communities to meet their individual community policing needs and law enforcement needs. This program empowers communities to decide how to best spend these resources.

For example, if a community wants to use block grant funds to hire more police to supplement community oriented policing, they may do so. They can use whatever funds come to them.

However, if the resources can be used more efficiently by the community, more effectively, by purchasing equipment and doing other matters that are critical to their law enforcement needs, they may do that. I think any reasonable person would say that makes sense. Why thrust upon them a Washington-knows-best philosophy, which is what my colleagues on the other side want to do, and not give the local communities the right to do this?

I will tell you why they want to thrust it upon them. Because when we passed the crime bill back in 1994, there was a moral commitment by this administration to put 100,000 police, or cops, on the street. There was $8.8 billion, as I recall, dedicated to that effort in that bill. What this administration did not tell the American people is that $8.8 billion would not put 100,000 cops on the street. They have been claiming credit for that ever since 1994, knowing the funds are not there.

There was a formula, pursuant to which they would pay 75 percent, then 50 percent, then 25 percent, then 0 percent—ultimately where the communities had to assume all of the costs of those additional police.

I said that they were dissembling, that they were claiming to put 100,000 cops on the street when the moneys were not there to do it. Now it just shows I was 100 percent right.

Now they are talking about, "Oh, we just meant seed money." Give me a break. I said back then that it is untruthful for anybody to claim that bill was going to put 100,000 cops on the street with only $8.8 billion attributed to that particular approach. And that is true today.

Yet, in every crime speech since that time the President has gotten up and said we are going to put 100,000 cops on the street.

Now they have about 24,000. I think Senator KERRY indicated they had maybe 33,000. That is a far cry from 100,000, assuming that their figures are right. And they have hit the brick wall where they do not have the moneys to fully fund 100,000 cops. Now they want to call it seed money.

Naturally, some of these communities who want to hire policemen here or there are going to have their hands out to grab whatever money they can. But New York, by the way, which has been used here as an illustration of how crime has come down—I would just like to note that New York City did not receive one cop under the President's COPS Program, not to my knowledge. If they have, I sure do not know about it.

Nor did Washington, DC. Everybody knows that I have raised a couple of points about Washington, DC. It is drug capital USA. It is murder capital USA. You cannot walk down the streets and be safe, kids are shot in schools, you are shot in drive-by shootings. Of course that is true in a number of our communities throughout this country. But Washington did not ask for any hiring money. I will tell you why, they did not have the money needed to make the match requirement.

They can come back on the other side and say let us give them the money. That is what they said they did back in 1994. The fact was the moneys were not there, except for about 20,000 cops. And the 33,000 that they claim they have are only partially funded under the COPS Program. They are not fully funded. So neither New York City nor Washington, DC, to my knowledge, have participated in this COPS hiring program. They could not afford to put these people on with this seed money that it has suddenly become, rather than the full money that was being promised to them.

I said back then it would cost $8 billion a year for each succeeding year to have 100,000 cops on the street, under that formula that was in that bill. And that is true today. The fact is, it has been dissembling to indicate to the American people that they are putting 100,000 cops on the street. Now they are here, trying to, I think, ruin a block grant approach that really would be effective for our local communities, under the guise that they are going to put 100,000 cops on the street. Now it is seed money.

I have nothing against putting more police officers out there. I simply believe that the cities should be able to decide for themselves whether they want to have cops or whether they want to upgrade technology for crimefighting purposes.

For instance, the District of Columbia, which I have been fighting for in trying to make it safe again, does not even have computers that work. They have dial phones, rotary dial phones. In some areas, they do not have police cars, they do not even have the weapons sometimes, in the greatest city in the world. We all ought to be ashamed of that.

Let me just say, if the community wants to hire these police with the block grants, give them the right to do so. We can supplement community-oriented policing awards. However, if they find the resources can be more effectively used, they have the flexibility to do it, which seems to me to be quite important.

Why do we need flexibility? Take the metropolitan police department in Washington, DC. They have more police officers per capita than any other city in this country—more than any other city. The last thing that the metropolitan police department wants is more police. What they need, in this case, happens to be cars, equipment, bullets, if you will, and they cannot afford them, because we are not block granting the funds to them to be able to do that.

The metropolitan police department in Washington, DC, is cannibalizing police cruisers to keep going, and we are talking about playing this phony game of 100,000 cops on the street, which I have called a phony game since 1994. I am the first to say, in some areas, yes, we need more police on the street, but, by gosh, they can do it if they want to. If that is what their needs are, the block grant will enable them to do that. If they do not need that, then they can do these other things like cars, equipment, bullets, if you will.

Officers in this town are buying their own bullets. They do not like doing that, but to protect themselves they are doing that. Now that is pathetic. It is time to bring flexibility to our law enforcement assistance programs, and that is what this bill does.

When we get the flexibility into the bill, what do we face? People coming to the floor and making arguments for 100,000 cops, who promised us that the moneys were there before, or at least implied that the moneys were there, when I said they were not and they have not been and they will not be, because it is just too much money.

I personally resented every speech by some of our national leaders who get up and say, "We are going to put 100,000 cops on the street," knowing that the moneys have not been there, knowing that that formula has not worked and knowing that it is a misrepresentation. I think it is time for Washington to help first and then get the heck out of the way. That is what is wrong around here. We are dictating where these funds should go rather than helping and getting out of the way and letting those law enforcement people who really know what is best for their communities do what needs to be done.

This proposal does that, it gives them that flexibility. This block grant proposal helps poorer communities by allowing the hiring of police with less of a financial strain on the community. This is accomplished by containing a lower matching requirement than the COPS Program.

During the last floor debate on the Commerce, Justice, State and Judiciary appropriations, my friend and colleague, Senator BIDEN, stated that nothing in the bill requires that even $1 be used to hire a single new police officer. This compromise satisfies his concern, even though we set aside a considerable amount of money to hire police officers but we block grant the rest in a way that makes sense. This compromise satisfies his concern by funding the COPS Program at the level the President endorsed in the continuing resolution.

For those of you who are concerned about the 100,000 additional police on the street, this plan—that is, the one in the bill, not the one that has been offered by my colleague—this plan places your concerns at rest. Although the President's plan does not fully fund 100,000 cops, assuming that the law enforcement block grant earmark for the COPS Program remains at the current 51 percent, more than $3.8 billion will be available for cops awards over the life of the program, assuming money is there under the block grant approach.

Using the President's math, the fiscal year 1996 average grant award amount is $45,856. The available funds will provide seed money for more police under the COPS earmark. In other words, according to the President's math, it only costs about $45,856 to put a police officer on the street. We know it cost more than that.

To also make it clear, this bill provides especially a paragraph on prohibitive uses. It says:

> Notwithstanding any other provision of this act, a unit of local government may not expend any of the funds provided under this title to purchase, lease, rent or otherwise acquire (1) armored tanks (2) fixed-wing aircraft (3) limousines (4) real estate (5) yachts (6) consultants or (7) vehicles not primarily used for law enforcement, unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes essential to the maintenance of public safety and good order in such unit of local government.

There are protections in this bill. It costs about $75,000—I have been corrected—to fund a police officer on the street, about $75,000 to fully fund one. This so-called seed money will not fully fund 100,000 police on the street. There is no way that it can. So we have gone from fully funding to seed money now under the guise that we are going to give the people 100,000 police on the street when, in fact, that just simply is not true.

Add this to what was awarded in the prior years, if you spend that $3.8 billion over the remaining program life, and with seed money, I suppose you could get to 100,000 cops with a tremendous drain on the local community. But they are going to hire these police anyway. Naturally, they are going to have their hands out if there is a free gift of money from the Federal Government, and that means people they hired anyway are going to get help while other communities who need money for cars, for equipment, for bullets, if you will, or police uniforms cannot get it and cannot do the policing job that they should do.

This is even before the flexible portion of the block grant money is expended. We have taken appropriate measures to address concerns about guaranteeing police on the street and also in poorer communities to best determine how best to fight local crime.

Why do we always have to go to the Washington knows best mentality? Why do we always have these arguments out here about, "By gosh, we're going to earmark and tell them what to do with these funds?" What is wrong with block granting the funds, as long as we have prohibited uses, which we have expressly written in this bill? What is wrong with block granting the money to them and letting those local communities make their determinations of what is best for them, rather than us telling them what they need?

Some communities do need more police. This block grant will help them. They will be able to make that flexible determination. Others do not, and they will not be forced to because of an inflexible approach that I think my colleagues on the other side are asking for.

One reason the local law enforcement block grant of 1995 is superior to a cops-exclusive program is flexibility. We provided for flexibility in this bill by allowing local communities to expend funds for all of the following law enforcement purposes:

First, for hiring, training, and employing additional law enforcement personnel. So they can do it if they want to. If that is what they need to do, they will have some funds out of this block grant to do it with.

Second, paying overtime to presently employed law enforcement officers.

Third, procuring equipment and technology directly related to basic law enforcement functions.

Fourth, enhancing security measures in and around schools.

Fifth, law enforcement crime prevention programs.

Sixth, establishing or supporting drug courts.

Seventh, enhancing the adjudication process.

And, eighth, establishing multijurisdictional task forces, particularly in rural areas.

Local law enforcement officials can decide how best to decide to spend the money under the program. More police does not always mean better policing. Oftentimes, necessary procurement is the best option for the community, by far the best law enforcement option in some communities.

This program moves us away from the Washington knows best philosophy. We do not let Washington dictate local crimefighting strategies. Washington simply does not know best. Washington does not know best how to solve local problems, especially a problem like crime. The COPS Program dictates to a community how much of their scarce funds they must allocate to combat crime.

The COPS More Program promises to supply overtime and supplies to the police departments. However, in practice, only big cities with large police forces can be eligible. This is because COPS More grants require a showing of moving a cop to the street to receive these funds. Smaller communities who are already maximizing their street coverage have difficulty showing more officers can move to the street. Small town forces do not have the extra manpower to put another officer on the street, and rural communities need cars to travel through their districts.

The COPS Program determines the number of officers given to communities by the number already on the force. It disregards the crime program. Small crime-riddled communities should be able to receive help, not be penalized because they are small. The COPS Program does not take into account crime when giving out grants. The grants are given to any locality that can afford the matching fund whether the officer is needed or not.

The COPS Program does not base the number of officers awarded on crime but rather on the number currently on the force. Cities who applied for four officers because they had one of the highest crime rates in the Nation will be given 1 or 2 officers because the current force has 50 officers.

Look, we are not playing games here. We are trying to solve this problem. The block grant gives the local communities the flexibility to solve it in their best interests and their best ways without Washington telling them what to do. What is going on here is the department is paying 75 percent of the salary the first year, 50 percent the second year, 25 percent the third year, and then the local agency has to carry the full load.

Based upon a salary of $65,000 to $70,000 a year, for every $75,000 in Federal COPS grants awarded, the community will need to spend $225,000 over the 5-year life of the program to keep a cop on the street. That is one single cop.

I want to submit for the RECORD a statement by the city manager of Sunnyvale, CA, who turned down a COPS grant because they could not afford it. I ask unanimous consent that that statement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THOMAS F. LEWCOCK, CITY MANAGER, CITY OF SUNNYVALE, CA

Mr. Chairman and Members of the Committee:

I am honored to have been requested to submit a written statement to the Judiciary Committee regarding the City of Sunnyvale, California's decision to not accept Crime Grant funds to add additional police officers to the Sunnyvale Department of Public Safety.

BACKGROUND

My name is Thomas F. Lewcock. I am the City Manager of the City of Sunnyvale, California. I have served in that capacity for fifteen-and-a-half years. I have served in executive capacities in city government for 26 years, having received a bachelor's degree in political science from the University of Minnesota, and a master's degree in public administration from that same institution. The City of Sunnyvale operates under the Council/Manager form of government, with the City manager appointed on professional merits for an indeterminant time by the City Council, serving fully at its pleasure. The City Manager is the Chief Executive Officer.

The City of Sunnyvale is a residential/industrial community located in the geographic heart of the Silicon Valley. It has a resident population of approximately 125,000, with a private-sector job base of approximately 120,000. It is a demographically diverse community with a minority population of approximately 35%. While the income and educational levels of its citizens are above average, the City has the full spectrum of income and education levels. While law enforcement issues do not have the same complexity as those of an urban core, Sunnyvale remains a relatively densely developed community in the California context with a full range of law enforcement complexities. Approximately 50% of the resident population lives in multi-family dwellings. Given the sophistication of the City's industrial base, highly complex law enforcement issues are presented. This brief overview of the community is provided to members of the Committee in order to provide a framework for the community's law enforcement needs. In many respects, the law enforcement requirements of this community are significantly closer to that of an urban core community than the typical American suburban community.

The City of Sunnyvale over the last several years has gained a national and international reputation for its unique approach to long-range strategic and financial planning, to results-oriented budgeting, and to its well-recognized approach of operating the City more as a business than a government. In the Osborne and Gabler book, "Reinventing Government," the City of Sunnyvale was noted as the government "performance leader."

The relevance of the City of Sunnyvale's approach to policy setting and the provision of public services is briefly reviewed in order to gain a context as to why a decision was unanimously made by the Sunnyvale City Council to not accept Crime Grant funds.

For the past fifteen years, the City has structured its approach to policy setting and financial management with two key themes. The first is that of long-range strategic planning coupled with a sophisticated ten-year financial plan. That financial plan estimates all projected operating, capital, debt expenses, as well as future revenues. This highly sophisticated approach to long-range financial planning is used in a number of ways which are beyond the purpose of this statement to describe in detail. Key to this statement, however, is its use in recognizing that the short-term financial position of any government and for that matter any business is not predicated on a year-to-year analysis, but can only be fully understood in the context of multi-year projections. Though those projections will of course suffer from the natural uncertainty of government finance and all the related factors that affect government income and expense, it can and does provide a clear understanding of significant expense and revenue trends that should be taken into account in making any decision which has long-term consequences. A series of detailed financial policies have been adopted by the Sunnyvale City Council in respect to utilization of long-range financial planning. One of the most important of those policies is to require that in submittal of annual budgetary plans, that the budget must be balanced not only in the context of one year but also in the context of the position of the City over the entire ten-year time frame. Even though an expenditure may be affordable in a one-year context, if it cannot be supportable over the long term then it is not undertaken. This approach recognizes that although on a one, two or three-year basis an expenditure may be affordable, if over the long term it pushes governmental spending in deficit, then it is much better to deal with that issue initially than to compound the financial problem created of effectively spending for many years beyond means and then eventually reaching the point where far more significant budget and service reductions are necessary.

A second critical component of the approach of the City of Sunnyvale is to clearly specify in measurable terms each and every service which the City is to provide and to allocate funding to those specified service levels. The Patrol Services Division of the Department of Public Safety follows this approach as do all other City departments and services. This approach is not focused on line item detail as to numbers of people, vehicles required, and the like, but rather on the specific level and quality of services to be provided. It is here that the policy focus of the City Council is centered. For example, in the Patrol Services Division, service levels are defined in terms of emergency response times, crime rates, crime clearance rates, citizen satisfaction, and the like. Each year, the Council determines whether or not that defined level of service is adequate and if not, appropriate resource changes are made. Further, if change in demands occur in such a way that additional resources are required in order to meet those service standards, then the Council either appropriates the additional funds for that purpose or if insufficient funds are available makes a determination as to what level of service is affordable.

It would be incorrect to assume that because the Sunnyvale City Council declined Crime Bill funds that either Public Safety services are not a priority nor that the City is in the financial position to ignore a sizable sum of outside funds. Over the past five years, the real dollar value of tax income to the City of Sunnyvale has declined by 15%. This has occurred as a result of the California economy and severely restricted revenues for all levels of California government. The City has had to make difficult decisions over this time frame to find ways to continue to the maximum extent the level of services it provides. Most certainly, the action taken by the City Council is not a reflection on the lack of priority for Public Safety services. Public Safety services, both police and fire, are clearly the two highest priority services in the City of Sunnyvale. In fact, these services receive 58% of the overall tax-supported budget in this community.

THE CRIME BILL

When the Crime Bill was passed, the City began the process of reviewing this new grant program in accordance with the general policy and budget framework outlined above as well as against a specific intergovernmental grant assistance policy which was adopted by the Sunnyvale City Council many years ago. Attachment I excerpts the most relevant aspects of that policy. As can be seen in the attachment, that policy in general discourages the utilization of State or

Federal grants to support ongoing City programs. The underlying reason for that strategy is that when City services are increased as a result of a grant that may later be reduced or eliminated by the State or Federal governments, then it is in essence establishing a new or expanded service which the community will become accustomed to. If then later the funding either declines or is eliminated, very difficult decisions have to be made in a constrained resource environment of either eliminating that program or some other. Therefore, this policy attempts to assure a continuity of priority setting around the most important services this City should be providing consistent with its financial constraints. This policy places that strategy into action by either requiring that the program be shown in the City's Ten-Year Financial Plan only for the period of time that the entitlement has been granted or requiring the City's own tax resources to be dedicated in advance of accepting the grant if it is believed that the program should continue.

For a program such as the Crime Bill which would add police officers, it is clear that if there is a need to increase the law enforcement presence that need will not dissipate simply because Federal funding is no longer available. Therefore, this is not the kind of service expansion for which the City would knowingly accept grant money and then reduce the service by eliminating these added police officers at the time the grant money was no longer present. Rather, this kind of grant would be accepted only if a decision was made that the costs were supportable over the long term and actually scheduled in the City's Ten-Year Financial Plan.

In order to estimate the City's ability to support the ongoing cost of officers, an analysis was conducted as to what the true cost to the City of Sunnyvale would be. Under terms of the Crime Bill, the City would have been eligible for a maximum of six police officers with a maximum grant amount of $450,000.

In order to estimate the cost over the City's ten-year financial planning horizon, the wages and benefit costs of a Sunnyvale Public Safety Officer was first determined. As of 1995, that annual cost is $95,538. Although officers would not initially be hired at the top of their salary level as is reflected in this cost, the City always utilizes the practice of estimating top-step salaries in compensation since over the long term that will ultimately be the actual cost of new employees. In addition, there are ancillary costs placing a police officer on the street and properly equipping them, which adds an additional $3,227 annually, for a total cost per officer of $98,765 annually.

Attachment II reflects the present estimated financial plan for tax-supported services in the City. In order to project the full financial effect of six new officers, Attachment III was developed. Under Revenues, a new line item was added reflecting the $450,000 in new income. Under Expenditures, the new cost to the City was projected over ten years. Please note that the projected expense does go up annually consistent with the City's Inflation and cost-of-living projections. While we do not pretend to have a crystal ball as to how inflation will perform, we consider this an important aspect of multi-year financial planning as it recognizes the reality that costs do increase over time even when inflation is low. As can be seen in Attachment III, the total projected expenditure over the City's ten-year financial planning horizon is $6.8 million. Also of note is the interest line under Revenues which was appropriately adjusted to reflect the fact that this new expenditure would reduce City reserves and therefore interest income. As a result, the total net cost to the City is $8.853 million over ten years, which reflects that this grant would support only 5% of the total cost. While it is certainly the case that the cost of law enforcement officers in the State of California is considerably above national averages due to the very high cost of living in California, even with lower expenditure numbers, over a protracted time frame a grant such as this would reflect but a small percent of the overall cost. As also reflected in Attachment III, necessary prescribed reserve levels in accordance with City fiscal policies would not be able to be maintained by the tenth year falling some $2.75 million into deficit.

The question of whether or not to accept Crime Grant funds, however, was more than the financial analysis alone. As was stated earlier, local government in California has been hard pressed for a number of years with continual reduction in revenue availability while at the same time being faced with expensive new Federal and State mandates. As a result, two additional questions had to be addressed. The first question was whether given all City priorities the addition of six police officers was the most important. The second question was that if it was determined that a greater law enforcement presence was needed and was the top priority in the community, whether the specific restrictions and strings that came along with this grant would restrict the ability to use the funds in such a way as to meet the City's most pressing law enforcement requirements. As outlined earlier, Sunnyvale is a results-oriented organization, specifying in clear and measurable terms what it will accomplish in quality and level of service in everything the City does. The City's recognition as the "performance leader" has come as a result of articulating in clear terms what we are to accomplish, but not prescribing the way in which it is to be accomplished. For example, one can assume that one of the most important purposes of the Crime Bill is to reduce the incidence and fear of crime. Due to the prescriptive requirements of the bill, the bill presumes that if police officers are dedicated to this task consistent with the requirements of the bill, then this objective will be best met. We have found in literally all service areas that prescriptive requirements as to how to meet an objective creates substantial limitations in the creative use of resources to assure that service objectives are met in the highest quality and lowest cost fashion. In lay terms, what this basically means in the case of the Crime Bill was that the City would have to accept the fact that the Federal government knew better than we do how to utilize resources in order to accomplish a comparable goal. Rarely have we found that to be the case.

In the case of the Crime Bill, it was not even necessary to get to the point of judging whether or not this resource increase paid 95% by the City was the highest priority area of expanded City services. Rather, when it became clear that the Federal government would dictate how these officers would be used by providing only 5% of the funds, a unanimous decision was made by the City Council that the incentive did not come close to justifying a change in City priorities. Further, and perhaps even more important, it was believed that if the choice was paying the additional 5% of the cost and thereby allowing these resources to be marshalled in a way judged to result in the best return in investment, then the City would be better off paying 100% of the cost.

CONCLUSION

Most cities do not use the performance-based policy setting and budget approach nor multi-year financial planning approach that has been long utilized in the City of Sunnyvale. The reality is, however, that the issues and consequences are exactly the same for other cities as well. Perhaps the only difference in many other cities is that these consequences are not recognized in advance and will have to be dealt with when funding is depleted. It also underscores the importance that local government and now the Federal government has placed on mandate relief. In a constrained resources environment, each time a new direction is provided by the Federal government by rule, regulation, or law, the Federal government is essentially establishing priorities for local government. Two years ago, a detailed study was undertaken which reflected that fully 23% of the City's operating budget on an annual basis was directed toward the meeting of Federal and State mandates. If all involved in government leadership positions at the local, State, and Federal level concur that law enforcement is by far the highest municipal priority and if in turn that is the major reason for the assistance the Federal government is offering, then it is clear that this high priority has been continually subverted by both the Federal and State government, requiring that scarce resources be directed to other purposes. Not all will agree that City government is capable of establishing the most important priority uses of local government funds. Most local government officials, including this one, would argue, however, that law enforcement is amongst the very highest priorities for local government and to the degree it is not funded to the level it should, the problem will not be solved through carrot and stick techniques that in reality do not significantly enhance the financial ability of a City to continue those services over a protracted time frame.

Mr. HATCH. Mr. President, look, all of us want more police on the streets. All of us will support that. On the other hand, we have provided about half of this money to go for the COPS Program, about half the money this administration represented were sufficient to put 100,000 cops on the street, or at least they have been misrepresenting over the last number of years—in the last year and a half, in my opinion.

What we also have is about 50 percent of these funds going in a block grant to the communities so they can make their own determination as to what is best for their communities, how best to do it. We provided prohibitions in here so the community cannot just have exotic police approaches, that they have to use funds for the very best law enforcement needs, in the best interests of the community. To me, that makes sense.

We help the COPS Program even more than was represented we would do. We help the communities to have a flexibility to be able to do what is best for their communities. If they do not need police personnel, they can then use the money for other law enforcement needs that are very important for the community. In the process, everybody wins.

I think what we have to do one of these days, though, is face the music around here in the District of Columbia. I believe we have in some respects some very decent people in that police force, but they are not funded properly. They are not treated properly. We have crime in the streets here in the greatest city in the world. We are not doing what we should do about it. Frankly, this type of an approach just takes away from getting the job done here as well as elsewhere throughout the country.

I think it is time for us to wake up and realize that block granting makes sense, that there have been some pretty sorry claims made with regard to the 100,000 cops-on-the-street program.

No one opposes hiring new cops. The question is whether we here in Washington should dictate to the local communities what they should or should not do. My colleagues on the other side apparently like that system. I do not. I do not think a majority of people in Congress like that system. The underlying bill represents a compromise. Funding the COPS Program and funding for greater flexibility is that compromise. It seems to me that makes sense.

I know that the majority leader is going to move to table this amendment. I hope that a majority of the Members of this body will support that motion to table because we want communities to have the flexibility to be able to do real law enforcement, not just what Washington thinks ought to be the approach for every community in this country. They will have the flexibility under this bill to be able to do policing, if they want to, or partial policing, or whatever they need for law enforcement that is in the best interest of their community.

I apologize to my colleague for taking so long. I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Let me say to the Senator from Utah, first of all, that there is no reason for apology. It is very gracious of him. I do not always agree with some of the positions he takes, and I do not agree with him on this amendment, but I believe that if you want to use the words "class act," he is a class act. I have tremendous respect for him.

Mr. President, I am very proud to introduce this amendment with my colleagues, Senator BIDEN and Senator KERRY from Massachusetts.

Our constituents, citizens in our country, all of us, we plan our lives sometimes around crime—where we eat, how we treat our children, where we live, how we travel, where our kids go to school, how we answer the door, how we answer the phone. The crime and violence in our country and in our communities takes away freedom, the freedom of our loved ones, the freedom of our families, the freedom of our neighbors.

Mr. HATCH. Would the Senator yield for a unanimous-consent request?

Mr. WELLSTONE. I would be pleased to.

Mr. HATCH. We have a couple of amendments.

AMENDMENT NOS. 3480 AND 3481, AS MODIFIED

Mr. HATCH. Mr. President, I send two amendments to the desk. I think they are 3480 and 3481. They are modifications. I believe they have been cleared on both sides of the aisle.

Mr. WELLSTONE. Mr. President, I wonder whether I could find out as to what the amendments are.

Mr. HATCH. Modifications—have they been cleared? They are not cleared? Let me leave them at the desk and see if we can get them cleared.

Mr. WELLSTONE. Mr. President, I say to my colleague, there is no objection.

Mr. HATCH. Mr. President, I ask unanimous consent that the modifications be approved.

The PRESIDING OFFICER. Without objection, the two amendments, as modified, are considered and agreed to.

So, the amendments (Nos. 3480 and 3481), as modified, were agreed to as follows:

AMENDMENT NO. 3480

On page 751, section entitled "Agency for International Development, Assistance for Eastern Europe and the Baltics", insert at the appropriate place:

"Except for funds made available for demining activities, no funds may be provided under this heading in this Act until the President certifies to the Committees on Appropriations that:

"(1) The Federation of Bosnia and Herzegovina is in compliance with Article III, Annex 1A of the Dayton Agreement; and

"(2) Intelligence cooperation on training, investigations, or related activities between Iranian officials and Bosnian officials has been terminated."

AMENDMENT NO. 3481

On page 751, section entitled "Agency for International Development, Assistance for Eastern Europe and the Baltics", insert at the appropriate place, the following: "*Provided further*, That funds appropriated by this Act for economic reconstruction may only be made available for projects, activities, or programs within the sector assigned to American forces of the NATO Military Implementation Force (IFOR) and Sarajevo: "*Provided further*, That Priority consideration shall be given to projects and activities designed in the IFOR "Task Force Eagle civil military project list": "*Provided further*, That no funds made available under this Act,or any other Act, may be obligated for the purposes of rebuilding or repairing housing in areas where refugees or displaced persons are refused the right of return by Federation or local authorities due to ethnicity or political party affiliation: "*Provided further*, That no funds may be made available under this heading in this Act, or any other Act, to any banking or financial institution in Bosnia and Herzegovina unless such institutions agrees in advance, and in writing, to allow the United States General Accounting Office access for the purposes of audit of the use of U.S. assistance: "*Provided further*, That effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for the purposes of economic reconstruction in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committee on Appropriations that the aggregate bilateral contributions pledged by non-U.S. donors for economic reconstruction are at least equivalent to the U.S. bilateral contributions made under this Act and in the fiscal year 1995 and fiscal year 1996 Foreign Operations, Export Financing and Related Programs Appropriations bills."

Mr. HATCH. I thank my friend.

AMENDMENT NO. 3483

Mr. WELLSTONE. Mr. President, I do not really believe that there is any debate in my State of Minnesota about the need to have more law enforcement, more police, in our neighborhoods and in our communities. We must have more police out in the communities.

Mr. President, because of the violence, because it is so important that we reduce the violence in our homes, reduce the violence in our schools, reduce the violence in our neighborhoods and in our communities, it is critically important that, as legislators, we, as Senators, Democrats and Republicans alike, act powerfully, forcefully and immediately. That is what the crime bill of 1994 was all about.

There is a brave initiative to this piece of legislation. This piece of legislation gave us an opportunity, I think, especially through community policing, to reclaim our cities and to reclaim our neighborhoods, to reclaim our schools, and to really reclaim our future.

The community oriented policing service, COPS, was created by the Crime Act in 1994. So far, it has exceeded its hiring goals. Funds have already been authorized to add more than 31,000 police officers, over a quarter of the final goal. I think my colleague from Delaware, Senator BIDEN, had the figure higher than that—about 34,000, as I remember.

Mr. President, in my State of Minnesota we have already been able to hire 435 new cops that have been put out in the neighborhoods and in our communities. Minnesota has received over $24 million under this program. This year, if our amendment passes, there would be 100 more law enforcement women and men out in our communities, working with the citizens in our communities, helping to reduce violence in our communities.

Mr. President, Chief Leslie, the sheriff of Moorhead, tells me that the COPS' dollars have allowed him to institute a very effective community policing strategy and a citizens police academy for residents. He says, "After 30 years in law enforcement and 17 years as police chief of Moorhead, the COPS Program is the best thing I have ever seen." "The best thing I have ever seen," says the chief of police of Moorhead.

St. Louis County Sheriff Gary Waller is equally enthusiastic about the program.

Mr. President, I have spent time talking with the law enforcement community in my State of Minnesota. What they say ought to be heard loud and clear by all of us in the U.S. Senate. Minneapolis Police Chief Robert Olson, talking about the community policing program, the COPS Program. They have 17 community police so far. They see 23 in jeopardy. They hope to have 40 altogether. In Police Chief Olson's words the COPS Program has been successful and has led to a "dramatic impact this year on the level of crime violence in the metro area." A city where we have seen entirely too much crime. They have seen fewer incidents since instituting the COPS Program of drive-by shootings and estimate that they have taken 50 percent more guns off the streets.

Mr. President, the police chief of Minneapolis, Chief Olson, said to me, "This is not the feel-good program, Senator. This is strict law enforcement. We have been able to shut down some of these crack houses. We have been able to target those neighborhoods most ravaged by this violence and crime and have police out in the communities, out in the streets, working with people, to reduce that violence."

Mr. President, we need to listen to these law enforcement officers. The community police program is a huge success in the State of Minnesota. I have talked to sheriffs and police chiefs in the metro area, in greater Minnesota, whether it is suburbs, in cities, or smaller communities. You get the same response: "Senator, this program is working. Don't kill the COPS Program." The League of Minnesota Cities said this yesterday, "Look, we need to make some commitments as a Nation. One of those commitments ought to be to community police. Do not talk about block grants where the money may or may not go to this. You all made a commitment. You have a contract with us. You have made a commitment to the community policing program to make sure there are 100,000 police out in our neighborhoods by the year 2000, to make sure in my State we dramatically expand law enforcement in the communities. Don't renege on that commitment."

I talked to Duluth Police Chief Scott Lyons. He said to me, "Senator, this is a new philosophy. What we have been able to do through this community police program is establish more rapport than we ever had with the communities in our city. Senator, what we have been able to do"—and I use the police chief's own words, "is empower citizens to be able themselves to take action —not vigilante action—working with the police force to reduce violence in their communities." The police chief went on to say, "Senator, we are no longer reactive. We are proactive. We are taking steps to prevent crime in the first place, in the city of Duluth, in some of the neighborhoods most ravaged by the crime." Why in the world would we want to weaken a program that the law enforcement community so strongly supports, as do the citizens in our States? It makes no sense.

I talked to Stearns County Sheriff Jim Kostreba and he said, "Senator, the COPS Program has enabled us to work with school officials, to work with kids. It has helped us to fight against teenage drinking, against drugs, against substance abuse, against teenage suicides." He went on. I thought it was very interesting. He said to me, "Senator, at the beginning, through the community police program, when we had a presence in the schools, some of these young people were cynical. Some of these young people looked at our police officers as if they were the enemy. But not any longer. Through the community police program, we have our law enforcement people, men and women, working with these kids."

I say to my colleagues, this program is a huge success. This is exactly what we ought to be doing by way of priority.

I talked to Anoka Police Chief Andy Revering and he talked about what Anoka has done. He said only 4 years ago Anoka had the fifth-highest crime rate in the metro area. The demand exceeded their resource. Because of the COPS Program they have seen a dramatic decline, according to the chief, in crime. What they have been doing is they have been using the COPS Program law enforcement in conferencing. This is a program, for my colleagues' information, whereby you bring together some of these kids would have committed some of these crimes, you bring their families into a meeting, and you conference them, along with the victims so that these kids really know what it is they have done. By bringing these kids together with their families and also bringing them together with the victims, what has happened, says Chief Revering, there has been very little repeat of crime by these kids.

I say to my colleagues, what in the world are we doing by trying to have in this continuing resolution essentially a proposal which says, yeah, we keep the Government going but we want to cut by half the number of resources that go to community policing?

Mr. President, I have said it many times on the floor of the U.S. Senate: When three teenagers, regardless of color of skin, beat up an 85-year-old woman and leave her for dead, we hold them accountable for what they have done. We do not tell them we feel sorry for them. That is a strict law and order approach. By the same token, you can talk to the kids—and Sheila and I spend time with kids who are at risk—you can go to the schools in some of the tougher neighborhoods, you can talk to the judge, you can talk to the sheriffs, you can talk to the police chiefs, you can talk to the youth workers if anybody wants to because they are the ones that are dealing with this violence, and they will tell you we have to have opportunities for these kids. We have to have alternatives to the gangs and make sure the kids are able to do positive things in the communities.

Mr. President, no matter who you talk to—whether it is people in the communities, whether it is the police, whether it is the chiefs, the law enforcement people who are in the communities—they all say the same thing: This community police program is important. We need more law enforcement in our neighborhoods. We need to reclaim our neighborhoods. We need to reclaim our cities. We need to reclaim our communities. We need to reduce this level of violence.

I was talking to the police chief in Fergus Falls and he said, "Senator, the reason the COPS Program is such a good program is because you do not limit the grants just to the large cities." He said, "I want to tell you that this is a wonderful community, and it certainly is, but do not think for a moment we do not have problems with violence and problems with crime." This COPS Program has been a huge success. Same comment from the sheriff. It does not matter whether you talk to sheriffs or police chiefs in the big cities, Minneapolis-St. Paul, in Minnesota, or Duluth, or you talk to them in midsized cities like St. Cloud, or whether you are talking to law enforcement people in the small towns of rural communities, they all say the same thing. They all say the same thing: "Senators, cut a program if it does not work, but do not cut a program that has been an astounding success." We need to reduce the level of violence. We need to be bold and we need to be dramatic. It is a huge mistake to block grant, to move away from what has been the commitment that we have made.

We said, when we passed this crime bill, that we make a commitment to 100,000 community police, that we would make a commitment to community police all across my State of Minnesota. That is what law enforcement people expected. That is what we are doing now, with great success. That is what the people in our States expected. We need to live up to our commitment. That is why this amendment is so important, and I hope it will pass.

I yield the floor.

Mr. HATCH. Mr. President, I have been listening to the distinguished Senator, and I have to say that some of the points he is making are good. Take them up with your Governor. We do not have to dictate from Washington what law enforcement officials have to do in the individual States and communities. If you do not like what the block grant moneys are used for in your State, then take it up with your Governor, because I will tell you one thing, you get the money. If you need more policemen, you can get them with that block grant money. If your Governor is not doing it, talk to him. I doubt——

Mr. WELLSTONE. Will the Senator yield?

Mr. HATCH. For a question, sure.

Mr. WELLSTONE. I will wait for a chance to respond.

Mr. HATCH. If I heard the Senator correctly—and he is a friend and colleague—maybe I did not because I was listening and not listening. But it seemed to me that I recall him saying that Senator DOLE was being accused of reneging.

Mr. WELLSTONE. If the Senator will yield, I did not mention the majority leader's name at all. I do not do that.

Mr. HATCH. I am glad to hear that because I thought there was some sort of accusation that Senator DOLE had reneged on law enforcement needs. I want to make it clear that not only did he not do that, he has been one of the strongest pro-law enforcement people in his long time in the U.S. Senate, and rightly so, as is his colleague, the Senator from Utah. We both have fought very, very hard.

I agree that my colleague, Senator BIDEN, on the other side, has been a tremendous leader in the war against crime. I have a lot of respect for him. I grieve when we disagree on some of these things. Senator DOLE, in particular, opposed the 1994 crime bill because it was not a tough enough law enforcement bill. I was there, too, and I opposed it for that reason as well, although there was much we agreed with in that bill, and we were glad certain parts of it were passed. I commend Senator BIDEN for his efforts on that bill because there is much in that bill that is good, not the least of which is the Biden-Hatch violence-against-women provisions. Senator DOLE believes in real law enforcement, not shallow promises.

What I am saying here is, look, it makes sense to give about half of this money to the communities as seed money to try to help them get police personnel. It does not make sense to say that this is the President's commitment of 100,000 cops, because he made that commitment on the last bill that had $8.8 billion in it, and everybody knew that would not provide for 100,000 police on the streets. Now they are coming and saying with seed money they can get their 100,000 cops. I have said they could not get the 100,000 cops on the basis of what they had done up through the 1994 crime bill. That crime bill did not do that. It talked about it, but it did not, will not, cannot, do it. The President has been going up and down the country talking about his 100,000 cops on the streets bill. The fact is that just simply is not true. I think it is time for the American people to understand that.

Republicans, recognizing that it is important to have police on the street and to have flexibility so you can do what needs to be done in the communities, have said, in spite of the fact that the President has, in some respects, demagoged this issue all over the country, knowing the funds are not there, acting like they are and helping the American people to believe they are there when they are not. We have decided to put half of the moneys into the cops on the street program regardless, because we believe in that, too, to the degree that we should do it. That is the degree. But we also put about half of the money into a block grant so those communities have the flexibility to do whatever is in the best needs of their community. That makes sense.

I do not understand the argument against it—to just dictate from Washington that you have cops on the streets whether you want them or not, and if you do not want them or cannot use them, you do not get anything out of this bill. I would rather have these police people throughout the country get good things out of this bill that will help them to meet their law enforcement needs in their area than have us wonderful people in the U.S. Senate tell them what they have to have. Sure, some of these communities will have their hands out for anything, and I cannot blame them. Any time you can find money that is just a gift, why not take it?

What we want to do is have these moneys go for the purposes they should go for, the best possible, flexible response to crime in this country. This bill does that. I think anybody who says otherwise just does not understand what is in the bill.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, the debate that we are having today focuses on the specific issue of community police. I would like, at a later point, to discuss some of my opinions and observations about this particular form of use of police personnel from a recent experience in a specific community in my State of Florida.

But as a context of this, I would like to raise the question of what is the appropriate Federal, State, local role in law enforcement? What should be the nature of the Federal Government's participation in our collective efforts to provide security to our homes, our neighborhoods, our States, and our Nation? Let me suggest just three items that I think are important principles for that relationship and for the Federal role.

First is that the Federal Government must fulfill its own specific and singular obligations. Mr. President, that sounds obvious. Of course, the Federal Government ought to fulfill its obligations. Unfortunately, there have been too many instances in which that has not been the case and in which other levels of government, therefore, were forced to divert their resources to carry out what otherwise would have been a Federal responsibility.

Example: My State is replete with instances in which the Federal Government, through specific agencies, established thresholds of a particular criminal activity which must be passed before the Federal agencies would assume responsibility. It was a Federal crime at a lower level of intensity. But for various reasons, generally having to do with the resources or other set of priorities available to Federal agencies, those agencies would not investigate or prosecute activities unless it reached a particular quantity.

This has been particularly true as it relates to drug-related offenses. Unless you were caught with several pounds of marijuana, or significant amounts of cocaine, even though you were subject to Federal investigation and arrest and prosecution, you, in fact, were not. So, therefore, it became the obligation of the local law enforcement agencies to spend their resources in doing what should have been a Federal obligation.

What makes this particularly vexing is that these prosecution standards are not evenly applied across the Nation. So that one community in America receives a different level of Federal law enforcement support than does another. I think those differences are intolerable and that one of the first steps in the Federal-State-local partnership ought to be that the Federal Government would meet its responsibilities and do so on an evenhanded basis across America.

Second, I think the Federal Government has an important role to play in assisting in the coordination of law enforcement agencies. The Federal Government has some natural characteristics that lead it to be an important partner, if not the first among equals, when there are efforts to bring several law enforcement agencies together. The examples that have been used in areas of drug enforcement, where the Federal Government has, through leadership and through financial incentive, encouraged States and local communities to collaborate more effectively, has served a very salutary function.

A third area in which the Federal Government has a role to play is to encourage innovation and dissemination of best practices in law enforcement. So that if a particular community engages in an activity which has demonstrated its effort for efficacy, I think the Federal Government has a role in spreading that best practice as rapidly as possible to other communities which can benefit by that.

Mr. President, left out of this list of what I think are appropriate Federal roles is for the Federal Government to become involved in a general, nondirect form of assistance to State and local law enforcement. I do not believe that this is an appropriate role for the Federal Government, and that is a ditch into which we have fallen before and I fear are about to fall again. Law enforcement is a State and local responsibility, and it should be the primary responsibility of the citizens at the State and local level to be charged with the establishment of priorities and direction, and to provide the financing for that level of law enforcement which that community feels to be appropriate.

This is not by any means a novel suggestion. Fifteen years ago, the President of the United States of America was Ronald Reagan. Ronald Reagan, in his first years in office, advocated a principle called New Federalism. That principle was built around the idea that there should be an allocation of major responsibilities to levels of government, that we should try to avoid what had become a marble cake in which virtually every level of government was involved in every decision of government.

President Reagan advocated, among other things, Mr. President, an advocacy which has, I am afraid, been forgotten in our current debate, that the Federal Government had a particular responsibility for those programs that related to the income maintenance of our citizens and that those programs that might cause a citizen to move from one State to the other seeking higher benefit levels should be nationalized because it was not in the interest of the Nation to have people induced to make those kind of relocations. He was particularly an advocate that Medicaid should be a national responsibility, both because of its tendency to induce people movement but also—and I think this was quite prophetic of President Reagan—that we were going to need to relook at the relationship between Medicaid and Medicare as they served the changing needs of our older population and that we would have a better opportunity to look at that interrelationship if both Medicare and Medicaid were national responsibilities. I believe that suggestion which was made 15 years ago is even more true today.

President Reagan also identified some activities that he felt the Federal Government ought to get out of and let the States and local governments assume a greater degree of responsibility. One of those was transportation. Frankly, I hope that in the next few months as we look again at the Federal Government's commitment to transportation that we will relook at some of the wisdom of Ronald Reagan in terms of his recommendation, if that should be more of a State responsibility, particularly in this post-interstate era.

But another topic in which President Reagan felt should be turned back to States with less Federal involvement was law enforcement. He felt that law enforcement was a function which was inherently State and local in its character and should be looked to be carried out with limited Federal involvement. He was well aware of the status of the Law Enforcement Assistance Act, the program which had provided block grants to States and local communities, a program which lost focus, lost accountability, and finally lost public and political support and collapsed.

I am afraid that we are looking more to the failed experience of the Law Enforcement Assistance Act program than we are to the appropriate role of the Federal Government in law enforcement as we consider this proposal to reestablish a Federal Government block grant. I do not believe that a general purpose block grant has an appropriate role in the Federal relationship with State and local governments for the purpose of law enforcement.

Mr. President, I indicated that I thought that one of the areas in which there was an appropriate Federal role had to do with the issue of innovation and encouraging best practice and dissemination of those best practices. In the best tradition of that effort to stimulate best practice is what the Federal Government has done as it relates to community policing. Community policing is a concept that in many ways is as old as law enforcement in this Nation, a concept which, for a variety of reasons, waned in recent decades, for which we have paid, I think, a heavy price in the loss of the benefits of a closing relationship between law enforcement personnel and the communities they serve.

I believe that this is an ideal example of the Federal Government using its specific target influence to encourage innovation, in this case, the reinvention of a fundamental American idea of the close partnership between the police and the neighborhoods that they serve. It works to reduce crime. Community policing works to create bonds of trust between police officers and their neighborhoods and their citizens. Community policing works because it involves the entire community in the business of increasing public safety.

Mr. President, let me share with you an experience that I had on February 10 of this year. For over 20 years I have been taking different jobs every month, and on February 10, 1996, this program brought me to the headquarters of the police department of Port St. Lucie, FL. Port St. Lucie, FL is a town in Florida in the middle Atlantic coast which has been undergoing an explosion of population. It is one of the fastest growing cities in our rapidly growing State. It is a community which has developed a very diverse population. It is a population which is in many neighborhoods, in a very scattered housing pattern; that is, there will be only a few houses with several still yet to be built upon lots in a particular block. In many ways, it would appear as if Port St. Lucie was not a good candidate for the concept of community policing as many people know it—the policemen on the beat walking from home to home and store to store.

Port St. Lucie has received under the crime bill of 1994 $525,000, which has allowed it to hire six new officers and a supervisory sergeant for purposes of implementing its community policing program.

The first person I saw upon arriving at the city hall and at the police department of Port St. Lucie was the police chief, Chief Reynolds. I asked him what had been his experience in the first 2 years of implementing community policing in a city with the characteristics of Port St. Lucie, FL. He was extremely enthusiastic, and he listed as some of the things that had made him a believer in the concept of community policing the fact that he had a strong community-neighborhood geographic orientation, that under traditional police patterns, officers were rotated generally on a 30-day basis from one neighborhood to the other. This made it very difficult, if not impossible, for there to be a bond developed between an individual police officer and the citizens for whom that officer was responsible.

Community policing was proactive. It had reduced the need for emergency responses in his city because, through community policing, they were dealing with problems while they were still manageable, not before they had become emergencies.

There was a new access to public officials and to nonlaw enforcement activities, as the community police officer in many cases served an ombudsman function, intermediary, assisting the citizens not only in meeting their traditional law enforcement needs but also in areas like directing the citizens to the appropriate public works officials to fix up a problem with a street or to a housing code enforcement officer if there was an instance of failure to maintain a home in adequate condition. The community police served to mitigate community problems by dealing with a squabble while it was still a squabble before it had festered into a major controversy.

Those were just some of the preliminary concepts of community policing that caused Chief Reynolds to be such a strong advocate. As I spent the day working with the officers of the Port St. Lucie Police Department I experienced some of those concepts in reality.

I worked with Officer Joe Diskin through much of my day, and with Officer Diskin we met community members in senior centers. We talked to them about what was happening in their neighborhood, and if there were any problems that we might deal with while they were still at a manageable stage. Part of my day was spent at the Darwin Square Plaza in downtown Port St. Lucie. For years, citizens in that area had been concerned about harassment and about loitering and about allegations that the plaza was being used for drug dealing. Recently, the Port St. Lucie Police Department, utilizing the personnel resources available through the community policing grant, established a substation in the Darwin Square Mall. Within a matter of weeks, there had been a decline in citizen complaints. There had been a decline in assaults, major and minor. There had been an increase in public confidence about using that commercial facility.

I spent a considerable amount of my time going from store to store, talking with the owners, with employees, with customers who frequent the mall. In every instance, I received acclaim for what the community policing program had meant in the quality of their lives.

Mr. President, community policing is working in Port St. Lucie, FL. It is an ideal example of the Federal Government using its targeted role in the family of Federal-State-local government law enforcement to encourage innovation and the dissemination of best practices. It is not an inappropriate Federal Government intrusion into the State and local responsibility for law enforcement which I fear a return to the LEAA block grant approach would lead us to.

When we vote today, we are not just deciding the future of the community policing program and the opportunity that it offers to accelerate this reinvention of a fundamental American idea of the police and the community working together. We are also deciding on the future of the Federal Government's role in law enforcement. I believe in the philosophy of President Reagan that Government will best serve its people if there is a clear understanding of what level of Government is responsible for what activity, and that law enforcement will best serve the needs of the people if it continues to be primarily a State and local responsibility, and that the insertion of a Federal block grant for indeterminate purposes is an inappropriate concept within that philosophy of new federalism and State and local responsibility for law enforcement.

Mr. President, we have an idea which is working to make a positive impact on the security of our people. That idea is community policing. We should continue with this idea, as we look for other innovations that the Federal Government can encourage at the State and local government level. But we should become intrusive in terms of the basic responsibility at home for the protection of our neighborhoods and our people.

Mr. President, I urge my colleagues to support the amendment which is before us which will keep us on an appropriate path and avoid us slipping into the ditch of an ill-considered, ill-formed Federal role.

I urge you to do this. If he were here today, Mr. President, I suggest that President Reagan would encourage us to support this amendment.

I thank the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise to support the amendment and to urge my colleagues to vote for it for a number of important reasons. I think the COPS Program does represent a partnership between the Federal and State and local governments.

This proposal by the majority party is another manifestation of the solutions they propose in a range of areas: package up some money, tie it in a bow, block grant it, ship it someplace else and tell whoever you are shipping it to: Go ahead and spend the money. We raised it. You spend it. We will not watch. And somehow that will fix our country's problems.

Senator BIDEN and others, including me, when we put the crime bill together, said there are certain things we would like to encourage, and we provided resources with which to encourage them. One of those things was putting cops on the street to provide more community policing. The program has been very successful. The proposal by the majority party now would retreat on our efforts to provide more community policing and help provide the resources with which to do that. We are told now by the majority party: Let us back away from that, and we will go back to the old days. Just block grant it and let somebody back home decide exactly what their needs are because they can decide that best.

I think in some cases that might be correct. They can decide best what their needs are, and that is why they can decide whether they want to access money for community policing. And if they do not want to access it, that is fine. But if they do want to, then this is a resource the Federal Government provides in partnership with them.

We have already been through one iteration of a block grant in law enforcement, the LEAA Program which, I would say, was extraordinarily wasteful in many ways. Some of my colleagues have already described how some of that money was spent: $79,000 spent by one State—this is Federal money that was free to them—for a tank and machine guns. Another $27,000 LEAA award was to study why inmates would want to escape from prison. That, by the way, got Senator Proxmire's Golden Fleece Award. I have a lot of friends in North Dakota who could tell us why inmates want to escape from prison for a whole lot less than $27,000. They could study that for about $5 and come up with a quick answer.

In 1970, LEAA provided money for a twin-engine Beechcraft airplane. They spent money for a six-passenger, twin-engine airplane for police work in fighting against crime. It was free Federal money, just a block grant, so they got $84,000. The problem is the flight logs were checked, it was discovered that the plane was used mostly by the Governor flying around with his family and staff and other non-law enforcement personnel flying around going to meetings, apparently fighting crime. But it was Federal money, so they were able to get an airplane to fly the Governor around.

One university got a $293,000 grant to decide whether to make—but not to actually create—a loose leaf encyclopedia on law enforcement. One city bought a police car with no markings on it with the money, the old LEAA money. That car was used primarily by the mayor. Maybe it was not so much to fight crime.

We have had some experience with having one level of government raise the money and give it to another level of government and say: by the way, we raised the money, you go ahead and spend it, and we will not watch you. It is kind of like passing an ice cube around.

I guess my question is, if that is the notion, why would you want to run the money through Washington? Why not simply say: let us cut Federal taxes, and say to the local governments and the Governors: if you want this money for law enforcement, raise taxes back home and spend the money back home. Why should we separate where we raise the money from where we spend the money? This is the ultimate manifestation here. We are going to block grant everything around here. Why not say to the Governors: well, raise taxes and pay for these programs yourself. But they say: no, let us run the money through Washington first so we can cycle it around here a while, and then send it back and say: by the way, you spend it; we will not watch you, and it will not matter to us.

That is what this amendment is about, in many ways. We put together a community policing program that is working and it is available to those communities who need it, with some matching funds. If they do not need it, they do not apply for it. If they do not want it, they do not get it. But if they need it and want it, then that money is available.

The fact is, all of the information demonstrates that this program has worked and has worked well. It has provided more police on the streets, and everybody understands that one of the ways to prevent crime is to put police on the street. Far from deciding that we do not care what the local government's decisions are going to be, I would like to move in the other direction and say to State and local governments, we do care and we want to be involved in some of it.

I would like to ask my colleagues something on a slightly different issue. We have 3,400 people who have been murdered in this country; 3,400 murders committed by people who were in State prisons but who were let out early because it was too crowded. They got good time credit, they got whatever you get to get out early, so they got out early and murdered 3,400 more people. In those cases, in my judgment, the governments were accessories to murder. We knew these people were violent because they had committed a violent crime. We locked them up and then let them out early because we said, "Well, you were good in prison so we will let you out early." Then they go out and murder again.

Let me just talk about two cases briefly because I am going to introduce some legislation, which is slightly different than this amendment, next week. I will support this amendment. This is the right approach. But let me just quickly describe two cases. When somebody says, "what business is it of anybody's, on a national basis, to deal with these issues," I say that it is a national issue when you have 3,400 people murdered by people who should not have been in a position to murder anybody.

There is a piece of prose that I thought was really well written, a column in last Saturday's Washington Post, written by Colbert King. It is entitled "The 'Wrong Place, Wrong Time' Dodge." The reason I was interested in it was because the columnist was writing about a tragic murder that happened here in Washington, DC, that I had also researched. It struck me as so strange and so unthinkable that this type of tragedy could continue to happen in our country. The columnist wrote about the murder of a young woman named Bettina Pruckmayr. Bettina was a 26-year-old young attorney, and she lived here in Washington, DC. She was just starting her career. On December 16—not so awfully long ago—she was abducted in a carjacking, driven to an ATM machine in Washington, DC. She was stabbed 38 times.

Colbert King, in his column in the Washington Post, graphically describes what happened to poor Bettina Pruckmayr. She was stabbed in the back, three times in the neck, and in dozens of other places. Some wounds were so deep that her bones were broken. The person who allegedly murdered Bettina Pruckmayr, a young woman who was in a parking lot adjacent to her home and was kidnaped and murdered, is a man named Leo Gonzales Wright. Wright is now facing murder charges, but he should not have been in the position, under any circumstance, to have murdered anybody. He is a fellow who had already murdered. He had raped. He committed robbery. He committed burglary. And he murdered. He was in prison and then let out early because the Government said, "We do not have enough room so you go ahead and go out on the streets." This person, allegedly, on the streets, murdered Bettina Pruckmayr. He should not have been anywhere in a position to murder anyone, but somebody let him out of prison.

In fact, not only did they let him out, but, when he was out, he was caught and picked up for selling drugs. The parole board did not put him back in prison. As a result, Bettina Pruckmayr is dead.

It is not just her. Mr. President, 3,400 Americans were murdered in those circumstances. Let me describe one additional victim, again murdered recently, and again in this area.

It is the story of a young boy named Jonathan Hall, a 13-year-old boy from Fairfax, VA. He was a young boy who had some difficulty in his background, but a 13-year-old boy who, I am sure, wanted a good life and wanted to grow up, like all young boys do. He was found, instead, in an icy pond, stabbed 58 times, with dirt and grass between his fingers. Apparently, when he was left there for dead, he, in his last moments, tried to pull himself out of this pond but did not make it.

Who murdered this young boy? Again, it does not take Dick Tracy to understand who does these things. A person who had been convicted of murder previously, not once but twice—two separate murders—and a kidnaping. This fellow was sent to prison, this man named James Buck Murray, who allegedly killed this young boy. He was sent to prison for 20 years for slashing the throat of a cab driver. Then, while in prison, escaped while on work release and kidnapped a woman. Then, he was convicted of murdering a fellow inmate. But Murray was let out of prison long before he completed the terms of his sentence.

This person should not have been in a position to murder anybody under any condition. He should have been in prison. But instead, a 13-year-old boy is dead. Jonathan Hall is dead, Bettina Pruckmayr is dead, and 3,400 other people are dead, because this system does not work.

People say, "That is none of your business. That is not of national importance. That is for State and local governments." Those people who let these violent criminals out of jail to kill others ought to be told by us this is a matter of national importance.

Let me finish in a moment. I will be happy to yield for a unanimous-consent request to Senator GREGG.

Mr. GREGG. I thank the Senator from North Dakota for his courtesy.

Mr. President I ask unanimous consent that at the hour of 5:45 today, Senator DOLE be recognized to make a motion to table the Biden amendment No. 3483, and, further, that the time between now and 5:45 today be equally divided between Senator BIDEN and Senator HATCH or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I thank the Senator.

Mr. DORGAN. We have a national interest in this country in addressing this crime issue. We had a national interest when we put together something under Senator BIDEN's leadership that talked about putting more police on the streets in this country. We did it and it works and it makes a lot of sense. We ought not retreat from that.

I also make the point, as I have just made previously about the murders committed in this country by people who should not be out of jail, that we have a national interest in addressing that issue as well. Why are people who have been previously convicted of violent crimes being let out of prison early so they can murder again? We need to ask these questions of State governments. We ought to ask them if there is not some way we can work together to decide, if prisons are so full that you cannot keep the kind of murderous characters in prison who now go out and murder again, to build more prisons, because we want to keep these people in jail.

These people would not be let out of Federal prisons, by the way—these are not Federal prisoners—to murder 3,400 people, because you do not get an early parole in the Federal system, thanks to Senator BIDEN. You do not get good time in Federal prisons, thanks to me and some others. You are sentenced to jail in the Federal system and you spend your time in jail. You are not going to be out murdering again before your sentence ends.

But, guess what? If you are a convicted murderer in this country, if you are convicted of committing a murder somewhere, you are going to be sentenced to around 10 years in prison, but you will not serve 10 years in prison. You will serve 6½ to 7 years. Why? Because it was decided that murderers should get out early.

(Mr. GREGG assumed the chair.)

Mr. DORGAN. I am sorry, murderers ought not get out early under any condition, and if we cannot protect the

Jonathan Halls and Bettina Pruckmayrs, and other people who were killed by murderers who should not have been in a position to kill anybody, then we should not be in the business of law enforcement.

I support this amendment. It makes eminent good sense, and I support many initiatives by Senator BIDEN and others on our side of the aisle who have worked long and hard on this issue. There are good ideas from the other side as well, and I appreciate those.

But it is not a good idea to step back, it is a good idea to step forward in addressing crime. Preserving the COPS Program is one step.

I intend in the coming days to offer a second step, not on this bill but as a separate piece of legislation, dealing with the issue of those who have been previously convicted of violent crimes, that they ought not get good time to go out and murder again, that they ought not be put on our streets early. Bettina Pruckmayr and Jonathan Hall should not have been killed, and more in the future will not be killed if we deal with this appropriately.

Mr. President, with that, I want to thank the Senator from Delaware, for whom I have great respect for his leadership on this issue. I do hope the Senate will, when considering this issue, decide that what we did to put more police on the streets in this country made sense then and it makes sense now. That is an approach and progress from which we shall not retreat.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan. The time is controlled by the Senator from Michigan and the Senator from Delaware.

Mr. ABRAHAM. Mr. President, I yield myself such time as I may need, but I plan to be relatively brief. I just want to comment and follow up on what the Senator from North Dakota, Senator DORGAN, just said.

One of the significant problems we have—and I agree with him—is the problem of people who are getting out of prison at the State and local levels before they should. The problem, though, I think, is in large measure stemming from Washington and needs to be addressed. I invite the Senator from North Dakota to join me in some legislation on which we have had hearings before the Judiciary Committee. A number of other States have been similarly affected.

It turns out that Federal rules and regulations under the CRIPA legislation, as well as Federal court orders, are actually forcing people out of prisons prematurely. In my State, we entered into a consent decree with the Department of Justice back in the 1980's with respect to conditions in Michigan prisons.

By 1992, we had an agreement with the Department of Justice that we had satisfied the problems that had caused this consent decree to be entered into. The Federal judge who had jurisdiction, nonetheless, even after the Department of Justice was willing to allow the consent decree to be removed, maintained continuing jurisdiction and is forcing people out of our State prisons prematurely.

For the city of Philadelphia, as we heard testimony in the Judiciary Committee, this is a problem that literally has meant that people arrested for committing violent crimes, because of a cap that has been placed on the amount of people who can be allowed in the prison system in Philadelphia, are not being incarcerated, are not being held. The Senator from Delaware was at the same hearing.

I hope we can get together on this. I think that is a whole different set of issues, and I think it very important they not be merged into this debate. I want to make it clear, I think that is a whole separate topic, and I would like to work together with the Senator.

Mr. DORGAN. Will the Senator yield to me for a question for a moment? You make a good point. I would be very interested in talking with you about your proposal. I may very well consider supporting it.

If the Federal Government is part of the problem, then let us solve that part of the problem that we can in Federal law.

I will say this. There are some States—and I do not know what Michigan does—there are some States that provide over 430 days a year of good time credit for every year a violent prisoner serves. I am saying to the States, "Look, if these people committed multiple murders, I don't want you giving them a year-off credit for every year they spend in jail." Put them there and keep them there.

Mr. ABRAHAM. I do not want to take much time on our side. Part of the reason these things are beginning to happen is because in order to meet various Federal court consent decrees, as well as the other regulations that have been imposed, it is forcing States to make decisions that I do not think they would make if they did not find themselves subject to it. I would be very anxious to work on it.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by thanking the Senator from North Dakota for his generous comments about my role in this legislation. I must say, I knew of the Senator when he was a Congressman, and I, quite frankly, have been impressed at how dogged he has been in pursuing tougher approaches to crime.

The Senator from Michigan spoke about frivolous lawsuits. He is correct, this is worthy of a debate at another time. I think his intention is positive. I think he may have the perverse effect of bringing about the exact opposite result he wants.

Unfortunately, a lot of what he suggested is in the bill before us. I kind of find it fascinating. We had this debate. We had a hearing in the Judiciary Committee. We did not do much else. Starting at page 153 of the continuing resolution and continuing for, I do not know how many pages here, entitled section 802, "Appropriate Remedies for Prison Conditions," we essentially rewrite the law. The fact of the matter is, nobody in this body even knows what is in this bill. Senator HATCH's staff knows. Senator ABRAHAM's staff knows, Senator ABRAHAM knows, Senator BIDEN knows. None of you, I will bet you a million bucks, has any notion what is in this bill. Zero. I am willing to bet you anything.

But it will not be the first time I have or others have voted on things we do not know is contained in omnibus bills like this.

Let me respond to the comments about my amendment to restore 100,000 cops. A couple of my colleagues have stood up and said, "100,000 cops, just not true, never going to happen." There are 33,000 cops already, just from the time we passed the bill, after spending $1.6 billion of the $8.8 billion. Then we heard, of course, 100,000 cops are never going to, nor should it, fund 100 percent of the local police now or in the future. That is true. No one ever said this was going to support 100 percent.

Guess what folks? The block grants do not either. The block grants do not do it either, nor should they. It is not the Federal Government's role to promise in perpetuity to the local communities to fund forever. This does fund 100,000 cops, and it does fund them for 5 years or so. The cops and the States are going to have to pick up the tab. Guess what? It funds 100 percent of what we give them in the block grant, but the block grant ends. I challenge any of my Republican colleagues to stand up and promise that this bill contains in perpetuity a commitment to continue to pay out of the Federal payroll for any cop hired under this bill. This is not going to happen. It is not supposed to happen. It was not designed to happen. So it is, what we used to call in law school, a red herring to suggest this fully funds the cops.

Funds are in the trust fund. We heard funds are just not there. The funds are in the trust fund. Let us recall the Republicans cut $200 million from the $4.287 billion that is in the trust fund in 1996 in their budget resolution. So if they keep up their efforts, maybe they will be able to deplete the trust fund so there will not be any money in it. The money was there. They cut the trust fund in the Republican budget resolution.

I also heard we have to end the Washington-knows-best philosophy. Well, that is what the 100,000 cops is all about. Local communities decide if they want to apply, local communities define local policing strategy for themselves and the Republicans call for a separate prison grant of $100 million that does not let them decide the same way that we allow them to decide, because communities have to pick up the costs for each cop after 3 years.

"One hundred thousand cops is a lie," one of my colleagues said. My response is, neither 100,000 cops nor a block grant is going to be or should be a permanent entitlement program, and we do not want to federalize local police. There is no difference. No difference, except you get fewer cops and less money under the block grant approach.

Now we also heard New York City did not receive one new cop.

New York City got $54 million to redeploy 2,175 cops through the COPS More Program. So we gave them that money, the Federal Government. They put up the rest, and they were able to redeploy from inside the precincts 2,175 cops.

D.C. It was also said D.C. did not receive more cops. Response. D.C. got $6,076,163 to redeploy 626 cops under the COPS More Program.

Also, it was said, the city should decide between cops and computers. My response is, the COPS More Program is exactly that —$217 million in 1996 that helped relocate and redeploy 13,000 cops by not having to go back to the station house.

Also, I heard block grants give you the right to use the dollars to hire new cops. Well, my response is, it must be guaranteed, not an option to hire new cops or they will not be hired.

I also heard it said on the floor by one of my respected colleagues, "I have long said 100,000 cops is a phony idea." Well, in November 1993, a lot of people did not think it was such a bad idea, including the Senator who thought it was a phony idea. I will not go through it because I would hate everybody reading everything I said back to me in the RECORD. But, you know, it may be thought of as a phony idea now, but it was not in 1993 when we were doing it.

The other criticism I heard is the continuing resolution level for 100,000 cops, $975 million, is sufficient to get us there. Well, $975 million is not enough for this year, 1996. The CR provided $407 million, and $276 million has already been spent, and $130 million will be spent on police technologies and police efforts to fight family violence and community policing efforts.

The current CR would provide a total of $975 million for COPS. Subtract the $407 million, and that leaves $568 million for the rest of the year, if the Hatfield amendment becomes law. But $522 million has already been requested through March 6. In other words, that leaves $50 million for all other applications that come in from now through September 30.

There is not enough. There is not enough. Just go back to your home States, ask them if they are going to stop applying. No. If the State of Oklahoma, if the State of Utah, if the other States, they do not want to apply for any more cops, God bless them. Wonderful, do not apply. But if they do apply and they qualify on the merits, there is no money for them. We already have something like—where is that chart—7,766 new cops requested so far this year—requested. Oklahoma wants 94 new ones.

My colleague says, "Wow." Well, go tell the Oklahoma folks they do not need them. I respect that. But the idea there is enough for those who qualify and are requesting simply is not true.

We also heard Washington should not dictate local strategy. Well, my response is, we are not dictating local strategy. Nobody has to ask, and only big cities get COPS more dollars. That is also not true. You have got American Fork in Vermont, Carbon County, Duchesne County, Kane, Layton, Logan, Ogden, UT, Salt Lake, South Ogden—you know, the list goes on and on. I did not know they were big cities.

Based on a salary of $65,000 to $70,000, this will not fund 100,000 cops. The truth is, the average salary is $40,000. I reserve the 20 seconds I may have left and yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. LEVIN. Mr. President, the Violent Crime Control and Law Enforcement Act of 1994, enacted by the last Congress, contained a $30 billion trust fund for State and local law enforcement programs. That legislation made an important statement of our commitment to stand with our police officers in the war against crime by providing dedicated funding to put 100,000 new cops on the streets.

From 1970 to 1990, we increased Federal spending on lawyers by 200 percent and prison spending by 156 percent, but we increased Federal spending on police officers by only 12 percent. The COPS Program would reverse that trend, without adding to the deficit, and without any new taxes, by cutting thousands of jobs out of the Federal bureaucracy. More police officers, fewer bureaucrats. That is the commitment enacted into law by the last Congress.

Mr. President, there is no more important step that we can take to fight crime and support our law enforcement community than to increase the number of cops on the streets. And that is what the COPS Program has been doing. That law has already funded 25,000 new cops nationwide, including 825 in Michigan.

Unfortunately, the bill before us today would undermine this milestone achievement of the last Congress by cutting in half the funding provided to put new police officers on the street. Instead of the $1.9 billion requested by the administration, and fully paid for out of the violent crime trust fund, this bill would provide only $950 million to put police officers on the street.

This cut in funding would not help reduce the deficit, and it would not help balance the budget. Congress would still spend the same amount of money—we just would not spend it where it is needed, on new police officers. Under the bill before us, the bulk of the funds would be taken from the COPS Program and put into a block grant, which could then be spent on anything from traffic lights to parking meters, without hiring a single new cop.

That is unacceptable. Let me tell you what it would mean for my State of Michigan. We currently have applications pending for more than 200 additional police officer slots around the State. We have applications for two new officers from the city of Alma, for three new officers from the Ann Arbor Police Department, for one new officer from the Barry County Sherriff's Department, for two new police officers from the city of Battle Creek—I could go on and on. I ask unanimous consent that a partial list of pending applications for additional police officers from the State of Michigan be placed in the RECORD at this point.

The point is, each of these communities needs the help. And if we pass this bill, we are not going to provide it. They need the additional police officers to fight a very real war against crime, and if this bill passes in its current form, they are not going to get them.

What is true of Michigan is true of other States as well. Every State in the country has dozens of pending applications for additional police officers under the COPS Program, and if we slash the funding for this program, as proposed in this bill, they are not going to get what they need. If this bill is passed in its present form, the funding for half of those applications will simply disappear.

Mr. President, I urge my colleagues to support the amendment to restore full funding for the COPS Program.

Mr. HARKIN. Mr. President, I urge my colleagues to support this amendment to restore funding to the Community Oriented Policing [COPS] Program. Law enforcement officials from all across the country have told us loud and clear, that the COPS Program is one of the 1994 Crime Act's most effective programs. To those who want to slash the COPS program by 50 percent in favor of a block grant, I have this to say: "If it ain't broke, don't fix it."

Consider this: Serious crime is retreating all across the United States. Nationally, murder rates fell 12 percent in the first 6 months of 1995 and serious crimes of all kinds dropped 1 to 2 percent. Law enforcement across the United States credit community policing for contributing to these declines. Now is not the time to cut back on our efforts to fight crime.

And more importantly, to my constituents in Iowa, it is rural America that will pay the price if this amendment is not adopted. The COPS Program made a special commitment to include small towns and rural areas. half of all COPS funding goes to agencies serving jurisdictions of under 150,000 in population. Block grant funding favors larger populations so that even small towns with high crime rates would lose out. In 1995, Iowa received over $14 million to hire over 200 officers. Over 70 percent of law enforcement officers surveyed in my State, supported the COPS Program.

Perhaps the most puzzling aspect of the proposal to slash funding for the COPS Program is the loss of local control. Proponents traditionally argue that block grants increase local control. The crime prevention block grant proposed in the continuing resolution does no such thing. This initiative replaces a highly successful program that responds to public desire for an increased police presence with a program that merely gives money to State governments that may keep up to 15 percent before distributing the remainder to local governments. This is a significant departure from the COPS Program which funneled the funding directly to the local law enforcement agencies.

The block grant approach to crime prevention invites the abuse of funds the COPS Program was created to eliminate, as well as doing away with effective crime prevention programs that worked hand in hand with community policing initiatives set up under the COPS Program. The block grant approach is an ineffective response to our Nation's war against crime and a sad departure from the successful efforts started under the 1994 Violent Crime Control Act.

Community policing works. It is a flexible program that is responsive to law enforcement needs. More cops on the beat have an undeniable effect on crime and a community's sense of security. Nationwide, the COPS Program serves 87 percent of America with 33,000 officers. We should heed the advice of the folks that are on the frontlines in the fight against crime. I urge all my colleagues to support this important amendment to restore funding to the COPS Program.

Ms. MIKULSKI. Mr. President, I strongly support the Biden amendment and am proud to be a cosponsor of this important amendment. The amendment would restore $1,788,000 to the COPS Program.

This funding will allow us to keep our promise to the American people to put 100,000 new police officers on our streets. Under the Violent Crime Control Act we passed in 1994, the COPS Program was created to provide our communities with the police they need to fight crime.

COPS stands for community oriented policing services. So far the COPS Program has made possible over 790 new police officers in my State of Maryland, and over 33,000 new officers nationwide.

Through the use of community policing, the COPS Program puts into practice what police chiefs and other experts have been saying for years. They know that police officers fight crime and prevent crime more effectively when they are integral members of the community they serve. They know the fight against crime will be won only when the police work with citizens as full-fledged partners in the battle to take back our streets.

Mr. President, the COPS Program is working. Why would we want to change a law that is working?

If we start taking apart the crime control package we passed in 1994 with bipartisan support, we leave to chance what we know is working now. Let us continue to make it a priority to get more police out on the streets.

By restoring the COPS Program, we are responding to a cry for help, a cry for more police officers on the street. We cannot ignore this cry for help from all of those police departments who need more police.

My constituents are calling for an increase in the number of police officers in their communities. My constituents are calling for more crime prevention programs. The legislation to satisfy these calls has been passed, the programs are now established; why should we dismantle them?

Mr. President, this bill, as reported by the Appropriations Committee, provides no guarantees that even one new police officer will be hired. The 1994 crime bill called for 100,000 new police on the streets of America participating in community policing.

I urge my colleagues to consider this: our failure to fulfill the promise of 100,000 new police officers means less partnership between police and their communities, less work with community residents to detect and supress crime, and a missed opportunity to keep our streets safe for law-abiding citizens.

If we are going to take back our streets, we must empower our communities with the police they need. The concept of community based policing is police officers and citizens forging alliances to combat crime. I strongly oppose any efforts to cut community oriented policing programs.

I urge my colleagues to join me in supporting the Biden amendment. Passage of this amendment will allow our citizens and their partners in law enforcement to continue to combat crime together by delivering more new police officers to the frontline.

Thank you Mr. President.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator has, on his side, 9 minutes, 8 seconds.

Mr. NICKLES. I yield myself—I see the Senator from Utah. Please notify me in 5 minutes.

The PRESIDING OFFICER. After 5 minutes?

Mr. NICKLES. In 5 minutes.

I rise in opposition to this amendment. I am kind of amused and kind of interested in it as well. This is an amendment that says we want to take whatever money we have available and we want to mandate that it has to be spent in the COPS Program.

Obviously, it is a popular program, as illustrated by the Senator from Delaware, because a lot of people have applied for it. Why would they apply for it? Well, it is Uncle Sam saying, "We will pay for 75 percent of the cost for new policemen in your community for the first year, the second year 50 percent, and the third year, 25 percent, and the fourth year you are on your own."

But a lot of communities, if they see Uncle Sam waving some dollar signs around, they say, "Yes, we want to grab a hold of it." Maybe it is the best way to spend resources in fighting crime, maybe it is not.

I will mention to my colleague there are not just big cities that qualify for this program. We had one community in Oklahoma, Moffett, OK, that applied for money, was eligible to receive the money. Just a couple comments. It is a fairly small town. Unfortunately, they do not have a police force, but yet they qualified. I do not remember exactly the amount. But it was, I think, about $180,000. But they did not have a police force.

As a matter of fact, this little town had volunteer fire and police, but they did not have an organized police force. Yet, they received this money. They did not know what to do with it. To make the story short, when they realized they would have to do the matching, that was a serious problem for this little town, even if they had to match 25 percent the first year, 50 percent the second.

The end of the story is they went through a lot of city managers in a period of about a year or so and finally decided they did not need this grant, they could not afford it. Also kind of humorous, but of interest, they said, "We can do a lot more if we just had a little more leeway in what to do with this money. We need some help." They made that comment. "And we could use it for"—frankly, I do not think they had a police car. I could go on and on.

But this bill says that the money that we are going to give, we are going to mandate that it go to the COPS Program because we decided in Washington, DC, that is the best way to combat crime. Maybe some of the communities have a particular interest in juvenile crime and might think that a better approach would be an effort to educate juveniles, or maybe they have a problem with drugs and juveniles, or maybe there are problems in other areas. Maybe more police are the answer; maybe they are not. But we are coming up with this amendment that says we are going to take all the money available that is not earmarked and we are going to take the balance of it for the so-called COPS Program. I think it is a serious mistake. I do not think it is a Federal Government prerogative to hire policemen in my hometown.

Does my hometown of Ponca City, OK, need more police? Maybe they do. But I think that is the responsibility of the people of Ponca City, OK. Maybe they have to raise the sales tax to pay for it, or maybe they have to find some other method of paying for local police, but I do not think it should be coming to Washington, DC, on bended knee and saying, "Please give me this money so we can hire another policemen. Oops, in 3 years, we have a big liability."

Uncle Sam starts out pretty generous paying at 75 percent. That is pretty nice. But on the fourth year, they are on their own. And a lot of cities are saying, boy, that is a nice inducement for the first year or two, but after the third or fourth it is a real problem. Maybe we will just do this for a year or two and then let people go, or maybe have some attrition and not replace them in the third or the fourth year. My point being that this is not a Federal responsibility.

I do not want to federalize police, and 100,000 police officers is not a drop in the bucket if you look at the national scheme. I do not doubt that my colleagues who support this program can find somebody that was hired in this program and they did a good job and they saved somebody's life or they stopped crime or something, and I am grateful for that. But I just question the right level of Government.

It is like this issue we had over speed limits. A lot of us decided that the States should set speed limits instead of Washington, DC. Likewise, I would think community policing is a good idea. If communities want to do it, let them do it. Let them do it with their own money, not with Federal bribery or enhancements to pull or encourage the States to do it, and then find that they have such enormous liability.

Local policing is a local matter. That is something that should be under the jurisdiction and control and financing of individual towns and cities, counties and States, not the Federal Government.

Mr. President, that is the reason why I stand in opposition to this amendment. The way we had the bill drafted, we had earmarked $975 million for COPS. That is half of that money. The cities would have latitude to spend a significant amount of money for the COPS Programs. We are not doing away with the COPS Program. If the city wanted to spend more for that, they would have that option. If they wanted to spend more for technology, if they wanted to spend more for juvenile crime prevention, more for cracking down on drugs or surveillance or all kinds of different things, they would have that option, instead of the Federal Government dictating, "We think you should put it all into the COPS Program. We know how best to spend this money. We know you should put it exactly in this program." I think that is a mistake. I urge my colleagues to vote "no" on the underlying amendment.

Mr. HATCH. Mr. President, I think it is a great idea to have cops on the street. Our bill will do that. I think it is an equally great idea to make sure that we block grant some of the funds so the police departments can use them for whatever they need to use them for.

Using the New York illustration, there was not one additional policeman put on the streets by the moneys sent to New York. They used the moneys to deploy police people who were already there or to replace police people who they were already capable of paying for. The fact is, there is nothing in this approach of the 100,000 cops on the street that means they have to be additional police people in addition to those that were on the current police forces and were capable of being paid for by the local communities.

Be that as it may, I agree with the noble goal of having more police on the streets. I think every Republican does. The problem is, why can our friends on the other side not see the value of allowing some flexibility so that the people who really have to solve these problems in the local communities have some flexibility to do so? The real question is whether we provide funds for cops and cops alone, or whether we permit the funds to be used to meet the needs of the local communities and the local law enforcement agencies.

It seems to me that makes sense. It makes every bit of sense that anybody, it seems to me, who thinks seriously about it would agree. If we are going to provide Federal money to local law enforcement agencies, then we should permit those agencies to use the funds as they see fit. We have adequate protections in the bill so they cannot use it for certain exotic reasons that some have criticized in the past.

Now, some of those who have criticized LEAA today are the people who supported it the strongest. These are the kind of things that bother me, just a little bit. Unfortunately, this becomes a political exercise rather than what is best for the local communities. It becomes an exercise of Washington telling the local communities what they should and should not do. We know more, I guess, inside the beltway than the people out there who have to face the problems in their respective communities. We all know that is bunk.

As a matter of fact, I think it is the most surreal and unreal place on Earth sometimes right here within the beltway. These folks who face those criminal problems day in and day out in the local communities know a lot more what they should use their funds for. We should not be dictating it. We provide half the moneys for cops on the street; we provide about half the money for block grants so they can use them to solve their own individual law enforcement needs, which makes sense. Why should we dictate that every dime has to go for the COPS Program? I agree with the COPS Program to the extent that we have granted it here in this bill, but we also have provided flexibility in this bill that makes a lot of sense, it seems to me.

Again, the real question is whether we provide funds for COPS and COPS alone or whether we give the local communities some ability to do the things they think need to be done. The question is whether we fund the COPS Program only and tell the communities like Washington, DC, "Sorry, we have no money for you," or to permit communities to use money for other purposes.

The PRESIDING OFFICER. The Senator from Delaware has 14 seconds.

Mr. BIDEN. Mr. President, I will do something no one will believe—I yield back my time.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I join with the distinguished Senator from Utah, Senator HATCH, and the Senator from New Hampshire, Senator GREGG, and move to table Biden amendment No. 3483.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

So the motion to lay on the table the amendment (No. 3483) was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Delaware.

Mr. BIDEN. I would like to thank my colleagues who supported this effort and say to my good friend, the majority leader, that I liked it better when he was on the campaign trail. We had won until he went back down in the well. This is a singular victory for the leadership. I compliment him, but I am just so sorry that he has now locked up the nomination and will not be out in the field more because it looked like I was winning there until three votes changed at the end. But I wish to congratulate the opposition and tell the cities they are not going to get their cops. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3489 TO AMENDMENT NO. 3466

Mr. GREGG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. GORTON, proposes an amendment numbered 3489 to amendment No. 3466.

Mr. GREGG. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend page 113, line 11 by striking the period at the end of the sentence and adding ": *Provided further*, That the FCC shall pay the travel-related expenses of the Federal-State Joint Board on Universal Service for those activities described in the Telecommunications Act of 1996 (47 U.S.C. 254(a)(1))."

Mr. GREGG. Madam President, this is a Gorton amendment allowing expenditures for the FCC. It has no budgetary impact. It has been cleared on both sides.

I urge adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3489) was agreed to.

Mr. GREGG. Madam President, I yield to the Senator from Utah for purposes of a colloquy.

The PRESIDING OFFICER. The Senator from Utah.

CARRIER COMPLIANCE

Mr. HATCH. I am prepared to offer an amendment to establish a fund in the U.S. Treasury to serve as a funding source for carrier compliance under the Communications for Law Enforcement Assistance Act.

I understand the concern that is shared by some members of the Appropriations Committee is that creating this fund implies a subsequent obligation to provide funding for carrier compliance. I also understand that this concern is highlighted by fears on the part of some that carrier compliance may cost more than authorized amounts.

Mr. GRAMM. Madam President, the Senator cannot be heard.

The PRESIDING OFFICER. Senators will please take their conversations off the floor.

Mr. HATCH. Madam President, I would note that carrier compliance under the Communications for Law Enforcement Assistance Act, which we call CLEAA, does not obligate Congress to appropriate any funds in excess of the amounts authorized.

I emphasize that we are losing ground in a important area. We passed a bill last Congress that satisfied the various interests and constituencies involved in this important issue. Now we need to move forward with funding.

In my view, the creation of this fund will not obligate my colleagues on the Appropriations Committee to appropriate funds beyond what the Congress has already promised for this worthy purpose. Specifically, I am prepared to ask for a commitment between now and the time we take up the fiscal year 1997 Commerce, Justice, State appropriations bill that we will try to work this out. I hope that our staffs will establish a series of meetings, the purpose of which would be to reach a resolution of this matter by fiscal year 1997.

It is important; with digital coming into being, we have got to be able to handle this aspect of law enforcement. And it is just going to have to be something we meet.

Mr. GREGG. Madam President, I wish to acknowledge and congratulate the Senator from Utah, the chairman of the Judiciary Committee, for pointing out this concern and this issue, which is a very legitimate concern. I believe that with our staffs working together, we can work out the concerns the Appropriations Committee has relative to how we manage the funding of this issue, and I look forward to having such an agreement worked out and will direct our staffs to work together.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. FORD. Madam President, will the Senator from Utah yield for a question?

The PRESIDING OFFICER. The Chair recognized the Senator from Texas.

Mr. FORD. I am sorry. I apologize.

Mr. GRAMM. I would be willing to yield to my colleague.

Mr. FORD. What are Senators trying to work out? The money you are going to give is grandiose, but I never heard——

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. CLEAA is what we call carrier compliance under the Communications for Law Enforcement Assistance Act. It is to aid our law enforcement agencies to be able to do their work with regard to the new digital age, to be able, with court orders, to tap into digital phones so that they can follow criminals and organized crime.

Mr. FORD. This amendment would add more money than we have already given in the past?

Mr. HATCH. It will not add anything now. We are going to try to work it out in fiscal year 1997.

Mr. FORD. There is no additional funding?

Mr. HATCH. Right.

Mr. FORD. Why do you need the amendment?

Mr. HATCH. Because we need to have funding.

Mr. FORD. I thought there was no funding. This is an authorization?

Mr. HATCH. No. What we are agreeing to in the colloquy is that in the future 1997 budget and appropriations bills we try to find the money to be able to do this law enforcement work, and my colleagues have said they will work with me.

Mr. FORD. Madam President, I thank my colleague.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3490 TO AMENDMENT NO. 3466

(Purpose: To ensure that discretionary spending does not exceed the level agreed to in the FY 1996 Budget Resolution)

Mr. GRAMM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. SANTORUM, Mr. MCCAIN, and Mr. NICKLES, proposes an amendment numbered 3490 to amendment No. 3466.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II of the committee substitute, add the following:

SEC. . (a) Notwithstanding any other provision of this title, none of the amounts provided in this title is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Each amount provided in a nonexempt discretionary spending nondefense account for fiscal year 1996 is reduced by the uniform percentage necessary to offset non-defense discretionary amounts provided in this title. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. GRAMM. Madam President, this is a very simple amendment. This amendment tries to eliminate the need for an emergency designation in this bill. We are adding $1.2 billion to the Federal budget deficit by declaring an emergency, but by eliminating the need for an emergency designation and cutting other discretionary spending accounts across the board by .53 percent, we have an opportunity to fund these so-called emergencies but do it in a fiscally responsible manner where the deficit does not go up.

Let me try to make my case. Let me make it as succinctly as I can, and then give others an opportunity to respond and oppose as well as to support.

First of all, since 1990, we have passed $80 billion of emergency supplemental appropriation bills. In some cases, like the Persian Gulf, we have been able to come back and offset that with payments from foreign nations. But just to give you an idea of the magnitude of this loophole that we have created by declaring emergencies, in 1994 we declared an emergency for the California earthquake and the Midwest floods, and we spent $11 billion which was added directly to the deficit.

In 1993 we declared an emergency for Midwest floods and added $3 billion to the deficit, with funding also for the drought in the Southeast. In 1993 again we added $1 billion to the deficit with an emergency for Somalia. In 1993 again we declared an emergency for economic stimulus as a supplemental appropriation and added $4 billion to the deficit to extend unemployment benefits.

In 1992 we declared an emergency and spent $9.3 billion for two hurricanes, one on the mainland and one in Hawaii; and then for Typhoon Omar. In 1992 we declared a dire emergency to fund the costs incurred for the Chicago flood and for the riot in Los Angeles. I remember being in the conference and I moved to strike a provision where we were declaring an emergency to fund lawyers to defend the rioters. Fortunately, that provision died because people were shamed out of it. In 1992 we had another dire emergency. I could go on and on, but I think I made my point. My point is we have a lot of emergencies around here.

I want to remind my colleagues that families have emergencies, but I want to go through what happens when a family has an emergency and what happens when the Government has the emergency and explain the difference. Families have emergencies. Let me just offer an example. Johnny falls down the steps and breaks his arm. He is taken to the hospital and it costs $700 to set Johnny's arm with the attendant medical expenditures. The family has had an emergency.

If this family were the Federal Government, the Brown family would say, "Well, look, we have already planned that we are going on vacation this summer. We have already planned that we are buying a new refrigerator. We have already set our monthly budget. This is an emergency, we cannot pay for it, so we are just going to add it on to our spending." That is what we are doing here. But that is not what the Brown family does. What the Brown family does is they go back and say, "Well now, look, we have incurred an expense of $700 because Johnny broke his arm, so we are not going on vacation this year. We had planned it, we had written it in our budget, but now we cannot afford it because we had an emergency. Johnny broke his arm." In fact, the definition of an emergency in this case is something they have to spend money on and so they have to take it away from another purpose. They may decide they are not going to buy a new refrigerator.

It seems to me that we can have a procedure that is exactly analogous to what families have to do, by saying we have an emergency, we are going to provide $1.2 billion for many worthy objectives, but to pay for it we are going to take all the other nondefense appropriated accounts and reduce them across the board —and let me remind my colleagues, we have in the supplemental a defense expenditure. We offset every penny of it. We only have emergencies in nondefense. We do not have an emergency in defense in this bill, though we have had them in the past. We generally do not have them. And we do not have one here.

So, what I want to do is for nondefense accounts, in a simple across-the-board procedure, what we have done with specific accounts in defense. If someone wants to come up with a substitute that cuts specific programs as an alternative, I am willing to look at it. That, basically, is what my amendment does. Let me explain why it is so important.

The American people got the idea that we were trying to do something about the deficit when we passed the Contract With America. The President has vetoed the Contract With America. We are now under a continuing resolution which is a temporary funding measure. We have a bill in front of us that already spends $2.3 billion more than that temporary funding measure spends on an annual basis. So, if we pass this bill, rather than simply rolling over that bill through the end of the year, we are going to spend $2.3 billion more than simply rolling over the continuing resolution would do, in any case.

But let me remind my colleagues that yesterday all but some 16 Members of this body voted to increase spending by $2.6 billion. In fact, we had an interesting occurrence and that is our Democratic colleagues said, "Let us increase spending by $3.1 billion." One of our Republican colleagues said, "No, let us increase spending by $2.6 billion." Congress decided on the $2.6 billion and with great fanfare we had offsets.

The problem is, these offsets have already been counted in the budget. We counted $1.3 billion in savings for the sale of the U.S. Enrichment Corporation. That is basically a corporation that enriches uranium. But the problem is we have already counted that $1.3 billion in deficit reduction in the budget that we adopted. But since that budget and the bill flowing from it has been vetoed by the President, we were able to do that yesterday. To pay for this new spending, $2.6 billion adopted yesterday, we sold off portions of the Strategic Petroleum Reserve. The problem is we had already decided to sell it as part of the budget. So what we really did yesterday is added roughly another $2.6 billion of spending. So we are already talking about spending almost $5 billion more in this bill than if we extend the current short-term continuing resolution.

I think it is important that at some point we stand up and decide to stop spending money we don't have. It is one thing to write a budget setting out good intentions. But it is clear to a blind man that if you look at the pattern that we have followed with these emergency designations, it has turned into exactly what many of us feared it would when it was put into the 1990 budget summit agreement. It has turned into an agreement whereby the President and the Congress conspire to cheat on the budget; conspire to increase spending above the level we set out in the budget. In the process, we have these budgets that do not look so bad, but when we count how much money is actually spent we end up spending beyond the budget.

What I am offering our colleagues is a great opportunity to save $1.2 billion. Somewhere in the sweet by-and-by there may be a budget that is adopted. The President may accept it. On the other hand, he may not accept it. So we may get through this whole year not having saved a penny anywhere.

I can give you an opportunity tonight to save $1.2 billion. The only person I know who knows how much money that is is Ross Perot. We can save $1.2 billion by doing what the Brown family would have to do if they had an emergency, and that is cut programs we were going to spend money on to fund the emergency. And my proposal is a very simple one. We remove the need for an emergency designation so that it is not an emergency, and we have an across-the-board cut in all other nondefense discretionary accounts by 0.53 percent to pay for it. Let me remind my colleagues, we have spending in the supplemental for defense. We offset every penny of it with cuts. Why should we not do the same in nondefense? That is the purpose of the amendment. It is very simple and it boils down to one question: Do we want to spend money we don't have? Or do we want to move toward a balanced budget? I am giving you an opportunity tonight to save $1.2 billion. I hope we do not miss this opportunity and I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Madam President.

Madam President, I rise in very strong support of Senator GRAMM's amendment. As a cosponsor of that amendment, I think we have a fundamental issue to decide on the floor of the Senate tonight, and that is whether we are going to go back to the old system, prior to last year paying for emergencies, adding it to the interest costs of future generations, or whether we are going to face up to the fact that we have emergencies in this country, that we do not appropriate for them every year as they occur, as we should, and that we need to pay for them out of existing appropriated accounts, not to just declare an emergency every time we have one and pass the bill on to the next generation of Americans.

If we do not and this bill becomes law, the children of America, the people of America are going to be paying interest on this $1.1 billion for the rest of their lives. Now, is that fair to have that happen? I am speaking as someone from the State of Pennsylvania who probably is going to get the lion's share of this benefit.

In Pennsylvania, in January, we had a very serious snowstorm. We had a couple feet of snow in most places, followed by extremely warm weather and a rainstorm which, depending on the area, dumped anywhere from 4 to 7 inches of rain. So we had the combination of 2 feet of snow melting plus 4 to 7 inches of rain in a matter of a 2-day period. It caused floods that were above the 100-year-flood level in many places.

The damage in Pennsylvania is calculated now over $1 billion. There is half a billion dollars in eroded infrastructure, and, even more important, we lost 100 lives. We lost 2,000 businesses and 50,000 homes. We had a very serious disaster. It is one that we should, on the Federal level, help. It is a disaster that qualifies, in fact, all 67 counties eligible for individual assistance. Madam President, 52 of the counties have been declared eligible for public infrastructure assistance.

So there is no doubt we need to spend this money. The question is, are we going to spend it within the existing pot of money that we have to spend this year, or are we going to just add it to the deficit?

Last year, in the rescissions package, we made a decision that we were going to fund emergencies. We provided FEMA with money, $5.5 billion. That is paid for in a rainy day fund. Unfortunately, that money is over at FEMA and some of the extraordinary expenses are in the Small Business Administration, which is not FEMA. So they cannot take that FEMA money, even though it is sitting over there. They cannot use it. Or it is in the Department of Agriculture. Again, it is for disasters, but the money is sitting over in FEMA.

I will have an amendment, if this amendment fails, to take the money from FEMA and put it into those accounts. It is not something I want to do, because I think we should have this fund available to FEMA. I think we should pay for it now.

I have had a history as a House Member of standing up for this. I voted, I think, on four or five occasions against unemployment extensions which were not paid for, which emergencies were declared and we just added on to the deficit. Luckily, in four of the five instances where we extended unemployment benefits, the President at that time, President Bush, insisted that we find offsets, and we did find offsets, and we were able to pass a deficit-neutral unemployment extension.

The only time we did not do that was under President Clinton in his stimulus package. It is the only part of the stimulus package that became law, and we deficit spent to provide unemployment benefits. I voted against it.

I tell you, I was a Congressman at that time, and I represented a district which has probably been as hard hit, if not harder hit, than any district in the country with respect to unemployment. I represented the steel valley of Pittsburgh where we lost over 100,000 jobs in a matter of 10 years—100,000 steel worker jobs in a matter of 10 years. We still have long-term unemployment there.

But I said that it is important to stand up for principle, that we do not spend money today for emergencies, as important as those emergencies are and as needed as the funding is, by penalizing future generations and not making the tough decisions, not setting priorities. That is what this is about. Everybody in this Chamber and everybody in the House Chamber is for this disaster assistance. The President has asked for it, and the appropriators have wisely appropriated the money he has asked for.

The question is, are we going to pay for it now or are we going to make our children pay for it later, forever and ever and ever? I think the answer is pretty clear.

One of the reasons we are here debating this bill—we are into March debating appropriations bills—is because we are trying to balance the budget. We are trying to cut spending. We are trying not to add on to the deficit, and here we are in the middle of this great struggle to put America back on sound financial footing, back on the path to fiscal responsibility and we are saying, "Oops, we have an emergency; we must add to the deficit."

I can tell you, the House of Representatives is not adding to the deficit in their bill. They have an appropriations bill similar to ours. They do not add to the deficit. They are within their caps, and I think that is important to know. I think it is incumbent upon us to act as judiciously as the House in this instance.

Right now there is a special session going on in Pennsylvania, and they are coming up with the funds to pay for the tens of millions—hundreds of millions—of dollars that the State of Pennsylvania is going to have to come up with to fund this, and they cannot declare an emergency. They cannot put it off budget. They cannot add it to their deficit. They have to balance their budget every year, and they are making tough decisions up there right now.

My colleague in the State house and the State senate and the Governor, my former colleague in the House, Tom Ridge, are offering up some pretty tough medicine right now to the people of Pennsylvania. All I am asking is that we take a little bit of the medicine in Washington, that we do the responsible thing.

I do not understand how this body, whether you are a Republican or a Democrat, can go back home and go before the people of this country and say you really are serious about balancing this budget, that you really are serious about cutting spending and setting priorities. We have to set priorities. As Senator GRAMM says, when the refrigerator breaks, you cancel the vacation. Every family does that. Most States do that. This Government and this Congress should do that.

If there is anyone who should be for this bill, whether it spends for emergency and adds on to the deficit, it should be me. But I believe it is so important—so important—that we continue the precedent that we set last year of paying for our disasters, of not bailing out and declaring emergencies that I am prepared to vote against this bill. I am prepared to vote against disaster assistance for my State if we do not offset it over the next few hours.

If the Gramm amendment fails, I have other amendments. I have other amendments to offset other accounts within the purview of this bill and outside the purview of this bill. I have amendments to transfer money from FEMA. I know that is subject to a point of order, but I am prepared to be here tonight, and I am prepared to offer amendments.

I think this is something that we absolutely must do to be able to face the American public with a straight face.

We bail out too often around here. We are always looking for a way to sort of be cute and get around the law, to get around the substance of what we really are talking about here.

Oh, sure, we can legally, under the law, circumvent the Budget Act and declare an emergency and add it on. By and large, you know, it is only $1 billion. No one is going to notice. Well, I notice. I think we have an obligation not just to the process that we are engaged in to balance the budget but for the future generations of Americans who, as I have said before, will pay for this $1 billion of deficit the rest of their lives. Is that fair to do? The answer, I think, is very clear. It is not fair to do.

So I am very hopeful that we can get bipartisan support for a very rational act. I will tell you that an across-the-board cut is probably not the best way to go about paying for this, but I suggest that the principle of saying that we are going to pass a deficit-neutral appropriations bill is important. When we do that and we send it to the conference and we have a deficit-neutral appropriations bill coming out of the House and a deficit-neutral bill coming out of the Senate, then we can sure as heck guess that we are going to get a deficit-neutral bill coming out of the conference.

Is it going to have an across-the-board cut? No, probably not. They will probably set priorities. They will sit down and they will make those decisions within the context of a larger picture, as it should be. But I think we have to set the tone here with this amendment.

So, I am very hopeful that my colleagues who stand up and repeatedly talk about how we have to set priorities and balance the budget and that we did not need a constitutional amendment to balance the budget because we can do it ourselves, we can make these decisions, we can set priorities—it is priority setting time. I cast my priority to spend this money on disaster relief. I am for disaster relief. I want to fund these programs. But I also want to do it within the context of this budget.

I hope my colleagues on both sides of the aisle will support that effort.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, I propound a unanimous-consent time agreement. I ask unanimous consent that there be 1 hour for debate on the pending Gramm amendment—30 minutes under the control of Senator SANTORUM, 5 minutes under the control of Senator GRAMM, 25 minutes under the control of myself—and following the debate, the amendment be laid aside and Senator MIKULSKI be recognized to offer an amendment regarding national service, and that there be 1 hour for debate to be equally divided in the usual form, that no amendments be in order to either amendment, and following the debate, the Senate proceed to vote in relation to the Gramm amendment, to be followed by a vote in relation to the Mikulski amendment. I believe this has been cleared on both sides.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mr. HATFIELD. Madam President, I think that those votes, as they are being stacked or joined, linked, probably would occur somewhere between 8 and 8:30, assuming all the time is used. I do not plan to use all the time on my side on this matter that is pending.

Madam President, the Gramm amendment proposes to offset the so-called emergency supplemental the President asked for and that was approved by our committee to cover the losses and the damages, in part, that have occurred during the floods in the Northwest and other parts of the country.

I am not sure that we need to have a replay of the suffering and the tragedy that has beset so many people in these types of disasters, whether it is an earthquake or a hurricane or a flood or a fire. I think that is why the budget agreement of 1990 very precisely empowered the Congress of the United States to visit these problems on an ad hoc basis and make a judgment in accordance with the needs created by these disasters and why there is no formula for that, there is no basic criteria. That is within the prerogative and the discretion of the U.S. Congress.

My colleague from Texas tried to compare this to a family disaster of Johnny breaking an arm, and what would they do? I will tell you what they would do. They would go down and get that arm fixed, and they would charge it on their credit card because they did not have the money, cash in hand. They would take an attitude that this is worthy of an indebtedness because we have an emergency that has to be dealt with.

Madam President, I believe that is true with the Nation as a whole and under the very concepts that set up FEMA, the Federal Emergency Act to deal with these emergencies. The Senator from Texas also said why is it we do this only for nondefense programs? Aha, we put the gulf war in an emergency declaration.

Over $20 billion we were willing to march down the aisle to say, "We support the President. We support this war for oil," even in spite of all the propaganda that somehow we were trying to support an emergency of a little country like Czechoslovakia being overrun by the big brutal neighbor, Hitler.

So, the gulf war was an oil war, pure and simple. And we declared an emergency. Why is it that we can find it easy to declare an emergency to make war, but we find it a gnat strangling us in trying to swallow in declaring an emergency related to people in need? I suppose it is a philosophical debate to some degree. I think it is also a value and a priority debate as well.

I think it is poor procedure, in addition. Bear in mind that this amendment says that we reduce appropriations in the nondefense area, both in this bill and already enacted, the legislative branch bill, the Treasury bill, the transportation bill, the agricultural bill, the energy-water bill, the foreign operations bill, all having been passed, and now we are going to go back and reduce those commitments for those programs in spite of the fact that there is a different spendout probably for each one of those accounts in most of those bills. That then is going to fall disproportionately heavily on those that have had a slower spendout in order to recoup that percentage reduction. That kind of fiscal management is irresponsible—irresponsible.

It is an easy way to follow the rules about offsets, but we do not have any consideration as to the impact of that disproportionate reduction in these accounts across the board. It even undoes the action we took yesterday of adding moneys back to the Labor-HHS for educational purposes. We have to revisit that. That may not be a high priority for some. It is a very high priority for me.

But it only means again that there are no sound criteria being used to recover the offset in order to say, oh, I can vote for the disaster relief for those people who drowned, have been drowning, or people whose homes have been drowning or their farms have been drowning or the levees that have broken through that need repair to prevent another storm totally eliminating communities in my State, or the Small Business Administration that had expended or obligated its funds to be replenished in this bill, to give assistance for the reconstruction and the restoration of small enterprise under our great capitalistic system.

We can find lots of help for the big corporations in all sorts of tax breaks, but I do not find that there is that easy access to tax breaks for small enterprises, the small businessperson, which, after all, is the soul of the capitalistic system, not the Fortune 500.

So, consequently, it seems to me that we are being again very inequitable in making these applications. Let me say that on the foreign operations, Israel—Israel, in its time of need—will also be reduced, the Israeli need that exists today that we have voted overwhelmingly to support. I have a strong feeling that we are really almost playing games with people in distress. I heard the recitation of all the times we have adopted the emergency declaration.

Again, Madam President, I do not accept the sins-of-the-fathers-being-visited-upon-the-children concept. I am not saying that every one of those declarations had high support or could be validated by criteria. I can tell you, having visited farms that will take 2 years to restore in my State, at least 2 years for productivity—my colleague, Senator WYDEN and I, had first-hand direct exposure to people who had been absolutely wiped out. Their milk cows stacked in piles waiting to be burned or disposed of, losses that cannot be replaced even if they had the money to do it because there is not that availability. People whose hopes were just washed away, totally washed away and; at the same time, to replace those hopes and to be able to restore those levies to protect them in the future is being threatened by this particular action at this time.

Let me say, we have stretched this every way possible to find offsets for adding through the actions yesterday, and other actions, moneys to increase the level of funding. We have done it for a variety and many different accounts, fitting almost anybody here on the floor in the body, here as a total body, the needs or priorities.

At the same time, the Appropriations Committee is the only committee in the U.S. Congress that has taken specific actions for budget reductions and spending reductions—$22 billion we have taken in the Appropriations Committee. We could not get the reconciliation through the President's veto but I have not seen too many subsequent actions taken by authorizing committees to deal with the problem under the current circumstance we had.

There is no committee that can stand on the floor of the Senate and say they have done something specific to try to move toward a balanced budget by the year 2002, except the Appropriations Committee. We have a record. We have a unique position. Always, I will defend our action. Sure, we can say we can do more, maybe $24 billion instead of $22 billion. It is very interesting when we come to the floor we face a barrage of amendments to add back, add back, add back; and at the same time that we have offset, offset, and offset, there comes a limit to how much you can offset and make viably authentic a plan you have for funding the U.S. Government.

Another thing that had made our problem difficult is we protect the defense spending. That is sacrosanct. That is jobs. That is this. That is the other things. The Russians are not coming any longer, so now perhaps Saddam Hussein is coming. I grew up at a time when Communists were behind every door, according to some politicians, to scare the people into more spending for military; or that the Russians were coming.

As I have said before on this floor, the greatest enemy we face today, externally, is the viruses are coming. The viruses are coming. We better be more defensive of our people against the viruses through medical research than for the so-called hardware buildup.

I can remember when we used to be able to separate people's philosophy because it was easy, oversimplified—a hawk and dove. Doves vote to lessen military spending and the hawks want increased military spending. I can remember when the Republicans controlled the Senate in 1980 and we were faced with a Reagan massive buildup of military weaponry. Do not let anybody try to sell you the proposition that caused the decline of the empire of the Soviets. I will not give them that much credit. Their system was flawed to begin with. It was doomed to failure. It was just a matter of time.

Nevertheless, the point is we justified every kind of dollar at that time, build up, and up, and up and deficit go up, up, up—one of the most conservative Presidents in the United States in modern history building the greatest deficit we have had in modern history. So these labels of conservative and liberal and moderate and fiscal conservatives, all that is a very superficial kind of labeling. All I am saying is we have never found a problem to find more money to spend for military hardware, but when we come to trying to meet the needs of flood victims and people of disasters who have suffered disasters, we are, oh, so concerned about our fiscal future and our fiscal present.

This is a legitimate declaration of emergency. I urge my colleagues—I do not know in what way we will move at this time. We are checking the point of order possibility that exists and we will have to have that confirmed. If it is confirmed, I will make a point of order. Otherwise, I will move to table the amendment.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Texas.

Mr. GRAMM. Mr. President, let me ask our colleague who has the preponderance of time to yield me 5 minutes to respond.

Mr. SANTORUM. I yield 5 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, it seems to me in listening to this argument that our dear colleague from Oregon, who has great intellectual powers, has been forced to strain them to defend his position on this amendment. I am not going to get into a lengthy response on each and every point, but there are some I would like to make.

If every penny that we have cut out of defense since 1985 had gone to deficit reduction, we would have a balanced budget today. Second, no one is proposing that we not provide flood relief. Nobody is making that proposal. What we are saying is, we can provide it, but pay for it. There is no doubt about the fact that a lot of families, when Johnny falls down the steps and breaks his arm, they put it on the credit card. The difference is, 30 days later they get the bill. They have to either pay it or come up with permanent financing. Their ability to get financing, other than rolling it on their credit card at astronomical interest rates, depends on a plan to pay it back. We have not paid back a net penny of borrowing since Eisenhower was President of the United States. That has been a long time. That has been too long.

In terms of the gulf war, we actually collected more money from our allies than we spent—probably the only war in history where that was the case. Obviously, when we are talking about the loss of American life, we are talking about a loss that can never be paid back, but I was not talking about the Persian Gulf war here. I am talking about the fact that in this very bill we increase defense spending, but we offset it by cutting other programs, something we did not do for this $1.2 billion.

In terms of going back and cutting programs across the board, there is no doubt about the fact that if the committee had offset this increase in spending, they could have done it more efficiently than the across-the-board cut. Let me say that without the emergency designation, the law would apply an across-the-board cut. Let me also say this is a procedure that we have used many times. If a better alternative can be found in conference, it can be substituted.

The point still comes back to not whether we should help flood victims, but should we pay for the assistance or should we simply add it to the debt? Do we simply spend more and more money every time something happens? Or do we say, "There has been a tragedy in the country. We have to do something to help. What we are going to do is take money away from programs that we would have spent the money on that were a lower priority so that we can fund this emergency assistance."

The issue here is simply the issue of deficits, and no matter what kind of arguments are made, no matter what specter is held up about helping needy people, no matter what discussion occurs on defense, the bottom line is that we are going to have a vote here on $1.2 billion of additional deficit spending.

Are you for it, or are you against it? I am against it. I want to provide the money to try to help people who have suffered from floods, people who have suffered from fires, people who have suffered from emergency situations that they had no control over. But I want to pay for it, and I want to pay for it by cutting other Government programs. That is the prudent policy. That is the way, ultimately, in the real world, things have to operate. We have been divorced from the real world for too long, and that is why we have not paid off a net penny of national debt in any year since Eisenhower was President of the United States.

It seems to me that if we continue this process, people are going to be here 30 years from now who are going to be making the same statement. So I think the choice is clear, and I hope people will make the choice to pay for it—to help, but pay for it.

I yield the floor.

Mr. HATFIELD. I wonder if the Senator will yield for a question?

Mr. GRAMM. I am very happy to.

Mr. HATFIELD. As the Senator knows, we operate on an October-through-October fiscal year. What would the Senator do if an emergency occurred or disaster of some kind occurred on September 28?

Mr. GRAMM. What would I do if it occurred on that date?

Mr. HATFIELD. Yes.

Mr. GRAMM. What I would do is extend the funds. And for those 2 days I would take the funds out of the funding to be spent on those last 2 days. Then I would take the additional funding—since we are not going to be able to spend it all out in 2 days, I would take the spend-out rate, and for those first 2 days I would take the amount to be spent and take it from the overall Government operations of those 2 days. And then, as it is spent out in the new fiscal year, I would take it from that.

Mr. HATFIELD. Mr. President, I think that is obviously a hypothetical question, but it was not a hypothetical response to that problem because what we are proposing to do today is to meet the emergency at the time.

I think the Senator makes a good point in the matter of how we have handled the emergency declaration. I say to the Senator that I will be happy to work with the him to set up a criteria on how we should apply that emergency declaration. I do not think we ought to do it on an ad hoc basis, on the basis of need today. That is a matter we should deal with in terms of an overall long-term—we can do the job quickly, but it should not be applied on an ad hoc basis of this current emergency.

I think, also, that we realize that the disasters that happen early in the fiscal year—from all practicality, not hypothetically, the disasters that happen early in the fiscal year are going to have more opportunity to be offset than those that happen late in the fiscal year, as to the spend-out we have had during that fiscal year of those accounts that would be taxed or offset.

So, I think, again, the whole principle of offset is unsound at this point in time, unless we add criteria, criteria firmly established that we were going to apply. Let me say that the gulf war was so-called promised on the part of our allies to be paid back. But let us remember we did not have that in hand at the time we made the declaration any more than we had any kind of a payback plan for Somalia and the other programs that we put declarations of emergencies to in order to meet the needs of those people at the moment.

If we are going to have to measure somehow the suffering, or we are going to find some better way to establish the declaration—and the Senator himself was a member of that conference and that so-called summit that adopted the very language of the declaration of emergency, as I was a member of that conference and that summit of that time. So that is sort of ex post facto in terms of the pattern in which we have followed the declarations of emergency and of the conditions that exist today, the call for this declaration of emergency.

I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I yield myself such time as I may consume. I would like to respond to the distinguished chairman of the Appropriations Committee by suggesting that the timing of the disaster is really less important than the timing of when the money is going to be spent. That is very important. We have a billion dollars' worth of damage in Pennsylvania, but we are not going to spend a billion dollars over the next 6 months in repairing or fixing that problem. We have, for example, $5.5 billion sitting in FEMA right now. That money was originally appropriated for the California earthquake and for the Mississippi floods that happened 3 years ago. It still has not been spent out.

Historically, what we have done when we have declared emergencies is we have put it off budget and appropriated money for the entire emergency, for what we think is going to be the cumulative cost of that emergency, knowing full well they are not going to be able to spend all that money in this fiscal year, whether it was September 28 or October 1. It takes a long time to let contracts and rebuild, as the Senator from Oregon said. It is going to be a couple of years before a lot of these people get it all back together and can use all the money that is available.

So to suggest we should be worried about the timing of disasters really does not reflect how the disasters are paid for. So what we are saying is, look, maybe we should look at, as the Senator suggested, how we appropriate money for disaster assistance because maybe there is money in this request that is not going to be spent this year, that we do not need to put in the budget this year, that we can put in next year when we anticipate it to be spent. That is a real concern.

I think the more fundamental issue here is, how are we going to pay for emergencies? It is interesting for me that if you look at all of these accounts, whether it is the Department of Agriculture, watershed and flood control, or whether it is the Small Business Administration, or the Corps of Engineers, or the National Park Service—all of these agencies that are funded—none of these agencies, to my knowledge, receive any additional funds for emergency purposes. They get funded for their programs, but they are not given sort of a slush fund or a rainy day fund to be able to be used to meet emergencies that they have to deal with when they come. We do not appropriate money—with the exception of a small amount for FEMA every year, usually $200 million or $300 million, which is always exceeded. We appropriate very little money annually for emergencies. Then when they come, as surely they come every year, we step back and say: We do not have any money. We have an emergency we did not anticipate. And whether it is a big one like the California earthquake, or a small one, we say, well, let us just add it to the deficit.

What we are saying is that is just not responsible. The responsible thing is to let us appropriate the money every year and, my goodness, if we do not spend it, and if the Lord shines upon us and we do not have a natural disaster, well, then we keep it for the next year when, probably, the disasters will be worse than what we had planned on. But it is silly for us to not appropriate for emergencies, and when they come along, say: We have all this destruction and costs and we have to come to these people's aid.

We are coming to these people's aid. We are out there. I have been out there, as have Senator HATFIELD in Oregon, and Senator Wyden, and Senator SPECTER, and Senator GORTON. We have been out there, and we have seen the damage. It is severe, and we need to remedy it, but we need to do it within the confines of rational budgeting. That is what Senator GRAMM said. Every family does it. I hear the credit card analogy all the time, and Senator GRAMM is right that the analogy is not applicable to the Congress, because you have to pay back a credit card. If not, they take you to court and garnish your wages. We are never going to pay this money back. We are going to add this billion dollars to the deficit, and we are going to pay interest on that. Children who are not yet born are going to pay interest on that.

I do not think we have any intention in the near future of doing anything to reduce the national debt. We are hoping to reduce the annual deficit.

But there is no plan that I am aware of to start whittling down the mountain of debt that we have already accumulated. So to suggest that it is equivalent is just not accurate. It is apples and oranges.

I applaud Senator HATFIELD and the Appropriations Committee for, as he said, having cut $22 billion this year. He is absolutely correct. Unfortunately, because we have not been able to get agreement on entitlements and on the budget—the President vetoed the budget that actually does something with entitlements—we have had to rely solely on appropriations. But we have relied on appropriations within the budget caps that we set in the budget resolution. We are not asking them to do anything more than we would have had we done all of the entitlement savings anyway. I appreciate that they have done it. But it is not like we have not worked very hard to get those entitlement savings. Everyone over here, at least, put up the votes to get that bill to the President for him to balance the budget. Unfortunately, the President has vetoed it. But we have done our part. We will continue to do our part to make sure that we reduce all levels of government so we can balance this budget, not just appropriated accounts.

The final point I want to make is just to reemphasize. This is not about helping people in need. We are helping people in need. FEMA teams have been in Pennsylvania for a couple of months. We are doing the job. This is how we pay for it, if we pay for it. I think that is a pretty easy call for most Americans. You would think it is fairly common sense. It is one of the commonsense things that I hear when I go home. "Well, of course, if something comes up that you need more money, you find the money somewhere else. You just do not put it on the deficit forever and over and over for us to pay interest on for generations."

I want to see this bill passed. I want to see the people who are in need feel good about the fact that the Federal Government came in and helped them but also feel good that we did it within the context of a budget, that we did it the right way. I am hopeful that we can get bipartisan support on this and send a resounding vote that we are going to balance this budget and that we are willing to step up to the plate in tough situations and make the tough decisions to move this country to a more responsible fiscal future.

Mr. President, I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the time restraints with respect to the Mikulski amendment just agreed to be vitiated, that following the debate on the pending Gramm amendment, the Senate proceed to vote with respect to that amendment, and following the vote Senator MIKULSKI be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, before Senator HATFIELD leaves, I am through debating. I think we made the points. I do not know if the Senator from Pennsylvania is finished or not. But if he is, perhaps we could go ahead. I would like to have 1 or 2 minutes to sort of sum up, and we could go ahead and vote.

Mr. HATFIELD. I say to my friend that this certainly is a possibility. We have to have a few minutes because of the time designated, or, at least, a time estimate for a vote. We have to get notice to some of our colleagues who perhaps have left the Hill. But I would be willing to yield back all of my time and move to a vote as rapidly as possible.

Mr. GRAMM. Mr. President, on that basis, let me sum up. Again, there are a lot of issues that have been raised here. The provision for the emergency designation was in the 1990 budget summit agreement. I participated in those negotiations. I opposed this provision. I voted against that summit agreement—not that that is of any relevance here.

Here is the point. There are some emergencies under some circumstances that create a situation where there is not a readily available option to finance. We could have funded the Civil War by offsetting expenditures and by raising taxes. We decided not to do it that way. We might have funded World War II that way. We decided not to because of the magnitude of the undertaking. But I remind my colleagues, we are spending $1.6 trillion a year. We are getting ready to add $1.2 billion of new spending declared an emergency. We can avoid that by simply cutting across the board by .53 percent, or a penny for every $2 we spend on nondefense discretionary programs. I am very proud of the fact that in 1995, under the leadership of Senator HATFIELD as our new chairman, we did not have a need for emergency designations. We did not, through supplementals, raise the deficit. In fact, we had rescissions bigger than the new spending we had. It is not as if we have never sinned before, but we were on such a roll from 1995 under the leadership of our great chairman that I was hoping that we might stay on the straight and narrow and avoid this movement back to our old ways.

So, I do not see this as a big amendment in terms of its impact; $1.2 billion for anybody, or any group of people of any reasonable size, that would be an unbelievable amount of money. For the Federal Government, it is basically one penny out of every $2 we spend on nondefense discretionary programs. But why not take a stand here, keep the record of this new Congress with the Republican majority, a perfect record in that we have written a budget. The President vetoed it. But we have lived by it. We have not used an emergency declaration to spend money when we had the alternative to pay for it. It is a record I am proud of. It is one I want to keep. And, most importantly, despite all of the arguments that can be made, it is the right thing to do. This is the right thing to do.

This is a manageable emergency. There is no reason that a country that spends $1.6 trillion a year cannot manage an emergency of $1.2 billion. This is a manageable amount. And what we are doing here is setting a precedent that will be followed, if we set it here.

I would like to stay with our record in 1995, stay with our budget, not declare this emergency, and pay for this modest amount of money as compared to the Federal budget. We are capable of doing it. It is the right thing to do, and I urge my colleagues to do it.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent that we set aside the pending amendment.

Mr. GRAMM. Reserving the right to object, I think we are about to work out an agreement here, Mr. President, that would end our debate, order a rollcall at some time in the future, and finish up this matter. I think we can do that very quickly, and then the Senator could be recognized to offer an amendment, and this would be out of the way.

Mr. GREGG. Mr. President, I ask unanimous consent that we set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3491 TO AMENDMENT NO. 3466

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for Mr. BIDEN, proposes an amendment numbered 3491 to amendment No. 3466.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, line 20, after "*Provided further,*" insert "That not less than $20,000,000 of this amount shall be for Boys & Girls Clubs of America for the establishment of Boys & Girls Clubs in public housing facilities and other areas in cooperation with state and local law enforcement: *Provided further,*"

Mr. BIDEN. Mr. President, the amendment I am proposing today would provide the first $20 million of a 5-year effort to add 1,000 new Boys & Girls Clubs—including 200 more clubs in housing projects—so that 1 million more children can participate in this vital program.

This investment of $100 million in seed money—all to start new clubs—translates to only $100 per additional child who will be served by a Boys & Girls Club.

The Federal Government's contribution is only 10 percent of the total funds needed to complete this project. This is only seed money. The remaining 90 percent of the funding for new clubs will come from private donations.

That is a Federal contribution of only $100 per child to provide 1 million children with a safe, supervised, and challenging place to go after school rather than hanging out on street corners or returning to an empty home.

Fully 40 percent of juvenile crime is committed between 3 and 9 p.m. These are the hours when many children are left unsupervised.

In hundreds of public housing projects across the country, Boys & Girls Clubs give kids a safe place to hang out after school—a place with positive activities and positive role models.

A 1992 evaluation conducted by Columbia University found that housing projects with Boys & Girls Clubs had 13 percent fewer juvenile crimes; 22 percent less drug activity; and 25 percent less presence of crack than housing projects without Boys & Girls Clubs.

Those who study this issue agree that breaking the cycle of violence and crime requires an investment in the lives of our children with support and guidance to help them reject the violence and anarchy of the streets in favor of taking positive responsibility for their lives. And prevention of crime—particularly juvenile crime—is more important now than ever before.

In 1994 more than 2.7 million children under the age of 18 were arrested. Half of these arrests—1.4 million—were children under the age of 16.

There is a fairly simple answer to this problem—provide supervised activities for children during the high-crime hours of the late afternoon and early evening. The key is to keep children off the streets and out of trouble during the times they are most likely to get into trouble.

This is not complicated. We can—indeed we must—recognize this fact and take all the actions necessary to fill the crime-likely hours with supervised activities. Constructive after-school prevention programs like Boys & Girls Clubs are the best way tool we have to stop juvenile crime, juvenile drug use, and juvenile victimization by other youth.

We have a choice. We can work to prevent crime before it happens.

If we don't, we are merely postponing the inevitable—dealing with juveniles after the shots are fired, after the children become addicted to drugs, after more lives are ruined.

When a life about to go wrong is set back on the right track—that is a testament to hope.

We build hope by showing children that they matter and by contrasting the dead end of violence with the opportunity for a constructive life.

This amendment deserves full bipartisan support. This is crime prevention—as far as I know, the Boys & Girls Club is a program everyone on both sides of the aisle has claimed to support.

I urge all of my colleagues to fund this proven prevention program and join me in helping to stem the tide of children who would otherwise be lost to drugs and violence.

Mr. GREGG. Mr. President, this amendment, which is a Biden amendment, would earmark funds for the Boys and Girls Clubs of America. It has no budgetary impact. It has been cleared on both sides.

Mr. President, I ask unanimous consent that this amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3491) was agreed to.

Mr. GREGG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER (Mr. HELMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3492 TO AMENDMENT NO. 3466

(Purpose: To establish a lockbox for deficit reduction and revenues generated by tax cuts)

Mr. GRAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS], for himself, Mr. MCCAIN, Mr. FAIRCLOTH, Mr. COATS, Mr. INHOFE, and Mr. HELMS, proposes an amendment numbered 3492 to amendment No. 3466.

Mr. GRAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

Mr. GRAMS. Mr. President, on behalf of my colleagues, Senator MCCAIN, Senator FAIRCLOTH, Senator COATS, Senator HELMS, and Senator INHOFE, I rise to offer the taxpayer protection lockbox amendment.

Today, as Congress fights to bring down the deficit and set the Nation on the track toward fiscal sanity, President Clinton is continuing his demand for an additional $8 billion in taxpayer money this year to finance even bigger Government. He says he is offsetting the increased spending, but most of his so-called savings are no more than budget gimmicks—increased taxes, fees, and one-time asset sales financed directly by the taxpayers.

Congress wants to eliminate the deficit but President Clinton wants to spend almost 50 cents of every dollar that working Americans have sacrificed toward a balanced budget this year.

The President said in January that "the era of big government is over," but if he has his way big government will only continue to grow, at the expense of taxpayers today and our children tomorrow. If we do not take immediate action to stop this pattern of abuse, we are risking leaving behind a legacy of debts that our kids will be forced to inherit.

While we still have the opportunity, we must do everything possible to change the rules of the tax-and-spending game and do what is best for taxpayers, for our children and for the Nation as a whole. And for that reason we are offering the Taxpayer Protection Lockbox Act as an amendment to the continuing resolution.

Our amendment would make two important changes to the budget and appropriations process, a process which has served only to encourage abuse of spending and fiscal irresponsibility.

First, this amendment would return honesty to the budget process by ensuring that a cut in spending is truly a cut.

Contrary to popular opinion, under current law, dollars cut from appropriations bills are not returned to the Treasury for deficit reduction purposes as they ought to be. Instead, they are quietly stashed away in a slush fund to be spent later on other programs.

Our amendment would put an end to this practice by locking any appropriations savings into a deficit reduction lockbox and dedicating those dollars to deficit reduction. In other words, if Congress cuts $10 million in an appropriations bill, the taxpayers will save $10 million. It does not get spent somewhere else.

Second, our amendment would create a revenue lockbox which would be used to direct any future revenues that exceed current economic projections toward deficit reduction and/or tax relief.

It would create a fast-track process for Congress and the President to use these funds for tax relief with the remainder going for deficit reduction. At the same time, our amendment would prohibit the Government from simply using those dollars for additional spending. This is only fair, because, after all, these additional funds would become available only because of the hard work and productivity of the American people. So it makes sense then to return those dollars to the taxpayers to encourage even greater productivity on their part rather than allowing Congress to waste money that is not even theirs to begin with.

All in all, our amendment is a simple proposal to restore honesty and common sense to the budget process, allow taxpayers to keep more of what they earn and also place further restrictions on abusive Government spending.

Given the most recent demand on tax dollars from the White House, it certainly cannot have come at a better time.

Mr. President, our legislation has been endorsed by a number of citizens and taxpayer groups including the National Taxpayers Union, Citizens for a Sound Economy, and the National Federation of Independent Businesses. With their support and the support of our colleagues, I am confident that we can win a big victory for the American taxpayer by passing the taxpayer protection lockbox amendment this week.

Mr. President, that is the conclusion of my statement, and I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN addressed chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, it is my understanding the Senator does not want to push for a vote at this time on his amendment. I assume he expects to get consent to set the vote on the amendment aside until we dispose of the Gramm amendment and maybe other amendments tonight; is that correct?

Mr. GRAMS. That will be fine.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

AMENDMENT NO. 3490, AS MODIFIED

Mr. GRAMM. Mr. President, I ask unanimous consent to modify my amendment. I send the modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, it is so ordered.

The amendment (No. 3490), as modified, is as follows:

At the end of title II of the committee substitute, add the following:

(a) Each amount provided in a nonexempt discretionary spending nondefense account for fiscal year 1996 is reduced by the uniform percentage necessary to offset non-defense discretionary amounts provided in this title. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. PRYOR. Mr. President, reserving the right to object, reserving the right to object——

Mr. GRAMM. Mr. President, the Chair had already ruled.

If I might say to my colleague, all I did was take out a paragraph that created a point of order. It did not change the nature of the amendment in any way.

Mr. PRYOR. Mr. President, I understand the Chair had previously ruled. Therefore, I have no objection to the Senator's request.

The PRESIDING OFFICER. The amendment is so modified. Who yields time on the amendment?

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, what Senator GRAMM did in his modification is really identical to what the House has done in their bill. The House does actually declare an emergency, but they actually do not exceed their caps. What Senator GRAMM is going to do, the effect of his amendment is to keep the emergency declared and pay for it, so we do not exceed the overall budget cap as opposed to the caps on specific subcommittees. I think that makes perfectly good sense, to make sure that we pay for this within the whole appropriations account as opposed to just targeting specific subcommittees because of these occasionally arcane budget rules that we have to deal with in this body.

I want to reiterate that I hope on this matter we can get a strong vote of support, frankly, from both sides of the aisle, that we are no longer going to continue the practice of previous Congresses—not this Congress, but of previous Congresses—every time that we have a disaster. On an annual basis, we do not appropriate for those. We do not appropriate money. With the exception of a couple of hundred million dollars annually for FEMA, we do not appropriate money for disasters. We wait until they happen, as they surely will, and then we ask for emergency authority to borrow the money and not put it on the budget.

We know there are going to be disasters. We should be able to budget for those disasters, either beforehand or be able to rearrange priorities once they occur. That is what we do here. We arrange priorities.

This is not about whether we are going to provide relief to the victims of fire, relief to the victims of floods or storms. What we are talking about is providing a reasonable, commonsense way to pay for it. That is something that all of us in this body have said we want to do. We want to balance this budget. We want to set priorities.

Many people in this body opposed the balanced budget amendment. When they opposed that balanced budget amendment, they said, "We do not need a balanced budget amendment; we can do it ourselves. We have the ability to set priorities in this body without the hammer of a balanced budget amendment to the Constitution."

It is put-up time. If, in fact, you believe that we should have a balanced budget, then this is the first step to making that happen—to stop this practice of adding tens of billions of dollars. Senator GRAMM articulated that earlier in the debate, that we have added close to $100 billion to the deficit with these emergency declarations.

This is not just a billion dollars. To many people who might be watching this debate who are not Senators, a billion dollars actually is a lot of money, it sounds like a lot of money. Here it does not sound like a lot of money. But when you add up a billion here and there, we have gotten to $100 billion over the last 6 years. That is a lot of money even for here.

So let us not continue this practice. If anyone has an interest in seeing that this disaster relief is passed, it is the Senator from Pennsylvania. We have had $1 billion in flood damage in our commonwealth. We have had over 100 people killed, 50,000 homes damaged or destroyed, 2,000 businesses washed away. We need that help, but we need to do it responsibly.

This Senator is not going to be a hypocrite and say, "Well, I'm for reducing the deficit except, of course, when the money comes home and then, well, let's just spend it all." I will vote against this measure if we do not adopt this, or something like it. I have several other amendments. I am prepared to stay here all night long offering amendment after amendment, which I will require votes on, to find some way to pay for this disaster that is acceptable to this body.

So I hope that we are in for a good day of votes, whether it is tonight or tomorrow, because if we do not succeed, we are going to have votes and you are going to have to stand up to the American public and say, "This is not the way to do business. The way to do business is to add it on to the deficit. Fine, but we are going to be here."

I am going to be here tonight, tomorrow, the next day, whatever it takes, so we do this responsibly. I hope we do it on a bipartisan basis. Balancing the budget is a bipartisan affair, and it is something I know we all want to do. Let us put into practice tonight what we preach.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I think this issue has been fully discussed on the floor tonight. I know Senator HATFIELD, when he was here a moment ago discussing the issue, laid out all the reasons why this amendment is not a good idea.

In 1990, there was a long, drawn-out negotiation over procedures in the budget and how appropriations would be made in case of national emergencies and whether or not they were under the same requirements for offsets as routine operating expenses were.

It was decided by the Congress in 1990, in concert with the administration, a Republican administration, that these would be the rules.

This amendment is an effort to legislate a rules change on an appropriations bill. We think it an amendment that ought to be rejected by the Senate. Therefore, I am prepared to yield back the remainder of the time on this side of the amendment and hope others will yield back their time, and I then will move to table the amendment and ask for the yeas and nays.

With that understanding, I yield back all the time on this side on the amendment.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. SANTORUM. I yield back the remainder of my time.

Mr. COCHRAN. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3490. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 45, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—55

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Conrad
Craig
D'Amato
Daschle
Dodd
Dole
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kempthorne
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Stevens
Wellstone
Wyden

NAYS—45

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Coats
Cohen
Coverdell
DeWine
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

So the motion to lay on the table the amendment (No. 3490) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote and I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, this is a very critical day in the U.S. Senate. By adopting this omnibus appropriations bill we will be providing critical funding to programs on which many Americans depend. If the President signs this bill, then service providers of every sort will be able to better plan their budgets for the remainder of the year and the upcoming fiscal year.

It is vitally important that we have put together a bill that the President should be able to sign. I wish to thank the distinguished chairman, Senator HATFIELD, for the fine job he has done to try and address the administration's concerns in this bill.

Title I of the Senate-reported omnibus appropriations bill provides $331.9 billion in budget authority and $247 billion in new outlays for the remainder of fiscal year 1996 for the Departments and Agencies funded by the five appropriation bills not yet enacted, including: Labor, Health and Human Services, and Education; Commerce, Justice, and State, the Judiciary, and Related Agencies; Veterans Affairs and Housing and Urban Development and Independent Agencies; Interior; and District of Columbia.

Of this amount, $149.4 billion in budget authority and $78.4 billion in new outlays is for discretionary spending. When outlays from prior-year budget authority and other completed actions are taken into account, the Senate-reported bill totals $163.8 billion in budget authority and $183 billion in outlays for discretionary spending in fiscal year 1996.

The Senate-reported bill is below the 602(b) allocations of all subcommittees by a total of $4 million in BA and $38 million in outlays.

The Senate-reported bill is $23.9 billion in budget authority and $9.2 billion in outlays below the President's budget request of just over a year ago. The Senate bill is $6.4 billion in budget authority and $3.9 billion in outlays below the 1995 level. It is $836 million in BA above the House-passed bill and $99 million in outlays below the House-passed bill.

While I may not agree with all of the priorities established by this bill, I would like to thank the chairman for the $22 million increase above the conference level provided for the Legal Services Corporation. The bill provides $300 million for this purpose, and another $9 million if Congress and the President reach a budget agreement.

We have worked very closely with the House on restructuring the Legal Services Corporation to disengage grantees involvement in controversial litigation, and restrict them to providing traditional legal services for the poor. While some may not like these restrictions, they are necessary to control the controversial activities of some grantees and to protect LSC from the negative perceptions of those who wish to see its termination.

I have been very concerned about the proposed $414 million reduction in title I, education for the disadvantaged. I am thankful to Senator SPECTER for offering an amendment during the Senate committee markup and a further amendment on the floor that restored $814.5 million to the title I program, $1.3 billion higher than the conference level and $110 million higher than the 1995 level.

I am empathetic to the use of a contingency appropriations to provide additional funding for discretionary priorities. I realize that the discretionary spending caps have been very tight on the Appropriations Committee this year as we seek a balanced Federal budget.

With a broader budget agreement remaining elusive, I can appreciate the frustration of the Appropriations Subcommittee chairmen in trying to live within these tight appropriation caps.

I remain concerned about attempts to use entitlement reforms contained in the Balanced Budget Act to offset discretionary spending included in this bill as contingency funding, and with the possible use of the emergency designation that one could argue in some cases does not fit the traditional definition of such expenditures.

Overall, I believe the committee has done a very good job on this bill. The committee has tried to address significant priorities in the remaining bills.

It provides funding to meet the President's major domestic concerns but continues to pressure both Congress and the President to work toward a budget agreement. It provides disaster aid and support for the United States military mission in Bosnia. I urge the Senate to adopt the bill.

Mr. President, I ask unanimous consent that a Budget Committee table displaying the budgetary effects of this bill be placed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONSOLIDATED OMNIBUS RESCISSIONS AND APPROPRIATIONS BILL

[Spending totals—Senate-reported bill]

[Fiscal year 1996, in millions of dollars]

	Commerce-Justice		Labor-HHS		Interior		VA–HUD		District of Columbia		Total	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Defense discretionary:												
Outlays from prior-year BA and other actions completed	0	92					0	78			0	170
H.R. 3019, as reported to the Senate	151	125					153	92			304	218
Scorekeeping adjustment	0	0					0	0			0	0
Subtotal defense discretionary	151	217					153	170			304	387
Nondefense discretionary:												
Outlays from prior-year BA and other actions completed	0	6,561	15,297	47,368	148	5,002	−1,113	44,345	0	0	14,332	103,545
H.R. 3019, as reported to the Senate	22,658	17,195	46,776	20,836	12,092	8,210	62,914	29,919	727	727	145,168	76,887
Scorekeeping adjustment	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal nondefense discretionary	22,658	23,756	62,073	68,472	12,239	13,213	61,801	74,265	727	727	159,500	180,431
Violent crime reduction trust fund:												
Outlays from prior-year BA and other actions completed	0	826	32	21							32	847
H.R. 3019, as reported to the Senate	3,956	1,286	21	4							3,977	1,290
Scorekeeping adjustment	0	0	0	0							0	0
Subtotal violent crime reduction trust fund	3,956	2,112	53	25							4,009	2,137
Mandatory:												
Outlays from prior-year BA and other actions completed	2	20	38,687	40,804	0	24	0	133			38,689	40,981
H.R. 3019, as reported to the Senate	503	480	161,850	150,864	59	25	20,043	17,213			182,455	168,583
Adjustment to conform mandatory programs with Budget Resolution assumptions	27	25	4,673	14,012	6	6	−905	341			3,801	14,384
Subtotal mandatory	532	525	205,210	205,680	65	55	19,138	17,688	0	0	224,945	223,948
Adjusted bill total	27,297	26,610	267,336	274,177	12,304	13,268	81,093	92,123	727	727	388,758	406,904
Senate Subcommittee 602(b) allocation:												
Defense discretionary	151	218	0	0	0	0	154	170			305	388
Nondefense discretionary	22,659	23,762	62,074	68,478	12,241	13,215	61,802	74,270	727	727	159,503	180,452
Violent crime reduction trust fund	3,956	2,113	53	44	0	0	0	0			4,009	2,157
Mandatory	532	525	205,210	205,680	65	55	19,138	17,688			224,945	223,948
Total allocation	27,298	26,618	267,337	274,202	12,306	13,270	81,094	92,128			388,035	406,218
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:												
Defense discretionary	0	−1	0	0	0	0	−1	−0			−1	−1
Nondefense discretionary	−1	−6	−1	−6	−2	−2	−1	−5	0	0	−3	−21
Violent crime reduction trust fund	−0	−1	0	−19	0	0	0	0			−0	−20
Mandatory	0	0	0	0	0	0	0	0			0	0
Total allocation	−1	−8	−1	−25	−2	−2	−1	−5			−4	−41

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

THE SPECTER AMENDMENT

Mr. ABRAHAM. Mr. President, I want to take a moment of the Senate's time to discuss the Specter education amendment to the continuing resolution—S. 1594. As you know, the Senate adopted the Specter amendment yesterday by a vote of 84 to 16. This amendment provides $2.7 billion in additional funding for Head Start, job training, title I, and other education programs. Given that these additional funds are fully offset by spending cuts elsewhere, I supported the amendment.

Senator SPECTER offered his amendment in the second degree to the Daschle amendment. Like the Specter amendment, Senator DASCHLE's amendment would have provided additional funding for various Federal education programs. Unlike the Specter amendment, however, the Daschle amendment was not fully offset and violated the Budget Act. In other words, while both amendments provided additional funding for education programs, the Specter amendment provides those funds in a responsible manner that does not bust the budget.

On the other hand, both the Daschle and Specter amendments also provided an additional $60 million for President Clinton's Goals 2000 Program. I want to make clear that my support for the Specter amendment should not be interpreted as support for this program. Instead of funding Goals 2000, I would have preferred to use the funding for education vouchers or charter schools.

TRANSFER OF F-16 AIRCRAFT TO JORDAN

Mrs. HUTCHISON. Mr. President, I rise to speak on a matter which could profoundly affect the U.S. defense industrial base. It is my understanding that the Committee on Appropriations recommends the appropriation of an additional $70 million in fiscal year 1996 funds for the Foreign Military Financing Program. These funds would be joined with $30 million in previously appropriated funds to provide initial grant funding in support of the transfer of F–16 aircraft to Jordan. Ultimately, 16 F–16 aircraft are to be upgraded and then leased to Jordan in support of its participation in the Middle East peace process.

Mr. President, I have recently received information which suggests that the necessary upgrades will be performed on these aircraft in the United States prior to making them available to Jordan. If that is the case, I will support the committee's recommendation, because I believe the required work will enhance the defense industrial base.

Mr. President, I would ask the junior Senator from Kentucky, who serves as the chairman of the Foreign Operations Subcommittee, who has served on that subcommittee as a champion of U.S. private sector exports and who has insisted that American foreign aid programs serve our national interests, is this what the committee intends by its recommendation? Does the committee intend that engine upgrades and structural upgrades will be made by the U.S. private sector prior to the lease of these F–16's to Jordan?

Mr. McCONNELL. Mr. President, I can answer my colleague's question very directly and without ambiguity. Yes.

Yes, the Subcommittee on Foreign Operations recognizes the commitment that Jordan has made to peace in the Middle East. Jordan has joined with Israel in a treaty of peace. The subcommittee believes that the lease of F–16 aircraft to Jordan, a transfer of military equipment which is supported by Israel, will strengthen Jordan militarily and provide a strong signal of United States support for King Hussein and the people of Jordan as partners with Israel in the quest for peace in the Middle East.

It is the subcommittee's intention that the grant funding which we recommend to finance the required upgrades will be used to support the U.S. private sector and further serve U.S. interests by enhancing the defense industrial base. While third countries may participate in maintenance programs at a later date, the subcommittee believes that, insofar as the upgrades are concerned, the original U.S. manufacturer can best insure quality control, cost management, and interoperability with U.S. Air Force units.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Kentucky. I think that we have clearly established the intent of the Senate. These aircraft are to be provided to Jordan, in support of Jordan's participation in the Middle East peace process. Furthermore, to support U.S. exports and to help preserve the private sector defense industrial base, the required engine, structural, and related upgrades are to be performed in the United States.

PRESERVE TECHNOLOGY INVESTMENTS

Mr. ROCKEFELLER. Mr. President, I strongly endorse the Hollings-Daschle-Kerrey-Lieberman-Bingaman-Rockefeller-Kerry Amendment to H.R. 3019 that was debated last night, and to praise Senator HOLLINGS for offering this amendment that I cosponsored. This amendment would have restored funds for three key Department of Commerce programs: the Advanced Technology Program, National Telecommunications and Information Administration (NTIA) Telecommunications and Information Infrastructure Assistance Program, and Technology Administration as well as funding for Educational and Environmental Technologies. Restoring these funds is essential to making progress in generating more jobs for Americans, a better education system, protecting the environment, and maintaining our Nation's ability to compete and excel in research.

As a nation, we have used the best mix of individual innovation and national cooperative efforts to develop the most advanced and most productive economy in the world. Cooperative government and industry investments have brought us computers, the Internet, new treatments for disease, a better environment, and the moon. And these investments have brought us new industries; high-quality, high-paying jobs; and an improved standard of living.

But today, Americans understand that the ground underneath them is shifting—they have seen their work and workplaces transformed by new technologies and global competition. These changes and their consequences are as profound as the economic shifts that moved us from farms to factories more than a century ago. Now, as then, there is no way to reverse the tide. Now, as then, the fortunes of working people are uncertain as the landscape around them is remade.

Working Americans have reason to be worried, reasons, even, to be angry. They are working harder than ever, but their jobs are less secure, their wages are stagnant, and their benefits and pensions are shrinking. All this when company profits and CEO salaries are rising.

Parents are putting in more hours at the office. Precious time taken from Little League games and PTA meetings and family dinners. And the strain—on families, schools, neighborhoods, on what makes a civil society—is all too apparent.

At the same time, Mr. President, "Reaganomics" can't seem to disappear for good, no matter how clear the evidence is from the 1980's that this is a dangerous course and bad economic policy. The Reagan manifesto might have been written for a Warren G. Harding campaign speech. Big tax breaks for top-income earners and corporations—a trickle from the top will grow jobs and wages. Drop safety standards and environmental safeguards—an invisible hand will protect workers and consumers. Push the disabled, elderly, and poor children off the wagon.

In a trance, Congress cooperated in the eighties when Reagan told them to cut taxes on the rich and corporations. In the last decade tax rates for top-income brackets were lowered from 70 percent to 40 percent. And, the share of the tax burden that corporations pay has been reduced from 15 percent to 10 percent over the last decade.

The minimum wage was stunted. And, domestic spending was cut from nearly 5 percent of the Federal budget to about 3½ percent since 1980.

To what end? Some people benefitted—some a whole lot. Since 1980, more than $800 billion was added to household incomes—but 98 percent of that money went to the richest 20 percent. That means all the rest, 80 percent of American households, shared just 2 percent of the gains. In fact, the average American family is now getting by on less than they had in 1980.

For a fortunate handful of Americans, the transformation from an industrial to an information economy offers unlimited opportunity and fantastic profit. But for most, right now, this new economy demands more and offers less—it demands more education, more skills, more flexibility, more time; but offers less pay, less benefits, and less security. Working families are running faster and losing ground—a raw deal that undermines the crucial link between work and personal progress, and breeds the anger and cynicism that are poisoning our society and our political debate.

I believe there are clear, commonsense, approaches that must be followed to enable all Americans to gain the fruits of our success.

Our trade and monetary policies must work for working people. We need trade agreements based on only giving access when we get exactly that for our products. We have to say no to agreements that push our jobs across our borders. Let's live in the real world, and demand other countries to live up to environmental and labor standards they avoid to get the upper hand.

The Fed should be as aggressive in promoting growth to benefit workers as they are with managing inflation to benefit bondholders.

And we must have investments in education, training, infrastructure, and technology that produce dividends for working people here at home. Investments in people are every bit as important as investment in equipment. But unless that's better known and understood, human investments will keep shriveling through the budget cuts already being made. Behind the banner of a balanced budget, we are in danger of surrendering what really spreads opportunity in America—the chance to learn, to train, and to excel.

Investments in science and technology are a key part of the solution. As the President's Council of Economic Advisors recently reported, investments in innovation have been responsible for almost one-half of the Nation's economic growth.

This Nation has had a 50-year consensus on investments in science in technology. We have made these investments to expand the basic store of knowledge both because of our exploring, inquisitive nature and because we know the benefits are unpredictable. We have invested in biological research that improves our ability to feed our people and attack disease. And we have invested in new technologies in support of Federal missions, technologies that created new industries and jobs in aviation, electronics, software, and communications.

But those very programs that are key to our technological progress are now under threat. If it had passed, our Hollings-Daschle-Kerry Amendment would have lessened that threat by restoring funds for technology programs that invest in new innovations with broad benefits for the Nation.

Recently, we have realized that with fierce global competition, this Nation must invest in innovation to advance economic growth. We are investing in the Advanced Technology Program with bipartisan support.

President Bush's science advisor, D. Allan Bromley, realized that we can support key technologies without intervening in the market's selection of winners and losers. The Advanced Technology Program was first funded in 1991 under President George Bush. This program is important because it invests in precompetitive or generic technologies, in the neglected zone between pure research and product development. These technologies are essential to technological progress for several industries or companies and are too risky for individual companies to fund on their own. The ATP will help to develop new technologies and new industries before other countries do.

We must keep investing in the Department of Commerce Technology Administration. This is the one office in the Federal Government that is dedicated to advancing national investments in technology in support of economic growth. TA works to develop policies and partnerships that assist industrial innovation. And the office is supporting cooperative technology ventures between United States and Israeli companies that will be a win-win effort for both nations. This commitment is especially crucial now, as Israel reels from a string of devastating terrorist attacks.

We must keep investing in educational technologies, technologies that will improve classroom learning and increase our student's chance to excel and succeed.

And we must invest in connecting schools, libraries, and hospitals to the world of the Internet. Funding grants from the National Telecommunications and Information Administration [NTIA] Telecommunications and Information Infrastructure Assistance Program [TIIAP] will enable these institutions to develop new applications that will increase students skills, improve health care, and extend telephone service in rural areas. This is particularly important to my home State of West Virginia, a heavily rural State. A TIIAP grant to the State library system will give citizens of West Virginia access to information around the globe.

We must keep investing in new, innovative environmental technologies, that will result in higher levels of environmental protection at lower costs for industry. These new technologies offer U.S. companies opportunities for increased exports and more jobs here at home.

These programs are essential investments to our Nation's economic future. They mean new industries and high-quality, high-wage jobs. They mean an improved environment. They mean a better education and greater opportunities for students and workers.

Our Nation must act—if we do not, our competitors are ready to take advantage. While we are considering cutting our investments in nondefense R&D by 30 percent by 2002, Japan is about to double its Government's investments.

We cannot go back and we should not go back—old policies need to change to meet new needs. But we should hold on to what we learned in that earlier era, and carry those lessons into the 1990's and the 21st century. Lessons of hard work and fair play, of balance between business and worker, of investment in people and technology should guide us as we meet the challenges of today and the future.

With the continued leadership of Senator HOLLINGS for America's economic strength and jobs, I will persist as well in pressing the case for the investments that our amendment attempted to rescue. We will not give up, because jobs for our people and the American dream are at stake.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McCAIN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATFIELD. Mr. President, I ask unanimous consent that the following amendments be the only remaining first-degree amendments in order to H.R. 3019, that they be subject to relevant second-degrees, and following the disposition of the amendments, the Senate proceed to vote on the Hatfield substitute, as amended, the bill then be read for the third time, and the Senate proceed to final passage of H.R. 3019, all without any intervening action or debate.

The list of amendments follows:

REPUBLICAN AMENDMENTS

Jeffords—Technical to D.C. provisions.
Jeffords—Technical to D.C. provisions.
Jeffords—Relevant.
Faircloth—Bosnia funding.
Burns—Relevant.
Burns—Relevant.
Burns—Relevant.
Helms—International Family Planning/Abortion.
Helms—N.C. Hospital.
Helms—Waiver of authority.
Helms—Abortion.
Helms—Relevant.
Helms—Relevant.
Coverdell—Relevant.
Brown—Relevant.
Brown—Relevant.
Coats—Abortion accreditation.
McConnell—Mexico City policy.
Gramm—Emergency provisions.
Gramm—Housing.
Gramm—State Welfare Program.
Gramm—Contingency provisions.
Gramm—Legal Services.
Gramm—Community assistance.
Santorum—Emergency provisions.
Santorum—Offset disaster assistance.
Santorum—Offset disaster assistance/conferees.
Santorum—Funding cut in title I.
Santorum—Salary/expense cut in title I.
Hatch—Drug czar.
Craig—Legal Services Corp.
Shelby—Drug czar.
Hatfield—Relevant.
Hatfield—Relevant.
Hatfield—Amalgamated millsite.
Lott—Relevant.
Lott—Relevant.
Lott—Relevant.
Murkowski—Canned salmon.
Murkowski—Salmon.
Murkowski—Greens Creek.
Murkowski—Study.
Cohen—Legal Services.
Stevens—Relevant.
Stevens—Relevant.
Stevens—Sematech.
Stevens—R&D camera.
Stevens—Interior floods.
Gorton—Medical Center—VA.
Gorton—Administrative accounts adjustment.
Gorton—Relevant.
Kempthorne—Interior floods.
Grams—Lockbox.
McConnell—FBI.
Bond—Relevant.
Bond—Relevant.
Bond—Relevant.
Bond—Relevant.
Bond—Relevant.
Cochran—Relevant.
Dole—Relevant.
Dole—Relevant.
Cohen—DOD.
Chafee—Relevant.
McCain—(3)/Relevant.
Warner—Relevant.

DEMOCRATIC AMENDMENTS

Boxer—D.C. abortion funds.
Bradley—Relevant.
Bumpers—Legal Services.
Byrd:
(1) Relevant.
(2) Relevant.
(3) Relevant.
(4) Relevant.
(5) Relevant.
(6) Relevant.
Daschle:
(1) Inhalants.
(2) Crop insurance.
(3) Watertown SD.
(4) Relevant.
(5) Relevant.
(6) Relevant.
(7) Relevant.
(8) Relevant.
Dorgan—Defense (with/Conrad).
Harkin—Health care.
Kennedy—Drug exports.
Lautenberg:
(1) Environment.
(2) Environment.
(3) Relevant.
Mikulski—National service.
Murray—Timber sales.
Pryor—Drugs.
Ried—Relevant.
Simon:
(1) Literacy/longer schoolyear.
(2) National Secondary Education Program.
(3) Relevant.
Wellstone:
(1) SoS Liheap.
(2) Relevant.
Levin—Relevant.
Leahy—Relevant.
Johnston—Water Resources Den. Act.
Breaux—Relevant.
Lautenberg—FAA employee rights.
Baucus—Relevant.
Biden—Relevant.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration, at 9:30, Thursday, of the Murray timber salvage amendment, and there be 2½ hours of debate, equally divided between Senators MURRAY and HATFIELD, or his designee; further, that no second-degree amendments be in order to the amendment, and at the expiration or yielding back of debate time, the Senate proceed to a vote on or in relation to the Murray amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield the floor.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In that first report (February 27, 1992) the Federal debt the previous day stood at $3,825,891,293,066.80, as of close of business. The point is, the Federal debt has since shot further into the stratosphere. As of yesterday at the close of business, a total of $1,191,392,298,843.23 has been added to the Federal debt since February 26, 1992.

This means that as of the close of business yesterday, Tuesday, March 12, 1996, the Federal debt total was exactly $5,017,283,591,910.03. (On a per capita basis, every man, woman, and child in America owes $19,044.03 as his or her share of the Federal debt.)

THE NOMINATION OF COMMANDER ROBERT STUMPF

Mr. THURMOND. Mr. President, the Senate Armed Services Committee agreed on March 13, 1996 to issue the following statement concerning the consideration of the nomination of Commander Robert Stumpf, U.S. Navy.

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of Captain (0-6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marine Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. The list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of the list, but prior to the appointment by the President of Commander Stumpf to the grade of Captain, the committee was advised by the Department of Defense that the March 11, 1994 letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook. On June 30, 1994, the committee requested that the Navy withhold action on the promotion until the committee had an opportunity to review the information that had not been made available to the Senate during the confirmation proceedings.

On April 4, 1995, the Navy provided the committee with the report of the investigation and related information concerning Commander Stumpf, and subsequently provided additional information in response to requests from the committee. On October 25, 1995, the committee met in closed session—consistent with longstanding practice—to consider a number of nominations and to consider the matter involving Commander Stumpf. The committee directed the Chairman and Ranking Member to advise the Secretary of the Navy that "had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of Captain." The committee also directed that the letter advise the Secretary that: "The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the Executive Branch." A draft letter was prepared, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee reviewed the proceedings concerning Commander Stumpf.

The committee, in considering the promotion of Commander Stumpf, acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf. The Chief of Naval Operations has testified that he believes such confidentiality should be maintained. The committee made its November 13, 1995 recommendation based upon information that was made available by the Navy.

At the present time, no nomination concerning Commander Stumpf is pending before the committee, and the Secretary of the Navy has removed his name from the promotion list. The committee has been advised by the Navy's General Counsel that this administrative action taken by the Secretary of the Navy is final and that the Secretary cannot act unilaterally to promote Commander Stumpf.

The committee notes that much of the material that has appeared in the media about the substantive and procedural issues concerning this matter, is inaccurate and incomplete.

As with any nominee whose name has been removed from a promotion list, Commander Stumpf remains eligible for further nomination by the President. If he is nominated again for promotion to Captain, the committee will give the nomination the same careful consideration it would give any nominee.

MESSAGES FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the Bill (H.R. 1561) to consolidate the foreign affairs agencies of the

United States; to authorize appropriations for the Department of State and related agencies for fiscal year 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2036) to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2064. An act to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia.

H.R. 2276. An act to establish the Federal Aviation Administration as an independent establishment in the executive branch, and for other purposes.

H.R. 2685. An act to repeal the Medicare and Medicaid Coverage Data Bank.

H.R. 2972. An act to authorize appropriations for the Securities and Exchange Commission, to reduce the fees collected under the Federal securities laws, and for other purposes.

H.J.Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

The message further announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 149. Concurrent resolution condemning terror attacks in Israel.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2276. An act to establish the Federal Aviation Administration as an independent establishment in the executive branch, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2685. An act to repeal the Medicare and Medicaid Coverage Data Bank; to the Committee on Finance.

H.R. 2972. An act to authorize appropriations for the Securities and Exchange Commission, to reduce the fees collected under the Federal securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 149. Concurrent resolution condemning terror attacks in Israel, to the Committee on Foreign Relations.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 2064. An act to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2054. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "Program Review of the Economic Development Finance Corporation for Fiscal Year 1994"; to the Committee on Governmental Affairs.

EC-2055. A communication from the Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2056. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2057. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2058. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2059. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2060. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2061. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2062. A communication from the Director of the National Gallery of Art, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2063. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2064. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2065. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2066. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2067. A communication from the Office of Special Counsel, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2068. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2069. A communication from the Chairman of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2070. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2071. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2072. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2073. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2074. A communication from the Chair of the Federal Labor Relations Authority, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2075. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2076. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2077. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2078. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2079. A communication from the Executive Director of the State Justice Institute, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2080. A communication from the Executive Director of the U.S. National Commission on Libraries and Information Science, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2081. A communication from the Chairman of the U.S. Commission For the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2082. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2083. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2084. A communication from the Attorney General, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2085. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2086. A communication from the Director of the Morris K. Udall Scholarship and Excellence in National Environment Policy Foundation, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2087. A communication from the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2088. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2089. A communication from the Chairman of the Board of Trustees of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2090. A communication from the Chairman of the U.S. Merit System Protection Board, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2091. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2092. A communication from the Chairman of the U.S. Commission For the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2093. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2094. A communication from the Chairman of the African Development Foundation, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2095. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2096. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2097. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2098. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2099. A communication from the Comptroller General, transmitting, pursuant to law, the report of General Accounting Office reports for January 1996; to the Committee on Governmental Affairs.

EC–2100. A communication from the Comptroller General, transmitting, pursuant to law, the report of General Accounting Office reports for December 1995; to the Committee on Governmental Affairs.

EC–2101. A communication from the Comptroller General, transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2102. A communication from the Assistant Comptroller General (Accounting and Information Management Division), transmitting, pursuant to law, the annual report for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2103. A communication from the Director of the Office of Financial Management (General Services and Controller), General Accounting Office, transmitting, pursuant to law; to the Committee on Governmental Affairs.

EC–2104. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend the Right to Financial Privacy Act of 1978; to the Committee on Governmental Affairs.

EC–2105. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the amount of personal property furnished to non-Federal recipients; to the Committee on Governmental Affairs.

EC–2106. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report under the Program Fraud Civil Remedies Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2107. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report on material weaknesses; to the Committee on Governmental Affairs.

EC–2108. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the audit follow-up for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2109. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning surplus Federal real property; to the Committee on Governmental Affairs.

EC–2110. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report under the Single Audit Act for fiscal year 1993; to the Committee on Governmental Affairs.

EC–2111. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report entitled "Statistical Programs of the U.S. Government: Fiscal Year 1996"; to the Committee on Governmental Affairs.

EC–2112. A communication from the Executive Director of the National Education Goals Panel, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2113. A communication from the Chairperson of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2114. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, the report of the number of appeals submitted during fiscal year 1995; to the Committee on Governmental Affairs.

EC–2115. A communication from the Inspector General, transmitting, pursuant to law, a report relative to lobbying activities by contractors or grantees; to the Committee on Governmental Affairs.

EC–2116. A communication from the Vice Chairman and Chief Financial Officer of the Potomac Electric Power Company, transmitting, pursuant to law, the report of the balance sheet for calendar year 1995; to the Committee on Governmental Affairs.

EC–2117. A communication from the Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, the report of the privatization of investigations service through employee stock ownership plan; to the Committee on Governmental Affairs.

EC–2118. A communication from the Manager of the Benefits Communications of the Ninth Farm Credit District Trust Committee, transmitting, pursuant to law, the annual report for the plan year ended December 31, 1994; to the Committee on Governmental Affairs.

EC–2119. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Governmental Affairs.

EC–2120. A communication from the Acting Inspector General of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report under the Inspector General Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC-2121. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, a report relative to lobbying for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC-2122. A communication from the Acting Inspector General of the Federal Communication Commission, transmitting, pursuant to law, a report relative to Federal contracts; to the Committee on Governmental Affairs.

EC-2123. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a report relative to the procedural schedule; to the Committee on Governmental Affairs.

EC-2124. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report under the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC-2125. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the report of the justification of budget estimates for fiscal year 1997; to the Committee on Appropriations.

EC-2126. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93-50; to the Committee on Appropriations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Christopher M. Coburn, of Ohio, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2000.

Charles William Burton, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for a term expiring February 24, 2001.

Alvin L. Alm, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).

Thomas Paul Grumbly, of Virginia, to be Under Secretary of Energy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

> By Mr. BOND (for himself, Mr. NICKLES, Mr. DOLE, Mr. D'AMATO, Mr. MURKOWSKI, Mr. INHOFE, Mr. LOTT, Mr. GRAMM, and Mr. FRIST):

S. 1610. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees; to the Committee on Finance.

> By Mr. MCCONNELL:

S. 1611. A bill to establish the Kentucky National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

> By Mr. HELMS (for himself, Mr. DOLE, Mr. HATCH, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GRAMM, and Mrs. FEINSTEIN):

S. 1612. A bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

> By Mr. INOUYE (for himself, Mr. D'AMATO, Mr. SIMPSON, Mr. SMITH, Mr. MACK, Mr. CONRAD, Mr. FORD, Mr. MCCONNELL, Mr. HELMS, Mr. HEFLIN, Mr. STEVENS, Mr. DOMENICI, Mr. WARNER, Mr. GRAHAM, and Mr. CRAIG):

S. Con. Res. 46. A concurrent resolution to express Congress' admiration of the late Israeli Prime Minister Yitzhak Rabin and his contribution to the special relationship between the United States and Israel, and to express the sense of the Congress that the American Promenade in Israel be named in his memory; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

> By Mr. BOND (for himself, Mr. NICKLES, Mr. DOLE, Mr. D'AMATO, Mr. MURKOWSKI, Mr. INHOFE, Mr. LOTT, Mr. GRAMM, and Mr. FRIST):

S. 1610. A bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees; to the Committee on Finance.

THE INDEPENDENT CONTRACTOR TAX SIMPLIFICATION ACT OF 1996

Mr. BOND. Mr. President, determining worker classification is one of the most important tax issues facing small business today. Indeed, and in fact, it was rated No. 1 by the delegates to the White House Conference on Small Business. They said this is something that must be dealt with because the ambiguity in the current law makes it extremely difficult for business owners to determine whether a worker is an independent contractor or an employee. Today I will be introducing the Independent Contractor Tax Simplification Act on behalf of myself, Senator NICKLES, Senator DOLE, Senator D'AMATO, Senator MURKOWSKI and Senator LOTT.

For years, now, the Internal Revenue Service has used a 20-factor common law test to determine worker status. Frankly, the test is a nightmare of subjectivity and unpredictability for small business owners who often get their tutorial on the subtleties of the issue during an IRS audit—certainly an unfortunate time to be learning how tricky the law is.

IRS agents are required to consider 20 different factors to determine whether an employer/employee relationship exists. The problem is that the small business taxpayer is not able to predict which of the 20 factors is going to be more important to a particular IRS agent, and finding a certain number of these factors present in a case does not always determine the result.

Inevitably, what has been happening is that agents are resolving far too many cases in favor of the IRS and its tendency to find the existence of an employment relationship at the expense and disruption of bona fide independent contractor arrangements.

Let me make perfectly clear, the IRS has every right to obtain information on payments, whether they are made to an employee or to an independent contractor. It is our position that simplifying IRS collection does not warrant the IRS going beyond tax law to determine business organization, so long as the organizations are legitimate structures and the IRS has the information on payments so they may collect appropriate taxes.

This lack of a clear standard in existing law has made some small business owners reluctant to hire independent contractors and put others in great concern and risk of being pursued for back taxes.

In some cases, the concern is so great that it stifles business expansion. As I indicated earlier, the depth of the problem was made clear last summer when the White Conference on Small Business, a nationwide group of almost 2,000 small business delegates, voted the independent contractor issue first on its list for recommended changes.

Today, together with Senator NICKLES and the other Senators whom I mentioned, Senator NICKLES having been a long and consistent supporter of small business legislation, we introduce a bill that solves this problem. Our bill provides a short list of simple, clear objective standards that will allow all taxpayers to understand what the law says about who is an employee and who is an independent contractor. When this law is enacted, IRS agents will have clear direction, small business will have clear direction, but the IRS will no longer have the upper hand in today's confusing independent contractor law, which gives the IRS agent, when they deal with our country's small business taxpayers, advantage in determining their business organization.

I especially thank Senator NICKLES for his willingness to allow us to work on this bill together. Last September at a hearing, I held in the Small Business Committee, Senator NICKLES testified about his personal experience with this issue dating back to the small business that he began while he was a college student. For Senator NICKLES' company, like many startup companies and small businesses, it seemed to make perfect sense to hire independent contractors in certain situations. More established, larger businesses also need to hire independent contractors to accomplish specific tasks that may require specialized skill. In fact, many of America's entrepreneurs are in business as independent contractors whose livelihood is dependent upon the fact that other companies need their service and expertise. These entrepreneurs have no desire, nor do they have any need, to become employees of the businesses who purchase their services.

Others in our Small Business Committee hearing testified about their experiences with IRS agents regarding worker status, telling us about receiving IRS penalties as high as a quarter of a million dollars. Between these outrageously high penalties and the complexity of the 20-factor test, this issue, understandably, infuriates many small business taxpayers.

Mr. President, the Commissioner of Internal Revenue, the Honorable Margaret Richardson, in a speech to last summer's small business conference delegates, told them the IRS does not care whether someone is an employee or independent contractor, as long as they properly report their income, and that is as it should be. Yet, the IRS continues to pursue this issue fiercely during its audits. It has been reported that in a recent 4-year span, the IRS reclassified 338,000 workers as employees. The same report indicates the IRS prevails in 9 out of 10 worker classification audits. Little wonder when they have the upper hand with a very confusing, very complex 20-factor test.

Just last week, I received a copy of the "Revised Internal Revenue Service Worker Classification Training Materials." This was distributed by Commissioner Richardson. In her memo accompanying the document, she describes the purchase of the document as an attempt to identify, simplify and clarify the factors that should be applied in order to accurately determine worker classification.

There could be no more compelling justification for the importance of our immediate passage of the legislation than this document. We commend Commissioner Richardson for seeking to simplify, but this document is over 100 pages long. If it takes that much paper and that much ink to instruct IRS agents on how to simplify and clarify a small business tax issue, I think we can be pretty sure how simple and clear it is going to seem to the taxpayer sitting across the desk from an IRS agent during an audit.

As those who follow this issue know, what makes this problem especially frustrating is that unlike most interpretive actions of the IRS where they must determine the proper amount of income or deductions so Treasury can collect the amount of tax legally due to it, the independent contractor issue is not about how much tax the Government receives. The classification decision does not alter aggregate tax liability to the Government at all. This problem exists because of IRS's apparent desire to recast economic relationships between private parties that these parties have already determined for themselves. The Independent Contractor Tax Simplification Act will help move the IRS out of its de facto role of setting employment policy and back into its role of revenue collection.

Our bill sets out three simple questions to be asked in determining whether a person providing services is an employee or independent contractor.

First, is there a written agreement between the parties?

Second, does it appear the worker has made some investment, such as incurring substantial unreimbursed expenses or being paid primarily on a commission basis?

Third, does the worker appear to have some independence, such as having his or her own place of business?

In other words, under this bill, if there is a written contract between the parties and if basic investment and independence criteria are met, then the worker is an independent contractor. Plain, simple, predictable. Fine. To take advantage of this simple rule, the party must properly report payments above $600 to the IRS just like under current law. This ensures all taxes properly due to the Treasury can be collected.

The legislation is written to provide immediate clarification and relief to taxpayers undergoing IRS examinations currently. The change, no doubt, would save many businesses from a protracted and expensive battle with IRS. For some, it may even save the business.

When we in Congress find an opportunity to take action in a tax area so strongly supported by many small businesses, and when it is one that does not involve any loss to the Federal Treasury, we should act without delay. I am confident the Finance Committee can find an acceptable revenue offset for this worthy purpose to the extent that any revenue is lost. The revenue estimate for the bill should be fairly simple, reflecting the bill's provisions that assure continued collection of all taxes due the Federal Government.

Small businesses cannot afford to wait any longer for resolution of this problem, and they should not be expected to do so. They have waited for decades. We now have a bill that will solve the problem.

The companion bill has been introduced in the other body. I am told it has over 200 cosponsors. It is time Congress steps up to the plate and delivers for small business. I urge members of the Finance Committee to work with Senator NICKLES and others to report out a bill that provides this much-needed change.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the bill, a section-by-section analysis and copies of some letters of support for the bill we have received.

I also ask unanimous consent that Senators DOLE, D'AMATO, LOTT, MURKOWSKI, and INHOFE be shown as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Contractor Tax Simplification Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that:

(1) Simplifying the tax rules with respect to independent contractors was the top vote-getter at the 1995 White House Conference on Small Business. Conference delegates recommended that Congress "should recognize the legitimacy of an independent contractor". The Conference found that the current common law is "too subjective" and called upon the Congress to establish "realistic and consistent guidelines".

(2) It is in the best interests of taxpayers and the Federal Government to have fair and objective rules for determining who is an employee and who is an independent contractor.

SEC. 3. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (general provisions relating to employment taxes) is amended by adding after section 3510 the following new section:

"SEC. 3511. STANDARDS FOR DETERMINING WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) GENERAL RULE.—For purposes of this title, and notwithstanding any provision of this title to the contrary, if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by any individual, then with respect to such service—

"(1) the service provider shall not be treated as an employee,

"(2) the service recipient shall not be treated as an employer,

"(3) the payor shall not be treated as an employer, and

"(4) compensation paid or received for such service shall not be treated as paid or received with respect to employment.

"(b) SERVICE PROVIDER REQUIREMENTS WITH REGARD TO SERVICE RECIPIENT.—For the purposes of subsection (a), the requirements of this subsection are met if the service provider, in connection with performing the service—

"(1) has a significant investment in assets, training, or both,

"(2) incurs significant unreimbursed expenses,

"(3) agrees to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause, "(4) is paid primarily on a commissioned basis or per unit basis, or

"(5) purchases products for resale.

"(c) ADDITIONAL SERVICE PROVIDER REQUIREMENTS WITH REGARD TO OTHERS.—For the purposes of subsection (a), the requirements of this subsection are met if—

"(1) the service provider—

"(A) has a principal place of business,

"(B) does not primarily provide the service at the service recipient's facilities,

"(C) pays a fair market rent for use of the service recipient's facilities, or

"(D) operates primarily from equipment not supplied by the service recipient; or

"(2) the service provider—

"(A) is not required to perform service exclusively for the service recipient, and

"(B) in the year involved, or in the preceding or subsequent year—

"(i) has performed a significant amount of service for other persons,

"(ii) has offered to perform service for other persons through—

"(I) advertising,

"(II) individual written or oral solicitations,

"(III) listing with registries, agencies, brokers, and other persons in the business of providing referrals to other service recipients, or

"(IV) other similar activities, or

"(iii) provides service under a business name which is registered with (or for which a license has been obtained from) a State, a political subdivision of a State, or any agency or instrumentality of 1 or more States or political subdivisions.

"(d) WRITTEN DOCUMENT REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are met if the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed, or the payor, and such contract provides that the individual will not be treated as an employee with respect to such services for purposes of this subtitle.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) FAILURE TO MEET REPORTING REQUIREMENTS.—If for any taxable year any service recipient or payor fails to meet the applicable reporting requirements of section 6041(a), 6041A(a), or 6051 with respect to a service provider, then, unless such failure is due to reasonable cause and not willful neglect, this section shall not apply in determining whether such service provider shall not be treated as an employee of such serviced recipient or payor for such year.

"(2) RELATED ENTITIES.—If the service provider is performing services through an entity owned in whole or in part by such service provider, then the references to 'service provider' in subsections (b) through (d) may include such entity, provided that the written contract referred to in paragraph (1) of subsection (d) may be with either the service provider or such entity and need not be with both.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SERVICE PROVIDER.—The term 'service provider' means any individual who performs service for another person.

"(2) SERVICE RECIPIENT.—Except as provided in paragraph (5), the term 'service recipient' means the person for whom the service provider performs such service.

"(3) PAYOR.—Except as provided in paragraph (5), the term 'payor' means the person who pays the service provider for the performance of such service in the event that the service recipients do not pay the service provider.

"(4) IN CONNECTION WITH PERFORMING THE SERVICE.—The term 'in connection with performing the service' means in connection or related to—

"(A) the actual service performed by the service provider for the service recipients or for other persons for whom the service provider has performed similar service, or

"(B) the operation of the service provider's trade or business.

"(5) EXCEPTIONS.—The terms 'service recipient' and 'payor' do not include any entity which is owned in whole or in part by the service provider."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end the following new item:

"Sec. 3511. Standards for determining whether individuals are not employees."

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to services performed before, on, or after the date of the enactment of this Act.

SUMMARY OF THE INDEPENDENT CONTRACTOR TAX SIMPLIFICATION ACT

For too long now, businesses have been forced to rely upon complicated and ambiguous IRS guidelines for classifying individual workers as employees or independent contractors. IRS audit determinations of misclassification often result in heavy tax penalties. Clarifying independent contractor rules was considered the top small business priority by conference delegates at the 1995 White House Conference on Small Business.

Instead of trying to define who is an employee (the common law 20-point test), this legislation creates a simple definition of who is not an employee.

GENERAL RULE

If this legislation's requirements are met with respect to any service performed by any individual, then the service provider shall not be treated as an employee, the service recipient shall not be treated as an employer, the payor shall not be treated as an employer, and the compensation paid shall not be treated as paid with respect to employment.

INVESTMENT/TRAINING/RISK

With regard to the service being performed, the service provider must—

(1) have a significant investment in assets and/or training, or

(2) incur significant unreimbursed expenses, or

(3) agree to perform the service for a particular amount of time or to complete a specific result and is liable for damages for early termination without cause, or

(4) be paid primarily on a commissioned or per-unit basis, or

(5) purchase products for resale.

PRINCIPAL PLACE OF BUSINESS/ADVERTISING

With regard to other parties, the service provider must—

(1) have a principal place of business, or

(2) not primarily provide the service in the recipient's facilities unless the provider is paying a fair market rent for this use, or

(3) operate primarily from equipment not supplied by the service recipient, or

(4) not be required to perform service exclusively for the service recipient, and

(a) have recently performed a significant amount of service for other persons, or

(b) have offered to perform service for persons through advertising, individual solicitations, listing with registries, etc, or other similar activities, or

(c) have provided service under a registered or licensed business name.

WRITTEN DOCUMENT REQUIREMENTS

The services of a provider must be performed pursuant to a written contract between such individual and the service recipient stating that the provider will not be treated as an employee.

SPECIAL RULES

If any service recipient fails to meet the applicable IRS reporting requirements with respect to a service provider, then they may not rely upon these simplified independent contractor guidelines and are subject to the existing 20-point common law test.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 12, 1996.

Hon. KIT BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I am writing to offer our strong support of the Independent Contractor Simplification Act. The independent contractor issue has been confusing and burdensome for small business owners for decades. As you know, the independent contractor issue was the top recommendation of the 1995 White House Conference on Small Business.

Small businesses are put in a lose-lose situation with the Internal Revenue Service. Under the current law, they are required to classify individuals as independent contractors or employees based on extremely vague and ambiguous IRS guidelines. When a small business owner mistakenly misclassifies a worker based on these vague criteria, the IRS audits the business and levies back tax penalties. Even if the employer fully reported all payments to the independent contractor and the mistake was unintentional, these penalties are still levied. This misunderstanding can put the employer out of business. For small businesses, misinterpreting these nebulous IRS guidelines can be financially devastating.

The Independent Contractor Simplification Act sets forth an alternate set of clear and distinct criteria for businesses to follow when classifying their workers. It solves the independent contractor problem by defining who is not an employee. Most importantly, the legislation puts forth safeguards against abusing this classification by prohibiting both independent contractor and employer from relying on these new rules if all payments for service are not properly reported to the IRS.

We commend you on your legislation which sends much needed relief to our nation's small business owners and the million of budding entrepreneurs who have an interest in being an independent contractor. We look forward to working with you to move the Independent Contractor Simplification Act through the Senate.

Sincerely,

DONALD A. DANNER,
Vice President,
Federal Governmental Relations.

THE INDEPENDENT
CONTRACTOR COALITION,
Washington, DC.

Hon. KIT BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: We the undersigned, representing a cross-section of close to one million businesses and individuals, are writing to offer our strong support for the Independent Contractor Tax Simplification Act.

This legislation will bring much needed relief to millions of businesses and budding entrepreneurs in addressing ambiguities in the IRS guidelines for determining independent contractor status.

At a minimum, the current system by which the IRS enforces laws and regulations governing an individual's employment tax status promotes uncertainty and inhibits entry of aspiring entrepreneurs into the free market system as independent contractors. At its worst, the current system is unfairly biased against the use of independent contractors and constrains economic expansion of our nation's free market system.

The Bond/Nickles bill will settle many of the problems associated with the current system. By setting forth a clear set of alternate criteria, this legislation will resolve many of the long standing complaints businesses and individuals have had with the vague and often subjective guidelines the IRS uses to classify workers as employees or independent contractors.

As the leading coalition of businesses and individuals working to clarify independent contractor status, we commend you on your effort and look forward to working with you to move this legislation through the Senate.

Allow the free enterprise system to work for the benefit of our economy.

Sincerely,

NELSON LITTERST,
NFIB, Co-Chair.
JOHN SATAGAJ,
SBLC, Co-Chair.

THE BOND/NICKLES INDEPENDENT CONTRACTOR LEGISLATION—ENDORSEMENT LIST

Agricultural & Industrial Manuf. (AIMRA).
Air Courier Conference of America.
Alliance of Independent Store Owners & Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Association of Meat Processors.
American Association for Medical Transcription.
American Association of Nurserymen.
American Consulting Engineers Councils.
American Council of Independent Laboratories.
American Rental Association.
American Society of Interior Designers.
Associated Builders & Contractors.
Associated Landscape Contractors of America.
American Society of Travel Agents.
American Warehouse Association.
Bureau of Wholesale Sales Representatives.
Business Advertising Council, Inc.
Computer Software Industry Association.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Expedited Package Independent Contractor Council.
FTD Association.
Health Industry Representatives Association.
Helicopter Association International.
Home Food Service of Colorado.
Independent Computer Consultants Association.
Independent Distributors Association.
Independent Medical Distributors Association.
Institute of Electrical and Electronics Engineers-U.S. Activities.
International Association for Financial Planning.
International Taxi Cab and Livery Association.
International Television Association Inc.
Marine Retailers Association of America.
McNair Law Firm.
Messenger Courier Association of the Americas.
Metal Treating Institute.
National Association of Computer Consultant Businesses.
National Association of Orchestra Leaders.
National Association of the Remodeling Industry.
National Association for the Self-Employed.
National Electrical Manufacturers Representative Association.
National Federation of Independent Business.
National Fire Sprinkler Association.
National Home Furnishings Association.
National Moving & Storage Association.
National Restaurant Association.
National Tooling & Machining Association.
National Tour Association.
Nurse Brokers and Contractors of America.
Power-Motion Technology Representative Association.
Promotional Products Association International.
Rich Plan Corporation.
Securities Industry Association.
Small Business Legislative Council.
SMC Business Councils.
Society of American Florists.
The Management Association of Illinois.
World Floor Covering Association.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, March 4, 1996.

Hon. CHRISTOPHER BOND,
Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND NICKLES: On behalf of the Small Business Legislative Council (SBLC), I wish to express our strong support for your legislation to establish clear and objective rules for the purposes of determining whether an individual is an independent contractor or employee.

This is a long-time concern of the SBLC. Indeed, one of the founding principles of the organization, when it was established in the mid-1970s, was to work to encourage individuals to pursue the American Dream—owning and managing their own business. Becoming an independent contractor is both the means and the end to that goal.

As you know, the delegates to the 1995 White House Conference on Small Business made this one of their priority recommendations. Indeed, while there was no official ranking, this was the top vote-getter in the final balloting.

Congratulations on this initiative! We look forward to working with you towards the passage and enactment.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance for American Innovation.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
AMT–The Association for Manufacturing Technology.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Franchise Association.
International Television Association.
Machinery Dealers National Association.
Mail Advertising Service Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.

National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Chimney Sweep Guild.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear & Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Wood Flooring Association.
NATSO, Inc.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
The Retailer's Bakery Association.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC Business Councils.
Society of American Florists.
Turfgrass Producers International.

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC, March 4, 1996.

Hon. CHRISTOPHER BOND,
Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND NICKLES: On behalf of the National Home Furnishings Association (NHFA), I would like to offer our endorsement of your bill to establish criteria for the determination of individuals as independent contractors or employees for federal employment tax purposes.

Our retailers engage independent contractors to provide a variety of services including design, installation, and delivery. This has been a long-standing practice in our industry.

The unsettled nature of the law in this area has been the cause for concern in our industry and, therefore, we support your efforts.

The NHFA represents approximately 2,800 retailers of home furnishings throughout the United States.

We look forward to working with you towards passage of this important legislation.

Sincerely,

PATRICIA BOWLING,
Executive Vice President.

WORLD FLOOR COVERING ASSOCIATION,
Washington, DC, March 4, 1996.

Hon. CHRISTOPHER BOND,
Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND NICKLES: On behalf of the World Floor Covering Association (WFCA), and our member floorcovering retailers, I would like to express our strong support for your bill to establish realistic criteria for the classification of individuals as independent contractors or employees for federal employment tax purposes.

Our retailers engage independent contractors to provide installation services. This has been a long-standing practice in our industry and is fundamental to the way we do and have done business for many years.

Over the years, we and our members have discussed this matter with the IRS on numerous occasions. The only thing we can say about the discussions is it is apparent to us that Congress must step in and establish a clear and objective set of rules. That is why we support your bill. We also believe Congress should establish once and for all, that encouraging individuals to become independent contractors is a good thing for the nation and the economy.

We look forward to working with you towards passage of this important legislation.

Sincerely,

D. CHRISTOPHER DAVIS,
Chief Executive Officer.

PROMOTIONAL PRODUCTS
ASSOCIATION INTERNATIONAL,
Irving, TX, March 4, 1996.

Hon. CHRISTOPHER BOND,
Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND NICKLES: On behalf of the Promotional Product Association International (PPA), I would like to offer our support for your bill to establish rules for the classification of individuals as independent contractors or employees.

Historically, our industry has engaged independent contractors to sell its products and services. We feel our industry practice is the epitome of the American tradition of selling products and services through independent sales representatives.

We strongly believe clear and objective rules that will put the ongoing battle between the IRS and small business over this issue behind us are needed and welcomed. Therefore, we support your efforts.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise imprinted with an advertiser's name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

We look forward to working with you towards passage of this important legislation.

Sincerely,

G. STEPHEN SLAGLE,
President.

Mr. NICKLES. Mr. President, one of the most fundamental concepts in our free enterprise economy is the ability of any American to use talent, intelligence, and hard work to start a business. The small, independent business is the engine which drives innovation, job creation, and increased economic activity in this country.

For many small, start-up companies, independent contractor status is the best way, and sometimes the only way, they can do business. Similarly, many larger, established businesses find that using independent contractors is the most effective way of handling projects that require special talents. There are five million independent contractors in America according to the Small Business Administration, and almost one-third of all companies use independent contractors to some degree. Independent contractor status gives both the service provider and the service recipient the flexibility needed to be competitive in today's economic environment.

Before coming to the U.S. Senate, I had first hand experience with these issues; both working as and employing independent contractors. The janitorial service I began as a student at Oklahoma State University could not have existed if I had been required to work as an employee, and it never would have expanded if I could not have hired other students as independent contractors to handle specific jobs.

Despite the obvious importance of independent contractors to our economy, Congress has amazingly failed to give workers or businesses adequate guidance as to who is an employee and who is an independent contractor. Unfortunately, this lack of decisive congressional action combined with aggressive dislike of independent contractors by the Internal Revenue Service has subjected many businesses to abusive audits and unfair penalties. In effect, our Government is killing the independent contractor.

Mr. President, I rise today with my colleague from Missouri, Senator BOND, to introduce the Independent Contractor Tax Simplification Act. This legislation is the Senate companion of a H.R. 1972, a bill introduced last year by Congressman Jon Christensen which now has 215 cosponsors. Our bill, which is supported by over 50 trade and industry associations, cuts through the horrendously complicated and ambiguous current law rules and provides relief and confidence to independent contractors and service recipients alike.

Why is congressional action needed, Mr. President? In the mid-1970's, the IRS undertook a major initiative to reclassify workers as employees. In response to the tremendous outcry from business owners, Congress in 1978 enacted what was intended to be a temporary solution, the section 530 safe harbor provisions. Section 530 prohibited the IRS from reclassifying workers as employees if the employer had a reasonable basis for treatment of the workers as independent contractors, or if a past IRS audit did not dispute the workers' classification.

So for two decades, independent contractor status has been controlled by this temporary solution, related IRS rulings, judicial precedent, and legislation targeted at specific industries. Those contractors and businesses who are unable to rely upon section 530 are subjected to a 20-point command law test which attempts to define an employer's control over workers. This common law test is the bane of employers and workers across the country, and is at the heart of the problems my legislation intends to address. The General Accounting Office calls the common law test "unclear and subject to conflicting interpretations". Even the Treasury Department has testified that "applying the common law test in employment tax issues does not yield clear, consistent, or even satisfactory answers, and reasonable persons may differ as to the correct classification".

The horror stories surrounding this issue are numerous and disturbing, Mr. President. Last year, "NBC Nightly News" ran a story on two business owners who are facing hundreds of thousands of dollars in back taxes and penalties because the IRS decided to reclassify their independent contractors as employees. One of these citizens, who owns a travel agency, received a bill for almost $200,000 in back taxes, penalties, and interest, despite the fact that his independent contractors had already paid their taxes. Mr. President, a $200,000 tax bill will close the doors of most small businesses.

According to the NBC report, the IRS has used these worker classification audits to collect more than three-quarters of a billion dollars from business owners over the last 7 years in disputed employment taxes, even though many of the independent contractors had already paid these taxes.

The Independent Contractor Tax Simplification Act replaces the complicated and arbitrary common law test with a simple definition of who is not an employee.

To qualify for independent contractor status, my legislation requires the service provider to have a significant investment in assets and/or training, or incur significant unreimbursed expenses, or agree to perform the service for a particular amount of time or to, complete a specific result and is liable for damages for early termination without cause, or be paid primarily on a commissioned or per-unit basis, or purchase products for resale.

Further, under my legislation the service provider must have a principal place of business, or not primarily provide the service in the recipient's facilities unless the provider is paying a fair market rent for their use, or operate primarily from equipment not supplied by the service recipient or not be required to perform service exclusively for the service recipient, and have recently performed a significant amount of service for other persons, or have offered to perform service for other persons through advertising, individual solicitations, listing with registries, et cetera, or other similar activities, or have provided service under a registered or licensed business name.

Finally, Mr. President, my legislation requires businesses and independent contractors to enter into a written contract and comply with all applicable IRS reporting requirements to ensure that payments to independent contractors are properly reported in order to prevent taxpayer arbitrage.

I would like to stress, Mr. President, that this legislation is not a comprehensive rewrite of all independent contractor law. It is very difficult to address all worker classification issues in one bill, because there is an unlimited number of employment situations and each one presents different challenges. Further, many individuals, businesses, and trade associations have resolved their problems with the IRS, and they fear that a comprehensive change in the law will force them to renew old arguments with the Government or impose unwanted conditions on their employment practices, such as tax withholding. The Independent Contractor Tax Simplification Act will benefit those businesses and contractors who have not resolved their status with the IRS, while preserving current law for those who are satisfied with it.

Mr. President, it is not fair to business, nor is it conducive to the entrepreneurial spirit of this country, to leave the question of worker classification up to the whim of the IRS. The importance and timeliness of this issue was made clear last summer when delegates to the White House Conference on Small Business made clarifying independent contractor rules their No. 1 small business priority. I believe Congress should act decisively to recognize the importance of independent contractors, and I invite my colleagues to join me in this initiative.

By Mr. McCONNELL:

S. 1611. A bill to establish the Kentucky National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

THE KENTUCKY NATIONAL WILDLIFE REFUGE AUTHORIZATION ACT

• Mr. McCONNELL. Mr. President, I introduce a bill to establish the Kentucky National Wildlife Refuge. The designation will give Kentucky something that 49 other States have enjoyed for a long time: its own national wildlife refuge. What this means to my State is new tourism opportunities and a pristine environmental preserve that will be part of our legacy to future generations.

Nearly 100 years ago, President Theodore Roosevelt established the National Wildlife Refuge System to protect our Nation's open lands, water, and wildlife for the future. It was one of the first Federal environmental programs in our history.

Today, the National Wildlife Refuge System is made up of 571 refuges in 49 States and U.S. Territories, totaling nearly 92 million acres of the Nation's best wildlife habitat. Until now, Kentucky has been the only State without its own independently managed refuge.

The legislation I am proposing will authorize the U.S. Fish and Wildlife Service to purchase up to 20,000 acres in western Kentucky located in the east fork of the Clarks River. This site, located near Benton, is the only major bottomland hardwood area remaining in western Kentucky.

Once established, the Kentucky National Wildlife Refuge will showcase a unique ecosystem, protecting wildlife and offering a variety of educational opportunities for the public. This refuge will also provide recreational activities, including bird-watching, hiking, hunting, and the fishing.

The refuge area is situated on an important migratory fly-way and breeding area for a variety of waterfowl. A large number of migratory birds including wood ducks, song birds, and the threatened bald eagle make their home here. The hardwood forests make an ideal habitat for numerous woodpeckers, hawks, and the eastern wild turkey. Other wildlife which would thrive in this area include deer, beavers, otters, and bobcats.

For visitors, the refuge is conveniently located near Paducah, Mayfield, Murray, and Benton, and is just 15 miles from Land Between the Lakes, which draws nearly 2 million visitors a year. This refuge is ideally suited to serve surrounding schools, recreational hikers, and hunters. The Clarks River will also appeal to those who enjoy canoeing and fishing as well.

In addition to the environmental and educational benefits, the designation of the Kentucky Wildlife Refuge will also provide a significant economic boost to the area. The creation of Kentucky's first refuge will help keep tourist dollars in the State. A perfect example of this is a trip, planned by the Louisville Zoo, to a National Wildlife Refuge in Tennessee. This trip is for Kentuckians who are interested in eagle-watching. By creating a Kentucky wildlife refuge, people who are interested in outdoor activities would have an opportunity here in Kentucky—something that nature lovers and the State would benefit from.

I have worked hard to ensure that my proposal is fair in protecting the rights of individual landowners, while preserving this important habitat. Contained in my bill is language to ensure that the acquisition of refuge lands will be from willing sellers, donations, or exchanges only.

I am sensitive to the property rights and concerns of local landowners; and for this reason I will closely follow the project to ensure that their rights are protected.

I have also worked closely with the Kentucky Farm Bureau to guarantee that the management of the refuge will not impact surrounding farmers or unduly restrict agricultural activities. I am confident that both agricultural interests and conservation interests can exist side-by-side in this region.

Finally, it is deeply gratifying to have such a broad array of support for my proposal, including State and local public officials, conservation groups, and sportsmen. I would like to commend Tom Bennett, commissioner of the Kentucky Department of Fish and Wildlife Resources, and his staff, for their efforts to establish consensus among the various groups. This refuge could never have been established without the strong support of people like Tom, as well as the cooperation we have received from the surrounding communities.

It has been 92 years since Teddy Roosevelt created the National Wildlife Refuge System. The time is long overdue for Kentucky to join that system at last.

Mr. President, I ask unanimous consent that a text of the bill be printed in the RECORD and a list of organizations and individuals who have endorsed the creation of the wildlife refuge also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kentucky National Wildlife Refuge Authorization Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the area known as the Clarks River Basin, consisting of 20,000 acres of bottomland hardwood and associated wetlands along the Clarks River and the East Fork of the Clarks River in Graves, Marshall, and McCracken Counties, Kentucky, is of critical importance to a variety of migratory and resident waterfowl, neotropical migratory birds, forest wildlife, and riverine species, and a wide array of other species associated with bottomland communities;

(2) the area is the only major, natural (unchannelized) bottomland hardwood wetland ecosystem remaining in western Kentucky and attracts wintering migratory waterfowl, neotropical migratory birds, and an array of raptors;

(3) the area provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, wildlife observers, hunters, anglers, hikers, and nature photographers;

(4) the area is an internationally significant environmental resource that is unprotected and requires active management to prevent vegetative encroachment and to otherwise protect and enhance the value of the area as fish and wildlife habitat;

(5) the Clarks River Basin has been identified in the preliminary project proposal plan for the establishment of the Kentucky National Wildlife Refuge, prepared by the United States Fish and Wildlife Service (Southeast Region), as an area deserving permanent protection; and

(6) since agriculture and silviculture are essential to the economies of Graves, Marshall, and McCracken Counties and can contribute to healthy ecosystems for wildlife, the refuge should not restrict agricultural and silvicultural activities on private lands.

SEC. 3. PURPOSE.

The purpose of this Act is to establish the Kentucky National Wildlife Refuge to be managed—

(1) to conserve fish and wildlife populations and the habitats of the populations, including habitats of bald eagles, golden eagles, Indiana bats, wood ducks, neotropical migratory birds, shorebirds, and other migratory birds;

(2) to preserve and showcase the concepts of biodiversity and ecosystem management;

(3) to enhance and provide a vital link to public areas containing habitat managed for waterfowl and other migratory birds;

(4) to fulfill international treaty obligations of the United States with regard to fish and wildlife and the habitats of the fish and wildlife;

(5) to restore and maintain the physical and biological integrity of wetlands and other waters within the refuge;

(6) to conserve species known to be threatened with extinction; and

(7) to provide opportunities for scientific research, environmental education, and fish- and wildlife-associated recreation (including hunting, trapping, and fishing) and access to the extent compatible with the management purposes specified in paragraphs (1) through (6).

SEC. 4. DEFINITIONS.

In this Act:

(1) LAND.—The term "land" includes an interest in land.

(2) REFUGE.—The term "refuge" means the Kentucky National Wildlife Refuge established under section 5.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(4) WATER.—The term "water" includes an interest in water.

SEC. 5. ESTABLISHMENT OF REFUGE.

(a) ESTABLISHMENT.—In accordance with this Act, the Secretary shall establish a staffed and fully functional national wildlife refuge to be known as the "Kentucky National Wildlife Refuge".

(b) BOUNDARY DESIGNATION.—The Secretary shall—

(1) consult with appropriate State and local officials, private conservation organizations, and other interested parties in designating the boundaries of the refuge, which shall comprise approximately 20,000 acres;

(2) prepare a detailed map depicting the boundaries designated under paragraph (1), which shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service; and

(3) include in the boundaries of the refuge the lands, aquatic systems, wetlands, and waters depicted on the maps prepared under paragraph (2).

(c) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under subsection (b) as are necessary to carry out the purpose of the refuge and to facilitate the acquisition of property within the refuge.

(d) ACQUISITION.—To the extent authorized under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.), the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3901 et seq.), and other laws, the Secretary may acquire for inclusion in the refuge, by purchase from willing sellers, donation, or exchange, lands and waters (including permanent conservation easements) within the boundaries designated under subsection (b). All lands and waters so acquired shall become part of the refuge.

(e) OPERATION AND MAINTENANCE.—The Secretary shall construct such office, maintenance, and support facilities as are necessary for the operation and maintenance of the refuge.

SEC. 6. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands and waters acquired under section 5 in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(b) OTHER ADMINISTRATIVE AUTHORITY.—Consistent with subsection (a) and to carry out the purpose of the refuge, the Secretary may use such additional authority as is available to the Secretary for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreational opportunities (including hunting, trapping, and fishing), and interpretative education.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the development and operation of the refuge that shall include—

(A) refuge management priorities and strategies;

(B) the planning and design of observation points, trails, and access points, including parking and other necessary facilities; and

(C) such provisions as are necessary to ensure that—

(i) no activity carried out in the refuge will result in the obstruction of the flow of water so as to affect any private land adjacent to the refuge; and

(ii) no buffer zone regulating any land use (other than hunting and fishing) is established.

(2) PUBLIC PARTICIPATION.—

(A) IN GENERAL.—The Secretary shall provide opportunity for public participation in developing the management plan.

(B) LOCAL ENTITIES.—The Secretary shall give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing the management plan can be encouraged.

(d) OUTREACH AND EDUCATION.—The Secretary shall work with, provide technical assistance to, provide community outreach and education programs for or with, or enter into cooperative agreements with private landowners, State and local governments or agencies, and conservation organizations to further the purpose for which the refuge is established.

SEC. 7. GIFTS.

As soon as practicable after the date of enactment of this Act, the Director of the United States Fish and Wildlife Service shall request that the National Fish and Wildlife Foundation established under the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.) take such measures as the Foundation considers appropriate to encourage, accept, and administer private gifts of property or funds to further the purpose of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

ORGANIZATIONS THAT HAVE ENDORSED THE CREATION OF THE KENTUCKY NATIONAL WILDLIFE REFUGE

Appalachia Science in the Public Interest.
Association of Chenoweth Run Environmentalists.
Audubon Society of Kentucky.
Bell County Beautification Association.
Berea College Biology Club.
Brushy Fork Water Watch.
Community Farm Alliance.
Daviess County Audubon Society & Kentucky Ornithological Society.
Department of Parks
Eastern KY University Wildlife Society.
Elkhorn Land & Historic Trust Inc.
Floyds Fork Environmental Association.
Friends of Mill Creek.
Gun Powder Creek Water Watch.
Harlan County Clean Community Association.
Hart County Environmental Group.
Highlands Group Cumberland Chapter Sierra Club.
Ky Academy of Science.
Ky Association for Environmental Education.
Ky Audubon Council.
Ky Citizens Accountability Project.
Ky Conservation Committee.
Ky Fish & Wildlife Education & Resource Foundation.
Ky Houndsmen Association.
Ky Native Plant Society.
Ky Society of Natural History.
Ky State Nature Preserve Commission.
Lake Cumberland Water Watch.
Land & Nature Trust of the Bluegrass.
League of Ky Sportsman.
League of Women Voters of Kentucky.
Leslie County KAB System.
Litter River Audubon Society.
Louisville Audubon Society.
Louisville Chapter 476 of Trout Unlimited.
Louisville Nature Center.
Madison County Clean Community Committee.
Madison Environment.
Mall Interiors.
Midway Area Environmental Committee.
National Wild Turkey Federation.
Oldham Community Center & Nature Preserve, Inc.
Petersen's Fault Farm.
Pleasant Hill Recreation Association.
Pride Inc.
Quail Unlimited
Rockcastle River Rebirth.
Rocky Mountain Elk Foundation.
Ruddles Mill Conservation Project.
Scenic Kentucky.
Shelby Clean Community Program.
Shelby County Clean Community Council.
Sierra Club Cumberland Chapter.
Steve & Janet Kistler.
The Nature Conservancy/Kentucky Chapter.
The Wildlife Connection.
Trout Unlimited/KYOUA Chapter.
Mikeal E. Joseph.
Paul Garland.
Paul C. Garland.
Kathy Zajac.
William S. Bryant.
Frances Williams.
The Black Family.●

By Mr. HELMS (for himself, Mr. DOLE, Mr. HATCH, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GRAMM, and Mrs. FEINSTEIN):

S. 1612. A bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes; to the Committee on the Judiciary.

MANDATORY MINIMUM SENTENCING LEGISLATION

Mr. HELMS. Mr. President, a drug trafficker who in 1992 was convicted in the U.S. District Court for the Eastern District of North Carolina was released from prison 2 days ago, Monday, March 11, as the tragic result of an unfortunate and unwise Supreme Court decision.

Although the drug trafficker had 5 more years to serve, the U.S. Supreme Court, using the flimsiest of reasoning, set this convicted drug trafficker free. So, Mr. President, the bill I am introducing today will prevent future criminals from being set free. I am advised that my bill is being numbered S. 1612.

Mr. President, S. 1612 provides that a 10-year minimum mandatory sentence shall be imposed upon any criminal possessing a gun during and in relation to the commission of a violent or drug trafficking crime. This, of course, does not apply to lawful possession of a gun.

This bill will obviously crack down on gun-toting thugs who commit violent felonies and drug trafficking offenses and other felonies. Moreover, it will ensure that criminals possessing a firearm while committing a violent or drug trafficking felony shall receive a stiff punishment.

This is just common sense, Mr. President; violent felons who possess firearms are more dangerous than those who do not.

Current Federal law provides that a person who, during a Federal crime of violence or drug trafficking crime, uses or carries a firearm shall be sentenced to 5 years in prison. That law has been used effectively by Federal prosecutors across the country to add 5 additional years to the prison sentences of criminals who use or carry firearms.

However, a recent U.S. Supreme Court decision threatens to undermine the efforts of prosecutors to use this statute effectively. The Supreme Court's decision, Bailey versus United States, interpreted the law to require that a violent felon actively employ a firearm as a precondition of receiving an additional 5 year sentence. The Court in Bailey held that the firearm must be brandished, fired or otherwise actively used before the additional 5 year sentence may be imposed. So if a criminal merely possesses a firearm, but does not fire or otherwise use it, he gets off without the additional 5 year penalty.

Mr. President, this Supreme Court decision poses serious problems for law enforcement. It weakens the Federal criminal law; it is leading to the early release of hundreds of violent criminals. Before this Supreme Court's error of judgment, in the Bailey versus U.S. decision, armed criminals committing violent or drug trafficking felonies were jailed for an additional 5 years, regardless of whether they actively employed their weapons. Now, as a result of the Court's decision, the prison revolving door is in full swing. Yet another roadblock has been erected between a savage criminal act and swift, certain punishment.

Mr. President, now that the word is out, prisoners already are preparing and filing motions to get out of jail as fast as they can write. U.S. attorneys are receiving petitions from criminals every day—for example consider the case of Lancelot Martin, who ran a drug trafficking operation out of Raleigh, NC: In 1992, Martin had attempted to use the U.S. Postal Service to receive and sell drugs. Martin was arrested by a Raleigh crime task force. The authorities obtained a warrant, searched his apartment, seized his drugs and recovered a 9 mm. semi-automatic pistol that Martin used to protect his drug business.

Martin was convicted of drug trafficking charges and received a 5 year sentence for using the gun. But Monday, well before his sentence expired, Martin walked free, simply because his gun and a hefty supply of drugs were found—but the Court somehow held that the gun was not actively employed during his drug trafficking crime.

So, Mr. President, my bill will ensure that future criminals possessing guns, like Lancelot Martin, serve real time when they use a gun in furtherance of a violent or drug trafficking crime. There are many other examples similar to the episode involving Lancelot Martin.

As a result of the Court's decision, any thug who hides a gun under the back seat of his car, or who stashes a gun with his drugs, may now get off with a slap on the wrist. Or if a criminal stores a sub-machinegun in a crack-house where he runs a drug trafficking operation, he can now avoid the additional penalty. The fact is, Mr. President, that firearms are the tools of the trade of most drug traffickers. Weapons clearly facilitate the criminal transactions and embolden violent thugs to commit their crimes.

I believe that mere possession of a firearm, during the commission of a violent felony—even if the weapon is not actively used—should nonetheless be punished—because of the heightened risk of violence when firearms are present. In its opinion, the Supreme Court observed, "Had Congress intended possession alone to trigger liability . . . it easily could have so provided." That, Mr. President, is precisely the intent of this legislation—to make clear that "possession alone" does indeed "trigger liability."

This legislation will increase the mandatory—repeat, mandatory—sentences for violent armed felons from 5 to 10 years—and if the firearm is discharged, the term of imprisonment is 20 years. This legislation also increases to 25 years the mandatory sentences for second and subsequent offenses.

Mr. President, this bill is a necessary and appropriate response to the Supreme Court's judicial limitation of the mandatory penalty for gun-toting criminals. According to Sentencing Commission statistics, more than 9,000 armed violent felons were convicted from April, 1991, through October, 1995. In North Carolina alone, this statute was used to help imprison over 800 violent criminals. We must strengthen law enforcement's ability to use this strong anticrime provision.

Fighting crime is, and should be, a top concern in America. It has been estimated that in the United States one violent crime is committed every 16 seconds. And with youth-related violent crime at an all-time high, we must fight back with the most severe punishment possible for those who terrorize law-abiding citizens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS POSSESSING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Except to the extent a greater minimum sentence is otherwise provided by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, possesses a firearm shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(i) be punished by imprisonment for not less than 10 years;

"(ii) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(iii) if the death of a person results, be punished by the death penalty or by imprisonment for not less than life.

"(B) If the firearm possessed by a person convicted under this subsection is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, such person shall be sentenced to imprisonment for not less than 30 years.

"(C) In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for not less than 25 years, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release.

"(D) Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was possessed.".

ADDITIONAL COSPONSORS

S. 581

At the request of Mr. FAIRCLOTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 948

At the request of Mr. DORGAN, the names of the Senator from Nebraska [Mr. KERREY] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 948, a bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes.

S. 953

At the request of Mr. DOLE, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

At the request of Mr. CHAFEE, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 953, supra.

S. 1483

At the request of Mr. KYL, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. THOMAS, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress regarding proposed missile tests by the People's Republic of China.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of Senate Resolution 226, a resolution to proclaim the week of October 13, through October 19, 1996, as "National Character Counts Week."

SENATE CONCURRENT RESOLUTION 46—RELATIVE TO THE LATE ISRAELI PRIME MINISTER RABIN

Mr. INOUYE (for himself, Mr. D'AMATO, Mr. SIMPSON, Mr. SMITH, Mr. MACK, Mr. CONRAD, Mr. FORD, Mr. MCCONNELL, Mr. HELMS, Mr. HEFLIN, Mr. STEVENS, Mr. DOMENICI, Mr. WARNER, Mr. GRAHAM, and Mr. CRAIG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 46

Whereas the late Prime Minister Rabin was an outstanding Ambassador during his service in the United States;

Whereas the late Israeli Prime Minister Yitzhak Rabin was a chief architect of the military and nonmilitary ties between the United States and Israel;

Whereas the late Prime Minister Rabin was one of the leading and more consistent and reliable friends of the United States in the world;

Whereas the late Prime Minister Rabin was a cornerstone of the alliance between the United States and Israel in the face of terrorism and radicalism;

Whereas the late Prime Minister Rabin strengthened the values of democracy, pluralism, and market economy, which are at the foundation of both the United States and Israel;

Whereas the late Prime Minister Rabin, the courageous warrior, dedicated most of his life to Israel's independence and security;

Whereas the late Prime Minister Rabin devoted the latter part of his life to the pursuit of lasting peace between Israel and its neighbors;

Whereas the American Promenade in Israel is a privately funded project, expressing Israel's appreciation toward the United States and commemorating the unique bonds of friendship between the two countries;

Whereas the American Promenade had earned the bipartisan support of the top Israeli leadership, including the late Prime Minister Rabin, Prime Minister Shimon Peres, former Prime Minister Yitzhak Shamir, and Likud Chairman Benjamin Netanyahu, as well as the leadership of the United States Congress;

Whereas the American Promenade will consist of 50 marble, 20 foot high monuments bearing the flags and the official seals of the 50 States of this country and the United States-Israel Friendship Botanical Garden, featuring biblical and State trees and flowers; and

Whereas the late Prime Minister Rabin served as the Honorary Chairman of the American Promenade: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress expresses its admiration of the legacy of the late Israeli Prime Minister Yitzhak Rabin and his contribution to the special relationship between the United States and Israel; and

(2) it is the sense of the Congress that the American Promenade in Israel be named in memory of Prime Minister Yitzhak Rabin as an extraordinary leader who served the cause of peace and who furthered the special relationship between the United States and Israel.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWN PAYMENT ACT, II

McCONNELL (AND OTHERS) AMENDMENT NO. 3480

Mr. DOLE (for Mr. McCONNELL for himself, Mr. DOLE, Mr. BENNETT, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. McCAIN, Mr. D'AMATO, and Mr. BURNS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

No funds may be provided under this Act until the President certifies to the Committee on Appropriations that:

(1) The Federation of Bosnia and Herzegovina is in full compliance with Article III, Annex 1A of the Dayton Agreement; and

(2) Intelligence cooperation between Iranian officials and Bosnian officials has been terminated.

McCONNELL (AND OTHERS) AMENDMENT NO. 3481

Mr. DOLE (for Mr. McCONNELL for himself, Mr. DOLE, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. McCAIN, Mr. D'AMATO, and Mr. BURNS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 751, section entitled "Agency for International Development, Assistance for Eastern Europe and the Baltics," insert at the appropriate place, the following: "*Provided further*, That funds appropriated by this Act may only be made available for projects, activities, or programs within the sector assigned to American forces of the NATO military Implementation Force (IFOR) and Sarajevo: *Provided further*, That Priority consideration shall be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list": *Provided further*, That No funds made available under this Act, or any other Act, may be obligated for the purposes of rebuilding or repairing housing in areas where refugees or displaced persons are refused the right of return due to ethnicity or political party affiliation: *Provided further*, That No funds may be made available under this heading in this Act, or any other Act, to any banking or financial institution in Bosnia and Herzegovina unless such institution agrees in advance, and in writing, to allow the United States General Accounting Office access for the purposes of audit of the use of U.S. assistance: *Provided further*, That effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for the purposes of economic reconstruction in Bosnia and herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the bilateral contributions pledged by non-U.S. donors are at least equivalent to the U.S. bilateral contributions made under this Act and in the FY 1995 and FY 1996 Foreign Operations, Export Financing and Related Programs Appropriations bills.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 3482

Mr. LAUTENBERG (for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. LIEBERMAN, Mr. KENNEDY, Mr. LEVIN, Mr. WELLSTONE, Mrs. BOXER, and Mr. LEAHY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 781, between lines 4 and 5, insert the following:

TITLE V—ENVIRONMENTAL INITIATIVES

CHAPTER 1—RESTORATIONS FOR PRIORITY ENVIRONMENT PROGRAMS

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

In addition to funds provided elsewhere in this Act, $72,137,000, to remain available until December 31, 1996.

DEPARTMENT OF AGRICULTURE

STATE AND PRIVATE FORESTRY

An additional $14,500,000 for the stewardship incentive program.

DEPARTMENT OF ENERGY

ENERGY CONSERVATION

In addition to funds provided elsewhere in this Act, $75,000,000, to remain available until expended.

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

An additional $5,000,000 for the Agricultural Research Service for the purpose of carrying out additional research related to a replacement for methyl bromide.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

In addition to funds provided elsewhere in this Act, $37,000,000, to remain available until September 30, 1997.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $148,000,000, to remain available until September 30, 1997.

BUILDINGS AND FACILITIES

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, EPA is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $232,000,000, and to obligate such monies as are made available by this Act, and hereafter, for this purpose.

HAZARDOUS SUBSTANCE SUPERFUND

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508.

STATE AND TRIBAL ASSISTANCE GRANTS

In addition to funds provided elsewhere in this Act, $440,000,000, to remain available until expended, of which $365,000,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing, and $75,000,000 shall be for making grants for the construction of wastewater treatment facilities for municipalities discharging into Boston Harbor in accordance with the terms and conditions specified for Boston Harbor grants in the Conference Report accompanying H.R. 2099: *Provided*, That of the additional $365,000,000 for capitalization grants for State revolving funds, $175,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under Title VI of the Federal Water Pollution Control Act, as amended.

CHAPTER 2—SPENDING OFFSETS

Subchapter A—Debt Collection

SEC. 5101. SHORT TITLE.

This subchapter may be cited as the "Debt Collection Improvement Act of 1996".

SEC. 5102. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the provisions of this subchapter and the amendments made by this subchapter shall be effective on the date of enactment of this Act.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraph (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall—

"(i) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period; and

"(ii) consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,00 exemption.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under thestandards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based only on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations, and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7)(A) Any Federal agency that is owed by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

(c) Section 3701(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 5202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(f) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives.".

SEC. 5203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended in paragraph (8)(B)—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 5204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial, or legislative agency".

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.'';

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

''(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.''; and

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

''(B) For purposes of this section 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.'';

(2) by adding at the end of subsection (b) the following new paragraphs:

''(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

''(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate.''; and

(3) by adding after subsection (c) the following new subsection:

''(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.''.

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97-365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking ''For purposes of this section'' and inserting instead ''For purposes of subsection (a)''; and

(2) by adding at the end thereof the following new subsections:

''(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

''(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

''(A) a lender or servicer in a Federal guaranteed or insured loan program;

''(B) an applicant for, or recipient of—

''(i) a Federal guaranteed, insured, or direct loan; or

''(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

''(C) a contractor of the agency;

''(D) assessed a fine, fee, royalty or penalty by that agency;

''(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

''(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

''(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such persons's relationship with the government.

''(3) For purposes of this subsection:

''(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

''(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

''(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.''.

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

''§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

''(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is resolved, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

''(b) The head of the agency may delegate the waiver authority described in subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

''(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association.''.

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

''3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.''.

Subpart D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 5241. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97-365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103-387) is repealed.

(c) Section 631 of the Tariff Act of 1930 (19 U.S.C. 1631), is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

''(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations.''; and

(B) by inserting after subsection (c) the following new subsection:

''(d) Sections 3711(f) and 3716-3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986.'';

(2) by amending section 3711(f) to read as follows:

''(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

''(2) The information disclosed to a consumer reporting agency shall be limited to—

''(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

''(B) the amount, status, and history of the claim; and

''(C) the agency or program under which the claim arose.''; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: ''Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets.''; and

(B) in subsection (d), by inserting '', or to locate or recover assets of,'' after ''owed''.

SEC. 5242. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from another account or from revenue received from Section 701. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of governmentwide debt collection activities. Costs properly chargeable to the Account include, but are not limited to—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout. A taxpayer identification number shall be included with each claim provided if it is in the agency's possession.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) will be disposed of under the loan sales program of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or a disbursing official of the United States designated by the Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180-day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative, or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative, or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized—

"(A) to prescribe such rules, regulations, and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies.".

SEC. 5243. COMPROMISE OF CLAIMS.

(a) Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

(b) This section shall be effective as of October 1, 1995.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"§ 3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed five percent of the debt collection improvement amount as described in paragraph (3).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the

Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under section 502 of the Debt Collection Improvement Act of 1996), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation Acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practicable after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal Government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subpart H—Definitions, Due Process Rights, and Severability

SEC. 5281. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico where there is also a Federal monetary interest or in cases of court ordered child support."; and

(3) by adding after subsection (f) (as added in section 5202(a)) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any Federal department, agency, or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5282. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

Subpart I—Reporting

SEC. 5291. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later than three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding non-tax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

PART II—JUSTICE DEBT MANAGEMENT

Subpart A—Private Attorneys

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99-578, 100 Stat. 3305) are hereby repealed.

Subpart B—Nonjudicial Foreclosure

SEC. 5311. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.

"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§ 3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§ 3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§ 3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§ 3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§ 3405. Notice of foreclosure sale; statute of limitations

"(a) IN GENERAL.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclosure shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§ 3406. Service of notice of foreclosure sale

"(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) NOTICE BY MAIL.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§ 3407. Cancellation of foreclosure sale

"(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender;

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§ 3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§ 3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§ 3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"§ 3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"§ 3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"§ 3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums; and

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§ 3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

Subchapter B—Sale of Governors Island, New York

SEC. 6021. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS FROM SALE.—Amounts received by the Administrator from the sale shall be—

(1) made available to pay for costs associated with moving Coast Guard vessels, equipment, and facilities presently sited at Governors Island to a different site, the cost of renovation or construction of appropriate facilities at such site, and the costs of environmental clean-up activities on Governors Island undertaken by the Coast Guard; and

(2) deposited as miscellaneous receipts in the general account of the United States Treasury.

CHAPTER 3—SPENDING DESIGNATION

SEC. 5501. EMERGENCY DESIGNATION.

Congress hereby designates all amounts in this entire title as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided*, That these amounts shall only be available to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted by the President to Congress.

BIDEN (AND OTHERS) AMENDMENT NO. 3483

Mr. BIDEN (for himself, Mr. KERRY, Mr. WELLSTONE, Mr. DASCHLE, Mr. LAUTENBERG, Mr. LEVIN, Ms. MIKULSKI, Mr. HARKIN, and Mrs. FEINSTEIN) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 3, line 8, add after "basis.":

COMMUNITY ORIENTED POLICING SERVICES

For public safety and community policing grants pursuant to Title I of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322) and related administrative costs, $1,788,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

On page 29, line 2, strike all after "('the 1990 Act');" through "That" on page 29, line 18 and insert in lieu thereof: "$1,217,200,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which".

SANTORUM AMENDMENT NOS. 3484–3488

(Ordered to lie on the table.)

Mr. SANTORUM submitted five amendments intended to be proposed by him to the amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3484

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that the Conference on S. 1594, making Omnibus Consolidated Rescissions & Appropriations for Fiscal Year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any federal disaster assistance.

AMENDMENT NO. 3485

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that the Congress and the relevant committees of the Senate shall examine the manner in which federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any federal assistance, providing for such funds out of existing budget allocation rather than taking the expenditures off budget and adding to the federal deficit.

AMENDMENT NO. 3486

Beginning on page 730, strike line 1 and all that follows through page 750, line 14, and insert the following:

TITLE II—EMERGENCY SUPPLEMENTAL EXPENDITURES AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations" to repair damages to waterways and watersheds resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, and other natural disasters, the Director of the Federal Emergency Management Agency shall use $107,514,000, to the extent funds are available to the Director as of the date of enactment of this Act: *Provided*, That if the Secretary determines that the cost of land and restoration of farm structures exceeds the fair market value of certain affected cropland, the Secretary may use sufficient amounts from funds provided under this heading to accept bids from willing sellers to provide conservation easements for the cropland inundated by floods as provided for by the wetlands reserve program, authorized by subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.).

CONSOLIDATED FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) for expenses resulting from floods in the Pacific Northwest and other natural disasters, the Director of the Federal Emergency Management Agency shall use $30,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, as authorized by section 404 of the Act (16 U.S.C. 2204).

RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund Program Account" for the cost of direct loans to assist in the recovery from floods in the Pacific Northwest and other natural disasters, the Director of the Federal Emergency Management Agency shall use $5,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, for the cost of direct loans under section 502 of the Housing Act of 1949 (42 U.S.C. 1472), and $1,500,000 for the cost of housing repair loans under section 504 of the Housing Act of 1949 (42 U.S.C. 1474).

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very Low-Income Housing Repair Grants" to make housing repairs needed as a result of floods and other natural disasters, pursuant to section 504 of the Housing Act of 1949 (42 U.S.C. 1474), the Director of the Federal Emergency Management Agency shall use $1,100,000, to the extent funds are available to the Director as of the date of enactment of this Act.

RURAL UTILITIES SERVICE

RURAL UTILITIES ASSISTANCE PROGRAM

For an additional amount for the "Rural Utilities Assistance Program" for the cost of direct loans and grants to assist in the recovery from floods in the Pacific Northwest and other natural disasters, the Director of the Federal Emergency Management Agency shall use $11,000,000, to the extent funds are available to the Director as of the date of enactment of this Act: *Provided*, That such funds may be available for emergency community water assistance grants as authorized by section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b).

ADMINISTRATIVE PROVISION

With the prior approval of the House and Senate Committees on Appropriations, funds made available to the Department of Agriculture under this chapter may be transferred by the Secretary of Agriculture between accounts of the Department of Agriculture included in this Act to satisfy emergency disaster funding requirements.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for emergency expenses resulting from flooding in the Pacific Northwest, the Director of the Federal Emergency Management Agency shall use $15,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, for grants and related expenses pursuant to the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.); and, in addition, $1,500,000 for administrative expenses which may be transferred to and merged with the appropriations for "Salaries and Expenses".

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

For an additional amount for "Construction" for emergency expenses resulting from flooding in the Pacific Northwest and other natural disasters, the Director of the Federal Emergency Management Agency shall use $10,000,000, to the extent funds are available to the Director as of the date of enactment of this Act.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account", the Director of the Federal Emergency Management Agency shall use $69,700,000 for the cost of direct loans, to the extent funds are available to the Director as of the date of enactment of this Act: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a); and for administrative expenses to carry out the direct loan program, $30,300,000, to the extent funds are available to the Director as of the date of enactment of this Act.

CHAPTER 3

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", the Director of the Federal Emergency Management Agency shall use $30,000,000, to the extent funds are available to the Director as of the date of enactment of this Act.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", the Director of the Federal Emergency Management Agency shall use $135,000,000, to the extent funds are available to the Director as of the date of enactment of this Act.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for the "Construction Program", the Director of the Federal Emergency Management Agency shall use $18,000,000, to the extent funds are available to the Director as of the date of enactment of this Act.

CHAPTER 4

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION AND ACCESS

For an additional amount for "Construction and Access", the Director of the Federal Emergency Management Agency shall use $5,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged because of the Pacific Northwest flooding.

OREGON AND CALIFORNIA GRANT LANDS

For an additional amount for "Oregon and California Grant Lands", the Director of the Federal Emergency Management Agency shall use $35,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged because of the Pacific Northwest flooding.

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for "Construction", the Director of the Federal Emergency Management Agency shall use $32,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, to repair damage caused by hurricanes, floods, and other acts of nature.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", the Director of the Federal Emergency Management Agency shall use $47,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, to repair damage caused by hurricanes, floods, and other acts of nature.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", the Director of the Federal Emergency Management Agency shall use $2,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, for costs related to hurricanes, floods, and other acts of nature.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", the Director of the Federal Emergency Management Agency shall use $500,000, to the extent funds are available to the Director as of the date of enactment of this Act, for emergency operations and repairs related to winter floods.

CONSTRUCTION

For an additional amount for "Construction", the Director of the Federal Emergency Management Agency shall use $16,500,000, to the extent funds are available to the Director as of the date of enactment of this Act, for emergency repairs related to winter floods.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for "Assistance to Territories", the Director of the Federal Emergency Management Agency shall use $13,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, for recovery efforts from Hurricane Marilyn.

DEPARTMENT OF AGRICULTURE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System", the Director of the Federal Emergency Management Agency shall use $26,600,000, to the extent funds are available to the Director as of the date of enactment of this Act, to repair damage caused by hurricanes, floods, and other acts of nature, including $300,000 for the costs associated with emergency removal and remediation, including access repairs, at the Amalgamated Mine site in the Willamette National Forest, containing sulphur-rich and other mining tailings, in order to prevent contamination of Battle Ax Creek, and the Little North Fork of the Santiam River, from which the city of Salem, Oregon, obtains its municipal water supply.

CONSTRUCTION

For an additional amount for "Construction", the Director of the Federal Emergency Management Agency shall use $60,800,000, to the extent funds are available to the Director as of the date of enactment of this Act.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

The first proviso under the heading "PAYMENTS TO AIR CARRIERS" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50; 109 Stat. 437), is amended to read as follows: "*Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $22,600,000 from the Airport and Airway Trust Fund for the Payments to Air Carriers program in fiscal year 1996:".

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

For the emergency fund authorized by section 125 of title 23, United States Code, to cover expenses arising from the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States and other disasters, the Director of the Federal Emergency Management Agency shall use $300,000,000, to the extent funds are available to the Director as of the date of enactment of this Act: *Provided*, That section 125(b)(1) of title 23, United States Code, shall not apply to projects relating to the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States.

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

For expenses pursuant to chapter 221 of title 49, United States Code, to repair and rebuild rail lines of other than class I railroads (as defined by the Surface Transportation Board) or railroads owned or controlled by a class I railroad, having carried 5,000,000 gross ton miles or less per mile during the prior year, and damaged as a result of the floods of 1996, the Director of the Federal Emergency Management Agency shall use $10,000,000, to the extent funds are available to the Director as of the date of enactment of this Act: *Provided*, That for the purposes of administering this emergency relief, the Secretary of Transportation shall have authority to make funds available notwithstanding subsections (a)(1), (a)(3), and (d) of section 22101, sections 22102 through 22104, section 22105(a), and subsections (a) and (b) of section 22108, of title 49, United States Code, as the Secretary considers appropriate and shall consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loan funds: *Provided further*, That, notwithstanding chapter 221 of title 49, United States Code, the Secretary may prescribe the form and time for applications for assistance made available under this heading.

FEDERAL TRANSIT ADMINISTRATION

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For an additional amount for payment of obligations incurred in carrying out section 5338(b) of title 49, United States Code, administered by the Federal Transit Administration, the Director of the Federal Emergency Management Agency shall use $375,000,000, to the extent funds are available to the Director as of the date of enactment of this Act.

CHAPTER 6

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community Development Grants", the Director of the Federal Emergency Management Agency shall use $100,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, for emergency expenses and repairs related to recent presidentially declared disaster areas, including up to $10,000,000 which may be made available for rental subsidy contracts under the housing certificate program and the housing voucher program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), except that such amount shall be available only for temporary housing assistance, not in excess of 1 year in duration, and shall not be subject to renewal.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Disaster Relief", the Director of the Federal Emergency Management Agency shall use $150,000,000, to the extent funds are available to the Director as of the date of enactment of this Act, which, in whole or in part, may be transferred to the Disaster Assistance Direct Loan Program Account for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5184): *Provided*, That such transfer of funds may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $170,000,000 under that section: *Provided further*, That any such transfer of funds shall be made only on certification by the Director of the Federal Emergency Management Agency that all requirements of that section will be complied with.

On page 756, strike lines 8 through 10 and insert the following:

SEC. 1102. It is the sense of Congress that Congress should appropriate, during the period consisting of fiscal years 1997 through 2001, a total of not less than $1,250,000,000 to the Federal Emergency Management Agency to reimburse the Agency for the expenditures required under chapters 1 through 6.

AMENDMENT NO. 3487

At the end of title II of the committee substitute, add the following:

SEC. .(a) Notwithstanding any other provision of this title, none of the amounts provided in this title is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Each amount provided in a nonexempt discretionary spending nondefense account covered by title I is reduced by the uniform percentage necessary to offset nondefense discretionary amounts provided in this title. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

AMENDMENT NO. 3488

At the end of title II of the committee substitute, add the following:

Sec. .(a) Notwithstanding any other provision of this title, none of the amounts provided in this title is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Each amount provided for 'Salaries and Expenses' and 'Administrative Expenses' within Title I are reduced by the uniform percentage necessary to offset nondefense discretionary amounts provided in this title, except for—

(A) Amounts Provided Under the Heading:

(1) "Federal Emergency Management Agency;"

(i) "Salaries and Expenses."

The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

GORTON AMENDMENT NO. 3489

Mr. GREGG (for Mr. GORTON) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

Amend page 113, line 11 by striking the period at the end of the sentence and adding ": *Provided further*, That the FCC shall pay the travel-related expenses of the Federal-State Joint Board on Universal Service for those activities described in the Telecommunications Act of 1996 (47 U.S.C. 254(a)(1))."

GRAMM (AND OTHERS) AMENDMENT NO. 3490

Mr. GRAMM (for himself, Mr. SANTORUM, Mr. MCCAIN, and Mr. NICKLES) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title II of the committee substitute, add the following:

SEC. . (a) Notwithstanding any other provision of this title, none of the amounts provided in this title is designated by Congress as an emergency requirement pursuant to section 25(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Each amount provided in a nonexempt discretionary spending nondefense account for fiscal year 1996 is reduced by the uniform percentage necessary to offset non-defense discretionary amounts provided in this title. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

BIDEN AMENDMENT NO. 3491

Mr. GREGG (for Mr. BIDEN) proposed an amendment to amendment No. 2466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 29, line 20, after "*Provided further*," insert "That not less than $20,000,000 of this amount shall be for Boys & Girls Clubs of America for the establishment of Boys & Girls Clubs in public housing facilities and other areas in cooperation with state and local law enforcement: *Provided further*,"

GRAMS (AND OTHERS) AMENDMENT NO. 3492

Mr. GRAMS (for himself, Mr. MCCAIN, Mr. FAIRCLOTH, Mr. INHOFE, Mrs. HUTCHISON, and Mr. HELMS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the amendment (before the short title), add the following new title:

TITLE V—DEFICIT REDUCTION LOCK-BOX

SEC. 501. SHORT TITLE.

This title may be cited as the "Deficit Reduction Lock-box Act of 1996".

SEC. 502. DEFICIT REDUCTION LOCK-BOX LEDGER.

(a) ESTABLISHMENT OF LEDGER.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX LEDGER

"SEC. 314. (a) ESTABLISHMENT OF LEDGER.—The Director of the Congressional Budget Office (hereafter in this section referred to as the "Director") shall maintain a ledger to be known as the "Deficit Reduction Lock-box Ledger". The Ledger shall be divided into entries corresponding to the subcommittees of the Committees on Appropriations. Each entry shall consist of three parts: the 'House Lock-box Balance'; the 'Senate Lock-box Balance'; and the 'Joint House-Senate Lock-box Balance'.

"(b) COMPONENTS OF LEDGER.—Each component in an entry shall consist only of amounts credited to it under subsection (c). No entry of a negative amount shall be made.

"(c) CREDIT OF AMOUNTS TO LEDGER.—(1) The Director shall, upon the engrossment of any appropriation bill by the House of Representatives and upon the engrossment of that bill by the Senate, credit to the applicable entry balance of that House amounts of new budget authority and outlays equal to the net amounts of reductions in new budget authority and in outlays resulting from amendments agreed to by that House to that bill.

"(2) The Director shall, upon the engrossment of Senate amendments to any appropriation bill, credit to the applicable Joint House-Senate Lock-box Balance the amounts of new budget authority and outlays equal to—

"(A) an amount equal to one-half of the sum of (i) the amount of new budget authority in the House Lock-box Balance, plus (ii) the amount of new budget authority in the Senate Lock-box Balance for that bill; and

"(B) an amount equal to one-half of the sum of (i) the amount of outlays in the House Lock-box Balance, plus (ii) the amount of outlays in the Senate Lock-box Balance for that bill.

"(3) For purposes of calculating under this section the net amounts of reductions in new budget authority and in outlays resulting from amendments agreed to by the Senate on an appropriation bill, the amendments reported to the Senate by its Committee on Appropriations shall be considered to be part of the original text of the bill.

"(d) DEFINITION.—As used in this section, the term 'appropriation bill' means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations through the end of a fiscal year.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box ledger.".

SEC. 503. TALLY DURING HOUSE CONSIDERATION.

There shall be available to Members in the House of Representatives during consideration of any appropriations bill by the House a running tally of the amendments adopted reflecting increases and decreases of budget authority in the bill as reported.

SEC. 504. DOWNWARD ADJUSTMENT OF 602(a) ALLOCATIONS AND SECTION 602(b) SUBALLOCATIONS.

(a) ALLOCATIONS.—Section 602(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

"(5) Upon the engrossment of Senate amendments to any appropriation bill (as defined in section 314(d)) for a fiscal year, the amounts allocated under paragraph (1) or (2) to the Committee on Appropriations of each House upon the adoption of the most recent concurrent resolution on the budget for that fiscal year shall be adjusted downward by the amounts credited to the applicable Joint House-Senate Lock-box Balance under section 314(c)(2). The revised levels of budget authority and outlays shall be submitted to each House by the chairman of the Committee on the Budget of that House and shall be printed in the Congressional Record.".

(b) SUBALLOCATIONS.—Section 602(b)(1) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentence: "Whenever an adjustment is made under subsection (a)(5) to an allocation under that subsection, the chairman of the Committee on Appropriations of each House shall make downward adjustments in the most recent suballocations of new budget authority and outlays under subparagraph (A) to the appropriate subcommittees of that committee in the total amounts of those adjustments under section 314(c)(2). The revised suballocations shall be submitted to each House by the chairman of the Committee on Appropriations of that House and shall be printed in the Congressional Record.".

SEC. 505. PERIODIC REPORTING OF LEDGER STATEMENTS.

Section 308(b)(1) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentence: "Such reports shall also include an up-to-date tabulation of the amounts contained in the ledger and each entry established by section 314(a).".

SEC. 506. DOWNWARD ADJUSTMENT OF DISCRETIONARY SPENDING LIMITS.

The discretionary spending limits for new budget authority and outlays for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amounts set forth in the final regular appropriation bill for that fiscal year or joint resolution making continuing appropriations through the end of that fiscal year. Those amounts shall be the sums of the Joint House-Senate Lock-box Balances for that fiscal year, as calculated under section 602(a)(5) of the Congressional Budget Act of 1974. That bill or joint resolution shall contain the following statement of law: "As required by section 6 of the Deficit Reduction Lock-box Act of 1995, for fiscal year [insert appropriate fiscal year] and each outyear, the adjusted discretionary spending limit for new budget authority shall be reduced by $ [insert appropriate amount of reduction] and the adjusted discretionary limit for outlays shall be reduced by $ [insert appropriate amount of reduction] for the budget year and each outyear." Notwithstanding section 904(c) of the

Congressional Budget Act of 1974, section 306 of that Act as it applies to this statement shall be waived. This adjustment shall be reflected in reports under sections 254(g) and 254(h) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 507. ADJUSTMENT FOR STIMULATIVE EFFECT OF REVENUE REDUCTIONS.

(a) AMOUNT OF ADJUSTMENT.—

(1) OMB.—Effective in 1997 and not later than October 15 of each year, the Director of OMB shall estimate the amount of the stimulative economic effect of any provisions enacted beginning with calendar year 1997 reducing revenues with respect to increasing revenues in the fiscal year ending in the year of the estimate. The Director of OMB shall calculate stimulative effect by determining the amount by which actual revenues exceed the projected level of revenues and then estimating the amount of the excess (fiscal dividend excess) attributable to enacted revenue reduction provisions.

(2) CBO CERTIFICATION.—Not later than October 20, the Director of the CBO shall certify the estimates and projections of the Director of OMB made under this subsection. If the Director of CBO cannot certify the estimates and projections, the Director shall notify Congress and the President of the disagreement and submit revised estimates.

(b) REDUCTION OF DEFICIT.—If the Director of OMB determines that a fiscal dividend excess exists under subsection (a) and on November 1, the President may—

(1) direct the Secretary of the Treasury to pay an amount not to exceed the level of excess to retire debt obligations of the United States; or

(2) submit a legislative proposal to Congress for reducing taxes by the amount of excess not dedicated to deficit reduction to be considered by Congress as provided in subsection (c).

(c) EXPEDITED PROCEDURE.—

(1) INTRODUCTION.—Not later than 3 days after the President submits a legislative proposal under subsection (b)(2), the Majority Leaders of the Senate and the House of Representatives shall introduce the proposal in their respective Houses as a bill. If the bill described in the preceding sentence is not introduced as provided in the preceding sentence, then, on the 4th day after the submission of the legislative proposal by the President, any Member of that House may introduce the bill.

(2) REFERRAL TO COMMITTEE.—A bill described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A bill described in paragraph (1) introduced in the Senate shall be referred to the Committee on Finance of the Senate. If more than 1 bill is introduced as provided in paragraph (1), the committee shall consider and report the first bill introduced. Amendments to the bill in committee may not reduce revenues in the bill below the amount proposed by the President. Such a bill may not be reported before the 8th day after its introduction.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a bill described in paragraph (1) has not reported such bill at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such bill and such bill shall be placed on the appropriate calendar of the House involved.

(4) FLOOR CONSIDERATION.—

(A) IN GENERAL.—When the committee to which a bill is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a bill described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the bill, and all points of order against the bill (and against consideration of the bill) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the bill is agreed to, the bill shall remain the unfinished business of the respective House until disposed of.

(B) DEBATE.—Consideration of the bill, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the bill is not in order. A motion to reconsider the vote by which the bill is agreed to or disagreed to is not in order. Debate on amendments to the bill shall be limited to 30 minutes equally divided. Amendments to the bill may not reduce revenues in the bill below the amount proposed by the President.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a bill described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the bill shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a bill described in paragraph (1) shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a bill of that House described in paragraph (1), that House receives from the other House a bill described in paragraph (1), then the following procedures shall apply:

(A) The bill of the other House shall not be referred to a committee.

(B) With respect to a bill described in paragraph (1) of the House receiving the bill—

(i) the procedure in that House shall be the same as if no bill had been received from the other House; but

(ii) the vote on final passage shall be on the bill of the other House.

(6) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a bill described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(d) DEFICIT REDUCTION IF TAX REDUCTIONS NOT ENACTED.—If tax reductions are not enacted by December 31 of the year of the submission of a legislative proposal under subsection (b)(2), the President shall pay an amount equal to the amount by which revenues are not reduced to deficit reduction as provided in subsection (b)(1).

(e) DEFINITION.—For purposes of this section, the term "stimulative economic effect of any laws reducing revenues" refers to laws that have the effect of stimulating savings, investment, job creation, and economic growth.

NOTICE OF HEARING

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. STEVENS. Mr. President, I would like to announce that the Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on March 18, 1996, on "USPS Reform—Conversations With Customers."

The hearing is scheduled for 2 p.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Pat Raymond, staff director, at 224–2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, March 13, 1996, in closed/open session, to receive testimony on the Department of Energy atomic energy defense programs—Nuclear stockpile stewardship and management.

The hearing will begin with the closed portion and attendance will be restricted to those with a "Q" clearance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire June 30, 1996.

The hearing will be held on Thursday, March 21, 1996. It will begin at 2 p.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 13, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, March 13, 1996, in open session, to receive testimony on the Defense authorization request for fiscal year 1997 and the future years defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 13, 1996, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, March 13, 1996 at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 13, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 13, 1996, at 1 p.m., SH-219, to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 13, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, March 13, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, March 13, in open session, to receive testimony regarding the manpower, personnel, and compensation programs of the Department of Defense in review of the National Defense authorization request for fiscal year 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMENDING THE TEACHERS AND ORGANIZERS OF THE NEW HAMPSHIRE PUBLIC TELEVISION KNOWLEDGE NETWORK'S NATIONAL TEACHER TRAINING INSTITUTE

• Mr. SMITH. Mr. President, I would like to commend New Hampshire's Public Television "Knowledge Network" for organizing the April National Teacher Training Institute for Math, Science and Technology in Waterville, NH. Granite State teachers participating in the April Institute will learn interactive methods for using television and technology in math and science instruction. Technology is a vital tool in the future of education, and this institute will prove valuable to the teachers and students in New Hampshire. The more we can use technology in the classroom and the more we can teach our students how to effectively use the information highway, the brighter and wiser our students will be.

The National Teacher Training Institute was launched in 1990 and has expanded rapidly from 10 sites in 1991 to 26 for the 1995–96 school year. Teachers attend 2 days of workshops in the interactive use of instructional video, on-line telecommunications networks, and other new technologies. Approximately 100 teachers from every grade level will attend the Institute. According to a Columbia University study, 94 percent of the teachers that attend pass along the information they acquire to their colleagues. Teachers teaching teachers is a crucial facet in the educational community and is proudly supported at the Institute.

The instruction provided by the National Teacher Training Institute is outstanding. Even more notable is the fact that so much of what is taught is passed on to other teachers who were not able to attend. I am proud that the Public Television Knowledge Network has organized such a valuable educational program, and am also pleased to see so many New Hampshire teachers taking advantage of these important workshops. As a former teacher, I congratulate the participating educators for their active role in furthering the opportunities for New Hampshire students. Helping students to understand math and science through technology provides them with the tools to be very successful in the future.

I commend New Hampshire Public Television and our distinguished teachers for their outstanding contribution to our educational system in New Hampshire and the Nation.•

HOW FAR TO SUPPORT TAIWAN?

• Mr. SIMON. Mr. President, there are times when diplomacy should leave messages unclear.

But today the message to China ought to be crystal clear: If they invade or have missile attacks on Taiwan, the United States will intervene militarily. We do not need to spell out how we intervene. My own feeling is that it can include weapons to Taiwan, the use of air power, and other options that can be effective but do not involve United States troops.

I welcome the steps that have been taken, but I don't want any Chinese leader, during this period of leadership uncertainty, to gamble on what will take place.

An article that I call to the attention of my colleagues appeared recently and merits careful reflection. It appeared in the New York Times, written by David Shambaugh, titled "How Far to Support Taiwan?" I ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Mar. 10, 1996]

HOW FAR TO SUPPORT TAIWAN?

(By David Shambaugh)

By firing ballistic missiles within Taiwan's territorial waters, China is sending political and military messages to both the United States and Taiwan. Unless the Clinton Administration delivers a demonstrably tough response—both diplomatically and militarily—the exercises could escalate dangerously and Beijing will be convinced it can act with impunity.

The military exercises are but the latest in a long list of irritants, including Beijing's human rights violations and its sale of international arms. The Clinton Administration has bent over backwards to engage China constructively and help it integrate into the world order.

But Beijing's crude tactics are provocative and irresponsible for a country seeking international recognition as a great power. They also potentially force the United States into choosing between its relationship with China and its longstanding ties with Taiwan. America understandably does not want war with the largest nation on earth, but it is time to lay down markers and protect American national interests.

Washington should begin by sending clear and unambiguous warnings to Beijing about its coercive behavior toward Taiwan. The Administration's condemnation of the missile tests does not go far enough. President Clinton should publicly restate America's commitment under the Taiwan Relations Act to assist the island in defending itself. He should reiterate that America's entire relationship with China—since President Richard Nixon's visit in 1972—has been premised on the peaceful resolution of the Taiwan issue. President Clinton must clearly state that China's recent actions call the entire relationship into question.

Words are important, but China respects power and action. The United States Navy should dispatch the carrier Independence (which has been cruising north of Taiwan) through the Taiwan Strait—an international passage through which Navy ships pass regularly to insure freedom of navigation.

China's decision to fire missiles into the two "impact zones" within 20 miles of Taiwan's two largest ports, Keelung and Kaohsiung, constitutes a de facto blockade. Seventy percent of the island's trade and all of its oil imports pass through these ports. Such a partial blockade may be an act of war under international law and thus a matter for the United Nations Security Council. China must not be allowed to close Taiwan's harbors, as it will bring the island's economy to its knees.

The missiles are just the beginning. Leading up to Taiwan's first-ever free presidential election, on March 23, China will conduct the largest military maneuvers in its history. More than 150,000 troops have been mobilized. The exercises will involve mock bombing runs, simulated naval blockades and amphibious assaults on islands north of Taiwan.

The exercises may be an attempt to provoke a military response from Taiwan, which Beijing could then use as a pretext for "retaliation." Clearly the exercises are intended to intimidate the Taiwanese electorate and to quell the rising sentiment for autonomy and independence.

Most China analysts are confident that the exercises will cease soon after the elections. Taiwanese diplomats are already putting out the word that Taiwan's President, Lee Teng-hui, who is almost certain to be re-elected, will call for a truce and seek to establish direct trade, shipping and air services.

But for China the essence of the problem is Taiwan's quest for international recognition. It is likely to continue its military harassment until Taipei officially abandons its aspirations for statehood. But Mr. Lee is unlikely to do so, giving the United States a stark choice between supporting the forces of freedom and self-determination on the island or those of suppression and belligerence on the mainland.

This is a choice America needs to avoid. By standing firm against Beijing and counseling Taipei to be cautious, America may be able to bring both sides to the negotiating table.

Given China's current hypernationalistic atmosphere and the struggle to succeed Deng Xiaoping, it is doubtful that it will show restraint on Taiwan if left unchecked. It is up to the United States, with the support of its Asian and European partners, to deter China's aggression. The alternative is escalating tension and possibly war over Taiwan.•

TRIBUTE TO SP4C MICHAEL FITZMAURICE—VIETNAM VETERAN FROM SOUTH DAKOTA

• Mr. PRESSLER. Mr. President, I would like to pay tribute today to Michael Fitzmaurice, a South Dakotan and fellow Vietnam veteran who went far beyond the call of duty during his service for our country. Michael is a native of Cavour, SD, and served as an Army specialist [SPC] 4th Class. Michael's singular accomplishment in Vietnam came when he singlehandedly saved the lives of three of his fellow soldiers. These reminders of his heroism couldn't be more appropriately timed given the presence of our brave troops currently stationed in and around Bosnia. Recently, the Sioux Falls Argus Leader and the Hartford Area News published articles about Michael.

Leaping onto a grenade and saving the lives of three soldiers; tossing two live grenades back at the enemy; charging North Vietnamese troops—weaponless in the midst of combat—these are all accounts of SPC Michael Fitzmaurice's courage during battle. Michael's actions fill me with a sense of respect and pride. Americans can rest easy knowing men and women such as Specialist Fitzmaurice defend the values for which our country stands. I commend Specialist Fitzmaurice's example of commitment and bravery. He is truly a worthy recipient of the prestigious Congressional Medal of Honor for bravery.

Mr. President, part of what makes a soldier fight to the finish lies in the sense of dignity and respect for humanity our parents and communities instill within us. Having grown up not far from Specialist Fitzmaurice, I can vouch for the family-oriented atmosphere in which we were raised. The Golden Rule was not just an adage, but words by which we were taught to live by each and every day. Michael's heroic actions were premised by years of being taught respect for one's country, community, and fellow man.

Courage. Bravery. Selflessness. These are the things of which heroes like SPC Michael Fitzmaurice are made. I would like to extend my deepest gratitude for the example set by Michael and the thousands of brave men and women who similarly have fought or even died so that others might experience freedom. Time and again, people like Michael Fitzmaurice demonstrate to us the interminable vigor of the human spirit. Mr. President, I ask that articles which recently appeared in the Sioux Falls Argus Leader and the Hartford Area News, be printed in the RECORD.

The articles follow:

HARTFORD MAN TO BE HONORED FOR HEROISM

PIERRE.—Michael John Fitzmaurice of Hartford will receive a unique honor later this year for heroism while serving in Vietnam 25 years ago.

Legislation providing the Hartford man with the state's only set of Congressional Medal of Honor license plates is nearing the end of its Statehouse journey.

The bill was approved 66-1 Tuesday in the House; it had cleared the Senate earlier but must be returned there because of changes made by the House.

Fitzmaurice received the Medal of Honor for bravery in 1971. When three North Vietnamese hand grenades were lobbed into the bunker where Fitzmaurice and four fellow soldiers hid, he pitched two of them out and dropped on the third one.

"He absorbed the blast, shielded his fellow soldiers," said Rep. Hal Wick, R-Sioux Falls, "and although suffering from serious multiple wounds and partial loss of sight, he charged out of the bunker, engaged the enemy until his rifle was damaged by the blast of an enemy hand grenade, and then while in search of another weapon, encountered an enemy in hand-to-hand combat."

MEDAL OF HONOR HERO

(By Pat Smith)

Michael Fitzmaurice is South Dakota's only resident Congressional Medal of Honor Hero. He lives quietly on Second Street and you will find him at church on Sunday, perhaps a basketball or volleyball game on Friday. He helps with softball, Jamboree Days, kids games, the parade (of which he was marshal this year) and many other activities in our town. A quiet man with a loving spirit. Overwhelmed by the fact that he received the Medal of Honor and will tell you that he was just in the wrong place at the wrong time . . . but he was doing the right thing.

This quiet man will be honored by the South Dakota Legislature with a distinctive license plate. Senate Bill #98 has passed the Senate and House and will be sent for the governor's signature this week.

Michael received his Congressional Medal of Honor the same day as Leo Thorsness at the White House from then president, Richard Nixon in 1973. He received it for saving the lives of his comrades during a battle in Vietnam. He threw two enemy hands grenades up in the air and fell on the remaining one to save their lives. The results were eye damage, shrapnel wounds and broken ear drums, but saved lives.

This is a story like something you might see on television. A real life hero living in a small town, going about his life, volunteering to serve his country, saving lives, then going back to living his life in a small town again. And the reason this is such a great story is, although Michael Fitzmaurice is a Congressional Medal of Honor hero, he puts on no airs. He is a hero going to work each day, helping put up and take down chairs at meetings, supporting his town, school and church and just being a friend and neighbor. If the media didn't bring it up, you would never know. Maybe that is what a real hero is . . . doing what must be done and then just going on.•

INDICTING CHINA'S TERRORISM

• Mr. SIMON. Mr. President, A.M. Rosenthal has a thoughtful column on the situation regarding China in the New York Times, and I ask that it be printed in the RECORD.

I am not as certain as he is that the case should be brought to the United Nations because I'm not sure what the other countries would do. But at the very least, that possibility should be explored.

A firmness is needed in this present situation. The Rosenthal column, among other things, cites a sentence from the recent State Department human rights report: "The experience of China in the past few years demonstrates that while economic growth, trade and social mobility create an improved standard of living they cannot by themselves bring about greater respect for human rights in the absence of a willingness by political authorities to abide by the fundamental international norms."

There are times when the international situation demands clear-cut policies. This is one of them.

The column follows:

[From the New York Times, Mar. 12, 1996]

Indicting China's Terrorism—Bring the Case to the United Nations

(By A.M. Rosenthal]

By firing missiles into the waters off Taiwan, Communist China is committing open, deliberate international terrorism of enormous danger.

Americans count on Beijing's survival instincts to stop the terrorism short of the disaster of war with the U.S. That may happen—this time.

But every day that Washington fails to bring the missile blackmail and blockade of Taiwan before the U.N. increases the chances it will happen again, or something worse, until the disaster does take place.

The Communists' rage and fear at the example of Taiwan's democracy off their shores will not let them rest unless the Taiwanese give it up.

That is not likely. If any pro-democracy majority is elected in the March 20 voting, before long there will be another round of terrorism.

That may include some Chinese military landings on Taiwan. U.S. vessels will have to move in to live up to American word and legislation that the Taiwan-China relationship will not be changed by force.

So far, the U.S. has had to act alone. The Japanese do not have the political courage to make any strong public protest against the terrorism. I have not heard our European allies warn the Chinese that if it comes to it, they will immediately line up with the U.S.

U.S. failure to bring the Chinese before the U.N. will destroy a basic purpose of the U.N. The U.N. was not created simply to end wars but to stop them before they begin. Article 34 of its charter authorizes the Security Council to take up any matter that might lead to "international friction or dispute."

Any member of the U.N.—or the Secretary General—can bring a threat to the peace before the Council. China's veto power cannot be used to prevent putting a threat to peace on the Council agenda.

Separately, the U.S. and any country that considers itself a friend both of peace and America can condemn Chinese terrorism. Together they can present a resolution speaking for the U.N.

China will veto that. But if Beijing is so out of control as to threaten more terrorism in the face of a U.N. condemnation prevented only by a veto, we should know it as soon as possible.

Meantime, President Clinton should consider one sentence that tells how his Administration got to this point.

"The experience of China in the past few years demonstrates that while economic growth, trade and social mobility create an improved standard of living they cannot by themselves bring about greater respect for human rights in the absence of a willingness by political authorities to abide by the fundamental international norms."

The sentence in itself is not remarkable. It sums up the message of human rights victims around the world: strengthening our oppressors empowers them to torture us further. But it comes from the latest report on human rights of the State Department. It took courage by those officials who wrote or agreed to it.

Since 1993, the Administration has based its China policy on a contrary vision of morality and history. It insisted that economic growth in China would create a willingness by the dictatorship to live up to those "fundamental international norms." Beijing would give Chinese more human rights. It would stick to agreements against selling nuclear weapon technology. It would allow the people of territories it claims as its own, such as Tibet and Taiwan, to live in peace and dignity.

China's economy certainly has grown, stimulated nicely by $40 billion more that it sells to America than it buys from America.

So: Torture and political repression have increased. And so have oppression of religion, and forced abortion. The choke-leash around Tibet tightens. The chief economic beneficiary of the trade that led to economic growth has been the Communist army, which owns vast parts of the economy, including the forced-labor camps.

The new, richer China has sold nuclear technology to Pakistan and has become the missile salesman to the world's dictatorships.

President Clinton promised to struggle for human rights in China. He did not.

Now his China policy lies adrift in the Strait of Taiwan. He owes us a new one. Its moral principle and historic reality were written for him by the meaning of that sentence in the State Department report: enrichment of dictators enchains their victims.•

ADMINISTRATION EFFORTS TO COMBAT INTERNATIONAL BRIBERY

• Mr. **FEINGOLD.** Mr. President, most of us believe that a key factor in America's economic growth will be an increase of U.S. exports overseas, and accordingly, we have concentrated our efforts on overcoming obstacles which U.S. businesses face overseas. One of the real problems which has not received enough attention, though, is bribery and corruption.

Bribery as a way of doing business is widespread. But it is inefficient: it skews international markets, it discriminates against the honest, and it taints the overall image of a company. No one benefits in the long-term from contracts based on bribery.

U.S. business is prohibited from engaging in bribery under the Foreign Corrupt Practices Act [FCPA]. I am proud of this law, and believe that it promotes good business. But, in a perverse irony, our businesses are disadvantaged in the international marketplace because they can't pay bribes. Some have suggested repealing the FCPA, which is very short-sighted. Rather, a more constructive alternative is to work for international acceptance of the principles of the FCPA. In light of the corruption scandals that have rocked Taiwan, France, and NATO, to name a few, there are serious moves afoot on the national level as well as among the grassroots to do so.

This is a sensitive topic because it involves moral, financial, and intellectual concerns with, in many cases, our friends. But that sensitivity cannot deter us from addressing the subject seriously. U.S. businesses cannot afford their Government avoiding the issue.

For these reasons, I am very pleased that the U.S. Trade Representative, Mickey Kantor, has made the countering of bribery and corruption a high priority in U.S. trade policy. Last week he gave an encouraging speech which identified bribery as the triple obstacle that it is: a barrier to U.S. exports; a burden to developed countries seeking to do business; and an obstacle to the establishment of sound governments in developing nations.

The full remarks of Ambassador Kantor are unfortunately too extensive to include in the Record, so alternatively, I ask to have printed in the Record an editorial which appeared in Sunday's Washington Post applauding Ambassador Kantor's initiative, and encouraging the administration to maintain the pressure.

The editorial follows:

[From the Washington Post, Mar. 10, 1996]

Trading on Bribes

Ever since 1977, when the United States barred U.S. corporations from paying bribes overseas, U.S. executives have complained that enforced honesty was costing them business. European and Asian competitors were beating them out all over the world—and then going home and deducting the bribes from their taxes.

How much of this lost business was real, and how much involved sour grapes, has never been clear. Some studies have shown only marginal losses to U.S. business. Some U.S. firms have found ways around the Foreign Corrupt Practices Act, as the 1977 law is called. And many executives agree that the act has also helped them at times, by giving them an excuse not to pay costly bribes that might in any case bring small or no returns.

Still, no one denies that the act can handicap U.S. firms. And with trade now accounting for 30 percent of our total economy and a sizable number of domestic jobs, any such impediment has to be taken seriously.

U.S. Trade Representative Mickey Kantor this week identified bribery and corruption in overseas business as significant and unfair barriers to trade. Rather than softening the U.S. law, he said, Washington will now press other nations to deal more honestly.

Fat chance, you may say. And of course corruption will never be entirely uncoupled from international business, any more than the influence of money can be entirely leached out of politics.

But in two areas a full-court press would not be entirely quixotic. The first is to press other developed countries to play more by our rules. The Organization of Economic Cooperation and Development, which includes the nations of western Europe, North America and Japan, is moving toward adoption of a policy barring tax-deductibility of overseas bribes. That policy should be encouraged as a bare minimum, with criminalization of bribery to follow.

The second goal is to persuade developing countries to adopt fair rules for government procurement contracts in telecommunications, energy and other, dollar-rich sectors. The more open such processes are, the less opportunity is provided for bribery.

Such a campaign would be as much in the interest of the developing countries themselves as it would benefit U.S. firms. Widespread corruption usually enriches a small elite while discouraging foreign investment and impoverishing the economy as a whole. Even many of our competitors would welcome a clearer set of rules, if they knew everyone was playing by the same ones.

Clinton administration officials have raised these issues before. This time they should maintain the pressure. Pushing for honest trade is not an unfair trade practice.•

TRIBUTE TO STU CARMICHAEL ON HIS RETIREMENT

• Mr. SMITH. Mr. President, I rise today to honor a dear friend and faithful staffer in my Portsmouth Congressional office—Stu Carmichael. Stu has worked for me since I first entered politics in 1980, over 16 years ago. He is retiring next week and we will all miss him dearly.

Stu Carmichael joined the Air Force in 1950 upon graduation from East Providence High School in Rhode Island, and served for 4 years as a radio operator in the Korean war. Occasionally, he still proudly wears his flight jacket into the office and asks the staff to take note of a special shiny pen in the left sleeve. He quickly yanks at this writing utensil and proceeds to show everyone how it was made to write upside down. "Something every astronaut cannot live without" he always notes.

We all know Stu for his delightful sense of humor and his wit. He impresses everyone he meets with a new anecdote or joke that usually leaves his friends laughing long after he has gone. Many of my staff can still recount some of his original stories and humorous incidents he concocted. We love him for that. That is Stu's legacy—one we will fondly remember for years to come.

When Stu graduated in 1958 from the University of Rhode Island with a bachelor's degree in business, he quickly went on to pursue an extensive career in the benefit management business. Several actuarial firms sent him all over the country and he ended up on the west coast. In 1980, he returned to New England and purchased the Kingston Country Store in Kingston, NH. It was there in 1980, that I met Stu and we began to talk about politics. In fact, it was Stu Carmichael and his good friends, Louis and Lois Beaulieu and other early supporters, who encouraged me to run for Congress in 1980. That year, Stu served as my first finance manager. As our mutual friend, Lois Beaulieu, remembers, "Stu was a motivator, hard worker and loyal to Senator SMITH. He has been with BOB SMITH through the worst and the best. Our motto during that first campaign was 'Fake it until we make it' and with many thanks to Stu, our loyal grassroots people and the Good Lord, we made it."

In 1985, after I was elected on my third attempt, Stu joined my congressional staff and has served me in a variety of capacities both when I was a Congressman and now as a Senator.

Over the years, Stu has also unselfishly served the people of New Hampshire by helping countless veterans with their benefits and working on a variety of other cases for constituents who need assistance cutting through Government bureacracy. He also was instrumental in establishing a veterans cemetery in Boscawen, NH.

I am truly indebted to such a hard working and admirable friend. Stu helped me with my start in politics, and stayed with me all these years until his retirement. Every Senator wishes for commitment like this and I am sorry to see him go.

The Granite State will feel a void with Stu's absence. New Hampshire's loss is South Carolina's gain. In fact, if Stu wanted to start another career, he could always work for STROM THURMOND for another 20 years.

Our Portsmouth, NH, staff, his other fellow coworkers, and the citizens of New Hampshire whom Stu has helped will miss this character we have come to love. My sincere appreciation to you Stu, for all the years of friendship and for your service to the people of New Hampshire, especially your fellow veterans.

As a dedicated father, husband and grandfather, Stu Carmichael will now have plenty of time to spend with his family and grandchildren. He and his wonderful wife, Priscilla, have carefully built a special new home in Pickens, SC and plan to enjoy their retirement there. As an avid golfer, Stu will undoubtedly be a consant sight on the golf courses he has yet to discover in South Carolina.

And Stu, remember, "Golf is a love affair; if you don't take it seriously its no fun; if you do take it seriously it breaks your heart."

May all your putts be swift, stable, and accurate, and may all the greens rise to meet you whether you are in New Hampshire or in South Carolina.

Stu, you are one of the very best and I wish you every happiness as you embrace retirement. •

SALUTING IDAHO'S NATIONAL CHAMPIONS

• Mr. KEMPTHORNE. Mr. President, I rise to offer my congratulations to Coach Marty Holly and his Albertson College of Idaho basketball team.

Last night, the Coyotes won the National Association of Intercollegiate Athletics Division II men s national basketball championship. The 'Yotes beat Whitworth College in a thrilling overtime game, 81–72.

Albertson College of Idaho was founded in Caldwell in 1891 as the College of Idaho and is the State's oldest 4-year institution of higher learning. Six hundred students attend the private liberal arts college. The school has been recognized by U.S. News and World Report as one of the best small colleges in the country.

Mr. President, this victory is more than the school's first national title. It is a testament to the outstanding talents of head coach and athletic director Marty Holly. In his 15 years as coach at Albertson College, Marty Holly has compiled a record of 345 wins and only 113 losses, for a winning percentage of 75 percent. For all his success, this year may have been his best.

Everyone expected the 'Yotes to be good this year. They were highly ranked in the polls all season. Expectations were high. And as my colleagues know, when expectations are high, the pressure to meet those expectations is great. So Marty and his team were under a tremendous amount of pressure to win it all. Despite that pressure, Albertson College turned out its best season in school history. They finished 31–3, the best winning percentage in school history. They won a record 12 games in a row. All this while maintaining their high standards in the classroom.

Last night's game was a classic. Albertson trailed by 3 at halftime before tournament Most Valuable Player Damon Archibald got hot. He scored 23 of his game-high 29 points after intermission, including 15 in an 8-minute stretch in the second half.

Still, to their credit, Whitworth fought back and forced the game to overtime. There, the Coyotes took over and seized the victory. After the game Coach Holly said every player "stepped it up." They did indeed.

Jimmy Kolyszko and Jared Klassen joined Archibald on the all-tournament team, and each did step it up in the title game. Kolyszko pulled down 19 rebounds, and Klassen scored 20 points and grabbed 12 rebounds.

Mr. President, Idaho should be proud of the student-athletes at Albertson College and their dedicated coaches, who have helped bring the community together in support of the team. In fact, all of Canyon County was able to celebrate this achievement since the NAIA National Tournament was hosted by Northwest Nazarene College in nearby Nampa.

This championship season was truly a team effort and I join all Idahoans in saluting those involved. We are very proud of these fine young men and their coaches. I ask to have printed in the RECORD the names of the players, coaches and staff of the Albertson College of Idaho Coyotes, who have brought tremendous honor to their school and their State.

The names follow:

Nate Miller, a senior from Middleton, ID, Todd Williams, a senior from Pasadena, CA, Steve Kramer, a senior from Santa Rosa, CA, Jimmy Kolyszko, a senior from Scottsdale, AZ, Taylor Ebright, a junior from Boise, ID, Taran Hay, a sophomore from Boise, Rob Smith, a freshman from Boise, David Baker, a sophomore from Blackfoot, ID, Damon Archibald, a senior from Tempe, AZ, Rob Sheirbon, a sophomore from Woodburn, OR, Greg Blacker, a junior from Caldwell, ID, Jared Klaassen, a senior from Coeur d'Alene, ID, Head Coach Marty Holly, Assistant Coaches Mark Owen and George Scott, Trainer Linda Gibbens, Sports Information Director Dave Hahn, and Albertson College President Robert Hendren, Jr.•

SAVING BURUNDI

Mr. SIMON. Mr. President, two items I have read on Burundi recently suggest that continued interest and support for peacemaking endeavors and positive solutions really can be of help.

The one is an article in the New York Times by two distinguished Americans, former Secretary of State Cyrus Vance and David Hamburg, who heads the Carnegie Foundation. They co-chair the Carnegie Commission on Preventing Deadly Conflict.

The other article, written by Jonathan Frerichs, appeared in the Christian Century.

Both articles, which I ask be printed in the RECORD, suggest that anarchy and needless death can be avoided if we pay attention to this troubled land.

I urge my colleagues and their staffs to read these two articles.

The articles follow:

AVOIDING ANARCHY IN BURUNDI

(By Cyrus R. Vance and David A. Hamburg)

WASHINGTON.—A world grown accustomed to human disaster in the face of diplomatic failure has more to hope for in the coming days. Next Saturday, a meeting of African leaders in Tunis, brokered by former President Jimmy Carter, will test the proposition that breaking the cycle of mass violence in Central Africa may at last be possible. They need the international community's help.

Burundi is pivotal. The right mix of political pressures can sustain the balance of power in a country on the brink of repeating the slaughter that tore apart Rwanda. Maintaining that balance could spare thousands of lives. It would also reduce the risk of the United Nations being forced into another crisis without the mandate, materials and money needed to be effective.

Burundi's government, a coalition of moderate Tutsi and Hutu leaders, is fragile. Tutsi extremists have recently attempted to close down the capital, Bujumbura, with labor strikes and blockades. Attacks by Hutu guerrillas in the countryside raise fears of genocide among the Tutsi minority.

But there is some reason for hope. Moderate Tutsi and Hutu leaders are committed to a national debate, open to all political factions. The goal is to settle the terms of power-sharing and guarantees for minority rights before any further elections.

To reinforce this process we must be clear not only about the differences between Burundi and Rwanda but also about who must take primary responsibility for a peace plan.

Rwanda and Burundi are both poor, isolated countries. Their colonizers' divide-and-rule policies left seemingly insoluble conflict between the agrarian Hutu, who make up about 85 percent of each country, and the Tutsi, who predominate in business, government and the military.

The Belgians left the Tutsi elite in control of Burundi, but gave way to the Hutu majority in Rwanda. Since then demagogues in both countries have exploited ethnic fear and pride.

This spiral of hate climaxed in 1994, when Hutu and Rwanda shot or hacked to death at least 500,000 people, primarily Tutsi. When Tutsi exiles from Uganda overthrew the Hutu government, more than two million Hutu fled to nearby countries, where 1.7 million remain.

In Burundi, the core question is whether the country's citizens can avoid Rwanda's tragedy by devising a power-sharing formula that offers enough security for the Tutsi to open the way for majority democratic rule.

Outsiders can help in several ways. First, there must be diplomatic efforts to persuade extremists in both ethnic groups of the futility and dreadful consequences of violence. Killings in Bujumbura rose to more than 100 a week, and anarchy threatens. The United States and European governments should impose an arms embargo, block international financial transactions by Burundi's extremist leaders and threaten to halt trade other than humanitarian relief.

Second, African leaders should be given help in securing a power-sharing agreement in Bujumbura and the return of refugees to both Burundi and Rwanda. In November, Mr. Carter arranged a meeting of the Presidents of Burundi, Rwanda, Tanzania, Uganda and Zaire. It is these talks that resume next week.

Third, donor governments and the World Bank should draw up a "road map" linking political progress in Burundi and the other countries of Central Africa to the restoration of development assistance.

For the moment, however, everything depends on reaching an agreement to contain the cancer of ethnic conflict. What is learned from this experience can help prevent mass violence elsewhere.

[From the Christian Century, Mar. 6, 1996]

CAUSES FOR HOPE—SAVING BURUNDI

(By Jonathan Frerichs)

If we hear anything at all about Burundi, it is that this small African country is Rwanda in slow motion. There is, indeed, justification for seeing Burundi as a catastrophe in the making. It has a vicious cycle of intergroup violence, with militias preempting politics and crowds of refugees on the move.

Approximately 800 people are dying there each month, according to a United Nations estimate. Like its neighbor, Rwanda, Burundi has a population of about 85 percent Hutu and 15 percent Tutsi. Tutsi militias operate with help from Burundi's army, an army that has usually taken its orders from ethnic leaders rather than from the moderate civilian government. The actions of Hutu guerrillas puts the majority population at risk of reprisal. The countryside, like the capital, is increasingly balkanized. A fragile national "convention," an agreement on power-sharing, barely merits being called a government.

Yet to equate Burundi with Rwanda is inaccurate and dangerously self-defeating. In Burundi there is still scope for remedial action, for taking steps largely untried in Rwanda—as certain Burundian Christians and aid partners are demonstrating. The balance of power, the course of events and the rule of the churches in Burundi differ significantly from those in Rwanda.

There is no "final solution" underway in Burundi, as there was in Rwanda. Because they are a minority, Burundi's Tutsi extremists cannot implicate a whole population in the perpetration of genocide, as Rwanda's Hutu majority did in 1994. The 1.5 million Rwandans still encamped outside their country today fled not genocide but fear of reprisal for the slaughter they had allowed to happen in their name. In Rwanda the majority Hutus had the arms. In Burundi most of the arms are still in the hands of the minority Tutsis.

The Tutsi-dominated national army is searching for Hutu insurgents and punishing the Hutu majority for allegedly sheltering them. Tutsi militia with names like "The Undefeated" and "The Infallibles" operate in the capital, Bujumbura, and in the northern provinces. When these extremists have targeted a community for a "ville mort" (dead city) campaign, the army sometimes has stood by without intervening or has even helped. These campaigns force Hutus out of Tutsi areas.

The Hutu guerrillas opposing these tactics are not well organized, according to aid workers in Bujumbura, but they were strong enough to mount an attack on the capital in early December. One day members of one community are killed, next day members of the other. A rough balance of power and fear prevails, a legacy of a century of national and colonial political practices. As extremists within both ethnic groups undermine the convention government, the army is forced to choose between trying to re-establish Tutsi supremacy and maintaining some version of the status quo. An incident in January may indicate a shift in the army's position. When Tutsi militia declared a "ville mort" in Bujumbura, hoping to force out the Hutu president, the army actually blocked the campaign in some quarters of the city. Since then, the militia cannot count on army support, say aid officials. Two Tutsi extremist leaders were actually arrested recently. Some local observers suggest that the army may merely want to improve its image abroad while deflecting talk of international intervention. However, it may also fear that militia politics will end in collective suicide.

Burundi's government wants to do what is right for the public at large, but it is not in control, according to Susanne Riveles, Africa director of Lutheran World Relief. In contrast, in early 1994 the Rwandan government was in control but wanted to do the wrong thing. That there are moderates at the highest levels of Burundi's government makes it possible to keep humanitarian issues in focus.

A second cause for hope in Burundi is that its churches are not swept up in the conflict, as happened in Rwanda. Some church leaders are increasingly willing to oppose the violence. But they need support. In Rwanda, certain religious leaders were linked so closely to the government that, even during the genocide, they did not dissociate themselves from that government. Some even went abroad to engage in damage control. When the old regime fell and fled, such people fled with it—which eliminated all doubt about where they had stood. Some are still not willing to return home. In contrast, the bishops and archbishops of Burundi do not sit on permanent councils of state.

"In the last four or five months, there is a feeling among the Protestant churches that they have to gather people across ethnic lines to protest and to work together," says Eliane Duthoit-Privat of Christian Aid in Bunumbura. Church programs include humanitarian and peace initiatives. One example is local peace committees of Hutu, Tutsi and Twa (who constitute about 1 percent of the population). Citizens gather to air grievances, clarify information and address the kill-or-be-killed mentality. "In these meetings, participants can say: 'I don't have to kill the person in front of me so that he won't kill me,'" notes Duthoit-Privat.

Some of the groups are moving from words to deeds. Several Tutsi and Hutu families may join hands to repair the damage done by raiding militia or soldiers—rebuilding a house for a vulnerable neighbor, for example, or a local dispensary. These pioneering "Discussion sur La Paix" are led by local Quakers with support from the Mennonite Central Committee. Other Protestants are considering them as a model for standing up to the spread of violence. Protestants number about 15 percent of the population, and include Anglicans and Pentecostals (the two largest non-Catholic groups), varieties of Methodists, plus Baptists, Quakers and Kimbanguists (an indigenous African body).

The Roman Catholic Church (84 percent of the population) is also beginning to mobilize for national reconciliation, says Annemarie Reilly, Burundi program director of Catholic Relief Services. Drawing on the church's experience in Latin America, it has brought people of different ethnic and economic backgrounds together for work and worship. A pilot phase has been completed in three dioceses and is ready to be expanded across the country.

Some prominent churchpeople are risking their lives for peace. University teacher Adrian Ntabona, who heads the reconciliation project, strongly condemned a recent killing before a student group that included members of the Tutsi militia widely assumed to be responsible. In Babanza, the northern province where foreign church and relief workers have been withdrawn because of the violence, and where some priests have been killed and others made virtual prisoners in their own compounds, Catholic Bishop Evariste Ngoyagoye works as a one-person relief agency and keeper of peace. Though recently the archbishop of Gitega was ambushed and a priest in his party was killed, the incident has not stopped the archbishop from traveling in his region.

Churches are providing food and other supplies to people forced to flee from their homes. The Burundian Council of Churches purchases and distributes seeds, tools, soap and non-food items, and the Episcopal Church brings food to camps of displaced people. The Evangelical Friends Church, which formed the peace committees, also runs mobile health clinics. Christian Aid, a British agency, maintains a stockpile of emergency supplies for 10,000 families. The agency is the focus for an international, interchurch aid coalition called ACT (Action by Churches Together). All church programs are hobbled by restrictions on movement. In relatively secure areas, ACT has plans for agricultural rehabilitation, the rebuilding of houses and small income projects for women.

We can do much to help Burundi avert disaster. A colossal sin of omission was committed against Rwanda. The cost of preventing another disaster in Burundi is negligible compared to the expense of a major emergency rescue operation. "Burundi needs our eyes and ears. It needs a solid, multilateral outside presence," says Riveles. "Burundi needs international civilians inside the country, not foreign troops at the border.

John Langan, S.J., argued in these pages (January 24) for a new rule of intervention that would involve massive and early deployment with a cautious use of force. The UN recently discussed positioning a force in Zaire for possible Burundi intervention. Massive and early civilian rather than military deployment seems the best prescription for Burundi. Human rights observers are urgently needed, as is strong support for existing Burundian peace initiatives.

Another key area for international observers and personnel is the judicial system. Riveles suggests that foreign aid and human rights workers may be able to "bring to bear insights on truth-finding and reconciliation from the apartheid experience and from the Holocaust." Through personal diplomacy, Anglican Archbishop Desmond Tutu has been making a similar point. Now head of South Africa's Truth Commission, he is also active in peace initiatives for the Great Lakes region of Africa.

In Rwanda, extremist media propaganda was used to support political and militia coercion. In Burundi, such propaganda must be stopped—whether by international political pressure or by jamming or other technical means. The UN Security Council recently called on member states to identify and dismantle any mobile stations operating outside Burundi that broadcast Hutu extremist propaganda into the country.

To regard African countries like Burundi as hopeless or to dismiss its problems as a case of unsolvable "ethnic conflict" is to trap ourselves. Rather than debate past holocausts, we can calculate how to stop a new round of death.•

PORTUGAL'S NEW PRESIDENT

• Mr. PELL. Mr. President, this weekend, I had the honor of leading a congressional delegation to Lisbon for the inauguration of Portugal's new president. I was pleased to participate in this event marking the passing of the torch from Mario Soares to Jorge Sampaio, which was a strong signal of Portugal's continued commitment to democracy.

The delegation's presence at the inauguration contributed to continued good relations between Portugal and the United States. Portuguese-United States relations remain solid. The new government, headed by Prime Minister Antonio Guterres, has demonstrated his continued commitment to a strong United States-Portuguese relationship. The new agreement on cooperation and defense providing for United States access to the Lajes Base in the Azores and Portuguese-United States cooperation in the implementation force in Bosnia are also important signs of the strong ties between our two countries.

President Sampaio delivered a truly inspirational inaugural speech in which he described a Portugal firmly rooted in Europe and committed to a foreign policy that places a priority on good relations with Portuguese-speaking countries throughout the world. He paid tribute to his predecessor Mario Soares as the symbol of the constant struggle for freedom and democracy both at home and abroad. President Sampaio called on the Portuguese people to work for a more cohesive Portugal, and pledged to do his part to encourage consensus in Portuguese society. Ever aware of Portugal's past political experiences, President Sampaio underscored that he will respect the wishes of the Portuguese people and to exercise his constitutional powers with impartiality.

Mr. President, I commend President Sampaio's speech to my colleagues, and ask that it be printed in the RECORD.

The speech follows:

Mr. President of the Assembly of the Republic, Heads of State, Prime Ministers and High Representatives of Friendly States and Peoples, Prime Minister, Members of the Government and High Portuguese Authorities, His Eminence the Cardinal of Lisbon, Members of Parliament, Ladies and Gentleman:

After twenty years of democracy and a decade of European integration, Portugal has completed a cycle in her contemporary history. The democratic regime has been consolidated. Accession to the European Community has proved to be the right choice and has provided the country with conditions for development and structural changes which would otherwise have been impossible.

Such major conditions for Portugal's modernization may seem obvious and even natural to the new generations coming of age today. It is good that it should be so. However, it required several generations to fight for Freedom and Democracy, generations whose courage and determination gave the example to be followed. The 25 of April Revolution, which I would feelingly like to remember here, represents the end of a long journey during which people paid for their dedication to the cause of democracy with their freedom and their lives.

Being elected President of the Republic represents an incomparable responsibility and honour in a politician's life. Circumstances have contrived, however, to give me the added pleasure of receiving the badge of office from that outstanding figure of Portuguese democracy; the outgoing President, Mario Soares.

Dr. Mario Soares is the symbol of the constant struggle for Freedom and Democracy both at home and abroad. A struggle which knew no vacillations or concessions.

The political cycle which coincidentally closes with the end of his term of office will forever be linked to his name. In the last decades no-one has marked Portuguese political life so persistently and profoundly.

Today, as President of the Republic, I would like to say how deeply grateful our country is to you, Dr. Mario Soares, for a lifetime dedicated to seeking the best for Portugal and the Portuguese.

Owing to the many areas in which you left your mark it is difficult to sum up your life in one word. There is one word however, which stands out above all others. You are a man of Freedom. It was essential that my first gesture as President should be to award you the Grand Collar of the Order of Freedom, at another ceremony which will take place today.

Mr. President of the Assembly of the Republic. I would like to thank you most feelingly for the warm word you addressed to me in your eloquent speech. This is the seat that represents the sovereign will of the Portuguese people. I know this house well, having survived intense years of parliamentary activity here, believe me, Mr. President, the Assembly of the Republic may always rely on the solidarity and institutional cooperation of the President of the Republic.

I would like to say how honoured I am by the presence today at this inauguration of Heads of State, Prime Ministers and high representatives of friendly countries. I would like to welcome you all warmly and to thank you for your distinguished presence at this ceremony.

Mr. President of the Assembly of the Republic, Ladies and Gentlemen, the coming years are decisive for Portugal's future. The country faces the challenge of ensuring important modernization efforts without causing political and social breaches which may undermine national cohesion.

Our national strategy must encompass the firmness of Portugal's participation in the European Union, the achievement of a sustained effort to modernize the productive sections and constant attention to social policies.

I regard Portugal's future with confidence. We are a quasimillenary country. We are possessed of a culture which, century after century, has maintained its diversity and richness. Our language was spread by the Portuguese "to the seven corners of the world" and today is spoken by over two hundred million.

It was our people's courage and determination that created the wealth of our history, our culture and our language. It is that courage that will always give me faith in the future.

I have acquired and developed a profound knowledge of the Portuguese and this is without any doubt the heritage that I most value in a political career which began more than thirty five years ago.

I know that the Portuguese people will always be able to find the energy and means required to guarantee Portugal's future. I also know that this new political cycle goes hand in hand with the Portuguese people's more demanding attitude in their relationship with the political system, particularly with the need for greater transparency and renewed capacity to provide concrete answer to the expectations and concerns in people's day-to-day lives.

The Portuguese know how I conceive the presidential function. It is built on a concern to which I will pay the greatest attention. In a world and a time increasingly subject to massification, to violent desegregating tensions and to the loss of the collective memory, the values of identify must be reinforced. It is necessary to exercise a magistrature that will defend, guarantee and strengthen national cohesion.

I feel that there are factors nowadays in Portugal which are affecting that cohesion. There are unequivocal signs that social inequalities are on the increase. The profound regional asymetries in national development and the phenomena of minorities' exclusion and marginalization have accumulated and increased to worrying levels. There is an increased loss of solidarity between generations. The role of the family, even its articulation with the educational system, require profound thought.

One of the indications of the loss of national cohesion is the growing signs of insecurity, increased factors of discord, accumulated inter-regional tensions, intolerance and intransigence that I see with concern to evolve.

The strengthening of national cohesion requires far-reaching reforms both to achieve policies of decentralization and to adjust educational and social policies. Also both to restore citizens' trust in the political system and to guarantee the effectiveness of the State's role.

The strengthening of national cohesion signifies that a solution must be found to strengthen municipal and local institutions as well as organized forms of society representation. In the search for that solution the unity of the State must never be questioned.

However, the strengthening of national cohesion also means finding an institutionally stable solution of consensus for the problem of formulating the Continent's political and administrative decentralization. This problem has been awaiting a solution for far too long.

I would like to welcome the organs of the autonomous Regions and give them my assurance that I will cooperate with them wholeheartedly. The regional autonomies were decisive in transforming the lives of the populations of the Azores and Madeira archipelagos. The model of regional autonomy has given proof of its legitimacy and all our efforts must be to ensure its improvement and consolidation.

National cohesion also depends on how we respect our acquired social rights, guaranteeing some level of security for families; and their expectations for retirement, particularly for the underprivileged, outcast and jeopardized by a process of modernization which is often pursued with total disregard for the values of solidarity.

As President of the Republic I will do all I can to encourage the consensuses in Portuguese society. Only these that can pave the way for a new strategic concentration, able to meet the demands of national cohesion at a time of accelerated change and accelerated national mobilization.

The mandate I received from the Portuguese people is very clear. The President of the Republic must be a guarantor of political and institutional stability and perform his office in such a way as to ensure institutional balances.

I am, of course, aware that it is my duty to respect the democratically expressed wish of the Portuguese and to see that it is respected. Just as I will also faithfully respect the spheres of competence of the other organs of sovereignty. I shall commit myself to create the required conditions to ensure that Parliament and the Government carry out their duties and fulfill their mandates. Loyalty and institutional cooperation by contributing to political stability will also play a decisive role in allowing the Portuguese to see themselves mirrored in the institutions of the Republic.

The Government led by Mr. António Guterras, which emerged from elections which gave it the unequivocal vote of the Portuguese people, can naturally rely on my institutional cooperation.

I will exercise my constitutional powers with impartiality. It is incumbent upon me to work with all majorities and all legitimate governments.

The principle of institutional cooperation cannot be synonymous with unanimity. Normal functioning of the political institutions demands that all of us: President, Assembly and Government, must exercise their powers with rigour, and respect the manifestation of reciprocal competences.

I will remain constant to the form of my institutional cooperation with the government. I will also be firm in the exercise of the powers vested in me by the Constitution.

With the Assembly of the Republic, the centre "par excellence" of national democratic life, I will uphold a relationship of respect and solidarity and will maintain a constant dialogue with all parties. The opposition will have in me an attentive observer, responsive to the protection of its important constitutional rights as a means of preserving conditions in which the democratic alternatives can freely be chosen.

I would like here to greet the Portuguese Armed Forces, the guarantor of national defence and security, whose institutional loyalty was decisive in consolidating the democratic regime which emerged after the 25 of April revolution.

On becoming, by reason of office, the Supreme Commander of the Armed Forces I would like to reiterate my total commitment to the success of the peace mission in Bosnia and Hercegovina, on which the stability of Europe at the end of the millennium partly depends.

Mr. President of the Assembly of the Republic, Ladies and Gentlemen, the essence of Portugal's destiny is played out in Europe. This, today, is an incontrovertible factor of the country's international position. It is not moved by apprehensive and defensive policies but rather counsels firm political policies upheld by the clear determination of our national interests.

Both the difficulties of recent years and the demands of this new phase of European construction require the reinforcement of suitable internal consensuses which can withstand the permanent demands of the Portuguese strategy for Europe.

That strategy can no longer be based on secretiveness and the "fait accompli", factors which undermined previous consensuses. Today it will invariably have to depend on, transparent policy about the options to be made and their requirements. Today it will have to be based on the enlarged participation of the social and political forces and on the citizens' opinion. Only thus will the Portuguese understand that the European Union is a community of sovereign states, from which we cannot, therefore, just merely wish to reap benefits without having to share responsibilities.

The challenges facing the European Union at the turn of the century—the intensification of economic integration within a framework of international cohesion, and the expansion of the Union's borders to embrace the new European democracies—present challenges for Portugal. The answer to these challenges lies not in hesitation but in the identification of pre-eminent objectives for the establishment of national consensuses and for a firm, determined Portuguese foreign policy.

A strong, united Europe will be a Europe which is open to the outside world, ready to guarantee a framework of regional stability. This condition is important for the continuance of the transatlantic community, namely the alliance between the United States and Europe. The North Atlantic Treaty Organization continues to be the cornerstone of our security, although present circumstances demand the emphatic development of the European pillar as sign of the European allies' real capacity to assume added responsibilities in collective defence.

Naturally, the relations with Portuguese-speaking countries have a special position in our foreign policy. Those relations represent a link with our own extensive history which is shared with the peoples of Angola, Brazil, Cape Verde, Guinea. Mozambique, Sao Tome and Principe and of course with the people of East Timor. The language, the rich variety of cultures expressed in that same language, history and the effective solidarity between the peoples of these seven states and of the territory of East Timor make it necessary to form a Community of Portuguese-Speaking States and Peoples. I shall dedicate great attention to this project.

Unfortunately, East Timor will not be able to take part in this project as a free and self determined State.

Portugal has an unalienable historical responsibility towards East Timor and the Timorese community. As the territory's administrating power Portugal has a clear political duty vis-a-vis the international community: it must guarantee the completion of the decolonization process through a free and democratic referendum supervised by the United Nations in which the Timorese may, with dignity, exercise their right to self-determination. To fulfill this objective the competent organs of sovereignty must always seek the ways and means which are best suited to the evolution of international circumstances.

Portugal must continue to fight for the cause of East Timor in all international fora and to support the efforts of the UN Secretary-General in fulfilling his mandate, seeking a just and internationally accepted solution for the question of East Timor, with the participation of all the interested parties.

National commitment to this issue is, in fact, provided in consonance with an essential reference value of the Portuguese state's foreign actions: the defence of peoples freedom peoples and the defence of human rights.

The President of the Republic has particular responsibilities with Macao, I believe that there must be close agreement with the Government both for the administration of the territory and the framework of our relations with the People's Republic of China.

The Portuguese policy is very clear: guarantee the stability and prosperity of the territory of Macao as well as the protection of the rights and interests of its inhabitants, never forgetting that Portugal has an unalienable responsibility to protect the rights of all Portuguese citizens in Macao.

Mr. President of the Assembly of the Republic, Ladies and Gentleman, the modern evolution of societies and political systems implies a new perception of relations between the citizen and the political power. This relation must be based on information and on the proximity of the political decision, implying new forms for citizens' democratic participation and the enlargement of their rights.

Unless such new demands are incorporated within the political system it will not be possible to adapt representative democracy to the complexity of social relations at the end of the millennium.

The tendency in modern societies is to develop a culture of civic intervention and of salutary intransigence when protecting the citizen's legitimate rights in relation to the state.

The pressure on the Portuguese political system is already great, due to the fact that a persistent centralizing policy has postponed the natural development of institutional reforms to decentralize power.

Guaranteeing the stability of democracy signifies a constant commitment to defend the prestige of the representative institutions and the citizens' political participation. I have and assume the obligation to encourage a culture of democratic demand. But I also believe that it is essential to ensure respect for the rule of law and the defence of the prestige of the institutions which define and apply such rule of law, as a means to guarantee the trust citizens place in the institutions of the Republic. The respect for the state of law is a fundamental basis of the democratic regime. On this there can be no compromise.

As President I will be close to the people. This intention will be the mark of my term of office. I will listen carefully to the Portuguese. To all Portuguese, I will be particularly attentive, however, to those who are excluded from the system and policies and who, because of the way in which the modernization process in this country has occurred, have been relegated to the statute of expendability. There are no expendable Portuguese. The very idea is intolerable.

I will pay particular attention to the problems of Portuguese families. I am aware of the multiple issues affecting them and cannot fail here to express my concern with all forms of family violence—in which women and children are the principal victims. Within the competencies of my office I will support all efforts which contribute to finding ways for parents to invest increasingly in their children's education as well as to conciliate mothers' and fathers' careers with family life, for I am fully aware of the growing importance of affectivity in the construction of our individual lives.

Solidarity must be a fundamental value of Portuguese society. It must be present during the formulation of the policies of modernization, employment and the reform of social security. It is the only way to modernize the country whilst maintaining national cohesion and the sense of sharing a collective future. The most worrying expression of the loss of solidarity is the evolution in recent years of increasing signs of political, social and even religious intolerance.

Portugal, which is a cohesive country with no ethnic, regional, linguistic or religious issues, must know how to preserve this unique asset without which (as we have seen in many countries) everything would be at peril: civic peace, progress, solidarity, prestige and our position before the world. The Portuguese are well aware of this fact.

A strong patriotism conspicuously based on democratic values, culturally enlightened and civically assumed, is the best protection we have against aggressive nationalism, xenophobia and racism and is also the most efficient reply to insecurity and fear of the future.

I would like here and now to express with great fervour how proud I am to be Portuguese and to declare my love for Portugal which I want to serve with all my capabilities, honouring the mandate I have received from the Portuguese.

Our culture, which is both rich and varied in its popular and erudite forms and so strong in its characteristic traits, is the manifestation of a great People (accessible to others, to the universe, to all that is new, to the unknown) and of a nation that for five centuries united the human species and globalized communication; a nation which, although small, was able to travel to the ends of the seas and the Earth, where it left its marks, the greatest of which is the language and the memories which endure, and of which we constantly receive grateful signs.

Today I would like to encourage the Portuguese—and particularly the young Portuguese—to study and become acquainted with our history, our culture, our heritage, both natural and created, our geography, the roots and foundations of our identity. We must provide our new generations with an exigent education which will prepare them to face the challenges of the open market. But we must also provide them with prospects for the future, with opportunities, with the capacity to look hopefully to the start of their professional and family life. Without all this it will be difficult to solve many of the problems which affect young people in Portugal today.

It is by strengthening our identity that we can procure the energy and the trust to set off boldly on the adventure of the future, fearless and with audacity, in the firm conviction that we were great whenever we put aside the small-minded, petty issues which divide and diminish us. We performed great feats and took our place as a People and a Nation whenever we were able to unite and concentrate on the essentials, opening up to modernity, to the values of freedom and universalism, practising a culture of tolerance towards and curiosity for all that was different, in a way, which is peculiar to us, of affection and human closeness.

It is a lesson for our times. Now, more than ever, they must assume such values. That is precisely why this is the unique contribution we can give to the construction of a Europe of solidarity and citizenship, to the edification of a World of peace and liberty.

When I stood for office I stated unequivocally: there are no presidential majorities. I will be President of all the Portuguese. Of all, without exception.

Long live Portugal.•

S. 1494, HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1995

• Mr. BOND. Mr. President, I applaud the Senate for passing S. 1494, the Housing Opportunity Program Extension Act of 1995. I also want to thank my cosponsors, including Senators D'AMATO, MACK, and SARBANES. This legislation provides critical authority for a number of community development and affordable housing programs and activities which are strongly supported by the American public. This bill also is an important step in reforming HUD's housing and community development programs, and is consistent with a number of significant reforms which were initiated in the VA/HUD fiscal year 1996 appropriations bill, which was vetoed by the President.

Most importantly, this legislation adopts the reformed low-income housing preservation program which was contained in the VA/HUD fiscal year 1996 appropriations bill vetoed by the President. There are approximately 75,000 to 100,000 low-income units in the preservation pipeline that are eligible for prepayment but also remain eligible candidates for preservation funding. These units have been in the preservation processing pipeline for some time, often years, and include a mix between equity take-out deals for owners which are financed through long-term section 8 assistance, and the financing of purchases by tenant groups and nonprofits. This reform would replace the existing preservation program, with its long-term dependence on expensive project-based section 8 assistance, with a capital loan—or capital grant in the case of purchasers, that ensures low-income use at the minimum cost to the Federal Government.

S. 1494 also would provide clear statutory guidance to empower PHA's and assisted property owners with the tools to screen out and evict from public and assisted housing persons who illegally use drugs or whose abuse of alcohol is a risk to other tenants. I cannot emphasize enough the need to take responsible and meaningful action to preserve our low-income housing from criminal and destructive activities.

In addition, this legislation addresses the problem of mixed housing where the elderly and the disabled, including persons with drug and alcohol disabilities, are warehoused in the same public housing projects. This does not work, and I am particularly troubled by some horror stories I have heard where elderly tenants have been harassed and frightened by young tenants with significant drug abuse problems. This provision would provide PHA's with clear authority to establish elderly- and disabled-only housing.

Moreover, S. 1494 would extend a number of other key housing programs which need affirmative legislation to operate: permit the renewal of expiring section 8 moderate rehabilitation contracts; permit CDBG homeownership assistance; extend the Home Equity Conversion Mortgage [HECM] Program; extend the FHA multifamily mortgage risk-sharing programs; and reauthorize the National Cities in School Program and the National Community Development initiative.

This bill also would establish a new loan guarantee program for rural multifamily housing which terminates after 1 year and is supported by a $1-million credit subsidy under the Agriculture fiscal year 1996 appropriation bill, as enacted. This program is needed in rural areas where there is a critical need to develop affordable low-income rental housing.

Finally, the legislation would establish a new Habitat for Humanity initiative. Habitat for Humanity is one of the best models in this country for the development of affordable low-income housing through sweat equity. Since 1976, Habitat has constructed over 40,000 homes worldwide, in every U.S. State and in 45 other countries. As a consequence, some 250,000 people are living in decent, safe, and affordable housing.

Mr. President, this legislation is bipartisan, simple, straightforward and necessary. I look forward to this measure becoming law.•

• Mr. KERRY. Mr. President, I am pleased to rise in support of S. 1494, the Housing Opportunity Program Extension Act of 1996. Mr. President, this bill is important to the country and particularly important to the Commonwealth of Massachusetts. I thank the other Members of the Senate for their support of this legislation.

S. 1494 extends several housing authorizations that expired at the end of the last fiscal year. Among these are the Community Development Block Grant direct homeownership assistance provisions which have proven useful to the city of Boston and other communities in my home State, and the Federal Housing Administration's multifamily risk-sharing program in which the Massachusetts State Housing Finance Agency is an important participant. The bill also extends the Home Equity Conversion Mortgage Program, that provides elderly homeowners with the ability to use the equity in their home without having to sell the house. This bill also extends the section 515 rural rental housing program and two important set-asides within the program—a set-aside for nonprofit developers and a set-aside for underserved areas. Mr. President, the section 515 program is one of the few Federal housing programs providing much needed affordable housing assistance in rural areas.

The passage of this bill also sends to the President provisions from an amendment that I cosponsored with Senator GRAMS in the Banking Committee. This amendment would limit access to public housing by drug abusers and alcohol abusers. We need to make sure that our federally assisted housing provides a decent, safe, and peaceful living environment for its residents. The final version of this bill addresses one of my principal concerns with earlier versions: it makes it clear that a public housing authority should look at a person's pattern of drug or alcohol abuse—rather than their history of drug or alcohol abuse—when screening candidates for admission. S. 1494 also enacts provisions that will streamline the process that public housing authorities must follow to designate a building as elderly-only or disabled-only housing. I would like to thank the managers of this legislation for also including language I recommended to authorize vouchers for people who may be adversely affected by a PHA's designation decision.

I would like to mention that this bill includes an extremely helpful provision that extends the timetables for processing and approving sales to nonprofits under the low-income housing preservation program. Many residents of HUD-assisted housing around the country—and especially in Massachusetts—have been working very hard to purchase their buildings under the preservation program. Extending the deadline will ensure that these people's efforts will have time to come to fruition.

Finally, Mr. President, S. 1494 allows the HUD Secretary to transfer up to $60 million in support of national nonprofit housing and community development organizations. The bill authorizes $25 million for Habitat for Humanity, $15 million for other similar self-help housing programs, $10 million for the National Community Development Initiative—which includes the Local Initiatives Support Corporation and the Enterprise Foundation—and $10 million for National Cities in Schools. These are all excellent organizations and I am pleased to lend my support for this authorization.•

Mr. D'AMATO. Mr. President, I rise to express strong support for The Housing Opportunity Program Extension Act of 1995 (S. 1494). I wish to express my thanks to Senators MACK, BOND, SHELBY, BENNETT, and DOMENICI for their cosponsorship of this important legislation. In addition, I would like to offer thanks to Senator SARBANES, Senator KERRY, and all members of the committee for their dedication to this bill.

The Housing Opportunity Program Extension Act of 1995 represents a bipartisan effort which would: provide short-term extensions of housing authority which have expired; preserve assisted housing; protect elderly tenants in public and assisted housing; and promote self-help housing and community development programs.

This legislation originally passed the Senate on January 24, 1996. The House of Representatives passed a House amendment in the nature of a substitute to S. 1494 on February 27, 1996. The House amendment represents a bicameral effort to gain consensus on an immediate direction for Department of Housing and Urban Development [HUD] housing programs.

To that end, the bill protects the needy recipients of various housing programs that have lapsed authority. For instance, S. 1494 extends the HUD Home Equity Conversion Mortgage Demonstration [HECM] Program through September 2000. Last November I introduced legislation, S. 1409, to provide a 5-year extension of this successful and much needed program. The HECM Program offers elderly homeowners the opportunity to borrow against the equity in their homes. Without this program, senior citizens with low incomes might be forced to sell their homes and spend their golden years elsewhere. In addition, S. 1494 extends the following programs until September 1996: the HUD community development block grant homeownership program; the Rural Housing Service section 515 multifamily loan program; and the Federal Housing Administration multifamily housing risk-sharing programs.

The legislation provides authority to the HUD Secretary to operate the preservation program as passed in title II of the fiscal year 1996 VA/HUD appropriations legislation, H.R. 2099, on December 7, 1995. This provision is needed to protect existing tenants in HUD insured projects, to preserve the existing housing stock, and to recognize the rights of owners.

Further, S. 1494 would provide greater safety and security for our Nation's elderly tenants in public and assisted housing. The bill would streamline procedures for public housing authorities to designate public housing facilities as "elderly only," "disabled only," or "elderly and disabled families only." Public housing authorities would be authorized to evict residents in these designated facilities whose pattern of drug or alcohol abuse would jeopardize the safety of elderly and disabled residents. In addition, housing authorities would be required to provide occupancy standards and an expedited grievance procedure for the eviction of tenants who have a pattern of drug or alcohol abuse.

The Housing Opportunity Program Extension Act would encourage self-help and community development programs which require little or no HUD regulation. HUD would be authorized to provide grants to capable nonprofit organizations, such as Habitat-for-Humanity. In addition, the bill would permit HUD the discretion to utilize reprogrammed funds for the Cities in Schools Program. The Cities in Schools Program is our country's largest and most successful student dropout prevention network. It serves as a model of how effective a public/private partnership organization can be in serving our national goals.

The legislation would also provide an authorization of commitment authority to the Government National Mortgage Association of $110 billion for fiscal year 1996 and increase the HUD section 108 loan guarantee aggregate limit from $3.5 billion to $4.5 billion.

The Banking Committee and its Housing Subcommittee continue to analyze proposals for the reorganization and elimination of the Department of Housing and Urban Development. After the opportunity for further debate and hearings on existing HUD and Department of Agriculture housing programs, housing reform legislation will be introduced this Spring. Until passage of more comprehensive legislation, the Housing Opportunity Program Extension Act of 1995 is essential for the continued operation of our Nation's housing delivery system. I thank my colleagues for their support for passage of S. 1494.

Mr. MACK. Mr. President, I rise in strong support of S. 1494, which I was pleased to cosponsor with Senators D'AMATO and BOND. This legislation extends certain critical HUD and USDA housing programs whose authorizations have expired. It also makes certain other changes in housing policy to reflect priorities of the Congress as well as the administration.

When S. 1494 originally passed the Senate on January 24, 1996, it was limited in scope to only those provisions that needed affirmative legislative authority to continue to operate, such as the Home Equity Conversion Mortgage Demonstration program for the elderly (HECM), the CDBG home ownership program, the FHA multifamily risk-sharing demonstration, and the Section 515 rural rental housing program.

The other body passed S. 1494 as amended on February 27, and the House-passed version contains changes that were negotiated between the House and the Senate. The amended bill we are considering today thus contains some positive additions to the bill the Senate initially approved.

Most notably, S. 1494 now includes provisions that make it easier to evict from public housing tenants who are engaged in criminal activities or who have a pattern of alcohol or drug abuse, and it gives public housing authorities access to criminal records for the screening and eviction of public housing tenants. These provisions aid in the implementation of what the President calls a "one strike and you're out" policy for public housing, and they were part of S. 1260, the Public Housing Reform and Empowerment Act, which this body approved on January 10, and which is awaiting action in the other body.

The bill also streamlines procedures for public housing authorities to designate public housing facilities as "elderly only," "disabled only," or "elderly and disabled families only." S. 1494 provides the authority to evict from these designated facilities those whose pattern of drug or alcohol abuse would jeopardize the safety and security of the elderly and disabled residents. These provisions reflect concerns raised by advocates for the elderly about the mixing of elderly and disabled populations, but they provide a balanced policy that will help provide access to affordable housing for both of these special needs populations. Again, these provisions are similar to those contained in the Public Housing Reform and Empowerment Act.

S. 1494 also extends the Home Equity Conversion Mortgage Demonstration for the elderly through September 30, 2000, instead of the 1-year extension originally passed by the Senate.

The bill provides authority for the HUD Secretary to operate the low-income housing preservation program passed by Congress in the vetoed fiscal year 1996 VA–HUD appropriation bill. These provisions are necessary to prevent large-scale mortgage prepayments of FHA-insured mortgages and thus preserve the existing supply of affordable low-income housing.

In addition, S. 1494 creates a self-help housing program under which HUD will provide grants to capable nonprofit organizations, like Habitat for Humanity. Grand funds must be used for the payment of land acquisition and infrastructure costs. These funds will supplement donations and contributions of products, volunteer labor and sweat equity, on which groups like Habitat now depend.

Finally, S. 1494 authorizes only through September 30, 1996, the section 515 rural rental housing program administered by USDA's Rural Housing Service [RHS]. Before the program is authorized beyond the current fiscal year, oversight hearings should be held and reforms implemented to guard against waste, abuse, and misuse of funds. The RHS has taken significant steps to correct problems in the section 515 program which have been identified by the USDA IG and the GAO. However, legislative action is required to assure that program funds are allocated properly and that the program is not abused by developers, owners, or tenants. The Banking Subcommittee on Housing Opportunity and Community Development, which I chair, will hold hearings on the section 515 program early this spring.

• Mr. SARBANES. Mr. President, I rise in support of S. 1494, the Housing Opportunity Program Extension Act. This bill addresses some important and time-sensitive matters in the housing area. S. 1494 extends program authorities that have expired and makes some other needed changes in authorizing statutes. Finally, it provides HUD with the authority to support several national nonprofit organizations that are making a huge difference in America's communities. I thank the other members of the Senate for their support of this legislation.

S. 1494 extends several housing authorizations that expired October 1, 1995. Among these are the Community Development Block Grant direct homeownership assistance provisions, the Federal Housing Administration [FHA] multifamily insurance risk-sharing programs, and the Home Equity Conversion Mortgage program. Each of these programs is a valuable tool in our efforts to make sure that Americans remain the best-housed people in the world.

The program extensions on this bill also include the section 515 rural rental housing program and the set-asides within the program for nonprofit developers and for funding to underserved areas. This authorization is necessary because the Rural Housing Service at the Department of Agriculture has been unable to utilize its $150 million appropriation until an authorization passed. Section 515 provides valuable, low-interest credit to support affordable rental housing in rural areas.

The bill also includes authority for the HUD Secretary to spend up to $60 million supporting local nonprofit housing and community development activities. I would like to express my enthusiastic support for these provisions. The bill authorizes $25 million for Habitat for Humanity, $15 million for other similar self-help housing programs, $10 million for the National Community Development Initiative, and $10 million for National Cities in Schools. Habitat for Humanity affiliates have been operating in my State for years and creating homeowners among low-income families. The National Community Development Initiative combines Federal funds with funds from foundations to support capacity building for community-based nonprofits. Two terrific national nonprofit intermediaries—the Enterprise Foundation which is based in Columbia, MD, and the Local Initiatives Support Corporation—are key participants in the NCDI program and are factors in the NCDI program's success. The community-based nonprofit sector is an important and growing part of our delivery system of assistance to distressed communities. I am pleased with the recognition that this bill provides to these efforts.

Finally, Mr. President, I would like to highlight the language in the bill that permits HUD to renew expiring Section 8 moderate rehabilitation contracts. This provision overturns language passed on the continuing resolution that prohibited HUD from renewing moderate rehabilitation contracts. Clearly, HUD should not renew contracts on housing that is not decent, safe, and sanitary. Likewise, we are working with HUD to identify ways to reduce the cost of Section 8 contracts where rent levels are excessive. However, HUD needs to take a closer look at all of the developments assisted with project-based rental assistance and make decisions about their futures on a case-by-case basis. Before converting project-based assistance to vouchers, HUD should consider the future viability of the development, the ability of the project to support its existing financing, the availability of affordable housing for voucher holders, and the desirability of retaining long-term, affordable housing in that location.•

ORDER OF BUSINESS

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BATTLE OVER THE PROMOTION OF NAVY COMMANDER ROBERT STUMP

Mr. GRASSLEY. Mr. President, I want to take a moment to speak about a battle that is raging over the promotion of Navy Comdr. Robert Stump. The battle is raging within the Senate Armed Services Committee, and it is being discussed, as well, in the press.

I have had my differences with this committee in the past, but I want to set the record straight. In this particular case, I think the committee is getting a bum rap. I think the Senate Armed Services Committee is doing the right thing.

Commander Stump's promotion to the rank of captain has been denied by the Senate Armed Services Committee. It was denied because of his suspected involvement in the inappropriate behavior at the Tailhook convention.

I support the committee's decision to deny the promotion, and I support it 100 percent.

Unfortunately, Commander Stump believes that promotion is an inalienable right. Sadly, he believes that the Senate should not sit in judgment of his character, or even make judgments about his character. So he has hired a lawyer and has been conducting a very ugly lobbying campaign.

The committee is getting hammered with bad publicity. His supporters argue that Commander Stump has been cleared of criminal wrongdoing. They argue that he is an innocent man, and they argue that he has been treated unfairly and that the flagging procedure should be abolished.

Being cleared of criminal charges does not tell me that Commander Stump is ready for promotion. Mr. President, this is a negative standard of judgment. A negative standard of judgment will not help to nurture the kind of topnotch leadership that the Navy so badly needs.

To decide whether he is ready for promotion to captain, we need unambiguous answers to at least 5 questions:

No. 1, has he demonstrated excellence in the performance of his duties?

Two, has he demonstrated excellence in leadership and discipline?

Three, does he always set a good example?

Four, does he care for and respect the men and women who serve under him in the Navy?

Five, and above all, is he a man of integrity?

In my mind, Mr. President, Commander Stump's activities at Tailhook raise questions about his ability to exert moral leadership. I personally like the controversial "flagging" procedures. This procedure was instituted by the Armed Services Committee. It is a procedure for identifying the files of promotion candidates suspected of inappropriate behavior at Tailhook.

There is a good reason for doing this. The committee does not want to get bushwhacked on the floor by Senators like me, and other Senators, who may be waiting for an inappropriate person to be advanced to the floor for confirmation when they should not be that far along in the process anyway.

If we discover that a prospective nominee has engaged in misconduct at Tailhook, or anywhere else, they know that certain Senators on this floor, including myself, will raise questions and maybe hold it up.

Too many Navy nominees have slipped through the Senate confirmation net when damaging information about them lay hidden in Government files. It usually leaks out to the press after the fact. If that information had been exposed to public debate, some of the nominations would have died. "Flagging" helps to fix this problem.

Mr. President, the only way to solve the Navy's leadership problem is to promote men and women who measure up to a standard of excellence.

I think it is clear that the Senate Armed Services Committee has done the right thing in this particular nomination.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELECOMMUNICATIONS

Mr. PRESSLER. Mr. President, the Telecommunications Act of 1996, which passed on February 1 and was signed into law February 8, is only the first step in my reform agenda for national telecommunications policy. As comprehensive as the new Telecommunications Act is, there are a number of profile and policy issues we were not able to adequately address, which need our attention.

Over the coming months, the Commerce Committee will be examining the Federal Communication Commission's regulatory structure. The key issue is whether the FCC, a regulatory agency devised in the 1930's, based on the ICC model from the turn of the last century, makes sense today as we prepare for the 21st century. We also need to ensure that Federal regulation does not become a roadblock to the deregulatory policy changes engineered by the Congress with enactment of the Telecommunications Act of 1996.

We also will move forward with national spectrum policy reform. I plan to chair four Commerce Committee hearings on spectrum policy reform, covering a broad range of issues concerning the management of the electromagnetic radio frequency spectrum. Although the issue of the broadcast advanced television spectrum captured headlines, there are a number of spectrum policy reform issues we need to address that are far more important. I intend to move the spectrum policy debate firmly back on the ground to the communications policy rather than the budgetary process which, to date, unfortunately, has dictated the terms of the spectrum reform debate.

Mr. President, the electromagnetic radio frequency spectrum is an important physical phenomenon—a natural, national resource. An increasing number of telecommunications enterprises depend on access to this resource. These enterprises include radio and television broadcasting, communications satellites, the complex air-to-ground systems needed to manage aviation, the wireless systems upon which law enforcement and public safety depend, and the burgeoning mobile radio telephone business—cellular phones and personal communications services [PCS].

Simply put, the spectrum is to the information age what oil and steel were to the industrial age.

Today, there is a limited supply of available spectrum and an almost limitless demand for its use. In other words, the spectrum is an enormously valuable yet finite natural resource. This is the crux of the problem with our current spectrum policy structure. Unless a reformation plan is developed that will create a more effective and efficient use of the spectrum, as well as a more stable supply of spectrum for private sector use, a vast array of new spectrum-based products, services, and technologies will go unrealized for the American people.

This is particularly disheartening when one considers the benefits that are derived from current spectrum-based technology. For example, direct broadcast satellite [DBS] has become a viable competitor to cable. High powered DBS satellites have the ability to process and transmit as many as 216 video and audio channels simultaneously.

Cellular is another spectrum-based technology that is worth mentioning. In 1962, AT&T was operating its first experimental cellular telephone system. It was not until 20 years later that the first cellular licenses were handed out. Today, the cellular industry generates about $14.2 billion in revenues a year and provides service to nearly 35 million customers.

From its very beginning, wireless communication has played a vital role in protecting lives and property and, subsequently, through the development of radio and television broadcasting, in delivering information and entertainment programming to the public at large. More recently, wireless, spectrum-based telecommunications services, products and technologies have proven to be indispensable enablers and drivers of productivity and economic growth, as well as international competitiveness.

Wireless technology can deliver telecommunications and information services directly: First, to individuals on the move, away from the office desk or factory floor, thereby increasing their personal productivity; and second, to fixed locations that cannot be served economically by wireless facilities because of physical infeasibility or prohibitively high costs. Wireless services are also critically important in bringing competition to the wireline telephone network, one of the key goals of the Telecommunications Act.

The use of this economic resource is largely determined through administrative licensing procedures first developed in the 1920's. Compared to that of most other countries, the U.S. spectrum management system allows for a broad degree of private sector involvement in spectrum. Yet, the system still involves a large degree of central government planning by federal regulators.

To a large extent, it is electromagnetic industrial policy.

The FCC must determine which services should be provided, the frequencies on which they will be provided, the conditions under which they will be provided, and often the specific technology to be used.

As with other systems of central planning, the spectrum management system currently utilized in the U.S. tends to result in inefficient use of the spectrum resource. Federal regulators—rather than consumers—decide whether taxis, telephone services, broadcasters, or foresters are in greatest need of spectrum. It is a highly politicized process. Most importantly, new services, products, and technologies are delayed or, worse yet, denied. This obviously harms consumers.

It typically takes years to get a new service approved by the FCC. The lengthy delay in making cellular telephone service available, noted earlier, imposed tremendous cost on the economy. One study estimated that the delay cost the economy $86 billion. As important, American consumers were denied a new productivity and security tool for many years.

Equally troubling, the system constrains competition. One of the most important determinants of a competitive industry is the ability of new firms to enter the business. The bureaucratic allocation process typically provides for a set number of licenses for each service, precluding additional competitors. Only two cellular franchises, for instance, are allowed in each market.

These problems have long been the focus of criticisms by economists and other expert analysts. Changes in new communications technologies, especially the digitization phenomenon, are making the system even more unworkable. New wireless communications technologies, services and products are being developed at an accelerated rate. Even if the FCC were able to weigh accurately the needs and merits of the relatively few spectrum-based services that existed in the 1930's, it is simply not able to do so today. Even if it could, the lengthy delays associated with the allocation and assignment processes, while perhaps acceptable in a slow changing world, are seriously out of step with the fast-changing world of today.

Pressures on the traditional radio frequency management structure are increasing. This is because demand for channels is outstripping supply. Some of the major issues which have arisen in recent years include:

GOVERNMENT USE

Many believe the Federal Government occupies too much of the radio spectrum resource today. They argue for reducing the government spectrum inventory in order to get this resource into the hands of the private sector where they believe it will be used more effectively and efficiently. Some also contend the traditional division of responsibilities between the FCC and NTIA is obsolete. Establishing a single radio spectrum manager for the United States, they argue, would be a significant improvement. Still others see the Government spectrum inventory as a potential source of revenues. They argue that the Government should be required to relinquish frequencies which could then be auctioned. They believe spectrum auctions would return billions of dollars to the Treasury.

SPECTRUM FLEXIBILITY

Many contend the Government should liberalize rules governing use of the spectrum. The prevailing radio frequency management system limits the uses that can be made of particular bands and channels. The channels allocated to broadcasting and assigned to broadcast stations thus cannot legally be used for cellular phone service today. Many of these frequency use limitations are grounded on traditional analog radio transmission technology. Many engineers and technical experts contend that the trend toward digital transmission renders these traditional limitations on channel use obsolete. Organizations including the Progress & Freedom Foundation have argued in favor of according frequency users broad flexibility to use their channels as they choose, subject to a no-interference requirement. Such a change would greatly empower individual licensees. It would also eliminate the scarcity of radio channels upon which much government regulation is now based.

SELF-MANAGED REGULATION

At present, the FCC controls which entities receive licenses and what they can do with them. Much of the radio frequency engineering associated with this regulatory system is conducted by the FCC in-house.

In some instances, the FCC has delegated some of its engineering and routine licensing functions to user cooperatives called frequency coordinator groups. Legislation passed by Congress in 1981 authorized this approach. Some believe the FCC should expand this approach to encompass virtually all radio-based communications. This would reduce the administrative burden on the agency, they maintain, while speeding up the overall process. Some have suggested that the FCC should make block grants of the spectrum to the States. Governors could then apportion channels among various State law enforcement, public service, and other users. This also would significantly reduce FCC costs, they argue, and could ensure more responsive frequency management.

The radio frequency management and use reforms outlined above hold significant promise. None represent a truly fundamental change in Federal policy. All would reduce regulatory burdens while fostering important public policies including advances in technology and innovation, greater choice and more customer options, and more effective, efficient, and responsive use of this resource.

A SPECTRUM POLICY REFORM PROPOSAL—GOVERNMENT USE

Several approaches have been advanced which, if adopted, would significantly improve the effectiveness and efficiency of Federal use of the radio frequency spectrum, and with no discernible adverse impact on the performance of the many Federal programs that now rely heavily on radiocommunications.

First, legislation should build on the 1993 Omnibus Budget Reconciliation law, which directed the Government within a specified period of time to relinquish control over a predetermined amount of radio frequency spectrum. This spectrum has been retroceded, in part, and should prove the basis for a variety of new private sector communications offerings.

Now, legislation requiring the Government to privatize a set percentage of its spectrum—20 to 25 percent—makes sense. A special temporary congressional commission could be established to carry out this task much like the Base Realignment and Closures Commission [BRAC]. Congress also has created special or temporary commissions in the past to examine problems like the 1981 temporary Commission on Alternative Financing for Public Telecommunications.

Mr. President, the proposal here is that there would be either the Base Closure Commission or something like it to look at the spectrum that the Defense Department and the CIA has to see if that could not be released in part or shared in part as new technology develops. Indeed, one of our hearings that we are going to hold in the Commerce Committee will be an off-the-record hearing on that subject. We certainly want our national defense to meet its requirements with spectrum, but we need to take a look at it. It may well take an extension of the Base Realignment and Closure Commission to look at the spectrum that the military has.

If enacted, this initiative would have several positive consequences. To begin with, it would give Federal agencies a powerful incentive to modernize their communications facilities—to derive more communications capacity from the same or less channel bandwidth. Reducing the amount of spectrum used by Government would also create a powerful economic engine that could help drive the deployment of common user wireless communications systems generally.

At present, there are a number of private sector alternatives to the Government providing its own radio communications. These include cellular radiotelephones as well as the new PCS services which are developing nationwide. As cellular radio moves from the conventional analog to more advanced digital transmission techniques, the number of cellular channels—system capacity—may increase by five- or six-fold.

That is important to repeat. As cellular radio moves from the conventional analog to more advanced digital transmission techniques, the number of cellular channels—system capacity—may increase by five- or six-fold. In other words, we may have five or six times as much capacity on some of the same spectrum. Do not let me overstate this matter because that is only true of certain types of spectrum. But we may have five or six times as much use of that same band of beachfront spectrum in some instances.

That large-capacity increase, plus the proliferation of additional wireless systems, hold the promise of significantly lower customer costs. Such costs could be even lower, if the volume of communications handled by these wireless systems grows. Here, as in other cases, cost per message, and thus price to users, is highly dependent upon volume.

Not all Government radio communications requirements can necessarily be fully satisfied by private-sector commercial mobile service [CMS] providers. Through the standard Government procurement process, however, agencies could negotiate with CMS providers for special services and capabilities. There is little reason to assume, at this time, that an effectively competitive wireless communications business could not adequately meet many Government radio communications requirements. In the final analysis, the cost to the Government of relying on private sector supplies would be lower than the posted price because of the private sector's tax liabilities.

Second, legislation should be passed to consolidate U.S. frequency management responsibilities under the FCC. The current practice of splitting functions between the FCC and NTIA is a historical anachronism. The frequency management functions of NTIA, together with the IRAC Secretariat and associated support activities—including NTIA's electromagnetic compatibility analysis operations—should be transferred to the FCC. In order to take into account critical national defense, law enforcement, and security concerns, the law should provide for limited review of FCC decisions on Federal frequency management by the President or his designee. At present, NTIA frequency allocation decisions are reviewable by the Director of the Office of Management and Budget, acting pursuant to delegation from the President. No appeal from an NTIA frequency decision apparently has ever been taken.

Such a consolidation makes sense. The FCC's engineering and routine radio frequency management chores can, for the most part, be assumed by private sector frequency coordinator groups. As Government users increasingly rely on the private sector to meet communications needs, and the dimensions of the Government change as well, the NTIA workload is likely to shrink as well. It makes little sense for taxpayers to fund two separate, Federal agencies both responsible for the effective and efficient use of the same resource.

SPECTRUM FLEXIBILITY

Radio frequency management traditionally has limited the permissible uses of allocated bands and assigned channels. This, in part, has been a function of technology, as well as the technical characteristics associated with particular frequencies.

For example, channels allocated to the Forest Products Service have traditionally been quite low frequencies, because those frequencies have been shown to have the greatest ability to penetrate underbrush, leaves, etc. In general, the higher the frequency range, the more the transmission resembles visible light in terms of the phenomena that cause interference. Hence, at very high frequency ranges, fog, air pollution, and rain cause interference which would not arise if lower frequencies were used. New digital communications technologies, however, lessen this challenge. This is because digital technology includes error correction and other features which lessen interference.

"Spread spectrum" and "digital overlay" techniques make it possible for multiple communications pathways to be established within the same radio frequency channel. Using this technology, broadcasters could transmit other communications in addition to video and sound signals. Radio broadcast channels today already are providing local links for paging operations.

Government policy should encourage multiple, more intensive use of radio frequency resources where there is no perceptible adverse technical impact. Among other things, allowing radio frequency licensees greater flexibility could facilitate equipment and systems modernization and upgrading. For example, many public safety communications systems today are in need of modernization, to meet the demand for more cost-effective and responsive law enforcement, fire safety, and emergency medical services. The financial resources available to many public safety communications organizations are limited today, however, as a consequence of the fiscal austerity imperatives arising at virtually all levels of government.

If local police forces were permitted greater flexibility in use of their channels, however, this challenge would be less severe. Switching to new digital communications techniques typically achieves a significant increase in the total number of channels available—in some cases, by a factor of four or more. A local police department, therefore, could increase the number of channels available to support its operations and, at the same time, have capacity available which it could lease or barter with private communications organizations. Such arrangements could generate the funds needed to finance modernization. Greater flexibility is a public interest win-win situation—an option that benefits all involved and affords the general public both better service and more communications options.

The FCC and NTIA have already taken steps to allow some radio licensees more flexible use. The FCC's cellular radiotelephone rules, for example, place few constraints on permissible communications. The same is true in the case of the new PCS services. What is needed, however, is far greater application of this fundamental principle of flexible spectrum use.

SELF-MANAGED REGULATION

One of the more promising options for radio frequency management reform is expanded use of self-managed regulation—the use of private sector radio frequency coordinator groups to handle routine engineering, frequency coordination, and other functions which, in the past, had typically been undertaken by FCC staff.

At present, the FCC relies on frequency coordinators to handle many of the routine chores associated with private mobile radio systems. Organizations such as the National Association of Business & Educational Radio [NABER], the Associated Public-Safety Communications Officers [APCO], and the Special Industrial Radio Service Association [SIRSA] process applications, conduct engineering surveys, and otherwise facilitate licensing and channel usage in these specific private radio services. The FCC does not generally rely on frequency coordinators, however, with regard to broadcast services.

The task of being a frequency coordinator depends, in large part, upon access to computerized data bases, and having some radio frequency engineering expertise. Access to data bases today, of course, is routine. The number of individuals with substantial radio frequency management expertise is growing, moreover, in part because of Federal Government, and Defense Agency, downsizing. There is, in short, no good reason to assume that multiple frequency coordinators could not be sanctioned by the FCC. This would have the effect of broadening user's options. Competition among and between frequency coordinator groups, moreover, should have the effect of ensuring efficient charges and effective, responsive operations. That has been true in virtually every market where competition has been introduced, and should prove true in this case as well. The FCC should be directed to expand substantially the Agency's use of private sector frequency coordinator groups.

Let me say something about the public safety spectrum and begin to conclude by saying, at this time, the FCC should be directed to assess the feasibility and desirability of making some spectrum block grants to States. In lieu of processing, issuing, and renewing tens of thousands of public safety communications licenses—at significant cost to licensees, as well as the FCC—the agency would issue 55 block grants to the chief executive officer of each State, including Guam, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia. It would then be the responsibility of State Governors to determine eligibility, to ensure compliance with standard FCC—and other—operating rules, and to resolve disputes among public safety licensees within the jurisdiction.

This would reduce delays and heighten responsiveness to actual user requirements, while also lessening substantially the burdens of traditional regulation now borne by the FCC. Most importantly, it would tend to ensure more and better public safety communications for State residents. Again, while States today have substantial radio frequency engineering expertise, such expertise is readily available in the competitive marketplace.

In conclusion, the radio frequency management and use reforms outlined above hold significant promise. All would reduce regulatory burdens while fostering important public policies including advances in technology and innovation, greater choice and more customer options, and more effective, efficient, and responsive use of this valuable national resource. I look forward to receiving comment on these and other spectrum reform proposals as part of our comprehensive hearing process in the Commerce Committee.

Mr. President, as I look about the Chamber and in the galleries, I feel as I did some months ago. I addressed our State Chamber of Commerce. I was our last speaker after a whole series of speakers. Toward the end of my speech I noticed everyone was nodding their heads. Either they agreed with me or they were falling asleep.

I thank my colleagues for letting me make this speech on spectrum management policy. Some of my basic thinking is we need to take a new look at this spectrum. It is a national natural resource. We need to look at what the Government has and what private areas have. We need to look at what the broadcasters have; if they are going to migrate, if we are sure we are going to auction what they migrate from.

We have to look at giving authority to the States. If we find that there is more spectrum to use, we need to consider the possibility of auctioning it or, if it is used for public use, letting some of the State Governors decide how to allocate it rather than have it be allocated here within the beltway.

Those are some things we need to think about.

ORDERS FOR THURSDAY, MARCH 14, 1996

Mr. PRESSLER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, March 14; that immediately following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and the Senate then resume the omnibus appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I further ask unanimous consent that, at the hour of 1:30 p.m. on Thursday, the Senate lay aside the pending business and there be 30 minutes for debate prior to the Whitewater cloture vote, to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. PRESSLER. For the information of all Senators, the Senate will resume the pending omnibus appropriations bill at 9:30 a.m. Thursday. A number of amendments are remaining, therefore votes will occur. Also, a cloture vote will occur at 2 p.m. with respect to the Special Committee To Investigate Whitewater.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. PRESSLER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:45 p.m., recessed until Thursday, March 14, 1996, at 9:30 a.m.

EXTENSIONS OF REMARKS

AFTERMATH OF THE MARC TRAIN CRASH: HONORING THE CREW AND THE JOB CORPS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. HORN. Mr. Speaker, a few short weeks ago, many Americans were shocked by the loss of life in the Amtrak/Maryland Commuter Rail [MARC] railroad tragedy. Among those who died were eight outstanding young people who were turning their lives around: Dante Swain, 18, Baltimore; Michael Woodson, 26, Philadelphia; Diana Hanvichid, 17, Woodbridge, Virginia; Lakeisha Marshall, 17, Capitol Heights, Maryland; Carlos Byrd, 17, Baltimore; Claudius Kessoon, 20, Landover, Maryland; Thomas Loatman, 23, Vienna, Virginia; and Karis Rudder, 17, Elmhurst, New York. Three fine MARC train crew members also died while heroically trying to save the passengers instead of themselves: Richard Orr, James Quillen, James Majors, all of Maryland.

The young people were enrolled in the Job Corps at the time of their deaths. They were participants in one of the oldest and most successful Federal programs that gives at-risk youth a chance to build positive lives for themselves. They were striving to create the kind of lives that the MARC train crew members had made for themselves—responsible, productive, and hard working. The ideals of the Job Corps represent the dreams of these young people and the lives of the MARC train crewmen.

The Job Corps was born in 1964, during the Great Society of Lyndon Johnson. It is one of that era's most productive and effective offsprings. As the Nation's largest and most comprehensive residential job training and education program for at-risk youth, the Job Corps has provided more than 1.6 million disadvantaged youth with a pathway to prosperity and productivity. Some Job Corps graduates have become millionaires, Ph.D.s, judges, psychologists—even a World Heavyweight Boxing champion [George Foreman].

The Job Corps was established as a public-private partnership. Under a contract with the U.S. Department of Labor, private industry operates almost 80 percent of the Job Corps centers. The remaining centers are managed through contracts with such Government agencies as the Forest Service, the U.S. Fish and Wildlife Service, and the National Park Service.

Job Corps students are young people between the ages of 16 and 24 who are making a determined effort to achieve a productive, responsible life. Job Corps statistics show that their determination pays off: Seven out of ten Job Corps students go on to full-time employment, enlistment in the military, or further education at the college level.

The return on the financial investment in the Job Corps brings impressive results. A 1983 study showed that the Job Corps yields a 46-percent return to society on every dollar invested in it. The average cost per Job Corps student is $15,426 over a 7.5 month period—the average length of stay—This translates into $67 per student per day. The cost-benefit ratio of the Job Corps is dramatic when you compare this expenditure to the yearly per student cost at a public university—$17,246—or the average cost to incarcerate a juvenile for 1 year—$38,000—or the cost per cadet for 1 year at the U.S. Military Academy at West Point—$62,250.

The young people who perished were students at the Harpers Ferry Job Corps site in West Virginia. It is one of 110 centers nationwide, including Puerto Rico, where approximately 60,000 young people are turning their lives around. A residential center, the Harpers Ferry Job Corps Center, provides basic education and the chance to earn a high school equivalency degree, training in life skills, as well as medical services and vocational counseling. The 210 students enrolled there are preparing to enter the construction trades, and business, clerical, and health occupations.

The loss of the admirable young Harpers Ferry Job Corps members and the brave MARC train crew cannot be replaced. However, we can celebrate their hopes, dreams, and successes through the Job Corps.

CAMPAIGN TO PREVENT TEENAGE PREGNANCY

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to call to your attention a bipartisan effort to prevent teenage pregnancy. The National Campaign to Prevent Teenage Pregnancy proposes to garner support from State and local governments, as well as the media to encourage activities that would "reduce teenage pregnancy by supporting values and stimulating actions that are consistent with a pregnancy free adolescence."

The ever-increasing number of teenage mothers poses economic and moral dilemmas for the Nation. Out-of-wedlock births to American teenagers rose 150 percent between 1970 and 1990. Of these pregnancies 82 percent were unintended. This rise in unintended pregnancies has the potential to negatively impact the economic future of the United States. It is therefore imperative that we work together to decrease the number of teenage pregnancies before they reach epidemic proportions.

As it stands, nearly half of teen mothers are on AFDC within 5 years of the birth of their first child. It has been estimated that 53 percent of AFDC benefits go to families that began as a result of a teenage pregnancy. The effect on the children born to these young girls is devastating. Eighty percent of these children live in poverty, as opposed to 8 percent of children born to women over the age of 20.

The National Campaign to Prevent Teenage Pregnancy proposes to use national and community based organizations—including religious organizations—to encourage concerted efforts to educate ourselves on teenage pregnancy. By involving State and local organizations, we ensure that each community develops a program that reflects its particular set of values.

The success of this initiative would not only lighten the burden on the Federal Government, but also allow for a brighter future for millions of our Nation's youth.

RICHARD C. LEE ON HIS 80TH BIRTHDAY MARCH 14, 1996

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Ms. DELAURO. Mr. Speaker: On March 12, 1996 the Honorable Richard C. Lee celebrated his 80th birthday. Today he is being honored by Albertus Magnus College. It is with tremendous pleasure that I rise today to salute this incredible individual, who means so much to me and has contributed so much to the city of New Haven.

Dick's dedication to the city of New Haven is illustrated by a lifetime of public service. His career began as a reporter and later a wire editor for the New Haven Journal Courier. He later became editor of the Yale News Digest and director of the Yale University News Bureau. Dick then went on to a career as a public servant. After twice running and losing, he became New Haven's youngest mayor in 1953. He served for 6 years, longer than any mayor since.

There was an historic dimension to Dick Lee's administration. During his tenure as mayor, he was deeply involved with and dedicated to issues of urban renewal. He initiated an economic revitalization plan, marking a turning point in New Haven's history. He was particularly interested in the human side of urban redevelopment. He incorporated community outreach into the public school system, and added staff to the public schools to facilitate relationships between faculty members and students, and developed job training programs. He also served as president of the U.S. Conference of Mayors. Dick's success in New Haven and solid reputation led to his becoming the principal adviser on urban affairs

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

during the Kennedy and Johnson administrations, where he led the way for similar programs throughout the country.

After retiring as mayor, Dick continued to serve his community by serving as executive director of the United Way of Greater New Haven from 1975 to 1980. Dick's later achievements include an appointment to the Committee on Judicial Review in 1976 and chairing the State Library Board from 1984 till 1986. In 1987 he was appointed to the Judicial Review Council. He later joined Union Trust as the chairman's representative in New Haven.

On a personal and political level, the DeLauro and Lee families have been close for years. I witnessed firsthand his knowledge, insight, and caring for the New Haven community. My mother, Luisa DeLauro, served on the Board of Aldermen under Dick's administration. I fondly remember Dick's relationship with my father, Ted DeLauro. They were great friends and worked together on numerous projects for the betterment of the New Haven community. Throughout my life, Dick has been both a mentor and a friend to me.

On September 13, 1987, Dick was inducted into the Knights of St. Gregory, a papal honor for "exemplary conduct as a citizen living up to his full measure of influence and creativity in the community." It is exactly this commitment to community that distinguishes the life of Richard Lee and it is with great pleasure that I commend him for a lifetime of achievement and service to our community. I join his wife Ellen, his children, Sally, David, and Tara, and his many friends and family members in wishing Dick a very happy 80th birthday.

TRIBUTE TO TUSKEGEE UNIVERSITY SCHOOL OF VETERINARY MEDICINE ON ITS 50TH ANNIVERSARY

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. BROWDER. Mr. Speaker, I rise today to call the attention of the House to the Tuskegee University School of Veterinary Medicine and its 50 years of service to the State of Alabama and to the United States of America.

A 12-month observance of the school's founding in 1945 will culminate this weekend with a special celebration in Alabama on Sunday, March 17.

Tuskegee Institute, which was renamed Tuskegee University in 1984, is one of the outstanding educational institutions in the Third Congressional District of Alabama, which I have the privilege to represent.

Tuskegee's school of veterinary medicine was the first in the southeastern region of the United States that would give African-Americans an opportunity to obtain an education in veterinary medicine. In this capacity, the Tuskegee University School of Veterinary Medicine fulfilled an urgent health manpower need during the 1940's and 1950's by educating African-Americans who provided significant service to the rapidly growing livestock industry in the southeast.

Even after the legal desegregation of the United States in 1964, the school continued to serve as a national resource for training of minority veterinarians. It has the distinction of having educated over 72 percent of all African-American veterinarians educated in the United States since 1945. In the last 5 years, 10 percent of all Hispanic-American veterinarians educated in the United States and 59 percent of all African-American veterinarians have come from the Tuskegee school.

The Tuskegee University School of Veterinary Medicine, which continues to be the only school of veterinary medicine on the campus of a historically black college/university, is also the most racially, culturally, ethnically, and geographically diverse school of veterinary medicine in North America.

The Tuskegee school was accredited by the American Veterinary Medical Association before its first class of five students were awarded the degree of doctor of veterinary medicine in 1945. It has maintained that accreditation every year since then.

Since its founding, The Tuskegee University School of Medicine has graduated 1,376 men and women. Most of them still maintain productive careers in various specialties and subspecialties in clinical and non-clinical practices in 43 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and 17 foreign countries.

Ten years ago, on May 14, 1986, the school established an International Center of Tropical Animal Health. It was the first center of its kind in the United States to offer the combination of education, research, and consultation services to Third World countries.

Graduates of the Tuskegee University School of Veterinary Medicine have contributed significantly to the betterment of their State and Nation. For 50 years, they not only have ministered to the medical and surgical needs of the pets and livestock of Alabamians, but they served on the frontlines of the war against disease, malnutrition, and animal and human suffering. They have worked to safeguard human and animal health and the environment through their knowledge of medicine and surgery, veterinary public health, food safety, epidemiology, and the human-animal interdependent relationship.

Tuskegee University School of Veterinary Medicine truly is a national resource for veterinary medical education and a leader in minority veterinary medical education. And for this, we salute the Tuskegee University School of Veterinary Medicine and congratulate it on 50 years of service.

HONORING SERGIO ZILLI

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. POMBO. Mr. Speaker, today I would like to congratulate my uncle, Mr. Sergio Zilli, on the celebration of his 60th birthday. Uncle Serge has been an invaluable source of advice to me, in particular since I was sworn in to Congress.

Serge is a happily married family man. He and Carol have raised three wonderful children. he has a successful business career, and his outgoing nature has won him hundreds of friends through California.

His adventures in politics, however, have produced mixed results. Serge had a promising beginning when he was elected student body president at Jefferson Grammar School in Tracy, CA, and he has always been active in civic affairs.

In the early 1970's, he made a run for the congressional seat held by a former member of this body, the Honorable John J McFall. Serge made a mighty effort, but the incumbent held on.

Nearly 20 years later, with Serge's support, I was elected to essentially the same seat. Thank you for your support, Uncle Serge, and best wishes on your 60th birthday.

BASIC RIGHTS SWEPT ASIDE IN RUSH TO FIGHT TERRORISM

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Ms. LOFGREN. Mr. Speaker, when I was elected to Congress in the fall of 1994, I was extremely honored to represent the people of the 16th District of California, and I was also deeply honored to succeed one of the great legislators in the history of this body, Congressman Don Edwards. As the longtime chairman of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, Mr. Edwards is widely respected as one of the foremost protectors of our Constitution and civil liberties.

He recently published an analysis of the House antiterrorism bill in our hometown newspaper, the San Jose Mercury News, and I wanted to share his expert insight with my colleagues and his former colleagues.

[From the San Jose Mercury News, Mar. 8, 1996]

BASIC RIGHTS SWEPT ASIDE IN RUSH TO FIGHT TERRORISM

(By Don Edwards)

Once again, in the name of a worthy objective, Congress is considering legislation that aims straight at the heart of the Constitution. The concern is fighting terrorism. The proposed solution, however, is a comprehensive death penalty and anti-terrorism bill that would do nothing to strengthen the nation's defenses against terrorism. What it would do is undermine fundamental rights enshrined in our Constitution. The right to confront your accusers is one of those basic rights. Our very concept of due process assumes that a person cannot be punished by the government on the basis of secret evidence. As the great Supreme Court Justice Felix Frankfurter observed, "Fairness can rarely be obtained by secret, one-sided determination of facts."

Yet the pending legislation would allow the government to deport legal aliens, including long-term residents, through Star Chamber proceedings where the evidence is made known to a judge, but is kept from the accused and his or her lawyer. Imagine defending yourself against this charge: "We are going to deport you because we think you are a terrorist but we won't tell you why."

Another provision in the bill would give Cabinet officials the power to label a foreign group "terrorist" and make it a crime for American citizens to support the lawful, peaceful activities of that group. It should be—and already is—a crime to support violent activity, but Americans have always been free to support political and humanitarian activities of foreign groups, from the African National Congress to the Nicaraguan Contras.

Another step backward in the pending terrorism bill is the repeal of a modest provision I sponsored to keep the FBI from investigating political activities of domestic groups. Some will remember the FBI's worthless investigations in the 1980s of U.S. citizens opposed to our foreign policy in Central America. In the name of fighting international terrorism, the FBI monitored peaceful demonstrations against U.S. military aid to El Salvador, spied on groups housed in churches, and interviewed travelers to Nicaragua. After the FBI finally admitted that the whole exercise was a waste of resources, I added a small provision to the 1994 crime bill saying that the FBI could not open an investigation of "support for terrorism" solely on the basis of political activities protected under the First Amendment. Repealing my amendment would send precisely the wrong message to the FBI, encouraging the Bureau to investigate U.S.-based groups that express lawful political views in a violent struggle abroad.

A terrorism bill already passed by the Senate contains all of these provisions plus others that would allow FBI agents to obtain private records without a court order, permit the use of illegally seized wiretap evidence, and expand federal jurisdiction over state crimes.

Worse yet, the terrorism bill has become a legislative Christmas tree, on which an assortment of amendments are being hung. Most distressingly, an amendment has been added that would gut the historical right of habeas corpus, under which federal courts have insisted that the U.S. Constitution be followed in state court proceedings.

Groups from across the political spectrum—from the ACLU to the National Rifle Association—oppose the bill. Worried Congressional leaders have offered what they call a compromise bill, but they have left untouched the most odious provisions dealing with secret evidence, criminal penalties for support of political and humanitarian activities, and habeas corpus.

It's not as if the United States has been defenseless against terrorism. To the contrary, the current legal authorities have proven quite sufficient. In two successful prosecutions in New York, the Justice Department won convictions for the World Trade Center bombing and for a planned series of attacks against the United Nations, tunnels and other landmarks. The FBI promptly arrested suspects in the Oklahoma City bombing. In December, federal agents arrested two men for attempting to bomb an IRS building in Nevada, and FBI agents reached across the Pacific to arrest a man in the Philippines plotting attacks on U.S. aircraft.

The success of law enforcement in responding to terrorism without this legislation should be evidence enough that there is no need for new government powers. Nonetheless, the legislative process grinds on, as both parties fear political fallout for appearing to do nothing about terrorism. Congress should take note of the near total absence of public support for this legislation. It is time for Congress to show restraint and reject this latest legislative assault on the Constitution.

FEDERAL AGENCY ANTI-LOBBYING ACT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. CLINGER. Mr. Speaker, I am pleased to introduce today with 51 of my distinguished colleagues, the Federal Agency Anti-Lobbying Act. I am also pleased that Senator STEVENS will be introducing this legislation in the Senate.

For those of us who have been in Washington for a few years now, no matter how many times you think you've seen it all, you can rest assured you haven't. Washington wonders never cease. You can only scratch your head and ask yourself—Is this really happening? That is exactly why I am here—I have some unbelievable examples of what Federal bureaucrats are doing with our tax money.

Initially it was just a trickle—and then a flood of Members, who came to see me loaded down with examples of lobbying materials prepared by Federal agencies. Not just a single agency, but several agencies all across the Government. How can taxpayer money be used by Federal agencies to prepare materials expressly for the purpose of assisting outside groups in order to stir up grassroots support or opposition for legislative proposals pending before Congress? Often these materials are under the guise of being informational or educational fact sheets—but clearly they are not. In other cases, they are a lot more blatant such as invitations to briefings for lobbyists to educate them on the agency's view of a particular piece of legislation. They are clearly political materials created for the specific purpose of influencing Congress on the outcome of legislation.

As they say, the proof is in the pudding and there are numerous examples that have been brought to my attention. These include an employee check stub from the Department of Veterans Affairs opposing the House budget plan, Secretary Ron Brown's invitation to attend a briefing to oppose the Mica commerce legislation, and a letter from the National Spa and Pool Institute complaining about receiving lobbying materials from an agency that regulates their industry, EPA.

You might ask, as I did, isn't there already a law on the books that covers this activity. How can this be happening? The law on the books, the Anti-Lobbying Act, was passed in 1919 and is a criminal statute. The law itself is unclear, and has been the subject of numerous opinions, often conflicting, on what it means. During the last 75 years, no one has ever been prosecuted under the law. Having DOJ as the enforcing agency is like the fox guarding the chicken coop. Existing law needs to be clarified—and we need a civil statute. The most recent interpretation of the law is so narrow that unless there is an explicit request by an agency to contact Members of Congress, then there is no violation of the law.

This bill is modeled after a provision that has been included in the Interior Appropriations bill since 1978. The amendment covers only Federal agencies and provides that no funds would be used for any activity that is intended to promote public support or opposition to any legislative proposal including preparation of pamphlets, kits, booklets, etc. However, Federal officials can continue to communicate directly with Members of Congress, and provide information, and respond to requests from Members. In addition, the President, Vice President, Senate-confirmed appointees, and other White House officials would be able to continue to communicate positions to the public. The Comptroller General would enforce the provision if funds have been expended in violation; in addition, the GAO must report on the implementation of the legislation 1 year after enactment.

This is a balanced bill that would still allow the administration to effectively communicate its views. At the same time, this provision will eliminate and even protect the GS–12 career employee from lobbying or being forced to lobby grassroots organizations. Federal employees should be administering programs passed by Congress—not campaigning with taxpayer dollars.

This bill is endorsed by a number of national organizations including the National Taxpayers Union, NFIB, Chamber of Commerce, Competitive Enterprise Institute, National Association of Wholesaler-Distributors, Citizens Against Government Waste, Chamber of Commerce, and others.

The bottom line is that this is good Government reform. Taxpayer dollars should not be used for lobbying by Government bureaucrats. I urge support of this legislation by all my colleagues.

TRIBUTE TO STEVE COHEN, INTERNATIONAL BASEBALL COACH OF THE YEAR

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to praise a man from the Third District of Minnesota who exemplifies the unconquerable spirit of America, a man who overcame tremendous personal pain and, through outstanding dedication, perseverance and leadership, coached the U.S.A. Junior Baseball team to the world title.

As a result, he has been recognized by his peers around the world as the best in his field for 1996.

Steve Cohen of Plymouth, MN, recently was named International Baseball Coach of the Year by the International Baseball Association.

Steve is the son of a longtime and close personal friend of mine, Phil Cohen. Many of you in this Chamber and the other know Phil Cohen, who for many years worked for Senator David Durenberger of Minnesota. His son, Steve, is the baseball coach at North Hennepin Community College in Brooklyn Park, MN, in Minnesota's Third Congressional District.

But I want to talk about more than what happened on the field of every ballplayer's dreams. For Steve Cohen was also living out any son's worst nightmare, all at the same time.

Steve Cohen's impressive accomplishments are made all the more inspiring by the personal courage and fortitude he showed last year as coach of Team USA. Steve led his players to a 10–0 victory over the Chinese Taipei squad in the final game of the World Junior Baseball Championship at historic Fenway Park in Boston on August 20. It was the first title for Team USA since 1989.

Fenway Park is known for its left field wall, the Green Monster, which rises high above the park. That wall is not far from home, but it is a difficult task, even for a player with the biggest heart, to hit the ball over the Monster with the swing of the bat.

Steve Cohen could have succumbed to the wall of pain and disappointment he was facing. He was far from home, too, far from his mother, Bev Cohen. Bev was suffering from terminal cancer back in Minnesota. Steve did not know if he would make it home in time to see his mother before she passed away.

But Steve Cohen showed the heart of a champion, leading his Team USA to the world title.

Mr. Speaker, Steve Cohen put his personal trauma behind him and focused his remarkable baseball mind and superior teaching skills on his young players. And he successfully scaled that wall climbed only by champions with real heart.

Thankfully, Steve made it home in time to present his mother Bev the gold medal before she passed on. Wearing his Team USA uniform, Steve Cohen gave his mother a tremendous lift.

In her typical style, Bev Cohen told her son: "If you hadn't won that gold medal, I'd have booted you out of the house."

Bev Cohen died on Labor Day, 1995, shortly after Steve Cohen got back home. Steve Cohen called his mother "a real war horse" during that awful time when Bev was suffering so greatly.

Mr. Speaker, Steve Cohen is a war horse, too, with a heart the size of a stallion's. Combining his inspiring leadership, courage, teaching skills, and keen baseball eye, Steve Cohen brought Team USA the world championship.

And then Steve Cohen brought his mother back home one final, joyous gift, the gift only a child raised so lovingly and so well could give.

So, we will all rise together later this year when, on September 14, in Lausanne, Switzerland, the International Baseball Association presents Steve Cohen with his award as International Baseball Coach of the Year.

Steve Cohen scaled a wall that few are capable of climbing, putting aside personal pain of the worst kind to lead his team past such talented teams as those from Cuba, Australia, and Taipei.

Mr. Speaker, this honor is truly well deserved. And we all know Bev Cohen's smile will be shining like a lighthouse out in left when Steve receives his award.

The people of Minnesota are proud of Steve Cohen, the courageous, compassionate person and outstanding coach. Steve Cohen represents the spirit of Minnesota and is a real credit to our State and Nation.

Baseball fans everywhere thank you, Coach Cohen, and salute you on being named International Baseball Coach of the Year.

ADDITIONAL SUPPORT FOR H.R. 1020

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. UPTON. Mr. Speaker, I am proud to be the sponsor of H.R. 1020, the Integrated Spent Nuclear Fuel Management Act of 1995, a bill that will make the Federal Government live up to its promise of building and operating a high-level nuclear waste repository by January 31, 1998. While nearly 200 of my colleagues have cosponsored H.R. 1020, there are several that were unable to do so after the bill was put on the House calendar. I would like to acknowledge the following Members as supporters of doing what is right, making the Government live up to its promises: CHARLES BASS, HELEN CHENOWETH, BARBARA CUBIN, JAY DICKEY, VAN HILLEARY, MARGE ROUKEMA, MAC THORNBERRY.

PRESIDENTIAL PRIMARIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 13, 1996, into the CONGRESSIONAL RECORD.

REFORMING THE PRIMARY PROCESS

One of my interests is to make government work better. I have tried to contribute to that goal in a number of areas, including the reform of Congress and the Federal Reserve, among others. Lately, my attention has been drawn to the way we select presidents.

HOW THE PROCESS WORKS

Presidential nominees are chosen at their respective party's national conventions by delegates who were elected, either directly or indirectly, in the primaries, caucuses, or conventions of each state. The delegate selection process is governed by a combination of state laws and national and state party rules. In general, delegates are committed to certain candidates before they get to the party convention. The primaries now produce the nominee and the convention merely crowns him.

Most states, including Indiana, use the primary system to vote for presidential candidates. Under the primary system, an individual will vote, by secret ballot, for a candidate, who will be represented at the national convention by a certain number of delegates. In some states, the winner of the primary will take all the delegates available in that primary; in other states, including Indiana, delegates are awarded based on the candidates' proportion of the vote. The primary season begins in New Hampshire in late February, and most of the major primaries are held in March.

PROBLEMS WITH THE CURRENT SYSTEM

The primary system, while more open and democratic than the old convention system, has its drawbacks. The early primary states have an extraordinary influence on the outcome and that's one reason states are scrambling to vote earlier each year. It is far from clear that voters in the early primaries are representative of a national party, much less a national electorate. The present system in a sense violates the one-man one-vote principle. If you vote in the New Hampshire primary, your vote is probably worth 10 or 15 times as much in determining the outcome than the people who vote in Indiana. That bothers me. The low turnout in primaries is also worrisome. The average for all primaries is only about 30% of registered voters.

The front loading of the calendar is the most important single change to the American primary system in recent years. Campaigning starts earlier than ever before, costing millions of dollars. The schedule is so compressed that by the first of April almost all the delegates will have been selected. The vital primaries come thick and fast. It is very difficult to pause or regroup between them. If you do badly in one primary, you don't have much time to recover. Voters may not have enough time to consider which candidate is best for the party or the nation.

Candidates essentially nominate themselves for our consideration and they have to be a bit obsessed to go through the present primary selection system. My impression is that the media performs the screening role formerly done by party leaders and professionals. The media can be an important conduit of information about candidates, but they also tend to be more interested in the horse race aspects of a primary rather than fundamental questions, such as whether a candidate can govern or what is the candidate's vision.

REFORM PROPOSALS

There have been several proposals for reforming the current system. One proposal would involve selecting convention delegates on the first Tuesdays of March, April, May and June of each election year. Any state could choose any of those four dates, but the probable result would be a mixture of states from various regions on each of the four dates. The gap between the primary dates would allow voters and the media to examine the candidates with care, and the candidates would get a chance to catch their breath and have time for more thoughtful speeches.

Another suggestion is a national primary in which registered voters of all parties could vote on a single day. Such a primary would require an orgy of nationwide television advertising by all the candidates that would last for months and put more power in the hands of the party bosses, less in the hands of the people.

Still others want to reserve a third of the national convention seats for party professionals in order to postpone until the last moment the decision on who will get the presidential nomination. This approach would enhance the role for professional politicians in judging who has the right stuff to be president. I would not support such a proposal because it is inherently less democratic than the current primary system.

CONCLUSION

No single decision is more important to the United States than choosing a president. Primaries tell us whether or not a candidate can discern the issues that are on the minds of the American people and can frame a message and present it effectively to a variety of constituencies around the country. They also tell us whether he has the physical and emotional capabilities to sustain a campaign under high stress and assemble an effective political team and raise the money to support it.

The great advantage of the primary is that it allows ordinary Americans to pick their candidates for president. In the end the system has worked reasonably well. Nominees are usually picked who are widely known and widely approved. Money matters, but it's not everything.

I am inclined to think it is the kind of system that we can approve but we should not discard. I do have the uneasy feeling that we've separated the presidential nominating process from the governing process. A person can be very good at getting nominated. He may not necessarily be a very good president. I'm not sure primaries give us a candidate's core of political values or tell us if he has a firm sense of the direction in which he wants to lead the nation or whether he is secure with himself and with his own convictions and conscience.

Among our goals in reforming the primary system would be to assure wider participation in the selection process and cut the cost of a primary campaign. I am attracted to the idea of interregional primaries. We could set six dates between March and June for a series of interregional primaries. On each date a group of states of various sizes from different regions of the country would hold primary contests. The order could rotate.

Some say primaries are not efficient. They probably are not as efficient as the smoke filled convention. But they are less corruptible and the result is accepted. That's important in a democracy. It is the very democratic quality of the primary that makes it a little messy and a struggle.

CONGRATULATIONS BETH SHALOM OF WILMINGTON, DELAWARE

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. CASTLE. Mr. Speaker, I rise today to commend Congregation Beth Shalom from my home State of Delaware. Two years ago, Congregation Beth Shalom, located in Wilmington, initiated what is known as "Mitzvah Day", a day when congregation members of all ages devote their time and energy to assist others in the community who are less fortunate and are in need. Mitzvah is the Hebrew word for commandments, and signifies righteous acts by individuals that are considered to be virtuous, kind, and considerate. In the Jewish faith, individuals are expected to carry out a mitzvah every day. In fact, in the Torah, which is the first of five books of Moses, some 613 mitzvot are listed to which Jews can aspire. Mitzvah Day is Congregation Beth Shalom's way of reminding the faithful of their obligations to their fellow man.

This Sunday, March 17, 1996, will mark the third annual Mitzvah Day, and I am pleased to join the good people of Congregation Beth Shalom for ceremonies signaling the start of another day when people will reach out to their neighbors to say they care and want to make life a bit more enjoyable for all. Those who will participate this Sunday and those who have helped others in previous years are known as mitzvah mavens; people who are concerned about their fellow human beings every day.

Before Mitzvah Day is over, they will have collected and sorted thousands of food items for the Food Bank in Newark; they will have baked bread and cookies for the families at the Ronald McDonald House in Wilmington; they will have cooked and served lunch to the clients at the Sojourners Place in Wilmington, who are overcoming drug and alcohol dependency; they will have visited and played bingo with the assisted living or nursing care residents at the Kutz Home and Parkview Nursing Home in Wilmington; and, they will have conducted numerous visits or had meals with congregation members who are homebound because of sickness or disability.

Mr. Speaker, on Sunday, the mitzvah mavens will have done all of this, and by Sunday evening, when the sun goes down, hundreds of Delawareans will feel just a bit better about themselves, some will have enjoyed one more meal than they thought they might, and Delaware will have had its quality of life improved that much more. All of this because the Congregation Beth Shalom in Wilmington, DE, encourages and supports kindness toward others and actions which can truly improve people's lives.

BELLFLOWER CHAMBER OF COMMERCE AND THE CITY OF BELLFLOWER

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. HORN. Mr. Speaker, I rise today to salute an institution and a community in California's 38th Congressional District whose history is a model of how the citizens of America's small towns—through their values, their hard work, and, in particular, their strong civic spirit—have made America strong. This year, the Bellflower Chamber of Commerce celebrates its 75th year of leadership. It is fitting that on this occasion, its history and the history of the city it has so diligently served be celebrated for what they have accomplished—and for what they can teach the world.

Bellflower was built by people of many backgrounds. Its early history began in 1784, as one of the first Spanish land grants conferred in California. Governor Pedro Fages rewarded Spanish leathercoat soldier Manuel Nieto with the largest of these grants. After the Spanish were ousted in the Mexican Revolution, Nieto's land grant was divided into five small ranchos which were distributed among his heirs. Bellflower would later be founded where the boundaries of three of these ranchos—Santa Gertrudes, Los Coyotes, and Los Cerritos—met.

The three ranchos prospered through California's Golden Age of the Ranchos, from the gold rush of the 1840's into the 1860's, when a terrible drought brought the rancho way of life to an end.

The ranchos were sold at auction to purchasers who, in addition to ranching, subdivided parts of them for small farming operations. The section that was to become Bellflower was subjected annually to terrible flooding from the San Gabriel River. If also had dense growth—willow, black berries, and bamboo—which meant that only the hardiest of farmers could settle here. And they did. Within a few years, the area was renowned for its large-sized crops. Fueled by the hard work and commitment of the early settlers, Bellflower's poultry, dairy, horticultural, and farming industries steadily grew. Hispanic and American farmers were soon joined by Dutch, Swiss, Belgian, Japanese, and Portuguese families.

With the establishment by the Pacific Electric Railway of the Somerset Station in 1902, Bellflower farmers were able to get their crops to markets and visitors were able to come to the Bellflower area via the "Big Red Cars." Soon after, land developers began laying out streets and selling parcels of land near the Somerset Station. Soon a town grew up. Though the area was still unnamed—some called it the New River Colony, others Somerset Acres—the residents were determined to build a town.

Following California's tradition of strong support for education, the first thing these residents did was to petition for a school district. That was in 1908. In the next year, they asked for a post office. They quickly received both.

The residents first asked for a post office under the name of Somerset. But postal authorities, wishing to prevent confusion, rejected the name because there already was a Somerset in Colorado. Another subdivision in the area was known as Bellflower Acres, and its proponents championed that name for the new community. Although it is not known precisely how the selection was made by the area's residents, it was the one registered by postal officials.

It is not certain how the name Bellflower came into the picture in the first place. The most common explanation links the name with the orchard of Bellefleure apples grown by pioneer settler William Gregory.

By 1910, the business district began to develop. In 1913, Southern California Edison installed electric lines. In 1914, gas lines were brought into Bellflower. Up to 50 trains ran through the area each day to and from Los Angeles. The town was on its way. The only thing Bellflower lacked was a government.

In 1912, Los Angeles County had adopted a charter covering the government of the unincorporated towns. Bellflower—with its unincorporated status—lived under county government for the next 45 years.

But the civic pride of Bellflower's citizens was too strong to rely solely on Los Angeles County. Unable to form their own government, they organized the Bellflower Improvement Association in 1921 to serve as a representative body for all of the town's organizations and interests. The improvement association has 12 members. The following year—indicating the enthusiasm and civic spirit that has always been the hallmark of Bellflower—the association's membership had swelled to 80. That year—1922—it became known as the Bellflower Chamber of Commerce with R.J. Parsonson as president and a board consisting of Vice President Bruce Guernsey, Secretary J.C. Hertel, Treasurer C.A. Conrad, and Sergeant at Arms George McCormick.

Under the county's governing of unincorporated communities, there was no local body officially charged with looking after the affairs of the town. The chamber quickly filled his vacuum, "governing" for over 30 years through an unofficial town hall.

Since the Chamber had no legislative authority to make its decision binding, its effectiveness depended upon how well it served the community. Those early chamber members worked hard to gain the trust and respect of the residents. This tradition continues today.

It was during the years of unincorporation—1921 to 1957, when Bellflower became California's 348th city—that the area experienced impressive growth. Through the guidance of the chamber, Bellflower quickly became a highly respected and admired community.

One example of the chamber's determination to keep Bellflower strong and vital was the erection of the "52 Day Miracle Building" in 1938. At that time, the Los Angeles County Building Department offices were located in Bellflower. However, the administrators were considering a move to Downey where rent was cheaper. The Bellflower chamber spearheaded a drive to keep the county's offices in their town. With the chamber in the lead, local merchants provided funded to erect a new building. Incredibly, the project was completed—from idea to opening ceremonies—in just 52 days.

By the 1950's, the population of Bellflower became so large and varied that it could no longer be adequately governed under the old county charter system. With the chamber leading the way, Bellflower received its certification of incorporation on September 3, 1957.

Today, the Bellflower Chamber of Commerce remains a vital, contributing member of our area. Its history reminds us that a city is not built with bricks, mortar, and asphalt alone. It comes to life and remains vibrant and healthy through the commitment, dedication, hard work, and strong values of its residents. The history of the Bellflower community and the leadership provided by the Bellflower Chamber of Commerce are models of these values. California and the United States are indeed fortunate to have Bellflower and the commitment of its citizens.

HONORING SILVESTRE S. HERRERA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. PASTOR. Mr. Speaker, I rise today to salute Silvestre S. Herrera, of Phoenix, AZ, who earned the Congressional Medal of Honor 51 years ago by assaulting a German gun position on March 15, 1945.

On that day, Pfc. Silvestre Herrera, an acting squad leader/automatic rifleman, and Company E, 142d Infantry of the 36th (Texas) Infantry Division, was the lead element as it moved into German-held territory somewhere near Merrwiller, France.

Private First Class Herrera and other soldiers were moving along a wooded road when they were stopped by heavy enemy machinegun fire. As the rest of the platoon took cover from incoming fire, Private First Class Herrera moved forward and shot three German soldiers. Eight others surrendered.

As the platoon continued forward, they were stopped by more machinegun fire. Herrera ran toward some large rocks, intending to take cover. Instead, he stepped on a landmine and it blew him into the air. When he came down, he hit another land mine. He had lost both legs just below the knee.

Private First Class Herrera somehow managed to hold onto his M–1 rifle. He applied a bandage to his leg and dragged himself to the rocks. He braced himself and began firing at the enemy. He hit at least one of the Germans and forced the others to stop shooting and take cover.

Under Herrera's covering fire, his platoon moved in and killed the German machinegun crew. The platoon found a path through the minefield and located a bleeding and injured Herrera. They rushed him back to an aid station. Later, Herrera was sent to France and remained in a hospital until the war ended.

Herrera was decorated by President Truman on August 23, 1945, at the White House and in March 1946, he was discharged from the Army as a sergeant.

Although no books or films have been written about his heroics, Herrera's deeds are heralded. In 1956, the Phoenix Elementary School District named an elementary school after him. Herrera's own elementary school district, the Pendergast School District, also erected a bust to honor the Congressional Medal winner. The bust was unveiled at Pendergast School in Phoenix during a February reception. The bust, created by Zarco Guerrero, is part of the World War II Commemorative Community Program sponsored by the Department of Defense.

Fundraising for the bust was organized and initiated by the Pendergast family, who have known Herrera since childhood.

The American G.I. Forum also formed a Silvestre Herrera Chapter on June 23, 1995. On March 15 of this year, the G.I. Forum will salute Herrera on the 51st anniversary of that fateful day in 1945.

I urge my colleagues to join me in saluting and thanking Mr. Herrera for his service to the country and his heroism under fire.

HONORING ROBERT LEENEY ON HIS 80TH BIRTHDAY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Ms. DELAURO. Mr. Speaker, on May 10, 1996, Mr. Robert Leeney will celebrate his 80th birthday. He is being honored by the board of Albertus Magnus College on March 14, 1996. It is with great pleasure that I rise today to salute this incredible individual, who has contributed so much to the city of New Haven.

Bob retired in 1981 as editor of the New Haven Register after a 50-year career with the paper including 11 years as executive editor and 9 years as editor. He had been awarded the New England Associated Press News Editor Yankee Quill Award for excellence in writing. His long tenure at the paper is distinguished by extensive community involvement. Bob grew up in the Fair Haven area and remained devoted to the improvement of the New Haven area throughout his career. In September 1994, Bob was awarded the New Haven Colony Historical Society Seal of the City Award. The seal is awarded to those whose ideas or activities contributed to the quality of life, prosperity, or improvement of the New Haven region. He has also received the Trinity Council Knights of Columbus Community Service Award and the Chamber of Commerce Community Service Award, which is their highest honor.

Bob's early career in newspaper began as a theatre critic and he frequently reviewed plays at the Shubert Theatre. He was a member of the Drama Critics Outer Circle. He maintained his interest in theatre throughout his life and served on the board of Long Wharf Theatre. His service on the boards of local hospitals and colleges serves as a testament to his interest in and concern for all aspects of New Haven life. After his retirement, Bob served on the State Freedom of Information Commission.

Finally, Bob continues to write for the New Haven Register with a weekly column entitled "Editor's Note." It is here that he continues to contribute his ideas and thoughts on a range of issues from his boyhood memories of New Haven to recent world events. He remains one of the most prominent representatives of the New Haven Register and an important link between the city's past and present. I wish Bob a very happy 80th birthday and it is my deepest hope that we will have the benefit of his wisdom and kindness for many more years to come.

TRIBUTE TO MICHAEL R. MULDERIG

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. QUINN. Mr. Speaker, I rise today to recognize the distinguished community service of Michael R. Mulderig, a distinguished civil servant and Democratic Party leader, on the occasion of being named the First Ward and South Buffalo Democratic Association 1996 Irishman of the Year.

Mr. Mulderig has served the city of Buffalo in several capacities under former mayor, the Honorable James D. Griffin. To that end, Mr. Mulderig served as the confidential aide to the mayor, license director for the city of Buffalo, and assistant director of stadium operations at the city's ballpark.

In addition to these remarkable duties, Mike Mulderig has served western New York as a former president of the South Buffalo Democratic Association. Currently, Mr. Mulderig is the chairman of the second zone for the Democratic Party.

As a fellow American of Irish descent, I truly appreciate the contributions Mike Mulderig has made on behalf of the city of Buffalo, and offer my thanks and commendation to both he and the association for recognizing the efforts of Irish-Americans in our communities.

Mr. Speaker, today I join with the Mulderig family, his colleagues, friends, the First Ward and South Buffalo Democratic Association, and indeed, the entire western New York community to honor Mr. Michael R. Mulderig for his dedication, hard work, and commitment to western New York, the city of Buffalo, and the Irish-American community on his being named the 1996 Irishman of the Year.

DRUGS AND GUNS: A LETHAL COMBINATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. GOODLING. Mr. Speaker, today I am introducing legislation which would ensure that drug abusers who break the law do not have access to firearms. My legislation, which was part of the 103d Congress' Republican crime bill, would impose strict penalties and fines for misdemeanor during crimes such as use or possession of an illegal substance when a firearm is present. Similar to legislation I have introduced in past years, my bill has had the endorsement of the Pennsylvania State Chiefs of Police and the National Association of Chiefs of Police.

Under current Federal law, a person convicted of a felony crime involving drugs and firearms faces increased criminal penalties and is also prohibited from legally owning a firearm. This is not the case, however for individuals convicted of less serious drug offenses.

My legislation is simple: It expands current law to treat individuals who commit less-serious drug offenses in the same manner as people involved in other drug crimes, such as drug-trafficking. Any person found guilty of a drug crime not currently classified as a felony, including simple possession of a controlled substance, and who possesses a firearm at the time of the offense, will face mandatory jail time and/or substantial fines in addition to any penalty imposed for the drug offense. For second or subsequent offenses, jail time and fines are mandated.

Furthermore, the guilty party will be prohibited from owning a firearm for 5 years. Exceptions to this rule can be made, however, depending upon the circumstances surrounding each individual's case. Present law states that a person convicted of a drug crime can petition to the Secretary of the Treasury for an exemption to the firearms prohibition if they can prove "that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest."

Certainly the time has come for serious efforts to convince people who use drugs that the cost of engaging in this activity is prohibitive. If my bill becomes law, individuals owning firearms for legitimate purposes (hunting, target-shooting, collecting, or personal protection) and who also engage in the use of illicit drugs, will think twice before participating in their drug-related endeavors, facing the prospect of enhanced penalties and the loss of their firearms.

This legislation will not affect a law-abiding citizen's right to own a firearm. By imposing stiff penalties on people convicted of lesser drug offenses where a firearm is present, we will send a serious message that the cost of engaging in this activity far outweighs the benefit. Drugs and guns are a lethal combination, exacting a terrible toll on this Nation.

TEEN COURT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. KOLBE. Mr. Speaker, I rise today to make my colleagues aware of a phenomenal program for youth that has had a huge impact in Casa Grade, AZ—Teen Court. This is a program that can and should be replicated across the country.

The American Legion Auxiliary's National President's Special Project, Teen Court, was the community service project that Fred A. Humphreys Unit 8 member LaVerne Rowe adopted. She called and received information from the Odessa, TX, Teen Court coordinator. Then she contacted Pinal County Juvenile Court Judge William O'Neil—a former first grade student of hers—and arranged for him to meet with members of Casa Grande 2000, a group organized to address community concerns about education and youth issues, to discuss the merits of bringing a Teen Court to Casa Grande. The response was overwhelming and Teen Court was on the road to becoming a reality.

Mrs. Rowe took the next step by conducting initial interviews of Teen Court coordinator candidates. Judge O'Neil and Frank Sanders, director of Juvenile Court Services in Pinal County, ultimately chose Michelle Kmetz out of five finalists. Since October 5, 1994, Ms. Kmetz has done an outstanding job of making Teen Court a success in Casa Grande.

Let me take a moment to say that it is very encouraging to see the American Legion take such an interest in our youth and work to make an investment in the future of our country.

I would ask that the following newspaper articles be included in the RECORD. I urge my colleagues to read them and take this message back home. Our youth are worth it.

[From the Casa Grande (AZ) Dispatch, Oct. 13, 1994]

PINAL TEEN COURT SUBJECTS OFFENDERS TO JURY OF THEIR CASA GRANDE PEERS

(By Shannon L. Pantelis)

The promise of trial by a jury of peers will now extend to some juvenile offenders in Casa Grande.

Teen Court made its Pinal County debut Wednesday night. The new program is available to first- and second-time offenders, ages 9 to 17. Eligible offenses include shoplifting, criminal damage, theft, assault, disorderly conduct, alcohol and traffic violations.

Michelle Kmetz, a probation officer with Pinal County Juvenile Court Services who was hired to coordinate the program, said it uses what is sometimes a negative influence to make a positive difference.

"The premise that I believe in is that peer pressure works both ways," she said. "It can be both negative and positive.

"We know peer pressure works negatively, we see that every day. Now it's time to turn it around to work for us."

Patterned after a typical adult trial, Teen Court is an official legal proceeding and the sentences are enforceable. Presiding Pinal County Juvenile Court Judge William O'Neil and Casa Grande City Judge Judy Ferguson will take turns trying the cases.

The defendant must admit guilt and agree to accept whatever "constructive" sentence is determined by a group of six jurors. The defendant's attorney pleads the case, while the prosecutor argues the crime. Meanwhile the clerk and bailiffs are busy doing their jobs of keeping order.

The difference in Teen Court is that all involved—except the judge—are teens themselves.

The attorneys aren't high-paid counselors with law degrees hanging on posh office walls. The bailiffs might be worrying about homework or a math quiz the next day.

The juries eventually will have past-offenders serving part of their sentence on the panel, trying other kids.

The current jury, attorneys, bailiffs and clerks are all Casa Grande Union High School juniors and seniors who volunteered to take part in the program.

The program is meant to take some of the intimidation and alienation out of the courtroom, while giving teens a chance to take responsibility for their actions and those of their peers.

"It is time that another generation started making decisions for themselves," O'Neil said about the concept of his Pinal County Juvenile Court Services program.

Last week the crew went through a mock trial in front of family, friends and people involved in bringing Teen Court to Casa Grande. It will be the last time anyone outside of the participants will be allowed to see Teen Court in action, except the parents of those on trial.

Confidentiality is stressed to participants. Before each case, the clerk swears in everyone in the courtroom, committing them to silence about everything and everyone involved in the trial.

Defendants and Teen Court participants are forbidden to discuss the proceedings, testimony or sentences outside the courtroom. Parents and friends are included in the gag order.

At the mock trial, teens trained as Teen Court attorneys acted as defendants, acting out real cases.

Sentences are meant to be constructive, not just punitive. Community service hours, tutoring, Teen Court jury duty, letters of apology, attending workshops or paying a fine or damages are among the jury's options.

Many of the Teen Court participants are interested in law careers themselves. Kmetz said that when she chose the kids to participate in the first semester of Teen Court, she did not exclude teens who had been in trouble themselves.

She said she was most impressed with one applicant's answer when she asked why he wanted to be a part of Teen Court.

"It's about time we (teens) got a chance to bring honor back to our name," she said he responded.

"That's what it's all about, giving them the chance to prove themselves and make it," she said.

[From the Casa Grande (AZ) Dispatch, Oct. 13, 1994]

JUDGE COULDN'T REFUSE

William O'Neil did not really have much choice about Teen Court.

Even now as the presiding Pinal County juvenile court judge, he still listens to his teacher.

"When my first-grade teacher called me to tell me about this, she said this was something we needed and have to have," he said starting Teen Court.

Retired teacher LaVerne Rowe had heard about the program, which was started in Texas several years ago. She told her now-influential pupil and told him to get going with it.

At the same time, the education-support group Casa Grande 2000 was learning about Teen Court and trying to get the program started in Casa Grande.

Once the two groups got together, it was only months before Teen Court was a reality in Casa Grande.

O'Neil said the program was on his five-year plan of programs to implement. He said his schedule was pushed up about 4 years at the urging of Rowe and the interest of Casa Grande 2000.

With at least 3,000 juveniles being referred to Pinal County Juvenile Court Services each year, alternatives were needed.

Juvenile Court Services Director Frank Sanders said the area is in a "state of crisis."

"Business is booming" he said about the juvenile justice system.

He said the Teen Court program in Casa Grande, which is expected to eventually expand to other areas in the county, was funded through the Arizona Supreme Court.

The $40,000 went toward hiring director Michelle Kmetz, training and contracting with Project Hope's Project YES, which will be used to run the community service hours ordered.

The Casa Grande Teen Court has been patterned closely on a similar program that has been working in Globe for about six years.

HONORING ELLA MILLER

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. DAVIS. Mr. Speaker, I rise today to pay tribute to Mrs. Ella Miller for her tireless efforts in working with the children of Fairfax County in the 11th Congressional District of Virginia. She will be honored on March 16, 1996, at the Hunter Mill District Republican Committee's recognition dinner for African-American community-based organizations.

Mrs. Miller was born in 1880, a mere 15 years after the end of the Civil War to parents who were former slaves in rural southern Tennessee. She was unable to attend school, but recognized the value of education and gained what knowledge she could at night from her siblings who did attend school.

After leaving Tennessee, Mrs. Miller relocated to Cincinnati, OH, where she worked as a domestic for two families until she reached the age of 107, after which time she decided to retire and moved to Vienna, VA, where she lives with her niece. She is now 115 years of age and continues to be active.

Mrs. Miller, expressing a desire to share her life's experiences, visits with students at elementary schools in Fairfax County, VA, where she has become a symbol of "Living History" to all of the fortunate children she has touched through her reflections on history, famous people she has met, and her messages about faith, obedience, caring for others, and belief in oneself. She is a living example that you are never too old to learn.

Mr. Speaker, I know my colleagues join me in honoring Mrs. Ella Miller for all she has done for our children and wish her the best of luck for her future endeavors.

CONCERT FOR DEMOCRACY: TRIBUTE TO PRESIDENT LEE TENG-HUI, REPUBLIC OF CHINA

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. HINCHEY. Mr. Speaker, on March 17, 1996, Representative and Mrs. Benjamin Lu of the Taipei Economic and Cultural Representative Office in Washington, DC, will host the Music for Democracy Concert at the Kennedy Center. This concert is a celebration of the Republic of China's long journey toward complete democratization.

The Republic of China's democratization has been rapid and total. Over the last 8 years, President Lee Teng-hui has presided over economic and political liberalization, the free election of the National Assembly, three elections of the Legislative Yuan, the Republic of China's Parliament, and the election of the Governor of Taiwan Province and mayors of Taipei and Kaohsiung, culminating in the Republic of China's free and direction election of the President of the Republic of China on March 23, 1996.

President Lee Teng-hui is one of four Presidential candidates on the March 23 ballot. Regardless of the outcome of this election, President Lee Teng-hui must be complimented and respected for his unwavering determination to bring total democracy to his country. He alone has brought to fulfillment the dreams and aspirations of the Chinese people for a free and open society.

I wish to extend our best wishes to Representative and Mrs. Lu and to all the Chinese people living in the Republic of China. These are indeed trying times for them, but democracy, as always, will most certainly prevail over any adversity.

THE IMPORTANCE OF BIODIVERSITY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. VENTO. Mr. Speaker, important new research by University of Minnesota ecologist David Tilman has confirmed what many know instinctively—biodiversity is a critical element of environmental and ecological health. Dr. Tilman worked in conjunction with botanist David Wedin and Johannes Knops, and recently published the results of an important plant study in the scientific journal Nature.

In Dr. Tilman's recent study, researchers in Bethel, MN planted 1, 2, 4, 6, 8, 12, or 24 species of prairie plants in plots measuring 3 meters square. The plots received equal watering and weeding. The results showed that the more diverse a given plot was in terms of species the more productive the plants were. The plants in diverse plots were also better able to withstand stresses such as extreme weather or drought. The bottom line, according to Dr. Tilman, is that regional and global ecosystems must be diverse in order to thrive and produce benefits such as filtering water, enriching the soil, and purifying our air.

We in Congress must recognize the important policy implications of this significant plant study. If Congress superimposes clearcutting and similar harvest practices in our forests and public lands and permits replanting of limited species, the forests will lose their biodiversity and our forest ecosystems will become less and less productive. The current moratorium on the listing of new species under the Endangered Species Act could have a further devastating effect on available biodiversity, and ecosystems will become less durable and productive. Those policy actions, which disregard science, could have severe consequences for us and future generations. We need to follow good science and stewardship today for tomorrow.

I am including with this statement a copy of a recent article printed in the Minneapolis Star Tribune describing Dr. Tilman's research and its implications. I urge all my colleagues to read this informative article.

[From the Minneapolis Star Tribune]

BIODIVERSITY IS ROOT OF ENVIRONMENTAL GROWTH

(By Tom Meersman)

University of Minnesota ecologist David Tilman just keeps growing things. And he just keeps learning more about the inner workings of nature in the process.

His latest findings, published today in the international scientific journal Nature, indicate that growing a variety of plants and grasses in a given area is much better for the environment than having only a few species.

While prevailing wisdom might dictate that one or two types of plants in an area would thrive because of minimal competition, Tilman's research shows the opposite: Different plants don't compete so much as they complement each another and function as a community.

Tilman has been studying native Minnesota grasslands for the past 13 years on university land at the Cedar Creek Natural History Area near Bethel, about 35 miles north of the Twin Cities. It's one of 18 sites in the nation where scientists conduct long-term ecological research.

In his latest study, Tilman worked with botanist David Wedin, of the University of Toronto, and Johannes Knops, an adjunct faculty member in ecology at the University of Minnesota.

In 1994 the researchers and their summer interns planted 147 plots, each 3 meters square, with one, two, four, six, eight, 12 or 24 different prairie plants, chosen randomly from a pool of 24 species. The plots had homogeneous soils, were watered equally and were weeded from elevated boardwalks at regular intervals. Last summer the team measured how productive the plants were in various plots and what had happened to the soil chemistry.

The results, Tilman said, show that "plots that are more diverse can hold more of the nutrients and sustain the fertility of the soils." Plots that had few species were not as productive, he said, and their soil lost important nutrients.

What this means, he said, is that diversity—having a large number of different plants—is critical to maintaining environmental quality. "It strongly suggests that we could have more productive forests and grasslands if, for example, forests weren't cut and replanted with just one species," Tilman said.

One of the reasons why diversity is important, Tilman said, is because different plants have particular niches in the ecosystem. They capture nutrients at different times of the growing season, they have different kinds of root systems, and they bloom and mature at different stages.

In turn, that produces a true community of plants that is productive, efficient and able to withstand extreme weather and other natural stresses, Tilman said. Two years ago he showed, in a different experiment at Cedar Creek, that species-rich grasslands were able to recover more rapidly from drought than species-poor plots.

On a regional and even global scale, Tilman said, ecosystems must be diverse if we expect them to continue filtering water, producing food, decomposing waste, enriching soil and purifying air.

"If we simplify nature by destroying habitat or by subdividing land into little fragments, we lose these species. We lost what they're best at doing in the ecosystem, and it shows through a loss of productivity," he said.

Samual McNaughton, an ecology professor at Syracuse University, said Tilman's work is particularly significant. "Many authoritative people say the Earth is now going through this 'extinction spasm' because of man's activities," he said, and people are asking what is going to happen to the functioning of the biosphere.

"One of the important questions is: 'Do species matter?'" McNaughton said. "Tilman's work shows that the number of species does matter. And if the way ecosystems function is tied to biodiversity, we need to know it."

TRIBUTE TO OUR NATION'S JEWISH WAR VETERANS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. SCHUMER. Mr. Speaker, I rise today to salute America's Jewish war veterans as they celebrate their 100th anniversary. As one of our Nation's oldest and most active veterans organizations, the Jewish War Veterans have served our country with honor and distinction. We certainly owe them our praise and acknowledgment for their bravery and patriotism as they gather to celebrate this most significant event.

I have always admired our Jewish veterans for fearlessly guarding the interests of our great Nation and defending democratic principles worldwide. Thousands of Jewish-American service men and women have risked their lives for the sake of freedom and stability in foreign lands. Not only have they fought bravely, but they have also tended to the sick, hopeless, and disabled in hospitals and clinics. Their leadership has been instrumental in guiding our country in times of strife. America's Jewish veterans have certainly done much to improve the lives of people everywhere and will continue to do so in times ahead.

I urge all my colleagues to join me in saluting this important group as they celebrate their 100th anniversary. I wish them continued peace, good health, and success in all of their future endeavors.

IN HONOR OF DR. MICHAEL DEBAKEY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. BENTSEN. Mr. Speaker, I want to commend Dr. Michael DeBakey of Houston for his induction into the Health Care Hall of Fame on March 10, 1996. I am proud to represent Dr. DeBakey, who is director of the DeBakey Heart Center at Methodist Hospital in Houston and chancellor emeritus of the Baylor College of Medicine, also in Houston.

Dr. DeBakey first emerged as a medical legend in 1964 when he performed the first successful coronary bypass surgery. However, this distinguished achievement is just one of the many remarkable achievements during Dr. DeBakey's career.

Through six decades of research, Dr. DeBakey has fought the most indiscriminate of killers: heart disease. He has operated on patients from international statesmen to indigent people for whom he donated his services. The doctor's patients have traveled from more than 80 countries to be healed by his expertise. All told, his talent has mended more than 80,000 human hearts.

Dr. DeBakey is a perfectionist for whom a 17- to 18-hour day is typical. The doctor's medical expertise as well as these extremely long days have led to more than 40 prestigious medical awards.

Dr. DeBakey's career truly has been medical history in the making. Back in 1932, while still in Tulane Medical School, he developed the roller pump, an instrument that became the pumping system for the open-heart surgery used around the world. Following services as a surgical consultant to the U.S. Army Surgeon General during World War II, he returned to Tulane as an assistant professor of surgery.

In 1948, he was selected chairman of the newly formed department of surgery at Baylor. When Dr. DeBakey first arrived, Baylor did not have an affiliated hospital so he suggested that Harris County's public hospital, Jefferson Davis Hospital, serve as Baylor's teaching hospital. It was at Jefferson Davis Hospital that Dr. DeBakey performed the first abdominal aortic aneurysm replacement in the United States and the first heart valve replacement in Houston. In 1952, Dr. DeBakey again made history by developing the first Dacron artificial grafts that would later serve as replacements for diseased arteries. One year later, he performed the first successful endarterectomy; a procedure in which the lesion is peeled away from an artery wall. This treatment helped reduce a major cause of strokes.

Before long, Houston was home to the world's largest cardiovascular center in terms of heart surgeries performed.

Dr. DeBakey has played a role in nearly every aspect of health care. He has been an adviser to almost every President and was influential in some of the most important milestones of health policy. He was instrumental in establishing the National Library of Medicine, mobile army surgical hospitals [MASH], and the Department of Veterans Affairs hospital system.

The Greater Houston area is proud of Dr. DeBakey's accomplishments and grateful for all that he has contributed to our community. That gratitude is shared by millions of people around the world who have benefited either personally from his medical care or from products and knowledge derived from his medical research. Dr. Michael DeBakey has improved all of our lives.

TRIBUTE TO WILLIAM J. FLYNN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to the 1996 grand marshal of the New York City St. Patrick's Day Parade, William J. Flynn, chairman of the board of Mutual of America Life Insurance Co.

The New York City St. Patrick's Day Parade is the oldest and largest parade in the history of New York. This year, the parade will be led by Grand Marshal William J. Flynn, a remarkable business leader and philanthropist who has excelled in all of his undertakings.

Mr. Flynn is a leader in this church, the business community and the peace movement in Northern Ireland. He has served as a significant architect of the peace process in Northern Ireland, and is steadfast in his commitment to a just and lasting peace in all of Ireland.

Mr. Speaker, William Flynn is also an active leader and participant in numerous church, charitable, political, and social organizations. Mr. Flynn answers to the title of husband, father, grandfather, chairman, president, Knight of Malta and now grand marshal. But perhaps the most fitting and worthy title for William J. Flynn is that of peacemaker.

Scripture tells us that "Blessed are the peacemakers, for they shall be called the sons of God." William J. Flynn is truly a peacemaker.

Mr. Speaker, I am proud to recognize the achievements of William J. Flynn, and I ask my colleagues to join me in honoring him as we prepare to celebrate the feast of Saint Patrick, the patron saint of Ireland.

DO NOT IMPERIL OUR CHILDREN'S FUTURE

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. MARTINEZ. Mr. Speaker, I rise to protest the new majority's plans for education. The appropriations legislation put forth before the House last week would make the largest cut in education in our history. My home State of California stands to lose almost $400 million. Programs that serve the neediest children were not even spared. A large share of the cut in funding for California—$122.3 million—is a reduction in education for disadvantaged children. Both the safe and drug-free schools and bilingual education programs are cut by 60 percent.

Members on the other side of the aisle argue that we must balance our budget for the future of our children and our children's children. However, how can we guarantee them any future if we cut education to do this? This is not just talk from a politician trying to save a bureaucracy, as some alleged that my colleagues were doing during debate last Thursday. Students, parents, educators, and local school officials have called upon us to protect the Federal investment in education and our children.

Dr. Gary Rapkin, superintendent of the Mountain View School district in El Monte asserted that:

> Federal education programs are strongly supported by the very people responsible for implementing local control, including school board members, school administrators, teachers, and other education employees, parents, and students. The loss of these funds cannot be easily replaced, either by local tax increases, tuition increases or private efforts. Please support America's students by opposing cuts in Federal education programs and providing students and schools the resources they need to extend educational and economic opportunity to every American.

Miss Clyle J. Alt, president of the Montebello Teachers Association, recently stated:

> Cuts that hurt education, and therefore children are misguided. The budget should not be balanced on the backs of children. I urge you to oppose any proposal, whether regular appropriations or continuing resolutions, that would cut education in fiscal year 1996.

Dr. Terry J. Larsen, the K–12 special projects coordinator for the Alhambra School district, wrote:

> I understand that education is facing a cut of $3 billion or 20 percent—the largest in history. That is unacceptable. A strong educational system is the backbone of a strong nation. These cuts must not stand.

Mr. Ronald W. Johnson, the director of financial aid at UCLA, attested that:

> In this era of increased technology, that will usher in the new millennium, the educational preparation for our precollege youth must be supported as a critical funding priority. The inappropriateness of funding reductions to elementary and secondary schools is exacerbated by the dramatic increases in expenditures for prisons in many States across the Nation. The cost for incarcerating one felon is approximately $23,000 a year. It is inexcusable that such expenditures would be considered a priority, rather than the proactive investment to K-12 education, higher education, health care systems, and human resource systems. Your continued support for educational funding will provide economic opportunity and inclusive participation in our society, which is vitally important to our national interest.

Finally, I am including in the RECORD this resolution adopted by the Los Angeles City Board of Education last December. It expresses the board's "opposition to reductions in Federal education assistance" and, I believe graphically illustrates the impact that proposed education appropriations will have on one of the largest school districts in the Nation.

I urge my colleagues to heed their consciences and do what is right for America's children.

OPPOSITION TO REDUCTIONS IN FEDERAL EDUCATION ASSISTANCE

(Adopted by the Los Angeles City Board of Education, December 4, 1995)

Whereas, The United States Congress is cutting Federal support for local education programs in an unprecedented manner, with the deepest reductions affecting California schools;

Whereas, These cuts may result in the Los Angeles Unified School District (LAUSD) losing over $72 million in assistance for disadvantaged students, the single largest cut in funding to Los Angeles schools since Federal support for education began 30 years ago;

Whereas, The poverty rate among students in LAUSD averages about 60 percent and Title I, a Federal program which helps low-income students learn basic reading and math skills, may be cut in Los Angeles by over $24 million;

Whereas, 57 percent of students who attend LAUSD schools speak English as a second language, and Federal assistance to help students learn English may be cut by the Congress by $104 million nationwide; and

Whereas, Additional cuts to Federal programs which help reduce drug abuse and dropout rates, prevent violence in schools, and help provide students with vocational skills have already been made by the House of Representatives: Now, therefore, be it

Resolved, That the Board of Education of the City of Los Angeles oppose Federal cuts in education assistance, and urge our Congressional delegation to vote against any education reductions; and be it

Resolved further, That the Board urge the President of the United States to oppose these cuts and veto any legislation that reduces the Federal government's obligation to provide education assistance to the country's neediest students.

IN HONOR OF JEFFREY WHARFF

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. KILDEE. Mr. Speaker, I rise today before my colleagues in the U.S. House of Representatives to pay tribute to a student of outstanding academic achievement, Jeffrey Wharff. It is my deepest pleasure to bring to your attention good news. Mr. Jeffrey Craig Wharff of Rochester Hills, MI, was conferred the honor of a Doctorate of Philosophy in the discipline of economics by The American University on January 28, 1996.

Mr. Wharff graduated from Rochester Adams High School in 1980. He then went on to attend Oakland Community College in Auburn Hills, MI. After four semesters he, encouraged by his success, applied and earned entrance to the American University in Washington, DC. Immediately, Jeffrey found his intellectual passion for economics. Following completion of his undergraduate degree in 1987, he swiftly earned his Masters of Arts and has now demonstrated his devotion to the field with a Ph.D.

On behalf of his parents, Mr. and Mrs. Donovan Wharff of Rochester Hills, MI; brother Bradley Wharff of Rochester Hills, MI, wife Terri; James Lambert and Mary Matson, his close friends; and Uncle and Aunt, Dr. and Mrs. Robert Richard of Bloomfield Hills, MI, I am pleased to convey their pride and deepest contentment of his outstanding achievement.

We must commend not only Jeffrey's private endeavor but, also, those Michigan educators, elementary through post-secondary, for their interest and commitment which shaped a bright young mind into perpetual curiosity and tenacity of purpose, and provided him with the foundation to find delight in the complex. His accomplishment is a testament to their success and the success of the public educational system.

Mr. Speaker, it is indeed an honor and pleasure for me to rise today to pay tribute to this outstanding student. I know that Jeffrey Wharff will pursue his interests with the same zeal as he did his academic achievements. I wish him well in his future endeavors.

TRIBUTE TO ROBERTA CALVERT HEYER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1996

Mr. FILNER. Mr. Speaker, and colleagues, I rise today to honor a great friend and community leader who passed away recently—Roberta Calvert Heyer.

Roberta Heyer was an accomplished painter, landscape artist, educator, civil rights activist, and civic leader.

A San Diego State University graduate with a master of arts degree in art history, Roberta taught elementary school in the 1950's, and art history at Cuyamaca and Mesa Community Colleges from 1976 to 1989. Her knowledge and expertise in art and historical architecture led to her appointment to the Old Town Planned District Review Board, where she served for 5 years.

A resident of the Encanto community since 1958, Roberta organized workshops at her neighborhood school, Encanto Elementary School, to provide art education to students.

In the 1960's, Roberta served as vice president of the local Citizens for Racial Equality. Her work in establishing human relations programs in San Diego schools to foster racial harmony and understanding was recognized by an appointment as the city of San Diego's representative to the County Human Relations Commission.

Roberta won the respect and admiration of her friends, family, and community for her sense of humor, her community involvement, and her dedication to our democratic principles and values.

In this lifetime, we come across a small number of special people—those who touch our minds, hearts, and souls with their activism, optimism, and dedication to making everyone's life richer. Roberta was one of those chosen few. My thoughts and prayers go out to her husband, Warren, and her family, friends, and the community. This world needs more people like Roberta Calvert Heyer—she will be missed.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 14, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 15

9:30 a.m.

Armed Services

Airland Forces Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense, focusing on tactical aviation programs.

SR-222

Labor and Human Resources

To hold hearings on S. 581, to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment.

SD-430

10:00 a.m.

Armed Services

Acquisition and Technology Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense plan, focusing on emerging battlefield concepts for the 21st century and the implications of these concepts for technology investment decisions.

SR-232A

MARCH 19

9:00 a.m.

Armed Services

SeaPower Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy expeditionary warfare programs.

SR-232A

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings on activities of the Federal Communications Commission.

SR-253

10:00 a.m.

Armed Services

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the unified commands military strategies and operational requirements.

SR-222

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine the asset forfeiture program, focusing on issues relating to the Bicycle Club Casino.

SD-342

Judiciary

To hold hearings on proposed legislation authorizing funds for programs of the Hate Crimes Statistic Act.

SD-226

2:30 p.m.

Environment and Public Works

To hold hearings to examine comparative risk assessment.

SD-406

MARCH 20

9:30 a.m.

Armed Services

Acquisition and Technology Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense plan, focusing on technology base programs.

SR-232A

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine global proliferation of weapons of mass destruction.

SD-342

Labor and Human Resources

Business meeting, to mark up S. 1578, Individuals With Disabilities Education Act, H.R. 849, Age Discrimination in Employment Amendments, and proposed legislation authorizing funds for the Older Americans Act.

SD-430

Rules and Administration

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Congressional Research Service.

SR-301

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on the ballistic missile defense program.

SD-192

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for foreign assistance programs.

SD-138

Armed Services

Personnel Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense and the future years defense plan, focusing on manpower, personnel, and compensation programs.

SR-222

Budget

To hold hearings on the President's fiscal year 1997 budget proposals.

SD-608

Veterans' Affairs

To resume hearings to examine the reform of health care priorities.

SR-418

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 1077, to authorize research, development, and demonstration of hydrogen as an energy carrier, S. 1153, to authorize research, development, and demonstration of hydrogen as an energy carrier, and a demonstration-commercialization project which produces hydrogen as an energy source produced from solid and complex waste for on-site use fuel cells, and H.R. 655, to authorize the hydrogen research, development, and demonstration programs of the Department of Energy.

SD-366

MARCH 21

9:30 a.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 305, to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, H.R. 1091, to improve the National Park System in the Commonwealth of Virginia, S. 1225, to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the upper Hudson River Valley, including the Lake George area, S. 1226, to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, and to establish an American Battlefield Protection Program, and S.J. Res. 42, designating the Civil War Center at Louisiana State University as the United States Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War.

SD-366

10:30 a.m.

Small Business

To hold hearings on HUBZones: Revitalizing inner cities and rural America.

SR-428A

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively.

SD-366

MARCH 26

2:00 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the proposed budget request for fiscal year 1997 for the National Aeronautics and Space Administration (NASA), and to examine recent developments in the Space Station program.

SR-253

MARCH 27

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine Spectrum's use and management.

SR-253

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine global proliferation of weapons of mass destruction.

SD-342

Rules and Administration

To hold hearings to review certain issues with regard to the Government Printing Office.

SR-301

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.

345 Cannon Building

MARCH 28

9:00 a.m.

Indian Affairs

To hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute.

SR-485

APRIL 17

9:30 a.m.

Rules and Administration

To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR-301

APRIL 18

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine Spectrum's use and management.

SR-253

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR-301

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

335 Cannon Building

POSTPONEMENTS

MARCH 14

9:30 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1477, to improve the Federal regulation of food, drugs, devices, and biological products.

SH-216

HOUSE OF REPRESENTATIVES—*Thursday, March 14, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 14, 1996.

I hereby designate the Honorable MARK FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Daniel J. Maher, Basilica of the National Shrine of the Immaculate Conception, Washington, DC, offered the following prayer:

Good and gracious God, we thank You for the many blessings You have poured out upon our Nation. As we praise You for Your wondrous works, we thank You too for raising up those assembled here who are servants of Your people and for calling them to be instruments of Your will for our land. Help them to bear gracefully this mantle of responsibility placed upon them. Inspire their deliberations this day, that they may more perfectly fulfill the sacred trust that both You and we, the people, have bestowed upon them. Bless our Nation through them and help them to live in the spirits of unity and peace that we hope their endeavors will assure for all the people of this Republic. We ask all these things in Your holy name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. LUCAS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LUCAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado [Mr. HEFLEY] come forward and lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 2854. An act to modify the operation of certain agricultural programs.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2854) "An act to modify the operation of certain agricultural programs," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. COCHRAN, Mr. MCCONNELL, Mr. CRAIG, Mr. LEAHY, Mr. PRYOR, Mr. HEFLIN, Mr. HARKIN, and Mr. CONRAD, to be the conferees on the part of the Senate.

TIME TO REIN IN SPENDING, AND HAVE LIMITED AND EFFECTIVE GOVERNMENT

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, $8 billion. Inside the Beltway here, in this land of bureaucracy in the District of Columbia, $8 billion may not seem like a lot of money, but, Mr. Speaker, to the people of the Sixth District of Arizona, and I would say to people nationwide, $8 billion is a whole lot of money, especially when those $8 billion, Mr. Speaker, are going to come out of the pockets of the American people.

The fact is, Mr. Speaker, we have to have limited and effective government. Yet, the gentleman at the other end of Pennsylvania Avenue has the same old answer to the question. He talks about the days of big government being over. Yet, he wants to fund $8 billion of additional ineffective Washington programs.

Mr. Speaker, when I return to the Sixth District of Arizona, no one runs up to me and says "Please, Congressman, take more and more of my money for ineffective government programs." They say the time has come to rein in spending and have a limited and effective government.

EFFECTIVE EDUCATION PROGRAMS WILL SUFFER UNDER EXTREME REPUBLICAN BUDGET CUTS

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, it is great to follow my colleague, the gentleman from Arizona, when he talks about ineffective government programs. Last week I had an opportunity to attend an honor society induction at Marshall Middle School in North Side Houston. Over 50 hardworking, very bright young Americans were inducted into the National Honor Society, and it was a moving ceremony. It illustrated the success of public education.

Mr. Speaker, this school and its feeder elementary schools stand to lose teachers, face larger school classes, and would be denied extra help in reading and writing if the majority Republicans continue to insist on their extreme education cuts. Even though the U.S. Senate voted overwhelmingly to restore vital funding in education and job training, the House Republicans are still wedded to their bill that makes serious cutbacks in education.

Mr. Speaker, let me point out that chart that is a layoff notice to the teachers and local school students. Schools are now making their budgets for next year. That layoff notice will say, "I regret to inform you because of massive Federal budget cuts we are going to cut education funding in your district," so teachers will be laid off and class size will be higher.

Mr. Speaker, let us stop these extreme budget cuts.

SECRETARY O'LEARY GETS PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the Washington Times reports this morning that energy Secretary Hazel

O'Leary has spent $3.4 million to send 17,000 DOE employees to a self-help workshop called Seven Habits which is based on the book by time-management guru Steven Covey.

The 4-day workshops were run by 285 Energy Department Seven Habits facilitators and are designed to help DOE employees cope with the chaos of change.

Last month, this same Department furloughed 2,700 of its employees—without pay—due to budget shortfalls.

It is reported that Secretary O'Leary rejected advice to cut from the training and travel budgets to avoid the furloughs.

Perhaps it would be more advisable to send Secretary O'Leary to a money management workshop.

One of Steven Coveys seven habits is to be proactive. Perhaps the President should be proactive and dump Secretary O'Leary.

Secretary O'Leary gets my Porker of the Week Award this week.

THE NRA BACKS GUTTING ANTITERRORISM BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute.)

Mr. SCHUMER. Mr. Speaker, the violent terrorist group Hamas found a new friend yesterday, the NRA, the National Rifle Association. Yesterday the House went toe-to-toe with this violent terrorist group in our debate over the antiterrorism bill. It was not a fair fight, and Hamas won. It was not a fair fight because the fix was in. The National Rifle Association and its allies jumped into the ring.

Once again, Mr. Speaker, the gentleman from Georgia, NEWT GINGRICH, and the Republican leadership bowed to the narrow demands of the NRA and the Republican party's extreme right wing. By the time they had done their work, the terrorism bill was eviscerated. Make no mistake, America, the bill is on life support. It will take a miracle to keep it alive. That will make our law enforcement officials' fight against the growing threat of terrorism harder.

By gutting the terrorism bill, the NRA allows tens of thousands of dollars and other support to continue flowing from this country into the coffers of groups like Hamas. Those resources will be used to slaughter scores of innocent people. Shame, Mr. Speaker. Shame.

FIFTH ANNIVERSARY OF PERSIAN GULF WAR

(Mr. LUCAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUCAS. Mr. Speaker, 5 years after the Persian Gulf war our Nation still imports over 9 million barrels of oil a day. What's worse—oil imports have hurt domestic production and taken away U.S. jobs. We've lost over 500,000 American jobs since the early 1980's because of oil imports.

Our Nation's growing reliance on foreign oil is not just an issue that affects the oil patch—it's something that everyone should be concerned about.

If we want to lessen our reliance on oil imports, then we need to take steps to stimulate production of oil and gas right here in the United States. In order to boost production, we need to look at reducing unnecessary regulations that cripple U.S. production.

There are indeed, Mr. Speaker, many alternatives to oil dependency. Educating people about those alternatives will be a key to a stronger American oil and gas industry.

WE NEED THE TRUTH ABOUT PAN AM 103

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while Congress debates terrorism, the bombing of Pan American flight 103 is still a controversy. The Justice Department says the Libyans did it, and they indicted two Libyans who are still in jail over in Libya. Meanwhile, intelligence experts around the world disagree. They say these two Libyans were mules and runners who were incapable of masterminding and destroying Pan American flight 103. I agree. I say if Qadhafi has responsible for the downing of Pan American flight 103, these two Libyans would have already choked on a chicken bone and would have met their maker by now.

I think Congress deserves the truth. I think the families of the victims of 103 deserve the truth. I think the CIA and the Justice Department are withholding the truth. If Congress is going to stop terrorism, Congress should get the truth. Passing laws, in and of itself, will not stop terrorism.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The chair will recognize out of order the gentleman from California [Mr. DORNAN] to welcome the guest chaplain. The time will not count against the 1-minutes.

WELCOME TO THE REVEREND DANIEL J. MAHER

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, what an honor to rise today for our Chaplain, who just gave such a beautiful invocation, our Chaplain for the day, Father Daniel Joseph Maher. He was born February 1, 1965, in Newport News, VA, raised throughout childhood in the city of Hampton, VA; a graduate of the College of William and Mary in Williamsburg with a BBA degree in 1986.

Father received his Masters of Divinity degree summa cum laude from St. Charles Borromeo Seminary in Philadelphia in 1990. He was ordained to the Roman Catholic priesthood in May 1991 for the diocese of Arlington, VA. Father served for 4 years as associate pastor of St. Leo the Great Church in Fairfax, VA, where I have seen him many times upon the beautiful altar there; concurrently served 4 years as a notary for the tribunal of the diocese of Arlington.

Father currently is associate rector of the Basilica of the National Shrine of the Immaculate Conception here in Washington, DC, the seventh largest house of worship in the world. He has charge of all the worship services conducted at the Basilica.

Thank you, Father, for giving us such stirring words this morning.

CUTTING BACK EDUCATION IS BAD BUSINESS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, here we go again today, another temporary spending bill, or CR, continuing resolution, as it is known. The Republican leadership promised to run Congress like a business. What kind of business can operate this way, where it is now in the sixth month of its budget year, the 1996 year, but still has not passed a final 1996 budget, and is now holding hearings on the 1997 budget?

Mr. Speaker, this is the 10th temporary spending bill this year. This one is for a week. We are not sure what is next, perhaps a day, perhaps 3 hours. Maybe just run the Government from lunchtime to quitting time and then vote again.

Mr. Speaker, whether it is 1 month or 1 hour, the fact is this temporary spending bill continues an already extreme message: stiff cuts in vital education programs. In West Virginia, it means 226 teachers and 90 aides laid off in 2 weeks. It is going to mean 6,500 students next year that will not be able to take advantage of the vital title I program. Cutting back education? What kind of business is this?

THE BUDGET DOES MAINTAIN EDUCATION

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Mr. Speaker, my head tells me to balance the budget but my heart tells me to do it compassionately. Despite all the rhetoric that we have heard over the past week, the budget policies we have been fighting for maintain the Federal commitment to our children.

Over the past year, I have had the pleasure to visit schools and child care facilities all over my district. Visits to the John Jay High School, the Fox Lane Middle School, the Poughkeepsie Magnet Schools, the Hawthorne Cedar-Knolls School, and the Katonah Country Children's Center, just to name a few, underscore the importance of our efforts to support all aspects of education and child care.

My colleagues on the other side of the aisle want all of us to believe that we are gutting education, that we are imposing inappropriate cuts to programs which serve our children. Mr. Speaker, I have to ask, how compassionate is it to continue to tax and spend, policies that have left our children a legacy of debt? How compassionate is it to pump millions of dollars into hundreds of programs of education that may actually not work? Compassion is not necessarily measured in dollars and cents, but the manner in which we spend those dollars. It is important. I think this institution may have forgotten that fact.

☐ 1015

GOOD LUCK TO SAN JOSE STATE AND SANTA CLARA IN NCAA TOURNAMENT

(Ms. LOFGREN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, today is the first day of March Madness, the NCAA Basketball Tournament, and I am proud to announce that two local teams from Santa Clara County are participating in this event: San Jose State University, which will face off against Kentucky in about an hour, and my law school alma mater, Santa Clara University, which will take on Maryland tomorrow. I share the excitement of all the students from these schools, and I congratulate the team coaches, Stan Morrison and Dick Davey.

I want to take this opportunity, while the national spotlight is focused on our college athletes, to point out that some of these basketball players, and many more of their fans, rely on Federal loans to attend school. The omnibus appropriations bill that just passed the Congress reduces student aid, including Pell grants and Perkins loans, by yet another 13 percent, raising costs for thousands of students in California, and precluding others from even attending college.

Mr. Speaker, I needed help to go to college, and I know that students today need it even more. I also know that this country needs educated employees to compete in the global marketplace. Many Members are rooting for their teams this weekend; I urge them to support the schools that produce these teams as well. Go Spartans. Go Broncos.

WORKING TO KEEP GOVERNMENT RUNNING AND TO PRODUCE A BALANCED BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the 1996 Presidential campaign games are in full swing. While the Republicans continue to work toward a balanced budget to fulfill last year's promise, the President wants Congress to spend an additional $8 billion on a host of Federal programs. Most of these programs are to appease his liberal constituents in order to shore up his tax-and-spend liberal base.

The President has requested $2 million for the Ounce of Prevention Council. This 2-year-old program has not administered one single grant during its existence.

Mr. Speaker, we will do everything we can to keep the Government running and to work with the President to produce a balanced budget, but we will not continue to decorate the national budget like a Christmas tree with the President's pet projects. We will not borrow money from our children's future for this kind of wasteful spending.

SPUTTERING CONGRESS TO LEAVE TOWN WITH WORK UNDONE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, this is a Congress that operates in spurts, and it is sputtering today as its Members head home for yet another extended weekend with the work of this country not done. The reason that that has occurred, and the reason that this is a Congress of near total failure, is that we have got a Speaker of the House who rejects any meaningful bipartisanship, and we have a whole lot of Members in the Republican Caucus who seem to think that working to achieve common ground to solve the real problems of working families in this country is somehow a sin.

Who bears the brunt of this failed Congress? It is the children of our country. It is the 12,000 Texas children to whom this Republican leadership says, "No Head Start for you. We will give you the wrong start," not the Head Start to be advancing within our society. It is the same Republican leadership that says to over 2,000 prekindergarten students in my home of Austin, TX, "You get half the kindergarten that you would otherwise get because we are not going to give you educational opportunity."

We Democrats say more educational opportunities. These Republicans say more education obstacles.

ECONOMIC GROWTH AT WORST POINT IN NATION'S HISTORY

(Mr. KIM asked and was given permission to address the House for 1 minute.)

Mr. KIM. Mr. Speaker, I keep hearing from the White House that our economy is booming. I really have trouble with this. The folk in my district, none of them said our economy is booming. They do not feel this.

The fact is, the economy growth has slowed to 1.47 percent a year, the worst period of growth in our Nation's history. That is the fact. The average family has lost about 1 percent of its buying power since Mr. Clinton took office. The wages rose at the slowest pace in 14 years, and they tell me the economy is booming.

Folks in my district are having difficulty right now trying to make ends meet and every day they are squeezed more and more. They are telling people that the economy is booming? I know it is election time, but I think we should be more honest with the American people.

GOP EDUCATION CUTS FORCE SCHOOLS TO MAKE TERRIBLE CHOICES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is springtime in America's schoolhouse but pink azaleas are not going to be sprouting. Instead, pink slips are going to be sprouting for America's teachers.

When you see what the House Republicans are doing, every school district is going to be forced with the following decisions, either fewer teachers and larger classes and cancelled drug education programs and cancelled remedial education programs, or raise local taxes. Those are terrible choices.

Why in the world are the House Republicans insisting upon sacrificing our children's future upon the altar of deficit reduction? That is exactly what they are doing. They have an altar of deficit reduction and they are saying we are just going to have to sacrifice the children's future, because there is no one who says larger classes, fewer teachers, drop drug education, and drop remedial education is the progressive way to go.

Let us stand up. We now know who is for America's kids and who is just kidding. Fight back.

UPCOMING PRODUCT LIABILITY MEASURE PROMISES FREEDOM TO RAW MATERIAL SUPPLIERS OF MEDICAL DEVICES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, thousands of Americans even at this moment are benefiting from medical devices that have saved their lives or improved their chances for good health, knee and hip joints and brain shunts and pacemakers, all sorts of ingenious devices that over the years have improved the health care capacity of our Nation.

Yet, they are in danger, these device makers, these wonderful people who are developing these kinds of apparatuses for the improvement of health. They are in danger of losing their capacity to produce them because of suits against the suppliers of the raw materials that go into these medical devices.

Next week we are going to take a giant step in trying to prevent the slowdown of the production of these medical devices by putting in with the product liability measure that we will be considering a safeguard against the raw material suppliers, so that they will feel free to keep supplying these components that make these wonderful medical devices.

CUTS FOR SCHOOLS AND THE SUMMER YOUTH PROGRAM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, $3.3 billion in cuts for our schools and major cuts for our teachers and for our young children. Then when our young children grow up to try and have a sense of independence and work in the Summer Youth Program, what do the Republicans do? They cut it.

Let me tell Members about a young person in my community. At the age of 2 and shortly after her mother married her stepfather, her family was involved in a car wreck that left her father permanently disabled. As a result of the wreck, this young child was injured so severely that she lost her spleen and left kidney. Yet she participated in the Summer Youth Program.

She lives at home. She keeps a little of her money and the rest of it she gives to her family for their needs. The family is on SSI. She has worked for the Smiley High School, the Texas Children's Hospital. She is trying to make a difference in her life.

There is no Summer Youth Job Program in this budget by the Republicans, no hope for our youth. No schools, no teachers, nothing for our young children and nothing for our youth. What are we talking about? Summer jobs are hope for the future.

HISTORIC PROGRESS TOWARD PEACE IN IRELAND

(Mr. KING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. KING. Mr. Speaker, during the past 2 years, the people of Ireland have made historic progress toward a true and lasting peace. I am a cochairman of the Ad Hoc Committee for Irish Affairs, along with the gentleman from New York [Mr. GILMAN], the gentleman from Massachusetts [Mr. NEAL], and the gentleman from New York [Mr. MANTON].

The Ad Hoc Committee today is issuing a statement for St. Patrick's Day. We are urging that all parties to this process continue on the path toward peace. Specifically, we are calling upon the Irish Republican Army to immediately recommence the cease-fire. We are calling on the British Government to make every good faith effort to answer any questions that parties to the conflict have regarding the recent communique issued in London.

We also call for the commencement of all party talks by June 10 without the imposition of any preconditions by the British Government, and we call upon the President to continue his policy of active and constructive engagement in the Irish peace process. The people of Ireland have come too far to allow recent incidents to deter them on their path toward peace.

Mr. Speaker, on a bipartisan note, which should characterize this policy toward Ireland, I commend the President for issuing a visa to Gerry Adams to enter this country, and I commend Ambassador Jean Kennedy Smith for standing up to the Anglophiles in the State Department.

Mr. Speaker, I include our committee statement for the RECORD, as follows:

CONGRESSIONAL AD HOC COMMITTEE ON IRISH AFFAIRS, ST. PATRICK'S DAY MESSAGE, MARCH 14, 1996

We, the members of the Congressional Ad Hoc Committee on Irish Affairs, ask all Americans to join with us in praying for peace in Ireland as we celebrate this Saint Patrick's Day.

The people of Ireland have worked too hard, and come too far on the road to peace to abandon the remarkable progress made in the past two years. The people of the United States—of Irish descent and otherwise—have shared in the joy of the Irish people at the significant steps forward just as we share in their disappointment and despair at recent setbacks.

To avoid squandering the hard-won gains toward a just and lasting peace for all Ireland, the government of the United States must remain engaged in the Irish peace process, both as an honest broker and as a guarantor of the equity of that process in ensuring that the legitimate aspirations of all parties to the conflict are fully represented. With this goal in mind, the Congressional Ad Hoc Committee on Irish Affairs:

Deplores the recent return to violence by the Irish Republican Army, and urges the IRA to reinstate the ceasefire immediately;

Calls on the British government to make every good faith effort to provide to all concerned political parties explicit clarification of any provisions of the recent joint communique by Prime Minister John Major and Taoiseach John Bruton;

Calls for the commencement of meaningful all-party talks by June 10th, without the imposition of any preconditions by the British government; and

Calls upon the President of the United States to continue his policy of active and constructive engagement in fostering the Irish peace process.

The 104th Congress has worked in bipartisan cooperation to support the Irish peace process. In addition, we have made substantial progress in addressing one of the root causes of the problems in the north of Ireland by moving closer to the historic passage of the MacBride fair employment principles as part of our contribution to the International Fund for Ireland.

We, the Members of the Congressional Ad Hoc Committee on Irish Affairs, are committed to ensuring that the United States continues to use its influence as a force for positive change in Ireland.

BEN GILMAN,
Cochairman.
RICHARD NEAL,
Cochairman.
TOM MANTON,
Cochairman.
PETE KING,
Cochairman.

SPECIAL TRIBUTE TO NEIL SMITH

(Ms. McCARTHY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCARTHY. Mr. Speaker, I rise to pay special tribute to one of my constituents. On game days, he wears the number 90 on a red and white jersey and is every quarterback's nightmare. I am speaking of the Kansas City Chiefs all-pro defensive lineman, Neil Smith.

Today I want to take note of Neil Smith's efforts off the field. Instead of sacking quarterbacks, Neil Smith is stopping illiteracy. He is the national spokesperson for the Foundation for Exceptional Children's "Yes I Can" program which encourages disabled children to reach their goals.

But while Neil is working to improve education, the House leadership is making drastic cuts in education programs. In Missouri, title I programs, which help children with learning disabilities, will lose over $19 million—critical funds for students who need extra help in reading, writing and math.

I want to say to the House leadership—it's fourth down, 1 yard to go, and there are 30 seconds on the clock—let's go for it and reinstate the much-needed funds for our children.

Thank you, Neil Smith, for sharing your talents and success to help all children achieve their dreams as you have.

PAYING MORE AND GETTING LESS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, let me tell Members what this debate is all about and what the administration and the liberals are talking about in education cuts. They are talking about paying more and getting less.

Let me read, if I may, about the great success of the programs they are talking about and what Republicans are talking about. This just appeared in the newspaper in Florida. Many of Florida's training and vocational education programs that are supposed to give Floridians the skills to find good-paying jobs are not working, according to the report.

State and Federal Governments spend about $1 billion a year on vocational education programs in Florida, more than 1.2 million residents use the programs, but many of the State's programs fail to produce graduates or workers who can earn a decent salary. Most students who enter the programs never graduate.

In all, 37 percent of 347 job training and vocational programs perform poorly, according to the report. Only 20 percent of those who enrolled in high school vocational programs completed them. They want you to pay more and get less, and that is what this argument is about.

NO WAY TO RUN A CONGRESS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, when my Republican colleagues took over this institution 15 months ago, they promised to run the House like a business with the best management practices. However, their stewardship looks more like a Arnold Schwarzenegger screenplay.

The victims are everywhere. Because of the incompetence of this House majority, we are operating under a temporary spending plan, and today they want us to vote again on a 1-week extension of this spending plan. It will be the 10th temporary funding bill this year, no way to run a business or the House of Representatives.

Who suffers from this stop-and-go budgeting? Our kids, our children. Local school districts need to start planning now for the new school year, and they do not know what to expect from Washington. They do know that Republicans are slashing over $3 billion from education. My Republican colleagues are leaving children and parents in the dark, and that is wrong.

Let us honor our commitment to education and our kids, and give them the tools that they need to succeed in the 21st century.

TAX AND SPEND IS BACK AGAIN

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, $8 billion, that sure is a lot of money, and it just happens to be the amount of extra Washington big government spending that President Clinton wants.

Where will this $8 billion come from? If the President has his way, it is going to come right from the pockets of the American taxpayer.

□ 1030

That is right, tax and spend is back again, but do not worry, America, because if you recall, the President said he feels your pain.

You know, I go home every weekend to the central coast of California, and do you realize how many people come to me and say, take more money, take more of my tax dollars and spend it on ineffective Washington programs? Well, you can understand no one does say that to me.

The message from the folks at home is very simple: They are tired of their tax dollars being spent on wasteful spending here in Washington, DC, and they are tired of spending for big government.

It is time for this Congress to say no to higher taxes, and it is time to say no to more government Washington spending.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. KING. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Government Reform and Oversight, Committee on International Relations, Committee on the Judiciary, Committee on National Security, Committee on Resources, Committee on Science, Committee on Small Business, Committee on Transportation and Infrastructure, Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House of Wednesday, March 13, 1996, I call up the joint resolution (H.J. Res. 163) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 163

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104-99 is amended by striking out "March 15, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "March 22, 1996", and by inserting in section 101(a) after "The Department of the Interior and Related Agencies Appropriations Act, 1996" the following ", H.R. 1977", and by inserting in section 101(a) after "The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1996" the following ", H.R. 2127", and that Public Law 104-92 is amended by striking out "March 15, 1996" in section 106(c) and inserting in lieu thereof "March 22, 1996".

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, March 13, 1996, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 163 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the joint resolution before the House would extend for 1 week the provisions of Public Law 104-99 and Public Law 104-92, the current temporary funding authorities for a portion of the Government that expire tomorrow night.

The Senate has not yet passed H.R. 3019, the fiscal year 1996 wrap-up appropriations bill that we passed a week ago in the House. I understand that the other body will probably conclude their action on this bill today.

Mr. Speaker, I expect that there will be significant differences in the Senate amendments to the House version that will need to be worked out in conference next week. Last week, when we had H.R. 3019 on the floor, I said I expected the White House views to be represented in the conference, and I hope that that will still be the case.

But that will take some time. It cannot be done before tomorrow night, and that is why we are bringing this 1 week extension to the floor.

I understand the Senate will agree with this joint resolution and that the President will sign it. I urge all Members to support this joint resolution. We need to pass this quickly so that we can work on reaching agreement on our fiscal year 1996 appropriations wrapup bill with the Senate and the White House, and we hope to do that as expeditiously as possible so we can move on to the fiscal year 1997 appropriations cycle.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 7½ minutes.

Mr. Speaker, I honestly do not know quite what to say about this proposition before us. This is both a remarkable and a very frustrating day in the history of this institution as far as I am concerned. It is frustrating to me personally because regardless of the partisan differences which we have had in this House through the years, the Committee on Appropriations and the appropriations process has been a bipartisan exception on most occasions to the partisanship which has sometimes plagued this House. This year it is amazingly different, and it has nothing whatsoever to do with any shortcomings of the chairman of the committee. He has tried his level best to see to it that the committee functions and he has tried his level best to see to it that bipartisanship remains, because this committee, when all of the shouting is over, has the job, the way this House works and the way the Congress works, this committee has the job to try to make things work after all the shouting is over. Yet, for a variety of reasons, we are not going to be allowed to perform that function.

We are now 166 days into the new fiscal year. We are debating, I believe, the 11th continuing resolution. We were supposed to have all of our work done by the 1st of October. But 80 percent of the domestic appropriations of the U.S. Government is still not in law, and we are now considering a 7-day continuation of funding in order to keep the Government open, and probably next week we will have to consider another 7-day continuing resolution.

Stop and go, stop and go, and I think in the process, this House is going to look sillier and sillier and sillier. The main job assigned to the Congress of the United States by the Constitution is to serve as the chief stewards for the public purse and to allocate funding of taxpayers' money. And I am sad to say that on that score this year this body has become virtually dysfunctional. The machinery has stopped. Congress is stuck.

This House has taken a position, at least the majority within this House, has taken a position on insisting on very severe cutbacks in education funding, very severe cutbacks in environmental cleanup funding. That is a position which has not been taken by Republicans in the Senate. It has not been taken by Democrats in the Senate. It has not been taken by the White House. And it has not been taken by the American people. And yet we are stuck because the one caucus, the one group of folks who could change their position and help do something about this impasse will not do it.

Then we see in the Washington Post this morning a column by Robert Novak indicating that a number of freshman Republicans have gone to the gentleman from Texas [Mr. ARMEY], the floor leader, asking him to stand pat against even the modest increases in education that were supported on a bipartisan basis, with only 14 dissenting votes in the Senate, just 2 days ago.

So I think that gives you some idea of what we are up against in trying to do the people's business.

Now the problem is not just that the Congress is looking sillier and sillier on this. The problem is also that that silliness and that obstreperousness is affecting the day-to-day ability of local school districts to function in an orderly way.

I visited a wide variety of schools in my district during the recess, looked at a lot of Federal programs in those school districts. The problem is that those local school districts are being left hung out to dry by this ying-yanging here in the congressional appropriations process.

April is the month that schools are supposed to sign contracts with the people who will be teaching our kids in September. Lots of those school districts do not know who is going to be in the front of the classroom in many of those classrooms. They do not know how they are going to be able to absorb the $3.3 billion reduction in education, the largest education cut in the history of the country.

The Senate is moving somewhat in the President's direction. But this House is still stuck, and I would predict right now flatly that next week we are going to have to go through this entire process again. I think that is a shame. I think it is a shame for your local school districts. I think it is a shame for people who think that at least once in a while Government ought to look like it knows what it is doing.

I certainly think it is a shame for the local school districts in my district who are going to experience continued turmoil and continued unanswered questions. And, frankly, I have had enough of it. I just do not think this ought to continue.

I would call to the leadership of this House to do what everybody knows is going to have to be done if this is going to be resolved. It is not going to do us any good to sit in a conference between the Senate appropriators and the House appropriators next week when we do not know what the House leadership will accept by way of restorations or by way of offsets for education and for environmental funding that is essential to the well-being of this country and the citizens we represent.

Until this House leadership focuses on that question, we are facing the prospect of another Government shutdown. There is no mistake about it. There is absolutely no reason that should happen. But people are going to have to give up their ideological Jihad on this issue if we are to break through this impasse. And so I call upon the House leadership, rather than going to war again, as some of our majority Members of this House appear to want the majority leader to do, I think this is the time to work things out.

So I would urge that proper attention be paid by the leadership of this House before this country stumbles into another shutdown which will further discredit this institution, which all of us are supposed to respect and love.

Mr. Speaker, I reserve the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it was my hope that we could dispose of this resolution rather quickly, but it appears it is going to be somewhat prolonged. So let me just make the point that the wrapup continuing appropriations bill that we await action upon in the Senate governs four bills with the possibility that they may inject a fifth, the District of Columbia bill, even though it is working its way separately through the entire process. It has likewise been hung up in the Senate. If, in fact, the Senate puts the District of Columbia bill on this final wrap-up omnibus bill, that is their right to do so, and we will have to deal with it.

The other four bills are hung up at this late date, and I agree with the gentleman from Wisconsin, that is indeed late, but they have been hung up not because of any inaction of the House of Representatives. In fact, three of those bills worked their way all the way through the entire congressional legislative process, went to the President of the United States before Christmas, and he vetoed them.

Last week we put them in one wrap up bill to work their way through subsequently, with the good hope that the President might work with the Congress and reach some agreement on them. Frankly, no agreement has been reached to date, and the process drags on for those three bills. Those were the Commerce, Justice, State, judiciary bill, the Interior bill, and the VA-HUD bill.

The fourth bill that provides education funding, which, I suspect, is going to be the topic of the next few speakers, is the Labor, Health and

Human Services, Education bill that passed this House August 4 of last year. That is the last time we saw it, because it was filibustered by presumably the minority party in the Senate, and that is where it remains today. It never got out of the Senate. Every time somebody tried to bring it up, someone from the minority party would jump up and object to its consideration.

Now, I appreciate the tenor of the comments from my friend from Wisconsin. And, frankly, I am concerned that we are dragging out this process for fiscal year 1996. It detracts from the ability of the House to discuss the problems affecting the fiscal year 1997 appropriations cycle and the future bills inherent in that process become all the more difficult, because we have got to complete them by the end of the summer before the election season kicks in.

□ 1045

So every day, every week that goes by without completing the 1996 cycle, it is just a little less time that we have to devote to 1997. It concerns me greatly.

Mr. Speaker, but, putting the cards on the table, the fault does not lie with the House of Representatives, with either party. The fault lies jointly in the system. Three bills were vetoed by the President, one was filibustered in the Senate, and I am not going to take the blame for that.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do not think the chairman of this committee ought to take the blame for it. It is not the gentleman's fault and I recognize that. But I do think that it is necessary to understand that the President was representing the overwhelming number of Americans when he decided that it was not correct to cut education funding by over $3 billion; when he decided it was not correct to cut environmental enforcement by 22 percent; when he decided it was not correct to allow massive new timber cutting in the Tongass rain forest; when he decided it was not correct to allow a whole laundry list of environmental and other legislative riders to be added to these bills which have nothing whatsoever to do with budgeting.

So it seems to me that the record is clear that it is this House which is out of step with public opinion and with the needs of the country.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, every time I go out, people say, why can this body not be more bipartisan?

I honestly do not think the problem is with this committee. We have just heard from the chairman and ranking member. They are not at each other's neck. Yet for people that watch C-SPAN, this is getting to be like "Groundhog Day," the movie, where every day you get up and go through the whole same Groundhog Day again.

Mr. Speaker, here we are, 6 months into this fiscal year, and this is the 11th continuing resolution. Kind of jump-starting it, week by week, as we sputter along. This one is only going to be for a week. At the rate we are going, we may be down to hours. Who knows, Mr. Chairman? You have the patience of a saint. I do not think these gentlemen are doing this to get time on C-Span either. I think they would just as soon have had this thing done and wrapped up and put away.

What we are really talking about is we have had many times before where the Congress and the President disagreed and there were vetoes, but, you know what? We got together and worked it out. We have got a small minority within a majority refusing to let them get together and work it out, because they say that is capitulation.

So when they say the President will not work with us, what they mean is the President will not capitulate to us. And how can the President? He is the President of all the people. The people are saying we do not want these environmental programs cut, we do not want education cut.

Mr. Speaker, we just saw the leader in the other body come back, who is probably the freshest of all of us. He has been out campaigning. It now appears he has the mantle to carry his party into the presidency. He votes with the 84 people in the Senate who say, "We ought not to cut education that deeply and we ought not to do that."

So what we have is a large consensus in the other body, the President, a strong consensus here. But we have a minority holding it back so we cannot do anything but come out week by week with another one of these patch and plaster up over the holes and go on.

We are going to be committed to Groundhog Day forever unless we stand up. I think it is terribly important we realize this is the worst way to run a government, the least efficient, and get on with it.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, actually, I agree. It is not a great process. I would have loved to have expedited it and been done with it. In fact, I think, had we been able to reach an agreement with the President on the remaining bills not enacted since Christmas, we would have been done with this process.

But back then the President closed the door, he vetoed the bills and then blamed the Congress for turning the Federal employees out on the street, when in fact it was his vetoes that did it. He won the PR wars during the Christmas holidays, no doubt about that. It was a public relations battle. I look back on what happened, and I think the President clearly won the PR wars.

But in negotiating with the administration since then, in trying to reach a resolution on these bills, we have found it singularly impossible to get them to seriously come to grips with the problems with which we are faced in these various bills. After all, in December the President said that he wanted to get the budget under control and that he was in favor of a balanced budget. In February he said that the era of big government is over. About that same time, he was telling us he wanted $4 to $6 billion in additional spending in those bills he had vetoed. Now we are getting the message that anywhere from $8 to $12 billion additional spending is necessary for the same bills.

The fact of the matter is that the signals coming from the White House have been extraordinarily mixed and conflicting, and they have not shown any inclination to come and meet us halfway and settle this problem so we can move on to fiscal year 1997.

Now, as we pointed out yesterday, the fact is that even if you use the President's $8 billion figure that he wants in additional spending, notwithstanding his proclamation that the era of big government is now over, notwithstanding that the fact that the bills in question already appropriate some $160 billion and he wants $8 billion more, when you get into the details of what he is really asking for, you have to scratch your head and say, "Is this worth hanging up government over?" Is this worth saying to the Congress, "If you do not give me my $8 billion, I am going to close down government?" Is this worth virtually hijacking the Congress and the processes available to us and threatening the closure of the operations if he does not get his way?

I would say no. The point is, when you look at some of the programs that he wants to spend money on, the GLOBE Program, for example, which I know is near and dear to the Vice President's heart, the Global Learning Observation to Benefit the Environment Program. Its goal is to teach youngsters in the United States and foreign countries how to do such things as collect environmental data such as rainfall. Now that is a real significant program.

Then there is the Ounce of Prevention Council. Last year they spent $1.5 million on it, and this year they seek to spend $2 million; and all they did last year, they are supposed to let out a lot of grants but for some reason, perhaps the closure of Government, they said they were not able to do it. So they put out a nice glossy book, for

$1.5 million. Now they want to raise that now to $2 million. Maybe it will be a thicker book.

Then there is the Safe and Drug-free Schools Program, which I think has a marvelous name. Really, who can argue with Safe and Drug-free Schools, unless you find out that, as reported in the Fairfax Journal in May 1995, that in Talbot County, MD, their schools spent grant money on a disk jockey and guitarists for a dance, lumber to build steps for aerobic classes, and school administrators spent more than $175,000 for a retreat at a resort in Michaels, MD.

Additionally, another school district in Texas received a grant for $13. How many bureaucrats had to get together and figure out that this was a really meaningful grant of $13, and how much did that ultimately cost us? Congress would trim that program to $200 million in fiscal year 1996. The President says that is not enough, $200 million is not enough. Maybe we will have a lot more $13 grants in the future if the President gets his way.

He would say that the $8 billion is important because we have to spend more money on loan volume for direct student loan programs. The fact is, when you analyze what he wants to accomplish, you see that it would broaden the loan program for student loans for new institutions, some 481 new institutions, 138 of which are beauty, cosmetology, and barber schools. There is the Acme Beauty College, the California Medical School of Shiatsu, Naomi's Mile High Beauty College, the Ph.D. Hair Academy, and three schools of massage therapy. Now, that would be a real valuable use of taxpayer money.

Then there is the Advanced Technology Program we hear so much about, that the President wants $300 million over the level in our bill. That is mostly corporate welfare. It is taxpayers' dollars going to big companies in order to fund new technologies.

Then there is the trusty old AmeriCorps Program. Get a volunteer and pay them. Of course, the average estimate of cost was some $17,000 to $18,000 per volunteer. That was one thing. Then we found out in Baltimore they paid them $50,000. That is what the cost-per-participant was in Baltimore, $50,000 a volunteer. I know a lot of American citizens who are paying taxes that would probably like to volunteer for that kind of a job at 50 grand apiece.

Well, on and on it goes.

Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I think the gentleman made an interesting case. I would want to say that my understanding is that some of the money the President has requested, he has also offered offsets. I think it is unfair to just say he asks for flatout money. He has offered offsets. I think we would want the record to be clear on that.

I think that many of these programs the gentleman is talking about are on the basis they have been block granted, for example the Drug-Free School Programs the gentleman is talking about. Those were block grants to the local communities for people to try and figure out how to spend the money in the best way to get the people's attention.

So I find it a little disconcerting that on the one hand you say we should trust the local officials, but then when we do and they do something and say this works in our neighborhood, then people say they did the wrong thing. So I do not know.

All I am saying is I do think it is very important to say there have been offsets, that I do not think this was just a PR war, and that this President has vetoed fewer bills than any President that has been here since I have been elected.

So I think the press looked at why he vetoed these bills, and I think that is why the people have been on his side.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I would like to correct some of the statements made by the distinguished chairman of the committee. The President has not asked us to spend more money. What happened is very simple: The majority party in this House decided that they wanted to spend $7 billion more on the Pentagon budget than the President wanted them to spend. The President decided, in the midst of the Bosnia crisis, that while he was opposed to that increase, he would accept the passage of that bill as a good will gesture during budgeted negotiations, as much as he did not want to spend that additional money. So that $7 billion is moved over to the Pentagon.

Now the majority party is insisting that that $7 billion come out of the hide of environmental cleanup enforcement, out of the hide of education, and out of the hide of the Interior appropriations bill. So they have made these cuts in education programs, in job training programs, in drug education programs and the like.

The President said, "I do not think that is a good idea, folks." So he came down here and suggested offsets. I have got a copy of them in my hand. He suggested spending offsets, areas of the budget that could be cut in order to finance the restorations he is looking for in education and training and in the environment.

So, No. 1, get off this idea that he is asking that more money be spent in the aggregate. He has suggested cuts to offset the money. If you do not like where he has taken the offsets, bring up your own list. But do not say the President has not offered ways to offset it.

Let me also point out that what you have got here in my view is a political rather than a substantive problem. Robert Novak's column this morning points out that the majority leader suggested that, and I am reading now, "There was no hope for the Republican Party if it succumbed to Clinton. Instead of cutting a deal with the President," he said, "Let's fund the government with a series of short-term extensions of spending authority."

□ 1100

Then he goes on to say it was asserted that there "would not be much chance for the Republican Party to win the allegiance of Pat Buchanan's followers if the party leadership showed the feather."

That is what is going on here; it is politics, and, because of that, we are being asked to take huge reductions in education funding.

Now my colleagues can laugh all they want about the GLOBE Program. I visited a GLOBE Program in Chippewa County in my own district and watched those very young kids learn something about climate, learn something about the interconnection of various parts of the globe because of the environmental issue. I think the tiny amount of money spent on that program was well worth teaching those youngsters that we are all connected on this globe.

If we take a look at safe and drug-free schools, I will stipulate, if my colleagues do not like the way, and the gentleman just mentioned six items he did not like, spending for those items. I will happily accept cuts in all of these programs for the dollar amounts of the screw-ups that the gentleman has cited by the local school districts. But I do not grant that because some of the school district in Florida or some other State has screwed up the way they use safe and drug-free school money that my district should not get any, or that my district should not get summer youth because some other district may have screwed up the way they spent it. Fix it up in that locality, do not savage the program; that is the way to deal with it. My local police chief happens to think that safe and drug-free schools is an important program.

As far as student loans are concerned, there is absolutely no reason whatsoever why we ought to raise the cost of going to college for kids in this country by $10 billion over the next 7 years. That is what our colleagues are asking us to do.

Title I; I do not know how many of my colleagues visited title I projects. I think they are crucial to an awful lot of families in my district.

AmeriCorps; my colleagues can laugh all they want about it, but those volunteers help coordinate other neighborhood volunteers to supervise kids who commit the majority of youth crime in this country, majority of violent crimes, between 3 o'clock and 6 o'clock in the afternoons because they are not supervised. That is one of the things AmeriCorps is trying to correct.

So do not tell Chippewa Falls district, do not tell Wausau, do not tell Colby school districts, or all the other school districts in my district they have got to take a cut because of some political agenda of the majority party. I do not think the country is going to buy that.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds, and I would like to then yield to the gentleman from California [Mr. CUNNINGHAM].

I just point out that, as my colleagues know, the gentleman from Pennsylvania [Mr. GOODLING] chairman of the Committee on Economic and Educational Opportunities, pointed out there are 760 education programs. Only 6 percent are actually dedicated to math, reading and science. Now this country spends $26 billion on just the Education Department alone, and by some estimates when we include all the other departments in the Government, we may spend some $200 billion on education, and yet the other side never wants to eliminate a program, they never want to close a program. Lord, do we need 760 education programs?

Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY], is so enamored with his own opinion he states it as fact, and he is misinformed, first of all, that our schools, in almost every category we score last among the developed nations. Great Britain and Japan score far above us in every category, and in some categories Japan scores twice of our students in scores. We have less than 12 percent of our classrooms, and I laud the President for his ideas and working to get our classrooms upgraded. But we have such a proliferation of dollars with 760 programs spread over 39 programs.

The ranking minority member on the budget agrees that the title I program, the direct lending Government-run program, should not be. A billion dollars just in administration fee capped at 10 percent. GAO estimates a greater cost, of up to $3 billion just to collect the dollars. We took those savings, we increased student loans, we increased Pell grants and so on.

Take a look at HHS, take a look at the Department of Education's recommendation, the Department of Education, not exactly a right wing group. Every study shows that title I and Head Start are not meeting their goals, that you take two students track them along the same lines, and there is no difference, and yet we are spending billions of dollars. Did we kill them? No, but we said is it wrong to ask for quality, is it wrong to ask for performance? And a program has been reduced by 500 percent and is serving less children. Is it wrong for us to manage a program? But if that works in our colleagues' State, just like drug-free schools, that block grant, the State can decide. If Head Start works in our colleagues' State, do it, and fully fund it. If title I, fund it. I support their program. I think it is a great program, and I think it should be funded. But what we are reducing is not cutting. What we are reducing is the bureaucracy here in Washington.

In title I, in Head Start, and in the direct lending program we are reducing the bureaucracy here in Washington, DC, and focusing the dollars down to the local level. We are insisting on quality, we are insisting on parental control to get the dollars down so we can pay teachers more instead of the mess that we have right now where those dollars are being squandered here in Washington, DC. Now my colleagues may want to call that a cut, and I will say, "Yes, Mr. OBEY, it's a cut, it's a cut of your precious bureaucracy, and that's what you are having a problem with."

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. I thank the gentleman for yielding this time to me.

Mr. Speaker, the Republican majority can find additional money if they were not so anxious to provide tax breaks for the wealthiest Americans. $17 billion in a windfall to the richest corporations in this country, and would have them pay no tax at all. Come on, that is the shame of this, these cuts to education.

Mr. Speaker, I rise today in opposition to the mind-boggling incompetence of the Republican majority in running this House. Six months into the fiscal year, twice shutting down the Government, threatening to do so for a third time, they have brought to the House floor the 10th stop-gap spending bill, this one for only 1 week. The failure of the Republican leadership to get their act together, to tend to the people's business, has a real impact on my district and virtually every community in America.

I met recently with parents, teachers, and school officials in my district who told me that the proposed $8.6 billion in a cut to Connecticut's basic training skills, reading, writing, arithmetic, not bureaucracy, to reading and math skills. It is going to affect 9,200 kids in my State, the loss of the dollars for safe and drug-free schools, the DARE Program that works.

These are not the priorities of the State of Connecticut or America. These are not the values that we hold dear in this country. Public education has been the great equalizer in this Nation for all kids despite what their economic circumstances have been.

Republicans in the other body have got the message. They voted 86 to 14 to restore education funds. I hope the vote in this House will wake up the people here and say to the Republican revolutionaries, support education, pass long-term legislation that puts the education needs of America's kids first.

Mr. LIVINGSTON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER], the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

Mr. PORTER. I thank my distinguished chairman for yielding me the time.

Mr. Speaker, there can be no question but that the majority is just as committed to quality public education for the children of America as anyone in the minority. To suggest otherwise is nonsense. But let us face it, there are many, many Government programs that have not provided that kind of quality and that have wasted taxpayers' money. It is time to review them to see if we can do better, and I know that we can do better.

In higher education, it is suggested by the other side that there is going to be less money for student loans and grants. This is simply not true. There is no child in America that is going to have any less money this year than last year for their higher education. The cuts are in the administration of the programs. We can reduce overhead and do a much, much better job of educating children.

On primary and secondary education, all of the cuts in the House bill would amount to less than three-quarters of 1 percent of the money spend on primary and secondary education in the United States.

The sky is not falling. What we are attempting to do is to prioritize; to look where the money is wisely spent for good results, and to support those areas, and to cut those where the money is not wisely spent or is simply wasted.

With respect to title I and Safe and Drug Free Schools, we would like to have greater targeting so that the money goes where it is needed and does not go to almost every school district in America; many of which do not need it at all.

I would like to see targeting for title I done much more tightly. We do not need the money in New Trier High School in Winnetka IL. It is needed in the inner cities and rural areas where we need to get results.

We also need to look at the programs themselves. Do they work? Are children really able to achieve a place in the work force where they can be productive citizens, or are they unable to read and unable to compute? If the programs are not working, by God let us reform them so that they work.

What we see today is really an issue between the old politics, represented by the other side, of serving one special interest in America after another, and the new politics, which I believe we represent, of getting solid results and make Government work better for people in this country.

H.R. 3019, which passed this House last week, included additional funding for many high priority programs. We are willing to spend more money. Obviously we knew from the very beginning that we would have to move toward the President who has different priorities than the Congress. We are willing to sit down and negotiate these matters out, and if more money is desired in certain areas, fine, let us provide it. But let us not add more to the deficit, for if that is what the President wants to do, and it seems that that is exactly what he wants to do, the answer is no.

Let us not increase taxes. That is not the problem in this country. We are taxed enough. The problem is that we spend too much. We have to spend less and use the money we do spend better.

And finally, no funny money, no short-term fixes that do not work. If my colleagues want to provide some additional revenues that are real and long lasting, we will consider them. If they want to fund programs that they think are priorities and ought to have higher spending levels we are willing to do that right now; but no adding to the deficit, no tax increases, and no funny money.

We can work together to find common ground on this matter. Let us find that common ground, let us make government work better for people, let us get results and let us stop playing the old political games.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, yes, I support a special interest in the area of education. The special interest I support is kids. They are our Nation's future, and I make absolutely no apology for it. Let me simply say, the facts remain that if we follow you on the reconciliation bill, we will wind up requiring people to spend $10 billion more on interest costs for student loans over the next 7 years because of what they put in the reconciliation bill.

And that is going to benefit the banks. That is not going to benefit students. I have talked to college after college in my district, desperate to see the direct loan program expanded so they can get rid of some of the paperwork under the indirect loans that favor the banks but not the kids.

I would also make the point that if my colleagues do not like the fact the proprietary schools are included in some of these programs, cut them out. I am for that. If my colleagues do not like the way some of the education programs work, cut them out. But then use that money in other education programs of a higher priority. Do not use education cuts to finance a tax cut for rich people. That is not what this country is looking for.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

□ 1115

Mr. DOGGETT. Mr. Speaker, I agree with my colleague on the Republican side that there is certainly something new about this Congress. Indeed, it has achieved new heights. It has scaled new mountains when it comes to mismanagement, near total and complete mismanagement.

When we look back over the course of the last 14 months of this great new revolutionary Congress, what is there to show for all the effort? Near nothing, somewhere between nothing and next to nothing; a lot of hot air, a lot of rhetoric. But in terms of doing anything that affects the lives of ordinary working people in this country, nothing has been accomplished by this Congress. This year it has been hurry up and stop.

Mr. Speaker, I am really pleased that my Republican colleagues have so much love in their hearts that they needed 3 weeks to celebrate Valentine's Day. I wish they would express a little of it on the floor of this Congress. I wish they would come here and get to work on the problems this country faces. Their great division is not with us, not with the President, it is with their Republican colleagues over in the Senate, who rejected in these past few days their radical cuts in Head Start. What they propose is not a continuing resolution but a continuing nonsolution.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], chairman of the subcommittee.

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman from Wisconsin knows very well that I have been in Congress for 16 years now. During all of that time, his party was in the majority. During all of that time, I have personally opposed a 100-percent guaranteed student loan program. Government should neither guarantee any industry their profit nor should government be left holding the bag for defaults at the 100 percent level.

But guess what; the minority party that was then the majority never changed that law. Today, they are promoting yet another plan that leaves the taxpayers holding 100 percent of the defaults, and it is called the direct lending program.

This program looks good at the beginning, because the defaults are not realized until later on, when they occur. Both programs, the 100-percent guaranteed student loan program and the direct lending program, have the same problem: They leave the taxpayer holding the bag on all defaults.

What we need, Mr. Speaker, and what we are going to get is an 85-percent loan program, where there is participation in the private sector, and where the banks are not guaranteed a profit and must make lending more wisely. If there are defaults, the banks participate in handling them on behalf of the taxpayers. That is the way we should have done it a long time ago. The gentleman's party failed to do it.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me simply point out that one of the key leaders in proposing the changes which we now have in student loan programs, including the direct loan program, was that "well-known left-wing radical," the gentleman from Wisconsin [Mr. PETRI], who last time I looked was a Republican. He helped this House lead us into a better mix of student aid. You people are now trying to cap the programs that represented the reforms of just a year ago.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, this is the 10th or 11th—depending on how one is counting—continuing resolution that we have had before this House in the last 5 months. We are here halfway through the fiscal year. Five appropriations bills still have not been completed because the Republican leadership cannot get their act together. Every single day, millions of dollars in taxpayer funds are being waived through inefficiency and uncertainty. Now, once again, we are being asked to make the biggest cuts, biggest education cuts in the history of this country.

Mr. Speaker, the value of education has always been embedded in America's national soul. A long time ago mothers used to pour honey on the books of their children so when they went to school they would smell the sweetness of education. When kids were working out in the fields out west, mothers used to bring them in when they would see a teacher come by for the educational benefits that were there.

Mr. Speaker, we just had a little discussion here about student loans. What galls me is the fact that your leaders—the gentleman from South Carolina [Mr. GRAHAM], the gentleman from Georgia [Mr. GINGRICH]—got through school on student loans. In fact, if it were not for student loans they would not be where they are today, which is the only good reason, from my perspective, to be against student loans. Nonetheless, they want to pull the ladder up and deny students the opportunity that they had to be successful in our society today.

Mr. Speaker, education is our heritage. It is our heritage. We are living in a time when 70 percent of our kids will never finish college, a time when what one learns will make a big difference on what one is going to earn. Yet, this bill responds by making the biggest cuts in education history. It cuts safe and drug-free schools 25 percent, drastic cuts in the DARE program.

It cuts the school-to-work program, which is just getting off the ground, 18 percent. It cuts title I funding, if we take this out through the whole year, by $1 billion, 40,000 teachers losing their jobs. It kicks millions of kids off of math and reading programs.

Mr. Speaker, I would say to the gentleman, do not tell us we are making these cuts to give kids a better life. This bill will deny millions of students the skills they need for a better life. Now is the time that teacher contracts are being signed. Now is the time that cities are submitting their school budgets. Now is the time that kids are making their important decisions about where they are going to go to college and if they are going to go to college, but they cannot do that if we keep messing around, week by week, month by month, with their funding, and messing around with their lives.

Mr. Speaker, we all know the President is not going to accept these extreme cuts. He understands that education needs to be a priority in this country. In order to force through an extreme agenda, my colleagues are willing to hang American schools and communities and families out to dry.

In closing, Mr. Speaker, let me just say this. America deserves a break. It deserves a government that is on their side. They do not need a Congress that is going to stand in their way, but that is exactly what this bill does.

I urge my colleagues, vote no on this bill, and let us give our kids the opportunity they deserve, the opportunity that the gentleman and his leaders have had on that side of the aisle. Let us give them the opportunity to be successful and to live the American dream. Vote "no" on this resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I love the word of the month, "extremists." Republicans are extremists. I must hear it from 43 Democrats a day in one form or another, either on the floor or somewhere on the media.

Mr. Speaker, they are talking about how we are cutting education, knowing full well there are 760-some-odd education programs, only 6 percent of which go to math, reading, or science. But if we want to pare one down, we are extremists, and when we did send a perfectly good bill, trying to pare down some of the inefficiencies, to the Senate, it was the Democrats that filibustered that bill for 9 months. The reason we are here talking about education is because their party filibustered it over in the Senate, and would not let it move.

Mr. Speaker, for crying out loud, let us try to be a little credible. We are not extremists. We are trying to save the American taxpayer money, and make sure that the money is spent on the people who deserve the money, and that is the students.

Mr. Speaker, I heard concern for the kids. Where is the concern for the kids when we are spending billions of dollars, anywhere from $26 billion to $200 billion, on education programs in this country, and yet, since 1972, SAT scores have dropped from a total average of 937 to 902 in 1994; 17-year-olds scored 11 points worse in science than in 1970; in reading, 66 percent of 17-year-olds do not read at a proficient level, and reading scores have fallen since 1992; United States students scored worse in math than all other large countries except Spain; and 30 percent of college freshmen must take remedial education classes.

Mr. Speaker, I hear the compassion, I hear the charges and the labels of extremists, but I do not hear any good that is coming from the billions of taxpayers funds that they have wasted on one redundant, inefficient, unnecessary program after another. If Members want 100 programs, fine, or if they want 200 programs, maybe that is a good idea. But 760 is absurd and obscene.

By the way, I heard earlier a little charge that we are beefing up, building up the military-industrial complex; that we are not cutting defense enough, or that we are building it up too much, spending more than the President wants.

Mr. Speaker, this is the President who stood in the Rose Garden on December 13, 1994—check it out. There was an article in the Washington Times and the Washington Post where he was surrounded by his generals and his admirals, wrapping himself in the flag—and said

> I've got to spend $25 billion more on defense, because the support and logistics and equipment of my troops is going down the tubes. We are putting people who are expected to maneuver tanks on the battlefield out on the training field, and they are working their courses rather than driving tanks because they cannot even afford the gasoline.

We were in a position where planes were crashing, and maintenance for tanks and boats and ships was not being adequately made. Even the President of the United States, this President, who says we are extremists has consistently said, or at least back then said, for all the TV cameras, he needed $25 billion more than was previously appropriated for the Defense Department for concern for our troops.

Since then he has deployed troops to Haiti; he has deployed troops to Bosnia; he has people on alert near China, in the area between China and Taiwan, two carrier battle groups. He has troops going all over the world, and what did he do? Instead of pushing for that $25 billion extra this year he recommends a $12 billion cut on top of his low recommendation last year that we increased by $7 billion. So in effect, there is almost $50 billion difference between what the President said that he needed on defense and what he was willing to give the people in uniform, who are risking their lives every day on behalf of every freedom-loving American citizen.

Mr. Speaker, I say that defense is not an issue, because we did not give the President the cuts he asked for in the fiscal year 1996 bill, and we do not intend to give it to him in the fiscal 1997 bill. In fact, defense is expected to be level funded. Actually, it went down by $400 million in fiscal year 1996 under fiscal year 1995, so defense is not an issue.

The President keeps sending troops all over the world, and yet he just does not want to support them. That is his problem. He can take that to the American taxpayer and to the American voter in November. But the real issue is whether or not the Democrats have ever seen a program that they did not want to fund, or an American taxpayer dollar that they did not want to waste on an unnecessary program.

I have a list of some of the programs that money is in fact being spent on. We talked about the book. This $1.5 million book of the Crime Prevention Council. We talked about the other programs that money was being spent on. The direct loan third-year schools program, that the President wants to expend. He says we are not spending enough money on it. If we do not spend money on these items, he says, we are extreme, we are extremists. We are radicals in Congress.

We are extremists because we do not want to spend money on another 138 hair, beauty, cosmetology, barber schools like Earl's Academy of Beauty. It might be a nice place, but how much taxpayer money should go to it? Or to the International School of Cosmetology; three Columbine Beauty Schools in Colorado; Naomi's Mile Hi Beauty College. I will bet that is a nice one. There is the Ph.D Hair Academy, Hair Arts Academy, BoJack Limited Academy of Beauty Culture, Patsy and Rob's Academy of Beauty, Acme Beauty College, Aladdin Beauty College Number 22. What happened to 1 through 21? I guess they are already getting funded, but now he wants to fund number 22, and we are extremists if we do not go along with it.

There is the Southern Nevada University of Cosmetology; 15 Empire Beauty Schools, beauty schools in Pennsylvania; the Avant Garde College of Cosmetology; the Circle J Beauty School.

These are nice places, but do they deserve so much taxpayer dollars that the President puts a gun to Congress' head and says "Give me my $8 billion to spend on these foolish things, or else I am going to close the Government down?" That is essentially what he is saying.

He wants to spend money on the Desert Institute for Healing Arts, the California Medical School of Shiatsu, the Euro Skill Therapeutic Training Center, the Florida Institute of Traditional Chinese Medicine, the Myotherapy Institute of Utah, and three schools of massage therapy. "If you do not fund these things," President Clinton said "We are going to close the Government down, and it will be the Republicans' fault and they are extremists." Give me a break.

Mr. Speaker, I reserve the balance of my time.

□ 1130

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the argument from the other side is we are not doing as well in international comparisons on education as we should, and so what we ought to do is cut education support by $3.3 billion. That may not be extremist. It is dumb.

The issue is not who did what in the Senate or in the House. The issue is simply whether or not it is smart to run the Government 1 week at a time so that nobody can plan what to do next in every local school district in the country. Again, that may not be extremist. It is dumb.

I would urge you to stop it and recognize we need to fund this Government for a full year at a reasonable level. If you do not like these other programs, reform them.

But I do not see any arguments that you made for cutting back on chapter 1. I do not see any arguments you made for cutting back on school-to-work. It would be kind of nice if we paid some attention to kids in this country who are not going to college. That is what the school-to-work program tries to do. Again, it may not be extremist, but it is dumb to cut those programs.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, what is extreme about today's action is that once again the House Republicans are turning their back on America's children. Today the House Republicans are taking a hike on America's education for its children, because today the House Republicans are confirming their position against that of the Senate, where a bipartisan coalition has determined that America's children deserve this support for education.

It is one thing to get up here and read off all these programs of cosmetology. There are no title I children enrolled in those schools. Why are you cutting the title I children? There are no high school children enrolled in those schools. Why are you cutting those children from this program?

That is what is extreme. You talk about one thing and you do another. You ought to go back to your schools, as I do every Monday, and visit with the title I children, visit with the school programs and talk to them.

Then you will understand how extreme your position is, how you are playing Russian roulette every 7 days with the education of our children, with our teachers, with our parents and with our communities. Every 7 days you threaten to shut down the Government. That is what is extreme.

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, what this is all about is priorities. What the Democrats are saying is that if we look at this continuing resolution, education, the amount of money that goes to our schools is cut by 13 percent. If we look at the amount of money that goes to environmental protection, it is cut by 22 percent.

The gentleman from Illinois said that this is all about priorities and that is what this is about, priorities. The Democrats are saying that there is insufficient funding, there are too many cuts here in educational programs, back to our schools, environmental programs.

The President was in New Jersey last week. He talked about the Superfund program and how many sites will not be cleaned up, hazardous waste sites, because of these cuts constantly in these continuing resolutions, and it is irresponsible to act this way.

We are now talking about a 1-week CR. How can we continue to operate a government on a 1-week basis? What does that mean to the Federal Government? It means that a tremendous amount of time has to be wasted in just gearing up or gearing down because agencies do not know how much money is going to be available.

When the Republican majority was elected, they were elected to govern, and they have not been governing. They come here with these 1-week resolutions, and it is about time that we said enough is enough. Vote "no."

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, earlier it was said that there were cuts in higher education funding. Let me be clear about this. The loan programs are entitlements. They are not in this short-term spending bill at all. The money continues to flow exactly as before.

The work-study program, the TRIO program, the SEOC program, the Perkins loan program are all level funded. The Pell grant program was increased by the largest increase in 1 year in history, to the highest level in history, by this side. That is an increase, not a decrease. The only program that was eliminated is State student incentive grants, exactly as the President had suggested.

Let me say regarding title I, Mr. Speaker, that giving the money for a program that does not work is not good government. The program is not working. What we must do is devise a better use of the money and target it to where it is most needed and make a program that really does work.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, when we cut through all the shouting, I think it is easy to see by looking at the actions of other parties who is the odd man out today and who is not.

The Senate 2 days ago, with only 14 dissenting votes—and the last time I looked, the Senate was controlled by the Republican Party, the Majority Leader was a fellow who is going to be the Republican candidate for President. When the Senate acted on this bill, on the Labor-Health-Education-social services funding bill, with only 14 dissenting votes out of 100, they put back $60 million in the Goals 2000 program. They put back $917 million in the school-to-work program. They put back $814 million in title I to teach the most disadvantaged kids in this country. They put back $82 million in vocational education.

The gentleman from Florida says it does not work well in Florida. It works terrifically well in Wisconsin, and we do not want to cripple that program.

They put back $58 million in Perkins loans. They put back $32 million in SSIG. Summer youth, you are wiping out that program, an awful lot of jobs for kids who are going to be on the street instead of learning how to work. School-to-work programs in the Department of Labor $91 million that they are trying to put back. Head Start, $136 million.

We can talk all we want about how some local school district has applied for money and used it in a stupid way. I do not doubt that. It is the job of government to try to cull those out. You talk about the way some proprietary schools have abused these student aid programs. That is why I would like to see most of them largely declared ineligible, unless they can demonstrate they have a solid record of performance.

I pay taxes, just like you do. My constituents pay taxes, just like you do. I deeply resent it when a dime of it is wasted. But I also deeply regret it when Members of this House use some little screw-up somewhere to provide an excuse for obliterating support for chapter I for a million kids in this country who need some help to get ahead.

Now, I just released a report on Monday which showed that the wealthiest one-half of 1 percent of American families in this country saw their net worth grow from $8.5 million in 1983 to $12.5 million in 1989, just in the 1980's alone.

The net worth of 90 percent of American families did not grow by almost $4 million, as it did for the high rollers in this society. The net worth for most families in this country, 90 percent of them, grew by $2,000 in the 1980's. They had a grand total of $29,000 in assets. The best way for most working families to get off the treadmill, to get ahead for their kids, to build a decent future for their kids, is to expand, not contract, educational opportunity.

Now, if you do not like what was done in the past, fix it. You are the majority party. If you want to consolidate those programs and clean them up, do it, and we will try to help you. But do not use some of these local screw-ups as an excuse to gut chapter I for a million kids or to say to hundreds of thousands of kids who are looking for summer jobs, "Sorry, it's more important go give the wealthiest 1 percent of people in this country another tax cut. You guys worry about your kids some other day".

That is what you are saying when you are cutting education by over $3 billion. When you come in here and say we ought to cut back on environmental enforcement by 22 percent, that is disgraceful. It destroys the future environment for every family that wants a decent environment. You ought to be ashamed of yourselves. Vote "no" on this proposition. It is a silly 1-week, childish game.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, here it is. We ought to be ashamed of ourselves. We are extremist for trying to save the taxpayers money and to not spend money on silly, dumb programs that do not work.

Compassion is not just exclusively on that side. We have got a lot of compassion. We have got compassion for the kids. We have got compassion for the taxpaying citizen, the hard-working American people that want to make sure that if they are going to send their money here, that it is going to be spent wisely

In reality, this should be debate simply about a continuing resolution for 1 week so that we can go try to wrap up this whole other exercise on all these bills, three of which were vetoed by the President and one which was filibustered by their guys in the other body. Now let us not make any more of this than that.

The summer youth jobs program we heard about, that is a total other bill. That is not even in this resolution before us. That issue should be resolved as it was signed by the President in another bill. It is over because it did not work. It was getting money to kids who just did not work, and it did not train them for anything.

The title I program that the gentleman talks about goes to rich school districts that do not need it. It needs to be revamped. When you want to get money to kids that need help, let us not spend it on kids that do not need help.

All we are saying is fix the programs first. You have had 760 programs to do all the wonderful education things you want. You have wasted it, and the SAT scores have plummeted. They have gone down. It is time to take a new look. It does not take a new program. It does not take more money. What it takes is some common sense, and that has been totally lacking over there for the last 40 to 60 years.

I urge the adoption of this poor, measly 1-week bill, and let us get the real bill up next week.

Mr. POSHARD. Mr. Speaker, I rise in strong opposition to this short-term funding bill, both in regards to the substance of the bill and the process under which we are dealing with these very serious issues.

The record on spending issues is clear—I've supported the balanced budget amendment, the line-item veto, and have voted often enough to control spending to make the Concord Coalition Honor Roll. I know we need to control spending.

But there are some serious mistakes being made in this bill and in the appropriations process overall for fiscal year 1996.

I respect my colleagues, Chairman LIVINGSTON and Chairman PORTER, and know that this has been a difficult year for the Education, Labor, HHS appropriations bill. But I have to object to the serious cuts being made in support of education in this country. When I'm home each weekend, I am constantly contacted by the school administrators, teachers, and parents who are concerned about the shrinking support they are receiving for very important education initiatives. And with Eastern Illinois University, Southern Illinois University, Millikin University all in my district and the University of Illinois close by, I am also concerned about our approach to supporting opportunity for our students and families to access the education they need to compete on the job market.

The title I program which helps our school districts serve families of modest incomes is important in my district. The title III program which serves our community colleges is important in my district. We are not doing as well for our communities in these areas as we should.

If we need educational reform, I stand ready to help my colleagues fashion a stronger approach than what may now be in place. If we need to control spending, my record is there in terms of sorting out our priorities and getting return for our investment.

But I oppose funding the Government on a weekly, monthly, or quarterly basis. And I oppose doing so on 75 percent of funding in the previous year. That obscures the very real policy issues we face in education, health care, the environment, and our economy as a whole. I oppose this bill and urge my colleagues to do better in future efforts.

Mr. STOKES. Mr. Speaker, I rise in opposition to House Joint Resolution 163, the short-term continuing appropriations for fiscal year 1996. This is the 11th short-term fiscal year 1996 stopgap spending measure in 5 months. Who would have thought that 5 months into the fiscal year, and after 29 days of a Republican politically contrived shutdown of the Federal Government which cost the American people over $1.5 billion, fiscal year 1996 appropriations bills for a number of major Federal agencies upon which the American people depend still have not been enacted?

Now, here we are again, just hours before the current continuing resolution expires, trying to pass an 11th stopgap spending measure to keep the Government operating. In fact, this stopgap measure will not be the last one for fiscal year 1996. Expiring on March 22d, House Joint Resolution 163 will keep the Government operating for only 1 week.

The bill being voted on today still does not address all of my concerns about critical programs under the jurisdiction of the appropriations subcommittee for the Departments of Veterans Affairs, Housing and Urban Development and independent agencies—on which I serve as the ranking member—or, those under the jurisdiction of the subcommittee for the Departments of Labor, Health, and Human Services, and Education on which I also serve. I am pleased, however, that our Nation's veterans will get their hardearned benefits, that our homeless, low-income families, seniors and disabled who depend on Federal housing assistance will retain support for shelter; and that our environment will be safeguarded for at least 1 more week.

Nevertheless, I remain resolute in my opposition to the cuts in these programs including:

The $1.1 billion cut in title I which will deny over a million disadvantaged children the teaching assistance they require in reading and math;

The $266 million cut in safe and drug free schools which means that school systems will be denied the resources they need to provide children a safe crime free drug free classroom in which to learn;

The elimination of funding for the Summer Jobs Program which means that over 600,000 young people who need and want to work will be deprived of the opportunity to do so;

The anticrime block grants which will eliminate the successful community policing and crime prevention programs;

The overall cut in funding for the Department of Commerce which will dramatically hinder our Nation's technology advancement effort; and

The irresponsible and unjust slashing of funding for the Minority Business Development Program, the Commission on Civil Rights, and the Equal Employment Opportunity Commission which will lead to the foreclosing of opportunities for many Americans.

Mr. Speaker, who would have thought that our Republican colleagues would have let their blind desire—to give a tax cut to the wealthy—outweigh the needs of seniors, children, veterans, and families across the country?

This continuing resolution—like the 10 that preceded it—is part of the Republicans' strategy to hold the American people hostage in an effort to force the President to accept their outrageous and lifethreatening cuts in major critical quality of life programs.

Mr. Speaker, this is the ultimate of irresponsibility. House Joint Resolution 163 is not a solution to the politically contrived budget crisis, it is only an interim step to keep the Government temporarily operating while our colleagues on the other side of the aisle decide what political game to play next. No amount of smoke and mirrors can hide the pain and suffering that is contained in the GOP's budget.

Mr. Speaker, it is time for us to put an end to this piecemeal, part-time approach to operating the Government. Let's go back to the budget negotiation table and restore funding to critical programs and services including education, summer jobs, employment training, student aid, housing, environmental protection, veterans' medical care, heating assistance, meals for seniors, and crime prevention. I urge my colleagues to vote against House Joint Resolution 163.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the order of the House of Wednesday, March 13, 1996, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 179, not voting 14, as follows:

[Roll No. 62]

YEAS—238

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—179

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

NOT VOTING—14

Chapman
Collins (IL)
de la Garza
Dickey
Durbin
Greenwood
Lowey
Moakley
Myers
Pelosi
Rangel
Royce
Scott
Stokes

□ 1200

Messrs. BOUCHER, HOLDEN, DICKS, CRAMER, RICHARDSON, ANDREWS, and BARCIA changed their vote from "yea" to "nay."

Mr. COLLINS of Georgia changed his vote from "nay" to "yea."

So the joint resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LOWEY. Mr. Speaker, I would like to state that had I been here for rollcall No. 62, I would have voted "nay." I was detained at a Committee on Appropriations hearing, and, therefore, I missed the vote.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I was also detained at the Committee on Appropriations. Had I been present for the vote I would have voted "nay."

PERSONAL EXPLANATION

Mr. DICKEY. Mr. Speaker, I have the same request. I was unavoidably detained in my subcommittee and could not make it here at the time. Had I been present I would have voted "yea."

THE JOURNAL

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 5 of rule I, the pending business is the question de novo of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LAHOOD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 336, noes 73, answered "present" 1, not voting 21, as follows:

[Roll No. 63]

AYES—336

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
LaTourette
Lazio
Leach
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Obey
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sanders
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torres
Towns
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—73

Abercrombie
Baldacci
Becerra
Borski
Brown (CA)
Brown (FL)
Clay
Clyburn
Coleman
Costello
DeFazio
English
Ensign
Everett
Fazio
Filner
Flanagan
Foglietta
Frost
Gephardt
Gibbons
Gillmor
Green
Gutknecht
Hastings (FL)
Hefley
Heineman
Hilleary
Hilliard
Hutchinson
Jacobs
Jefferson
Johnson, E.B.
Kennelly
LaFalce
Latham
Levin
Lewis (GA)
Longley
Markey
McDermott
McNulty
Nussle
Oberstar
Olver
Owens
Pallone
Peterson (MN)
Pickett
Pombo
Rush
Sabo
Salmon
Schroeder
Skaggs
Slaughter
Stark
Stenholm
Stockman
Taylor (MS)
Thompson
Thornton
Torkildsen
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Wise
Yates
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—21

Barr
Bilbray
Blute
Chapman
Collins (IL)
de la Garza
Dellums
Durbin
Gutierrez
Hefner
Laughlin
Lewis (CA)
Menendez
Moakley
Myers
Neal
Radanovich
Saxton
Skelton
Stokes
Wilson

☐ 1220

Mr. FLAKE changed his vote from "no" to "aye."

So the Journal was approved.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE submitted the following conference report and statement on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-481)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Common Sense Product Liability Legal Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Several liability for noneconomic loss.
Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) ACTUAL MALICE.—The term "actual malice" means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and non-economic loss.

(7) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(8) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(9) HARM.—The term "harm" means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(10) INSURER.—The term "insurer" means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(11) MANUFACTURER.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(12) NONECONOMIC LOSS.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(13) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(14) PRODUCT.—

(A) IN GENERAL.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam except to the extent that electricity, water delivered by a utility, natural gas, or steam, is subject, under applicable State law, to a standard of liability other than negligence.

(15) PRODUCT LIABILITY ACTION.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(18) STATE.—The term "State" means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) ACTIONS EXCLUDED.—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or

civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

(d) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term "drug" means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 111, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any coemployee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filling a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer that 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this paragraph as the "additional amount") in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the conduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1996.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 111. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this Act.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this Act, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer.

(B) RIGHTS OF INSURER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even if the insurer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is submitted to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1996".

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or

damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted

pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
JAMES SENSENBRENNER,
Jr.,
GEORGE W. GEKAS,
BOB INGLIS,
ED BRYANT,

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL OXLEY,
CHRISTOPHER COX,
Managers on the Part of the House.

LARRY PRESSLER,
SLADE GORTON,
TRENT LOTT,
TED STEVENS,
OLYMPIA SNOWE,
JOHN ASHCROFT,
J.J. EXON,
JOHN D. ROCKEFELLER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), to establish legal standards and procedures for product liability litigation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The conferees incorporate by reference in this Statement of Managers the legislative history reflected in both House Report 104-64, Part 1 and Senate Report 104-69. To the extent not otherwise inconsistent with the conference agreement, those reports give expression to the intent of the conferees. (The conferees also take note of House Report 104-63, Part 1, which contains supplementary legislative history on a related bill.)

SHORT TITLE AND TABLE OF CONTENTS

The conferees, in section 1(a), modified the short title of the House bill to reflect the terms of the conference agreement. The conferees also decided that a table of contents would be helpful and therefore incorporated in section 1(b) the headings of the separate titles and sections of this legislation.

FINDINGS AND PURPOSES

H.R. 956—but not the Senate amendment—included findings and purposes. The conferees decided it was important—in the legislation itself—to delineate the factual basis for congressional action and explain what Congress seeks to accomplish. The language adopted, contained in section 2, generally follows the House-passed bill with some modifications.

Paragraph (1) of the findings in H.R. 956 was not included in the conference agreement because the conferees decided that describing misuses of the civil justice system in very broad terms was unnecessary. That paragraph had been written at a level of generality exceeding other findings. The omission of the paragraph should not be interpreted as reflecting adversely on its accuracy.

Section 2(a)(9) of the conference agreement refers to two constitutional roles of the national government that are directly relevant to this legislation—"to remove barriers to interstate commerce and to protect due process rights." Although the latter was not included in H.R. 956's findings, legislative history clearly conveyed the House's recognition of the Federal government's due process related role. The report of the Committee on the Judiciary (House Report 104-64, Part 1) noted: "Section 5 of the Fourteenth Amendment provides an independent constitutional ground for Congressional legislation limiting awards for punitive damages. Congress is given the authority, under section 5, 'to enforce, by appropriate legislation' the provisions of the Fourteenth

Amendment—which include a proscription on state deprivations of 'life, liberty, or property, without due process of law.'" [p. 8]

Including explicit reference to due process rights in the findings is appropriate if the findings are to more fully reflect our understanding of the constitutional underpinnings for this legislation.

The purposes of this legislation, as delineated in section 2(b), are "to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights. . . ." Upholding due process rights was an important objective the House sought to advance even though explicit reference to it did not appear in H.R. 956's statement of purposes. The Committee on the Judiciary's report (House Report 104-64, Part 1) on H.R. 956 stated: "The Committee acted to reform punitive damages not only to ameliorate adverse effects on interstate and foreign commerce but also to protect due process rights." [page 9] Adding the phrase "uphold constitutionally protected due process rights" to the purposes provides a more complete statement of congressional objectives.

DEFINITIONS

Section 101 defines 18 terms for purposes of Title I. One of these terms—compensatory damages—is not defined in either H.R. 956 or the Senate amendment.

APPLICABILITY; PREEMPTION

Section 102 addresses preemption, relationship to State law, and effect on other law.

LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS

Both the House bill and Senate amendment included liability rules applicable to product sellers. Section 103 of the conference agreement is designed to reduce consumer costs and provide fair treatment for product sellers—defined to include those who sell, rent, or lease a product in the course of a business conducted for that purpose. To more fully reflect the application of this section's remedial provisions beyond sellers in the narrow sense of the word, the conference agreement refers to renters and lessors in section 103's title.

As a general rule, liability of product sellers can be predicated on harm resulting from a product seller's (1) failure to exercise reasonable care, (2) breach of its own express warranty, or (3) intentional wrong-doing. The failure to exercise reasonable care requirement for potential liability applies not only to products sold by the product seller—as stated in H.R. 956—but also to products rented or leased by the product seller—as stated in the Senate amendment. The conferees recognize that the unfairness of imputing manufacturer conduct to others applies regardless of whether a product is sold, rented, or leased—and for that reason adopt the Senate language. That language is consistent with the intent of the House to make protections available in a sale situation also available in a rental or lease situation.

Both H.R. 956 and the Senate amendment set forth those limited circumstances in which a product seller can be treated as a manufacturer of a product. One covered situation involves a court determination that "the claimant would be unable to enforce a judgment against the manufacturer." In response to concerns raised after House consideration of the bill that claimants might not learn about such a judicial determination within the period of the statute of limitations—and therefore would be barred unfairly from proceeding against the seller—the Senate included a provision tolling the statute of limitations for limited purposes "from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer." The conferees accept this provision because it safeguards a protection for claimants given expression in both bills. Since the conference agreement incorporates a uniform statute of limitations in section 106, the inclusion of this safeguard relating to the time bar is particularly appropriate.

The conference agreement clarifies that State law, rather than the provisions of section 103, govern actions for negligent entrustment. State law, for example, will continue to apply to lawsuits predicated on the alleged negligence involved in giving a loaded gun to a young child or allowing an unlicensed and unqualified minor below driving age to operate an automobile. Similarly, the potential liability of a service station that sells gasoline to an obviously drunk driver will be determined under State law. Section 103(d) gives expression to the interest of each State in setting standards for determining whether conduct within its borders constitutes negligent entrustment.

DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS

Both H.R. 956 and the Senate amendment provide a complete defense to a product liability action in situations in which a claimant, under the influence of alcohol or drugs, is more than fifty percent responsible—as a result of such influence—for the accident or event resulting in the harm he or she sustains. A society that seeks to discourage alcohol and drug abuse should not allow individuals to collect damages when their disregard of such an important societal norm is the primary cause of accidents or events.

The conference committee generally accepts the House formulation in section 104. The conferees did not incorporate the Senate reference to the defendant proving alcohol or drug related facts because the issue of who has the burden of proof on these issues is best left to State law. A requirement for the availability of the defense related to alcohol or drug use, under the Senate amendment, is that the claimant was "under the influence." The House language, which was adopted, is more broadly worded and refers to the claimant being "intoxicated or . . . under the influence." The House provision was accepted because the conferees want to ensure the availability of the defense relating to alcohol or drugs in cases in which State law may consider an individual to be "intoxicated" but not necessarily "under the influence"—perhaps because the latter term does not have legal significance in a particular jurisdiction.

The conferees specifically incorporate the Controlled Substances Act definition of controlled substance in the conference agreement's delineation of what the term "drug" means—following the House version in that respect. The Senate amendment was silent in this regard. The reference to the Controlled Substances Act will foster uniformity in decisions by State courts on whether particular substances constitute drugs. A substance that is taken by a claimant in accordance with the terms of a lawfully issued prescription, however, is not considered a drug for purposes of this section. The policy fostered is the denial of recovery to those whose accidents are primarily caused by the abuse of drugs.

Although the use of controlled substances in accordance with the terms of lawfully issued prescriptions can lead to accidents—in circumstances, for example, where one's ability to drive may be impaired—the conferees leave to individual States the responsibility of resolving whether potential recovery is defeated by such conduct. The conference agreement focuses on the most egregious conduct implicating Federal interests—noting the national market for illegal drugs and the transportation of illegal drugs across State lines and in international commerce.

The Senate provision's reference to a drug that "was not prescribed by a physician for use by the claimant" does not cover situations in which the terms of a lawfully issued prescription are disregarded—perhaps by consuming excessive quantities. The conferees conclude, however, that individuals who abuse prescription drugs lack sufficient equities to recover for accidents primarily caused by their drug use—and for that reason refer to any controlled substance "taken by the claimant other than in accordance with the terms of a lawfully issued prescription", thus opting for the broader House formulation.

Finally, the House version of this section is modified to cover controlled substances "not legally prescribed for use by the claimant" in addition to controlled substances "taken by the claimant other than in accordance with the terms of a lawfully issued prescription." The phrase "not legally prescribed for use by the claimant" makes unambiguous the requirement that the prescription be for the claimant's own use. A claimant cannot cause an accident after using someone else's prescription, even in accordance with its terms, and recover damages.

The phrase "legally prescribed" is a variation on the Senate provision's reference to "prescribed by a physician." The change takes into account the fact that the right to prescribe medication is not limited to physicians in every jurisdiction. The potential applicability of defenses involving drugs should not depend on whether a legally issued prescription comes from a physician or non-physician—particularly in view of the fact that physicians may not be available or accessible in some areas of the country.

MISUSE OR ALTERATION

Both H.R. 956 and the Senate amendment include an important reform—incorporated in section 105 of the conference agreement—designed to assure manufacturers and sellers that they can develop and sell products without undue concern about unknowable and unpredictable liability attributable to claims resulting from the misuse or alteration of their products.

Subsection (a)(1) of section 105 generally follows the House language. Damages will be reduced because of misuse or alteration, however, not only in cases of liability arising under State law—as H.R. 956 provides—but also in possible cases of liability arising under Federal law. Damages are reduced if the defendant establishes the requisite link between a certain percentage of the claimant's harm and specified conduct.

Although the "preponderance of the evidence" standard will apply—as the House version explicitly states—the conference agreement deletes reference to this evidentiary standard in section 105(a) in order to avoid any possible negative inference from the fact that the legislation does not refer to "preponderance of the evidence" in other sections. Preponderance of the evidence is the usual standard in civil cases—including product liability cases. The conferees' intent is that courts apply the usual standard in all situations covered by this legislation except where another standard is explicitly mandated.

Subsection (a)(2) follows Senate language. Although this provision appears to state a self-evident proposition—that a use intended by the manufacturer does not constitute a misuse or alteration—it is included to alleviate concerns that some courts might reach a different result.

Subsection (b) follows House language and states the general rule that a claimant's damages will not be reduced because of misuse or alteration by others in the workplace who are immune from suit by the claimant. The rationale is that Federal law should not mandate a reduction in damages for a claimant who cannot collect from an employer or co-employee for misuse or alteration. The conference agreement, however, carves an exception to the general prohibition against such reductions by specifying that damages will not be reduced "except as otherwise provided in section 111" of the conference agreement dealing with workers' compensation subrogation.

The conferees intend that, consistent with normal principles of law, this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with this section. The deletion of language in the Senate amendment on this point was intended merely to avoid any possible inference that it is not intended to be the case in other sections of the legislation.

STATUTE OF LIMITATIONS

The fact that consumers generally do not live in the States in which the products they purchase and use are manufactured creates confusion and uncertainty for manufacturers when the law allows determinations of whether product liability actions are barred by a statute of limitations to vary from jurisdiction to jurisdiction. This uncertainty and unpredictability ultimately means higher prices for consumers. In addition, it is unfair to deny the potential for a remedy to an injured party living in one State that may be available to an injured party using the same product in another State. The conferees conclude that uniformity is needed and agree that two years is a reasonable limitation on the period of time for the filing of a lawsuit by an injured individual—regardless of where he or she may reside. This decision is reflected in the language contained in section 106(a).

The conferees expect that in most cases legal actions will be brought within two years of the accident or injury, because generally individuals have knowledge—or can be charged with knowledge—of the resulting harm and its cause at the time of an injury. An inflexible rule linking the running of the statute of limitations to the time of injury, however, would be unfair to those few injured parties who could not—despite the exercise of reasonable care—discover the harm and its cause. To address the exigencies of those situations, the conferees adopted the language of the Senate amendment referencing the date "on which the claimant discovered or, in the exercise of reasonable care, should have discovered" the harm and its cause.

STATUTE OF REPOSE

Both the House bill and Senate amendment included provisions to protect manufacturers against stale claims that arise many years after a product's first intended use. A statute of repose would allow U.S. manufacturers to compete with foreign companies that have entered the American marketplace in recent years and face no liability exposure for very old products. Section 106(b) advances U.S. competitiveness, preserves and expands employment opportunities here at home, and protects American consumers from the higher prices for goods and services that result from excessive litigation related expenses, inflated settlement offers, and increased liability insurance rates.

The statute of repose contained in the conference agreement will, for durable goods, generally bar product liability actions that are not filed within 15 years of a product's delivery. The time of delivery refers to the date that the product reaches its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product. The only exceptions to the statute of repose that courts appropriately can recognize are those explicitly provided for in section 106(b)(3) itself. The 15 year time period is taken from the House bill.

Section 106(b) adopts Senate language making the time bar applicable only to durable goods. Section 106(b)(2) is also language from the Senate amendment. It provides for deferring to State law time bars—on actions covered by this legislation—that are shorter than 15 years. The conferees believe that States should remain free to impose time limits of less than 15 years—a concept given expression in section 106(b)(2). Such State limitations are not inconsistent with the objectives of section 106(b)—including fostering a more conducive environment for U.S. companies to compete in the global marketplace. Furthermore, nothing in the conference agreement is to be interpreted to preempt state statutes of repose which may apply to goods other than durable goods as defined in this agreement.

Section 106(c) is a transition provision that permits product liability actions to be brought within one year of the date of enactment in situations in which the application of the statute of repose (or statute of limitations) shortens the period otherwise available under State law. The provision protects potential claimants by affording them a fair and reasonable opportunity to adjust to time limitations contained in section 106.

ALTERNATIVE DISPUTE RESOLUTION

Section 107 incorporates a provision of the Senate amendment dealing with alternative dispute resolution.

PUNITIVE DAMAGES

The requirement of "conscious, flagrant indifference to the rights or safety of others" in section 108(a) makes it clear that punitive damages may be awarded only in the most serious cases. Punitive damages are not intended as compensation for injured parties. Rather, they are intended to punish and to deter wrongful conduct.

The conferees understand that punitive damages can be awarded in cases of intentional harm. For this reason, it was not felt necessary to express the concept explicitly. Thus, the conference agreement does not retain the language contained in the House passed bill regarding conduct "specifically intended to cause harm."

Section 108(b) imposes a limitation on punitive damages—with a special rule applicable to individuals of limited net worth and businesses or entities with small numbers of employees. The limitation on punitive damages cannot be disclosed to the jury. A punitive damage award may be appealed even if it falls within the limitation. Nothing in the bill prevents a trial court (and each reviewing court) from reviewing punitive damage awards individually and determining whether the award is appropriate under the particular circumstances of that case.

Although the conferees establish a mechanism for awarding additional punitive damages in limited circumstances ("egregious conduct" on the part of the defendant and a punitive damages jury verdict insufficient to punish such egregious conduct, or to deter the defendant), it is anticipated that occasions for additional awards will be very limited indeed. Findings of fact and conclusions of law relating to the award of additional punitive damages are designed both to ensure that judges carefully consider such decisions and to facilitate appellate review. The court may not enter an award of punitive damages in excess of the amount of punitive damages originally assessed by the jury. The additional award provisions do not apply in cases covered by section 108(b)(2)—actions against an individual whose net worth does not exceed $500,000 or against entities that have fewer than 25 full-time employees.

Section 108(c)(1) clarifies that a separate proceeding on punitive damages—pursuant to a bifurcation request of any party—shall be held subsequent to the determination of the amount of compensatory damages. This order of proceedings, consistent with the intent of both the House and Senate, is being made explicit to avoid any possible confusion. A determination of punitive damages first can adversely and unfairly influence financial markets and result in inappropriate pressure on defendants to settle. Punitive damages expressed as a multiple of compensatory damages to be determined later may not result in any liability if a different jury considering compensatory damages decides in favor of the defendant. This potential verdict for a defendant, however, may come too late because of the realities of the business world.

The conferees clarify in section 108(c)(2) that it is improper not only to offer evidence—but also to raise arguments or contentions—relevant only to a claim of punitive damages in the compensatory damages proceeding, because of the potential prejudicial effects. The conferees' objective is to avoid infecting determinations of liability—or the amount of compensatory damages—with such irrelevant information.

LIABILITY FOR CLAIMS INVOLVING DEATH

Section 109 incorporates a provision of the Senate amendment designed to address a situation unique to one State.

SEVERAL LIABILITY FOR NONECONOMIC LOSS

The language of section 110 on several liability for noneconomic loss in product liability cases substantially follows the Senate amendment. The rule of several liability for noneconomic loss applies to all product liability actions nationwide.

The conference agreement, based on the Senate amendment, clearly states that in allocating noneconomic damages to a defendant, "the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, *whether or not such person is a party to the action.*" [Emphasis added] The Senate formulation reflected here is fully consistent with the intent of the House as expressed in Report Number 104-64, Part 1: "[T]he trier of fact will determine the proportion of responsibility of each person responsible for the claimant's harm, without regard to whether or not such person is a party to the action." pp. 13–14. Persons who may be responsible for the claimant's harm include, but are not necessarily limited to, defendants, third-party defendants, settled parties, nonparties, and persons or entities that cannot be tried (e.g., bankrupt persons, employers and other immune entities).

The House passed version specified that the section "does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages." The conferees have not included this language in the conference report itself because it is superfluous and self-evident. Reference is made to it in the statement of managers, however, to rebut any possible negative inference from its omission. The quoted language itself reflects the conference agreement's intent.

WORKERS' COMPENSATION SUBROGATION

Section 111(a)(1)(A) provides that, in any product liability action involving a workplace injury, an insurer shall have a right of subrogation. Section 111(a)(1)(B) provides that, to assert a right of subrogation, an insurer must provide the court with written notice that it is asserting a right of subrogation. Section 111(a)(1)(C) states that the insurer need not be a necessary party to the product liability action. Thus, an employee can pursue a product liability action against a manufacturer without regard to the insurer's participation in the action. This section focuses on eliminating unsafe workplaces and is, therefore, applicable in all actions where employer or coemployee fault for a claimant's harm is at issue. Conversely, section 111 does not apply in cases where the product liability defendant chooses not to raise employer or coemployer fault as a defense.

Section 111(a)(2)(A) preserves the right of an insurer to assert a right of subrogation against payment made by a product liability defendant, without regard to whether the payment is made as part of a settlement, in satisfaction of a judgment, as consideration for a covenant not to sue, or for any other reason. "Claimant's benefits" is defined in section 101(3) and is a broad term which includes the total workers' compensation award, including compensation representing lost wages, payments made by way of an annuity, health care expenses, and all other payments made by the insurer for the benefit of the employee to compensate for a workplace injury.

Section 111(a)(3) provides the mechanism for increased workplace safety. Under section 111(a)(3)(A), a product liability defendant may attempt to prove to the trier of fact that the claimant's injury was caused by the fault of the claimant's employer or a coemployee. The term "employer fault" means that the conduct of the employer or a coemployee was a substantial cause of the claimant's harm or contributed to the claimant's harm in a meaningful way; it is more than a *de minimus* level of fault. Section 111(a)(3)(C)(i) provides that, if the trier of fact finds by clear and convincing evidence that the claimant's injury was caused by the fault of the claimant's employer or a coemployee, the product liability damages award and, correspondingly, the insurer's subrogation lien shall be reduced by the amount of the claimant's benefits. In no case shall the employee's third-party damage award reduction exceed the amount of the subrogation lien. Thus, the amount the injured employee would receive remains totally unaffected. The Act merely provides that the insurer will not be able to recover workers' compensation benefits it paid to the employee if it is found by clear and convincing evidence that the claimant's harm was caused by the fault of the employer or a coemployee.

BIOMATERIALS

Title II of the conference agreement contains the "Biomaterials Access Assurance Act of 1996." A similar title passed both as a part of the House bill and the Senate amendment. Title II is intended to provide a defense to suppliers of materials or parts which are used to manufacture implantable medical devices. The definition of "medical device" in existing law, which is incorporated by reference into Title II, would limit this defense to a device which does not "achieve any of its principal intended purposes through chemical action within or on the body of man * * *", in short, devices which do not contain drugs.

Newly patented devices, and others now in development, are manufactured from "parts" intended to be covered by Title II, but also contain an active ingredient or drug. The purpose of such devices is long term (up to one year) release of such materials into the body. Such devices can introduce medications affecting numerous bodily functions, previously only available by regular injections or oral dosages.

The conferees adopted a new definition which brings the "parts," but not the active ingredients, used in such "combination products" (as that term is used in section 503(g) of the Act) within the purview of this section. This will ensure that the development and availability of such devices will not be impaired because of the same liability concerns affecting the availability of materials for other types of implants.

COURT OF APPEAL DECISIONS

Section 301 describes the precedential effect of certain Federal appellate decisions. It is based on a provision of the Senate amendment.

FEDERAL CAUSE OF ACTION

Both H.R. 956 and the Senate amendment include provisions on preclusion. Section 302 incorporates the language of the House bill.

EFFECTIVE DATE

The effective date provision of H.R. 956 references actions commenced "after" the enactment date. Corresponding Senate provisions refer to actions "on or after" the date of enactment and clarify that the effective date is without regard to whether the relevant harm or conduct occurred before the enactment date. The conferees, in section 303, accept the "on or after" formulation and the clarifying clause from the Senate amendment.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
JAMES SENSENBRENNER,
Jr.,
GEORGE W. GEKAS,
BOB INGLIS,
ED BRYANT,

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL OXLEY,
CHRISTOPHER COX,
Managers on the Part of the House.

LARRY PRESSLER,
SLADE GORTON,
TRENT LOTT,
TED STEVENS,
OLYMPIA SNOWE,
JOHN ASHEROFT,
J.J. EXON,
JOHN D. ROCKEFELLER,
Managers on the Part of the Senate.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 380 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2703.

☐ 1224

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2703) to combat terrorism, with Mr. LINDER in the chair.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 13, 1996, amendment No. 7 printed in House Report 104–480 offered by the gentleman from California [Mr. DOOLITTLE] had been disposed of.

The unfinished business is the demand for a recorded vote on amendment No. 10 offered by the gentleman from North Carolina [Mr. WATT] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. WATT of North Carolina:

Page 151, strike line 6 and all that follows through line 25 on page 176.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, March 13, 1996, it is now in order for an additional period of debate on the amendment.

The gentleman from North Carolina [Mr. WATT] and a Member opposed each will be recognized for 5 minutes, and then the request for a recorded vote will be pending.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. HYDE. May I be recognized in opposition, Mr. Chairman?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank my colleague, the gentlewoman from Idaho [Mrs. CHENOWETH], for joining me as a cosponsor of this amendment.

Mr. Chairman, there is no Constitution which protects liberals or conservatives. It protects every single citizen, it confirms the concept that democracy is about government of the people, by the people, and for the people. Habeas corpus confirms the proposition that our Constitution and democracy is about government of the people, by the people, and for the people; it is our buffer between ourselves and the government that we have constituted.

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield the balance of my time to the gentlewoman from Idaho [Mrs. CHENOWETH], and I ask unanimous consent that she be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mrs. CHENOWETH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not offer this amendment because I am perfectly satisfied with the way Federal habeas corpus works now. Far from it. I think we need reform legislation that moves the death penalty cases along so that we do not take years to complete them. And my heart goes out to the victims of these horrible crimes that we heard about during the debate of this amendment, but the effects of this title are not limited to death penalty cases. Most of them covered noncapital cases as well, including cases where citizens were wrongfully prosecuted for exercising their constitutional rights to keep and bear arms. This provision, the provision in this bill, goes well beyond anything that would merely speed up the death penalty process. In some cases it destroys our cherished rights to habeas corpus completely.

I would point out to my colleagues that this title is not the language passed in the House, H.R. 729. This is the Senate language and, among other things, it dramatically cuts time limits in half for habeas corpus filings.

□ 1230

This limited period could be entirely consumed in the State process, through no fault of the prisoner or his counsel, resulting in an absolute ban on filing a petition in Federal court to plead rights guaranteed under the Constitution overlooked or ignored in the State court decisions.

Title IX is an attack on article 1, section 9 of our Constitution, which guarantees, and I quote, "The privilege of the writ of habeas corpus shall not be suspended, unless when in the cases of rebellion or invasion, the public safety may require it."

Mr. Chairman, I do not think we are facing an invasion or rebellion. Title IX also threatens the judicial powers granted under article 3 of the Constitution. This bill forces the Federal courts to defer to erroneous State court rulings on Federal constitutional matters. It also prevents the Federal courts from hearing evidence necessary to decide Federal constitutional questions by prohibiting evidentiary hearings in Federal court, and forcing them to defer to previous judgments made by State courts. This title would violate the oldest constitutional mission laid out for Federal courts, to stand as a court of last resort on Federal constitutional issues.

Mr. Chairman, just yesterday I received a letter from a parent whose child was killed in the Oklahoma City bombing. He wrote:

> We understand that while habeas corpus may not be a household word in Oklahoma or anywhere else in America, it is something for which our founders fought to enshrine in the Constitution, as the fail-safe, safety net provision that ensures all our rights and liberties.

This father went on to write:

> We have actually learned what is contained in this massive bill, we know that the last thing our family wants * * * is for this legislation—so crippling of Americans' constitutional liberties—to be passed in our daughter's name and memory. Julie certainly would not want this. And we, and all Americans, have already been terrorized more than enough; we do not need this legislation to terrorize us still further by taking from us our constitutional freedoms.

Mr. Chairman, it was Benjamin Franklin who once said, "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety." Mr. Chairman, I believe the American people want and deserve freedom. Americans love their liberty. They did not elect us to take away their liberty.

Mr. Chairman, while I very much appreciate those who put this bill together, and I respect them very deeply, I do feel that this is a problem that we must correct, because it will not just affect the death row inmates. It will affect everyone who is brought before a State court, and whose Federal constitutional rights that have been guaranteed under the Constitution will be violated.

> Hon. HELEN CHENOWETH,
> *Representative, Idaho,*
> *Washington, DC.*
> Hon. MELVIN WATT,
> *Representative, North Carolina,*
> *Washington, DC.*
>
> DEAR REPRESENTATIVES: I understand you have offered an amendment to strike the habeas corpus package from the bill you are being called to vote upon today. I am sorry I missed you when I was in Washington briefly last week.
>
> As the father of someone murdered by the Oklahoma City bomb, I want to thank you for offering your wise amendment, and tell you about my and my family's horror that Congress is contemplating passing a bill such as the one you will be called upon to vote on this week, a so-called "effective death penalty and antiterrorism" bill.
>
> We have actually learned what is contained in this massive bill, we know that the last thing our family wants (and Julie was my precious 23 year, only daughter and my best friend) is for this legislation so crippling of Americans' constitutional liberties to be passed in her name and memory. Julie certainly would not want this. And we, and all Americans, have already been terrorized more than enough; we do not need this legislation to terrorize us still further by taking from us our constitutional freedoms.
>
> I find it telling that I, like the other family members in Oklahoma City, was approached very early in my grief by people asking: "would you be in favor of anti-terrorism legislation." No explanation was given as to what such legislation would look like, or what it would do to our fundamental rights. In the throes of my loss, and with such an abstract concept presented about the bill, as you might imagine my response was like that of so many other family members who were brought here last week to be used as advocates for this bill I am sure they still do not understand: "Of course, anything to combat such horrible acts as the one which took my Julie from me."
>
> Only a few weeks ago did I learn from my niece, who just happens to be a lawyer capable of understanding this massive and technical legislative proposal, what is actually in this bill.
>
> Moreover, I know personally what legislators must certainly know, from the mouths of federal officials themselves: they have all the legislative tools they need to fight terrorism and bring terrorists to justice.
>
> It utterly galls us as a family so devoted to my daughter that we and our loss is being used as a political football for politicians eager to posture themselves as "tough" on crime to reap some political advantage, and to do the bidding of already powerful agencies who have demonstrated their inability to responsibly exercise the enormous powers they already possess.
>
> The "good faith" wiretap provisions and the habeas reform provisions in particular are not known or understood by the families who have been used to lobby on behalf of this bill.
>
> We know that meaningful, independent habeas court review of unconstitutional convictions is an essential fail-safe device in our all too human system of justice. And we have learned that this package of "reforms" you are being asked to vote for would raise hurdles so high to such essential review to utterly ensure injustices of wrongful conviction will go unremedied. This is true in all cases, not just life and death ones. And we consider this a direct threat to us and our loved ones still living who may well find themselves the victim of abusive or mistaken law enforcement and prosecutor conduct and unconstitutional lower court decisions. Two wrongs have never made a right.
>
> We understand that while habeas corpus may not be a household word, in Oklahoma or anywhere else in America, it is something for which our founders fought to enshrine in the Constitution as the fail-safe, safety net provision that ensures all of our rights and liberties—including the First, Second, Fourth, and all of the other precious Amendments and other parts of the Constitution.
>
> Please forgive such a long letter. But I feel that Julie's memory and our rights are literally in the balance, and in your hands and the hands of your colleagues.
>
> You have our wholehearted gratitude for standing firm against this bill, which I understand only has a much worse Senate companion awaiting it should it pass the House. I continue to educate other family members

here about this terrible bill and why they really cannot want Congress to pass this bill, if only they know what is in it. (One family member even told me recently that she understood habeas corpus to be an anti-terrorism investigation tool!) I pray you will continue your efforts to educate your colleagues in the same way. And I hope you will share this letter with your many colleagues whom we simply could not visit in our limited time in Washington.

Sincerely,

BUD WELCH.

On behalf of Julie Welch and the surviving Welch/Burton family of Oklahoma City.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is no one in this House for whom I have more respect and admiration than the gentlewoman from Idaho [Mrs. CHENOWETH]. I certainly have enormous respect for the gentleman from North Carolina [Mr. WATT] as well. But I must strenuously resist the motion that is before the House.

Mr. Chairman, this is exactly the same bill that passed the Senate. I do not think it is ungenerous to remind the gentlewoman that she signed the contract for America. In fact, her signature is the 11th one from the top on page 172. Part of that undertaking, that solemn undertaking, was habeas corpus reform. That is what we have here today.

Mr. Chairman, first of all, please do not think that those of us advocating something that the Republican Party, and discerning Democrats, have advocated for 10 years, to my knowledge, habeas corpus reform, in any way demeans or derogates our respect for and love and dedication to the Constitution. It is the abuse of the writ of habeas corpus that we direct our legislation toward, not its uses, its proper uses.

Mr. Chairman, what do we ask? What is this terrible, tyrannical, oppressive reform that we are trying to saddle on all these innocent people who have been convicted of crimes that range up to the death penalty or less? First of all, we require that all claims be brought in a single petition. The time limit, not ad infinitum, indefinitely, into the next millennium, is 1 year after the Supreme Court of the United States has rejected a direct appeal, however long that takes. Subsequent petitions for habeas will be allowed if the convicted defendant can show cause for not including the particular new claim he is filing in his first petition.

Government suppression of evidence or newly discovered evidence proving innocence are grounds for a new appeal. That is not very tyrannical. Deference is given to State courts' legal decisions if they are not contrary to established Supreme Court precedent. That is to avoid relitigating endlessly the same issues. There is a system of State courts. We give them deference, provided their decisions are not contrary to Supreme Court precedent.

A prisoner, a convicted person, can rebut a presumption by clear and convincing evidence. Today the average time of habeas corpus closure is about 10 years. The families of the victims are the forgotten people in this situation. John Wayne Gacy, Members must be sick of hearing his name, I see his face, because I represented where he lived and where they found 27 bodies buried in his house: 14 years and 52 separate appeals. My God, what an outrage that is.

There are many cases like that. William Bonan, 16 years, guilt never in doubt; Kermit Smith, 14 years. From the time he was sentenced until he was executed, 46 different judges considered his case, and it went to the Supreme Court five different times.

Mr. Chairman, habeas corpus is one of the most important bulwarks we have in our Constitution protecting people from an overreaching government, but we cannot tolerate the abuse. We must think of justice which, if it is delayed, is justice denied. We have been moving toward reforming, not extirpating, not deforming, reforming habeas corpus, so justice, justice, justice, might be done, not only to the convicted accused, who has gone up the State system, up the Federal system, and back again, but to the families of the victims.

Therefore, Mr. Chairman, I respectfully urge Members to reject the amendment of the gentleman and the gentlewoman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, briefly, I just wanted to accept as debatable the reasons that the gentleman has advanced, but to suggest that because the gentlewoman signed a Contract With America she was irrevocably bound in matters of this manner I think is taking the case too far.

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. WATT] on which further proceedings were postponed, and on which the noes prevailed by voice vote.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 283, not voting 13, as follows:

[Roll No. 64]

AYES—135

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Barton
Becerra
Beilenson
Berman
Bishop
Bonilla
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Calvert
Campbell
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Cooley
Coyne
Crapo
DeFazio
DeLauro
Dellums
Dicks
Dixon
Doggett
Dornan
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Miller (CA)
Minge
Mink
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schiff
Schroeder
Scott
Serrano
Skaggs
Slaughter
Smith (WA)
Stark
Stockman
Studds
Stupak
Thompson
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—283

Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo

Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Archer
Chapman
Coburn
Collins (IL)
Cremeans
de la Garza
Durbin
Franks (NJ)
Menendez
Moakley
Stokes
Watts (OK)
Wilson

□ 1256

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Watts of Oklahoma against.

Messrs. HERGER, BARCIA, and SMITH of Texas changed their vote from "aye" to "no."

Messrs. GUTIERREZ, MINGE, and POMEROY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Chairman, on rollcall No. 64. I was detained unavoidably. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in House Report 104–480.

PERSONAL EXPLANATION

Mr. CALVERT. Mr. Speaker, on March 14, 1996, I inadvertently voted in favor of the Watt amendment which would have stricken the antiterrorism bill's—H.R. 2703—habeas corpus provisions. This was rollcall vote No. 64.

I wish to express on the record that I had intended to vote in opposition to the Watt amendment. I strongly favor limiting the ability of State death-row and other prisoners to challenge in Federal court the constitutionality of their sentences.

AMEMDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CONYERS:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crimes Associated With Terrorism Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism against children.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.

TITLE II—INCREASED PENALTIES

Sec. 201. Penalties for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Requirement to preserve record evidence.
Sec. 303. Detention hearing.
Sec. 304. Reward authority of the Attorney General.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Removal procedures for alien terrorists.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist States.
Sec. 804. Compilation of statistics relating to intimidation of government employees.
Sec. 805. Victim restitution Act.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—The chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows or should have known is a terrorist organization that has been designated under this section as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) TERRORIST ORGANIZATION DEFINED.—

"(1) DESIGNATION.—For purposes of this section and the Crimes Associated With Terrorism Act of 1996 and title V of the Immigration and Nationality Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

"(2) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and the basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record prior to such designation and may use classified information in making such a designation. Such classified information is not subject to disclosure so long as it remains classified, except as provided in paragraph (3) for the purposes of judicial review of such designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this paragraph.

"(3) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this subsection may, not later than 30 days after the date of the designation, seek judicial review thereof in any United States Court of Appeals of competent jurisdiction. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, not supported by a preponderance of the evidence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law. Such review shall proceed in an expedited manner. Designated organizations shall have the opportunity to call witnesses and present evidence in rebuttal of such designation. During the pendency of the court's review of the designation, the prohibition against providing material support to the organization under this section shall not apply unless the court finds that the Government is likely to succeed on the merits of the designation. For the purposes of this section, any classified information used in making the designation shall be considered by the court, and provided to the organization, under the procedures provided under title V of the Immigration and Nationality Act.

"(4) CONGRESSIONAL AUTHORITY TO REMOVE DESIGNATION.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization under this subsection.

"(5) SUNSET.—Subject to paragraph (4), the designation under this subsection of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this subsection for designation of the organization.

"(6) OTHER AUTHORITY TO REMOVE DESIGNATION.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

"(c) DEFINITIONS.—As used in this section, the term—

"(1) 'material support or resources' has the meaning given that term in section 2339A of this title; and

"(2) 'terrorist activity' means any act in preparation for or in carrying out a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331(1)(A), 2332, 2332a, or 2332b of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2339a the following new item:

"2339b. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

"§ 2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a, 2332b, or 2340 of this title or section 46502 or 6012 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM AGAINST CHILDREN.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism against children

"(a) PROHIBITED ACTS.—

"(a) Whoever intentionally commits a Federal crime of terrorism against a child, shall be fined under this title or imprisoned for any term of years or for life, or both. This section does not prevent the imposition of any more severe penalty which may be provided for the same conduct by another provision of Federal law.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49; and

"(2) the term 'child' means an individual who has not attained the age of 18 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism against children.".

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "AGAINST A NATIONAL OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332c (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

TITLE II—INCREASED PENALTIES

SEC. 201. PENALTIES FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be more than 45 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to imprisonment for any term of years, or for life.".

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Secretary of the Treasury, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Secretary of the Treasury deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that contains the results of the study required by this section. The Secretary shall make the report available to the public.

(c) LIMITATION.—The study under this section shall not include black powder or smokeless powder among the explosive materials it concerns.

SEC. 302. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 303. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 304. REWARD AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 3059 through 3059A and inserting the following:

"§ 3059. Reward authority of the Attorney General

"(a) The Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who provides any information unknown to the Government leading to the arrest or prosecution of any individual for Federal felony offenses.

"(b) If the reward exceeds $100,000, the Attorney General shall give notice of that fact to the Senate and the House of Representatives not later than 30 days before authorizing the payment of the reward.

"(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall not be subject to judicial review.

"(d) If the Attorney General determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as the Attorney General deems necessary to effect such protection.

"(e) No officer or employee of any governmental entity may receive a reward under this section for conduct in performance of his or her official duties.

"(f) Any individual (and the immediate family of such individual) who furnishes information which would justify a reward under this section or a reward by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program under chapter 224 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the items relating to section 3059 and 3059A and inserting the following new item:

"3059. Reward authority of the Attorney General.".

(c) CONFORMING AMENDMENT.—Section 1751 of title 18, United States Code, is amended by striking subsection (g).

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) In General.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"Title V—Special Removal Procedures for Alien Terrorists

"Sec. 501. Definitions.
"Sec. 502. Establishment of special removal court.
"Sec. 503. Application for initiation of special removal proceeding.
"Sec. 504. Consideration of application.
"Sec. 505. Special removal hearings.
"Sec. 506. Appeals.";

and

(2) by adding at the end the following new title:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"DEFINITIONS

"Sec. 501. In this title:

"(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special removal court' means the court established under section 502(a).

"(5) The term 'special removal hearing' means a hearing under section 505.

"(6) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT

"Sec. 502. (a) In General.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) Terms.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

"(c) Chief Judge.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(d) Expeditious and Confidential Nature of Proceedings.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"Sec. 503. (a) In General.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing with the special removal court of a written application described in subsection (b) that seeks an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) Contents of Application.—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

"(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

"(3) The identity of the alien for whom authorization for the special removal proceeding is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) Right To Dismiss.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

"CONSIDERATION OF APPLICATION

"Sec. 504. (a) In General.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) Approval of Order.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

"(c) Denial of Order.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"SPECIAL REMOVAL HEARINGS

"Sec. 505. (a) In General.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(b) Use of Same Judge.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(c) Rights in Hearing.—

"(1) Public hearing.—The special removal hearing shall be open to the public.

"(2) Right of counsel.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(3) Introduction of evidence.—The alien shall have a right to introduce evidence on the alien's own behalf.

"(4) Examination of witnesses.—The alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(5) Record.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(e) TREATMENT OF CLASSIFIED INFORMATION.—The judge shall examine in camera and ex parte any item of classified information for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States. With respect to such evidence, the Attorney General shall also submit to the court a summary prepared in accordance with subsection (f).

"(f) SUMMARY OF CLASSIFIED INFORMATION.—

"(1) The information submitted under subsection (e) shall contain a summary of the information that does not pose a risk to the national security.

"(2) The judge shall approve the summary if the judge finds that the summary will provide the alien with substantially the same ability to make his defense as would disclosure of the specific classified information.

"(3) The Attorney General shall cause to be delivered to the alien a copy of the summary approved under paragraph (2).

"(g) DETERMINATION OF DEPORTATION.—If the judge determines that the summary described in subsection (f) will provide the alien with substantially the same ability to make his defense as would the disclosure of the specific classified evidence, a determination of deportation may be made on the basis of the summary and any other evidence entered in the public record and to which the alien has been given access. If the judge does not approve the summary, a determination of deportation may be made on the basis of any other evidence entered in the public record and to which the alien has been given access. In either case, such a determination will be made when the Attorney General proves, by clear, convincing, and unequivocal evidence that the alien is subject to deportation because such alien is an alien as described in section 241(a)(4)(B).

"APPEALS

"SEC. 506. (a) APPEALS BY ALIEN.—The alien may appeal a determination under section 505(f) or 505(g) to the United States Court of Appeals for the circuit where the alien resides by filing a notice of appeal with such court not later than 30 days after the determination is made.

"(b) APPEALS BY THE UNITED STATES.—The Attorney General may appeal a determination made under section 504, or section 505(f) or 505(g) to the Court of Appeals for the circuit where the alien resides, by filing a notice of appeal with such court not later than 20 days after the determination is made under any one of such subsections.

"(c) TRANSMITTAL OF CLASSIFIED INFORMATION.—When requested by the Attorney General, the classified information in section 506(e) shall be transmitted to the court of appeals under seal.".

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

"(A) an action under this paragraph shall not be maintained unless the act upon which the claim is based occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act); and

"(B) the court shall decline to hear a claim under this paragraph if the foreign state against whom the claim has been brought establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following new subsection:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 805. VICTIM RESTITUTION ACT.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

□ 1300

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, we now are down to one antiterrorist crime bill before this body, and that is the one that is now before us in the form of substitute brought forth by myself, the gentleman from New York [Mr. NADLER], and the gentleman from California [Mr. BERMAN], both members of the Committee on the Judiciary.

I say that we are down to one, because the Committee on the Judiciary reported out a bill that the majority supported, and many of us had an alternative view. As of yesterday afternoon we are now down to one antiterrorist bill, and that is the substitute offered by myself, the gentleman from New York, and the gentleman from California.

What else remains is a low-grade crime bill, cats and dogs from the Committee on the Judiciary that have been pasted together, commissions, blue-ribbon, at hat, and other things that have nothing to do with fighting terrorism.

Mr. Chairman, what we have now is the only antiterrorist bill before the House of Representatives in the form of a substitute. We have, in addition to many groups that have already been with us, the American Jewish Committee, the American Jewish Congress, we had the Union of American Hebrew Congregations.

Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. NADLER], who is a cosponsor of the substitute.

Mr. NADLER. Mr. Chairman, some of us were opposed to the Hyde bill, as originally written, the Hyde-Barr bill, because although we shared the goal of opposing terrorism, we shared the goal of stopping fundraising for terrorist organizations, such as Hamas or Hezbollah, in the United States, we shared the goal of expeditiously deporting aliens engaged in terrorism, we were very concerned about what we perceived and believed to be the overbroad nature of the bill that would enhance the power of the Federal Government and decrease the civil liberties of law-abiding American citizens.

Many of the provisions of the Barr amendment that passed yesterday took out the provisions that concerned us. But, in my opinion, the Barr amendment went somewhat too far in that it took out the provisions that deal with terrorism. It took out the provisions that say you cannot raise funds in the United States for terrorist organizations abroad, and it took out the provision that enables the expeditious deportation of alien terrorists.

The substitute that we have here today agrees with the Barr amendment in removing from the bill all the provisions that the Barr amendment removes with respect to wiretapping, enhanced power for the FBI, and so forth. But it restores the two key antiterrorist provisions, albeit with greater protections for civil liberties than in the Hyde amendment.

Specifically, it restores the provision that says you cannot raise funds for terrorist organizations. It provides civil liberties protection in that it gives a meaningful judicial review to an organization that says we are not a terrorist organization even if the Secretary of State thinks we are. It enables that organization to have a hearing in court, an expedited hearing. It gives them the right to bring in their own evidence, their own witnesses to rebut what the Secretary of State says. It gives them proper due process.

It restores the provision, unlike the original bill, it restores the provision that says that we will have an expedited proceeding, too, for the alien terrorists. But it gives that alleged alien terrorist more due process than the original bill. It says if the Government wants to use secret evidence against that person, it can do so only if a court agrees that it is giving the accused a summary of that evidence of sufficient detail to enable him to prepare a defense as good as if he had the evidence itself revealed to him. And if the Government thinks it cannot do that, it is too dangerous to reveal even a summary, then it cannot use the evidence; the same provisions as in the existing Classified Information Procedure Act, which we use with respect to spies and espionage and organized crime.

The same balance is struck for civil liberties and for the right of the prosecution. With those two provisions restored and with proper civil liberties provisions, we have a decent bill. The choice, for Members, is now very clear: If you want an antiterrorist bill that actually targets the antiterrorist activity, you must support the Conyers-Berman-Nadler substitute. If you want to stop terrorist organizations from raising funds in the United States in order to carry out acts of cruel and cowardly terrorism throughout the world, you must support the Conyers-Berman-Nadler substitute.

If you want to give the Federal Government support the ability to get alien terrorists out of the country expeditiously, you must support the Conyers-Berman-Nadler substitute. If you voted for the Barr amendment yesterday because you were concerned about the rights of individual law-abiding individual Americans, concerned about the unchecked power of big government, you must vote for the Conyers-Nadler-Berman substitute. To protect those rights and finish the job of cleaning up the bill.

Our President, Mr. Chairman, is in the Middle East today pledging this Nation to take the lead in the worldwide fight against terrorism. He is pledging our resources, our experience, and most of all our commitment and our leadership. This House cannot, on the very same day, say, sorry, we cannot be bothered.

It is a disgrace. It is a betrayal at the very moment that the civilized world is facing a truly monumental challenge. Terrorism knows no borders, and our response must similarly be as broad and tough as the situation demands.

This bill, as amended yesterday, does not do the job. It is no longer an antiterrorism bill. It no longer even pretends to stop groups like Hamas or Hezbollah from raising funds in the United States. It no longer gives us the ability to get alien terrorists out of the country expeditiously. It no longer gives us the ability to get alien terrorists out of the country expeditiously.

The organizations that have worked so hard to move forward the fight against terrorism agree and are supporting this substitute.

Mr. Chairman, when a bomb goes off and kills children in Jerusalem, the return address should not be the United States. When a militant terrorist like

Sheik Rakhman tries to blow up the World Trade Center and plot assassinations in our streets, our Government needs the tools to throw him out of the country.

We need to respect civil liberties and of individual rights. While the Hyde-Barr bill went too far in the other direction, trampling on the rights of individuals, the Barr amendment goes too far in the other direction, cutting or eliminating the key antiterrorist provisions.

For my colleagues on the other side of the aisle, I say we may have disagreed on this or that provision but if you supported the Barr amendment because you were concerned about civil liberties, look at this amendment carefully, because every concern, every concern addressed by the Barr amendment is addressed in our substitute.

If you voted against the Barr amendment, our substitute achieves the law enforcement goals in terms of antiterrorism that you wanted. We can achieve results without sacrificing the rights of law-abiding citizens. Let us not turn our backs on the opportunity to enact legislation that will fight terrorism at its core.

The American people want an antiterrorism bill. The Barr amendment is not an antiterrorism bill. If we pass up this opportunity to stand up to the terrorists, we will have failed today, and that would be nothing less than shameful.

I urge my colleagues to support the Conyers-Nadler-Berman substitute and not to give up the fight against terrorism.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Michigan.

Mr. CONYERS. I just want to tell you that that statement combines all of our work for months on the committee, and it effectively recaptures what went on on the floor yesterday and gives everyone a chance to come back together on this antiterrorist bill.

Mr. NADLER. Reclaiming my time, I certainly agree. I thank the gentleman.

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I take it the gentleman believes the death penalty is a proper circumstance with which a jury should grapple in a terrorism case. Is that correct?

Mr. NADLER. Reclaiming my time, I do not believe——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS]. Perhaps they can carry on this fascinating colloquy.

Mr. GEKAS. Mr. Chairman, support of the Conyers-Nadler-Berman amendment is opposition to the imposition of the death penalty in cases of terrorism. The World Trade Center fiasco that took so many lives and cost so much money and created so much havoc would be beyond the reach of American citizens sitting as a jury to determine whether or not a death penalty should apply. In fact, there was no death penalty at the time of the World Trade Center tragedy, neither on the Federal level or on the State level.

At any rate, if we vote for this amendment, we eviscerate habeas corpus reforms that we on this side of the aisle are trying to impose so that the death penalty, which is approved by the American people by an 80-percent margin, will also be complemented by a swift execution, using that word wisely, a swift execution of the sentence.

We need deterrence. Deterrence can only be accomplished by a swift carrying out of the sentence. The people on death row should be given one chance and one chance alone, not 11 years' worth of chances to fight their death sentence, and after that, justice must prevail.

A jury, remember, has found that individual guilty of tragic, heinous, horrible crimes, killed people, and now he seeks mercy while we seek justice. We need to defeat the Conyers-Nadler-Berman measure and revert to the reforms that we have in the main bill, which will allow a just finalization of a death sentence.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I am not going to debate the habeas corpus provisions. The fact of the matter is, as I recall, we already passed that bill on the floor of this House. I disapproved of it, but it is a separate debate, a separate question. What is involved in this amendment, what is involved in this amendment is doing what the terrorism bill, to have a provision, the most important thing, inviting terrorism, which is to stop the fundraising here of terrorist groups. The habeas corpus bill passed in a different bill.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the chairman for yielding time to me.

I think that the gentleman from New York has made a significant contribution by this amendment. I do not question he has worked very hard on it.

There are parts of this with which I agree and I agree very strongly, such as those parts that try to correct what I think were mistakes that were made, probably without knowledge or intent, yesterday by some of our colleagues in voting to change provisions that effectively nullify the ability to eliminate fundraising by terrorist organizations in the United States. I certainly commend the gentleman for the efforts to try to resurrect it.

However, I must oppose the amendment because I believe that we do need in this legislation to use the terrorism bill, the bill that we call now the death penalty bill, in order to finally get to the President's desk an effective death penalty provision; that is, a provision that will at long last finally provide that relief so that we do not have these seemingly endless appeals that death row inmates have.

That is as equally important to the question of terrorists and terrorism and fighting terrorism as it is to the general populace for other types of crimes, in fact, may be even more important in this area. We need to send a message that when you commit a terrorist act in this country, you are really going to get the death penalty for doing it and that, in fact, you are going to have that carried out in a reasonably short period of time so that there is an effective message being sent, one that says when you do it, it is going to happen, one that is with swiftness and certainty of punishment, which is the basic structure of deterrence in criminal justice.

That is why I think the habeas corpus provisions that the gentleman would not provide for, among other things that he omits from this proposed substitute, are critical to this legislation and why I cannot support this particular alternative amendment, even though I do find features about it that I concur with.

□ 1315

I find that we sometimes do not recognize the fact that terrorists committing those kind of acts commit the most grievous kind of crime. And if they are committing them against American citizens, if they are bringing acts over here such, as the World Trade Center, and we know of a number of others that have been tried but have not been publicized, because, thank goodness, they were stopped by our law enforcement community before they happened, when we have those kind of acts, there is noting that is more important to be deterred than that kind of activity.

Now, it may not deter, having the death penalty, an effective death penalty, everybody who wants to come in here and commit some major act, for a group who are a messianic totalitarian movement, such as I think the radical Muslim elements are in Iran and the Sudan. But it might deter some people who might be otherwise aid and abet and help them become part of that here, and it might be an important message to send to governments and other people in the world.

So I think having the habeas corpus reforms, the reforms that say finally at long last we are going to provide for limited opportunity to go into Federal court after you have exhausted all of your regular appeals from a death penalty case, and provide in one bite at the apple and only one bite at the apple the chance to raise all of your procedural concerns over the case that you were tried under in the death penalty situation, where at one bite of the apple you get the opportunity to raise the question of whether you had a good attorney or not, whether you had the jury property selected or whether there were other constitutional defects, I think where if we can just give that one bite at the apple, which this provision in the bill today does in our habeas corpus reforms, we can then have a fair procedure, one that gives due process to everybody who is convicted and sentenced to death, and, at the same time, provides a truly effective death penalty that puts swiftness and certainty of punishment back in and deterrence into the criminal justice system in this area.

I believe it must be part of this bill, because it is the only vehicle we have reasonably available now that we think can go through the other body, go to the President's desk, and get it signed into law.

The gentleman strikes the criminal alien provisions in this bill, and those are also important to the terrorist issue, because often times we find that terrorists or would-be terrorists are criminal aliens and we are not deporting them in a proper fashion. We do not have the right procedures for that. They are allowed to stick around here a long time. The sooner we get them out of the country, the better procedures we have for that, the less likely we are to have that element in this country either create the actual acts of terrorism or directing them in some manner. We need to kick these people out of the country and have the procedures to do that. The gentleman in his substitute does not provide for the criminal alien provisions for criminal alien deportation that are in the underlying bill.

Mr. Chairman, I thank the gentleman for yielding me the time. I again must oppose this substitute, saying that there are features in it I concur in, but two major provisions are eliminated. I must say vote no on this substitute.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the ranking member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan for yielding me time. Mr. Chairman, I want to say I think every one of us as we drove home last night were absolutely shaken by what we heard happened in Scotland. I think if you look at the world's newspapers, you will find the entire world was shaken by that.

Now, at this moment it appears that was not a terrorist, just somebody who was crazy. But I have got to tell you that every terrorist on the planet had to look at that and think, aha, if you go after children, this is really something.

I would say to Members of this Chamber, if you do not do anything else, vote for this amendment on just the basis that we say in here acts of terrorism against children are going to have a much higher penalty. I think that is a very important provision in this. We ought to say after Scotland today, and say it loud and say it clear, that the whole globe ought to reach together to protect its children against any idiot terrorist that might be thinking this is a way to get a nation's attention, because we say yesterday how that brings everyone to their knees.

Now, this substitute I also think says some very important things. You know, we all get shaken and angered by terrorists, and the issue is we cannot stampede the Constitution at the same time. Very often I have disputes with the gentleman from Illinois who is the chairman of this committee. But he was eloquent on the floor yesterday, eloquent, talking about the fact that if we do not at least do this, we may as well forget this and call it the pro-terrorist or terrorist status quo act, because we have gutted the things that have to do with fighting terrorism in here.

You hear it all goes off to habeas corpus. That was another issue, in another bill. We dealt with it on this floor. This is about terrorism, and are we going to get serious or not.

When I hear people saying they do not trust the American Government, they do not trust the FBI, they do not trust the State Department, no. We are Americans, we should not totally trust anything. But this bill has the balance. If the State Department makes up a designation of terrorist associations, that has the right to judicial review. We have the balance in there. If we do not have this, we are denied the right to even know what they are.

It says in here that if you are contributing money to a terrorist group, an international terrorist group, you will not be held accountable unless we know you knew it was a terrorist group. But at least that stops some of it. That is the kind of common sense this bill makes. And for any American citizen to say you cannot have a balance between terrorism and the Constitution, that is wrong. If we cannot be tough on terrorism, and yet do we have to yank away everybody's constitutional rights? I do not think so.

But I must say, put all of that aside and at least, if nothing else, you ought to vote for this for section 104. Because it we cannot stand up and speak against terrorism against children and say that will not be tolerated, we have lost the whole message.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I just heard the gentlewoman from Colorado say that the death penalty is another issue; we do not need to deal with the death penalty in this year. The death penalty is the essence of this bill. In fact, the name of the bill is the Effective Death Penalty and Public Safety Act.

Why then should we amend the Effective Death Penalty and Public Safety Act to take out the death penalty, to gut the death penalty provisions? We might then just call this gutted bill the "no more death penalty act."

In California we have had only three executions of convicted first degree murderers since the 1960's. One of those three convictions was of a man named Robert Alton Harris. Earlier last year I came to the floor with what I called the Robert Alton Harris bill. It was approved by an enormous bipartisan majority of this House. The purpose of this substitute would be to gut the bill of those provisions that would give us an effective death penalty.

President Bill Clinton supports the provisions that this substitute would strike out. Let me read from what the President said recently on television.

Bill Clinton said:

> In death penalty cases, it normally takes eight years to exhaust the appeals. It is ridiculous. If you have multiple convictions, it could take even longer. So there is a strong sense in the Congress I think among Members of both parties that we need to get down to sort of one clear appeal. We need to cut the time delay on the appeals dramatically. And it ought to be done in the context of this terrorism legislation, so that it would apply to any prosecutions brought against anyone indicted in Oklahoma. I think it ought to be done.

So said President Clinton.

Those who say that the death penalty has no place in this bill, it is another issue, and want us to pass this substitute to gut the bill, are just wrong. There is a big bipartisan majority in this House in favor of the provisions. We voted before strongly in their support. Let us do it again. Let us defeat this amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding me time. I am sorry to take a minute. I am sorry the gentleman would not yield. This provision on habeas corpus that I was talking about was not even in the bill when it left the Committee on the Judiciary. I find it interesting that people now come to the floor and say this was the gut of the bill. If this was the core of the bill, somebody forgot to tell the Committee on the Judiciary, because it was not in the bill when it left the Committee on the Judiciary.

The part that was in the bill when it left the Committee on the Judiciary is now gone, because the NRA said: No, no, no, that is too strong. We cannot have the Federal Government looking at the militia groups and do that. We do not trust the Federal Government. Take all those things out.

All of a sudden this has now become habeas corpus reform. The President is right. There should be habeas corpus reform. I agree with that. Many of us agree with that. We do not say totally gut it and we say do not put habeas corpus reform in and call that a terrorism bill.

Let us be really clear about this. I think that that is the issue, and that is what we are trying to say. Let us be perfectly clear and let us not try to clutter this up. What this is doing is leaving terrorism unchecked and not giving them authority that the President asked for.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], former chairman of the Subcommittee on Crime.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I rise in support of this amendment, unfortunately. I say unfortunately because this would not be, frankly, my ideal amendment in terms of fighting terrorism. I do not think it is strong enough. I much preferred the amendment of the gentleman from Illinois.

So why would I rise in support of this amendment? Very simply, because now we are faced with a choice of a rather diluted, mild amendment, and nothing at all.

This is such an unfortunate day in this body. I find it amazing that our President is over in the Middle East with all the world leaders negotiating to toughen up the world response to terrorism, and last night this body pulled the rug out from under him by supporting the Barr amendment.

I find it utterly amazing that the Hamas has found a new best friend in America, the NRA, and anyone who went along with this horrible amendment.

There is no question in my mind that the Hyde amendment was balanced, and it was fair, and it would do the job. The Conyers-Nadler amendment is, in my judgment, not as good. I find myself in the position of opposing it yesterday because we had a good, strong bill, and now supporting it today because there is nothing else.

Mr. Chairman, when we look at why people are frustrated with Congress, when we look at what is wrong with this body, here it is: 98 percent of America says do something real about terrorism. Do something real, because you do not need to be a genius. With great common sense they have seen what happened at the World Trade Center, they have seen what happened in Oklahoma City. They realize that both internationally and domestically the world has changed. And because of one interest group that has so many Members in this body quaking in their boots, there was a 180-degree reversal.

Mr. Chairman, I want to pay my respects, first, to the gentleman from Michigan [Mr. CONYERS], the gentleman from New York [Mr. NADLER], and the gentleman from California [Mr. BERMAN]. They did what they believed was right. They are moving forward in a way I disagree with, but in a way that had integrity.

I want to pay my respects to the gentleman from Illinois [Mr. HYDE], the gentleman from Florida [Mr. MCCOLLUM], the gentleman from North Carolina [Mr. HEINEMAN], and the gentleman from Texas [Mr. COMBEST], and so many of the others who had the courage to vote "no" yesterday on the Barr amendment.

But for the general outcome in this body today, I can think of nothing short of the word disgraceful. I just wish that every Member who voted for the amendment, the Barr amendment, which truly eviscerated this bill, has to live with the consequences. I hope they do not. I hope there is nothing that will make them doubt what they did. But, unfortunately, knowing what I know about terrorism in America from my briefings and research, the terrorist danger in America, I am afraid they will all have to.

This is not a great day for this House of Representatives. This is not a great day for the future of this country. If we cannot all pull together, if we cannot avoid the forces of the far right and the far left pulling us apart, then we cannot be the greatest country in the world in the 21st century.

So I support the Conyers-Nadler amendment, albeit reluctantly and unfortunately, because it is the only thing we have left.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in opposition to this bill and would adopt the comments of the gentleman from Florida [Mr. MCCOLLUM], also.

I think, on balance, what persuades me to vote against this amendment is the fact that the death penalty, the habeas corpus reform, is not included in that particular amendment. The operative word in this bill, in the title of this act, I believe, is the word "effective." The complete name is the Effective Death Penalty and Public Safety Act.

Mr. Chairman, the operative word is "effective." We have a death penalty right now in this country, but it is not used very effectively, and not sufficiently, as the gentleman from Pennsylvania [Mr. GEKAS] said, to act as a deterrent to people who might commit these types of crimes, even crimes that would be similar to what occurred in Scotland yesterday against these children.

□ 1300

These types of people, if convicted, need to face the death penalty, and it needs to be an effective death penalty, not one where they can drag out the process for 8 years, or 10 years, for 17 years or longer. They need to have swift justice to be an effective deterrent. And what the habeas corpus, the death penalty reforms that are included in this core bill, that are still in that bill, what they provide for, among other things, that would accomplish a effective death penalty in this case, include establishing a 1-year limitation in which they can file. The convicted, the person who has already been through the jury trial and been convicted, it gives them a year to file a habeas corpus petition, not years and years and years like the present law allows, and it prohibits Federal judges who consider these petitions for habeas corpus death penalty relief, it prohibits them from considering them unless they were filed by a person convicted in a State court and that person has exhausted their remedies.

I will bring my remarks to a conclusion by simply adding that we need this in this bill, and to vote for the amendment would take out the effective death penalty provisions we need so much in this reform, and I urge my colleagues to vote against this amendment.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN], one of the gentlemen who helped develop the Conyers-Nadler substitute, and therefore this measure is entitled the Conyers-Nadler-Berman.

Mr. BERMAN. Mr. Chairman, I thank my ranking member for yielding me this time.

Mr. Chairman, I voted to report the original Hyde bill out of committee. I have trouble with some of the provisions in the bill, but I emphatically believe that a compelling case has been made that Federal law enforcement agencies need to be granted expanded means to attack the scourge of terrorism, both international and domestic.

I believe that our freedoms as well as those enjoyed by the citizens of other democratic nations cannot survive if we do not create new tools to apprehend and punish those who committed crimes with the intent of intimidating, coercing, or retaliating against government conduct. Our ultimate objective must be, of course, to prevent such crimes from being committed in the first place. The most recent appalling attacks in Jerusalem and Tel Aviv only reinforce my deeply held conviction that our democratic Government must be given new means to fight international and domestic terrorism.

But the bill before us today is not the bill I voted for in the Committee on the Judiciary. First of all, the Republican majority decided to jam into this bill, in the name of fighting terrorism, their long-sought objective of, for all intents and purposes, abolishing the ancient writ of habeas corpus. Former Attorneys General Levi, Katzenbach, Richardson, Civiletti, each of them has written to us saying that nothing is more deeply rooted in America's legal traditions and conscience. The writ of habeas corpus is the guarantor of our constitutional rights, the bedrock of our Federal system which has always provided an independent Federal court review of the constitutionality of State court prosecutions.

Shame on those who invoke the names of innocents slaughtered in Oklahoma City or Jerusalem in their quest to obliterate the writ of habeas corpus. I cannot support lawlessness in the police station or the courtroom anymore than I want to tolerate it in the hands of terrorists.

The substitute, the Conyers-Nadler-Berman substitute, deletes the habeas corpus provisions to which I profoundly object.

In addition, second, we now have the passage of the Barr amendment which has deleted the very antiterrorism provisions which do belong in this bill. The Barr amendment deletes the prohibition on fund-raising for terrorist organizations. And can my colleagues believe this? It deletes the expedited removal of alien terrorists from this country.

For those who have concerns about some of these provisions, the answer is not to gut them as the Barr amendment did, but rather to include and improve them, as Mr. CONYERS has done. I want to express my very deep gratitude to Mr. CONYERS for his willingness to include these provisions in this substitute and for his willingness, with his deep concern for civil liberties, to balance and apply that in the context of our need to do more on terrorism.

We provide in this substitute for judicial review of the designation of an organization as terrorist. We provided for the expedited removal of alien terrorists under existing procedures for dealing with classified information which preserve a defendant's right to counsel and to confront the evidence against him or her.

I also strongly support the provision in the Conyers substitute which deletes impediments in current law to the ability of Federal law enforcement organizations to initiate investigations of suspected material support to terrorists. I believe that the scourge of terrorism requires a careful recalibration from time to time of the balance between civil liberties concerns and law enforcement authority.

In this case, I believe that speech on behalf of terrorist organizations can be, not necessarily are, but they can be, an indication that the individual is engaged in material support for terrorist activities. Under certain circumstances I believe it is appropriate for investigations to be opened, not to be prosecuted for that speech, not be thrown in jail, but for merely an investigation to be opened.

I am concerned that the current law bars such investigations unless the evidence of terrorist activities virtually suffices to commence prosecution. That means people who should be prosecuted would not be

I have a proud record of support, I believe, for civil liberties. When the opponents of this legislation and all of its excessive forms have pointed out potential infringements of civil liberties, I have listened. As the American Jewish Committee has so eloquently stated, the war on terrorism must be and can be carried out without undermining our most fundamental protection. But when these same organizations that opposed the original bill of the gentleman from Illinois [Mr. HYDE] and supported the Barr amendment go so far as to minimize the very threat of terrorism itself, they lose all credibility.

Ours is a living constitution which has thrived for two centuries because in its strengthened vibrancy it has accommodated the realities of modern American life. One of those realities tragically is terrorism.

Mr. Chairman, I urge my colleagues to vote for the Conyers substitute. It wages war on terrorism while preserving precious American rights. Should the substitute fail, I will be voting against H.R. 2703, and I urge my colleagues to do so as well.

Mr. HYDE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, it is kind of deja vu to hear the four Attorneys General routinely trotted out by the opposition. They have been referred to as the four horsemen of Swan Lake. But we also have our retinue of Attorneys General who disagree with them, led by Griffin Bell, William Barr, Richard Thornburg, the late William French Smith. But I have a celebrity to trump all of those Attorneys General on the subject of habeas corpus, and his name is President Clinton.

Mr. Chairman, he said on June 5 of last year, 2 days before the Senate passed the identical bill overwhelmingly that we seek to pass in this legislation; here is what the President, Mr. Clinton, said on "Larry King Live." He said in death penalty cases it normally takes 8 years to exhaust the appeals. It is ridiculous. And, if you have multiple convictions, it could take even longer. So there is a strong sense in the Congress, I think among members of both parties, we need to get down to sort of one clear appeal. We need to cut the time delay on the appeals dramatically, and that ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma, and I think this ought to be done.

Now that is the head man. So I just serve warning. Anytime my colleague brings out Mr. Katzenbach, Mr. Richardson, Mr. Civiletti, and Mr. Levi, I am going to bring out the President, so just be fairly warned.

Now I want to make it very clear——

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Yes, of course.

Mr. CONYERS. Mr. Chairman, that means the gentleman will not be mentioning these other run-of-the-mill Attorneys General that——

Mr. HYDE. I may do that, although they are not run-of-the-mill, they are superb legal giants.

Mr. Chairman, I want to make it clear that this is still a good bill despite the Barr amendment yesterday, which disappointed me, but the bill still is a very good bill and worthy of support. We have habeas reform. If we can defeat the Nadler-Conyers-Berman amendment that is offered now, we have victim restitution, we have criminal alien deportation improvements, we require marking plastic explosives to allow for more effective detection. If we had that, Pan Am 103 might well never have occurred. We prohibit the possession, importation, and sale of nuclear materials, reform asylum laws to stop their manipulation by foreign terrorists. Not most importantly, but very importantly, we authorize lawsuits by Americans against foreign nations responsible for State-sponsored activity. That is amending the Foreign Sovereign Immunities Act. We provide for the expedited expulsion of illegal aliens from the United States, yes, and we protect Federal employees and Federal Government buildings because if someone is murdered, it becomes a death penalty.

Now the Conyers-Nadler-Berman substitute is another gutting amendment. There are——

Mr. NADLER. Mr. Chairman, will the gentleman yield for a moment?

Mr. HYDE. I would say to the gentleman from New York [Mr. NADLER], I am just getting wound up, but go ahead. I would rather the gentleman interrupt me now than later.

Mr. NADLER. Before the gentleman gets into the analysis of the amendment, I just wanted to ask with what the gentleman said about the bill, as amended a moment ago, the gentleman said on the floor yesterday, and I quote: "We have a real threat, we either do something about it or take a pass and pretend we are. With the Barr amendment, this is not an antiterrorism bill." Unquote.

Does the gentleman think that is no longer correct?

Mr. HYDE. Well, yes, that was an overstatement on my part out of the depths of my dismay that I was losing. But on sober reflection, I think it is an antiterrorism bill, not as robust as I would like it to be, but still worthwhile.

Now there are a number of things in the Conyers-Nadler-Berman substitute that I like and could support. Unfortunately our colleagues have lumped them together with eliminating habeas corpus reform, and that, of course, destroys any balance and makes it not worthwhile.

For example, under the Conyers amendment and the amendment of the gentleman from New York [Mr. NADLER], current law which would permit the imposition of the death penalty for somebody who bombed a Federal building where death resulted, that is rewritten. It cannot be done now under the Conyers amendment.

Just let me finish my statement. I will yield to the gentleman shortly.

Now, the Conyers amendment would not impose the death penalty. He has rewritten this law for someone who uses a biological toxin that results in another's death. Oh, the gentleman from Michigan [Mr. CONYERS] provides a life sentence, but not the death penalty. Now, somebody who kills somebody using biological toxin certainly qualifies for the death penalty in my book. Mr. CONYERS strikes the criminal alien deportation improvements, which we have in this bill, we passed those earlier, and we are repassing them here. They passed 380 to 20 last February. So as tempting as it is to support the designation of terrorist organizations, and we should be able to do that, I hope to goodness we get to do that, I hope we can do that in conference. But that morsel of good public policy is not worth throwing away habeas corpus reform or the ability to impose the death penalty on someone who bombs a Federal building, as they did in Oklahoma City.

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Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, the point I wanted to make is the House passed this habeas reform in another context. That bill has been passed by the House and can stand on its own. We have been under the impression that this was an antiterrorism bill. I am surprised that the gentleman is not anxious to get some of the antiterrorism provisions back into the bill.

Mr. HYDE. I am anxious, but I am not anxious to ever go on record as rejecting something we have been looking for, for 10 years and working toward, and that is habeas corpus reform.

Also, Mr. Chairman, I am still puzzled by the gentleman's unwillingness, and I do not say inability, but unwillingness to see that habeas corpus law applies to murderous terrorists. They depend on habeas corpus, an indefinite prolongation of habeas corpus proceedings, so they never get the sentence executed.

Mr. WATT of North Carolina. Mr. Chairman, if the gentleman will continue to yield, I want to be clear, I have never said habeas is completely irrelevant to terrorism.

Mr. HYDE. I misconstrued the gentleman. I misconstrued the gentleman. I humbly apologize.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman is the chairman of the Committee on the Judiciary, still, and will be until the end of the year.

Mr. HYDE. At least.

Mr. CONYERS. The idea of us now going back into habeas, the gentleman from North Carolina has just reminded us that we have already passed a habeas bill overwhelmingly.

Mr. HYDE. Taking my time back, I thought the gentleman had something new to add to this debate. The gentleman is repeating what the gentleman from North Carolina [Mr. WATT] said, and he said it better.

Mr. CONYERS. Mr. Chairman, why does the gentleman need to have habeas here if we have already done it?

Mr. HYDE. To make sure that it passes.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE, a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding time to me, and I thank the gentleman from New York [Mr. NADLER] and the gentleman from California [Mr. BERMAN] for a reasoned response to the reason that I am in the well of the House.

I would say to the gentleman from Illinois [Mr. HYDE], the chairman of the committee, there is no doubt of his deep and abiding commitment to this process. I respect his comments yesterday, in fact, of his disappointment with the passage of the Barr amendment. I think, frankly, we might have been heading in the right direction.

I think the gentleman realizes that I supported this legislation in committee, because I have firsthand experience with the tragedy of terrorism, the loss of life of a member of my community in Pan American 103. I also have grappled over the last 48 hours with the tragedy of the loss in Scotland, I believe, of some 16 children. It is certainly not in our jurisdiction, but that is a terrorist act.

If I vote for anything, Mr. Chairman, this time it has to be focused on the victims. With the passage of the Barr amendment, I feel that we have severely undermined this so-called terrorist legislation. Mr. Chairman, we have a situation that cop-killing bullets are still out on the streets, and we have minimized the study that was to go forward in not studying the ammunition, which is terrorist in its own sense, to a certain extent, as it freely flows throughout this Nation. Now we just simply want to say "We will look at it if we see a cop being killed."

The Conyers-Nadler-Berman bill does something that is near and dear. It adds a provision that cites particularly acts of terrorism against children, and makes it a specific crime to target children when engaging in any of the activities that have been included in this legislation. That is a victim's bill that deals with terrorism.

Mr. Chairman, additionally, it allows an extension of Federal jurisdiction to cases involving overseas terrorism, to include cases where a U.S. national was on a plane, or the perpetrator is a U.S. national, or the offender is subsequently found in the United States, and cases involving foreign dignitaries.

Mr. Chairman, I know full well what it means to travel overseas, many of us do, but in particular I work with a youth group who goes overseas to dangerous areas every summer. I want them to be exposed to this world, but I also want them to be protected against terrorist acts. The Nadler-Conyers-Berman legislation that is before us is the right way to go. Their bill also extends the law regarding weapons of mass destruction to include threatened use of weapons of mass destruction, as well as cases involving a U.S. national outside of the United States.

Mr. Chairman, let me add one more point about victims' rights in this instance. There is a question when a tragedy happens, how do you address the grievance. The grievance is that if you survive it, you either have the opportunity to sue and/or pursue your grievance in a court of law. This legislation that I am supporting specifies jurisdiction of U.S. courts over lawsuits brought against terrorists.

Mr. Chairman, Federal courts would lose the power to correct unconstitutional incarceration. This bill brings with it the increased risk that innocent persons would be held in prison in violation of the Constitution and—even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief, limits almost all petitioners to only one round of Federal review and requires the petitioner meet an extremely high clear an convincing burden of proof in order to secure relief. We must punish to the fullest extent of the law those who commit terrorist acts against our Nation, against our Nation, against innocent children. However, I equally believe that we must consider the bill before us and firmly support the constitutional rights such as freedom of assembly, freedom from unreasonable search and seizure, due process of law, and the right of privacy. I have concerns about racial, ethnic, and religious bigotry that may increase with the misuse of the powers of this bill. These fundamental rights are essential to our liberty as Americans.

The Conyers-Nadler-Berman bill is the right anti-terrorist legislation.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the learned gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I do appreciate being noted as learned, being a Hoosier, I would say to my fellow Illinois chairman of the committee.

Mr. Chairman, I was intrigued by the comments of my colleague who was just in the well. Often we hear about these cop-killer bullets. It is interesting. I would like to know why. Any bullet out there, no matter what you call it, if you point it at the right time, can kill someone with the same lethal effect as a knife or a tire iron, if you want to whop somebody up side the head. The real assault weapon, Mr. Chairman, is the thug. That is what the real assault weapon is.

What we have now, Mr. Chairman, are international groups that commit acts of terror indiscriminately, cowardly acts of terror, who form these groups throughout the world. They have increased their lethality in how they operate, so it used to be in the 1970's and 1980's it was the highjackings and hostage takings. Now they have become more sophisticated. Now there are bombings, and that is how they operate, but they are more cowardly in what they do, because the lethality of their actions now is against the innocents.

So we see, whether it is the World Trade Center bombings and others that have operated throughout the world, we, the United States, want to take a responsible role not only here domestically, within our own borders, but internationally, with our neighbors throughout the world. Mr. Chairman, I think that is pretty important.

I am extraordinarily disappointed when we do not give the tools and the resources to law enforcement to meet those goals. Why we gut a bill, and for some reason say we should be more frightened of our own Government; wait a minute, Mr. Chairman. I believe in good government. Why do we form governments? We form governments to take care of people. If people are living in fear, there is not freedom. There is not liberty. That is what we cherish most in our own country.

We want to give the power and authority to the FBI to go after these thugs, when these illegal aliens come into the country, and then we do not want to give, whether it is roving wire taps and things to go after them; why? Then when we do come after them, they flee from the Philippines to Pakistan, and finally we catch up with them, as in the World Trade Center case.

Mr. Chairman, I understand the chairman. I do not want to ever say he is ambivalent, but I noticed the remarks from yesterday and the remarks from today, to support this bill. I am going to support this bill. When the Senate has theirs, we are going to go to conference and we are going to give them the tools necessary to make this an effective bill, and we will come back to the floor then at that time.

However, let me make a closing comment with regard to this thing about let us throw out habeas corpus reform and talk about victims' rights. To me, that just blows my mind. Those who coddle and hug the thugs do not want to be for an effective death penalty, yet we are going to talk about victims' rights? We need in this country a good balance in sentencing guidelines between education, prevention, restitution, retribution, and deterrence, and the rights to victims are extraordinarily important.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to our colleague, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the gentleman's passion on the issue. The whole question of terrorism is, of course, to prohibit terrorists, but it is to prohibit terrorist acts on victims. This legislation includes specific language targeted to children. Who can deny that? This is the better bill, the stronger bill, the Nadler-Conyers-Berman bill. It actually addresses victims, who are in fact the recipients of terrorist acts. We cannot deny that.

Mr. BUYER. My only question, Mr. Chairman, is does the gentlewoman support an effective death penalty?

Ms. JACKSON-LEE of Texas. I have never disagreed with it.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I begin by throwing away my Chairman HYDE's remarks of yesterday. He did not mean it. It was a moment of passion. He was maybe even ticked off, as we say. He said, "With the Barr amendment, this is not an antiterrorism bill." On reflection today and maybe talking with the Speaker, what the heck, we have to do the best with what we have. Were I in his position, maybe I would have to say the same thing.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, it is my experience that in the depths of disappointment, things sometimes look darker than they really should, but I feel better today. I thank the gentleman.

Mr. CONYERS. We are delighted to find that the gentleman is moving right along.

Now, Mr. Chairman, for the law lesson. These have to come on the Committee on the Judiciary, between lawyers.

All right, class, turn to title 18, U.S.C. 111. What you will find is that the murder penalty exists for a whole list of crimes. Also, class, turn to 18 U.S.C. 119, the murder penalty. Also, class, turn to 18 U.S.C., and staffers for Members, turn to that, also, 18 U.S.C. 1117. The last lesson for the afternoon, turn finally to 18 U.S.C. 1114.

OK. What do these four laws provide? Murder, in the first instance, willful, deliberate, and premeditated killing will get you the death penalty, I say to the gentleman from Illinois [Mr. HYDE], and my Republican friends, in the United States of America. It will also, under the second title I cited, for foreign murder of U.S. nationals, that will get the death penalty.

You can also get the death penalty—not whether we like it or how we voted for it, what our philosophy is, this is the law. Conspiracy to murder will get you the death penalty. Also, the murder of an officer or employee of the United States, my fourth illustration, will get you the death penalty.

If Members do not believe the instructor in this class, go to the current Attorney General of the United States, who explains for everybody who will not do their homework that the Oklahoma bombers, if convicted, will get the death penalty.

Mr. Chairman, I would ask the gentleman to tell me, if habeas was so important, why was it left out of the Hyde-Barr bill when it came to the floor? The answer is they had antiterrorism on their minds. So we have, even though my dear friend, the gentleman from Illinois, is feeling much better today, we still have a baloney sandwich without any meat in it. We only have the Conyers-Nadler-Berman substitute to deal with.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I was queried on the House floor about my beliefs with regard to the death penalty, and I said an effective death penalty, but the clarification was really meant to track what the gentleman has just said.

This bill deals with offenses that require the death penalty on certain offenses dealing with terrorism, which is in the Conyers-Nadler bill. Habeas is not the death penalty. It is justice. We want to make sure that for victims of all kinds, we need to have justice. Habeas does not deal with answering the question of terrorism.

Mr. Chairman, I would ask, is that what the gentleman is saying at this point?

Mr. CONYERS. The assistant law professor from Texas is precisely on point.

Ms. JACKSON-LEE of Texas. I am trying. I thank the gentleman.

Mr. CONYERS. Mr. Chairman, let us look at the nature of the people that we have castigated for months and months that commit these heinous offenses. Suicide bombers, are they looking for which habeas we are using and whether it exists, since, as we have just learned now, habeas has nothing to do with whether the death penalty exists? Habeas is the protections—constitutional—that are given to you if you are under the death penalty.

□ 1400

I do not think so. Members of the other side, I do not think that suicide bombers care what we do with habeas or what we do not do with it.

But why let them raise funds in the United States? That is in my bill. We prevent them from raising funds to get the bombs to blow up Americans.

Please, we have a very serious, important matter that requires us to bring our common sense and leave our political partisanship outside the door. This is an incredibly important matter. I hope that all of us will recognize that we only have one measure that deals with antiterrorism, and it is the substitute which we will shortly vote on. I urge your favorable consideration of this provision.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume. I am waiting for the Speaker, who would like to close debate, and he should be here imminently.

Meanwhile, I would like to respond to Professor CONYERS, who gave us an interesting lecture on criminal law, simply to say that his amendment, section 201, reads, "whoever damages or destroys or attempts to damage or destroy, by means of fire or an explosive, any person or real property in whole or in part, owned, possessed, used by, leased to the United States or any department or agency thereof, or any institution or organization receiving Federal financial assistance."

What is the penalty that the gentleman has inculcated in his amendment? Not "shall be in prison for not more than 25 years, or both," but "if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years." Then, skipping another paragraph and getting to the end game here, "if death results to any person other than the offender, the offender shall be subject to imprisonment for any term of years or for life."

I do not see the death penalty in here in section 201 of title II. I see life. If you kill somebody by bombing a Federal building, now the professor has indicated elsewhere in the code death penalties are provided for. May well be. I have not thumbed through that part of the code recently.

But I wonder why he introduced this amendment providing for life imprisonment if you kill somebody by blowing up a Federal building, which is what happened in Oklahoma City. The gentleman surely does not do things idly or without purpose. I suspect the gentleman wants to get into law his well-known dislike for the death penalty, and I understand that. That is a perfectly respectable, legitimate position to have, but it should be noted that his amendment does away with the death penalty for bombing a Federal building.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, will the gentleman promise to do his homework after I do this one more time? I mean, suicide bombers do not care about the Conyers provision or the Hyde provision. Suicide bombers are not afraid of habeas corpus, sir. They have no concern. The problem is that these are madmen who do not obey or care about laws.

The reason I cited the gentleman four specific death penalty amendments is to suggest to him that for all of those reasons, the Attorney General of the United States is right in telling us that upon conviction, the Oklahoma bombers will get the death penalty, regardless of your view or my view on habeas corpus.

Mr. HYDE. Your amendment notwithstanding. Well, I really appreciate that.

Mr. CONYERS. How will habeas corpus deter a single terrorist act? Tell me that.

Mr. HYDE. How does what, sir, habeas corpus deter a single terrorist?

Mr. CONYERS. How will habeas corpus of any kind deter a single terrorist act?

Mr. HYDE. I presume the professor is referring to habeas corpus reform, because habeas corpus would not deter anybody from anything. The reform might.

Mr. CONYERS. Well, will reform? Tell me how.

Mr. HYDE. I will leave that to the distinguished Speaker of the House.

Mr. CONYERS. Who has not heard our debate. Maybe.

Mr. HYDE. But the gentleman knows that sure punishment and swift punishment is a deterrence, and that is the answer to the gentleman's question.

Mr. CONYERS. Suicide bombers are afraid of sure and swift deterrence, right?

Mr. HYDE. I thank the gentleman for his illuminating comment.

Mr. Chairman, I am pleased to yield the balance of my time to the distinguished Speaker of the House.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Chairman, I thank the distinguished gentleman from Illinois for yielding me the time, and I think that this is a very important pair of votes that are coming up.

Let us be very clear where we are. There was a very large conference in the Middle East yesterday in which leaders from all over the world said they are opposed to terrorism. Political leaders are going to get up all over the world and say "We are opposed to terrorism."

The question is, is there a reasonable and prudent way to both safeguard individual liberties and at the same time make certain that we are able to combat terrorism before it does incalculable damage to innocent people? In addition, are there legitimate and reasonable ways in a free society to suppress violent crime, and to deal with people who commit crimes so unspeakable that they have in fact earned the death penalty by the very barbarity of their behavior?

That is what these votes are really all about. They are about, first of all, the question is there a prudent and reasoned way for a free people to govern themselves so they both protect their liberties against a capricious state, a search which has been going on in the English-speaking world since the English civil war and the Star Chambers, and which we have worked on now for over 340 years, and at the same time, is there a way to make certain that those so barbaric, those so outside the bounds of civilization, whether acting as an individual killer or acting as a part of an organized group deliberately using terror for political purposes, that we as a people can combat them.

There are two provisions I particularly want to focus on because they seem to be of some controversy. The first is having an effective, enforceable death penalty. Let me just say that no citizen who has looked at some of the barbaric acts committed tragically by Americans against Americans, at serial murderers, at people who have engaged in acts of deliberate, vicious, wanton brutality, no citizen who believes in the death penalty would want to vote against this bill, because without this bill the death penalty remains ineffective.

In Georgia, our attorney general, Mike Bowers, pointed out that he was in law school when certain murderers were put on death row, and because of the current interminable frivolous appeals process, he had gone through law school, passed the bar exam, been in private practice, served as a district attorney, in what is now his third term as the attorney general of Georgia, and these same murderers were still sitting on death row filing a new appeal.

Clearly justice delayed is justice denied. Clearly the families of victims who have seen these horrible things done deserve to know that this society can move effectively.

As somebody who believes in Federalism and allowing the States to make decisions, when you learn that it is Federal law that blocks the States having an effective death penalty, it is Federal law which gives every defense attorney in the country infinite excuses for simply buying time. In the State of California, there are provisions here that cost the State over $1 million per person given the death penalty just having to fight the frivolous lawsuits.

First of all, I would say to my friends, if you want an effective death penalty, then you want to vote "no" on the Conyers substitute and you want to vote "yes" on final passage, and there should be no mistake about it, because that is the only way to make sure that we get an effective death penalty.

There is a second part I want to mention. I want to be really clear. We are wrestling with what, I think, is a very hard problem. How do we give the Government enough power to protect us without giving the Government power to coerce, power to invade our liberties? How do we protect our personal freedoms while at the same time protecting our personal freedoms? Because that is what we are trying to do. We want to protect our freedom against the State being capricious and we want to protect our freedom against terrorists who would destroy our lives.

I would urge a "no" vote on the Conyers substitute and a "yes" vote on final passage because I think that this bill has been improved, and I think when it goes to conference it will be improved even more. I know that my good friend, the gentleman from Georgia, has been working even today on making specific provisions to find a way to block Hamas from being able to raise money in the United States while killing people in Israel.

Let me draw this very clearly. We want to be capable, within our Constitution and protecting our liberties, to block terrorist groups. We want to be capable of tracking potential terrorists while protecting our liberties.

That requires very careful drawing of the lines, because on the one hand you want to give the FBI, you want to give the Central Intelligence Agency, you want to give the powers of the state enough strength to do that which is necessary to protect us. On the other hand, you do not want to give them the ability in an arbitrary and inappropriate way to exercise those powers to hurt people.

I want to first of all commend the gentleman from Georgia [Mr. BARR], a former U.S. attorney in his own right, a prosecutor, a man who has had cases where he has brought people to justice who have done evil things, because he has worked very diligently. I believe that with his help that the chairman, Mr. HYDE, in conference, is going to be able to develop exactly the right thing.

I would say to my friends who are worried and say they are going to vote "no" because as currently written this bill will not cut off Hamas, the only effective way to get a bill to cut off Hamas from funding, to block aid to the terrorists, is to vote "yes" for this bill to send it to conference. This bill should be passed in the House. We should go to conference.

Frankly, our goal should be to get this bill out of conference before the first anniversary of the Oklahoma City bombing. I believe it is going to take a difficult conference. I think it can be done. I, for one, am not at all ashamed of the fact that it is hard to write this bill correctly.

The challenge of a free society—I want to come back to this because it is at the core of what we are wrestling with—the challenge of a free society is to have a government strong enough to protect us from danger and carefully enough constrained to not itself be a danger. That is what we are wrestling with.

If you vote "no" on Conyers and "yes" on final passage, you are voting for an effective, enforceable death penalty. You are voting for effective steps to stop terrorism. You are voting for the prudent, correct steps in the right direction, preserving civil liberties and preserving our safety at the same time.

I commend the gentleman from Illinois, who has done an outstanding job of bringing this bill to the floor. I think this bill is a substantial step in the right direction. I urge all of my colleagues, vote "no" on Conyers and vote "yes" on final passage, for a safer and a freer world.

Mr. CARDIN. Mr. Chairman, again we are presented with a missed opportunity. H.R. 2703, as it was presented for a final passage vote, contains virtually no provisions necessary to aid law enforcement in stopping terrorist attacks which is the stated purpose of the legislation.

I would have supported H.R. 2703 as it was reported by the Committee on the Judiciary. Unfortunately, the Barr amendment, as adopted, stripped the bill of its most important provisions including sections that might have helped protect law enforcement from killer bullets, helped trace explosives, and allowed law enforcement to trace terrorists' phone calls.

In addition, the Barr amendment gutted the bill's sections requiring swift expulsion of foreign terrorists and the amendment weakened efforts to eliminate domestic fundraising support of terrorism overseas. For example, nothing in this bill would prevent Hamas, a terrorist group located in and around Israel, from fundraising in the United States.

Had the Barr amendment failed, I would not have supported the Conyers-Nadler amendment. The Conyers-Nadler amendment removed important habeas corpus language and necessary law enforcement measures. The bill, as reported by the Judiciary Committee, is stronger than the Conyers-Nadler substitute. However, once the Barr amendment passed, I voted for the Conyers-Nadler substitute because it put a number of key provisions back into the bill.

I opposed the Watt-Chenoweth amendment because it would have eliminated the bill's restrictions on habeas corpus appeals to Federal courts by death row prisoners. Habeas corpus reform is long overdue and, although not directly related to fighting terrorism, it is an important measure to pass.

Mr. Chairman, I am extremely disappointed in the present form of H.R. 2073. Terrorism threatens innocent people, both in America and abroad. I hope that many of the significant measures in H.R. 2703, as reported by the Judiciary Committee, will be restored by the conference committee so that I will be able to support the conference report.

Mr. CRANE. Mr. Chairman, it was with regret that I cast a "no" vote today on final passage of H.R. 2703, the Effective Death Penalty and Public Safety Act. In previous years as a member of the minority party in Congress, I regularly voted "no" on Democrat legislation which I believed to be inconsistent with my views of a limited Federal Government. I am proud to say that in the 104th Congress I have cast many more "aye" votes than "no." However, today I must oppose H.R. 2703, as amended. While my vote puts me at odds with my party leadership, I remain obligated first to my constituents and my convictions.

I know that this antiterrorism legislation was drafted with the best intentions. The domestic terrorist attack in Oklahoma City, along with the bombing of the World Trade Center in New York City were reprehensible acts. I recognize too that American citizens abroad have been victims of terrorist attacks simply because of their nationality. Furthermore, the most fundamental responsibility of government is to provide for the common defense of its citizens. However, I cannot justify a needless expansion of Federal law enforcement authority for these worthy purposes.

Accordingly to a report prepared by the Congressional Research Service, the list of current Federal antiterrorist laws is 17 pages long. I could accept a measured modification of current law to deal with specific deficiencies, but object to this overbearing legislation because it will trample on constitutionally protected rights of Americans.

Before further expanding Federal laws, I believe that Congress ought to first review the Federal Government's role in law enforcement. In particular, a comprehensive oversight of all Federal law enforcement agencies, especially the Bureau of Alcohol, Tobacco and Firearms, to investigate abuses of authority is overdue. I, along with many Republican colleagues, fought against the omnibus crime bill passed and signed into law by President Clinton during the last Democrat-controlled Congress. Until we act to repeal some of these needless and dangerous laws, I cannot support further expansion of Federal authority in law enforcement.

While this stance may put me at odds with some, letters and phone calls from my constituents were overwhelming in their opposition to this legislation. On behalf of them, and my convictions, I had no alternative but to oppose H.R. 2703. I can only hope that my colleagues will keep these points in mind as the bill proceeds to conference with the other body.

Mrs. VUCANOVICH. Mr. Chairman, I would like to speak in favor of H.R. 2703, the Effective Death Penalty and Public Safety Act. In the wake of the tragic bombing in Oklahoma City last April 19, the Congress realized a need to reform the terrorism and death penalty laws currently on the books. We did not rush into action on this bill, and many changes have been made to ensure that the bill would establish tougher statutes to allow Federal law enforcement officials to more effectively prevent and punish acts of domestic terrorism while still respecting the rights of our citizens. The end result is a tough, comprehensive bill of which we should all be proud.

I support the inclusion of the language in the Barr amendment, which goes the extra mile to ensure the protection of Americans' personal rights. The Barr amendment removes the provision calling for a study of the "cop-killer" ammunition. Instead, the amendment provides for a more balanced and appropriate study on law enforcement safety issues. The amendment would also delete the onerous wiretap provisions. I have heard from many Nevadans who were concerned about the potential for government intrusion in their lives.

H.R. 2703 also includes much needed habeas corpus reforms. Delays in death penalty cases of more than a decade are common, making abuse of the habeas corpus system the most significant factor in States' inability to implement credible death penalties. The reforms included in the legislation sets very strict time limits, and includes very strong States' rights provision that lessen the amount of Federal intrusion caused by expansive reviews of State court convictions and sentences, particularly in capital cases.

I hope all of my colleagues can join with me today in supporting the new and improved version of H.R. 2703.

Ms. PELOSI. Mr. Chairman, I rise today in support of the Conyers-Nadler-Berman substitute to H.R. 2703. The substitute is a reasonable and measured attempt to address threats to U.S. citizens posed by terrorism without creating threats to our fundamental constitutional protections.

In this debate, we should stipulate that all of us are concerned about the increase in domestic terrorism and that our thoughts and prayers are with the survivors of the terrible terrorist acts which we have seen perpetrated against U.S. citizens, including the terrorism directed at Federal workers in Oklahoma City. We can and must act against terrorism. At the same time, we must ensure that our actions are effective and within the bounds of the Constitution, which has safeguarded basic American freedoms for over 200 years.

H.R. 2703 poses serious threats to civil liberties and civil rights. I have a number of concerns about H.R. 2703. The bill expands the use of the death penalty and changes the use of habeas corpus petitions, severely restricting avenues of recourse to the judicial system for people sentenced to death. The death penalty is not a punishment which should be taken lightly. Frankly, I do not believe it should be used at all. But since the death penalty is utilized, we must ensure that people sentenced to death have sufficient opportunity to petition for relief if they have not had a fair trial or competent counsel.

The bill also contains changes to asylum law which threaten our 200-year history of providing refuge for people fleeing persecution in their countries of origin. I agree that we need to be able to exclude terrorists from our shores. I do not agree that we should turn away others who come to the United States seeking haven from persecution. That protection is one of the principles upon which this U.S. standing as an international beacon of freedom and hope is built.

The Conyers-Nadler-Berman substitute addresses many of my concerns. This substitute deletes H.R. 2703's restrictions on habeas corpus appeals. It deletes the expedited asylum procedures contained in H.R. 2703. And, it provides for expedited deportation for terrorists without violating constitutional protections.

The Conyers-Nadler-Berman mechanism for expedited deportation of terrorists is in accordance with procedures for dealing with classified information and preserves a fundamental principle of our justice system which grants accused individuals the right to face their accuser and to confront evidence. Regardless of what we think of individuals and the crimes of which they are accused, we are a nation of laws. The Conyers-Nadler-Berman substitute strikes a balance by allowing for the use of sensitive information in the deportation process while also preserving the right of the accused to mount an adequate defense.

And, the Conyers-Nadler-Berman substitute prohibits foreign terrorist groups such as Hamas from fundraising in the United States.

I urge my colleagues to support the Conyers-Nadler-Berman substitute, which increases our ability to stop terrorism while continuing to preserve our precious constitutional protections. We must fight terrorism. If, however, we undermine our civil liberties in that fight, the terrorists win. They succeed not only by sowing terror through their heinous acts, but also by undermining the very system which they claim to be fighting against. The Conyers-Nadler-Berman substitute is the best option before us in this debate and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 294, not voting 8, as follows:

[Roll No. 65]

AYES—129

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dixon
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee
(TX)
Jacobs
Jefferson
Johnson, E.B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stockman
Studds
Stupak
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—294

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)

Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Chapman
Collins (IL)
de la Garza
Durbin
Hall (OH)
Menendez
Moakley
Stokes

□ 1431

Ms. PRYCE, Mr. COBURN, and Mr. DELAY changed their vote from "aye" to "no."

Mr. WILLIAMS changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2703) to combat terrorism, pursuant to House Resolution 380, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 2703 to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 191, not voting 12, as follows:

[Roll No. 66]

AYES—229

Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barton
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Cramer
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Heineman
Hobson
Hoke
Holden
Horn
Houghton
Hunter
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
Lantos
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McKeon
McNulty
Metcalf
Meyers
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stenholm
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (FL)
Zimmer

NOES—191

Abercrombie
Ackerman
Allard
Baker (CA)
Barcia
Barrett (WI)
Bartlett
Bass
Becerra
Beilenson
Bentsen
Berman
Bonilla
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burr
Campbell
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Cooley
Costello
Coyne
Crane
Crapo
Cremeans
Cubin
DeFazio
DeLauro
Dellums
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Funderburk
Furse
Gejdenson
Gephardt
Gillmor
Gonzalez
Goodling
Gordon
Graham
Green
Gutierrez
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hostettler
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
LaHood
LaTourette
Levin
Lewis (GA)
Lewis (KY)
Lofgren
Lowey
Maloney
Manzullo
Markey
Martinez
Matsui
McCarthy
McDermott
McInnis
McIntosh
McKinney
Meehan
Mica
Miller (CA)
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pombo
Poshard
Rahall
Rangel
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Skaggs
Skeen
Slaughter
Smith (WA)
Souder
Stark
Stearns
Stockman
Studds
Stump
Tate
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Young (AK)
Zeliff

NOT VOTING—12

Callahan
Chapman
Collins (IL)
de la Garza
Durbin
Gibbons
Hall (OH)
Meek
Menendez
Moakley
Quillen
Stokes

1453

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Stokes against.

Mr. STUPAK changed his vote from "no" to "aye,"

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CALLAHAN. Mr. Speaker, on rollcall No. 66, I was detained in a meeting in the Rayburn Room and therefore was not present for the vote. Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 735, COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Mr. HYDE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to S. 735, the Clerk be authorized to correct section numbers, cross references and punctuation, and to make such stylistic, clerical, technical, conforming and other changes as may be necessary to reflect the actions of the House in amending the bill, and be instructed to change page 6, line 1, to read: "Where the person knows is a terror."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Ms. JACKSON-LEE of Texas. Mr. Speaker, reserving the right to object, I know the gentleman would have inquired of the minority on this technical change, and we have reviewed it and have no objection to this change.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Mr. HYDE. Mr. Speaker, pursuant to section 3 of House Resolution 380, I call up the Senate bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Terrorism Prevention Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

Sec. 101. Increased penalty for conspiracies involving explosives.
Sec. 102. Acts of terrorism transcending national boundaries.
Sec. 103. Conspiracy to harm people and property overseas.
Sec. 104. Increased penalties for certain terrorism crimes.
Sec. 105. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 106. Penalty for possession of stolen explosives.
Sec. 107. Enhanced penalties for use of explosives or arson crimes.
Sec. 108. Increased periods of limitation for National Firearms Act violations.

TITLE II—COMBATING INTERNATIONAL TERRORISM

Sec. 201. Findings.
Sec. 202. Prohibition on assistance to countries that aid terrorist states.
Sec. 203. Prohibition on assistance to countries that provide military equipment to terrorist states.
Sec. 204. Opposition to assistance by international financial institutions to terrorist states.
Sec. 205. Antiterrorism assistance.
Sec. 206. Jurisdiction for lawsuits against terrorist states.
Sec. 207. Report on support for international terrorists.
Sec. 208. Definition of assistance.
Sec. 209. Waiver authority concerning notice of denial of application for visas.
Sec. 210. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE III—ALIEN REMOVAL

Sec. 301. Alien terrorist removal.
Sec. 302. Extradition of aliens.
Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
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Sec. 910. Authorization of additional appropriations for the United States Park Police.
Sec. 911. Authorization of additional appropriations for the Administrative Office of the United States Courts.
Sec. 912. Authorization of additional appropriations for the United States Customs Service.
Sec. 913. Severability.

TITLE X—VICTIMS OF TERRORISM ACT

Sec. 1001. Title.
Sec. 1002. Authority to provide assistance and compensation to victims of terrorism.
Sec. 1003. Funding of compensation and assistance to victims of terrorism, mass violence, and crime.
Sec. 1004. Crime victims fund amendments.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

SEC. 101. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) REDESIGNATION.—(1) Chapter 113B of title 18, United States Code (relating to torture) is redesignated as chapter 113C.

(2) The chapter analysis of title 18, United States Code, is amended by striking "113B" the second place it appears and inserting "113C".

(b) OFFENSE.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332a the following new section:

"§ 2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, in a circumstance described in subsection (b), commits an act within the United States that if committed within the special maritime and territorial jurisdiction of the United States would be in violation of section 113(a), (1), (2), (3), (6), or (7), 114, 1111, 1112, 1201, or 1363 shall be punished as prescribed in subsection (c).

"(2) Whoever threatens, attempts, or conspires to commit an offense under paragraph (1) shall be punished under subsection (c).

"(b) JURISDICTIONAL BASES.—

"(1) This section applies to conduct described in subsection (a) if—

"(A) the mail, or any facility utilized in interstate commerce, is used in furtherance of the commission of the offense;

"(B) the offense obstructs, delays, or affects interstate or foreign commerce in any way or degree, or would have obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(C) the victim or intended victim is the United States Government or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(D) the structure, conveyance, or other real or personal property was in whole or in part owned, possessed, or used by, or leased to the United States, or any department or agency thereof;

"(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(F) the offense is committed in places within the United States that are in the special maritime and territorial jurisdiction of the United States.

"(2) Jurisdiction shall exist over all principals, coconspirators, and accessories after the fact, of an offense under subsection (a) if at least one of the circumstances described in paragraph (1) is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall, in addition to the punishment provided for any other crime charged in the indictment, be punished—

"(A) if death results to any person, by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with intent to commit murder or any other felony or with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit the offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit the offense, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section.

"(d) LIMITATION ON PROSECUTION.—No indictment for any offense described in this section shall be sought by the United States except after the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, has made a written certification that, in the judgment of the certifying official—

"(1) such offense, or any activity preparatory to its commission, transcended national boundaries; and

"(2) the offense appears to have been intended to coerce, intimidate, or retaliate against a government or a civilian population, including any segment thereof.

"(e) INVESTIGATIVE RESPONSIBILITY.—Violations of this section shall be investigated by the Federal Bureau of Investigation. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056, or with its investigative authority with respect to sections 871 and 879.

"(f) EVIDENCE.—In a prosecution under this section, the United States shall not be required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(g) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over—

"(1) any offense under subsection (a); and

"(2) conduct that, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

"(h) DEFINITIONS.—As used in this section—

"(1) the term 'commerce' has the meaning given such term in section 1951(b)(3);

"(2) the term 'facility utilized in interstate commerce' includes means of transportation, communication, and transmission;

"(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) the term 'serious bodily injury' has the meaning given such term in section 1365(g)(3); and

"(5) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for Chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a, the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(d) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking "any offense" and inserting "any noncapital offense";

(2) by striking "36" and inserting "37";

(3) by striking "2331" and inserting "2332";

(4) by striking "2339" and inserting "2332a"; and

(5) by inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(e) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting "or section 2332b" after "section 924(c)".

(f) EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN

SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended by striking "any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping" and inserting "any structure, conveyance, or other real or personal property".

SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons is located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons is located, to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 18, United States Code, is amended by striking the item relating to section 956 and inserting the following:

"956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country.".

SEC. 104. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking "maim or disfigure" and inserting "torture (as defined in section 2340), maim, or disfigure";

(2) in section 755, by striking "two years" and inserting "five years";

(3) in section 756, by striking "one year" and inserting "five years";

(4) in section 878(a), by striking "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person";

(5) in section 1113, by striking "three years or fined" and inserting "seven years"; and

(6) in section 2332(c), by striking "five" and inserting "ten".

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "one" and inserting "10"; and

(2) in subsection (c), by striking "5" and inserting "15".

SEC. 105. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(n) Whoever knowingly transfers an explosive material, knowing or having reasonable cause to believe that such explosive material will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be imprisoned for not less than 10 years, fined under this title, or both.".

SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLOSIVES.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, pledge, or accept as security for a loan, any stolen explosive material that is moving in, part of, constitutes, or has been shipped or transported in, interstate or foreign commerce, either before or after such material was stolen, knowing or having reasonable cause to believe that the explosive material was stolen.".

SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "five" and inserting "10";

(2) by amending subsection (f) to read as follows:

"(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years. The court may order a fine of not more than the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed.

"(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes personal injury to any person, including any public safety officer performing duties, shall be imprisoned not less than 7 years and not more than 40 years. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.

"(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be imprisoned for a term of years or for life, or sentenced to death. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.".

(4) in subsection (h)—

(A) in the first sentence by striking "5 years but not more than 15 years" and inserting "10 years"; and

(B) in the second sentence by striking "10 years but not more than 25 years" and inserting "20 years"; and

(5) in subsection (i)—

(A) by striking "not more than 20 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 5 years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed";

(B) by striking "not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed," and inserting "not less than 7 years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed"; and

(C) by striking "7 years" and inserting "10 years".

SEC. 108. INCREASED PERIODS OF LIMITATION FOR NATIONAL FIREARMS ACT VIOLATIONS.

Section 6531 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively; and

(2) by amending the matter immediately preceding subparagraph (A), as redesignated, to read as follows: "No person shall be prosecuted, tried, or punished for any criminal offense under the internal revenue laws unless the indictment is found or the information instituted not later than 3 years after the commission of the offense, except that the period of limitation shall be—

"(1) 5 years for offenses described in section 5861 (relating to firearms and other devices); and

"(2) 6 years—.".

TITLE II—COMBATING INTERNATIONAL TERRORISM

SEC. 201. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counterterrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

"SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

"(a) PROHIBITION.—No assistance under this Act shall be provided to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A".

"(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

"(a) PROHIBITION.—

"(1) IN GENERAL.—No assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

"(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.".

SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

"SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(b) DEFINITION.—For purposes of this section, the term 'international financial institution' includes—

"(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

"(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

"(3) any similar institution established after the date of enactment of this section.".

SEC. 205. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended—

(1) in subsection (c), by striking "development and implementation of the antiterrorism assistance program under this chapter, including";

(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year."; and

(3) by striking subsection (f).

(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the period at the end of paragraph (6) and inserting "; or" and

(B) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2) in which money damages are sought against a foreign government for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18, United States Code) for a person carrying out such an act, by a foreign state or by any official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

"(A) the claimant must first afford the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; and

"(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based—

"(i) occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(2) of the Immigration and Nationality Act); and

"(ii) occurred while the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371)."; and

(2) by adding at the end the following new subsection:

"(e) For purposes of paragraph (7)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 350 note);

"(2) the term 'hostage taking' has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 207. REPORT ON SUPPORT FOR INTERNATIONAL TERRORISTS.

Not later than 60 days after the date of enactment of this Act, and annually thereafter in the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that includes—

(1) a detailed assessment of international terrorist groups including their—

(A) size, leadership, and sources of financial and logistical support;

(B) goals, doctrine, and strategy;

(C) nature, scope, and location of human and technical infrastructure;

(D) level of education and training;

(E) bases of operation and recruitment;

(F) operational capabilities; and

(G) linkages with state and non-state actors such as ethnic groups, religious communities, or criminal organizations;

(2) a detailed assessment of any country that provided support of any type for international terrorism, terrorist groups, or individual terrorists, including countries that knowingly allowed terrorist groups or individuals to transit or reside in their territory, regardless of whether terrorist acts were committed on their territory by such individuals;

(3) a detailed assessment of individual country efforts to take effective action against countries named in section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), including the status of compliance with international sanctions and the status of bilateral economic relations; and

(4) United States Government efforts to implement this title.

SEC. 208. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term "assistance" means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term "assistance" does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 209. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by inserting at the end the following paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of excludable aliens, except in cases of intent to immigrate.".

SEC. 210. MEMBERSHIP IN A TERRORIST ORGANIZATION AS A BASIS FOR EXCLUSION FROM THE UNITED STATES UNDER THE IMMIGRATION AND NATIONALITY ACT.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (I);

(B) by inserting "or" at the end of subclause (II); and

(C) by inserting after subclause (II) the following new subclause:

"(III) is a member of a terrorist organization or who actively supports or advocates terrorist activity,"; and

(2) by adding at the end the following new clause:

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term 'terrorist organization' means an organization that engages in, or has engaged in, terrorist activity as designated by the Secretary of State, after consultation with the Secretary of the Treasury.".

TITLE III—ALIEN REMOVAL

SEC. 301. ALIEN TERRORIST REMOVAL.

(a) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"501. Definitions.
"502. Applicability.
"503. Removal of alien terrorists.".

(b) ALIEN TERRORIST REMOVAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

"SEC. 501. DEFINITIONS.

"As used in this title—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in section 503(c); and

"(5) the term 'special removal hearing' means the hearing described in section 503(e).

"SEC. 502. APPLICABILITY.

"(a) IN GENERAL.—The provisions of this title may be followed in the discretion of the Attorney General whenever the Department of Justice has classified information that an alien described in section 241(a)(4)(B) is subject to deportation because of such section.

"(b) PROCEDURES.—Whenever an official of the Department of Justice files, under section 503(a), an application with the court established under section 503(c) for authorization to seek removal pursuant to this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, except as specifically provided.

"SEC. 503. REMOVAL OF ALIEN TERRORISTS.

"(a) APPLICATION FOR USE OF PROCEDURES.—This section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(b) CUSTODY AND RELEASE PENDING HEARING.—(1) The Attorney General may take into custody any alien with respect to whom a certification has been made under subsection (a), and notwithstanding any other provision of law, may retain such alien in custody in accordance with this subsection.

"(2)(A) An alien with respect to whom a certification has been made under subsection (a) shall be given a release hearing before the special court designated pursuant to subsection (c).

"(B) The judge shall grant the alien release, subject to such terms and conditions prescribed by the court (including the posting of any monetary amount), pending the special removal hearing if—

"(i) the alien is lawfully present in the United States;

"(ii) the alien demonstrates that the alien, if released, is not likely to flee; and

"(iii) the alien demonstrates that release of the alien will not endanger national security or the safety of any person or the community.

"(C) The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the special hearing.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate not more than 5 judges from up to 5 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (a), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e) if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified and is an alien as described in section 241(a)(4)(B); and

"(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (5), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a reasonable opportunity to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have a reasonable opportunity to introduce evidence on his own behalf, and except as provided in paragraph (5), shall have a reasonable opportunity to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4)(A) An alien subject to removal under this section shall have no right—

"(i) of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) or otherwise for national security purposes if disclosure would present a risk to the national security; or

"(ii) to seek the suppression of evidence that the alien alleges was unlawfully obtained, except on grounds of credibility or relevance.

"(B) The Government is authorized to use, in the removal proceedings, the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) without regard to subsections 106 (c), (e), (f), (g), and (h) of such Act.

"(C) Section 3504 of title 18, United States Code, shall not apply to procedures under this section if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) The judge shall authorize the introduction in camera and ex parte of any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information. With respect to such evidence, the Attorney General shall submit to the court an unclassified summary of the specific evidence prepared in accordance with paragraph (6).

"(6)(A) The information submitted under paragraph (5)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

"(B) The judge shall approve the summary within 15 days of submission if the judge finds that it is sufficient to inform the alien of the nature of the evidence that such person is an alien as described in section 241(a), and to provide the alien with substantially the same ability to make his defense as would disclosure of the classified information.

"(C) The Attorney General shall cause to be delivered to the alien a copy of the unclassified summary approved under subparagraph (B).

"(D) If the written unclassified summary is not approved by the court pursuant to subparagraph (B), the Department of Justice shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

"(E) If the revised unclassified summary is not approved by the court within 15 days of its submission pursuant to subparagraph (B), the special removal hearing shall be terminated unless the court, within that time, after reviewing the classified information in camera and ex parte, issues written findings that—

"(i) the alien's continued presence in the United States would likely cause—

"(I) serious and irreparable harm to the national security; or

"(II) death or serious bodily injury to any person; and

"(ii) provision of either the classified information or an unclassified summary that meets the standard set forth in subparagraph (B) would likely cause—

"(I) serious and irreparable harm to the national security; or

"(II) death or serious bodily injury to any person; and

"(iii) the unclassified summary prepared by the Justice Department is adequate to allow the alien to prepare a defense.

"(F) If the court issues such findings, the special removal proceeding shall continue, and the Attorney General shall cause to be delivered to the alien within 15 days of the issuance of such findings a copy of the unclassified summary together with a statement that it meets the standard set forth in subparagraph (E)(iii).

"(G)(i) Within 10 days of filing of the appealable order the Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

"(I) any determination made by the judge concerning the requirements set forth in subparagraph (B).

"(II) any determination made by the judge concerning the requirements set forth in subparagraph (E).

"(ii) In an interlocutory appeal taken under this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal, and the matter shall be heard ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible, but no later than 30 days after filing of the appeal.

"(f) DETERMINATION OF DEPORTATION.—The judge shall, considering the evidence on the record as a whole (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because such alien is an alien as described in section 241(a)(4)(B). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and, if the alien was released pending the special removal proceeding, order the Attorney General to take the alien into custody.

"(g) APPEALS.—(1) The alien may appeal a final determination under subsection (f) to the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 30 days after the determination is made. An appeal under this section shall be heard by the Court of Appeals sitting en banc.

"(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 20 days after the determination is made under any one of such subsections.

"(3) If the Department of Justice does not seek review, the alien shall be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(4) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 4(B) of section 241(a), and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

"(5)(A) If the application for the order is denied based on a finding that no probable cause exists to find that adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk of irreparable harm to the national security of the United States, or death or serious bodily injury to any person, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and (c)(1)(B) (i) through (xiv) of title 18, United States Code, that will reasonably ensure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the Community.

"(B) The alien shall remain in custody if the court fails to make a finding under subparagraph (A), until the completion of any appeal authorized by this title. Sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition, shall apply to an alien to whom the previous sentence applies and—

"(i) for purposes of section 3145 of such title, an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

"(ii) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(6) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals or the Supreme Court under seal. The court of appeals or Supreme Court may consider such appeal in camera.".

SEC. 302. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government that indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 303. CHANGES TO THE IMMIGRATION AND NATIONALITY ACT TO FACILITATE REMOVAL OF ALIEN TERRORISTS.

(a) TERRORISM ACTIVITIES.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read as follows:

"(B) TERRORISM ACTIVITIES.—

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorism activity, or

"(II) a consular officer or the Attorney General knows, or has reason to believe, is likely to engage after entry in any terrorism activity (as defined in clause (iii)), is excludable. An alien who is an officer, official, representative, or spokesman of any terrorist organization designated as a terrorist organization by proclamation by the President after finding such organization to be detrimental to the interest of the United States, or any person who directs, counsels, commands, or induces such organization or its members to engage in terrorism activity, shall be considered, for purposes of this Act, to be engaged in terrorism activity.

"(ii) TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'terrorism activity' means any activity that is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State), and that involves any of the following:

"(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

"(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

"(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

"(IV) An assassination.

"(V) The use of any—

"(aa) biological agent, chemical agent, or nuclear weapon or device, or

"(bb) explosive, firearm, or other weapon (other than for mere personal monetary gain),

with intent to endanger, directly, or indirectly, the safety of one or more individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing.

"(iii) ENGAGE IN TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorism activity' means to commit, in an individual capacity or as a member of an organization, an act of terrorism activity, or an act that the actor knows affords material support to any individual, organization, or government that the actor knows plans to commit terrorism activity, including any of the following acts:

"(I) The preparation or planning of terrorism activity.

"(II) The gathering of information on potential targets for terrorism activity.

"(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training.

"(IV) The soliciting of funds or other things of value for terrorism activity or for any terrorist organization.

"(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorism activity.

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this Act, the term 'terrorist organization' means—

"(I) an organization engaged in, or that has a significant subgroup that engages in, terrorism activity, regardless of any legitimate activities conducted by the organization or its subgroups; and

"(II) an organization designated by the Secretary of State under section 2339B of title 18.".

(b) DEPORTABLE ALIENS.—Section 241(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read as follows:

"(B) TERRORISM ACTIVITIES.—Any alien who is engaged, or at any time after entry engages in, any terrorism activity (as defined in section 212(a)(3)(B)) is deportable.".

(c) BURDEN OF PROOF.—Section 291 of the Immigration and Nationality Act (8 U.S.C. 1361) is amended by inserting after "custody of the Service." the following new sentence: "The limited production authorized by this provision shall not extend to the records of any other agency or department of the Government or to any documents that do not pertain to the respondent's entry.".

(d) APPREHENSION AND DEPORTATION OF ALIENS.—Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(3)) is amended by inserting immediately after paragraph (4) the following: "For purposes of paragraph (3), in the case of an alien who is not lawfully admitted for permanent residence and notwithstanding the provisions of any other law, reasonable opportunity shall not include access to classified information, whether or not introduced in evidence against the alien, except that any proceeding conducted under this section which involves the use of classified evidence shall be conducted in accordance with the procedures of section 501. Section 3504 of title 18, United States Code, and 18 U.S.C. 3504 and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall not apply in such cases.".

(e) CRIMINAL ALIEN REMOVAL.—

(1) JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

"(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.".

(2) FINAL ORDER OF DEPORTATION DEFINED.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

"(B) The order described under subparagraph (A) shall become final upon the earlier of—

"(i) a determination by the Board of Immigration Appeals affirming such order; or

"(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.".

(3) ARREST AND CUSTODY.—Section 242(a)(2) of such Act is amended—

(A) in subparagraph (A)—

(i) by striking "(2)(A) The Attorney" and inserting "(2) The Attorney";

(ii) by striking "an aggravated felony upon" and all that follows through "of the same offense)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible"; and

(iii) by striking "but subject to subparagraph (B)"; and

(B) by striking subparagraph (B).

(4) CLASSES OF EXCLUDABLE ALIENS.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(A) by striking "The first sentence of this" and inserting "This"; and

(B) by striking "has been convicted of one or more aggravated felonies" and all that follows through the end and inserting "is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(5) AGGRAVATED FELONY DEFINED.—Section 101(a)(43) of such Act is amended—

(A) in subparagraph (F)—

(i) by inserting ", including forcible rape," after "offense)"; and

(ii) by striking "5 years" and inserting "1 year"; and

(B) in subparagraph (G) by striking "5 years" and inserting "1 year".

(6) DEPORTATION OF CRIMINAL ALIENS.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(A) in paragraph (1)—

(i) by striking "aggravated felonies (as defined in section 101(a)(43) of this title)" and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)."; and

(ii) by striking ", where warranted,";

(B) in paragraph (2), by striking "aggravated felony" and all that follows through "before any scheduled hearings." and inserting "any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).".

(7) DEADLINES FOR DEPORTING ALIEN.—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(A) by striking "(c) When a final order" and inserting "(c)(1) Subject to paragraph (2), when a final order"; and

(B) by inserting at the end the following new paragraph:

"(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to cases pending before, on, or after such date of enactment.

SEC. 304. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except the Attorney General"; and

(2) by inserting after "Title 13" the following: "and (ii) may authorize an application

to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.".

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6) of this subsection" after "consent of the alien"; and

(2) in paragraph (6), by inserting the following sentence before "Anyone who uses": "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.".

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339B. Fundraising for terrorist organizations

"(a) FINDINGS AND PURPOSE.—

"(1) The Congress finds that—

"(A) terrorism is a serious and deadly problem which threatens the interests of the United States overseas and within our territory;

"(B) the Nation's security interests are gravely affected by the terrorist attacks carried out overseas against United States Government facilities and officials, and against American citizens present in foreign countries;

"(C) United States foreign policy and economic interests are profoundly affected by terrorist acts overseas directed against foreign governments and their people;

"(D) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

"(E) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States or use the United States as a conduit for the receipt of funds raised in other nations; and

"(F) the provision of funds to organizations that engage in terrorism serves to facilitate their terrorist endeavors, regardless of whether the funds, in whole or in part, are intended or claimed to be used for nonviolent purposes.

"(2) The purpose of this section is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States or subject to the jurisdiction of the United States from providing funds, directly or indirectly, to foreign organizations, including subordinate or affiliated persons, that engage in terrorism activities.

"(b) DESIGNATION.—

"(1) The Secretary of State, after consultation with the Secretary of the Treasury, is authorized to designate under this section any foreign organization based on finding that—

"(A) the organization engages in terrorism activity as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); and

"(B) the organization's terrorism activities threaten the security of United States citizens, national security, foreign policy, or the economy of the United States.

"(2) Not later than 7 days after making a designation under paragraph (1), the Secretary of State shall prepare and transmit to Congress a report containing a list of the designated organizations and a summary of the facts underlying the designation. The designation shall take effect 30 days after the receipt of actual notice under subsection (b)(6), unless otherwise provided by law.

"(3) A designation or redesignation under this subsection shall be in effect for 1 year following its effective date, unless revoked under paragraph (4).

"(4)(A) If the Secretary of State, after consultation with the Secretary of the Treasury, finds that the conditions that were the basis for any designation issued under this subsection have changed in such a manner as to warrant revocation of such designation, or that the national security, foreign relations, or economic interests of the United States so warrant, the Secretary of State may revoke such designation in whole or in part.

"(B) Not later than 7 calendar days after the Secretary of State finds that an organization no longer engages in, or supports, terrorism activity, the Secretary of State shall prepare and transmit to Congress a supplemental report stating the reasons for the finding.

"(5) Any designation, or revocation of a designation, issued under this subsection shall be published in the Federal Register not later than 7 calendar days after the Secretary of State makes the designation.

"(6) Not later than 7 calendar days after making a designation under this subsection, the Secretary of State shall give the organization actual notice of—

"(A) the designation;

"(B) the consequences of the designation for the organization's ability to raise funds in the United States; and

"(C) the availability of judicial review.

"(7) Any revocation or lapsing of a designation shall not affect any action or proceeding based on any conduct committed prior to the effective date of such revocation or lapsing.

"(8) Classified information may be used in making a designation under this subsection. Such information shall not be disclosed to the public or to any party, but may be disclosed to a court ex parte and in camera.

"(9) No question concerning the validity of the issuance of a designation issued under this subsection may be raised by a defendant in a criminal prosecution as a defense in or as an objection to any trial or hearing if such designation was issued and published in the Federal Register.

"(c) JUDICIAL REVIEW.—

"(1) Organizations designated by the Secretary of State as engaging in, or supporting, terrorism activities under this section may seek review of the designation in the District Court for the District of Columbia not later than 30 days after receipt of actual notice under subsection (b)(6).

"(2) In reviewing a designation under this subsection, the court shall receive relevant oral or documentary evidence, unless the court finds that the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence, or unless its introduction or consideration is prohibited by a common law privilege or by the Constitution or laws of the United States. A party shall be entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

"(3) The judge shall authorize the introduction in camera and ex parte of any item of evidence containing classified information for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States. With respect to such evidence, the Attorney General shall submit to the court either—

"(A) a statement identifying relevant facts that the specific evidence would tend to prove; or

"(B) an unclassified summary of the specific evidence prepared in accordance with paragraph (5).

"(4)(A)(i) The Secretary of State shall have the burden of demonstrating that there are specific and articulable facts giving reason to believe that the organization engages in or supports terrorism activity (as that term is defined in section 212(a)(3)(B)).

"(ii) The organization shall have the burden of proving that its purpose is to engage in religious, charitable, literary, educational, or nonterrorism activities and that it engages in such activities.

"(iii) The Secretary shall have the burden of proving that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities.

"(iv) If any portion of the Secretary's evidence consists of classified information that cannot be revealed to the organization for national security reasons, the Secretary must prove these elements by clear and convincing evidence.

"(B) If the court finds, under the standards stated in subparagraph (A) that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities, the court shall affirm the designation of the Secretary.

"(C)(i) If the court finds by a preponderance of the evidence that the organization or its resources have been used for terrorism activities without the knowledge of the control group, but that the control group is now aware of these facts, the court may condition revocation of the designation on the control group's undertaking or completing all steps within its power to prevent the organization or its resources from being used for terrorism activities. Such steps may include—

"(I) maintaining financial records adequate to document the use of the organization's resources; and

"(II) making records available to the Secretary for inspection.

"(ii) If a designation is revoked under subsection (B)(4) and the organization fails to comply with any condition imposed, the designation may be reinstated by the Secretary of State upon a showing that the organization failed to comply with the condition.

"(5)(A) The information submitted under paragraph (3)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

"(B) The judge shall approve the unclassified summary if the judge finds that the summary is sufficient to inform the organization of the activities described in section 212(a)(3)(B) in which the organization is alleged to engage, and to permit the organization to defend against the designation.

"(C) The Attorney General shall cause to be delivered to the organization a copy of the unclassified summary approved under subparagraph (B).

"(6) The court shall decide the case on the basis of the evidence on the record as a whole, in camera or otherwise.

"(d) PROHIBITED ACTIVITIES.—It shall be unlawful for any person within the United States, or any person subject to the jurisdiction of the United States anywhere, to directly or indirectly, raise, receive, or collect on behalf of, or furnish, give, transmit, transfer, or provide funds to or for an organization or person designated by the Secretary of State under subsection (b), or to attempt to do any of the foregoing.

"(e) SPECIAL REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—

"(1) Except as authorized by the Secretary of State, after consultation with the Secretary of the Treasury, by means of directives, regulations, or licenses, any financial institution that becomes aware that it has possession of or control over any funds in which an organization or person designated under subsection (b) has an interest, shall—

"(A) retain possession of or maintain control over such funds; and

"(B) report to the Secretary the existence of such funds in accordance with the regulations prescribed by the Secretary.

"(2) Any financial institution that knowingly fails to report to the Secretary the existence of such funds shall be subject to a civil penalty of $250 per day for each day that it fails to report to the Secretary—

"(A) in the case of funds being possessed or controlled at the time of the designation of the organization or person, within 10 days after the designation; and

"(B) in the case of funds whose possession of or control over arose after the designation of the organization or person, within 10 days after the financial institution obtained possession of or control over the funds.

"(f) INVESTIGATIONS.—Any investigation emanating from a possible violation of this section shall be conducted by the Attorney General, except that investigations relating to—

"(1) a financial institution's compliance with the requirements of subsection (e); and

"(2) civil penalty proceedings authorized pursuant to subsection (g)(2),

shall be conducted in coordination with the Attorney General by the office within the Department of the Treasury responsible for civil penalty proceedings authorized by this section. Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

"(g) PENALTIES.—

"(1) Any person who, with knowledge that the donee is a designated entity, violates subsection (d) shall be fined under this title, or imprisoned for up to ten years, or both.

"(2) Any financial institution that knowingly fails to comply with subsection (e), or by regulations promulgated thereunder, shall be subject to a civil penalty of $50,000 per violation, or twice the amount of money of which the financial institution was required to retain possession or control, whichever is greater.

"(h) INJUNCTION.—

"(1) Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act which constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

"(2) A proceeding under this subsection is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

"(i) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(j) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

"(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—A court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure, to substitute an unclassified summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court shall permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal. If the court enters an order denying relief to the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with the provisions of paragraph (3). For purposes of such an appeal, the entire text of the underlying written statement of the United States, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

"(A) EXHIBITS.—The United States, to prevent unnecessary or inadvertent disclosure of classified information in a civil trial or other proceeding brought by the United States under this section, may petition the court ex parte to admit, in lieu of classified writings, recordings or photographs, one or more of the following:

"(i) copies of those items from which classified information has been deleted;

"(ii) stipulations admitting relevant facts that specific classified information would tend to prove; or

"(iii) an unclassified summary of the specific classified information.

The court shall grant such a motion of the United States if the court finds that the redacted item, stipulation, or unclassified summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

"(B) TAKING OF TRIAL TESTIMONY.—During the examination of a witness in any civil proceeding brought by the United States under this section, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take suitable action to determine whether the response is admissible and, in doing so, shall take precautions to guard against the compromise of any classified information. Such action may include permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry, and requiring the defendant to provide the court with a proffer of the nature of the information the defendant seeks to elicit.

"(C) APPEAL.—If the court enters an order denying relief to the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (3).

"(3) INTERLOCUTORY APPEAL.—

"(A) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

"(i) authorizing the disclosure of classified information;

"(ii) imposing sanctions for nondisclosure of classified information; or

"(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

"(B) An appeal taken pursuant to this paragraph either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved. The court of appeals—

"(i) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

"(ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

"(iii) shall render its decision not later than 4 days after argument on appeal; and

"(iv) may dispense with the issuance of a written opinion in rendering its decision.

"(C) An interlocutory appeal and decision under this paragraph shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error, reversal by the trial court on remand of a ruling appealed from during trial.

"(4) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

"(k) DEFINITIONS.—As used in this section—

"(1) the term 'classified information' means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph (r) of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y));

"(2)(A) the term 'control group' means the officers or agents charged with directing the affairs of the organization;

"(B) if a single officer or agent is authorized to conduct the affairs of the organization, the knowledge of the officer or agent that the organization or its resources are being used for terrorism activities shall constitute knowledge of the control group;

"(C) if a single officer or agent is a member of a group empowered to conduct the affairs of the organization but cannot conduct the affairs of the organization on his or her own authority, that person's knowledge shall not constitute knowledge by the control group unless that person's knowledge is shared by a sufficient number of members of the group so that the group with knowledge has the authority to conduct the affairs of the organization;

"(3) the term 'financial institution' has the meaning prescribed in section 5312(a)(2) of title 31, United States Code, including any regulations promulgated thereunder;

"(4) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

"(5) the term 'national security' means the national defense and foreign relations of the United States;

"(6) the term 'person' includes an individual, partnership, association, group, corporation, or other organization;

"(7) the term 'Secretary' means the Secretary of the Treasury; and

"(8) the term 'United States', when used in a geographical sense, includes all commonwealths, territories, and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Fundraising for terrorist organizations.".

(c) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS.—Section 2339B(k) of title 18, United States Code (relating to classified information in civil proceedings brought by the United States), shall also be applicable to civil proceedings brought by the United States under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2332a of this title or section 46502 of title 49, or in preparation for or carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.".

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

SEC. 501. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

"SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation, or the Director's designee, certifies in writing to the court or magistrate judge that—

"(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer—

"(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) IDENTIFYING INFORMATION.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director or the Director's designee, certifies in writing that—

"(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or an authorized designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(i) is an agent of a foreign power; and

"(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

"(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

"(1) to the Department of Justice, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

"(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

"(l) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

"624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes.".

SEC. 502. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES, AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES.

Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 122—ACCESS TO CERTAIN RECORDS

"§ 2720. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in counterintelligence and counterterrorism cases

"(a)(1) A court or magistrate judge may issue an order ex parte directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation or the Director's designee (whose rank shall be no lower than Assistant Special Agent in Charge) certifies in writing that—

"(A) such records are sought for foreign counterintelligence purposes; and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801).

"(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

"(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section.

"(c) As used in this chapter—

"(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate carrier for the delivery of packages and other objects;

"(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

"(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

"(4) the term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.".

SEC. 503. INCREASE IN MAXIMUM REWARDS FOR INFORMATION CONCERNING INTERNATIONAL TERRORISM.

(a) TERRORISM ABROAD.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) in subsection (c), by striking "$2,000,000" and inserting "$10,000,000"; and

(2) in subsection (g), by striking "$5,000,000" and inserting "$10,000,000.

(b) DOMESTIC TERRORISM.—Title 18, United States Code, is amended—

(1) in section 3072, by striking "$500,000" and inserting "$10,000,000"; and

(2) in section 3075, by striking "$5,000,000" and inserting "$10,000,000".

(c) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

"§ 3059B. General reward authority

"(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

"(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

"(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.".

Subtitle B—Intelligence and Investigation Enhancements

SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters; and

(3) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

SEC. 512. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),"; and

(B) by inserting after "section 175 (relating to biological weapons)," the following: "or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),";

(2) by striking "and" at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

"(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

"(q) any violation of section 46502 of title 49, United States Code; and".

SEC. 513. REQUIREMENT TO PRESERVE EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

Subtitle C—Additional Funding for Law Enforcement

SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSISTANCE TO COMBAT TERRORISM.

(a) IN GENERAL.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) develop digital telephony technology;

(2) support and enhance the technical support center and tactical operations;

(3) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with terrorism cases;

(4) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation academy;

(5) construct an FBI laboratory, provide laboratory examination support, and provide for a Command Center;

(6) make funds available to the chief executive officer of each State to carry out the activities described in subsection (d); and

(7) enhance personnel to support counterterrorism activities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(1) $300,000,000 for fiscal year 1996;

(2) $225,000,000 for fiscal year 1997;

(3) $328,000,000 for fiscal year 1998;

(4) $190,000,000 for fiscal year 1999; and

(5) $183,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds made available pursuant to subsection (b), in any fiscal year, shall remain available until expended.

(d) STATE GRANTS.—

(1) IN GENERAL.—Any funds made available for purposes of subsection (a)(6) may be expended—

(A) by the Director of the Federal Bureau of Investigation to expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia; and

(B) by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation to make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) GRANT PROGRAM.—

(A) USE OF FUNDS.—The executive officer of each State shall use any funds made available under paragraph (1)(B) in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(i) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(ii) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(iii) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(iv) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(B) ELIGIBILITY.—To be eligible to receive funds under this paragraph, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(C) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(D) ALLOCATION.—(i) Of the total amount appropriated pursuant to this section in a fiscal year—

(I) $500,000 or 0.25 percent, whichever is greater, shall be allocated to each of the participating States; and

(II) of the total funds remaining after the allocation under subclause (I), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(ii) DEFINITION.—For purposes of this subparagraph, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 522. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) $6,000,000 for fiscal year 1996;

(2) $6,000,000 for fiscal year 1997;

(3) $6,000,000 for fiscal year 1998;

(4) $5,000,000 for fiscal year 1999; and

(5) $5,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service $5,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) fund antiviolence crime initiatives;

(2) fund major violators' initiatives; and

(3) enhance or replace infrastructure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

(1) $60,000,000 for fiscal year 1996;

(2) $70,000,000 for fiscal year 1997;

(3) $80,000,000 for fiscal year 1998;

(4) $90,000,000 for fiscal year 1999; and

(5) $100,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 525. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General shall—

(1) hire additional Assistant United States Attorneys, and

(2) provide for increased security at courthouses and other facilities housing Federal workers.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Department of Justice, to hire additional Assistant United States Attorneys and personnel for the Criminal Division of the Department of Justice and provide increased security to meet the needs resulting from this Act $20,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 526. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco and Firearms, to augment counterterrorism efforts—

(1) $20,000,000 for fiscal year 1996;

(2) $20,000,000 for fiscal year 1997;

(3) $20,000,000 for fiscal year 1998;

(4) $20,000,000 for fiscal year 1999; and

(5) $20,000,000 for fiscal year 2000.

(b) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $62,000,000 for fiscal year 1996;

(2) $25,000,000 for fiscal year 1997;

(3) $25,000,000 for fiscal year 1998;

(4) $25,000,000 for fiscal year 1999; and

(5) $25,000,000 for fiscal year 2000.

SEC. 527. FUNDING SOURCE.

Notwithstanding any other provision of law, funding for authorizations provided in this subtitle may be paid for out of the Violent Crime Reduction Trust Fund.

SEC. 528. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

The United States Sentencing Commission shall review existing guideline levels as they apply to sections 1030(a)(4) and 1030(a)(5) of title 18, United States Code, and report to Congress on their findings as to their deterrent effect within 60 calendar days. Furthermore, the Commission shall promulgate guideline amendments that will ensure that individuals convicted under sections 1030(a)(4) and 1030(a)(5) of title 18, United States Code, are incarcerated for not less than 6 months.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

SEC. 601. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 602. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 603. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 604. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 605. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme

Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 606. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 607. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§ 2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261.".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 608. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

Subtitle B—Criminal Procedural Improvements

SEC. 621. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) by amending paragraph (2) to read as follows:

"(2) The courts of the United States have jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking "(b) Whoever" and inserting "(b)(1) Whoever";

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking ", if the offender is later found in the United States,"; and

(4) by adding at the end the following new paragraphs:

"(2) The courts of the United States have jurisdiction over an offense described in this subsection if—

"(A) a national of the United States was on board, or would have been on board, the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States.

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(c) MURDER OR MANSLAUGHTER OF INTERNATIONALLY PROTECTED PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ", except that";

(2) in subsection (b), by adding at the end the following new paragraph:

"(7) 'National of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(3) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF INTERNATIONALLY PROTECTED PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "national of the United States," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AGAINST INTERNATIONALLY PROTECTED PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "national of the United States," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended to read as follows:

"(2) the prohibited activity takes place outside the United States, and—

"(A) the offender is later found in the United States; or

"(B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).".

(h) NATIONAL OF THE UNITED STATES DEFINED.—Section 178 of title 18, United States Code, is amended—

(1) by striking the "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 622. EXPANSION OF TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of criminal jurisdiction is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) in subsection (a), by inserting after "title," the following: "or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district"; and

(2) by adding at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Commonwealth, territory, possession, or district it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 623. EXPANSION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "threatens," before "attempts";

(B) in paragraph (2), by striking "; or" and inserting the following: "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce if such use had occurred;";

(C) by redesignating paragraph (3) as paragraph (4);

(D) by inserting after paragraph (2) the following:

"(3) against a victim, or intended victim, that is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or any department or agency, of the United States; and"; and

(E) in paragraph (4), as redesignated, by inserting before the comma at the end the following: ", or is within the United States and is used in any activity affecting interstate or foreign commerce".

(2) by redesignating subsection (b) as subsection (c);

(3) by adding immediately after subsection (a) the following new subsection:

"(b) Use Outside United States.—Any national of the United States who outside of the United States uses, threatens, attempts, or conspires to use, a weapon of mass destruction, shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisonment for any term of years or for life. The preceding sentence does not apply to a person performing an act that, as performed, is within the scope of the person's official duties as an officer or employee of the United States or as a member of the Armed Forces of the United States, or to a person employed by a contractor of the United States for performing an act that, as performed, is authorized under the contract."; and

(4) by amending subsection (c)(2)(B), as redesignated by paragraph (3), by striking "poison gas" and inserting "any poisonous chemical agent or substance, regardless of form or delivery system, designed for causing widespread death or injury;".

SEC. 624. ADDITION OF TERRORISM OFFENSES TO THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by inserting after "Section" the following: "32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section";

(B) by inserting after "section 224 (relating to sports bribery)," the following: "section 351 (relating to congressional or Cabinet officer assassination),";

(C) by inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),";

(D) by inserting after "sections 891–894 (relating to extortionate credit transactions)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(E) by inserting after "section 1084 (relating to the transmission of gambling information)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),";

(F) by inserting after "section 1344 (relating to financial institution fraud)," the following: "section 1361 (relating to willful injury of government property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)," the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(I) by inserting after "2321 (relating to trafficking in certain motor vehicles or motor vehicle parts)," the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists),";

(2) by striking "or" before "(E)"; and

(3) by inserting before the semicolon at the end the following: ", or (F) section 46502 of title 49, United States Code".

SEC. 625. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;"; and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(B) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to congressional or Cabinet officer assassination),";

(C) by inserting after "section 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(D) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(E) by inserting after "section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(F) by inserting after "section 1203 (relating to hostage taking)" the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1708 (relating to theft from the mail)" the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(I) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,".

SEC. 626. PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) Amendment To Include Assaults, Murders, and Threats Against Families of Federal Officials.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

(b) Murder or Attempts To Murder Current or Former Federal Officers or Employees.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill a current or former officer or employee of the United States or its instrumentalities, or an immediate family member of such officer or employee, or any person assisting such an officer or employee in the performance of official duties, during or on account of the performance of such duties or the provision of such assistance, shall be punished—

"(1) in the case of murder, as provided under section 1111;

"(2) in the case of manslaughter, as provided under section 1112; and

"(3) in the case of attempted murder or manslaughter as provided in section 1113, not more than 20 years.".

(c) Amendment To Clarify the Meaning of the Term Deadly or Dangerous Weapon in the Prohibition on Assault on Federal Officers or Employees.—Section 111(b) of title 18, United States Code, is amended by inserting after "deadly or dangerous weapon" the following: "(including a weapon intended to cause death or danger but that fails to do so by reason of a defective or missing component)".

SEC. 627. ADDITION OF CONSPIRACY TO TERRORISM OFFENSES.

(a) Destruction of Aircraft or Aircraft Facilities.—(1) Section 32(a)(7) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(2) Section 32(b)(D) of title 18, United States Code, as redesignated by section 721(b)(2), is amended by inserting "or conspires" after "attempts".

(b) Violence at International Airports.—Section 37(a) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(c) Influencing, Impeding, or Retaliating Against a Federal Official by Threatening or Injuring a Family Member.—(1) Section 115(a)(1)(A) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(2) Section 115(a)(2) of title 18, United States Code, as amended by section 729, is further amended by inserting "or conspires" after "attempts".

(3) Section 115(b)(2) of title 18, United States Code, is amended by striking both times it appears "or attempted kidnapping" and inserting both times ", attempted kidnapping or conspiracy to kidnap".

(4)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is further amended by striking "and 1113" and inserting ", 1113, and 1117".

(d) Prohibitions With Respect to Biological Weapons.—Section 175(a) of title 18, United States Code, is amended by inserting ", or conspires to do so," after "any organization to do so,".

(e) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(f) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1)(H) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(g) VIOLENCE AGAINST MARITIME FIXED PLATFORMS.—Section 2281(a)(1)(F) of title 18, United States Code, is amended by inserting "or conspires" after "attempts".

(h) AIRCRAFT PIRACY.—Section 46502 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by inserting ", conspiring," after "committing" and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or conspiring to commit" after "committing";

(B) in paragraph (2), by inserting "conspired or" after "has placed,"; and

(C) in paragraph (3), by inserting "conspired or" after "has placed,".

(i) CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.—Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 628. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended—

(1) by striking "(e) Whoever" and inserting "(e)(1) Whoever"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made to violate subsection (f) or (i) of this section or section 81 of this title shall be fined under this title, imprisoned for not more than 5 years, or both.".

TITLE VII—MARKING OF PLASTIC EXPLOSIVES

SEC. 701. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan Am flight 103 in December 1988 and UTA flight 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 702. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 703. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding after subsection (k) the following new subsections:

"(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

"(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

"(2) This subsection does not apply to—

"(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of the Comprehensive Terrorism Prevention Act of 1995 by any person during a period not exceeding 3 years after the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995; or

"(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995, to fail to report to the Secretary within 120 days after such effective date the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 704. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 705. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in paragraph (1), by inserting before the semicolon ", and which pertain to safety"; and

(3) by adding at the end the following new subsection:

"(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive that, within 3 years after the date of enactment of the Comprehensive Terrorism Prevention Act of 1995, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

"(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 706. INVESTIGATIVE AUTHORITY.

Section 846 of title 18, United States Code, is amended—

(1) in the last sentence, by inserting in the last sentence before "subsection" the phrase "subsection (m) or (n) of section 842 or;", and

(2) by adding at the end the following: "The Attorney General shall exercise authority over violations of subsection (m) or (n) of section 842 only when they are committed by a member of a terrorist or revolutionary group. In any matter involving a terrorist or revolutionary group or individual, as determined by the Attorney General, the Attorney General shall have primary investigative responsibility and the Secretary shall assist the Attorney General as requested.".

SEC. 707. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

SEC. 708. STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES.

(a) The Secretary of the Treasury shall conduct a study and make recommendations concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost-effective to require it.

In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within twelve months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a) such sums as may be necessary.

(c) Section 842, of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

"(l)(1) It shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a tracer element as prescribed by the Secretary pursuant to regulation, knowing or having reasonable cause to believe that the explosive material does not contain the required tracer element.

"(2) For purposes of this subsection, explosive material does not include smokeless or black powder manufactured for uses set forth in section 845(a) (4) and (5) of this chapter.".

(d) Section 844, of title 18, United States Code, is amended by inserting after "(a) through (i)" the phrase "and (l)".

(e) Section 846, of title 18, United States Code, is amended by designating the present section as "(a)" and by adding a new subsection (b) reading as follows:

"(b) to facilitate the enforcement of this chapter the Secretary shall, within 6 months after submission of the study required by subsection (a), promulgate regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States. Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially impair the quality of the explosive materials for their intended lawful use, adversely affect the safety of these explosives, or have a substantially adverse effect on the environment.".

(f) The penalties provided herein shall not take effect until ninety days after the date of promulgation of the regulations provided for herein.

TITLE VIII—NUCLEAR MATERIALS

SEC. 801. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the illicit trafficking in the relatively more common, commercially available and usable nuclear and byproduct materials poses a potential to cause significant loss of life and environmental damage;

(7) reported trafficking incidents in the early 1990's suggest that the individuals involved in trafficking these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage such business ventures, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies the necessary tools and fullest possible basis allowed under the Constitution to combat the threat of nuclear contamination and proliferation that may result from illegal possession and use of radioactive materials.

SEC. 802. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting "or the environment" after "property"; and

(ii) by amending subparagraph (B) to read as follows:

"(B)(i) circumstances exist that are likely to cause the death or serious bodily injury to any person or substantial damage to property or the environment, or such circumstances have been represented to the defendant to exist;"; and

(C) in paragraph (6), by inserting "or the environment" after "property";

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(B) in paragraph (3)—

(i) by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and"; and

(ii) by striking "or" at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material"; and

(ii) by striking the period at the end of the paragraph and inserting "; or"; and

(D) by adding at the end the following new paragraph:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States."; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238"; and

(ii) in subparagraph (C), by striking "(C) uranium" and inserting "(C) enriched uranium, defined as uranium";

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(D) by striking "and" at the end of paragraph (4), as redesignated;

(E) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

"(6) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.".

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.

(a) Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(l) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.".

(b) Section 844 of title 18, United States Code, is amended by designating subsection (a) as subsection (a)(1) and by adding the following new subsection:

"(a)(2) Any person who violates subsection (l) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.".

SEC. 902. DESIGNATION OF CARTNEY KOCH MCRAVEN CHILD DEVELOPMENT CENTER.

(a) DESIGNATION.—

(1) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known and designated as the "Cartney Koch McRaven Child Development Center".

(2) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built at the location described in paragraph (1) to replace the building described in the paragraph, the new Federal building shall be known and designated as the "Cartney Koch McRaven Child Development Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in subsection (a) shall be deemed to be a reference to the "Cartney Koch McRaven Child Development Center".

SEC. 903. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

"§ 44906. Foreign air carrier security programs

"The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall only approve a security program of a foreign air carrier under section 129.25, or any successor regulation, if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection identical to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.".

SEC. 904. PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

SEC. 905. COOPERATION OF FERTILIZER RESEARCH CENTERS.

In conducting any portion of the study relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers and include their opinions and findings in the report required under subsection (c).

SEC. 906. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(B) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 907. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

"Sec. 40A. Transactions with Countries Not Fully Cooperating with United States Antiterrorism Efforts.

"(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act to a foreign country in a fiscal year unless the President determines and certifies to Congress at the beginning of that fiscal year, or at any other time in that fiscal year before such sale or license, that the country is cooperating fully with United States antiterrorism efforts.

"(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.".

SEC. 908. AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.".

(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The chapter 113B of title 18, United

States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

"§ 2332b. Use of chemical weapons

"(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

"(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemical weapons of mass destruction exists; and

"(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which—

"(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

"(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

"(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

"(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

"(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

"(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

"(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.".

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President shall submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States;

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

"2332b. Use of chemical weapons.".

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting "without lawful authority" after "A person who".

SEC. 909. REVISION TO EXISTING AUTHORITY FOR MULTIPOINT WIRETAPS.

(a) Section 2518(11)(b)(ii) of title 18 is amended: by deleting "of a purpose, on the part of that person, to thwart interception by changing facilities." and inserting "that the person had the intent to thwart interception or that the person's actions and conduct would have the effect of thwarting interception from a specified facility.".

(b) Section 2518(11)(b)(iii) is amended to read:

"(iii) the judge finds that such showing has been adequately made.".

SEC. 910. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $1,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 911. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the Administrative Office of the United States Courts, to help meet the increased needs of the Administrative Office of the United States Courts, $4,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 912. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service, $10,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 913. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE X—VICTIMS OF TERRORISM ACT

SEC. 1001. TITLE.

This title may be cited as the "Victims of Terrorism Act of 1995".

SEC. 1002. AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.

The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants to States to provide compensation and assistance to the residents of such States who, while outside the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF DOMESTIC TERRORISM.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief.".

SEC. 1003. FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.

Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

"(B) The emergency reserve may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.".

SEC. 1004. CRIME VICTIMS FUND AMENDMENTS.

(a) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (c), by striking "subsection" and inserting "chapter"; and

(2) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be returned to the Fund.".

(b) BASE AMOUNT.—Section 1404(a)(5) of such Act (42 U.S.C. 10603(a)(5)) is amended to read as follows:

"(5) As used in this subsection, the term 'base amount' means—

"(A) except as provided in subparagraph (B), $500,000; and

"(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and Palau, $200,000.".

MOTION OFFERED BY MR. HYDE

Mr. HYDE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HYDE moves to strike all after the enacting clause of the Senate bill, S. 735, and insert in lieu thereof the provisions of H.R. 2703 as passed by the House, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Effective Death Penalty and Public Safety Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study and recommendations for assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.
Sec. 207. Amendment of sentencing guidelines to provide for enhanced penalties for a defendant who commits a crime while in possession of a firearm with a laser sighting device.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Exclusion of certain types of information from wiretap-related definitions.
Sec. 303. Requirement to preserve record evidence.
Sec. 304. Detention hearing.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Denial of asylum to alien terrorists.
Sec. 612. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Miscellaneous provisions.
Sec. 671. Construction of expedited deportation requirements.
Sec. 672. Study of prisoner transfer treaty with Mexico.
Sec. 673. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 674. Prisoner transfer treaties.
Sec. 675. Interior repatriation program.
Sec. 676. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 677. Authorizing state and local law enforcement officials to arrest and detain certain illegal aliens.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.
Sec. 704. Sense of Congress.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.

Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist states.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.
Sec. 807. Overseas law enforcement training activities.
Sec. 808. Closed circuit televised court proceedings for victims of crime.
Sec. 809. Authorization of appropriations.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.
Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE X—INTERNATIONAL COUNTERFEITING

Sec. 1001. Short title.
Sec. 1002. Audits of international counterfeiting of United States currency.
Sec. 1003. Law enforcement and sentencing provisions relating to international counterfeiting of United States currency.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

Sec. 1101. Short title.
Sec. 1102. Attempts to acquire under false pretenses.
Sec. 1103. Inclusion of recombinant molecules.
Sec. 1104. Definitions.
Sec. 1105. Threatening use of certain weapons.
Sec. 1106. Inclusions of recombinant molecules and biological organisms in definition.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

Sec. 1201. Establishment.
Sec. 1202. Duties.
Sec. 1203. Membership and administrative provisions.
Sec. 1204. Staffing and support functions.
Sec. 1205. Powers.
Sec. 1206. Report.
Sec. 1207. Termination.

TITLE XIII—REPRESENTATION FEES

Sec. 1301. Representation fees in criminal cases.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

Sec. 1401. Death penalty aggravating factor.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

Sec. 1501. Financial transactions with terrorists.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

"(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

"(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

"(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

"(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

"(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall be punished—

"(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any

person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

"(e) PROOF REQUIREMENTS.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

"(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

"(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking "In addition to any other" and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United

States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) Threats and Extortion Against Foreign Officials and Certain Other Persons.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) Kidnapping of Internationally Protected Persons.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) Violence at International Airports.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) Biological Weapons.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "Against a National or Within the United States" after "Offense";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) Offense by National Outside the United States.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) Murder and Destruction of Property.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) Specific Offenses.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under 18, §921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests and bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local

officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.".

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by striking "imprisoned not more than 10 years, fined in accordance with this title, or both." and inserting "subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.".

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 207. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosive materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 302. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF "ELECTRONIC COMMUNICATION".—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

(b) DEFINITION OF "READILY ACCESSIBLE TO THE GENERAL PUBLIC".—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 303. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 304. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or

leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 612. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is *amended by adding at the end the following new subsection:*

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except that the Attorney General", and

(2) by inserting after "title 13, United States Code" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6)" after "consent of the alien", and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

"Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.".

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by adding at the end the following new paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).".

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes" and inserting "(A) Except as provided in subparagraph (B), for purposes", and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the

time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 671. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 672. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 673. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) Assistance to States.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) Report to Congress.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 674. PRISONER TRANSFER TREATIES.

(a) Negotiation.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) Certification.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 675. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 676. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) In General.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) Reentry of Alien Deported Prior to Completion of Term of Imprisonment.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

SEC. 677. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) In General.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) Cooperation.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) Requiring Compensation for Terrorist Crimes.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) Foreign Terrorism.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section

2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

"(B) if the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred; or

"(C) if the act occurred in the foreign state against which the claim has been brought and that state establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection.

(e) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any other possession or territory of the United States.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a write of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

''(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.''.

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

(5) by adding at the end the following new subsections:

''(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2263. Filing of habeas corpus application; time requirements; tolling rules.

"2264. Scope of Federal review; district court adjudications.

"2265. Application to State unitary review procedure.

"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under

section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE X—INTERNATIONAL COUNTERFEITING

SEC. 1001. SHORT TITLE.

This title may be cited as the "International Counterfeiting Prevention Act of 1996".

SEC. 1002. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the

evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 1003. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 1101. SHORT TITLE.

This Act may be cited as the "Biological Weapons Enhanced Penalties Act of 1996.".

SEC. 1102. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting "attempts to acquire under false pretenses, after "acquires,".

SEC. 1103. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting "recombinant molecules," after "toxin," each place it appears.

SEC. 1104. DEFINITIONS.

Section 173 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "or naturally occurring or bioengineered component of any such microorganism, virus, or infectious substance," after "infectious substance";

(2) in paragraph (2)—

(A) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances" after "means"; and

(B) by inserting ", and includes" after "production";

(3) in paragraph (4), by inserting "or a molecule, including a recombinant molecule," after "organism".

SEC. 1105. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting ", threatens," after "uses, or".

SEC. 1106. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking "disease organism" and inserting "biological agent or toxin, as those terms are defined in section 178".

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 1201. ESTABLISHMENT.

There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (in this title referred to as the "Commission").

SEC. 1202. DUTIES.

The Commission shall investigate, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 1203. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

SEC. 1204. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 1205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 1206. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 1207. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

TITLE XIII—REPRESENTATION FEES

SEC. 1301. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (3) by adding at the end of the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time. Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

"(B) The amounts paid under this paragraph for services in any case shall be made available to the public.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

SEC. 1401. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.".

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. 1501. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

"§2332c. Financial transactions

"(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section—

"(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

"(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

"2332c. Financial transactions.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to combat terrorism."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2703) was laid on the table.

□ 1500

APPOINTMENT OF CONFEREES

Mr. HYDE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HYDE moves that the House insist on its amendments to S. 735 and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the Chair appoints the following conferees: Messrs. HYDE, MCCOLLUM, SCHIFF, BUYER, BARR, CONYERS, SCHUMER, and BERMAN.

There was no objection.

APPOINTMENT OF CONFERREES ON H.R. 2854, AGRICULTURAL MARKET TRANSITION ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2854) to modify the operation of certain agricultural programs, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

Mr. VOLKMER. Reserving the right to object, Mr. Speaker, and I do not plan to object, but I think we should alert the House that immediately after the Chair puts the motion, that the gentleman from Minnesota will be offering a motion to instruct the conferees, and we will have a very short debate on that.

We will be having a vote on that, so I want to alert the Members. There should be a vote on this motion to instruct within the next 10 to 15 minutes. That should be the last vote, as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PETERSON of Minnesota moves that the House conferees on H.R. 2854, the Agricultural Market Transition Act, be instructed to insist on the House language regarding program extension of Conservation Reserve Program through the year 2002.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. PETERSON] and the gentleman from Kansas [Mr. ROBERTS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important issue that we dealt with in the committee, and also on the floor of the House. It has to do with the conservation reserve program, which has been a tremendous success in this country. We in this bill have come to a compromise between myself, the gentleman from New York [Mr. BOEHLERT], and the gentleman from Nebraska [Mr. BARRETT]. There were some differences of opinion, but we did come together on what we think is the best language, and we want to make sure that the Senate understands that the House has the best language in this area.

What we do, Mr. Speaker, is we cap the program at 36.4 million acres, we repeal the fiscal 1996 appropriation bill prohibition against new enrollments. We do provide for an early out option that has been sought by some people. What we do is we limit it to land that has been in the program for 5 years, that has to have an erodability index of less than 15, and then it will allow these people to opt out of the program with 60 days' notice.

There is another provision in here that was sought by some which would say that the conservation reserve contracts cannot exceed the average market rank for comparable land in that particular area.

Mr. Speaker, there have been some that have tried to put additional criteria and restrictions on this program that we are concerned are going to undermine the success and viability of this program. We just had a 13th signup around this country, in my district, because of some of the restrictions that some have tried to put on this. Hardly and land in my district qualified.

What we are trying to do here is to make sure we keep the program like it has been for the last 10 years, keep the criteria the same. What we have here is a straight, clean, reauthorization for 7 more years, along the lines of the way we set the program up in the first place.

We would encourage everyone's support, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Minnesota, not only for his motion to instruct, but for his leadership in regard to the continuation of an outstanding program, the conservation reserve program. The gentleman has essentially described the House position, and the gentleman has very eloquently stated the positive aspects of this program. I want all Members to understand that every member of the Committee on Agriculture is supportive of his motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. PETERSON of Minnesota. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota [Mr. PETERSON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 19, as follows:

[Roll No. 67]

YEAS—412

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento

Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Berman
Chapman
Collins (IL)
de la Garza
Durbin
Franks (NJ)
Hall (OH)
Harman
Hayes
Johnston
McNulty
Menendez
Moakley
Moorhead
Quillen
Ros-Lehtinen
Smith (MI)
Stokes
Thomas

☐ 1523

Mrs. WALDHOLTZ changed her vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the Chair appoints the following conferees: Messrs. ROBERTS, EMERSON, GUNDERSON, EWING, BARRETT of Nebraska, ALLARD, BOEHNER, POMBO, DE LA GARZA, ROSE, STENHOLM, VOLKMER, JOHNSON of South Dakota, and CONDIT.

There was no objection.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, it was necessary for me to return to my district on Thursday, March 14, before the final vote of the day was taken. I would have voted "yes" on H.R. 2854 on instructing the conferees to extend the reserve conservation program.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. HASTERT. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 382) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 382

Resolved, That the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Appropriations: Mr. PARKER of Mississippi, to rank following Mr. RIGGS of California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON THE JUDICIARY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Judiciary:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 14, 1996.
Hon. NEWT GINGRICH,
U.S. House of Representatives, Washington, DC.

DEAR SPEAKER, I hereby resign from the House Committee on the Judiciary.

With best wishes, I am

Sincerely,

JOSÉ E. SERRANO,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 383) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 383

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives: To the Committee on Appropriations, the following Member: José Serrano of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I ask for this time for the purposes of asking the distinguished chief deputy whip about the schedule for this week and next.

I yield to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I am pleased to announce that the House has finished all legislative business for the week. The House will next meet on Monday, March 18, at 2 p.m. in a pro forma session. There will be no recorded votes on Monday.

On Tuesday, March 19, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. Members should be advised that there will not be any recorded votes before 5 p.m. on Tuesday, March 19.

Mr. Speaker, on Tuesday we will consider five bills under suspension of the rules: H.R. 2937, reimbursement of former White House Travel Office employees; House Concurrent Resolution 148, expressing the sense of Congress that the United States is committed to the military stability of the Taiwan Straits; H.R. 2739, the House of Representatives Administrative Reform Technical Correction Act; and two House Oversight resolutions adopting congressional accountability regulations.

☐ 1530

After consideration of the suspensions and for the balance of the week, the House will consider H.R. 2202, the Immigration in the National Interest Act of 1995.

Mr. Speaker, I expect toward the latter half of next week the House will also consider an omnibus appropriations bill for fiscal year 1996. The House should finish business and have Members on their way home to their families by 2 p.m. on Friday, March 22.

Mr. BONIOR. Mr. Speaker, I have one inquiry of my friend from Illinois, and that relates to the immigration bill, which he referred to in his statement.

The Committee on Rules is now meeting on the rule for that particular bill, and one of the most important pieces or one of the most important amendments that is being offered up in the Committee on Rules is a bipartisan amendment being offered by the gentleman from Kansas [Mr. BROWNBACK], the gentleman from Michigan [Mr. CHRYSLER], and the gentleman from California [Mr. BERMAN].

My question to my friend is, will that amendment be made in order? It is probably, if not the most important one, one of the most important amendments in that bill, and it deals with the question of illegal immigrants separate from legal immigrants. It is better known as the amendment that would split the bill and in light of the fact that the Senate Republicans yesterday did so in the other body, I would hope that we would be able to have a debate on that particular amendment on the floor.

I yield to my friend from Illinois for a response.

Mr. HASTERT. I thank the gentleman for yielding. It would be speculation on my part to try to presuppose what the distinguished Committee on Rules would do. I really do not have an idea of what that final decision would be.

Mr. BONIOR. I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 18, 1996

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 19, 1996

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 18, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, March 19, 1996, for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TERM LIMITS GROUP NOT NONPARTISAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, it is hard for me to do this because usually when Members come to the well to talk about something from their State, they are popping with pride and they feel very good.

But I am here saying I am really ashamed, I am very ashamed that a group that originates in my State of Colorado is out saying they are one thing and really doing something else. I think this tells you how far we have fallen when it comes to this body and when it comes to playing politics and every other such thing.

In today's newspaper called Rollcall, there is an article about this. It talks about the two Democrats who are for term limits quitting this group because of what they have done and how partisan this group has become. This group is a tax-exempt Colorado-based group. It has a wonderful name that everybody should be for. When you hear this name you say, yes, it is Americans back in charge. And it also got tax exemption because, again, it said it was doing grassroots voter education and so forth on the issue of term limits.

Now, I will be very honest, I am not for term limits. But they have every right to do voter education, education on term limits as long as it is bipartisan and they are out there. But what have they done? Because the term limits legislation failed in this body, and I hope everybody realizes this body is not Democratically controlled right now, the Democratic Party does not control this body, that may be news to somebody, apparently it is news to this group in Colorado, but the term limits legislation failed in this Republican-majority Congress. And guess what they have done? They have raised $3 million and targeted 14 Democrats. Not one Republican.

Now, there are Republican members of my delegation in Colorado who are not for term limits. But they did not target them. They did not target the local boys.

It is kind of embarrassing to think they did not know what the voting records were of people at home and, they are targeting 14 people nationwide.

One of these people has now said that they are not running, so we are now down to 13 people. And they say they are going to spend $3 million that people donated to them and got a tax exemption for because they thought it was voter education, $3 million for radio ads and fliers against Democrats only.

Now, what does that equal? That equals about $225,000-plus per district. That is a lot of radio ads. That is a lot of fliers.

I think a lot of us have gotten very concerned about how this money is collected under these wonderful sounding names, so people can deduct them and do all sorts of things, and then the next thing we know is it is being put to very political partisan usage.

I really salute the two Democrats who got off of this group and called it what it was, partisan, and saying it is doing one thing and really doing another. Those two Members were the gentleman from Massachusetts [Mr. MEEHAN] and the gentleman from Minnesota [Mr. MINGE]. And I must say, as a Coloradoan, I am ashamed to have to stand here and say I agree with this analysis. But I think the American people have got to wake up and as they see people targeted for these term limits that are only Democrats, maybe they should ask some questions about why did this group not target Senator THURMOND. He just turned 93. He is running again, and he is for term limits. Please.

That does not pass the straight-face test, and I could list a whole lot of others that are out there posturing as the poster children for term limits, yet when you look at their career and you look at what they are doing, it does not compute.

Now, again, I say one more time, this is America, and we have the right to debate term limits out front. But it is absolutely wrong when you blame only Democrats for the failure of the term limits legislation when the Democrats do not control this House and when there is absolutely no bipartisanship involved at all in this voter education and you are doing it with tax-exempt money under the name of voter education.

We in Colorado usually stand very firm for good government, clean government, and at least play by the rules. And if you say you are nonpartisan, be nonpartisan.

So all I say is, to those 13 Members who are going to have this $200,000-plus slapped at them, remind them who the real poster children are and what is really going on, and I hope Americans rise up and get very suspicious of this in the future.

WHY MEDICINE COSTS SO MUCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, one of the worst agencies in the entire Federal Government is the Food and Drug Administration. It is arrogant. It is abusive. It is bureaucratic. If people in this country wonder why medicine costs them so much, they need look no further than the FDA.

The bureaucratic rules and regulations and red-tape of the Food and Drug Administration sometimes cause needed safe drugs to be held off the market in this country for years, and sometimes it takes companies many, many millions of dollars to get approval and, as I say, only after years of paperwork and red-tape.

There are many safe lifesaving drugs and medical devices kept off the market in this country for years while they are being safely used, saving lives in countries around the world. I remember a couple of years ago reading a front page article in the Wall Street Journal about a device, a medical device used to detect breast cancer, that had been held off the market for years because this small company in Illinois did not bow down to the FDA sufficiently and they had gotten approval in every other country in the world in which they had sought approval, most of the time within just a few weeks.

One doctor was quoted saying that this had caused thousands and thousands of women to die from breast cancer because of the bureaucratic delays and dilatory and unfair tactics of the Food and Drug Administration.

So that is one reason why I read with such great interest a half page ad that was run yesterday in the Washington Times by a man named Jeffrey N. South of Arnold, MD. He had written a letter, an open letter to his Congressman, and he said this. This letter speaks adequately for itself, and I would like to read as much of it as time permits.

It says:

MARCH 4, 1996.

HON. WAYNE T. GILCHREST,
U.S. Congressman,
Annapolis, MD.

DEAR CONGRESSMAN GILCHREST: I have been a citizen of Maryland for most of my life and, until now, have never been moved to address any concern to my Congressman. I have witnessed something recently that deserves your attention.

On Monday, February 26, 1996, I attended a Food and Drug Administration Advisory Panel hearing in Gaithersburg, MD. A company called Biocontrol Technology, Inc. of Pittsburgh was presenting a medical device for the Panel's recommendation to the FDA for approval to market. This medical device reads blood glucose levels non-intrusively via light energy.

I am not a diabetic but I was exposed to the horrors of what it must be like to be diabetic for the first time in my life. I observed for the entire day a parade of dozens of those diabetics who cared enough to come to the Washington area to testify on behalf of being able to use this new technology towards improving the quality of their lives. Evidently insulin dependent diabetics must perform painful finger prick blood extraction tests numerous times a day in order to determine when they may need insulin. I was amazed to learn that this is such an unpleasant process that over 40% (American Diabetes Association Estimates) of diabetics choose to avoid this painful testing procedure at great risk to their lives. I noticed that their fingers looked like raw hamburger from years of sticking their fingers and extracting blood. This medical device would end all of this.

I was amused by a diabetic woman who passed finger sticks to all the FDA Panel members as she gave her testimony challenging each member to experience the pain of just one prick and to imagine doing it many times a day for their entire life. And to imagine being a very young diabetic child that must do this.

After ten minutes or so into her testimony she had noticed that not one Panel member had mustered the nerve to perform the stick on their own finger. The entire room of some three hundred plus broke into a laughter of disgust.

Most of the day was composed of various questions and discussion between the panel members and the scientists and technicians of Biocontrol Technology. I was absolutely shocked and dismayed that the FDA had delegated decision making authority to this body which openly displayed and admitted to very limited, if any, knowledge of the science behind this new technology. Several of the panelists never even received, much less reviewed, any of the vital supporting material that Biocontrol Technology had provided the FDA over two years ago! It wasn't any wonder that, guess what?!—they could not reach a decision to make this technology available to the diabetic public.

As all of this day unfolded I watched the faces of the public and the technology developers to observe that they too were extremely disillusioned and frustrated as they witnessed this government body embarrass itself with its' incompetence and aloofness. What a pathetic display it was of a bureaucratic process meandering in utter confusion.

On top of all this, a panel spokesperson disclosed that the FDA can and does exercise wavers for panel members that may have financial or other conflicts with companies whose products are under review. There were several on this panel that did disclose such conflicts and were still permitted to participate. Can you imagine!!!

I know now why health care costs have soared over the past several decades. Most medical technology developers have to spend millions upon millions of dollars over years waiting for this meandering, incompetent, and perhaps corrupt government process to wave its' magic wand.

I have enjoyed a healthy and carefree life and can only be thankful that I do not have to depend on such a system. I can only feel extreme sorrow for those who are not healthy and must fight a dreaded disease and wait for the workings of a federal agency the likes of which I witnessed. So very sad for those that forge on knowing that technology exists that could be of great value to them but they must gamble years of their life away waiting for some inept government agency.

I often hear some say that government is an evil entity and think of those that say it to be extreme. Now I think that they are far more insightful than most of us care to admit.

JEFFREY N. SOUTH.

□ 1545

Mr. Speaker, in this country today, if some individual came up with a cure for cancer, he probably could not get it to market unless he sold out to one of the big drug giants. This agency is very harmful to small business, and very harmful to the health of the American citizens.

UPDATE ON BOSNIAN DEPLOYMENT

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, the debate over the American deployment to Bosnia has ceased and in this, my third floor speech regarding that troubled part of the world, I wish to say a good word about the Americans in uniform stationed there.

From briefings that I have received and hearings before the National Security Committee, it is evident that the uniformed Americans are performing exceptionally well in this challenge called Bosnia. The Air Force is doing its duty flying above and flying into that country, delivering needed materiel. The Navy and Marine Corps stand guard in the Adriatic, ever ready to help if called upon.

But it is the foot soldier, stationed in the American sector—the northeast corner—of Bosnia, on which I center my remarks.

The Army is fully deployed, consisting of the 1st Armored Division and supporting units. To begin with, twin float bridges were built across the swollen Sava River. No other army has ever even attempted to bridge such a river, especially with the high water level. The first float bridge is the longest one in military history.

Junior soldiers and officers are performing at "levels far above any reasonable expectation, cheerful and willing under the most trying of circumstances, innovative, and hardworking to the extreme," according to the Army Chief of Staff, Gen. Dennis Reimer, who recently returned from Bosnia.

The conditions under which our soldiers live are difficult. The winter snows are up to 10 inches. When the snow melts, the mud is deep. And yet, morale is high and military professionalism is the order of the day.

The thousands of land mines in Bosnia continue to be a major problem for our troops. Since the peacekeeping mission began, NATO troops have reported 14 accidents involving mines. Five of these incidents resulted in injuries, including the death of one American soldier. At my urging, the Army has accelerated its program of mine detection under the leadership of the Army Vice Chief of Staff.

The flag officers have been interviewed and quoted at length in the news media, but it is the enlisted ranks and junior officers that are making this peacekeeping deployment a success. The late Gen. William Tecumseh Sherman once said: "We have good corporals and Sergeants, and some good lieutenants and Captains, and those are far more important than good generals." General Sherman's words still ring true.

Our soldiers in and around the Tuzla area are reflecting the best of our American values. Their dedication and grit enable them to endure the challenges of land mines, deep mud, rock slides, and raging rivers. Their solid presence is winning the admiration and respect of the former warring parties. It is my hope that when their year-long deployment ends, they will be able to look back and see the valuable contribution they made in bringing stability to a sad and tragic corner of the globe.

I know that every Member of this body joins in wishing our troops continued success in this precedent-making deployment.

SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about the future of our young people. I believe if we have any important responsibility in this Congress and in this Nation, it is to actually realize that we only hold a lease on this place, as we do this Nation and all of its freedoms and opportunities. We are in fact the leaseholders for our children, children who need education, children who need opportunity, children who need exposure to careers.

Mr. Speaker, I stood this morning imploring this Congress, this Republican majority, to begin to understand what real investment is all about. It is not a $245 billion tax cut or a $177 billion tax cut; it is focusing on priorities. I would like to draw our attention to a bipartisan approach to the investment in our children and our communities.

I want to applaud the Senate for recognizing that we are in fact leaseholders; that we have a commitment to ensure that the doors of opportunity are not closed. They in fact added back $137 million to this year's budget for Head Start that was cut so drastically; $60 million for the administration's Goals 2000 program, which will see, if it is cut, 40,000 teachers with pink slips this spring; it added in I think a cornerstone of a work ethic in this Nation, $636 million for summer youth jobs. I did not say baby-sitting jobs, I did not say handholding jobs, I said summer youth jobs. Some $200 million for Safe and Drug-Free Schools, $182 million with the School-to-Work Program, $90 million for colleges and loans, and $10 million for technology programs.

This is an investment in our children's future. The tragedy is that because of the House Labor-HHS omnibus appropriations bill cuts, some 615,000 youth this summer will not be able to have jobs. They will not work or receive education assistance in about 650 communities across this country.

The funding for 1995 nationally was $867 million. Houston, my city alone, would have received $9.1 million. Again, not for baby sitting, but for an opportunity for our young people to work. The summer program helps generate economic growth. For each 1,000 kids employed the program brings between $1 million and $1.4 million to the community it serves. In the city of Houston, we had 6,000 positions for children to be able to be exposed to work, to understand responsibility. Now, in this Congress, we have nothing.

Recent history with the Federal Government shutdown has taught us the punitive impact on business that cuts in Federal revenue to our States and cities can generate. We ask that children care about people. We caution them to act in the best interests of their communities and protect those who are weaker than themselves.

The Government, through Congress' actions today, may send the wrong message by telling our youth we do not care, and that we will take from them because they are unable to defend themselves.

Listen to the story of LaQuista Stewart. This is a story of a young woman who at the age of 2 and shortly after her mother married her stepfather, the family was involved in a terrible car wreck that left her stepfather permanently disabled.

As a child her mother and grandmother would not let her do much, as much as some of her friends, and that gave her the courage and the incentive to aspire to bigger things.

As a result of this wreck, LaQuista was injured so severely that she lost her spleen and left kidney. At the time of her intake application for a summer job, there were family problems, and the stepfather was not in the home. She still lives at home and helps her family as much as she can, keeping only enough money for college expenses and personal needs.

She works in a summer youth job program. This program allowed her to work at Smiley High School, 1 year at Texas Children's Hospital, and as an assistant to the supervisor of the pulmonary laboratory, and as an assistant to council members in the city of Houston. She now is a member of National Honor Society, class parliamentarian, and the Future Business Leaders of America.

Mr. Speaker, Cynthia Rojas, 18, is in her third summer with Houston Works. When she was 15, another youth dropped out of the summer program which opened up a slot for her in the academic enrichment portion for the last weeks of the program. Last summer she worked in the city of Houston's legal department doing general office work. This summer she is working for the city of Houston's Public Works Department in the real estate section. There she helps with filing, typing and keeping track of all the paperwork involved with closing real estate transactions. Cynthia is an exceptional student and graduated high school with a 4.626 average.

What about Debora Bundage, 18, in her second summer at Houston Works, having previously participated in an academic enrichment program.

These are the stories of young people who get summer jobs. I am proud to say that the Houston Works Program has exceeded its performance, exceeded 10 percent of the predicted employment rate for welfare recipients who have been on the job 13 weeks. They sponsor a summer job program where they are inviting the corporate community to participate.

We realize we must do this with the private sector, but this Government must invest in our young people. I do not want to have to go home and tell them there will be no summer jobs for young people who want to work.

Mr. Speaker, I implore this House of Representatives, support the summer youth jobs program; put our Young people to work; teach them a work ethic that will help them be providers for America.

A REPORT OF FAILURE IN WAR ON DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA Mr. Speaker, I come to the floor this afternoon to talk about a report issued by one of the subcommittees on which I serve. I serve on the Committee on Government Reform and Oversight. The Subcommittee on National Security, International Affairs, and Criminal Justice has just released this report entitled "The National Drug Policy: A Review of the Status of the Drug War." I am here to tell my colleagues that this is the review of a trail of tears. This is a review of a trail of failure. It really talks about one of the greatest failures of this administration, and that is to ignore and to not address the drug problem and plague that is facing our Nation.

Let me say that President Clinton really has abandoned America and failed miserably in the fight against drugs during his first 3 years in office. In fact, if we look at what he did, first of all he cut the drug interdiction budget.

Then we talked about cuts in the White House. He ended up cutting 85 percent of the drug policy staff in the White House. Then he cut funding for DEA agents. That is part of what is detailed in this record.

Mr. Speaker, his lack of leadership on this issue in fact is appalling. The results should be sobering to every American. Listen to these facts in this report: Under President Clinton's watch, drug prosecution has dropped 12.5 percent in the past 2 years. After 11 years of drug use declining among high school seniors, the number of 12th graders using drugs on a monthly basis has increased 65 percent just since President Clinton has taken office.

A September 1995 survey shows that drug abuse in kids 12 to 17 jumped 50 percent in just 1994. This report also shows that marijuana use among 12- to 17-year-olds has doubled from 1992 to 1994, and heroin use by teenagers is up. Emergency room visits by heroin users rose 31 percent between 1992 and 1993 alone.

We might say, why? And I say, it is no wonder, when we look at the leadership that has been provided here. First of all, what did the President do? He appointed Joycelyn Elders, and she did not make drug use and drug abuse a priority. In fact, she talked about legislation. In fact Mrs. Elders said, "I do not feel that we would markedly reduce our crime rate if drugs were legalized." This is outrageous.

Mrs. Reagan, when she was the First Lady, instituted the theme of just say no. The Clinton administration has a new message, and that message has been just say maybe. And it has created a disaster. Again, it is outlined by this.

The emphasis and the money have flowed to treatment. What is the end product of all this? It is people that are using drugs. So we are putting our emphasis and money on treatment. Even a Rand study that the administration in fact touted finds that only 4 percent of heavy cocaine users who go through the treatment cut back on their use of cocaine. So we find where the administration is spending taxpayer money, in fact it is not having results.

Mr. Speaker, this administration destroyed a drug interdiction program. We have cut funding, we have cut emphasis, and we made ourselves the laughing stock of the Andean region.

□ 1600

With our drug control strategy already in disarray in 1994, the administration suddenly reversed its practice of sharing intelligence and radar equipment to attack narco-terrorist planes. Colombia, Peru, and Bolivia where almost 100 percent of the world's cocaine is produced was betrayed by this reversal of U.S. policy. Only after a chorus of Congress expressed its outrage did the administration change its policy, but the damage was done.

And then finally what did we do? We certified Mexico. I participated in drafting the certification language when I was a member of the staff of the other body, and this is a disgrace. DEA confirms that 70 percent of the cocaine coming into the United States comes from Mexico. So this is a record of disaster.

STOP PLAYING POLITICS WITH OUR NATION'S SCHOOLS

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today the House averted another Gingrich Government shutdown by voting to fund the Government for 1 week. That is right, 1 week. In typical inside-the-Beltway lingo the Republican leadership called it a 1-week continuing resolution. But if you ask me, it amounts to nothing more than 1 more week of continuing madness, madness on Capitol Hill, and, more seriously, 1 more week of continuing uncertainty for our Nation's schools.

Let us talk about the continuing madness around here. I have been a member of the House Committee on the Budget since coming to Congress in 1993. Two years in a row we did our work, passed the necessary spending guidelines and met our deadlines. On top of that, we managed to cut the deficit in half in the process. We cut it by 50 percent. The new majority, however, wasted the beginning of 1995 trying to pass their Contract With America. As a result, we are halfway into the fiscal year, and the 1996 budget for most domestic programs has still, still not been set by this do-nothing majority. Instead, critical environmental protection, health care, and education programs have been funded on a month-to-month basis at a greatly reduced level. When you change that from a month-to-month to a week-to-week program, as the House did today, the new majority's piecemeal approach to governing means nothing more than continuing uncertainty for our Nation's schools.

In fact, today's continuing resolution leaves our schools and teachers with two main ingredients for disaster, too little time and too little money. Right now elementary schools, high schools, and colleges are beginning to plan for the 1996–97 school year, which in case my friends on the other side of the aisle do not understand, begins in September. Schools cannot wait until the new fiscal year to hire teachers, to buy books, and to plan for computers and to repair damaged buildings. They need to start planning now, and they simply cannot do it when the Gingrich Republicans, unlike their Republican colleagues in the other body, refuse to provide a fixed level of adequate education funding for the rest of the year. By leaving our schools in limbo and facing the prospect of receiving 13 percent less in education funds, less than they would normally expect from the Federal Government, elementary and secondary education—elementary schools will not know how many teachers they can afford to hire for the coming school year. Thus, students returning to school next fall could face larger class sizes and fewer teachers.

Schools are also faced with the prospect of losing funds for crucial education programs because of the deep cuts that are contained in the majority's continuing resolution. For instance, schools in my home State of California would lose over $42 million in Goals 2000 funds. These are funds which help schools train teachers, increase parental involvement and meet higher standards. California schools will also lose $122 million in title I funds, funds for programs for students who need extra help in reading, writing, and math. Finally, programs aimed at protecting our children from crime and drugs and alcohol will be hurt because the Gingrich Republicans have voted to deny California schools $26.5 million in safe and drug-free school funding.

My friends, that is not how we should be treating our Nation's schools, that is not how we should be treating our Nation's students. Rather I believe, as the Democrats in the House believe, as the President believes and as a majority of the other body believes, that education must be our Nation's No. 1 priority.

Mr. Speaker, we can balance the budget, but it does not have to be on the backs of our children and their education.

CALLING FOR JUDGE BAER'S RESIGNATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, I would like to bring to the attention of this Chamber a rather disturbing element that I have learned about over the last couple of weeks and to share my thoughts with those in the Chamber with regard to an individual by the name of Judge Baer in New York. There is a Wall Street Journal editorial back in the end of January, and I will put all of these into the RECORD, but I just want to read a little piece of this article. It says:

> Winning the war on drugs won't be easy if the battles end up in courtrooms that like that of Harold Baer, Jr., of the Federal District Court in Manhattan. Judge Baer ruled Wednesday that 80 pounds of cocaine and heroin that police found in a car in the drug-wracked neighborhood of Washington Heights could not be used as evidence.

It goes on to say that:

> In his State of the Union address that Mr. Clinton gave here in this Chamber, he told Americans that 'Every one of us have to have a role to play on this team.' But the best anti-drug legislation and the best law enforcement won't work unless the judiciary is willing to enforce the laws.

In a New York Times editorial, the end of January; "Judge Baer's Tortured Reasoning" is the title. It goes on to say that:

> What this judge managed to do through his sloppy reasoning was to undermine respect for the legal system, encourage citizens to flee the police and deter honest cops in drug-infested neighborhoods from doing their jobs.

It goes on to say that:

> Consider the scene described by the officer. As he and his partner sat in their unmarked car, they saw four men approach the defendant's car. With team-like precision and without speaking to the driver, they opened the trunk, dumped two duffel bags in back, and then shut the door, running away when they spotted the officers. Surely these facts, taken together, present precisely the sort of suspicious circumstance police are supposed to be looking out for.

The police in this case saw these individuals put 80 pounds of drugs in the back of the car, 5:00 in the morning, that car. The driver admitted she was taking them to Michigan where the street value of these drugs was worth $84 million. Eighty pounds. And, lo and behold, the judge let them off the hook because it was not unusual for folks to run away from the police in New York.

Well, that is outrageous.

An article in today's Washington Post, page 3; the title says "Accusations of Coddling Criminals Aimed at Two Judges in New York." The Speaker in a news conference last week is quoted as saying this is the kind of pro-drug dealer, pro-crime and police and anti-law enforcement attitude that makes it so hard for us to win the war on drugs.

Mr. Speaker, a number of us and my colleague from New York, Mr. FORBES, the chairman of the crime subcommittee, the gentleman from Florida, Mr. MCCOLLUM, and I circulated a letter among House colleagues this past week that asked the President to ask for Judge Baer's resignation, and I am proud to say that a majority of this House have now signed that letter, Republicans and Democrats alike. We are going to be sending that letter to the President on Tuesday next, and I would ask those of my colleagues that have not signed the letter to please find me between now and Tuesday so they can add their names to a majority of those in this House.

My colleague, the gentleman from Michigan [Mr. STUPAK] is a signatory; my colleague, the gentleman from Ohio [Mr. HOBSON], as well as the gentleman from Florida [Mr. FOLEY], are also signatories of that letter, so that we can let the President know that this man should not serve as a Federal judge for letting these folks on, and we merely ask the President to ask Judge Baer to step down based on the decision that he made.

The articles referred to are as follows:

[From the Wall St. Journal, Jan. 26, 1996]

THE DRUG JUDGE

Winning the war on drugs won't be easy if the battles end up in courtrooms like that of Harold Baer Jr. of the Federal District Court in Manhattan. Judge Baer ruled Wednesday that 80 pounds of cocaine and heroin that police found in a car in the drug-wracked neighborhood of Washington Heights could not be used as evidence. The drugs, which have a street value of $4 million, are "tainted evidence," he said.

He ruled that the police had no good reason for searching the car, despite the fact that the four men putting duffel bags into the trunk took off running when they saw the cops. This, the judge ruled, was not suspicious behavior. Reason: the "residents of this neighborhood tended to regard police officers as corrupt, abusive and violent." As a matter of fact: "Had the men not run when the cops began to stare at them, it would have been unusual."

The woman who was driving the car gave the police a videotaped confession. Carol Bayless, a 41-year-old Detroit woman, told police that she expected to be paid $20,000 for driving the drugs back home, and said that she had made a total of about 20 trips to New York to buy drugs. Judge Baer threw out the videotaped confession. Unless the ruling is overturned by the appeals court, the prosecutors say they no longer have a case; Ms. Bayless, who faced 10 years to life in jail, will be free to go.

The year's young, but we doubt Judge Baer will have any competition for this year's Judge Sarokin Award, named in honor of the federal judge in New Jersey who ruled for a homeless man who used to lurk inside the Morristown library, spreading his "ambrosia." Liberalism manages to deliver us these rulings on a regular basis, so it's appropriate to raise a few concerns.

The first has to do with community standards. Aren't the mostly minority residents of Amsterdam Avenue and 176th Street, where the incident took place, entitled to the same level of protection as the mostly white residents 100 blocks south on Amsterdam in the heart of New York's Yuppiedom? We suspect the law-abiding residents of Washington Heights might take a different view about whether the bigger threat to their well-being is the police or fleeing drug runners.

The other issue raised by the Baer ruling is the politics of judicial appointments. Judge Baer is a Clinton appointee, named to the federal bench in 1994 on the advice of the Democratic Senator from New York, Patrick Moynihan. Now, certainly it is the case that Democrats have appointed first-rate jurists to the federal bench. But it's also the case that it is at the liberal end of the modern judiciary that communities find their interests trampled by overly expansive and even absurd legal claims for defendants.

If Mr. Clinton is re-elected, by the end of his second term he will have filled roughly half of the slots in the federal judiciary, including majorities on the federal appeals courts. And that he would get one, two or even three more appointments to the Supreme Court. Mr. Clinton no doubt would separate himself from decisions like Judge Baer's, but one then has to somehow believe that he would actually separate himself from the constituencies insisting that he pick from the same candidate pool that produces such judges.

As for the war on drugs, we commend Judge Baer's ruling to the attention of drug czar-designate, General Barry McCaffrey. In his State of the Union address Tuesday, Mr. Clinton told Americans that "every one of us have a role to play on this team." But the best anti-drug legislation and the best law enforcement won't work unless the judiciary is willing to enforce the laws.

[From the New York Times, Jan. 31, 1996]

JUDGE BAER'S TORTURED REASONING

With his controversial ruling last week tossing out key evidence and a voluntary confession in a major drug conspiracy case, Federal District Judge Harold Baer Jr. apparently hoped to make a point about the serious problem of police corruption in New York City that he helped uncover as a member of the 1993 Mollen commission. What the judge managed to do instead, through his sloppy reasoning was to undermine respect for the legal system, encourage citizens to flee the police and deter honest cops in drug-infested neighborhoods from doing their job.

This is not to say that the judge was wrong to be concerned about Fourth Amendment issues and protections against illegal searches. But in this case he went badly overboard.

Like many Fourth Amendment challenges to police searches and seizures, the case turned on a question of whether officers had a "reasonable suspicion" to stop the defendant, a Detroit woman named Carol Bayless, whom police watched as she drove slowly up Amsterdam Avenue in Upper Manhattan in a car bearing Michigan plates at 5 A.M. last April 21. Judge Baer offers defensible, if not entirely convincing, reasons for believing the rendition of events provided by the defendant in her confession just after her arrest rather than the version provided by one of the arresting officers eight months later.

But even the somewhat less suspicious-looking circumstances described by the defendant would seem to meet the fairly low threshold of "reasonable suspicion" for stopping and questioning her. In a high-crime neighborhood, the police need reasonable leeway to question activity that seems unusual. Because the judge found no justification for stopping the car, he did not reach the issue of whether the officers had either the requisite consent from the woman or "probable cause" that criminal activity was afoot when they opened the trunk and seized 80 kilos of cocaine and heroin.

By far the most troubling aspect of the decision is the judge's superfluous finding that even if every detail of the police account were true, it would still not justify the investigatory stop. That is not just wrong, it is judicial malpractice. Consider the scene described by the officer. As he and his partner sat in their unmarked car, they saw four men approach the defendant's car. With teamlike precision and without speaking to the driver, they opened the trunk, dumped two duffle bags in back and then shut the door, running away when they spotted the officers. Surely the factors, taken together, present precisely the sort of suspicious circumstances police are supposed to be looking out for.

Judge Baer may be correct in observing that the corrupt scandal in upper Manhattan would have made it "unusual" had the men not run away. But that does not support a legal finding that flight is not a factor to be weighted in determining whether there is "reasonable suspicion." Judge Baer's logic would guarantee that law-abiding citizens in minority neighborhoods, where tensions with the police are most strained, get a lower standard of policing.

[From the Washington Post, Mar. 1, 1996]

ACCUSATIONS OF CODDLING CRIMINALS AIMED AT TWO JUDGES IN NEW YORK

(By John M. Goshko)

NEW YORK.—Two recent judicial decisions here—one throwing out evidence in a big narcotics case and the other freeing a defendant who then killed his former girlfriend—have ignited a firestorm of outrage about alleged coddling of criminals.

The controversy has been so intense that many legal experts fear it could disrupt the dispensing of justice in local courts and spread beyond New York to become part of the election year debate about what ails America.

Several judges and legal scholars, while acknowledging that the decisions were controversial, nevertheless expressed concern that the abbreviated versions provided by much of the media have distorted the public's understanding of some very complex legal issues.

The unrelenting criticism directed against the two decisions, and the two judges, has put their colleagues at all levels here under heavy pressure to demonstrate in rulings and sentences that they are not soft on crime, these experts said. In an era of growing social conservatism, the rulings are providing fodder for those who think it is time for the courts to stop fine-combing evidence and simply lock up criminals.

Gov. George E. Pataki (R) recently fired the first salvo in such a campaign when he announced legislative plans to limit the powers of the state's highest court, the Court of Appeals, to impose what he called burdensome restrictions on the police and prosecutors. New York City's law-and-order police commissioner, William J. Bratton, also denounced "the screwball Court of Appeals," saying it "is living off in Disneyland somewhere. They're not living in the streets of New York."

The two decisions at the heart of the controversy did not, in fact, emanate from the Court of Appeals, but from other, widely disparate levels of the criminal justice hierarchy.

First, in late January, Judge Harold Baer, Jr. of the U.S. District Court that serves Manhattan ruled that 80 pounds of cocaine and heroin found by police in a car could not be used as evidence. The fact that four men seen putting the narcotics in the car ran away when they spotted a police officer was understandable, given fear of the police in many inner-city neighborhoods, and did not constitute cause to search the car; the judge decided.

"As long as there are judges like that, criminals will be running wild in the streets," said Louis Materazzo, president of the New York Patrolmen's Benevolent Association. That actually was one of the milder comments in the chorus of criticism immediately sounded by Pataki, Bratton and even Mayor Rudolph W. Giuliani (R), an old friend and colleague of Baer from the days when Giuliani was the U.S. attorney in Manhattan and Baer was one of his aides.

By this week, the ripples from Baer's decision had spread to Congress, where 150 House members signed a letter to President Clinton calling on him to ask for the federal judge's resignation. Among the signers was House Speaker Newt Gingrich (R-Ga.), who told a news conference: "This is the kind of pro-drug dealer, pro-crime, anti-police and anti-law enforcement attitude that makes it so hard for us to win the war on drugs."

On Feb. 12, the dispute about what New York's raucous tabloids dubbed "junk justice" took a new turn. Benito Oliver, a convicted rapist with a history of domestic violence, walked into a car dealership where his former girlfriend, Galina Komar, worked, shot her to death and then killed himself. It quickly came out that three weeks earlier, Judge Lorin Duckman of the Criminal Court in Brooklyn, the lowest rung on New York's judicial ladder, had turned aside Komar's request for protection and allowed Oliver to go free while he awaited trial on charges of harassing her.

In transcripts of the court hearing Duckman sounded dismissive of the injuries Oliver had inflicted on Komar, noting that she had been "bruised but not disfigured." The judge expressed repeated concern about the well-being of a dog that Oliver had left in Komar's care.

The uproar only intensified when it was further revealed that Duckman, in a similar case last summer, allowed a Brooklyn man, Maximino Pena, to go free hours after a jury had convicted Pena of attacking his former girlfriend. On Feb. 15, Pena was back in jail, this time charged with dragging the same woman down two flights of stairs and punching her in the face.

Duckman has since gone on an indefinite vacation. But his temporary retreat from the bench has not halted the torrent of denunciations from officials, women's rights advocates and newspaper editorialists. Giuliani said Duckman displayed "a frightening lack of common sense" that showed he "should be doing something else for a living."

Pataki, asserting that "Judge Duckman is unfit to serve," called on the State Commission on Judicial Conduct to remove him from the bench. The governor added that if the commission fails to do so, he would ask the state Senate to oust Duckman, a punishment that it has administered only once before, in 1872.

The churning caused by these two cases has even been given a philosophical counterpoint by the coincidental publication of a new book, "Guilty: The Collapse of Criminal Justice," written by state acting Supreme Court Justice Harold J. Rothwax. Rothwax argues that judges today often apply principles about evidence and defendants' rights so rigidly that the guilty go free.

However, there is real concern in legal circles that the fallout from these two cases is causing judges to protect themselves against charges of being excessively pro-defendant.

Judith Kaye, New York's chief judge, recently said she was worried that the castigation of Baer and Duckman could subtly affect the way cases are decided. And many lawyers say that, in contrast to just two or three months ago, they now see signs of defendants being subjected to higher bail, rulings that lean heavily toward the prosecution and tougher sentences when found guilty.

The most glaring example of how these pressures appear to be operating was the agreement by Judge Baer to permit a new hearing on the narcotics evidence that he earlier suppressed to such an outcry. A reconsideration like this is almost never done by federal judges. Moreover, many lawyers said they will not be surprised if Baer finds reasons to rule that the drug evidence is admissible.

"I have no idea what he'll do, but you'd have to be superhuman not to be affected by all the criticism and abuse that the man has taken over that ruling," said Albert Alschuler, a law professor at the University of Chicago.

The case turned on a judgment about whether police had a "reasonable suspicion" to stop and search a car at 5 a.m. in Washington Heights, a largely Hispanic enclave of Manhattan that is a known center of drug activity. Before becoming a judge, Baer had served on a commission investigating police brutality in that neighborhood. In his opinion, he noted that people there regard the police as "corrupt, abusive and violent," and he said that under those circumstances it was not unusual for the suspects to run away.

"I'm a native New Yorker from the East Bronx," said Yale Kamisar, a University of Michigan law professor and a leading expert on criminal procedure. "When we played stickball as kids and hit the ball through someone's window, everyone ran because you knew if the cops caught you, they'd give you a hard time. It's human nature to run from what you think might be trouble."

Kamisar said Baer appears to have decided that the police used the flight as grounds for searching the car without following other procedures that might have safeguarded the legality of their actions.

Even in the Duckman controversy some lawyers think there were legal considerations involved that have been overlooked in the tragic aftermath of the case. "He made what are undeniably some stupid and insensitive remarks," said one lawyer who asked not to be identified. "But the facts are that this fellow, Oliver, had been in jail for 40 days and the Brooklyn district attorney's office failed to present any strong evidence that he posed a danger to the woman that justified holding him longer in what arguably would be a violation of his constitutional rights."

The judge also appeared to be reacting to some "sloppy handling" of the case by the prosecutors, and the judge decided to "teach them a lesson," the attorney said: "The only problem with a judge doing something like that—trying to regulate the way a prosecutor's office works—was that the rights of the victim got overlooked."

SHORT-TERM FUNDING OF OUR GOVERNMENT IS SHORTSIGHTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. STUPAK] is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, just one word before I talk about the continuing budget resolution we passed earlier today. My friend from the other side of the aisle, the gentleman from Michigan [Mr. UPTON], who I have great respect for, and I did sign his letter, when we fight drugs, and being a former law enforcement officer myself, the responsibility is with everyone from Judge Baer, to President Clinton, to the Speaker of the House, and that is why I am disturbed about the continuing budget resolution that was passed today in which the money for drug-free schools zones was deleted from the budget, so there will be no money for drug-free school zones. So, when the Speaker points to this as an example of merely words, I would have to remind the Speaker that his budget priorities have encouraged the use of drugs in drug-free school zones in schools across this country and not fight them. So, while we may ask for Judge Baer to resign, maybe we should ask the Speaker to renew the funding for drug-free school zones.

But, Mr. Speaker, funding of our Government on a week-to-week basis is shortsighted, destructive, and an irresponsible way that we could possibly manage the risks and the tasks of running the greatest country in the world. Shortsighted has more than one meaning here. In the near term, we are being destructive and wasteful by forcing Government agencies to limp along on partial funding, continuing to operate, but unable to give full service to the American public. In the long term we are hurting our investment in that most basic and important of all services, public education.

Today we voted on an 11th continuing budget resolution to keep the Government going. This resolution was for 7 days, it was for 1 week. Underneath the new majority we have become a government by the week, for the week, and of the week. I voted "no" on this continuing resolution because of the drastic cuts in education, not only title I, not only Head Start, but also, as I said earlier, the drug-free safe school zones have been cut.

Here are some facts I would wish that the majority will remember:

A recent Gallup Poll showed two-thirds of all Americans ranked the quality of education as their top priority over such issues as crime, health care, and the deficit.

A January Wall Street Journal poll says 9 of 10 Americans favor the same or increased spending on education.

The January Washington Post poll says 8 out of 10 Americans oppose cutting education. Yet the current budget resolution, which was continued today, if extended for the year, will cut $3.1 billion from education, the largest education cut in our Nation's history.

Are such cuts in step or out of step with the will of the American public?

The polls I cited would indicate that such cuts could not be more out of step.

If we extend this continuing budget resolution to the year's end, more than 1 million young people will be deprived of services in the title I program alone.

Here are some other ways to view the problem:

Failure to have assured funding in place is affecting the operations of America's 110,000 elementary and secondary schools that serve roughly 50 million students. State legislators and school administrators in all 50 States and in more than 14,000 school districts are unable to develop detailed financial plans for the coming year. Without these plans in place, this affects the hiring of teachers, the signing of contracts. Impact aid districts are squeezed by partial payments. This will affect roughly 2,000 school districts, including those in my home State of Michigan, and 1.3 million children. The Brimley School District in the Upper Peninsula of Michigan is looking at a $600,000 shortfall because title I has not been completed. Antrim County stands to lose $100,000; Benzie County schools, $58,200; Charlevoix schools, $77,700; Cheboygan schools, $140,200.

□ 1615

Crawford County will be over 70,000, Emmet County over 67,000, Grand Traverse, over 200,000.

Mr. Speaker, unless the Department of Education can make full payments, many schools will receive impact aid or run out of funds later this spring and will be unable to pay teachers' salaries. People with disabilities will not receive rehabilitation services. Vocational rehabilitation programs prepare some 1 million individuals each year to get a hold of and to hang onto their jobs.

This is only a partial look at the problem, but it lets us draw some sad conclusions. One of the tragedies of this Congress is that we have gotten away from rational discourse and debate. We have gotten away from the notion of agreeing to disagree, while completing the basic business of the people of the United States. There certainly can be rational debates over the long-team or long-range value of programs like drug resistance education, drug-free school zones, title I, and other specific education programs. In fact, having a debate over these programs is an excellent opportunity to restate their value and their importance to the American people.

However, Mr. Speaker, this process of destruction by attrition, of week-to-week continuing budget resolutions, of the slow wearing down of those who struggle in the field of education, is not rational, and it is not a debate. It is irrational, and the American people recognize it as the wrong way to do business.

Mr. Speaker, we would ask that when we come back next week and work on a continuing budget resolution, that we take into consideration the cuts we have made in education, the cuts we have made in the environment, in the enforcement of the Clean Water Act, the Safe Drinking Water Act, the gutting of the Clinton COPS Program. We ask that these be put forth in a continuing budget resolution, and we stand ready to work with the minority and the majority to work together to find the $8 billion we need to cut.

MEDICAID BUDGET CUTS THREATEN TO IMPAIR THE QUALITY OF LIFE FOR MANY AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, balancing the budget is important, but the debate has taken the wrong turn. We should be focusing on saving lives and the quality of care, not just balancing the budget, balancing the budget at the expense of losing people, and at the expense of creating turmoil in the lives of so many.

For the past 30 years, Mr. Speaker, America has prided herself on protecting those vulnerable populations who, because of many circumstances, are not able to afford the health care they desperately need.

Last week, Mr. Speaker, the Committee on Commerce which I serve on, held a hearing on the Medicaid proposal by the National Governors Association. During the recess, we had a hearing in which six Governors came to testify. Due to the fact that many Members could not be there, we required another day of hearings.

The Governors' proposal is a bipartisan consensus which I must admit has done a lot to contribute to the debate and finding solutions to reforming the Medicaid program. I applaud them, Mr. Speaker, for trying to help. However, I am still concerned with several very, very important issues which, in my opinion, must be further reviewed.

Under the NGA proposal, not only will the recipients of the Medicaid safety net program suffer, but so will the inner cities, which house many of our great teaching institutions that train the majority of our Nation's physicians. New York alone trains 15 percent of the Nation's physicians. Public hospitals which care for over 30 million uninsured will also suffer much more than ever imagined.

If enacted, Mr. Speaker, the Medicaid cuts would deliver a blow to New York City that is double its proportionate share. Over the next 7 years, cuts to New York hospitals will total approximately $12 billion, that is B as in boy, billion, in New York City, and billions more in New York State. Payments for long-term care and personal health services will decline by approximately $7 billion in New York City, and $1 billion in New York State.

Furthermore, the Medicaid cuts will reduce needed service levels, and access to care will also suffer, as well as reduced projected employment by over 100,000 in New York City and 200,000 in New York State, and cause the personal income of New Yorkers to decline by at least 2.7 percent.

While the debate over Medicaid reform has largely focused on cost savings, it is important to refocus the debate on saving lives and quality of care. Mr. Speaker, let me just say that we need to recognize the fact that people are living longer, and as they live longer, they will need additional care. In order for them to have that care, we need to make certain that the resources are there to provide that care.

People in nursing homes today are doing a fantastic job. For a long time, we did not have standards like we have today. Of course, we had a mess. We had some nursing homes that were creating all kinds of problems for our elderly. However, we were able to get some statutes in the law that sort of turned that around. We now seem to be moving back toward where we were before those statutes came into being.

I visited a nursing home just recently in my district, the Cobble Hill Nursing Home. I listened to the staff as they talked about the kinds of things they have to do now, and recognized that if we continue to cut the programs, that they will not have the staff to be able to perform those duties.

I am hoping, Mr. Speaker, that we realize that as we talk about the budget cuts, that we do not forget that we are talking about quality of care, we are talking about the lives of human beings, and let us not let the debate make the wrong turn. Let us straighten it out and go in the right direction to protect the lives of our people.

EDUCATION CUTS ARE THE LARGEST IN THE NATION'S HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, education is one of the priorities that the President and Democrats in Congress have stressed should not be severely impacted during these constant budget battles that take place on the floor of this House of Representatives. Yet, once again, we face a situation where the House-passed spending bill for the remainder of this fiscal year would provide the largest cut in education in the history of the Federal Government.

Mr. Speaker, this is really the work primarily of Speaker GINGRICH and the House Republican leadership, whose radical plan would essentially cut $3.3

billion from the education programs, a 13-percent reduction in funds that schools around the country depend on to educate students of all ages.

The Senate, as was mentioned by one of my colleagues earlier, fortunately has voted to restore most, or about $2.5 billion, of this lost education funding. However, Mr. Speaker, the Senate bill will not prevail if Speaker GINGRICH and his extremist views hold sway.

Today, the House Republicans passed another stopgap funding bill. It is the 11th, I believe, since the beginning of this session. This measure would only keep the Government running for another week. Its purpose is to give House Republicans an opportunity to attack the reasonable education funding levels in the Senate bill. It is nothing more, in my opinion, than another attempt by House Republicans to hold the Federal Government hostage to their agenda.

President Clinton has already said that he will not sign any bill that funds education programs at the House-passed level. He also said that rather than sign any extremist Republican spending plan, he may refuse to sign all stopgap spending bills sent to him after Easter. Thus, if the House Republicans continue to insist on steamrolling through these radical cuts in Federal education programs, we could face yet another Government shutdown.

I believe preserving a strong educational framework was something that traditionally Members on both sides of the aisle, in both Houses in Congress, used to be able to agree on before the current House Republican majority took over. What is happening here is that the Speaker and the House Republican leadership are basically going against this consensus, or shattering the consensus that we have had for years that says that education should be a priority.

If we compare the differences between the House and Senate education proposals, we can see the differences between the radical Republicans here in the House and the more sane, if you will, Republicans in the Senate. The House-passed bill cuts title I programs by $1.2 billion. The Senate restored $815 million of that. The House-passed bill would eliminate the Goals 2000 Education Reform Program. The Senate restores $60 billion for Goals 2000. The House-passed bill cuts $266 billion from the Safe and Drug-Free Schools Program. The Senate restores $182 million. The House-passed bill cuts $27.5 million from the School-to-Work Program. The Senate puts back $182 million.

Mr. Speaker, I could go on with this list, but the point is that it is here in the House that the education cuts are being implemented. The fact that Senate Republicans will not go along with that only goes to prove, essentially, that it is the House Republicans that are forcing or taking this stand.

Mr. Speaker, what does it mean back in our States and back in our districts? It means if this House Republican plan goes through, the teachers and teachers' assistants could be laid off, and schools in search of alternative sources of funding could force their local governments to raise taxes in order to maintain the same number of teachers. If alternative sources of funding cannot be found, fewer teachers would need dramatically decreased sizes of classes, and students in need of assistance in areas such as basic reading and writing would be denied the help of their local schools, because education money will have dried up.

Mr. Speaker, there is no mistake about it. If we look at my own State of New Jersey, my own district, the taxpayers simply cannot afford these increases. The local property taxes, the local budgets, are usually turned down, because people do not want to have to pay higher property taxes. It is much more difficult for them if they do not have the Federal funding sources.

What I am saying, Mr. Speaker, is that it is time for the House Republican leadership to wake up. There should be no more of these stopgap funding bills for 1 week, 2 weeks, or 3 weeks. They should simply return to the mainstream and join the congressional Democrats, the President, and now even the Senate Republicans in saying that education is a priority, that there should be adequate funding for it, and that education programs should not be part of this constant battle back and forth which leads us to these stopgap funding plans.

Mr. Speaker, I think that more and more over the next few weeks, as we continue to battle over the budget and over spending priorities, hopefully we will see the House Republican leadership come over to the point of view that says education should remain a priority and should not be something that we cut severely, because it really is the future of America and the future of our young people.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 29 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 1836

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 6 o'clock and 36 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–483) on the resolution (H. Res. 384) providing for consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I know that I first want to express my great appreciation to my very good friends who are sitting and standing behind me at this point, and I will be as brief as possible.

I have risen to briefly talk about the rule that we are going to be considering next Tuesday, which the Committee on Rules has reported out just a couple of hours ago and which I have just filed at the desk.

The issue of reform of both legal and illegal immigration is one of the most contentious debates that we will have, and it will take place next week. The rule that we are considering is one of the most fair and balanced rules that could possibly be offered. In fact, we had over 100, I believe 104, amendments that were filed to the Committee on Rules by noon yesterday, and we spent today considering those amendments, and we have made in order 32 amendments that will be considered.

The issue of illegal immigration is a very difficult and pressing one for my State of California. We in California deal daily with the flood of illegal immigrants who are coming across the border seeking either government services, job opportunities, seeking family members, and it is very important that we take strong and decisive action here at the Federal level to deal with that problem.

In the area of legal immigration, I am very pleased that this legislation will allow us to maintain the highest level of legal immigration in 70 years and that in itself is a very good and positive move, because this country was founded on legal immigration and this country has had tremendous benefits because of immigrants who continue to come to this country today.

In fact, my State of California and other parts of this country are on the cutting edge technologically and in many other areas because of legal immigration.

So I would like to congratulate the chairman of the subcommittee, the gentleman from Texas [Mr. SMITH], who has worked long and hard throughout the past year and up until just recently, and he has been working, as he said today, nearly 12 hours a day constantly trying to bring this legislation forward.

As we look at the many different amendments that are going to be considered next week when we proceed with this legislation, one of the most controversial and hotly debated has been the proposal that was offered by the gentleman from Michigan, Mr. CHRYSLER, and my California colleague, Mr. BERMAN, and the gentleman from Kansas, Mr. BROWNBACK, seeking to split the legislation. That is an amendment that will be made to order, will be considered.

So, as we look at the resolution which I have just sent down that will allow us to bring about debate on the issue of legal and illegal immigration, I believe that we are taking a very bold and positive step toward getting the Federal Government to step up to the plate and acknowledge its responsibility. It has been a long time since we have been able to do this, and there are many problems that have taken place because of the 1986 Immigration Reform and Control Act, IRCA, that need to be addressed, and I am pleased that we will in time be doing that.

I would simply say, Mr. Speaker, that I anxiously look forward to a very interesting debate which will be far-reaching and allow every single proposal that has come forward to be considered and discussed.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 14, 1996.

I hereby designate the Honorable DAVID DREIER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, March 19, 1996.

NEWT GINGRICH,
Speaker of the House of Representatives.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MYERS of Indiana (at the request of Mr. ARMEY), for today until 12:30 p.m., on account of illness in the family.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

Mr. SKELTON for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING for 5 minutes on March 20.

Mr. SMITH of Michigan, for 5 minutes, on March 19 and 20.

Mr. FOLEY, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. UPTON, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks:)

Mr. DREIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. WOOLSEY) and to include extraneous matter:)

Mr. LANTOS.
Mr. RUSH in two instances.
Mr. TOWNS.
Mr. LEVIN in two instances.
Mr. MONTGOMERY.
Mr. NEAL of Massachusetts.
Mrs. THURMAN.
Mr. KILDEE.
Mrs. MALONEY.
Mrs. MEEK of Florida.
Mrs. KENNELLY.
Mr. GONZALEZ.
Mr. BARRETT of Wisconsin.
Mr. POSHARD.
Mr. HASTINGS of Florida.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. NETHERCUTT.
Mr. HORN.
Mr. COLLINS of Georgia.
Mr. WALSH.
Mr. FAWELL.
Mr. MARTINI in two instances.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. ZELIFF.
Mr. BALLENGER.
Mr. NEAL.
Ms. ESHOO.
Mr. BARCIA.
Mr. CHRISTENSEN.
Mrs. MORELLA.
Mr. PACKARD.
Mrs. JOHNSON of Connecticut.
Ms. MCCARTHY.
Mr. KANJORSKI.
Mr. HASTINGS of Florida.
Mr. GRAHAM.
Mr. TEJEDA.
Mr. BENTSEN.
Mr. COX of California.
Mr. BURTON of Indiana.
Mr. BONIOR.
Mr. PASTOR.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2036. An Act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, March 18, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2248. A communication from the President of the United States, transmitting his request for an fiscal year 1996 supplemental appropriation for support of the Israeli Government's urgent requirement for counter-terrorism assistance, and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–187) to the Committee on Appropriations and ordered to be printed.

2249. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 2196, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

2250. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the cooperative production and support of an expendable offboard active electronic decoy for antiship missile defense (Transmittal No. 07-96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2251. A letter from the Chairman, National Endowment for the Humanities, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

2252. A letter from the Director, Office of Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2253. A letter from the Chairman, Railroad Retirement Board, transmitting the Board's justification of budget estimates for fiscal year 1997, pursuant to 45 U.S.C. 231f; to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee of Conference. Conference report on H.R. 956. A bill to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104-481). Ordered to be printed.

Mr. THOMAS: Committee on House Oversight. H.R. 2739. A bill to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes; with an amendment (Rept. 104-482). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 384. Resolution providing for consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104-483). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILBRAY (for himself, Mr. MOORHEAD, Mr. PACKARD, Mr. HUNTER, Mr. CUNNINGHAM, Mr. THOMAS, Mr. YOUNG of Alaska, Mr. SCHAEFER, and Mr. BARTON of Texas):

H.R. 3083. A bill to direct a property conveyance in the State of California; to the Committee on Commerce.

By Mr. GENE GREEN of Texas:

H.R. 3084. A bill to provide for the furnishing of medical care and disability benefits for former civilian prisoners of war; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRISTENSEN (for himself, Mr. ENSIGN, Mr. CHRYSLER, Mr. ENGLISH of Pennsylvania, Mrs. SEASTRAND, and Mr. SAM JOHNSON):

H.R. 3085. A bill to control crime by increasing penalties for armed violent criminals and drug dealers; to the Committee on the Judiciary.

By Mr. COX (for himself, Mrs. JOHNSON of Connecticut, Mr. HERGER, Ms. LOFGREN, Mr. TRAFICANT, Mr. BRYANT of Tennessee, Mr. ROHRABACHER, Mr. CRANE, Mr. RADANOVICH, Mr. HOSTETTLER, Mr. GOSS, Mr. SMITH of Texas, and Mrs. MYRICK):

H.R. 3086. A bill to permit the Secretary of the Treasury to designate qualified delivery services, in addition to the U.S. Postal Service, for purposes of timely filing of tax documents with the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. BALLENGER (for himself, Mr. GOODLING, and Mr. FAWELL):

H.R. 3087. A bill to amend the Fair Labor Standards Act of 1938 to provide that an employee's regular rate for purposes of calculating overtime compensation will not be affected by certain additional payments; to the Committee on Economic and Educational Opportunities.

By Mr. BREWSTER (for himself, Mr. DICKEY, and Mr. HUTCHINSON):

H.R. 3088. A bill to provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO (for herself, Ms. PELOSI, Mr. DELLUMS, Mr. FARR, Mr. GEJDENSON, and Ms. WOOLSEY):

H.R. 3089. A bill to amend the Communications Act of 1934 in order to provide parents with greater control of their children's access to online material; to the Committee on Commerce.

By Mr. FARR (for himself, Mr. STUDDS, Mr. ABERCROMBIE, Mr. MILLER of California, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. TAUZIN, Mr. GALLEGLY, Mr. GILCHREST, Mr. JONES, Mr. LONGLEY, Mr. TORKILDSEN, Ms. WOOLSEY, Ms. LOFGREN, Ms. ESHOO, Mr. ORTIZ, Mrs. SEASTRAND, Mrs. MINK of Hawaii, Mr. RIGGS, Mrs. SMITH of Washington, Mr. GOSS, Mr. SAXTON, Mr. DEUTSCH, and Mr. CAMPBELL):

H.R. 3090. A bill to authorize appropriations for the National Marine Sanctuaries, and for other purposes; to the Committee on Resources.

By Mr. FAWELL:

H.R. 3091. A bill to amend the National Labor Relations Act to allow individuals against whom injunctive relief is sought an opportunity to be heard; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of Connecticut:

H.R. 3092. A bill to amend the Internal Revenue Code of 1986 to encourage State unemployment insurance laws to establish a system under which workers may purchase insurance to cover the costs of health insurance during periods of unemployment; to the Committee on Ways and Means.

H.R. 3093. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAHAM:

H.R. 3094. A bill to amend the Fair Labor Standards Act of 1938 to provide for an exemption from the overtime compensation provisions of such act for professional employees of contractors and subcontractors of the Federal Government; to the Committee on Economic and Educational Opportunities.

By Mr. HUTCHINSON (for himself, Mr. PAXON, Mr. BOEHNER, Mr. LARGENT, Mr. SMITH of Texas, Mr. BALLENGER, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. MCKEON, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. SOUDER, Mr. FUNDERBURK, Mr. GOSS, Mr. BARRETT of Nebraska, Mr. KNOLLENBERG, Mr. CREMEANS, Mr. CALVERT, Mr. TAYLOR of North Carolina, Mr. DOOLITTLE, Mr. DORNAN, Mr. CHRISTENSEN, Mr. STEARNS, Mr. LINDER, Mr. COOLEY, Mr. HAYWORTH, Mr. GOODLATTE, Mr. CRANE, and Mr. RAMSTAD):

H.R. 3095. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Economic and Educational Opportunities.

By Mr. JACOBS (for himself and Mr. BURTON of Indiana):

H.R. 3096. A bill to mandate the use of instant replay in the event of conflicting calls in a professional sports league game played in the United States; to the Committee on Commerce.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. KENNELLY):

H.R. 3097. A bill to amend title 18, United States Code, to prohibit the mailing of certain mail matter; to the Committee on the Judiciary.

By Ms. LOFGREN:

H.R. 3098. A bill to amend title II of the Social Security Act to diversify the investments of the Social Security trust funds by providing for investment of 40 percent of each year's surplus in such trust funds in certain private obligations, securities, or other instruments; to the Committee on Ways and Means.

By Mr. LUCAS (for himself and Mr. BREWSTER):

H.R. 3099. A bill to establish the Washita Battlefield National Historic Site in the State of Oklahoma; to the Committee on Resources.

By Mr. MANZULLO:

H.R. 3100. A bill to limit the authority of Federal courts to fashion remedies that require local jurisdictions to assess, levy, or collect taxes, and for other purposes; to the Committee on the Judiciary.

By Mr. TOWNS:

H.R. 3101. A bill to require health plans to provide coverage for a minimum period of time for a mother and child following the birth of the child; to the Committee on Commerce.

By Mr. VISCLOSKY:

H.R. 3102. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes; referred to the Committee on Ways and Means, and in addition to the Committees on Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. LAFALCE, and Mr. METCALF):

H. Con. Res. 152. Concurrent resolution expressing the sense of Congress that legislation containing a cross-border fee for vehicles and pedestrians entering the United States from Canada or Mexico is unwise and should not be enacted; to the Committee on the Judiciary.

By Mr. HASTERT:

H. Res. 382. Resolution electing Representative MIKE PARKER of Mississippi to the Committee on Appropriations; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 383. Resolution electing Representative JOSE SERRANO of New York to the Committee on Appropriations; considered and agreed to.

By Mr. BAKER of Louisiana (for himself, Mr. HAYES, Mr. BACHUS, Mr. LAZIO of New York, Mr. KENNEDY of Massachusetts, Ms. VELAZQUEZ, Ms. ROYBAL-ALLARD, Mr. KANJORSKI, Mr. LOBIONDO, Mrs. MEEK of Florida, Mr. CHRYSLER, Mr. KING, Mr. FRANK of Massachusetts, Mr. SCHUMER, Mr. MCCRERY, Mrs. MALONEY, Mr. CREMEANS, Mr. HEINEMAN, Mr. ACKERMAN, Mr. SANDERS, Mr. STOCKMAN, Mr. GUTIERREZ, Mr. WATT of North Carolina, Mr. TAUZIN, Mr. LAFALCE, Mr. EHRLICH, Mr. FLAKE, Mr. BONO, and Mr. ROTH):

H. Res. 385. Resolution expressing the sense of the House of Representatives regarding tactile currency for the blind and visually impaired; to the Committee on Banking and Financial Services.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

208. By the SPEAKER: Memorial of the House of Representatives of the State of Washington, relative to the control or eradication of nonnative noxious weeds in the State of Washington; to the Committee on Agriculture.

209. Also, memorial of the House of Representatives of the State of Georgia, relative to petitioning the President of the United States and the Congress of the United States to recind and remove any action that would give the Food and Drug Administration regulatory powers over the tobacco industry; to the Committee on Commerce.

210. Also, memorial of the Senate of the State of Washington, relative to requesting the Congress of the United States to implement clarification of the Indian Gaming Regulatory Act of 1988; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 580: Mr. SOUDER, Mr. POSHARD, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 761: Mr. WATT of North Carolina and Mr. MENENDEZ.

H.R. 773: Mr. CAMPBELL and Mr. FROST.

H.R. 784: Mr. ROTH and Mrs. VUCANOVICH.

H.R. 969: Mr. FILNER.

H.R. 997: Mr. GORDON and Mr. MEEHAN.

H.R. 1073: Mrs. SCHROEDER, Mr. FAZIO of California, Mr. PALLONE, Mr. HILLIARD, Ms. PRYCE, and Mr. KILDEE.

H.R. 1074: Mrs. SCHROEDER, Mr. FAZIO of California, Mr. PALLONE, Mr. HILLIARD, Ms. PRYCE, and Mr. KILDEE.

H.R. 1127: Mr. HOSTETTLER.

H.R. 1406: Mr. LIPINSKI, Mr. JOHNSTON of Florida, Mr. TEJEDA, Mr. FAZIO of California, Mr. WYNN, Ms. LOFGREN, and Mr. RICHARDSON.

H.R. 1434: Mr. ENGLISH of Pennsylvania.

H.R. 1496: Mr. PAYNE of New Jersey.

H.R. 1514: Mr. BILIRAKIS, Mr. DAVIS, Mr. SALMON, Mr. POSHARD, and Mr. ROBERTS.

H.R. 1684: Mr. BARRET of Wisconsin, Mr. BERMAN, Mr. BLUTE, Mr. BONILLA, Mr. BREWSTER, Mr. BROWDER, Mr. CALLAHAN, Mr. CONDIT, Mr. DEAL of Georgia, Mr. EVERETT, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KINGSTON, Mr. MONTGOMERY, Mr. NEUMANN, Mr. PALLONE, Mr. PETERSON of Minnesota, Mr. PORTMAN, Mr. QUINN, Mr. RAHALL, Mr. ROEMER, Mr. STENHOLM, Mr. STUMP, Mr. TALENT, Mr. TAUZIN, Mrs. THURMAN, Mr. TANNER, Mr. ZELIFF, Mr. ABERCROMBIE, Mr. BAESLER, Mr. BROWN of Ohio, Mr. COLEMAN, Ms. DANNER, Mr. DOYLE, Mr. FIELDS of Texas, Mr. GIBBONS, Mr. GRAHAM, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HOLDEN, Mr. HOUGHTON, Ms. JACKSON-LEE, Mr. SAM JOHNSON, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mrs. LINCOLN, Mr. MCHALE, Mr. PASTOR, Ms. RIVERS, Mr. SANDERS, Mrs. SCHROEDER, Mr. SPRATT, and Mr. TORICELLI.

H.R. 1893: Mr. FRAZER and Mr. PAXON.

H.R. 1916: Mr. GILLMOR and Mr. COX.

H.R. 1972: Mr. HAYES.

H.R. 2391: Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. KIM, and Ms. PRYCE.

H.R. 2407: Mr. ACKERMAN, Mr. PORTER, Mr. DELLUMS, Mr. CARDIN, Ms. WOOLSEY, Mr. BERMAN, Ms. NORTON, Ms. LOFGREN, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2416: Mr. MARKEY and Mr. TAYLOR of North Carolina.

H.R. 2434: Mr. LINDER, Mr. HERGER, and Mr. BARTLETT of Maryland.

H.R. 2531: Mr. BREWSTER.

H.R. 2543: Mr. BONO.

H.R. 2608: Mr. THOMPSON.

H.R. 2634: Mr. QUILLEN.

H.R. 2651: Mr. LEWIS of Georgia.

H.R. 2655: Mr. ANDREWS.

H.R. 2723: Mr. SALMON.

H.R. 2727: Mr. MCKEON and Mr. SMITH of Michigan.

H.R. 2740: Mr. TATE.

H.R. 2779: Mr. ORTIZ.

H.R. 2807: Ms. LOFGREN and Ms. VELÁZQUEZ.

H.R. 2815: Mr. CLEMENT and Mr. DUNCAN.

H.R. 2827: Mr. ROSE.

H.R. 2885: Mr. HORN and Mr. MCCOLLUM.

H.R. 2909: Mr. SANDERS.

H.R. 2912: Mr. TAYLOR of North Carolina.

H.R. 2915: Mr. MCHALE.

H.R. 2925: Mr. ROGERS, Mr. SOUDER, Mr. TAYLOR of Mississippi, Mr. CONDIT, Mr. FRELINGHUYSEN, Mr. GILLMOR, Mr. DEFAZIO, Mr. LIVINGSTON, Mr. KILDEE, and Mrs. FOWLER.

H.R. 2928: Mr. MCINTOSH, Mr. COOLEY, Mr. BURR, and Mr. ENGLISH of Pennsylvania.

H.R. 2930: Mr. BURR.

H.R. 2931: Mr. QUINN and Mr. THOMPSON.

H.R. 2933: Mr. HINCHEY and Mr. FATTAH.

H.R. 2959: Mr. HOUGHTON, Mr. SAWYER, Mr. EHLERS, Mr. FOX, Mr. DAVIS, Mr. STUPAK, Mr. OWENS, Mr. BLUTE, and Mr. MILLER of Florida.

H.R. 2963: Mrs. MORELLA, Mr. FRAZER, Mr. BENTSEN, Mr. STOKES, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. DELAURO, Mr. ABERCROMBIE, Mr. TORRES, Ms. MCKINNEY, Mr. HASTINGS of Florida, Mrs. CLAYTON, Ms. WATERS, Mr. SCOTT, Mr. OWENS, Mr. BISHOP, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. THOMPSON, Mr. FATTAH, Mr. RANGEL, Mr. HILLIARD, Ms. JACKSON-LEE, and Mr. JEFFERSON.

H.R. 2976: Mr. FRANK of Massachusetts, Mr. MILLER of California, Mr. NEAL of Massachusetts, Mr. OXLEY, and Mr. TORKILDSEN.

H.R. 2991: Mr. BERMAN, Mr. LEWIS of Georgia, and Mr. FOGLIETTA.

H.R. 3002: Mr. WELLER and Mr. GUNDERSON.

H.R. 3004: Mr. PAYNE of Virginia, Mr. TANNER, Mr. DICKEY, Mr. MASCARA, and Mr. EWING.

H.R. 3048: Mr. SKELTON.

H.R. 3060: Mr. CALVERT and Mr. FOLEY.

H.J. Res. 70: Mr. ANDREWS.

H.J. Res. 127: Mr. CREMEANS.

H.J. Res. 159: Mr. SMITH of Michigan, Mr. FAWELL, Mr. CONDIT, and Mr. FIELDS of Texas.

H. Con. Res. 47: Mr. BONO and Mr. CRAMER.

H. Con. Res. 73: Mrs. MINK of Hawaii.

H. Con. Res. 144: Mr. ROSE and Mr. VISCLOSKY.

H. Con. Res. 148: Mr. BARTLETT of Maryland, Mr. LARGENT, Mr. STUMP, Mr. QUILLEN, Mr. BILBRAY, Mr. SHADEGG, Mr. EHRLICH, Mr. ACKERMAN, Mr. SAXTON, Mr. WOLF, Mr. CHRISTENSEN, and Mr. LEWIS of Kentucky.

H. Res. 348: Ms. DANNER.

H. Res. 359: Mr. EMERSON, Mr. MILLER of California, and Mrs. MEYERS of Kansas.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 11 by Mr. BARR on House Resolution 364: Wes Cooley and Tom A. Coburn.

SENATE—*Thursday, March 14, 1996*

(Legislative day of Wednesday, March 13, 1996)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose chosen dwelling is the mind that is completely open to You and the heart that is unreservedly responsive to You, we thank You that our desire to find You is because You have already found us. Our prayers are not to get Your attention, but because You have our attention. You always are beforehand with us with prevenient, providential initiative. Our longing to know Your will is because You have wisdom and guidance prepared to impart to us. You place before us people and their problems and potentials because You want to bless them through our prayers for them and what You want us to do and say to encourage and uplift them.

The challenges before us today dilate our mind's eye because You have solutions ready to unfold and implement through us. You consistently know what we need before we ask You. Keep our minds riveted on You and our wills responsive to Your direction. We do want Your best in everything for our beloved Nation. Bless the Senators and all who work with them as they seek to keep America good, so that she may continue to be great for Your glory. In Your holy name, Father. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Thank you, Mr. President. For the information of our colleagues, today the Senate will immediately resume consideration of H.R. 3019, the continuing resolution appropriations bill. Under the order that was agreed to, Senator MURRAY of Washington will offer the timber amendment under a 2½ hour time limitation. As a reminder, the Senate will begin 30 minutes of debate regarding the Whitewater resolution at 1:30 p.m. today, with a cloture vote on a motion to proceed to that resolution occurring at 2 p.m. Senators, therefore, can expect there will be recorded votes throughout the day, and we hope to complete action on the continuing resolution today if at all possible.

I urge my colleagues to take a serious look at the time we have spent on this omnibus appropriations bill. We have been on it since Monday. We really do need to go forward with this legislation. We have a large number of amendments pending on both sides of the aisle. I hope that Senators who are really serious about going forward with amendments will let us know soon. I intend to work with the Democratic leader to see if we cannot begin to get some understanding of what amendments will be offered.

I plead with my colleagues, let us get this work done. Also, we want to do it but we are going to have to do something a lot different than we have been doing or we will not be able to complete this until next week.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

BALANCED BUDGET DOWNPAYMENT ACT, II

The PRESIDING OFFICER. The Chair lays before the Senate H.R. 3019, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes

The Senate resumed consideration of the bill.

Pending:

(1) Hatfield modified amendment No. 3466, in the nature of a substitute.

(2) Lautenberg amendment No. 3482 (to amendment No. 3466) to provide funding for programs necessary to maintain essential environmental protection.

(3) Grams amendment No. 3492 (to amendment No. 3466) to establish a lockbox for deficit reduction and revenues generated by tax cuts.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington, [Mrs. MURRAY] is recognized to offer an amendment dealing with timber sales, on which there will be 2½ hours equally divided.

The Senator from Washington is recognized.

AMENDMENT NO. 3493 TO AMENDMENT NO. 3466

(Purpose: To repeal the emergency salvage timber sale program)

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. LEAHY, Mr. BAUCUS, Mr. BUMPERS, Mrs. FEINSTEIN, Mr. BRADLEY, Ms. MOSELEY-BRAUN, and Mrs. BOXER, proposes an amendment numbered 3493 to amendment No. 3466.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator is recognized.

Mrs. MURRAY. Mr. President, I rise today to make a case for a commonsense, responsible forest policy. Today, I want to plead with my colleagues to fix a mistake that this Congress made last year and put in place a long-term plan to restore the lawful expeditious salvage of dead and dying timber in our Nation's forests.

Today, our national forests are at the center of extreme controversy. My constituents are angry and many believe that the salvage rider from last year went way too far. It is very critical that we address this situation now.

Let me remind my colleagues about the course of forest policy in these past few years. I will spend most of my time discussing the Pacific Northwest, because that is where much of the forest controversy is right now about salvage timber and it is where it is currently focused.

When I came into office in 1992, the national forests of the Northwest were locked up, they were closed to timber management because the agency had not followed the environmental laws of this Nation. The courts prohibited the agency from selling trees, and Congress was gridlocked. Nothing was moving, and there was war in the woods. Rural communities were hurting, and environmentalists were winning in the courts of law and in the courts of public opinion because the public saw mountainsides ravaged and felt betrayed.

President Clinton held a forest conference early in 1993, listened to all

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

sides and eventually endorsed a plan developed by scientists for the Forest Service and the Bureau of Land Management that would provide a sustainable flow of timber while protecting species diversity, watersheds, and other important values.

Few people liked the plan, I will admit, but, once again, the forests were finally open for science-based timber harvests.

Unfortunately, the timber sales program established under the Northwest forest plan has not produced the volumes many of us had hoped that it would. I, like my opponents, am very frustrated that the Forest Service has been unable to produce a timber-sale level even close to what scientists believe is sustainable under the President's forest plan.

Near the end of 1994, delays under the forest plan, combined with a rash of forest fires in the inland West, brought frustration to a boiling point. But instead of working within the plan or trying to reach a compromise on a reasonable approach to salvage logging, this Congress lowered the boom. The rider that passed last year suspended environmental safeguards, it cut the public out of Government decisions, and, under subsequent court rulings, mandated unscientific timber sales.

This rider may have sped up the flow of timber to mills marginally, but it also has sparked a war in the woods in my State and my region. Like so many other environmental proposals pushed by this Congress, it just went too far. I, too, want the President's forest plan to deliver and I, too, want dead timber to be salvaged from our Nation's forests. The big difference between my approach today and my opponents is how we move forward. Do we allow the public to be involved? Do we give agencies discretion to follow the law? Do we provide 1-year fixes or establish a long-term approach?

I believe that we can salvage trees quickly while still allowing public involvement in sales that comply fully with the laws.

I want to take the time to explain my amendment.

The first title simply repeals the timber rider whose consequences shocked so many people. How many Senators envisioned this kind of sale when we discussed timber salvaging dead trees, this kind of sale where the result is a tremendous damage to our ecosystem, to our salmon, to our fish, to the wildlife, where we cut without regard to what happens to the environment or what happens to the timber around it? We cause slides, we cause backups, we cause flooding, and we cause tremendous damage to many of our timber areas and to the salmon and the fish that depend so much on it.

How many of my colleagues, when we voted last year, thought that we would see a sale like this?

My friends, this picture is of a tree that was cut down under the rider from last year. This tree is well over 250 years old. This tree is older than the Constitution of the United States of America. We hear so much today about the fact that we need to take care of our children and our grandchildren, that we want something there for them in the future. This tree will not be replaced for my grandchildren, my great-grandchildren, or my great, great-grandchildren.

This is what we did when we passed the rider last year. This is not the type of sale that the public believes should be exempt from scrutiny or statutory safeguards.

The second provision of this title addresses how we fix the mess we have made. Even the senior Senators from Washington and Oregon admit that mistakes were made. They agree that the administration needs some flexibility to right the wrongs brought about by these old-growth sales. Unfortunately, the approach they take in this bill does not solve the problem. It allows the Secretaries to negotiate with purchasers for alternative volume, but then it gives the purchasers the final say. Furthermore, it allows buyback of these harmful sales, but only using funds other than timber sales money; apparently, watershed restoration money, trails money, and wildlife funds. I do not agree with that approach.

In contrast, my approach provides the administration and the purchaser equal negotiating position but gives the Secretary the final say. It establishes that the priority should be alternative volume. However, if that is unavailable, the Secretary has a whole package of tools available to assist the purchaser. He can offer cash, bidding credits, loan forgiveness, or any other available option under current law.

The final provision of this title addresses the problem of salvage timber sales throughout the country. Under the timber rider passed last year, the agencies were not required to follow environmental laws and their decisions were not subject to administrative appeal or substantive legal challenge. The public, you and I, were cut out of the process. While I believe that the vast majority of sales comply with environmental laws, as the administration promised they would, some of the salvage sales likely would not withstand administrative or judicial scrutiny.

Some people have raised concerns that my amendment will allow frivolous appeals to gridlock reasonable agency decisions to award timber sale contracts.

Let me be very clear; this is not the case at all. My amendment allows judicial review of awarded sales and gives a judge discretion to provide injunctive relief when necessary. The goal is twofold: First, to allow one check on sales that have received no checks at all, and second, to allow legally awarded sales to move forward.

Title II, I admit, is a bit parochial. As I complained about earlier, we simply must make the Northwest forest plan work. The way we make it work is to get the scientific underpinnings in place by finishing the watershed analyses as soon as possible. In this amendment, we direct the agencies to expedite sales under the plan and use available funds first and road construction funds as a backup to complete these important watershed analyses.

The Northwest forest plan has to work. We have too much riding on it. Both the States of Washington and Oregon and many private companies either have developed or are in the process of developing habitat conservation plans to protect threatened and endangered species. These State and private lands supply the vast majority of timber available for harvest in Washington State. Without a sound Federal policy underpinning, these HCP's may no longer provide sufficient habitat protection. This will put our timber workers and our communities in jeopardy once again.

Title III of my amendment is the most comprehensive. It is a section that sets forth in a number of ways, I believe, that reasonable timber salvage can be expedited on Federal lands without cutting people out of the process. Unlike the rider from last year, it limits the definition of "salvage" to true salvage: dead and dying trees. It establishes an expedited process for getting at those trees because the trees are dead or dying, so they must be harvested quickly in order to get any economic value from them.

Maybe it is our puritan heritage, but most Americans do not like to see deadwood going to waste. Why not get some economic value out of the devastation caused by wildfires or insect epidemics or blowdowns? I agree and I try to expedite that often cumbersome process.

Both the timber interests and conservationists have criticized this title. That tells me I must be in the middle. Some people say it will establish a whole new bureaucracy. That is not correct.

One provision does require agencies to work together to shorten the time required for consultation under the Endangered Species Act. At first, I wanted to codify the memorandum of understanding that is working in the Pacific Northwest to reduce the amount of time it takes for the regulatory agencies to approve Forest Service and BLM sales. However, that document is quite cumbersome, so I simply adopted the streamlined consultation methods that it contained. In other words, this system is already in place. It was put there to expedite salvage under the timber rider, and it is working.

Timber interests are also concerned that this more limited definition of salvage is unscientific and alters current law. I have two answers for that. First, the current definition, whose eligibility requirements include such sweeping phrases as trees "imminently susceptible to fire or insect attack" is too broad for the widespread use to which salvage sales are now being offered. A few years ago the Forest Service had a very small timber salvage program and, because of its relatively small scale, was not under public scrutiny.

Second, while my definition is narrower, it does not prohibit the use of the other definition. That is an important point. My bill does not limit the agencies' ability to perform salvage under the older definition.

What my bill does is this: It says, where we need to get in to harvest timber quickly because it will lose its economic value if we do not, we need expedited procedures. On the other hand, in situations where the timber is not dead or rotting, the agencies can take the longer route of compliance with lengthier documents and lengthier appeals. The old salvage program would be better suited to forest rehabilitation activities such as thinning of overstock stands or establishing multilayered canopies to mimic old-growth forests.

Some people have expressed concern that the new NEPA regulations will not be completed for at least a year. That is true. However, I want to emphasize that we are putting in place a new long-term policy to allow salvage logging. The agencies and the Council on Environmental Quality will develop that process within a year, which is very fast for the Federal bureaucracy, and it will remain in place as long as this Congress wishes it to be there.

Let me turn to the issues raised by conservationists. They are greatly concerned about the "salvage" definition contained in the old rider that we passed last year because it is too broad and it encompasses virtually any standing tree. They want only dead trees to be cut, and they do not want any new roads to be built.

My amendment narrows the definition to focus directly on dead trees and minimizes the risks of subjecting healthy trees to harvest under the moniker of "salvage." In addition, my amendment limits new road construction under the salvage program to quarter-mile spurs. My definition does not go nearly as far as they wanted, but it does represent a responsible, sensible compromise.

They want all sales prohibited if arson is committed and believe the burden of proving someone committed arson to create a salvage sale is too onerous. They want this bill's expedited provisions to apply to sales located outside of any wilderness areas, not just those wilderness areas in which timber harvest is currently precluded.

Others expressed reservations about the provision that gives the agency more discretion to provide guidelines for purchasers regarding tree marking. They believe that too many trees are mismarked, and they do not trust the agency to develop reasonable guidelines. However, my language comes directly from feedback received by people on the ground that I talked with, and it is designed to save time in laying out these sales.

Some environmentalists have raised concerns about provisions limiting the time to appeal sales. They feel their rights have already been reduced by the provisions included in the 1992 appropriations bill establishing a time of 45 days. My amendment reduces it to 30 days.

My theory was that the bill gives the public more access up front in the process by allowing them to participate in interdisciplinary team meetings. They will then hear agency experts discussing timber sales and may be better able to suggest helpful changes early, thus reducing the likelihood of bad sales and the need to appeal at all. Again, this is a reasonable approach.

The amendment facilitates up-front public involvement, public involvement in a second way. It waives some Federal Advisory Committee Act requirements if the agency feels public involvement would be facilitated by doing so. As we saw in the Applegate project in Oregon, FACA thwarted a particularly useful community-based effort to manage resources. Where communities can resolve these thorny natural resource issues, I want to do everything I can to endorse and encourage those solutions.

Finally, conservationists are nervous about the increased flexibility allowed under the pilot program for stewardship contracts. Senators MACK and BAUCUS and Representative PAT WILLIAMS introduced legislation this session that encourages this type of contracting that allows the agency's flexibility to design sales to foster stewardship goals, rather than necessarily producing a high financial return to the Treasury.

I have spoken to timber workers, and they believe this program holds great promise. I share their enthusiasm, and I am certain it can be implemented in a constructive and beneficial way for our workers.

Let me conclude this with a note about the final title that is simply an effort to increase our knowledge about forest health and healthy timber stands. This title is primarily directed at tree health. As conservationists have repeatedly pointed out to me as I discussed this topic, forest health is not just about tree health; it is about watersheds and soils and other vegetation, wildlife, and a whole host of noncommodities. I agree. However, I also agree that in some areas of our Nation, our timber stands are unhealthy. We need to use science to figure out a way to help restore them.

This title asks the agencies to identify unhealthy stands and prioritize those that would benefit from rehabilitation. I know that Senator CRAIG and others, including Senator DASCHLE, have been very interested in this approach. The bill directs the agencies to prioritize areas based on their health, their ease of access, and their probability of arousing controversy. Why not rehabilitate areas that we can most easily reach with the least amount of outcry and treat those first?

Finally, the bill concludes with a study recommended in Senator BRADLEY's timber salvage repeal bill. It directs the National Academy of Sciences to study the ecological health of forests. It should provide us information with which, if necessary, we can modify our approach to forest health in the years to come.

This has been a rather lengthy explanation of my amendment. However, I think it is important to discuss so that my colleagues can understand the reasons for the decisions I made in this amendment. This amendment is not perfect, but it does provide us with a real opportunity to do the things that the vast majority of Americans can agree on. We should harvest dead and dying timber quickly on our national forests while giving people—people—the power to influence agency decisions.

It is also critical to point out that this bill is not a referendum on how the administration has handled this issue. Opponents are going to argue that the administration has changed its position or sent us mixed signals. This is not about the executive branch. This amendment is about people.

Under the rider, Federal agencies are out in the woods running timber sales with little or no accountability. Under the rider that we passed last year, ordinary citizens—you and I—have little or no ability to influence Government decisions. Under that rider, timber communities have once again been dragged into a political storm. My amendment puts the public—us—back in the process and implements a long-term salvage program.

Mr. President, this Congress reignited a war in the woods in the Pacific Northwest and elsewhere. The rider passed last year was legislative overkill on the environment. I do not want to have to face my constituents and tell them that this Congress did not want them involved in management decisions about the forests they own. I want my constituents to know they have a place in our Government and in our forests. Likewise, I want our timber communities and families to know that we value the services that they provide to this Nation.

They have borne a lot of criticism for supplying us with wood and paper products. That criticism is shortsighted and hypocritical. I want to make it very clear: One of the messages of this amendment is that timber salvage is good if it is done correctly and wisely. It is a beneficial activity that should be encouraged where it is scientifically sound. We should stop the pendulum from swinging so wildly—from no cutting to no accountability.

Mr. President, through this amendment we can show the American people that this Congress can pass a piece of legislation that gives neither side everything but both sides something. I urge my colleagues to support this amendment that repeals the timber rider and replaces it with reasonable, a long-term, expedited timber salvage program providing commodities for this country and protection for our forests.

One more note, Mr. President. This amendment is fully paid for from Forest Service accounts. I urge my colleagues to support this amendment. I withhold the balance of my time.

Mr. HATFIELD. Mr. President, first of all, I commend my colleague for her keen interest and her willingness to become involved in one of the great issues that confronts the Pacific Northwest—not only the Pacific Northwest, but the entire country, and not just for the entire country, but now something that is an issue that is worldwide.

I want to just say briefly that we get ourselves oftentimes so focused on our own geographic focus of interest, we sometimes forget the impact of policies that affect the entire world. A group of us went to Siberia to see the timber situation in Siberia this last August and to review the cutting policies of that part of the world. Due to the stalemate and the gridlock in the Northwest, which has succeeded pretty much in eliminating this Northwestern part of the United States which is, worldwide, the greatest productive area for softwood timber in the world, effectively eliminating it from the area of supply for one of the great demands in our own country, housing—housing for many people: poor, middle income, rich, everybody. The only product for housing that really is a renewable product that is grown by free solar energy and that can be replaced and renewed, renewed, and renewed, as it is a thesis of our whole timber policy, is a renewable resource.

Let me just say that we are, today, witnessing what I call a modern type of environmental imperialism, much the same as the 18th and 19th century imperialism of Britain and the European powers. For what we have not found available, in part due to our own policies on the home front, we are going to the rest of the world, to exploit the rest of the world—the rest of the world that has no policies in place.

Siberia has a great hunger for hard cash. Let me just say that this is a reality. We have 10 small mills in the Northwest consortium, and in the 10 small mills—6 from the State of Oregon—they have gone in to make purchases of Siberian timber because of our own lack of supply. In Siberia, there is a multiplier of 15. What we can produce in the Northwest on 100,000 acres takes 1.5 million acres of timber in Siberia—1.5 million.

It seems to me that we have to begin to lift our eyes to not only the environmental needs of our own area within this country, and in this country on this continent, but also the whole world.

The same is happening in South America. The demand has not been met in our own country, and, as a consequence, we are looking to other markets in South America. Again, let me emphasize, even our Canadian friends have not fully implemented a national timber policy governing the way in which timber is managed in Canada. The pressure is on Canada. Our 13 Southern pine States, mostly made up of small wood lots, are stripping their lands to meet the supply.

That is just one facet of what we do here and its environmental impact on the rest of the world. I think the day has come when we have to take seriously the right of the United States to go to the rest of the world and exploit and extrapolate their raw materials to feed our own need here domestically.

Now, I think also that it is very important to recognize that these pictures that we see absolutely chill my blood—about the same as if I went to a slaughterhouse to watch sausage being made would chill my blood. But I still like sausage. I am a tree planter. I do not know how many people in this Chamber planted trees. I have planted 1,800 of them on 5 acres of seedlings. I do not like to see the process of providing us housing material or beautiful paneled walls in our offices, and the other myriad of ways in which we use the timber product. And I think, also, our history is very, very limited.

We have had some floods in the Pacific Northwest. There are those who are trying to say those floods were tied directly to timber harvests. I think in some areas that is true. But to say that the floods were created solely, or exclusively, or in the main by this is not historically accurate. The greatest flood we had was in 1891. We were not doing much timbering in 1891 in my State, nor I do not think in the State of Washington either.

We also have a short history when, in World War II, the National Government said, "We have to have timber for the war effort, and we are not using our Federal timber. We are asking the private timber landowners to produce the timber now for the cause of the war, and we will replace it from Federal timber after the war." That is an important factor in this history of timber in our Pacific Northwest. A lot of people like to go around and say, "Look how they have stripped the land of the timber." That was because we had locked up our own Federal land timber and, for the sake of the war effort, calling on people's patriotism to strip their land for that timber because it was faster to be gathered and cut, rather than having to wait to build roads into the Federal area.

I want to now just recall something in 1989. That is not that long ago. In 1989, Mr. President, Speaker Foley, Congressman Les AuCoin, and I called a timber summit to face the problem we had at that time of a shutdown of our Federal forests for any timber harvesting. In 1989. It is very interesting because in July 1989 the Ancient Forest Alliance, a coalition of environmental groups, proposed their own short-term timber supply solution. What did the Ancient Forest Alliance propose? They proposed a 9.6 billion board feet harvest—a 9.6 billion board feet harvest in 1989 and 1990, a 2-year period. That was to take place on the Federal forest lands and the BLM lands in Oregon and Washington alone.

They had other parts to their proposal, such as minimizing the fragmentation of old growth using the Forest Service definition and PNW–447, or regional guide, and protecting the spotted owl. These were all components. But can you imagine a 9.6 billion board feet proposed cut from the Ancient Forest Alliance?

History changes. And this is obviously another example of change. But let us keep a continuity of that history, and let us look at all parts of that history, and let us remember that at that particular time we had just left the period when the so-called ASQ, the allowable cut, was 5.3 billion board feet annually from the Pacific North region, never having reached that level of cutting; the highest was 4.8. But that has changed, too.

Now, let us be very straightforward and historically correct on this. No one should be surprised about the rider. The administration negotiated every dot and every comma in that rider, fully cognizant of its meaning and fully understanding of what it proposed to do and what it proposed not to do. It was a rider to what? An administration bill, a rescissions package. The administration, let us face it, had a higher value on getting the votes for that rescissions package than they did at that moment in negotiating a rider on timber. That is a fact, too. I was one of the negotiators.

So for people to say somewhat that this is a great surprise, that all of a sudden we opened it up and here was the fine print, that is not true. Everybody that was involved in that, including the administration, understood precisely what it said in that.

Now intervene the next step: A Federal district judge and a suit that he had to rule on relating to his interpretation of this rider. Now, when it is said that Senator GORTON and I found that it was not the best rider or the best effort we could have made, or whatever, it was the intervening interpretation by a Federal district judge that caused anybody and everybody who understood what the rider was and that it had gone too far.

Now, let me say that the administration then began to discuss and negotiate a modification to this rider. They asked for five points. First of all, before I give the five points, what are we talking about? We are talking about contracts that had been negotiated in the past on the basis of the forest procedures, on the basis of all of the in-place regulations. Nobody has done this in the dark. All of those were fully operative and negotiated, and they were fully publicized, as all timber sales are. In other words, we moved down not to the subject of timber sale, but to the right of contract.

Three points of contract: Offer, consideration, and acceptance. I learned that in my one and only year of law school. My colleague graduated; I did not. So we are talking about a legal instrument that is fully enforceable under our American jurisprudence system. Consequently, we are talking about a contract. When they say, "Well, any substitute sale has to be agreed to by both parties," of course, you cannot violate a contract. Two parties had entered the contract, and if you are going to modify that contract, you have to have the two parties agree to the modification. This is not anything strange or weighted in the favor of one side or the other. It is a fundamental law of contracts. So we have these contracts, or a $150 million value of contracts, that the Federal Government entered into in good faith, and the buyer, in good faith, with consideration.

OK. What were these points then? The administration said, "Your language is too narrow, as it has been interpreted," and so forth. The language was, in effect, and I want to quote it:

> The administration has the ability to offer replacement for those areas where a marbled murrelet is known to be nesting.

Oh, did we have long discussions with the White House on how do you define the presence of a marbled murrelet. They are reclusive kind of birds. If you find an eggshell, is that sufficient evidence? If you heard one fly over? So we said, "nesting." And we said the replacement for those areas and those sales, if you found a marbled murrelet nesting, could then be set aside and replaced in like kind as a substitute sale. They said those were restrictions that they felt could not produce the best environmentally sound replacement policy. Two points: Expanded beyond the marbled murrelet, and do not make it replacement sale in kind. That would require an old growth, or no growth, or second growth, or whatever.

So, consequently, we lifted both of those out of the rider modification. In effect, we said, for any reason that you feel it would be environmentally unsound to pursue a sale, set it aside, and you do not have to replace it in kind. Replace it in volume with a mutual agreement because there were two parties to this contract.

We have no other way to do this except to legislate it and invalidate an existing contract. I do not think the Congress wants to get into that business.

All right. Those were two issues that we cleared up.

Then they said, "Well, there are times when, perhaps, we do not want to have a substitute sale. We would like to have a buyout of the contract," which is always possible under contract, any contract. So we said, "All right. Have a buyout." There is a little question as to where we are going to get the money for the buyout. But the point is, we would give them authorization for a buyout and work with the administration. As chairman of the Appropriations Committee, I have a little flexibility to do things of this kind, to make commitments. We will find ways to help finance an agreed financing system for the buyout. Then they said, "Put a date of December 1996 as to when all of this has to be accomplished." That might rush us into premature cutting in order to meet a deadline. So it took a deadline off.

The last thing they asked for was a repeal on the sufficiency language, which is a red light, a red herring, or a bell in the minds of most environmental groups. But based on history and based on the record, there were people who were filing an injunction on every single timber sale to tie up every timber sale whether it had an environmental issue or not an environmental issue. We had the woods being run by lawsuits or locked up by lawsuits.

So the sufficiency language which we used in other cases, in other laws in this Congress and in this Government—wait until Superfund comes out. There will be sufficiency language in that. That is OK because that is against corporations who use the courts to stall their responsibilities to clean up. I will support it. I think it is a legitimate instrument if used carefully, and the record will show that there is plenty of evidence why sufficiency was going to have to be the implementation on this.

By the way, it went clear through the court system from the district to the ninth circuit to the Supreme Court, and the Supreme Court sent back the ruling, the ninth circuit having invalidated section 318 when the first sufficiency language appeared, and, in effect, said, "Leave the management of the forest to the experts," and unanimously overruled the district court and the ninth circuit court. Of course, the ninth circuit court has a great record of being overruled. It is probably overruled more than any other circuit at certain times.

But the point is simply this. That was very legitimate. So four of the five—but listen to what we did with the four. You do not need sufficiency from the standpoint of the administration, or administering the forest, because it said for any reason you want to indicate that you do not feel a contract should be implemented, do not implement it. Have a substitution or a buyout—all power.

Let me make an observation. If the administration's position now is one of surprise, or they did not realize what they were signing and they want it repealed, let them talk to their foresters, their experts, and not to the pollsters and the political counsel at the White House. This is not a forestry issue, Mr. President. This is purely a political issue. And they need to repair that base of their support in the environmental community, and this is the only way the environmentalists say it: Do it this way, our way, or we will go out there and trash it. And they have already been doing that, when this first came about.

So, this is not a forestry or an environmental problem. This is a political problem being put into environmental wraps for the sake of the political election cycle we are in. They knew every inch of the way and every word of the rider, and now they are trying to get out from under it. By the same token, we have given them all the leeway, all of the flexibility necessary to cancel any sale by a buyout, or a negotiated replacement.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, I yield 20 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon, [Mr. WYDEN] is recognized for 20 minutes.

Mr. WYDEN. Mr. President, this past January 31, around 2 o'clock or 3 o'clock in the morning, I tried to imagine what I would say in my first Senate floor speech. I reflected a bit on what I had learned from Oregonians during the campaign that sent me here.

Though I had not slept a whole lot for many days, I had no problem piecing together what the election was all about: Oregonians, regardless of who they voted for, are hungry for real solutions. In many ways, ideological purity—looking at Government through a set of partisan blinders—is far less important to the people of my State than making the Government work.

The message from our electorate was blunt: Put aside the partisan differences, shed the political armor, and find common ground.

I am by nature an optimist, and I believe that there are plenty of reasons to see that the water glass of democracy is more than half full. Both political parties now understand how important it is to downsize the Federal Government. Both parties recognize that our Nation needs real welfare reform. Soon the Senate will deal with a bipartisan health insurance reform bill. These are all areas where Democrats and Republicans can come together and find consensus.

But, frankly, I did not expect in the early morning hours of January 31 that my first speech would be about the so-called "salvage rider," a subject that seemingly defies consensus building. And that is why our job today is so critical. More than half the forests in Oregon are owned by the Federal Government. For many Oregonians, the responsible management of these Federal lands is the acid test for determining if the Government really works or is actually broken beyond repair.

I believe that the Senate can help bring peace to our forests. Our challenge is to help persuade the warring forest factions to lay down their ideological clubs and work together so that America has healthy, productive forests in the next century.

Eminent forest scientists agree that our Western forests have genuine health problems that can be cured through salvage logging. For example, Oregon Governor John Kitzhaber's expert panel has made a number of important findings with respect to our State's Blue Mountains. They found that sizable amounts of certain species, such as Douglas fir and true firs, have died as a result of overcrowding on drier sites, drought, and insects.

A major portion of the live forest is under stress because stands are too dense, especially the true fir and Douglas fir understories beneath pine and larch, and it increases the likelihood of future mortality in both understory and overstory.

Restoration treatments including thinning and fuel reduction could reduce the risk of loss from insects and fire on large areas of these forests. Time is of the essence to capture economic value and reduce risk of catastrophic losses in the future. Salvage and restoration treatments have the potential to pay for themselves and provide funds for ecosystem restoration projects.

This story is not unique. Similar situations exist in forests throughout the West. A science-based forest health and salvage policy is needed to end this crisis, and as an Oregon Senator I am going to work with anyone, anywhere, anytime for a forestry policy that works.

In 1995, the Congress enacted a new salvage logging program. The supporters said it was a win-win policy, arguing that dead and dying trees would be salvaged for our mills and that the harvest would reap the added benefit of improving forest health. As a Member of the House, I felt compelled to vote against the plan because it was hard to find what we call the good wood in these arguments.

First, buried in the technical language of the bill was a definition of salvage that was so broad that virtually any tree in the forest could be cut. That definition specifically allows salvage sales to include what were called associated trees that are not dead or dying as long as that part of the sale did include salvage of dead or dying trees.

Second, the lack of hearings on the measure was a sure ticket, an absolute glidepath to the legal bedlam that Senator HATFIELD has described.

Third, whether or not you support the President's forest plan, a Federal judge has ruled that timber-dependent communities can actually harvest trees under it. The salvage rider threatens that harvest for a short-term gain.

Finally, I voted against this rider because it embodies what citizens have come to mistrust in American politics. While supporters of the rider said it was a good Government plan to prevent catastrophic fires and insect infestation, it has turned out to be a Trojan horse that would allow for the lawless logging of healthy old growth trees. The outcry that followed the rider's enactment is predictable and is why we are in the Chamber today.

My colleagues, it did not have to be this way. The Congress could have addressed these problems through the proper authorization process. The Senate could have let the public in on the debate. Senator CRAIG's bill, S. 391, squarely addresses forest health and could serve as a valuable starting point for a discussion of this issue. In our previous life in the House, Senator CRAIG and I worked very well together. I have always enjoyed working with Senators HATFIELD and GORTON. They have both been very kind to me in these early days of my service in the Senate, and I know we can work together again to achieve better Federal forest management.

The Senate needs to understand that the frustrations in resource-dependent communities that gave birth to the salvage rider are legitimate. That is certainly the message I got in my recent townhall meeting in Prineville, OR. Thousands of families in these communities are losing hope, and the Congress has to respond to their needs.

Under the President's plan for Northwest forests, timber workers and communities were promised a harvest level of more than 1 billion board feet by 1999. This is down from unsustainable but peak harvest levels in the 1980's, but timber workers and their communities rightly feel abused when even meager promises are not kept.

Some of the original supporters of the salvage rider agree that the old growth logging that is occurring goes beyond what they have intended. In an effort to fix the problem, they have included language in the appropriations bill to give the agencies some additional flexibility to substitute alternative tracts and authority to buy back environmentally damaging sales.

These provisions are only a partial fix. They provide only a brief 45-day period allowing Federal agencies to substitute new timber for old sales which would be environmentally damaging or for a buyout of these sales. If the purchaser is not happy, the agencies have little leverage. Environmentally sensitive sales are going to go forward. The deck is stacked heavily in favor of the purchasers so that in effect they can dictate the terms.

In addition, provisions currently in the bill continue the exempting of salvage logging from environmental laws even extending this exemption for some of the most troubling sales. If these environmental laws are not working, then it is the duty of the Senate to change them. But it ought to be done in the open. It ought to be done in the clear light of day. As a new Senator, I am not going to support the politics-as-usual process by circumventing the law.

I also have no intention of turning my back on working families. If you oppose the salvage rider, you have to stand up for an alternative. You have to say what you are for if you are going to keep faith with folks in timber-dependent communities. I support a strong legally constituted forest health and salvage logging program that provides a real timber harvest and real hope for rural Oregonians.

That is why, today, I am going to support the amendment offered by Senator MURRAY. I compliment the Senator and her staff for her efforts to reach out to the broad section of stakeholders who care so much about this issue. I intend to work actively with other Senators to improve this legislation, but I believe that the Murray bill is a sounder, more comprehensive solution than the language now in the bill.

I believe that the centerpiece of reforming the salvage rider is ensuring that those who voluntarily relinquish contract rights to old-growth timber receive replacement timber. If the Murray amendment is adopted, I wish to work with my Northwest colleagues to strengthen the Murray proposal by making it a legal duty for the Clinton administration to find acceptable replacement timber from nonsensitive areas. My own view is that failure to provide certainty on the replacement timber issue virtually guarantees that this body will be back debating yet another fix to this problem.

The Murray amendment provides the agencies with tools they can use to deliver on the critical requirement of replacement volume. And the Murray amendment has other positive features. First and foremost, it restores critical habitat, forest and streambed protections in our current law. It gives citizens the right of legal redress, but the legal process will no longer drag on interminably. Instead of using scarce tax dollars for salvage buyouts, the buyouts are used as a last resort. The Murray amendment encourages and expedites legitimate salvage logging where it can treat genuine forest health problems.

There is more to do, and let me outline some followup steps if the Murray amendment goes forward. For example, I believe it is important to expedite the harvest of any remaining 318 sales that are not environmentally sensitive. These are sales that were planned under the process set up in the 1990 appropriations. The salvage rider orders the release of 318 sales which had been held up for environmental concerns. There are some who would claim that all of these sales should be suspended because of their potential environmental impacts. The fact is, Federal agencies do not challenge the release of all of them. A number of them have already been cut. If, in fact, some of these sales do not impact environmentally sensitive areas, I hope they will move forward.

A related concern is that bona fide salvage sales not be held up when; they do not trigger environmental concerns. Delay in salvaging dead and dying trees can cause the value of timber to decline substantially, even making it unmarketable. Automatically suspending salvage sales when an appeal is filed could invite meritless appeals that frustrate legitimate salvage efforts.

Finally, I am concerned that the forest health provisions in the amendment are somewhat duplicative, and that more work needs to be done on the roadless area provisions.

Mr. President, I would like to conclude my first speech in the Senate with one final comment. I am the first Senator from Oregon elected from my party in more than 30 years. But what I want to do most in the Senate is get beyond party labels, get beyond urban versus rural politics, and find common ground to help all our people. Whether you are an environmentalist or a mill owner, a fisherman or a logger, a new policy for creating and maintaining healthy forests is the common ground on which we all may stand. I urge my colleagues to support the Murray amendment and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, due to the prominent nature of this debate, perhaps the first thing we ought to do is to put in context how much, in the way of our national forests and our timber, we are talking about in the contracts that go beyond pure salvage. As a consequence, I have a picture here. The President's forest plan for the Pacific Northwest involves some 24 million acres in the States of Washington and Oregon. Mr. President, 19 million of those acres, more than three-quarters of them, are protected as statutory wilderness or park areas or set aside as research, old growth, and riparian acres.

Ten thousand acres in existing contracts are called for to be harvested in this amendment. I have indicated those 10,000 acres here.

Oh, you say, Mr. President, you cannot see it? Maybe this magnifying glass will help.

Mr. President, you still cannot see it? That is because what we are talking about is so small that, on a graphic illustration like this, you literally cannot see it. Ten thousand acres of harvest in the Pacific Northwest, already under contract, will be canceled automatically by this amendment should it pass.

As Senator HATFIELD pointed out, these 10,000 acres are not some permanent forest plan. They are unharvested acres in contracts which the Federal Government offered, received bids for, accepted the bids, and signed the contracts between 1990 and 1995. They are legal and binding contracts. And, of course, the amendment is closed-ended because it applies only to those contracts that were already signed.

But, Mr. President, let us say that we have made this a permanent amendment and said that every year the Forest Service had to execute contracts for 10,000 acres, and let us weigh it against this chart. Mr. President, grade school math tells us that it would then take 100 years to get to 1 million acres. It would take 1,000 years to get to less than half of the acres shown here in the President's forest plan.

Let me say that again, Mr. President. Out of 24 million acres, in 100 years, if this were permanent, we would get to 1 million acres; in 1,000 years we would get almost to half of these acres being harvested once. But, of course, this is not a permanent provision. It just says the Government made a deal, it entered into a set of contracts. It ought to keep those contracts.

That is talking about acres here, Mr. President. Let us talk about board feet. This is the almost 400 billion board feet of timber on those acres. This is the almost 300 billion board feet that are in those protected areas. This is the less than 100 billion board feet left. This is what we are talking about, 650 million board feet, somewhat less than one-tenth of the amount of growth each year.

Mr. President, you say you cannot see this line? I cannot see this line, standing as close to it as I am, because the number is so small. The number is so small.

What did the President of the United States say when he signed this bill, barely 6 months ago? President William Jefferson Clinton said, "The final bill does contain changes in language that preserve our ability to implement the current forest plans and their standards and to protect other resources such as clean water and fisheries." That is what the President said in July of last year about this proposal.

Mr. President, this is presented as some kind of modest change, moving toward balance. In fact, of course, this amendment would not only cancel the contracts that have already been let that create legal obligations on the part of the Government, that are the subject of the charts that I have just shown, it would also cancel all of the provisions relating to salvage timber, the actual dead and dying timber, and all of the provisions relating to option 9.

Senator MURRAY, in her comments, spoke about the President's timber summit. At the President's timber summit after he was elected, his statement of balance ended up being what is now called option 9, which called for a harvest of about 1 billion board feet a year in these forests. In the nonprotected lands, that would take almost a century to work through.

But, as Senator MURRAY has admitted, almost none of that was actually harvested, even though that summit took place in 1993. Why? Because of the endless opportunities the law gave for appeals and for delay. It is almost impossible to find a single harvesting contract that was not subject to such an appeal. The Forest Service, President Clinton's Forest Service, tells us that in 1994 and in 1995, 92 percent of all of these appeals were turned down. They were frivolous. But an appeal in connection with salvage timber is as good as a cancellation. That timber is dead. It falls to the forest floor. It rots. If you go through one season stopped by these appeals, for all practical purposes the value of the salvage timber is gone. If you go through two seasons, it is absolutely and totally and completely worthless.

So the timber rider in the rescissions bill included three parts. One part said: Mr. President, you have offered the people of the Pacific Northwest option 9. The timber communities do not think it is adequate. It is a harvest of 20 percent, one-fifth of what the normal harvest is. But it was something, it was some offer. You have not been able to keep your promise. We are going to allow you to keep your promise. We are not going to change any of the environmental laws at all. No, you still abide by them. That is why the President was able to make this statement. But once you have determined that a particular offering is valid under option 9, you can go ahead and do it and you cannot be stopped by this frivolous appeal.

Second, for the whole country with respect to salvage timber, we said the same thing. Mr. President, once your very green administration, your very environmentally sensitive administration says that a salvage sale ought to go forward, we are going to allow it to go forward. We will not allow it to be stopped by a frivolous appeal until the salvage timber has rotted out and become worthless.

But, Mr. President, nothing in either one of these provisions, option 9 or the salvage timber provisions, requires the administration to execute a single contract under option 9 or across the country for salvage timber. It is forced to do nothing that it does not want to do, and yet Senator MURRAY would cancel its ability to do something if it wants to do something.

The only mandate in the rescissions bill was this 650 million board feet, this tiny amount of existing contracts that the Federal Government signed, followed all the rules that were in effect at the time it signed them and for which it is liable if it cancels them.

Senator MURRAY's proposal will cancel all of those contracts, will allow the suspension by appeal of all of the contracts under option 9 or under salvage timber while those appeals are pending, will, in effect, result over the next few months in this season in no harvest at all in the Pacific Northwest and will create both a loss of revenue to the Federal Government, which it now expects from these sales, and very large liabilities on the part of the Federal Government to people who hold valid contracts.

Mr. President, how does she pay for it? She does not add to our deficit directly. She takes it out of general administration of the Department of Agriculture's Forest Service and out of forest research, interestingly enough, the very research which the amendment says is so vitally important. That is for the loss of income, the money that would go into those accounts.

For the loss of judgments to people who have valid contracts, she says, interestingly enough, the Secretary concerned can take it from any money appropriated to them. Mr. President, did you know that? Did you know that the Secretary could take that money from the account for Rocky Mountain National Park? Do my colleagues know that it can be taken out of agricultural research in South Carolina? No appropriation, no direction from the Congress at all, just wherever an imperial Secretary wants to take the money, no matter what it was appropriated for—to the Department of the Interior or the Department of Agriculture—the Secretary literally can take that money from anywhere.

I listened to the eloquent maiden speech of the new Senator from Oregon who wishes for a balanced and a thoughtful approach, and I wholeheartedly join him in that desire. I believe, as Senator HATFIELD, dealing with the administration both back in July and at the present time on this has provided exactly that. Senator HATFIELD's original work resulted in this statement by the President. That statement is: No problem, no problem at all, we can do everything for the environment we wish consistently with this rider.

But over and beyond that, this bill, the bill we have before us, allows buyouts as long as they are agreed to by both contracting parties, allows transfers, as long as they are agreed to by both contracting parties, allows all of the flexibility necessary.

The President of the United States promised balance. All of us want that balance. The President of the United States now, in supporting this proposition, says, "No, this is a tough year and it is an election year. There has been a furor over this."

There have been all kinds of misstatements. No one in the world would understand from what we have seen how little we are actually talking about: "You must cancel the whole thing. You must allow appeals to stop any harvest of salvage timber, any harvest under option 9, cancel all of the sales under section 2001(k)" and, besides that, another 200 million board feet of sales that there has been no controversy about whatsoever. Almost half again as much as we told the President to execute is canceled by this amendment about which there has not been any controversy, but it will be canceled if this amendment is adopted.

Mr. President, this is not balance. It is not a fair approach. The definition of what is allowed in salvage in here is so tight that there will be no salvage. You cannot salvage in any area without roads. You cannot salvage in any wilderness area. You cannot salvage in any lake or recreational area. You cannot salvage in any conservation area. That is what the whole forest system was created for.

There is no money in the salvage account, because it is all used for something else. If that is not enough, if you get around that and find one or two, it can be stopped by an appeal.

Mr. President, this amendment is a prescription for an end to all harvesting of timber in the national forests of the Pacific Northwest and, therefore, should be defeated.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Mr. President, I yield 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY] is recognized for 10 minutes.

Mr. BRADLEY. Mr. President, I thank the Senator from Washington for yielding time. I do not know if I will use the entire 10 minutes.

Last year on an appropriations bill, we passed the timber salvage rider which I consider one of our bigger, if not the biggest, mistakes in natural resource management of the last 18, 19 years. We abandoned our environmental principles and endorsed a program of logging essentially without laws which undermines protections for precious resources, with only slight economic justification.

It is very difficult to accomplish all those things with one piece of legislation, but that is what the rider did. We passed the original rider with little knowledge of its potential impact and without holding any hearings. I remember standing on this floor during the debate on that rider and focusing on the language that said any tree susceptible to fire or insects could qualify as a tree for salvage, which meant the entire forest.

Members thought that they were voting to remove dead and dying trees from our national forests in order to protect forest health and capture the remaining value of trees which had been damaged by devastating fires. But we argued against that, pointing out, no, that is not what the language of the rider says. The language was not just for dead and dying trees that needed to be salvaged, but that vast areas of the national forests—healthy trees—would be cut as a result of this rider.

Unfortunately, in our view, the rider, more or less, prevailed in its breadth. The courts interpreted the law to mandate the cutting of some of America's most valuable trees.

I hope that everyone has a chance to see the pictures that the distinguished Senator from Washington has on the floor, to look at the old-growth forests that are being cut because of this rider. Anyone who has ever walked in old-growth forests understands that there is a dimension to those forests that is beyond the material. And cutting trees that are 50, 60, 100 years old means that it is going to take that long for them to regrow, if they do, and destroying habitat in the process.

Mr. President, the areas that are subject to cutting under the court decision include the healthy old-growth forests of western Oregon and Washington that have been long off-limits to timber sales because of their environmental sensitivity.

Mr. President, it would be irresponsible for this Congress to ignore those environmental problems and take actions which could make them worse.

For example, a recent long-term study of the effects of timber cutting in the Northwest found that there was increased flooding even after 20 years, resulting from clear-cutting in sensitive areas. How can we appropriate millions more in this bill to repair flood damage in areas without taking the steps that the Murray amendment represents, to reduce the risks of future floods by assuring a full-growth national forest? How can we do that?

If you had the forest restored, you would have fewer floods; but we cut the forests, and we have more floods. Then we take taxpayers' dollars to make those individuals that are affected by those floods whole.

Mr. President, the timber salvage is not just an issue for the Northwest, which is another point. Even though the focus is on those old-growth forests, the riders apply equally to forests nationwide by requiring salvage sales in areas that would otherwise have been rejected for legitimate environmental reasons.

Although agencies such as the National Marine Fisheries Service, Fish and Wildlife Service, and EPA have objected to many of those sales, courts have held that they must go forward because of this salvage amendment rider, because they are required by the letter of that law. Even worse, Mr. President, the rationale for the rider rests on improving deteriorating forest health conditions.

That is supported with very little data. We lack even the basic information needed to justify cutting trees on the scale endorsed by the rider, under conditions which suspend environmental laws and terminate almost all avenues for administrative and judicial appeal.

Senator MURRAY's amendment, I believe, would supply this missing information by requiring a new National Academy of Sciences study for forest health that provides the answers that Congress needs to regulate the forests sensibly. We do not have the answers right now. The law was passed, essentially mandating the cutting, and we do not have even the information to back it up. Last year's rider also undermines President Clinton's consensus Northwest forest plan, which took many months to produce and gave some hope for settling the region's longstanding timber wars.

Instead, under the rider, the timber wars have resumed at full force. The distinguished Senator from Washington pointed out that the President said he thought that he could work with it, and that is why he signed the bill. That was before the court decision said no. There were vast areas that were now open for salvage that the President had no idea of under the language of the law as he read it. The court broadly interpreted it so that now you are not just going in to pick up a few dead trees and dying trees, but you are slashing old-growth forests, as in the pictures that the distinguished Senator from Washington has shown to the Senate and to the country.

Mr. President, we have a chance to reverse these mistakes. We have a chance to take a more measured approach to timber salvage. That is the Murray amendment. It is supported by a wide variety of environmental groups. I know that that is not important to everyone, but it should be registered. The Sierra Club, the National Audubon Society, Wilderness Society, National Resources Defense Council, regional groups throughout the Pacific Northwest, they understand the significance of cutting old-growth forests. All this Murray amendment does is put laws back into the timber program. It is probably the biggest environmental vote that we are going to take, at least so far, this year. I urge my colleagues to support the Murray amendment and restore lawful logging to our national forests. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. GORTON. Mr. President, I yield such time as the Senator from Montana uses.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair very much, and I thank the leader on this.

Here we go again, talking about health of the forests, talking about the elimination of jobs in research, when more research is needed, and talking about a situation that existed in damaged forests before this salvage bill was passed a year ago.

It was simply management by committee at that time, and that did not work very well. It was not successful. Professional land and resource managers could not have or they could not have been allowed to apply good conservation measures when dealing with renewable resources. We are talking about renewable resources here.

And the salvage program gave some hope, hope of predictability in the communities across the Northwest that depend upon that healthy, viable forest. A diseased forest supports nobody, not this Federal Government, not people who want to own houses, not people who use wood products, nor the people who live in those communities that are dependent on the conservation or the wise use of a renewable resource.

The salvage program was passed by this Congress, with bipartisan support, as a tool to deal with forest health. The fires of 1988, 1994, and 1995 were devastating, so this Congress did exactly what it should have done in light of what the President and Vice President had promised the folks in the Northwest.

Now, are we seeing the rug pulled out from underneath them again? I just want to draw the attention of my colleagues to a couple things that I think are very, very important whenever we start considering this issue. This is where we want to get to: healthy, growing, young forests. The subject of the fire, now with a lot of things cleaned out, a lot of the undertow cleaned out, this forest is well on its way to recovery. That is where we want to get to. I think that is very important.

I want to draw your attention to this photograph. Here is a diseased forest as we find some of our forests in the State of Montana, dead and dying, with a green tree every now and again, basically a forest that has matured. If we are to regain any kind of value from this resource, we should take these forests, take the dead and dying trees, because if we do not—if we do not—as the years of 1988 and 1994 proved, this will be the scene across the great landscape of my favorite State of Montana.

This is up in the Yaak—a very dry year, lightning fires. You want to talk about air quality. Let us talk about air quality while we are talking about an environmentally impacted area. That is what it looks like when you get up a little closer, as it takes everything, the dead and dying and, yes, even the green trees. It takes it all. Devastating, dangerous. Again we can talk air quality. Want to get up a little closer? Anybody ever look down the throat of a forest fire? I have. In 1953, Edith Peek, Tango—I can name a lot of fires, most of them caused by a very natural thing called lightning. But with all the fuel that is on the forest floor, once it starts there is no stopping it. Again, it burns the diseased, the dying, and the healthy trees.

Now, after this little episode is over, this is what you have. This is what we are talking about as far as salvage is concerned. Some of these logs that are on the floor of the forest are actually usable, but as a year or 2 years goes by, they lose their value. There is no value there at all. So the salvage is not taken care of.

Another picture, same way, the subject of fire. Only take the ones that are on the floor of the forest. It makes a resource for us and everybody in this country.

A while ago we talked about water quality. This is in a forest that is subject to disease. A stream, drainage—that was not caused by man, but it can be healed by man—to protect this water quality, and nobody—nobody—is better at it than the State of Montana, or is more aware of it and more sensitive to it than my State of Montana.

When the provision was signed into law a year ago, it was a sound land management decision then. It still is. Instead of keeping an active forest salvage program in place, this amendment does a couple of things. It adds back new layers of bureaucracy while it takes away from other areas, areas where we could put more research and technology—this also promotes brandnew litigation. You know who wins in litigation. It is not the forest, and it is usually not the resource producers or the resource managers.

The salvage bill was passed by Congress and signed into law by the President. It provided a speedy process of processing and preparing. It called for environmental assessment and biological evaluation to be completed upon each sale. Let me tell you something that has happened as a result of this: Knowing that it may not end up in the courts, the different groups—both the logging industry, both the Forest Service who has responsibility of taking care of and managing that forest, and groups outside that were concerned about the environmental impact on that forest—all came together and they went into the forest and looked at some proposed sales. Everybody signed off on them. What it is, it brought them closer together because they knew that this problem was not going to be taken to court, that we had to participate in the dialog. Everybody signed off. Everybody was happy. I think that was through the leadership of some people who worked for the Forest Service in the State of Montana that understood that if we are going to make the salvage law work, and protect the integrity of that law, we had to include a lot of people. They did that.

Really, all the groups concerned fundamentally agree to the same thing. They want a healthy forest. They want a renewable forest. They want one that is growing. Not only does it make good sense for the amenities of the area, it also makes good economic sense for the communities that depend upon the harvest of timber, and the harvest in an environmentally sensitive way—to involve people. That is what we did in Montana.

The courts are a terrible place to resolve our disputes. What happened in our case as a result of the salvage rider is this: When two sides or three sides are forced to settle their differences on the ground, knowing that the only way they will attain resolutions on the ground, they try to because reasonable people find ways to solve reasonable problems.

There was a copy of a letter sent to me from the commissioners up in Lincoln County, MT, testifying, "We are here to personally testify that these salvage sales on the Kootenai National Forest are being done responsibly and in compliance with environmental laws, improving forest health conditions damaged by fires, creating jobs and generating a return"—a return—"of funds to the general Treasury of the United States of America," where those funds will dry up if this amendment is approved.

It is a testimony of people who live in the area who are concerned about their forest and who testify that, yes, the salvage rider is working. What criticism it may have, we must not lose the sight that our only goal is really for a healthy forest. Our communities cannot live without a healthy forest.

I urge my colleagues to defeat this amendment, allow us to proceed in a way where there is balance, where the balance is responsible and where we can find answers by talking to people and not yelling at them in a courtroom. That is where we solve problems—when it comes to our natural resource management, in the areas that are totally dependent on that natural resource.

Mr. President, the timber salvage provision enacted last summer is doing what it was intended to do. But the amendment offered by Senator MURRAY turns the clock back on sound land management policy and job security.

The lack of management over the years has left our communities at risk. Not only are Montana's communities which depend on the wood products industry on economic shaky ground, we have placed them at risk of serious fires.

We must not lose site of the fact that the timber salvage provision signed into law last year was in reaction to the serious fire load on the ground in the West. The fires of 1994 and 1995 were damaging. Human safety, community stability, and jobs were at stake. The work that is being done on the ground today under the salvage provision will help alleviate the potential threats during the 1996 fire season and beyond.

The provision signed into law last summer is a sound land management plan. But, with this amendment we have turned away from reason. Instead of keeping an active forest salvage program in place, the amendment would repeal sales which have been prepared, add new layers of bureaucracy, and promote new litigation. The proposal we have before us should be called the "No Logging, No Logic, and Lots of Litigation Amendment".

It is important to remember what the timber salvage provision supported earlier by this Congress and signed by President Clinton accomplishes. The provision speeds up the process in which a sale is prepared and offered. It calls for an environmental assessment and a biological evaluation to be completed on each sale. The land management agencies are required to implement a reforestation plan for each parcel of land. Also, the enacted provision excludes wilderness areas, roadless areas recommended for wilderness by the land managers, and any other Federal land where timber harvesting is prohibited by law.

These sales must be completed quickly because we are talking about dead and dying trees. The longer the diseased or dead trees stay in the woods, the more rapidly their value deteriorates. For instance, after fire damage a Douglas-fir will lose 20 percent of its value over 1 year. This rate of deterioration increases more rapidly with time. We need to move quickly. If we do not, the potential for jobs are lost and fire hazard increases.

Also, the funds acquired through these sales is being used on restoration activities in the woods. If we stop these sales, or decrease the value of the sales by waiting, we lose revenues for restoration activities.

The timber salvage provision has resulted in 62 million board feet of timber being sold in Montana and there is 233 million board feet in the pipeline; 143 million of this is salvage from the 1994 fires on the Kootenai National Forest.

There has been criticism that this salvage program has resulted in the sale of green trees. This simply is not true. If it were true, I would be the first in line telling the Forest Service they are not following the intent of the law and would support legislative changes.

But the fact is, 90 percent of the salvage program in Montana is dead or immediately dead timber. The remaining 10 percent harvested fits the intent of forest health definition under the law. This is the same definition the Forest Service has used. Sometimes the harvesting of green trees is necessary to implement salvage activities. But, in Montana, only 10 percent of the timber harvested under the salvage provision was green.

The amendment offered by Senator MURRAY moves us backward. It guts a fair and balanced provision and replaces it with legal bells and whistles, stopping aggressive management practices, and placing jobs at risk.

Appeals are a lawyer's heaven and a timber man's nightmare. Yet, this amendment encourages appeals. The snowballing effect of stopping these sales is large. Due to similarities in all salvage sales, if one appeal is filed it has the potential of stopping all salvage sales.

In addition, not only would this affect future sales, it would affect sales which have already been prepared. For folks on the ground in Montana, this means that they could be working today, but sent home tomorrow if this amendment were enacted.

Senator MURRAY's amendment also sacrifices Montana's interests for the President's Northwest forest initiative. The amendment directs the management agency to pay for the trade or buy out of the 318 sales in Oregon and Washington in a 1-year timeframe. These sales were sold and then canceled by the Clinton administration. The cost is around $300 million.

In order to pay for these cancellations, financial resources from other States could be diverted. This means new visitors construction, preparation of new salvage and green sales, and other activities in Montana could be diverted to pay for the President's Pacific Northwest forest initiative.

In order to address concerns raised by the White House over the 318 sales, Senators HATFIELD and GORTON included language in the bill which gives the Forest Service and BLM the opportunity to find alternative timber or funds to meet these contracts. The Murray language, however, has a 1-year period to trade or buy out these contracts. That certainly does not seem fair or balanced for the rest of the Nation, including Montana.

One last point I would like to make is that the timber salvage provision enacted last year is temporary. It sunsets at the end of this calendar year. I am hopeful that this year the Congress will send, and President Clinton will sign, a comprehensive forest health bill. In fact, the Senate Energy and Natural Resources Committee has placed Senate bill 391 on its calendar for consideration.

Mr. President, the timber salvage provision enacted last year is working. It is providing jobs to Montanans. It is helping to lessen the fire load on the ground in our forests. It is helping to minimize the risks of forest fires around communities.

Yet, the amendment offered by Senator MURRAY takes us backward. It adds new bureaucracy, litigation, and not much common sense.

The days of not managing our woods has to end. Our national forests need management. I strongly oppose the amendment offered by Senator MURRAY because it will block effective land management decisions.

Mr. President, I ask unanimous consent that a letter to me from Governor Racicot, dated March 8, 1996, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, Montana, March 8, 1996.

Hon. CONRAD BURNS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BURNS: Timber salvage activities have been controversial in Montana and throughout the west, and there is no question that since July of last year—when the emergency timber salvage law was passed by Congress and signed by the President—the U.S. Forest Service has labored under significant pressure and intense scrutiny in complying with Congressional salvage timber mandates.

Now, nine months after passage of the emergency salvage law, Congress is apparently considering a partial reversal of its previous action and abandoning the purpose and intent of the emergency salvage law. Such a reversal has the potential to infuse delay, disruption, chaos and economic uncertainty into timber salvage operations with forest health the number one casualty.

While I cannot speak for Forest Service performance in other states, I can speak with some certainty about the performance of the Forest Service in Montana. In meetings with the Regional Forester, in meetings with forest supervisors and in discussions with various Forest Service personnel from the Regional Forester's office to local ranger districts, I can assure you the Forest Service has surpassed expectations in forest stewardship and professional land management in implementing the timber salvage intent of Congress. It would be a disservice to the mission of the Forest Service and to forest health in Montana to countermand or withdraw the direction from Congress given in July 1995.

Thus far in Montana, some 62 million board feet of timber has already been sold under the provisions of the emergency salvage law. Some of this has already been harvested, and much of it is being harvested now. Some 233 million board feet are in the timber salvage pipeline, and 90 percent of this volume is dead or dying timber. Obviously, having been burned two years ago in 1994, the value of this dead or dying timber continues to decline and for the intent of the salvage law to be met logging operations must continue throughout 1996. Under the proposed language from Senator Murray, contracted sales could be delayed for months, thus countermanding congressional intent to expedite salvage operations.

Like many Montanans, I had some concerns about the Forest Service and its ability to meet the Congressional intent of the salvage law and at the same time meet existing environmental and forest health standards set by state and federal law and national forest plans. Forest Service personnel were granted significant discretion to implement the salvage law, and the dual goals of accelerated harvest and environmental protection seemed to present compliance problems for Forest Service officials.

To their credit, the Forest Service has walked this "fine line" of compliance with an impressive commitment which has yielded impressive results. The Memorandum of Agreement signed by the Forest Service and three additional federal agencies makes clear the commitment to follow proper environmental guidelines. The State of Montana, and the people of Montana, were assured by the Regional Forester that environmental standards would not be compromised, water quality would be maintained, fisheries protected, endangered or sensitive species would not be jeopardized, forest economies would be sustained and forest health would be improved.

In December of 1995, a member of my staff, joined by personnel from the Montana Department of Fish, Wildlife & Parks and the Montana Department of Environmental Quality, met with Forest Service officials to discuss timber salvage operations. The Forest Service salvage team included fisheries biologists, wildlife biologists, hydrologists and others in addition to forest rangers and federal timber managers. While the Forest Service salvage team made it clear it would follow Congressional intend to accelerate harvest of dead and dying timber, there were also assurances that environmental laws and forest standards would be followed as stipulated in the federal MOA. Thus far, those assurances have been backed up with performance. During a recent tour of salvage operations on the Kooetnai National Forest, a member of my staff joined a large group which evaluated the Fowler Fire Salvage Sale. The Fowler salvage sales is an ongoing harvest and it was clear the Forest Service personnel who planned and laid out the sale recognized environmental sensitivities and the importance of water quality. The logging contractor also did an excellent job of protecting water quality and the integrity of the area.

In addition, it was pointed out during the tour briefing the Kootenai National Forest comprises some 2.5 million acres. Of this total, some 53,000 acres burned in 1994. Of the 53,000 acres, the Forest Service identified only 15,000 acres for possible salvage sale operations. Of this 15,000, less than 7,000 acres will actually be slated for salvage timber harvest activity. While the Kootenai will see more timber salvage operations than any other national forest in Montana, abuse of the salvage directive is virtually nonexistent as was any evidence of so-called "lawless logging." What was seen was low impact snow roads, INFISH buffer strips, intentions to close roads and a commitment to produce timber with environmental safeguards in place.

In a sense, Congress challenged the Forest Service with the emergency salvage law. In Montana, the Forest Service appears to have met that challenge. Through the salvage law, Forest Service personnel received additional discretion. That discretion has not been abused. If there are isolated cases of poor federal stewardship, we should identify and correct them. But it does not make sense for Congress to order the Forest Service to halt, do an about face, and send the agency in conflicting and confusing directions.

Montana experienced serious fire damage in 1994. Yet we were fortunate that damage wasn't worse. It is imperative we improve the health of our forests, create jobs and economic stability for western Montana, and present—best we are able—conditions for dangerous and uncontrollable conflagrations in the future. The Public Participation in Timber Salvage Act may be well intended, but it is unwarranted in Montana, and if it prevents or retards the proper harvest of dead and dying trees, it will not help improve forest health.

Thank you for your review of this information, and if I can address any concerns or questions you may have regarding this letter, please let me know.

Sincerely,

MARC RACICOT,
Governor.

Mr. BURNS. Mr. President, I yield the floor.

MODIFICATION OF AMENDMENT NO. 3493

Mrs. MURRAY. Mr. President, I have a modification to my amendment, and I ask unanimous consent to send it to the desk. It has been cleared on both sides.

The PRESIDING OFFICER (Mr. SHELBY). Is there an objection to the modification?

Without objection, it is so ordered.

The modification follows:

Strike Section 13 of amendment No. 3493 and insert the following:

"SEC. 13. OFFSETS.—Not withstanding any provision in Title II of this Act, no more than $137,757,000 shall be obligated for 'Forest Research' and no more than $1,165,005,000 shall be obligated for the 'National Forest System.'".

Mr. GORTON. Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. CRAIG. Thank you, Mr. President. I join with my colleagues this morning in opposition to the Murray amendment to the salvage law that became part of the law of this land last year, as we attempted to address the devastating fires of 1994. Of course, we have watched over the last good number of months as we worked with the administration and the Forest Service to implement the necessary regulations to carry out the salvage.

I am disappointed this morning that we find ourselves in a situation now where for political purposes, I have to guess, we are here on the floor debating this issue. I say that in all due respect to the Senator from Washington who is attempting to craft an amendment to address an issue that obviously she is very concerned about.

Here are my problems, and I will not go into the detail of the 318 sales—those are valid existing contracts, carried out by multidiscipline groups on the ground, selecting the right sales, talking to the environmentalists, seeking the counsel. All of that has already been done.

Now, if it had not been done, there may be a basis to argue. But it has been done. It has been done for over several years. I know that because sitting beside me on the Senate floor is a staff assistant who was a ranger in one of the forests, who developed the teams that brought the environmentalists to the table to resolve the issue of what ought to be in those sales. Those are facts on the books. Why are we debating 318 sales if the public has already had a full dimension in participating in how those types of sales would be brought about?

The Senator from Washington said there were not adequate hearings. Mr. President, here is the record of the hearings, and these are not all the books. There have been a lot of hearings. I have conducted at least one in the committee that I chair. We have had the administration and the Assistant Secretary before us to talk about the details of how this law gets implemented. This administration spent over 6 months putting regulations together, in a way that involved more and more people in decisionmaking, as to what were the right and the wrong sales. So there has been a phenomenal amount of involvement.

The Senator's amendment proposes to take approximately $130 million from the remaining fiscal year of the Forest Service to implement what she suggests ought to be done. Here are some calculations that come to me from staff, based on what we believe are legitimate figures. The Senator from Washington, if her amendment becomes law, will require an immediate RIF of nearly 1,700 Federal employees off the employment rosters of the U.S. Forest Service. Because she could not find offsets, she goes immediately into the law and into the budget for the U.S. Forest Service for the remainder of the fiscal year, and it appears that that is what is happening. I hope she will explain that to us and correct that. The Forest Service, through a reduction in force, has reduced employees over the last 5 years 1,000 a year; 5,000 employees in the Forest Service are now gone from where they were 5 years ago.

I hope the junior Senator from Washington can speak to us about where she finds her money and the impact on current employees and the ability of the Forest Service to carry out the remainder of this year's activities, not just in timber, but in trail maintenance, campgrounds, public safety, in all of the kinds of things that we expect them to do. I believe she is obligated to tell us the kind of impact this kind of reduction or change in the expenditure of the Forest Service would result in.

I understand that the junior Senator has attempted to remove the clause which requires the immediate suspension of active logging. I appreciate that because in my State of Idaho it could cost us thousands of jobs this year of literally thousands of working men and women in small communities across my State, who are anticipating these salvage sales, based on the legal and legitimate approach the Forest Service has used. She is suggesting that they might not get those jobs.

But here is the problem, and I wish, again, the Senator would address this. I believe that even though she has changed that provision to immediately suspend active logging, that is, through the clause required within the law, here is the result: What happens is the same effect occurs, because now all of these actions are again subject to appeal, and that could result in an automatic 60-day-plus stay or longer. And all of those sales that are now ready to be logged this spring as soon as the ground stabilizes and the snow is gone could be immediately back into the courts.

I am suggesting to the junior Senator that she really ought to correct that problem if she is sincere in suggesting that active logging not get stopped. The reason I say that is because one sale in my State, which is kind of the "poster child" sale, called the "Thunderbolt," was one where every environmental group lined up and took this sale into court, and they kept it in court for nearly 6 months. Finally, the courts ruled that the Forest Service had done all of the right and proper things to resolve this sale.

Here is the result of it. This was a sale that was a product of the devastating fires in Idaho in 1994. It is to be 100 percent helicopter-logged, not one new road built. Only 12 percent of the burned area, or 2,200 acres, will be logged. About 16,000 acres will not be touched. The timber salvage will pay for the watershed restoration and the replanting that needs to go on in these devastated areas. That money will not now be there. Those trees will not get replanted.

Peer review teams of watershed scientists have reviewed that and reviewed this and endorsed it. I think it is important for the junior Senator from Washington to understand this. The scientists have said that the proper management of this sale, under the way it has been developed by the Forest Service, will improve the environment of the Thunderbolt area, which is a critical watershed area to the Salmon River, which is, of course, a salmon habitat for a threatened and endangered species.

Mr. President, the consequence of this amendment is dramatic. You have heard about the potential loss of jobs from the U.S. Forest Service because of the RIF's that would have to occur. Another example of the kind of job loss that is occurring in Idaho right now is as a result of not only current Forest Service action, but an inability to move these salvage sales to sale this last fiscal year because of this administration's very cumbersome process of crafting the regulation to manage this salvage requirement under last year's law, as designed by the senior Senator from the State of Washington.

We lost 100 jobs in Salmon, ID. In Metropolitan New York City that is not a big deal, but in Salmon that was the single largest work force outside of the U.S. Forest Service.

We lost 200 jobs in Council, ID. That mill shut down, and as we speak, that mill has been torn down and shipped off to a foreign country where there are logs to cut.

The Post Falls mill in Post Falls, ID, 200 jobs down, men and women not working.

Louisiana Pacific mill and Priest River, 100 jobs down, not working.

Sandpoint, ID, 55 jobs down, not working.

These are men and women who are on the welfare rolls or who are having to seek other forms of employment. They have had their lives devastated. They have had tremendous financial disruption in their families—not because there are not trees to cut, but because Federal policy, through the appropriate environmental restraints, will not allow that to happen.

If we have salvage sales next summer, many of these people will come back to work. If the junior Senator's amendment passes, these people will remain on the welfare rolls in the State of Idaho.

Another mill in Grangeville, ID, closed and lost 113 jobs. That mill was torn down, with pieces of it sold, I am told, to Argentina.

That is 738 jobs in a State with a population of 1,338,000. Those are critically important jobs.

Mr. President, in the fires of 1994, the Forest Service estimated a loss in Idaho of $665 million board feet with a salvage worth $325 million. Half of that value is already gone because we could not cut the trees last summer. The rest of that value will leave this summer if the amendment of the junior Senator from Washington becomes law. There will be no value. It will have rotted away. In other words, the money she would use could be recouped if we simply allowed those sales.

My time is up. I certainly encourage all of my colleagues to not support the junior Senator from Washington. I wish she would respond to some of the legitimate concerns we have about the impact of her bill and the loss of 1,700 jobs in the Forest Service and their inability to carry out the public policy needs for the remainder of this fiscal year, which her amendment will badly damage.

I yield the floor.

Mrs. MURRAY. I thank my colleague from Idaho for pointing out the concerns he has with the offsets. Let me first say that the money comes from general administration, and we have been assured that much of this can come from belt tightening for travel.

I will also tell my colleague from Idaho that the offset has been an item of discussion all week long because of the sequencing of amendments that have come to the floor, and we were not sure which ones would pass or not pass. Senator HATFIELD, chairman of the Appropriations Committee, has assured us that we can continue to discuss this legislation. It has a long way to go when it gets to conference, where we can reconsider this. A lot of dollar figures will be discussed and changed around. It is an item we will be able to be flexible with once it is passed.

The important point of this amendment is that we go back to trees like that in the picture, which are 250 to 300 years old and are coming down because we have a rider in place that says people are not part of the process. That is what we are focusing on.

Yes, we are concerned about jobs in the Pacific Northwest. The jobs the Senator has talked about have passed under current policy. My amendment says we are going to deal with jobs in the long term. We are going to put a salvage amendment in place that assures that those jobs will occur when people are in the process, with scientific evidence in place, and in a way that is safe and healthy for all of us.

Mr. President, I yield 10 minutes to my colleague from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to recognize and state what this amendment is all about and what it is not all about.

This amendment is about harvesting dead and dying timber in an environmentally responsible manner. That is all this amendment is about. It is not about hurting the timber industry, taking away jobs, or stopping timber harvesting in our national forests. It is not about that at all. Once a person thinks clearly and thoroughly through the actual words of the amendment, particularly as modified by the Senator from Washington, one will see that this is about trying to find an expedited way to salvage and harvest timber in an environmentally responsible way. It is not about taking away jobs, once one reads the amendment, particularly as modified by the Senator from Washington.

Mr. President, about once a month I spend a workday in my State as staff. I show up at 8 o'clock in the morning with a sack lunch. I work straight on. Sometimes I bag groceries. I deliver the mail other days. I serve meals to senior citizens. I was once a UPS worker delivering packages. I have done lots of jobs.

I have also worked on the green chains in several mills of my State, in the plywood plants, the stud mills at various and different locations working with the millworkers—talking to the millworkers, men and women who work on green chains and work in the mills. And I have a pretty good sense of where people are and what they want. It is trite, but it is true: They want jobs. But they also want hunting and fishing. They want jobs in a very responsible and environmental way.

During the summer of 1994, I spent one of my workdays with the fire crew on the Little Wolf fire on the Flathead National Forest near Kalispell, MT. I spent the day fighting the fire. It turned out that my chief was a person from the Fort Belknap Reservation; had a group going all around the country. This crew knew how to fight fire. I had a devil of a time keeping up with them. They are tough. They are good.

The Little Wolf fire was just one of hundreds of fires that raged during that long, hot summer in Montana. There were lots of fires in the West, particularly in my State, and when fall of the year finally came around and the last of the fires was finally put out, there were thousands of acres of our national forests that were burned. It is amazing how many acres were burned.

Like most Montanans, it is clear that a lot of that timber had to be salvaged. I supported and I encouraged efforts to harvest that burned timber, get it to the mills, and provide jobs. Following the fires of 1994, I wrote a letter to Forest Service Chief Jack Ward Thomas, and I asked him to make salvage logging a priority. I asked him to use winter logging—you can log in the winter under certain circumstances—to harvest these burned logs, because I believe, as I stated in my letter to him, when done in an environmentally responsible manner, it is not only good business, but it is also good, long-term, prudent forest management to salvage that timber.

After all of that, Congress did act and enacted this so-called salvage rider. And I think that is where Congress went wrong—went too far. Rather than looking for responsible ways to promote the harvest of salvaged timber, what did Congress do? Essentially Congress passed a so-called salvage rider; passed a provision that exempted the Forest Service from complying with our environmental laws, from complying with the Clean Water Act, the Clean Air Act, the National Forest Management Act, the Endangered Species Act, and all of the Federal environmental and natural resources laws.

The rider provision also prohibited the public from contesting timber sales that the public thought would impair the hunting or fishing on particular forests. It just cut the public out.

So, first, it went too far because it said that the environmental statutes do not have to be observed. And, second, it cut the public out of the process.

Some wise person once said that for every complicated problem—believe me, this is a little complicated—there is a simple solution, and it is usually wrong. Most complicated problems do not lend themselves to simple solutions. Most complicated problems lend themselves to nonsimple solutions; that is, working hard, rolling up our sleeves, dotting the i's, crossing the t's, and trying to work out a pretty reasoned and balanced solution.

That is what the Murray amendment does. It is an attempt to—and it is, if one reads the language, a provision that very much provides a framework to accomplish that result. Let me give you two examples of how the current salvage rider—that is, the so-called current salvage rider law that we now have facing us—has aroused opposition in my State.

The first example is the Hyalite drainage in the Gallatin National Forest. Where is that? The Hyalite is located about 7 miles outside of Bozeman. It is a very popular recreation, hunting area. Bozeman is in Gallatin County, one of the more prosperous parts of our State. It is sought after. A lot of people moving into Montana like to go to Gallatin. It is very near the Hyalite. Locals hike and ride bikes in 31 miles of trails. A herd of about 600 elk—and occasionally grizzly bears—make their homes in the Hyalite. And the city of Bozeman gets about 15 percent of its water from the Hyalite Creek.

The Forest Service has proposed a timber sale in the Hyalite under the salvage logging rider. The Forest Service says that they can do it; they can harvest timber without hurting recreation, without hurting wildlife, or Bozeman's drinking water.

I must say a lot of people in Bozeman are not too sure about that. If the Forest Service can cut timber and amply protect elk habitat and water quality at the same time, most people think the Forest Service should welcome accountability to the public. They should want explained to the public how they are doing this. Doing this under a law that evades all environmental protection raises obvious and understandable concerns in Bozeman.

It is kind of like buying a used car. You buy a used car. You want to believe the salesman, but you also want to have your mechanic take a look under the hood just to be safe. And the Hyalite is very important to Bozeman. The people there want the safety that the Clean Water Act and the National Forest Management Act provides. I think that is reasonable.

The second example is the Middle Fork salvage sale in the Flathead National Forest. This proposed sale is a narrow strip of land just between Glacier National Park and the Bob Marshall Wilderness Area. The trees the Forest Service wants to cut in the Middle Fork are not burned. Rather, they are trees that the Forest Service has determined are infected by root disease.

Like most Montanans, I have a very deep reverence for Glacier National Park and the Bob Marshall. We all do in Montana. Like the Grand Canyon is to Arizona or Yosemite is to California, Glacier and "the Bob" are part of our Montana identity. So I do not think it is asking too much in any timber sale in this area to be held to a very high conservation standard.

Ironically, I do not believe the Forest Service and the timber industry need to be excused from obeying the law. I have seen the work they do. It is good. And except for the rare exception, these men and women are good stewards of the land, and they harvest timber without hurting water quality or elk habitat.

Where there are opportunities to harvest timber that has been ravaged by fire or disease-infected timber, or ravaged by windstorms, the Forest Service, I think, should move quickly. That is the whole point of the Murray amendment. The Forest Service does not, however, need to suspend environmental laws to do so. In fact, since this salvage rider has gone into effect, the Forest Service has committed to carrying out their salvage timber program in full compliance of all environmental laws. Rather, the Forest Service needs the flexibility to protect the planning process and avoid many of the procedural requirements that simply slow their response time down.

That is why I support the Murray amendment. It replaces the existing salvage law with a process which recognizes that salvage timber is different from green timber. It calls on the Forest Service to identify salvage logging opportunities, prepare the necessary analysis, and offer the timber up for sale in a very short timeframe—about 6 months. This is a quick turnaround when you consider that normally it takes the Forest Service much longer to prepare a green timber sale. The Murray amendment does this while honoring our environmental laws and the public's right to be involved in making the decision.

Mr. President, I was struck by an article that ran in last Sunday's Great Falls Tribune entitled "Finding Common Ground." This article does something that we rarely see these days; it told the good news. It let the public know about the impressive work that groups all over our State—like the Swan Citizens Ad Hoc Committee, the Smith River Coordinated Resources Management Commission, and Blackfoot Challenge—are doing to promote jobs and economic development while protecting our quality of life.

I believe the Murray amendment is such an amendment. It will provide the framework for future consensus building on how we can manage our national forests.

I compliment the Senator for making the change which will help us move toward our common ground.

Let me say, in closing, let us not lose sight of what this amendment is. It is about providing jobs and protecting the environment. I urge Senators to support her commonsense effort to find the median in between the common ground to get the job done.

Mrs. MURRAY. Mr. President, I thank my colleague from Montana for supporting the amendment.

I yield 5 minutes to my colleague from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 5 minutes.

Mr. LEAHY. Mr. President, I believe very strongly that Congress should repeal the salvage rider, and I believe that Senator MURRAY's amendment is a responsible, balanced proposal to fix a bad law.

I concur with the words of the distinguished Senator from Montana, Senator BAUCUS, in commending her in working out a balanced amendment. I believe that is why her amendment is supported by conservation groups, by private businesses, resource-based industries such as commercial fishermen, editorial boards across the country, the League of Conservation Voters, a whole lot of others, because her compromise provides economic stability and jobs for workers in rural communities, and it also respects what has been a 25-year tradition of bipartisan environmental protection in this body.

It is not an extreme measure. It is a very fair, very moderate, and very responsible measure. But the current law, the current salvage rider is not. It is not balanced. It is not fair. It is not moderate. It is not responsible. So let us come together as a Senate on a reasonable alternative for protecting the public's national forest lands. These lands are for us to share today but also to have for generations to come. That includes Senator MURRAY's children, who are going to live most of their lives in the next century, as will mine. But this public resource is being abused, and we have to ask what is going to be here in that next century.

I look at some of the claims that were made. In July 1993, the American Forest and Paper Association claimed 85,000 workers would lose their jobs because of President Clinton's forest policy. Instead, 14,500 new jobs were created in the top four western timber States. The predictions were completely wrong. The American Forest and Paper Association said that they had to have the salvage rider because it would provide new jobs for 16,000 workers. Instead, it went just the opposite: 8,000 timber workers lost their jobs since that piece of legislation passed.

The salvage rider we are trying to correct is not a jobs producer—in fact, it is a jobs killer—whereas the Murray amendment will restore jobs and economic stability to working Americans. Also, the salvage rider is an expensive waste of the taxpayers' money. The Forest Service spent millions of dollars preparing salvage sales that nobody even bid on. More than 100 different sales totaling more than 200 million board feet of timber were being ignored by sawmills last fall. The sales that were supposed to be sold for more than $200 per thousand board feet could not be sold at half the price. We are losing money hand over fist. We have to agree to this amendment.

In addition to the loss to the Treasury, many rural communities face enormous costs because of the environmental destruction caused by irresponsible logging.

Mudslides linked to timber roads and clearcutting by a peer-reviewed scientific report have wiped out bridges, roads, drinking water systems, recreational resources, and fisheries. Local and Federal taxpayers will pick up the tab.

While the amendment kills jobs, wastes money and hurts communities, there has also been a breach of trust. The Senate was informed on March 20, 1995, that the salvage rider would apply to a "group of timber sales that had already been sold under section 318 of the fiscal year 1990 Interior Appropriations Act."

The day after President Clinton signed the bill, well-financed timber lawyers walked up the court steps to force a different interpretation. They won, and then proceeded to try to throw one of my former staffers, Tom Tuchmann, in jail for upholding environmental laws as a civil servant.

We need to repeal the salvage rider because special interests have forced old-growth logging throughout Oregon and Washington way beyond any agreement that had been forced on this administration.

Finally, it is important to reject a few other remaining myths that have been perpetrated by lawless logging proponents. Some people claim that dead trees on national forest lands have reached a crisis epidemic. The most recent Forest Service data show that through 1992, trees are dying faster on industry lands. I made sure every Senator had the facts about forest health before the original Senate vote on the rider in the spring of 1995. People claim that salvage logging protects firefighters from deadly forest fires. The families of dead firefighters came to Washington to stop the rider and support environmental laws.

The Murray amendment is not exactly the provision I wanted. It is not even exactly what Senator MURRAY wanted. I do not believe any Senator ever gets exactly what he or she wants. Democracy includes two realities—compromise and majority rules. There are some who choose to operate outside this reality, and contribute only to a war of words. I oppose the ideological stands that in the end accomplish nothing. Senator MURRAY has worked to accomplish results and deserves support.

I am proud to have been the lead cosponsor of an effort last spring to restore environmental laws, even though we lost by one vote. I am proud of the forest health data, the jobs data, the timber supply data, and Forest Service appeals data, and the letters I have sent to every Senate office in my attempts to turn the rider around. I am proud to be the lead cosponsor of the Bradley amendment to restore environmental laws. I am proud to be the lead cosponsor of Senator MURRAY's honest effort to get 51 votes to turn the salvage rider around.

My only regret thus far that we still have not prevailed.

We will soon vote on the Murray Amendment. I hope we can finally make progress on restoring environmental laws. As the weather warms we come closer and closer to a time when hundreds of millions of board feet will be cut without laws. I urge my colleagues to vote for workers, for economic stability, and for the environment. We need Senator MURRAY's amendment now.

I hold up photos that the Senator from Washington State [Mrs. MURRAY], provided. Look what happens if you do not follow good forestry practices. Look at this mudslide as it comes down, choking off a river. What does that do to all the other resources? Ask somebody who makes their living fishing. Ask businesses that get income from recreation what it means to them. Let us go back to the kind of responsible, bipartisan environmental efforts that this body has been famous for and let us adopt the Murray amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I thank my colleague from Vermont for his excellent statement and his support.

I yield 5 minutes to my colleague from California.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] is recognized for 5 minutes.

Mrs. BOXER. I thank the Chair. I am pleased to be here in support of my colleague from Washington, Senator MURRAY.

I was always taught as a child that when you make a mistake, you admit it and fix it. I think that is what happened here. Many of us who voted for the bill in which this rider was contained believed that it would allow the logging of dead and dying trees. We did not intend for it to work out in a way that healthy old-growth trees would be cut down; they are surely our heritage. We have an obligation to fix this problem.

I have to say for my friend, Senator MURRAY, because I have worked with her early on, this was a very difficult amendment to put together. What she did was to get the workers together with the environmentalists. She found that compromise between preserving a precious environment and preserving jobs. She deserves an enormous amount of credit. I personally know how anguished she was as she tried to put together these coalitions, because it is not easy. It is very easy to go with one side. It is not as easy to try to put together the coalitions, but she has done that. I am very pleased to be able to support her. We have a chance to reverse a mistake, a mistake that opened up old-growth forests and undermined President Clinton's consensus Northwest forest plan.

We finally have a chance to restore environmental laws for our forests. They are basically now, as I read it, forests without laws. That was the effect of the court case. And with the Murray amendment, we restore lawful logging.

Our citizens must always have the right to take part in Federal decisions about how to manage our public forests. I have always believed that was very important. The Murray amendment will restore the right of appeal to citizens, and it ensures judicial review.

The Murray amendment resolves the old growth issue by suspending old-growth timber sales, commonly referred to as section 318 sales, and requires the Forest Service and the Bureau of Land Management to provide substitute timber volume or buy these sales back from the purchaser.

I believe that is very key because that is where we see the jobs are being preserved. The Murray amendment will expedite implementation of the Northwest forest plan by making sure that resources are available to complete recommended watershed analysis, and we need that analysis. We also see in this amendment a much needed National Academy of Sciences study on forest health.

So, in brief, we made a mistake. We are losing old-growth trees. We have seen the incredible photographs that the Senator from Washington [Mrs. MURRAY] has shown us—not cartoons of trees, not drawings of trees, but really what is happening in the forests. I think anyone who sees it knows that a picture is worth a thousand words. People can stand up here and say: Gee, it is not true; it is not happening; beautiful trees are not being cut down. Well, we see the photographs. We see the truth.

We can fix the problem. We can make sure that in fact trees that are not healthy can be cut down. That is not a problem. But not the healthy old-growth trees.

I am pleased to stand with my friend, and I hope that she obtains the votes necessary to overturn a mistake that we made right here in this Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Who yields time? The junior Senator from Washington.

Mrs. MURRAY. Mr. President, how much time remains in debate?

The PRESIDING OFFICER. The junior Senator from Washington has 9 minutes and 50 seconds; 15 minutes and 31 seconds are left to the other side.

Mrs. MURRAY. Mr. President, let me just say at this point that I appreciate the remarks of my colleague from California, Senator BOXER, about how difficult this has been, to bring people together to compromise on a very difficult and serious issue. In fact, I have heard some of my colleagues on the other side say that this debate is about politics. I say, if this is just about politics, it would be simply an amendment to repeal the rider. This is not about politics. This is about policy. This is about putting in place a timber salvage rider that works, that keeps people working, that uses our timber at its highest economic value, but leaving people in the process. That is what my constituents are so angry about. They have been left out of the process by the rider that this Congress adopted last year, and they want back in.

At this time I am very pleased to have printed in the RECORD a letter from the President, sent to me last night from Jerusalem, with his strong support of the amendment in front of us. His words should be read by all of my colleagues, but let me just read his second paragraph. It says:

> Judicial interpretation of the timber rider, as it has been applied to old growth forests, has broadened the Act's requirements to the point that it undermines our balanced approach to ensuring continued economic growth and reliable timber supply in concert with responsible management and protection of our natural resources for future generations. The timber rider must be repealed as soon as possible.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Jerusalem, March 13, 1996.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR PATTY: I write to convey my strong support for your amendment to repeal the timber rider attached to the 1995 Rescissions Act.

Judicial interpretation of the timber rider as it has been applied to old growth forests, has broadened the Act's requirements to the point that it undermines our balanced approach to ensuring continued economic growth and reliable timber supply in concert with responsible management and protection of our natural resources for future generations. The timber rider must be repealed as soon as possible.

Along with repeal, I must have the legal authority necessary to honor the claims of contract holders in a manner that is consistent with environmental stewardship and law, placing a priority on replacement timber volume. Your amendment will enable us to do this.

With regard to salvage logging, I believe—as you do—that salvage logging has an important role in the federal timber program. Securing a steady supply of timber to Northwest mills continues to be a priority for me. We also believe salvage logging must be based on sound science and consistent with our nation's environmental laws.

Your amendment meets my overall goals and objectives. I commend your efforts to restore the kind of balanced and reasonable approach that we established under the Northwest Forest Plan. I strongly encourage your colleagues to support your amendment.

Sincerely,

BILL CLINTON.

Mrs. MURRAY. Mr. President, let me again thank Senator HATFIELD for his understanding in the offsets of this bill, with our amendment that strikes the portion of section 13 that is found on page 27. We have made an adjustment.

If this amendment is agreed to, and I hope it is, we will continue to work with Senator HATFIELD and others in conference to assure that this amendment is properly taken care of.

I reserve the remainder of my time.

The PRESIDING OFFICER. The senior Senator from Washington.

Mr. GORTON. Mr. President, a brief history. One year ago, right now, 2 years after President Clinton had proposed his very, very modest timber plan for the Pacific Northwest, less than half of what the President had stated was in his plan for a harvest was actually being carried out, frustrated by endless litigation. This proposal was passed, two-thirds of which simply enabled the President to carry out his own promises, to keep his own commitments. One portion of it authorized the harvesting of certain contracts that had long since been executed by the Federal Government, and, Mr. President, which represent this much of the national forests in the Pacific Northwest—this being the entire forest, this being what is already cut off. You, Mr. President, cannot see the number of acres we are talking about. I do not think you can see it when I put this magnifying glass on it. That was the true compromise.

What did the President say about it? The President said that compromise contained language that preserved the ability to implement the current forest plans and their standards to protect fisheries and the like.

Then the President changed his mind, and the senior Senator from Oregon offered him a further compromise, which is included in this proposal. Now we have an amendment which would cancel not only everything that was done last year, but would cancel more than everything that was done last year—canceling contracts that were never so much as controversial, establishing a new definition of salvage, much more restrictive than that of Clinton's own Forest Service, and a definition of salvage which will result, not in a compromise, not in authorizing salvage timber, but, in effect, prohibiting any salvage whatsoever. Even helicopter logging will be prohibited in roadless areas. There are so many restricted areas and so little money that there will be no salvage timber, not just in the Pacific Northwest, but in your State, in States all up and down the east coast, in the intermountain West—there will be nothing left.

How is this to be paid for? Because now we have to pay for these things. How is it to be paid for? It is to the credit of the junior Senator from my State that she does not just say, "put it on the cuff, add it to the deficit." She takes $130 million out of the appropriation for the Forest Service.

Earlier today this was only $110 million. We checked with some people in the Forest Service who, understandably enough, do not want to be identified. That $110 million cut will cause the RIF of 1,400 employees of the Forest Service, all across the United States. So I say to the Senator from Vermont, the Senator from Alabama, the Senator from North Dakota, your forests will suffer, too. One thousand RIF's in the field of reforestation, stand improvement, recreation maintenance, watershed improvement, supposedly the very goals of this amendment, will be undercut by the RIF's of the people who would carry them out, and 400 or 500 more in the field of forest research.

So, we will devastate our national forest planning, we will devastate the very goals of a healthy forest that we are talking about, by passing this amendment. An amendment to do what? An amendment to do what? An amendment to cancel that many acres of timber harvest contracts. Can you see it? You cannot. You cannot see it. It represents a one-time harvest of one-tenth of the number of board feet that regenerate automatically in these national forests every year; one-tenth of 1 year's growth.

I am simply saying the United States of America, when it signs a contract, ought to keep its word, it ought to carry that contract out. And when the President makes a commitment—this President, this environmentalist President—we ought to empower him to carry out that commitment.

The amendment will make a mockery of the President's commitments. It will invalidate valid contracts. It will result in the loss of thousands of jobs in our forest, private sector jobs, and probably 1,500 jobs in the Forest Service itself, helping our forests to grow and to regenerate.

Mr. President, how many minutes does the Senator from Idaho need?

Mr. KEMPTHORNE. Seven minutes?

Mr. GORTON. Mr. President, I yield 7 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho [Mr. KEMPTHORNE] is recognized for 7 minutes.

Mr. KEMPTHORNE. Mr. President, today, the issue deals strictly with the management of our national forests and the health of those national forests. The amendment before us would eliminate the one tool we now have.

I think, as an Idahoan, I speak with some experience as to what this is all about, because 2 years ago we had devastating forest fires that devastated 589,000 acres of land. That is 919 square miles.

That is a number. How big is that? That is approximately three-quarters of the entire land in the State of Rhode Island. This is a huge amount of land. Yet the proposal is that we would only go in and salvage approximately 10 percent of the dead timber that is in that tremendous, huge area. This amendment would leave that dead and dying timber to simply rot, to rot. We want to go in and salvage 10 percent of that.

Also, this timber that is not removed simply adds additional fuel to future devastating fires. All the fire scientists tell us that is what we can expect now, more and more of these devastating fires of hundreds of thousands of acres at a time.

Is there benefit to the environment to get in there and do something about it? A study of the Boise National Forest demonstrated the benefits of getting in on the ground and helping forests recover after a fire. Several areas where no recovery work was performed after the 1992 Boise foothills fire experienced huge landslides, or blow-outs, as they are called. Entire hillsides washed into streams, destroying fish habitat, including habitat for the bull trout, which is being considered for listing as an endangered species.

The Boise National Forest study compares the results of varying types of intervention. The report found that salvage operations can be designed so that they are environmentally benign and, in fact, beneficial. It also found that salvage areas were in better shape than areas that had not been salvaged.

For example, soils which were baked into impermeable crusts by the fire were broken to allow water to penetrate. Stream banks were stabilized and water was filtered through straw bales to catch sediment that would otherwise choke resident fish and destroy spawning beds.

Dr. Leon Neuenschwander, professor of fire ecology at the University of Idaho, described the foothills fire as "the most environmentally conscious salvage-logging operation" that he has ever seen.

If this amendment is adopted, Idahoans, Idaho's forests, Idaho's wildlife are going to pay the price, straightforward. It means the end of any hope of salvaging just a fraction of this timber that has been destroyed by fire, and it also means that that fuel load remains.

It means a loss of revenue that could have been used for environmental restoration in some very sensitive watersheds. I am the chairman of the subcommittee that is dealing with the Endangered Species Act. I am an advocate that we not follow this amendment because we have species that need to be protected.

By allowing us to go forward with this sort of management, we can protect them, we can help them. But also, Mr. President, so many of our rural communities derive income from those timber receipts for their schools so that we can educate the kids of the State through this harvest, and it means leaving sensitive watersheds at risk of reburn since there will be no thinning of standing dead timber.

There was a picture shown at some point during this debate of a massive slide and blamed it all on what is taking place with logging operations.

James Caswell, who is a forest supervisor in the Clearwater National Forest in Orofino, ID, wrote a particular statement that I think is of great interest. He says:

> To keep things in perspective, remember flooding and landslide activity are a natural phenomenon in this part of the country. In the Clearwater Forest alone, major events occurred in 1919, 1934, 1948, 1964, 1968, and 1974.

He said:

> Photos taken in 1934 show extensive landslide activity in pristine areas, long before logging or road building took place.

It is a natural phenomenon that does occur.

It has been pointed out, too, that many of the labor unions support this amendment. I ask unanimous consent to have printed in the RECORD the letters from Douglas J. McCarron, who is the president of the United Brotherhood of Carpenters and Joiners of America, who says:

> I am writing to urge your opposition to efforts to repeal the timber harvesting provisions included in the 1995 Omnibus Rescissions Bill.

Also, letters from the United Paperworkers International Union, as well as the International Association of Machinists and Aerospace Workers.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Washington, DC, March 5, 1996.

Hon. FRANK MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the 550,000 members of the United Brothers of Carpenters and Joiners of America (UBC), I am writing to urge your opposition to efforts to repeal timber harvesting provisions included in the 1995 Omnibus Rescission Bill. These provisions help protect the health of our national forests. They also provide a supply of timber to help protect the livelihoods of tens of thousands of forest products-related workers nationwide, including many men and women who are members of our union.

The bill was developed in part as a response to the growing national forest health emergency. The buildup of dead, dying and diseased trees on federal lands has reached unsafe levels, standing as kindling for wildfire and threatening to infect healthy trees. The law allows for the removal of the damaged trees which can be milled if removed in a timely manner.

The bill was also designed to expedite timber sales prepared under President Clinton's Pacific Northwest Forest Plan and other timber sales sold by the U.S. Forest Service and the Bureau of Land Management (BLM) during the last live years but held up by red tape. These sales amount to less than fifteen percent of the volume historically produced from the Pacific Northwest and Northern California each year. They also constitute only slightly more than half of what was promised under the President's plan but to date has not been produced.

Our union has long believed that we can balance environmental interests with economic realities. That is why we are supporting language offered by Chairman Mark Hatfield (R–OR). This legislation will modify the timber harvesting provisions to provide greater flexibility for the timber sale purchaser and the Forest Service or BLM to alter or substitute sales as the sales conflict with environmental concerns.

We urge you to support the Hatfield amendment and oppose the full repeal of the timber harvest provisions.

Sincerely,

DOUGLAS J. MCCARRON,
General President.

UNITED PAPERWORKERS INTERNATIONAL UNION,
Nashville, TN, March 1, 1996.

Hon. FRANK MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the 250,000 men and women of the United Paperworkers International Union, I am writing to urge you to oppose any efforts to repeal the timber harvest provisions of the 1995 Omnibus Rescissions Bill which was signed into law by President Clinton last summer. These provisions allow for emergency timber salvage harvests and expedite the release of existing "green" sales.

Timber salvage is critically important to our members and our national forests. The salvage law allows dead, dying, and diseased timber to be removed from the forests in order to decrease the threat of wildfires and insect infestation. If removed in a timely manner, this timber can be milled, thus protecting forest products-related jobs. The timber harvesting provision also calls for the release of "green" sales prepared under President Clinton's Northwest Forest Plan and other "green" sales that had been sold by the U.S. Forest Service and the Bureau of Land Management over the last five years but have been held up by red tape. the amount of "green" sales to be released amount to less than half of the sales promised to be provided under the President's Forest Plan but have yet to be delivered.

Repeal of the timber harvest provisions will only exacerbate the job loss occurring in timber-dependent communities throughout the nation. Since 1990, over 22,000 timber-dependent workers have lost their jobs in the Pacific Northwest and Northern California alone due to efforts to restrict timber harvesting on federal lands.

As always, we stand ready to work with Congress to develop legislation that balances environmental interests with the economic and social needs of timber-dependent workers and communities. That is why we urge your support of the legislation proposed by Senators Slade Gorton (R–Wash.) and Mark Hatfield (R-Ore.) regarding implementation of the timber sale provisions. This amendment provides flexibility to the U.S. Forest Service, the Bureau of Land Management and the timber purchaser to modify or substitute sales as needed to address environmental concerns. We hope we can count on your support of this important legislation.

Sincerely,

WAYNE GLENN,
Office of the President.

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS,
Gladstone, OR, March 4, 1996.

Hon. FRANK MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI: On behalf of the 20,000 members of the International Association of Machinists—Woodworkers Division, I urge you to oppose any effort to repeal the timber rider attached to the 1995 Omnibus Rescissions Bill, which was signed into law last summer.

The timber rider is critical to the men and women of our union. The salvage provision of the rider protects forest health by allowing for the removal of deteriorating timber from the forest floor. U.S. Forest Service figures show that 4 billion board feet of dead timber is accumulating each year on federal lands. This accumulation increases the likelihood that millions of acres of forest land will be devastated by catastrophic wildfires. The salvage provision not only improves the health of our federal forests. If removed in a timely manner, this timber can be milled, protecting jobs and communities.

The timber rider also allows for the implementation of existing sales that were promised under President Clinton's Forest Plan and other sales that have been previously approved but have not been released due to bureaucratic red tape. These sales, which amount to less than 15% of what has been historically produced from federal forest lands in the Pacific Northwest and Northern California each year, will provide economic relief to thousands of forest products workers nationwide.

The members of our union are willing to work with the Clinton administration and Congress to solve the timber supply and forest health crises. With that in mind, we believe that the recent legislation introduced by Senator Mark Hatfield (R-OR) attempts to balance the needs of the people with the future of our federal forests. If passed, this legislation would provide an adequate level of flexibility to the U.S. Forest Service, the Bureau of Land Management, and timber sale purchases to modify and/ or substitute timber sales prepared under the timber rider.

Congress is in the position to provide balance to the forest management debate. We hope that we can count on your support for the Hatfield legislation.

Sincerely,

WILSON HUBBELL,
Administrative Assistant,
Woodworkers Division.

Mr. KEMPTHORNE. Mr. President, Gifford Pinchot, who is the father of the Forest Service and he, in fact, was the adviser to the creator of our national park and forest system, President Teddy Roosevelt, was adamant that our Federal forests not be "preserves" but "reserves," managed for the best good of the public. He specifically viewed timber harvest as a central part of forest management. I urge the Senate not to move away from the very essence of that ideal by Gifford Pinchot.

I commend the senior Senator from Washington for his efforts on this, and I say that on behalf of so many citizens throughout the Northwest who have seen the devastation of these fires.

Also, let us allow the forest managers to be the forest managers there on the ground. We cannot manage it from this Chamber. We need to allow them to be the managers, as was intended, as they have the ability to do.

With that, Mr. President, I reserve the remainder of my time.

Mr. HATFIELD. Mr. President, I oppose the amendment offered by my good friend from the State of Washington, Senator MURRAY. Let me say at the outset that I respect the motives and the determination of the author of this amendment. I look forward to what I have come to expect from the Senator from Washington—a well-informed and civil debate on the merits of current law and proposed changes to it.

I have many questions about the Murray amendment—how it would be implemented and what is meant by many of its provisions. I would have preferred to have a hearing record or some consideration by the authorizing committees before making a decision about such a comprehensive forestry program as Senator MURRAY has put forward. As a member of the Committee on Energy and Natural Resources, I am aware that Senator CRAIG's forest health bill, which has been the subject of bipartisan negotiations with the White House for over a year, and which has been the subject of hearings before the committee, is ready to be placed on the Energy Committee's markup schedule. I would be interested, as this debate progresses, to know how the Murray amendment compares to Senator CRAIG's legislation.

Regardless of my feelings about the underlying statute this amendment would repeal, I would be very reluctant as the manager of this bill to agree to such a sweeping national forest policy re-write as the one the Senator from Washington has laid before us today, particularly one drafted so quickly. I would be especially reluctant to accept such a comprehensive proposal without the full concurrence of the authorizers. Let me remind my colleagues that law that would be repealed by the Murray amendment was prepared with the full cooperation of both House and Senate authorizers. The lack of involvement of the authorizers alone would compel me to oppose this amendment. Because of my personal involvement in this issue, however, I will make more detailed objections to this amendment than those which I would normally offer in my role as the manager of this bill.

Mr. President, this is a tremendously important debate. Seven short months ago, this body included the so-called salvage rider in the 1995 Rescissions Act. In the intervening months, those who have opposed this measure from the beginning have engaged in a vigorous campaign of protest, hysteria, misinformation, and civil disobedience in an effort to intimidate Congress and the Clinton administration into reversing their support of the measure. The very small minority of Americans who advocate a no-cut, nonuse policy on Federal lands lost this battle in Congress last year and now are using their anger to mislead the public that the last of our old-growth forests are about to be cut down forever, never to be replaced. This is simply not true.

I represent a State that is often sharply divided on natural resource issues. These divides generally reflect the difference between the urban and the rural way of life. During the decades I have devoted to public service, I have sought to bridge the chasm that has formed between the urban and rural citizens of my State and bring some order and balance to natural resource conflicts by addressing both sides of the debate.

Up until recently, the forest products industry has been the largest manufacturing sector in Oregon. In the past, my State alone has supplied our Nation with 20 percent of its softwood lumber needs. Just 5 years ago, 77,000 workers were employed directly by the forest products industry. Since that time, 21,800 of those 77,000 jobs have been lost and 212 mills have closed. Most often these mills are located in towns whose economies are based almost solely on the mills and the related businesses which deal directly with them.

Many of these mills, and the towns which grew up around them, located in the heart of Federal forests at the urging of the Federal Government. Prior to World War II, our Nation's Government told the forest products industry to overcut its own private lands to provide materials for the war effort, and in exchange we would open up the Federal forest lands to sustained yield management after the war.

Because of these commitments which were made over the years, I have always felt that Congress is committed to providing these communities with policies which ensure a predictable and stable supply of Federal timber to these mills. Nevertheless, meeting these commitments to mills and timber towns and protecting our environment is not the either/or choice that is presented to us by the single interest groups.

I have always recognized the need to balance a strong resource based economy with appropriate environmental protections in my State. I have personally authored legislation increasing Oregon's wilderness system from 500,000 acres to 2.1 million acres—more than any other elected official in Oregon history. I have also authored legislation increasing Oregon's wild and scenic rivers system from 4 to 42—the largest in the Nation. The next highest States are Alaska with 26 and California with 10. I have also authored legislation preserving such ecologically significant areas as the Columbia River Gorge, Hells Canyon, Newberry Crater, Cascade Head, Yaquina Head, and the Oregon Dunes.

In addition, in 1989, I coauthored a bill with then-Senator Adams which, for the first time, recognized that old growth forests need to be protected from further fragmentation and spotted owls need to be protected consistent with the Endangered Species Act. This provision was the so-called section 318 timber compromise, which was attached to the fiscal year 1990 Interior Appropriations Act.

My commitment to Oregon's environment and to its natural resources runs very deep. I am proud to have played a role in preserving these areas for future generations, and I will work this year, my last year in the Senate, to protect several other areas of my State. While I have worked diligently to protect Oregon's environment, it was always within the context of the larger picture—that 84 communities in my State were dependent on a stable supply of wood from Federal lands and that our forests could be managed, according to the best science of the day, on a sustainable basis.

Now, in listening to the rhetoric from the environmental community on the salvage provision, their true, underlying goal has finally been disrobed and can be debated. That debate is, can we manage our Federal lands at all? If you listen to the rhetoric you will hear clamoring for an end to the cutting of any green trees. Only dead and dying trees should be cut. Do not be deceived. These same extremist groups have admitted that their platform is the elimination of any and all harvesting of trees on Federal land. If my State is first to be bullied into this shortsighted program, other States will surely follow.

The sad fact of this debate is that the elimination of harvesting of trees on Federal lands is happening without one affirmative statement from Congress that this is the course of action we believe is best for the Nation. Indeed, these decisions are being made by overzealous judges who feel that their job is not only to interpret the law, but to steer it in a certain direction not necessarily intended by Congress. These decisions are being made outside of the legislative process via public relations campaigns and staged media events in a hyperbolic, uninformed, and intentionally misleading manner.

The Murray amendment lends credence to this approach and gives those who would lock up our forests forever the upper hand legislatively. All this without one hearing, one markup, or any time for internal debate and discussions with the Clinton administration.

The modest measures contained in the law sought to be repealed by the Murray amendment are largely discretionary, will expire in December 1996 and underwent Appropriations Committee hearings, markups, floor debate, and months of negotiations with the Clinton administration. If last year's modest, stopgap provision cannot be sustained in law, we will have lost any semblance of balance in our national forest policies and Congress will have once again abdicated its responsibility to play a role in setting the policies governing management of our national forests.

This Senator advocated strongly for the enactment of the statute sought to be repealed by the Murray amendment, and I will energetically defend it today, as modified by the chairman's mark of the Omnibus Appropriations Act. Let me take a moment to outline the law and clarify the impetus behind its enactment.

The salvage provision included in the fiscal year 1995 rescissions bill has three separate and distinct provisions. The first provides the administration with temporary expedited salvage sale authority. The second provision grants legal protections to the administration for implementation of the President's Northwest forest plan. Finally, the statute releases certain sales prepared and offered by the Federal Government from 1990 forward that have been blocked due to consultation procedures under the Endangered Species Act.

Before I proceed with a more detailed outline of this law, let me highlight for my colleagues a seldom stated fact about this controversial law: Except for the provision directing the release of a relatively small number of sales that have been blocked by ESA consultation, the remainder of this law is discretionary. More specifically, the provisions of the law related to salvage and those related to the President's forest plan are toothless. The President is not required to offer a single sale or cut a single tree.

Immediately after signing the Rescissions Act, the President sent a memo to his agency heads saying:

> Public Law 104–19 gives us the discretion to apply current environmental standards, and we will do so. I am directing you to * * * move forward expeditiously to implement these timber related provisions in an environmentally sound manner, in accordance with * * * existing environmental laws.

A parade of administration officials have come before the Energy and Natural Resources Committee to confirm this commitment by the President, which is fully consistent with the legislative intent of the statute, to implement the salvage program and his Northwest forest plan in complete conformity with existing environmental laws. These discretionary provisions are the very provisions the Murray amendment seeks to repeal and replace with a permanent, prescriptive, narrowly focused timber salvage program.

So to repeat, the law simply provides the President with forest policy tools that can be used to expedite salvage timber sales and sales under his Northwest forest plan. Whether the President chooses to use these tools is entirely up to him.

I would now like to discuss in further detail, each of the provisions of the salvage rider from the fiscal year 1995 Rescissions Act and, shortly thereafter, my concerns with the Murray amendment as proposed.

The first and most significant provision in the salvage law provides the administration with temporary authority for an expedited timber salvage program. This provision will expire on December 31, 1996. An expedited salvage process is needed to harvest dead trees because they pose a significant fire risk, create additional forest health concerns and the trees deteriorate rapidly, losing over half their value in the first 2 years.

In Oregon, and in Federal forests nationwide, we are in the midst of a forest health crisis. Three years ago, 50 to 70 percent of the forests in eastern Oregon's Blue Mountains area were considered dead or dying. According to the Blue Mountains Natural Resources Institute [BMNRI] in La Grande, nothing has changed in regard to fuel buildup and fire risk. In fact, the BMNRI states:

> The Blue Mountains is one of many areas in the interior West where accumulation of dead and dying trees continues to increase, thus confronting managers and the public with an unprecedented degree of catastrophic fire hazard.

The 1994 fire season was one of the worst on record. Thirty-three lives were lost and the Government spent nearly $1 billion fighting fires. Four million acres and four billion board feet of timber burned. The salvage law came about as a means of giving our Federal land management agencies the flexibility to act swiftly to address this precarious situation for Oregon's forest ecosystems, firefighters, and rural communities. Otherwise, we may face fire seasons in the future that are as bad or worse than 1994.

According to the Forest Service, nationwide we have about 18 billion board feet of standing dead and dying trees. The salvage provisions of the Rescissions Act give Federal land management agencies flexibility to address the forest health problems they believe must be addressed. Incidentally, the agencies determined that they were capable of harvesting 2 billion board feet of salvage timber nationwide for each of the 2 years the salvage provision was to be in place. For each sale, they must at least prepare an environmental assessment under the National Environmental Policy Act and a biological evaluation under the Endangered Species Act. In addition, agencies are free to follow their existing standards and guidelines for implementing Federal environmental law for each timber sale.

Without this provision, actually conducting any forest health or salvage operations would be easier said than done. Simply put, public involvement, judicial review, and administrative appeal statutes granted by Congress in existing environmental laws have been used by a small minority to block any management of public lands, even for these valuable and necessary salvage operations. These groups would rather let our dead and dying forests burn by catastrophic fire, endangering human life and long-term forest health, than harvest them to promote stability in natural forest ecosystems and communities dependent on a supply of timber from Federal lands.

The second provision of the salvage law grants legal protections for the administration to implement President Clinton's Pacific Northwest forest plan. This protection is accomplished by eliminating administrative appeals and expediting judicial appeals. This is designed to give the President the freedom to implement his plan, which has been upheld in Federal court as in compliance with all environmental laws.

All sales under this section have been prepared under the standards and guidelines of the President's forest plan. These provisions are so protective, the Northwest is producing about 10 percent of its historic volume levels under them. Again, the provisions here are discretionary. The President is not compelled to harvest one stick of timber if he chooses not to.

The third provision releases certain sales offered or awarded since 1990 in the geographic area covered by section 318 of the fiscal year 1990 Interior and Related Agencies Appropriations Act. By its own estimates, the Forest Service faces at least $150 million in contract liability for failure to move forward with these sales which it prepared and offered. Congress moved forward with them, in large part, in an effort to address this liability question.

These delayed sales represent approximately 650 million board feet of timber affecting less than 10,000 acres of Federal forest land in Oregon and Washington. To the average homeowner, this may sound like a tremendous amount of timber over a very large area. However, in the context of Federal land management in the Pacific Northwest, 10,000 acres is a minuscule amount. To illustrate, the President's Northwest forest plan covers 24.4 million acres, 19.5 million acres of which is withdrawn entirely from commercial timber harvest. The sales released under this provision represent less than an infinitesimal one twenty-four-hundredth of the land within the jurisdiction of the President's plan.

Let me also put the 650 million board feet of volume in perspective. Again, this may sound like a great deal of timber. However, throughout the 1980's, the Pacific Northwest averaged an annual harvest level of around 3.85 billion—not million—board feet. Our annual harvest levels are now about 10 percent of these 1980's levels, largely due to the significant protections of the President's forest plan. Under his plan, the President promised the people of the Pacific Northwest a first-year harvest of 2.2 billion board and an annual harvest level of 1.1 billion board feet each year thereafter. However, since that promise was made, a total of about 500 million board feet has been sold under the plan.

These sales have been held up for a variety of reasons, primarily for consultations for the threatened marbled murrelet. Habitat for this sea bird has been designated as any forest land within 35 miles of the Oregon and California coasts, and 50 miles from the coast in the State of Washington. This amounts to about 4.4 million acres, two-thirds of which is Federal. These birds are very difficult to survey because they spend an estimated 90 percent of their lives at sea. While total habitat of the bird is about 2.5 million acres in the Northwest, only 10 percent of that acreage has been surveyed. Based on this scant evidence, scientists estimate that the Northwest is home to between 18,600 and 32,000 murrelets. Over 300,000 of these birds are believed to inhabit Alaska.

Under the salvage provision, timber sales must go forward unless a threatened or an endangered species—murrelet—is known to be nesting within the acreage of the sale unit. In that case only, the administration is authorized and directed to provide replacement volume of like kind and value within the contract area of the existing timber sale. Under this language, the administration's ability to provide replacement timber is restricted more than I believe Congress intended. Specifically, replacement volume can only be offered when there is a murrelet problem, and finding like kind of timber within the contract area is proving to be very difficult.

I met with Clinton administration officials last December to discuss these and other concerns with the salvage rider.

Consistent with their specific suggestions to alter the language to reflect their concerns, Senator GORTON and I drafted and included language in the omnibus appropriations bill which gives the Forest Service and the Bureau of Land Management greater flexibility to modify or buy back sales on three specific counts.

First, under our amendment the administration may offer replacement volume for any 318 area sale on which it feels there is an environmental problem, not just those where a murrelet is known to be nesting. The amendment would then give the agencies 45 days to reach a mutually satisfactory agreement with the purchaser regarding what that replacement volume should look like. Replacement timber can be of any kind, value, volume, and location, as long as there is mutual agreement between the land management agencies and the sale purchaser.

Second, our amendment gives the administration the authority not only to offer replacement volume to a timber sale purchaser but also to offer to buy out a sale. The administration has repeatedly requested this authority and has even indicated that it is able to secure $50 million from a neutral funding source to cover the costs.

Finally, our amendment removes the requirement that these sales be operated by September 30, 1996. We have lifted this deadline so timber sale operators do not have to rush to cut these trees hastily before any additional environmental considerations can be taken into account.

In summary, Mr. President, our amendment does everything the administration has requested aside from giving them total authority to cancel contracts unilaterally with no compensation to timber sale purchasers. I remind my colleagues that, by the Forest Service's own estimates, it is financially liable to the tune of about $150 million for canceling these contracts.

The Murray amendment, by comparison, does not address the issues outlined by the administration except to relieve them from any and all responsibility to harvest these sales. This course of action is absolutely contrary to the commitments the administration made during 6 months of detailed negotiations with Congress on the fiscal year 1995 rescissions bill, which included the salvage provision.

Aside from my objection to the underlying principle that the Murray amendment allows the Clinton Administration to fully back out of the commitments it made during the deliberations on the salvage provision, the amendment raises a number of additional concerns.

First, the Murray amendment replaces the salvage portion of the rider, which expires at the end of 1996, with a comprehensive, long-term salvage timber harvest program. All this without one hearing in the authorizing committee, no hearings in the Appropriations Committee and no internal or external communications or debate.

Under the Murray amendment, any sales which have been released as part of the salvage rider would be open to immediate administrative and judicial challenge and would be stopped instantly, even if timber is already fallen and bucked and stacked on the ground. The Government has sold about 1.8 billion board feet of salvage and billions more are in the pipeline. In addition, sales cleared under the President's Northwest forest plan would be reopened to a new round of administrative and judicial appeals.

The Murray amendment's salvage program is very detailed and prescriptive. Remember, the salvage program we enacted as part of the rescissions bill gives complete discretion to the land management agencies to lay out sales in a manner consistent with existing environmental laws and standards and guidelines, as President Clinton committed to doing. The Murray amendment will allow salvage only in roaded areas. It precludes even helicopter logging in roadless areas, often where we have our most severe forest health problems. No salvage logging will be allowed in "any area withdrawn by Federal Law for any conservation purpose." This is so restrictive that the language in the Forest Service's 1897 Organic Act, which allows the President to establish forest reserves, would appear to apply this restriction to the entire national forest system.

The Murray amendment will also grant the President's Council on Environmental Quality 1 year to develop salvage compliance regulations. Thus, not only will sales stop in their tracks, it will take at least a year and probably much more to even begin offering sales under the new law. In the meantime, logs will lay on the ground and rot. The Government's liabilities to the purchasers who have operated many of these sales almost to completion will increase greatly, and the backlog of dead timber from the 1994 fires and the risks associated with keeping these trees on the ground will have gone unaddressed.

To oversee this new salvage program, the Murray amendment creates a new interagency, multi-level bureaucracy for ESA compliance, including two interagency scientific teams and two layers of dispute resolution teams. Little guidance is given to these teams and the amendment uses so-called sufficiency language, to which the Senator from Washington strenuously objects, to restrict public input and exempt these new bureaucracies from the Federal Advisory Committee Act.

On that note, the amendment has its own share of sufficiency language. As one who has used sufficiency language on several occasions because of emergency situations, I have no problem with the concept of using this language. Critics of current law have strongly criticized the use of sufficiency. The sponsor of the current amendment was on record as opposed to sufficiency language even prior to her arrival in the Senate. Overall, I have tried to be sensitive to her concerns. In fact, I worked closely with her and the Clinton Administration this last fall to develop a solution to the salmon recovery funding problem in the Columbia River Basin which did not use sufficiency language at all. The Murray salvage amendment, however, is filled with sufficiency language which overturns court rulings and exempts Federal agencies from all sorts of laws.

The Murray amendment attempts to terminate all existing contracts on sales released by the salvage rider in the geographic area of covered by section 318 of the fiscal year 1990 Interior Appropriations Act. In doing so, however, the amendment terminates all remaining 318 sales, including over 300 million board feet of noncontroversial sales that were not released or affected in any way by the Rescissions Act. This opens the Government to additional millions in new and needless liability and removes much-needed timber from the pipeline of sales available for use by timber dependent communities in Oregon and Washington.

I know the sponsor of the pending amendment will concede that she has had a very difficult time finding the necessary offsets to pay for what CBO has told me is a $250 million amendment. We certainly cannot be accepting lightly any proposal that will expose the government to such huge sums of liability.

The Murray Amendment provides replacement volume authority, but replacement sales must be completed within one year, which is a near impossibility, unless another time line is agreed to. Buy-out authority is also provided, but funding appears to be subject to appropriations or through loan forgiveness or future bidding credits. If negotiations toward mutual agreements with timber sale purchasers are unsuccessful, the administration is provided with unilateral cancellation authority on these sales. Thus there is no reason for the administration to deal in good faith with these purchasers. This is the very reason we enacted this provision in the first place. The Administration had been sitting on these sales for 5 years.

Finally, the Murray Amendment directs the Secretary of Agriculture to use road construction funds to prepare timber sales. Most of the road construction account, however, is already devoted to implementation of the President's forest plan, including timber sale preparation. Under this provision, we would literally reduce the work we are able to accomplish under the President's forest plan, as modest as it has been these past 2 years, in place of preparing alternative volume sales. This is expressly opposite of congressional intent in passing the original salvage provision on the Rescissions Act and specifying that the volume of the 318 areas sales was not to count against current allowable sales quantities under the President's forest plan.

I strongly urge my colleagues to vote against the Murray amendment. It overreaches the authority of the Appropriations committee and authorizes a comprehensive, long term timber salvage program. It leaves already harvested trees on the ground to rot. It creates significant and unnecessary new areas of contract liability to the Federal Government.

The language which Senator GORTON and I have included in the pending legislation addresses the concerns raised by the Clinton administration while still helping meet the original purposes of the act when it was signed into law by President Clinton after 6 months of congressional debate and negotiations.

I supported the salvage rider originally, and have drafted changes to it now which I urge my colleagues to support. I believe it allows us to show that we can be reasonable in what we do in the forests and harvest trees for many uses—forest health, community stabilization, ecosystem restoration, and jobs for our workers.

I urge my colleagues to oppose the Murray amendment.

Mr. DOLE. Mr. President, the timber and salvage issue has been subjected to confusing direction from the Clinton administration. After first vetoing the bill, the President began to criticize the bill.

This constantly changing position of this administration on this bill hardly contributes to a solution on what has become a needed resolution both for environmental concerns as well as economic. The repeal of this amendment would stop ongoing salvage sales, creating numerous new court challenges and lawsuits. During regulatory reform this problem was noted to be a significant concern of our friends across the aisle. Now however, it is a acceptable requirement.

Second, as Senator CRAIG has pointed out, the emergency salvage law is necessary for jobs and forest health. As the amount of dead and dying trees increases, so dies the threat of wildfires. The lack of access to this timber results in lost jobs.

The Clinton forest plan is not working. The amount of timber being produced is far below what the President promised and jobs continue to be lost. The Forest Service has produced very little salvage volume. The only volume that is really being produced under this provision are in the area covered by section 318, timber that was previously sold. Yet the President wants to hold up the sale of this timber as well.

If this law is repealed the liability of the Federal Government increases, jobs will be lost, the environment threatened and a bureaucratic nightmare is created. We can move forward with managed timber sales and still protect endangered species and jobs. What we have to do is apply good management. Repealing this law is not the first step that needs to be taken. I urge my colleagues to defeat the Murray amendment.

Mr. MURKOWSKI. Mr. President, I rise in strong opposition to the Murray amendment. This proposal would create chaos in the National forests. It would repeal a measure we passed just 7 months ago, which the Forest Service and BLM have, at our urging, been moving to implement. Then it provides these agencies with new, conflicting direction.

Moreover, the Murray amendment provides the agencies with long-term direction on forest health restoration that: First, was introduced less than one week ago; second, has never been reviewed by the authorizing committees, or been subject to a hearing; and third, is fundamentally and fatally flawed. By contrast, my committee has been working on long-term forest health legislation introduced by Senator CRAIG and Senator HEFLIN for over a year. This effort has included extended discussions with minority staff and members of the Energy and Agriculture Committees and the land management agencies. While these discussions have not produced complete consensus, they have produced a bill that is well drafted, addresses many members' concerns, and will be marked-up and reported later this month.

The Murray amendment in essence asks us to put this aside and, instead, enact on the floor today a multiyear piece of legislation—with significant environmental and economic implications—that most of us have never even seen. Well let me share a few high points.

Senator MURRAY would subject all of the salvage timber sales sold in the past year to new administrative appeals and expanded judicial review. This amounts to 1.8 billion board feet of sales that will be stopped in their tracks. Loggers and mill workers will be sent home. The value of the dead and decaying timber will decline as the appeals and lawsuits are heard. In a hearing before our committee last week, Forest Service officials expressed concern over this problem. The original terms of the timber sale contracts will be violated by the Government, and contract damage claims will ensue as timber companies are forbidden to harvest under the terms and, more importantly, timeframes of the contracts.

In response to the extraordinary 1994 fire season, we chose 7 months ago to allow, under some conditions, "logging without lawyers." Senator MURRAY apparently finds an unacceptable restriction on legal employment opportunities. She wants to put lawyers back to work. Maybe that's alright. I don't dislike lawyers—much. But there is a clear choice here. Creating all these new legal jobs will unemploy loggers and millworkers.

Let me give you another example. The Murray amendment prohibits forest health and salvage activities in roadless areas. Why? Don't these areas deserve treatment if they are sick? Shouldn't fire-damaged watersheds in roadless areas be stabilized? Maybe people have faith that roadless areas will recover without help. Perhaps this provision was drafted in a Christian Science reading room.

Here's another—the Murray amendment eliminates the expediting procedures for salvage sales that were developed by the Bush administration and refined by the Clinton administration. Why are we going to substitute whatever wisdom we can muster here in an hour today for provisions that represent the result of 7 years of bipartisan analysis?

On the other hand, if that doesn't trouble you, I shouldn't bother mentioning that the Murray amendment offers a completed new definition of what constitutes a salvage timber sale. Apparently the definition provided by the Forest Service scientists and used both in Public Law 104–19 and Senator CRAIG's bill, is somehow inadequate. If so, we will never find out why in the hour we have devoted to this issue.

But let me close with my favorite. Section 305 of the Murray amendment—for those of us who have had the time to be so precise—directs the Council on Environmental Quality to develop expedited NEPA compliance procedures for salvage sales. They are given a year to develop these expedited procedures. This chart shows how fast fire-killed timber deteriorates. So what the Murray amendment does is: put everything on hold; reinstate lawsuits and appeals; and maybe in a year or so we will have new, expedited procedures for salvage sales from the CEQ.

The Murray amendment appears to address forest health concerns and the needs of forest communities. But understand that no one, least of all the American people, are fooled. This is a vote to appease national environmental groups. They have a lot riding on it.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Washington.

Mrs. MURRAY. Mr. President, as we end this debate, I want to respond to one point again. I heard my colleagues go back to the offset that is in this amendment and threatening our colleagues with loss of their Forest Service funds or loss of jobs. Let me remind all of my colleagues, this money comes from the general administration fund. It can come from general belt tightening, and it will come from travel. But we also have the commitment from the chairman of the Appropriations Committee to work within the confines of the conference committee to come up with a reasonable offset. Again, because of the way that the amendments have come forward on this floor, we had to put in the offset the way it is, but it will be worked out in conference.

Let me go back to why this issue is so critical at this time. Last year, this Congress passed a rider on the rescissions bill that went too far. It allowed trees, such as shown right here, a tree that is 8 foot in diameter, to be cut down regardless of environmental laws and without public input. This tree is more than 250 years old. This tree will not be replaced in the lifetime of my grandchildren, my great-grandchildren, or my great-great-grandchildren.

Mr. President, these are the trees that, without adoption of my amendment, will continue to come down in forests across the Pacific Northwest. That is not what the intent of this Congress was, I hope, last summer, but it is the result and it needs to be stopped.

This debate is also about logging that occurs without regard to environmental impact. Without the adoption of my amendment, these types of logging disasters will occur where slides come down, block our rivers and streams and do tremendous damage to our salmon and our trout and our wildlife that inhabit these areas, much less to flooding that occurs in the Northwest because of harvesting such as this.

Mr. President, do not just take my word for this. We have received editorials from across the West, and I ask unanimous consent to have them printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Seattle (WA) Post-Intelligencer, Mar. 6, 1996]

SENATOR MURRAY'S GOOD "TIMBER RIDER" PLAN

Sen. Patty Murray has introduced sensible legislation to undo the damage contained in the controversial "timber salvage rider."

Congress ought to adopt it forthwith.

The Seattle Democrat's bill would cancel the harvest of healthy old-growth trees in environmentally sensitive areas and give companies that had bought the timber the right to log elsewhere in the national forests or buy back their logging rights from the Forest Service.

The controversy was set in motion by congressional passage of a measure masquerading as a means to quickly harvest sick or dying trees.

Sponsored by Republican Sen. Slade Gorton, the salvage rider expanded the definition of salvage and re-opened to logging healthy areas that had been put off limits to loggers after the sales were made because of endangered species habitat restrictions.

But little interest was shown by the timber industry in felling the sick trees that supposedly are threatening healthy stands. They have until September, when the rider expires, to rid the woods of this menace.

An unfortunate feature of Gorton's legislation was that it allowed "salvage" harvesting without regard to environmental law, so the sales could not be appealed in court.

A critical feature of Murray's legislation is that it restores existing environmental laws to the harvest. That feature must be preserved.

There is no persuasive argument to be made for suspending environmental laws in national forests. Gorton's own bill to cope with the furor caused by his rider also envisions buy-backs and exchanges that would allow logging on less environmentally sensitive lands.

But Gorton would force the Forest Service, already reeling under budget cuts, to eat the $100 million it may take to buy back the trees. That doesn't make real-world sense.

President Clinton initially—and rightly—resisted the salvage rider but relented and signed it when Republican lawmakers attached it to a budget bill he wanted. On a recent visit to Seattle, Clinton admitted the rider was a "mistake."

It was a huge mistake, as all the guilty parties now seem to realize. The sooner they make it right and put it behind them, the better off they'll be.

[From the Portland (OR) Oregonian, Mar. 12, 1996]

Fix the Timber Rider—Senator Murray's Proposal Could Force Needed Compromise on Old-Growth Sale Provision

Senator Patty Murray, D-Wash., is offering the Senate a chance it ought to grab to reconsider the increasingly notorious timber rider that Congress passed last year.

The rider, proposed by Sen. Slade Gorton, R-Wash., was aimed at expediting salvage sales of burned and diseased trees on federal lands by freeing those sales from the normal appeal procedures under environmental laws. Environmental groups opposed it. Its most controversial provision, which Murray would largely repeal, ordered the administration to proceed with suspended sales of old-growth timber in Western Oregon and Washington that don't meet current forest and stream protection standards.

Murray is proposing an amendment that would cancel the old-growth sale mandate but require the administration to either make other timber available to purchasers or buy back the standing timber they bought but can't log.

Additionally, the Murray proposal would allow appeals of proposed timber sales, including salvage ones, but it would shorten the appeal period. On salvage sales, that's the solution Congress should have adopted at the beginning.

Regarding the Western Oregon and Washington old-growth sales, Murray's proposal would provide more flexibility for the U.S. Forest Service than a modification proposed by Sen. Mark Hatfield, R-Ore., and Gorton to the original rider. They would allow forest managers to substitute other timber for the purchased tracts or to buy back the sale, but only if the purchaser consented. A House-passed version allows the timber exchange but does not include a buyback provision.

As we noted a while back, the Hatfield proposal is a considerable improvement over the confines of the original rider. Murray's amendment is even more desirable, rolling the original rider back even further. It isn't perfect and its passage wouldn't resolve the controversy. But it could force a compromise that the administration and responsible members of both the timber industry and the environmental camp would grudgingly accept.

[From the Great Falls (MT) Tribune, Mar. 10, 1996]

Baucus Backs a Good Logging Compromise

Senator Max Baucus has drawn some criticism for cosponsoring a new salvage logging bill, but it makes sense. And if both loggers and environmentalists are mad about it, the legislation appears to be pretty well balanced.

The legislation was originally proposed by Sen. Patty Murray, D-Wash., to repeal the controversial logging law.

Her bill would permit emergency timber harvests when needed to reduce fire threats but would do so within the confines of existing environmental laws.

Her bill would immediately suspend all of the old-growth sales and reinstate environmental laws in regard to the salvage sales, reopening them to citizen appeals for 30 days.

It limits the expedited salvage logging to areas already with roads and places a priority on areas which have the best chance of restoring forest health and reducing wildfire risks.

Murray also would tighten up the definition of salvage timber in an effort to close loopholes critics say subject live, healthy stands to the salvage cutting.

In too many compromises, each side focuses on what has been lost, rather than what has been gained.

That's too bad because this legislation makes sense.

[From the Seattle (WA) Post-Intelligencer, Feb. 27, 1996]

Timber Rider "Mistake"

It's good news, as far as it goes, that President Clinton says the timber salvage rider legislation he signed was "just a mistake" and should be repealed.

The rider expires at the end of this year. The timber companies therefore are hurrying to make lumber of healthy old-growth trees in endangered habitat zones, not merely diseased or fire-prone ones the law supposedly was meant to address.

So by the time political outrage and the tortuous machinery of Congress can be brought to bear on this matter, the old-growth trees that are the center of the dispute may well have vanished.

In that case, all we're likely to be left with thanks to this monumental blunder is renewed warfare in the Northwest woods and more delightful vistas of sawed-off stumps.

[From the Seattle (WA) Times, Feb. 28, 1996]

Timber Salvage Bill Was Clear-Cut Bait 'n Switch

The Northwest timber wars have been joined again, with chain saws whining in the ancient forests of Washington and Oregon while environmentalists resort to civil disobedience and street demonstrations in an attempt to stop them.

All this due to a little congressional bill called the "Emergency Salvage Timber Sale Program," passed by Congress last year.

President Clinton, who eventually signed that bill, now says he believed that it would apply only to diseased or fire-prone forests—not to what's left of old-growth forests. Timber interests, including Republican Sen. Slade Gorton, say that's hogwash; he knew, or should have known, what he was signing.

The record favors the president. Nearly a year ago, last March 3, Gorton faxed to The Times a six-page press release laying out eight arguments for this timber bill. His document refers repeatedly to "salvage logging." There is no mention of old-growth timber.

"We're not talking about clear-cuts in the Olympics," Gorton argued in his release. "These operations will pull dead, dying, burnt, diseased, blown-down and bug-infested timber out of the forest, and reforest the salvaged areas. It's an important part of restoring these forests to health."

Gorton's arguments made sense. That's why he won support from the White House and others who were willing to relax environmental laws to allow salvage logging, generate much-needed jobs and reduce the fire danger in Northwest forests.

Only later was the bill expanded to include long-delayed sales of old-growth timber. A year later, Gorton's plan has generated little or no salvage logging. Instead, loggers are attempting to clear-cut an ancient stand of Douglas firs in the Olympics, where fire is not an issue. Gorton's backers, including this newspaper, feel lured into a bait-and-switch game.

The amount of timber at issue is modest—certainly not enough to undermine the biological health of Northwest forests. And Gorton makes a reasonable argument that the old-growth timber is being cut under 6-year-old contracts that should be honored.

The point is this: Gorton won initial, bipartisan support by peddling his salvage rider as one thing. And the Northwest is being asked to live with quite another. This puts President Clinton on solid ground to reconsider his agreement to a good deal gone bad.

[From the Salem (OR) Statesman Journal, Mar. 6, 1996]

Limit Salvage to Dead Timber

ENVIRONMENT MUST RULE THE HARVEST DECISION

Sen. Mark Hatfield has tried to bring accord out of the discord about the timber salvage bill, but his compromise proposal offers little hope of satisfying either side.

It has two major weaknesses. It extends the time during which logging is exempt from environmental laws—which environmentalists would protest. And it allows the federal government to buy out the timber-cutting contracts, provided the timber companies that hold the contracts agree and the government comes up with the money. The chance that the companies would agree to be bought out and that the government would put up the money to do so is slim.

The cleanest solution is to revise the measure.

Allow the cutting of dead and dying trees. That was the purpose of the bill in the first place. Many environmentalists disagree with the salvage, but there are good arguments to go ahead. We see some of them every day in Oregon when we drive by forests turned brown by disease or fire.

Then remove from the measure the rest of the timberlands. Let these tracts stand on their own merits as either suitable for harvesting or as essential to the environment. Most of the timber already has undergone environmental assessment. Supposedly, the federal government is satisfied that the sales are environmentally sound.

If the assessment of the risk to the environment has changed in the years since the sales were first considered, then they can be canceled or the conditions revised. For timber that already has been sold, the government would return the money.

Sen. Patty Murray, D-Wash., offered a reasonable compromise this week. She would encourage salvage logging but without suspending environmental assessment is done quickly, this is a reasonable alternative.

What has angered most citizens about the salvage bill was not the cutting of green timber itself—although there is considerable opposition—but the suspension of environmental laws and the right of appeal to the courts. The public must continue to have the right to argue the management of public timber and to appeal to the courts.

Anything less will not satisfy the public regardless of how carefully a timber management plan is devised.

[From the Bellingham Herald, Mar. 12, 1996]

Our View: OK Murray's Compromise Timber Plan

Forestry: Senator's proposal is fair to both environmentalists and timber interests.

Timber workers and communities deserve a measure of help to get through the painful transition they face. But the helping hand shouldn't exact too great a cost on the environment.

Legislation introduced by U.S. Sen. Patty Murray, D-Wash., strikes the proper balance.

Murray's bill would amend a law enacted last summer purportedly to let salvage timber—dead and dying trees—be logged through September 1996 from tens of thousands of acres of federal old-growth forests in the West and South. What the law actually does is allow logging of any old-growth timber in the areas that have been opened up.

A poll last fall indicated that 60 percent of Americans support environmental regulations, including those that protect endangered species and restrict logging in the 10 percent of old-growth forests still left standing.

The salvage timber law sponsored by U.S. Sen. Slade Gorton, R-Wash., was enacted to provide temporary economic relief to timber workers and communities reeling from economic hardships. A 1990 court ruling has all but shut down logging in old-growth forests on federal lands.

Murray's bill would halt logging of healthy old-growth trees but permit salvage logging on a permanent basis. It also would speed up the process by which the timber sales are approved.

Too risky, environmentalists complain. Gorton's entire law must be repealed to avoid further environmental damage.

Too risky, environmentalists complain. Gorton's entire law must be kept intact to avoid exacerbating an already dismal economic picture.

Murray attempted to amend Gorton's bill and implement the compromise last summer. That effort failed by one vote.

The compromise would correct the imbalance created by Gorton's law. It would be fair to both sides. Lawmakers should pass it this year.

[From the Reno Gazette-Journal, Mar. 13, 1996]

THE ASSAULT ON OUR FORESTS MUST BE STOPPED

(1995 timber salvage law amendments are needed to stop the willy-nilly cutting of trees.)

The 1995 timber salvage law was a bad law—a very bad law indeed. It pretended to help the nation's forests by making it easier for the logging industry to take away dead and dying trees, but in reality it endangered the forests by permitting loggers to chop down huge numbers of perfectly healthy trees. In addition, this act eviscerated the protection of wildlife and removed the mandate of clean water—which also freed the axes of the timber men to chop, chop, chop willy-nilly.

This law, proposed by Sen. Slade Gorton, R-Wash., slipped through Congress and past President Clinton's veto pen on the pretext that there was an emergency of unparalleled proportions: i.e., all those dead and dying trees were a fire hazard of such great potential that any measure was justified in order to reduce the hazard. But while there certainly was a need to get cracking on the problem in places such as the Lake Tahoe basin, where homes and other structures could be wiped out by a wildfire, there was no need to destroy environmental protections at the same time—unless, of course, the real aim was to conduct a sneak raid on environmentalism itself. And that does indeed seem to have been the subterranean motive.

The law worked just as intended: Loggers cut swaths of green timber and placed the remaining old growth forests of the Pacific Northwest in greater danger than ever. It was profit at any cost and at all costs.

Now there is a chance to end the assault. An amendment by Sen. Patty Murray, D-Wash., would halt all timber sales in these ancient forests and would put other salvage sales under stiffer environmental rules. It would give the federal government a year to provide alternate timber but would also permit the government to buy back previous timber sales. Also to the good, it would permit appeals under environmental laws. Finally, it would restrict salvage operations to dead and dying trees, and would permit the cutting of healthy trees only to the extent necessary to protect loggers and to provide reasonable access.

At the same time, our own Sen. Harry Reid has proposed an amendment to eliminate the prohibition of Endangered Species listings. These two amendments would do much to provide the forests with the protection that they need, and both should be passed by the U.S. Senate.

Unfortunately, these amendments not only must compete against the original legislation, which retains its ardent supporters, but they must also contend with a much weaker amendment by Gorton and Sen. Mark Hatfield, R-Ore., which would protect some old-growth forests from the axe, but only if replacement timber can be found elsewhere. That is not an acceptable substitute for the real protection that the Murray-Reid amendments would give. These are the amendments that should—indeed must—be adopted.

Mrs. MURRAY. Mr. President, I have an editorial from the Seattle Post-Intelligencer: "Senator Murray's good 'timber rider' plan."

From the Portland Oregonian: "Fix the timber rider. Senator Murray's proposal could force needed compromise on old-growth sale provision."

From the Great Falls Tribune, from the Seattle PI, from the Seattle Times, which talks about the amendment that was adopted last year and calls it a "cut bait 'n' switch."

From the Statesman Journal in Salem, OR: "Limit salvage to dead timber."

From the Bellingham Herald: "OK Murray's compromise timber plan."

And from the Reno Gazette-Journal: "The assault on our forests must be stopped."

Mr. President, I have a long heritage in the Pacific Northwest. I was born and raised there. My father was born and raised there, and, in fact, my mother was born and raised in Butte, MT. In fact, my husband's grandfather was born in Seattle back at the end of the last century.

We know the people in this region. We know why they are angry today. They are angry because the rider that passed last year through this Congress left them—people, my brothers, my sisters, my friends, the people I have run into in the grocery store and at town-hall meetings across my State—it has left those people out of the decision-making process when it comes to our Federal force.

People in our region want to be involved. They want to have a say, and they do care. They care deeply. Because of the rider that was passed last year, Federal agencies are out in the woods running timber sales today with little or no accountability, and that makes my constituents angry.

Under the rider that passed last year, our ordinary citizens have no ability to influence Government decisions. That makes them angry.

Under the rider that was passed last year, our timber communities have once again become the center of a political storm. They deserve better than that. My rider directly makes sure that those people in our timber communities do not have a policy that is in place for just a few short months, with timber, like I have shown you before, being cut down.

Mr. President, my policy assures that these timber workers will be at work logging dead and dying trees—true salvage, not green trees. It will assure that those jobs are there for the long run.

Most important, my amendment puts people back into the process. People have a right to a say about the forests that we all own. People have a right to know that what they own is cared for and cared for well. That is what the environmental laws are all about that have passed in this Congress over the last four decades. That is what was taken away in the rider that was passed last summer. That is what is corrected in our amendment before us today.

Mr. President, I cannot urge my colleagues strongly enough to please vote for the amendment in front of you, the Murray amendment, with the support of Senators WYDEN and BAUCUS and LEAHY, and many others, Senator SAM NUNN. The reason is, we have to get our timber areas out of war. We need to reduce anger, and most importantly, we need to put common sense, common sense and rationality, back into our timber policy across this country.

That is what my amendment does. That is what your vote for this amendment will do. Help me send a message back to my constituents that this Congress does have the ability to listen when people are angry, this Congress does have the ability to put in place commonsense, practical solutions to problems that are out there, and that this Congress will not make a mistake a second time.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask for the yeas and nays on the Murray amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, is there any time remaining? No one has offered to use it. Could the Chair indicate what the time situation is?

The PRESIDING OFFICER. There are 2 minutes, 57 seconds on the Senator's side, and 22 seconds on the other side.

Mr. HATFIELD. Mr. President, I yield back our time.

Mrs. MURRAY. Mr. President, I yield back my time as well.

The PRESIDING OFFICER. All time having been yielded back, the Senate will proceed to vote on agreeing to amendment No. 3493, as modified, offered by the Senator from Washington. The yeas and nays have been ordered. The clerk will call the roll.

Mr. JEFFORDS. Mr. President, on this vote I have a pair with the Senator from Kansas [Mr. DOLE]. If he were present and voting, he would vote "no." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is absent on official business.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NAYS—54

Abraham
Ashcroft
Bond
Breaux
Brown
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Jeffords, for

NOT VOTING—3

Bennett
Dole
Moynihan

So the amendment (No. 3493), as modified, was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I know some Members are concerned about what the procedure is going to be for the remainder of the day and into the night.

As the majority leader said yesterday, and after consultation with the Democratic leader today, our intent is to finish this bill. There are still an awful lot of amendments pending. We would appreciate Members coming to the floor and being prepared to go forward with their amendments. If they have a serious amendment, we need to know about it. If they are not going to offer it, we need to know about that.

I want to be very clear that our intent is to complete the amendments and finish this bill tonight. So when the Sun starts setting in the West, I hope Members will not express great concern about what the schedule is going to be. Our intent is to go forward. We do not want to leave any misconception about how we are going to act on this legislation.

So come on to the floor and let us get these amendments going and complete the bill tonight.

I yield the floor.

INTERSTATE 95 FIRE

Mr. SPECTER. Mr. President, as many of my colleagues may be aware, a monstrous fire yesterday in Philadelphia has caused enormous damage to a long 2-mile stretch of Interstate 95. The Philadelphia Inquirer reports today that the eight-alarm blaze burned the bottom of I-95 as if it were a pot over an open flame, snapping support wires, charring concrete, and sending a column of sooty smoke south along the Delaware River. Early roadway damage estimates range from $2 to $5 million.

I would like to discuss with the distinguished chairman of the Appropriations Committee the availability of emergency funding to restore this important roadway, which is so critical to the economy of my State and the eastern seaboard and to the quality of life of millions of Pennsylvanians.

I understand that title II of this bill provides $300 million for the emergency fund of the Federal Highway Administration to cover expenses arising from the January 1996, flooding in the Mid-Atlantic, Northeast, and Northwest States and other disasters. Would my colleague agree that the substantial highway damage that occurred on Interstate 95 should be considered a disaster for the purposes of this legislation?

Mr. HATFIELD. I recognize the concerns raised by the Senator from Pennsylvania. In providing the $300 million in appropriations for the emergency fund, it was the committee's intent to provide sufficient funding to cover a range of unforeseen disaster, such as the damage that has occurred on Interstate 95 in Philadelphia. When critical highways are impacted to such a degree that they must be closed and repaired, it is important that Congress ensures the availability of funds to restore the flow of commerce and individuals who are dependent on them. I would be glad to work with the Senator from Pennsylvania to ensure that the conference report on this legislation reflects the Congress' intention that the Interstate 95 fire should be considered as a disaster by the Federal Highway Administration.

Mr. SPECTER. I thank the distinguished chairman and look forward to working with him in conference on this issue.

Mr. CRAIG. Mr. President, are we in a quorum?

The PRESIDING OFFICER. No. We are not.

AMENDMENT NO. 3494 TO AMENDMENT NO. 3466

(Purpose: To provide for payment for attorney's fees and expenses relating to certain actions brought under the Legal Services Corporation Act)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3494.

In the matter under the heading "PAYMENT TO THE LEGAL SERVICES CORPORATION" under the heading "LEGAL SERVICES CORPORATION" in title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, strike "$291,000,000" and all that follows through "$1,500,000" and insert the following: "$290,750,000 is for basic field programs and required independent audits carried out in accordance with section 509; $250,000 is for a payment to an opposing party for attorney's fees and expenses relating to civil actions named In the Matter of Baby Boy Doe, and Doe v. Roe and Indian tribe, with docket numbers 19512 and 21723 (Idaho February 23, 1996); $1,500,000".

Mr. CRAIG. Mr. President, I bring to the Senate this afternoon what in Idaho has been a phenomenally serious and frustrating matter in relation to a young adopted child and his adoptive parents. I say that because 6 years ago the Swenson family of Nampa, ID, adopted a 2-month-old child. They went through all of the legal and appropriate channels to do so. They found out several months into the adoption of that child, when the legal processes were underway, that the native American tribe from which this child had come—and the child was half white, half native American—wanted the child returned even though the natural parents did not. As a result of that, a legal fight began. And Legal Aid Services of Idaho became involved in defending, supposedly, the child—even though the child was then less than 2 years old, and the child thought he was a member of the Swenson family—a loving, caring family.

I and my staff visited with the Legal Services Corporation, suggesting they not become involved—that it was not the intent of Congress for Legal Services to use their money for these purposes, that there were truly poor and needy people who needed Legal Services to defend them, and that they ought to go elsewhere to find their clients.

Another reason I argued that was because the Indian tribe—in this instance the Oglala Sioux—had their own attorney and their own money. They were planning to defend themselves and to argue that this child ought to be returned to their tribe. Believe it or not, this legal fight went on for 6 years. That legal fight was just settled a few months ago in the Idaho Supreme Court. Legal Aid Services of Idaho took this fight all the way to the Supreme Court, expending thousands and thousands of dollars of taxpayers' money.

Here is the headline in the local press of February 23, "Casey's Adoption Final Today." The Supreme Court of Idaho finally said to the Swenson family, "You are entitled to your son," the son now being 6 years old.

The story seemed to have a marvelous positive ending, but the tragedy is that the Swenson family spent $250,000 protecting their adopted son. They sold their farm. Here are pictures of the farm being auctioned off less than a month ago to pay the legal fees because of the attack by Legal Services.

Of course, we know Legal Services Corporation and their grantees are funded by tax dollars. They should be protecting the poor. That is Congress' intent. The ranking minority member of the appropriations subcommittee has fought for years to assure that kind of direction. I argued with Legal Services that that is where their money ought to be spent. But, oh, no, they had to take on this family. They bankrupted the family in an attempt to gain custody of this child. The family won. The happy ending is here. But the family is bankrupt.

My amendment today is simple. It takes the necessary moneys from Legal Services Corporation and gives them to that family. We think that is fair and appropriate. And I have worked with the chairman, and the chairman of the subcommittee, and the ranking member of the subcommittee to deal with this because I think this sends a clear message to Legal Services Corporation and its grantees: Do what the law intends you to do. Defend the poor where it is necessary against a more powerful society. But do not enter into these areas where clearly those who might need defending have the resources and support they need.

In this instance, that was all very, very clear throughout this fight. It was simply a fight that Legal Services attorneys would not stay out of, for political reasons.

I yield the remainder of my time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from South Carolina.

Mr. HOLLINGS. The distinguished Senator from Idaho is right on target. I have been a champion and remain a champion of Legal Services. I have learned over my 20-some, almost 30 years now that from time to time there are excesses. In the early days, we were paying for everybody to come up here and break up the Congress. And Senator Javits and I, we put the provisions in there that cases should relate to domestic, to landlord-tenant cases, employment cases, and everything else.

This, of course, is a domestic case, but it is a case wherein a very responsible entity, namely the Indian tribe, had their own counsel and everything else of that kind. We are not going to use Legal Services moneys to sue the Governor of New Jersey. We are not going to use Legal Services to sue where the others have attorneys. This particular corporation, started by Associate Justice Lewis Powell when he was head of the American Bar Association, is one of the finest that there is, very much needed, and we need increases. The Senator from New Mexico and I cosponsored the amendment to increase the amount for Legal Services. We are not going to get the support of the Members of Congress when these excesses are allowed to go unnoticed.

I am tickled that the distinguished Senator from Idaho has raised the question. If we can get some discipline over there and against these excesses, I think it will help Legal Services overall. So I agree to the amendment.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3494) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, I thank the chairman of the Appropriations Committee and the ranking member of the subcommittee. The ranking member has been gallant in his effort to maintain the Legal Services System that responds to the poor and the needy, and I truly appreciate his willingness to look at this issue and to accept it and for the chairman to accept it also. I do believe it sends a message, but it also does something very significant in our society: It rights a wrong.

Mr. HOLLINGS. Exactly.

Mr. CRAIG. I thank the Senator.

Mr. HOLLINGS. I thank the distinguished Senator.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I would like to add to information on the previous amendment that the subcommittee chairman, Senator GREGG, I am informed, approved of the amendment as well.

Mr. President, we are now at a time when the so-called big issues, not all of them, but a goodly number of them, have been disposed of. We invite Senators who have other amendments to be considered, first of all, to consider whether they want to offer the amendments.

We had 116 amendments that had been designated as of last night. I was hoping that we could reduce that considerably, and I am pleased to say that on our side, the acting majority leader, Senator LOTT, has been doing yeomen work to get them reduced in number, and Senator DASCHLE, the Democratic leader, had indicated to me earlier this morning that, likewise on the Democratic side of the aisle, there has been an effort to try to reduce these numbers of amendments.

Mr. President, the House of Representatives is expecting to pass a 1-week extension of the existing CR perhaps this afternoon. They will send that over to the Senate once they have adopted it. The Senate, in this process now, would be then privileged to have a vote on that CR or to continue work on the current vehicle, the omnibus appropriations bill. I am very hopeful that we can keep on this bill to clean it up and finish it because we have to go to the House for a conference following our action. One week is not a very long time in the consideration of this vehicle and that which we are substituting for the House-passed omnibus package.

I am very hopeful that we can finish this and launch our conference with the House and by Friday midnight pass the 1-week extension that the House will probably pass today.

I think that is an orderly progression of our responsibility because I am fearful that if we extend this CR for 1 week, there is no pressure to finish this bill, and that will put us into next week on this vehicle and shortening the time, we have to understand, necessary to allow for a conference with the House.

I hoped we could escape any additional CR, but that is not the way the Senate has worked its will. I wish to indicate again that if Senators are serious about the amendments they have listed, I hope they will appear in the Chamber and provide the body an opportunity to discuss and to dispose one way or another of the amendments.

Senator HATCH has indicated that he will be here at 1 o'clock in order to offer an amendment. I see the Senator from North Dakota in the Chamber, looking as though he is preparing to ask for recognition, and hopefully he is preparing to offer an amendment, because, very frankly, I do need a soft shoe or catchy tunes. We have about a 20-minute interval facing us that I do not want to waste until the Senator from Utah arrives on his schedule for submission of an amendment.

Am I reading the actions of the Senator from North Dakota correctly?

Mr. DORGAN. Mr. President, I will advise the Senator from Oregon I should like to seek the floor for 2 minutes on an unrelated item. I think there is one amendment referenced for me which may occur but would require no floor time. So I will not ask for additional time from the Senator from Oregon.

I appreciate the difficulty is to try to get this bill done, and I understand the urgency with which he requests Senators to come and offer their amendments. I share the interest in seeing that this bill gets completed. If there are no other Senators seeking recognition when the Senator from Oregon relinquishes the floor, I would ask for 2 minutes on an unrelated subject.

Mr. HATFIELD. Mr. President, I hope it is in the form of a unanimous-consent, and then I would say that I would object to that unanimous-consent request from the Senator from North Dakota unless it includes a soft shoe or a catchy tune for the rest of the time we are waiting for the Senator from Utah.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I would say to my friend from Oregon, the soft shoes and loud tunes, was it, are better reserved for other Members of the Senate. In fact, we have seen one example of that in the Senate. It was played and replayed on the nightly news, and I thought it had less to do with talent than it had to do with the mere shock of seeing it occur on the Senate floor.

Let me ask unanimous consent to speak for 2 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE FARM BILL

Mr. DORGAN. I seek the floor—and I would not have done it had other Members wanted to continue on this bill—for 2 minutes to say that we are dealing with a lot of important issues in the Senate on this continuing appropriations bill, but there is another issue that is of enormous importance to North Dakota and to the farm belt. That is the farm bill which is now in conference.

I want very much, now that conferees are appointed, for them to work around the clock in order to resolve the differences on the farm bill, bring it to the floor of the House and Senate and get a farm bill in place.

The fact is, farmers in North Dakota, tens of thousands of them, are now ready to go to the fields. In a matter of weeks, they will be in the fields doing spring planting. The farm bill that was supposed to have been passed last year was not. It is now mid-March 1996, and we do not yet have a farm bill.

I have discerned that really if this is a revolution in the 104th Congress, it is a revolution with two speeds: One is a full gallop when it comes to the larger economic interests. Let Wall Street have a headache, and we have a dozen people rushing in with medicine bottles. Let some of the larger corporate interests complain about a bellyache, and we have people who want to tuck them in bed. But let family farmers out there go around without a farm bill and people say there is no need for a farm program; we do not need to get a farm bill for the family farmer. There is slow motion in dealing with issues family farmers need dealt with.

Farmers in North Dakota and Kansas and South Dakota, Nebraska need to understand what is the farm program. What are the conditions under which they will plant this spring? Will there be a safety net or will there not be a safety net? I would like Congress to provide that answer, and I would like them to provide that answer sooner rather than later.

A couple of weeks ensued when the House was in recess after the Senate passed its bill and a number of weeks lapsed while we were waiting for conferees to be appointed. It is time for the conference now that it is established to start working around the clock and get this done. It ought not take a long period of time.

Farmers deserve an answer. I know that each individual farmer does not have a lot of economic clout, and I guess that is why we do not see the rush to serve their needs like we see when some of the larger economic interests float around this institution.

I hope very soon the conference will convene and the conference will complete its work, bring its work to the Congress, and tell the family farmers of this country what will be the farm bill for 1996. This Congress owes that to the farmers, and farmers deserve to hear it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRAGEDY IN DUNBLANE

Mr. WELLSTONE. Mr. President, I will be very brief. I actually do not have any prepared remarks, but I was thinking that maybe later on I would write up a resolution, or the leadership could write up a resolution, that there ought to be some words, some kind of statement by the United States Senate, maybe it is a message of love, to the people of Dunblane, Scotland.

The slaughter of 16 children is just the ultimate nightmare. All of us who have children or grandchildren—or whether we have or do not have children or grandchildren, it does not make any difference—just in terms of our own humanity, I think we all can feel, and we know the horror of what has happened.

So, as a Senator from Minnesota, I just wanted to send my prayers and my love to the people of Dunblane and to tell them that today, in the U.S. Senate, it is not as if they are not in our thoughts and prayers.

Mr. President, I wish it was in my power to do more. I wish it was in our power to do more. But I think something should be said about it on the floor of the Senate, so I rise to speak, to send my love to the people of Scotland. I believe I speak for other Senators as well. Maybe later on today we can have a resolution that I know all of us will support.

Sometimes when you do this it seems unimportant, but it really is not, because it is kind of a way in which all the people of the world reach out and hug one another at these moments. So, later on, maybe we can have a leadership resolution or some kind of resolution that all Senators can sign on to, and we can send that to the parents, to the families of Dunblane.

I hope and pray this never happens again.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3495 TO AMENDMENT NO. 3466

(Purpose: To provide additional funding for the Office of National Drug Control Policy)

Mr. HATCH. Mr. President, today I am going to offer an amendment to increase the drug czar's office. I think it is critical to this country that we start taking the matter of drug control more seriously than we have over the last number of years.

So, I rise to offer an amendment to provide an adequate level of funding for the Office of National Drug Control Policy, better known as the drug czar's office.

This amendment increases ONDCP's budget by a modest $3.9 million to a total of $11.4 million for fiscal year 1996. That is still well below ONDCP's funding level during President Bush's administration but higher than the administration has requested. In fiscal year 1992, when George Bush was President, ONDCP was getting $18.1 million for operating expenses.

We all know why this amendment is necessary. By many accounts, President Clinton has downgraded the war on drugs. One of his first acts upon taking office was to cut the drug czar's staff from 146 down to 25. The President said he was fulfilling a campaign pledge to cut staff, but several of us on both sides of the aisle warned that the new drug czar would not be effective without the tools to do his job. We were right. Indeed, the President's own drug czar conceded in 1993 that drugs were no longer "at the top of the agenda." That was in the Washington Post on July 8, 1993.

For 3 years, President Clinton gave us an imbalanced strategy focusing primarily on the treatment of hardcore users. The strategy left law enforcement and interdiction agencies twisting in the wind. Federal drug prosecutions fell, drug seizures dropped, the ability of U.S. forces to seize or otherwise turn back drug shipments in the transit zone plummeted by 53 percent. This is just over the first 3 years of President Clinton's administration.

Although the President's stated policy was to focus on hardcore users, President Clinton also presided over record increases in the quality and purity of drugs reaching American streets, as well as staggering increases in the number of drug-related emergency room admissions of hardcore users.

As for supply reduction efforts, there appeared to be none. As recently as 1 month ago, White House staff were arguing that more money for interdiction would be wasted money. This irresponsible talk was coming from people who are supposed to be advocates for the drug war, not advocates against the drug war.

It is indisputable that under President Clinton's leadership, we have been losing ground on this issue. Just look at what has happened since 1992 with our young people. Last year, the number of 12 to 17-year-olds using marijuana hit 2.9 million, almost double the 1992 level, according to the National Household Survey on Drug Abuse in November of 1995.

LSD use is way up among high school seniors. Mr. President, 11.7 percent of the class of 1995 have tried it at least once. That is the highest rate since recordkeeping started in 1975.

A parents' group survey released this November found that one in three high school seniors now smoke marijuana—one in three.

Methamphetamine abuse has become a major problem, particularly in the Western States, including mine. Emergency room cases are up 256 percent over the 1991 level.

After 3 years of inaction, President Clinton now wants to give his drug officials a fighting chance. OMB has requested $3.4 million to beef up the office. This will allow them to hire 80 additional staff.

Mr. President, in closing, I want to give the President some credit for giving us a new drug czar who, by all accounts, is dynamic and energetic. The unanswered question here is whether the selection of General McCaffrey signals President Clinton's newfound commitment to lead in the drug war or whether it is more simply an election year makeover.

Adopting this amendment is ultimately about helping our children, about helping the 48.4 percent of the class of 1995 that had tried drugs by graduation day. It is about doing something to stem the increasing number of 12- to 17-year-olds using marijuana, currently 2.9 million of them. I urge my colleagues to support this amendment and give General McCaffrey the tools he needs to do this job.

Mr. President, we have to get serious about this drug problem. It is eating us alive. It is funding most, if not all, of the organized crime in this country. It is debilitating our young people. One in three seniors is trying marijuana, one in three senior high school students in the senior class happens to be trying marijuana. Think about that. There is an 85 times greater likelihood for them to move on to harder drugs, especially cocaine, if they have tried marijuana.

The vast majority of these kids think, today, both users and nonusers, that marijuana usage is less harmful to them than ordinary tobacco usage, than smoking simple cigarettes. Both, as anyone who knows anything about health will tell you, both are harmful to you. It is terrible to smoke cigarettes because they are going to lead to cancer and heart disease and a whole raft of other problems, but it is even worse to smoke marijuana, which can lead to all kinds of debilitations that deteriorate our society as a whole and make it difficult for people to do what is right and to live up to what is right.

On top of all that, we have those in the administration who are arguing that the only side of the equation that really needs to receive some consideration happens to be the demand side, that means those who are taking drugs. They take the limited resources that we have and put almost all of them toward hard-core drug addicts, of whom the potential of saving is very, very low.

I am not saying we should not help hard-core drug addicts. We should. But we certainly ought to be putting what limited resources we have into helping these first-time offenders and these young kids who have really got caught up in the drug world to come out of it and rehabilitate themselves. It is important to do the demand side of the equation. I am for that.

I think we ought to put money in that, and the drug czar needs to spend some time on it. But unless we are doing the supply side as well, we will never make any headway because we have to interdict and stop the flow of drugs coming into this country and we have to interdict and stop those who are making drugs in this country, especially with the new methamphetamine rise that is inundating the Western States and is moving eastward with rapidity.

We have to start fighting against these things, and we have to have our young people understand the importance of fighting against drug abuse in our society today.

I look at all the drive-by shootings, kids with weapons, the murders in our country's Capital here. I look at all these things, and I know that a lot of this is driven by the drug trade, it is driven by the drug community, it is driven by those who should know a lot better.

Mr. President, there is a second half to this amendment that we are going to file here today. This is an amendment that I am filing on behalf of myself and Senator GRASSLEY. We are adding various funds to the budget, even above what the President has requested for the drug czar, because I believe that this drug czar has to have our support, and we simply have to do a good job in helping him to get his job done.

Let me just say that, in addition to the drug czar's office, we are including in this amendment that no less than $20 million shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon appropriate consultation with the chairmen and ranking members of the House-Senate Committees on the Judiciary and Appropriations.

In other words, what we are going to do is we are going to quit mouthing off about the greatest city in the world and how corrupt it is and how drug ridden it is and how murder ridden it is, and we are going to put our money where our mouths are and put $20 million into helping this police chief to clean up this mess.

I met with Chief Soulsby a week ago. I have to say I have a lot of confidence in him. One of his problems is that he has politicians interfering with the use of these law enforcement moneys from time to time. We are going to stop that by giving these funds directly to him. He will have to consult with both the Judiciary Committees of the House and the Senate and both of the Appropriations Committees of the House and the Senate as to how he is going to use these funds.

We are going to give him a chance to straighten this out and to start making a turnaround on what is needed here in the District of Columbia. If we find $20 million is not enough to really make that much of a dent, I will come back and fight for more.

This is the greatest city on Earth, in the sense of governmental action. This is the seat of our Government. It is an absolute crime that people cannot walk down the streets in the District of Columbia without absolute assurance they are not going to be shot by some drug-infested, drug-crazed human being, or that they are safe in their homes, which is what is happening here. Not only are they not safe on the streets, they are not even safe in their homes. The people of this community, the vast majority of whom are law-abiding, decent, honorable, religious citizens, deserve better.

I am convinced that Chief Soulsby will do an excellent job if he is not hindered by some of the politicians in this town. By the way, I think some of the politicians are very good, so I do not mean to lump them all in a category of people who have been part of the problem here. But there are some who are part of the problem as well. There are some in the police department who need to be put in the appropriate positions or drummed out of the department. I am hoping that Chief Soulsby will set a system in motion that will get the very best people to be part of our police department in the metropolitan police department of Washington, DC.

This is the first step of trying to make this a better system. But while we are making this first step in accordance with what I said I would do, then I think we ought to also consider that we have 37 different Federal law enforcement organizations in this town, 37 different Federal law enforcement agencies. They are not coordinated with the metropolitan police department. We have to use all these agencies to make this the safest and most important capital city in the world.

I think we have to put our money where our mouths are and we have to start now. I am going to rely on Chief Soulsby, and the administration of the city under Mayor Barry. I am going to rely on the help of ELEANOR HOLMES NORTON, who is the Representative over in the House of Representatives, who I believe is very eager to do a good job in this area for her constituents and for whom I have the greatest fondness and admiration, and others who, in the best interest of this city, want to do what is right.

So, Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CRAIG). The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. GRASSLEY, and Mr. SHELBY proposes an amendment numbered 3495.

Mr. HATCH. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 755 between lines 20 and 21 insert the following:

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses," $3,900,000.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $650,000 are rescinded.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $650,000 are rescinded.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $500,000 are rescinded.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDING FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available for installment acquisition payments under this heading in Public Law 104-52, $1,900,000 are rescinded: *Provided*, That the aggregate amounts made available of the Fund shall be $5,064,249,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $200,000 are rescinded.

CHAPTER 12

On page 755, line 22 redesignate the section number, and

On page 756, line 8 redesignate the section number.

D.C. METROPOLITAN POLICE DEPARTMENT

Page 29, line 18, insert the following:

"*Provided further*, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon appropriate consultation with the Senate Committees on the Judiciary and Appropriations."

Mr. HATCH. Let me add in closing that this earmark would be applied against the crime control block grant. We think it is about time we do this.

I also mention for the record that the chairman and ranking member of the D.C. Appropriations Committee, Senators JEFFORDS and KOHL, support that part of the amendment granting $20 million for the District of Columbia Police Force to be utilized by Chief Soulsby, with his consultation, with both Judiciary Committees and both Appropriations Committees.

Mr. KERREY. Mr. President, I support this amendment which will provide $3,900,000 in supplemental funding to the Office of National Drug Control Policy to permit our new Drug Czar, General McCaffrey to increase staffing by some 80 full-time equivalent positions.

During the debate on fiscal year 1996 funding for this Office, many of us were critical of the administration's dedication to reducing drug use in this country.

Continued surveys show that drug use among our Nation's youth, particularly those aged 12–17, show increases for use across the spectrum of illegal drugs.

The latest National Household Survey, released early this year, found that any drug use, and specifically, crack and cocaine use for 12 to 17-year-olds had increased above the previous year.

In addition, the recent Pulse Check Survey found that the distribution of heroin and cocaine by the same dealers and in the same markets appear in more areas than ever before.

Equally disturbing, Mr. President, is the fact that the number of hard-core drug users remains unchanged despite an investment of over $100 billion on the so-called "War on Drugs" since 1987. In 1987 we had 2.7 million hard-core drug users; in 1996, we still have 2.7 million hard-core drug users.

The significance of these statistics, Mr. President, is that while hardcore drug represent less than 1 percent of the population in this country, they consume 66 percent of all illegal drugs and are responsible for 34–36 percent of all violent crime in this country.

It very well could be that this is a given, that no matter what we do to reduce drug use in this country, we will always have 2.7 million hardcore users.

However, I believe we have an obligation to see that we use the latest innovations in both the public and private arenas to reach this group, Mr. President, before we write them off.

We have a new Drug Czar, who I believe, exemplifies the meaning of the word "Czar". He is a decorated war hero and general and someone who brings enormous credibility to this drug war.

I have met with him, Mr. President, and he is very impressive.

General McCaffrey has taken this job, not because he wanted it or sought it out, but because he recognizes the devastating effects drug abuse has on this country and he wants to personally dedicate himself to seeing that we do conduct an all-out effort, on every level, to rid this country from the scourge of drugs for the long term.

He has asked for the resources he believes he needs to put together a strategy that will work. What we've done up to this point clearly is not working.

He has asked for an additional $3.4 million to increase the number of full-time staff at ONDCP to 125. In addition, he has requested permission to detail 30 planners from the Department of Defense to ONDCP.

Currently, ONDCP has 45 personnel who are responsible for overseeing the proper implementation of an annual $14.6 billion national drug control budget.

The Office budget is currently $7.5 million. If this amendment is successful, it will bring the total budget for his office operations up to $11.4 million or less than 1 percent of the total annual amount spent on Federal drug control programs.

Mr. President, General McCaffrey has the confidence of this Senator and Members on both sides of the aisle, to lead our anti-drug efforts. I think we have an obligation to give him an opportunity to show us what he can do.

I urge my colleagues to support this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I also note for the RECORD that Senator SHELBY, who worked very hard on the Appropriations Committee, would also like to be added as a cosponsor. I hope other Senators will also be cosponsors.

I hope all Senators will vote for this so we can do good for our Nation's Capital while at the same time adding enough funds now for the drug czar's office.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I ask the Chair, what is the pending business and what are the time restraints on it?

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS —MOTION TO PROCEED

The Senate resumed consideration of the motion.

The PRESIDING OFFICER. The hour of 1:30 p.m. having arrived, there will now be one-half hour of debate, equally divided, prior to voting on the motion to invoke cloture on the motion to proceed to Senate Resolution 227.

Mr. BREAUX. With that understanding, I yield myself 5 minutes in opposition to the pending motion.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. BREAUX] is recognized for 5 minutes.

Mr. BREAUX. Mr. President, I was thinking about the Whitewater proceedings and the stalemate we have on the floor of the U.S. Senate with how to proceed. I think the American public really has an interest in this, not just the two political parties, Democrats and Republicans.

When I talk to people back in Louisiana and we talk about this Whitewater investigation, most of my constituents are not really certain or sure what all of this is about. They know there are some accusations that have been presented and that there have been some denials of those. But most people today are very confused about the entire subject that has become known as Whitewater.

I think the American people have an interest in this that is a superior interest, even more superior than the interests of the Democratic Party members on my side and the Republican Party members on that side of the aisle. There is an American interest in this which goes far beyond politics, and I really think that is the solution we should be seeking as we try to resolve this issue on how to handle the so-called Whitewater affair. What do we need to do that puts the American people's interests in the front seat and the political parties' interests in the back seat for a change?

Let me suggest what I think the people in my State and the people in America really would like to see. They would like to see this thing resolved. They would like to see it resolved outside the political arena. They would like to see it resolved. The people's interests are finding out what really happened, how to resolve it, and, if anything bad happened, that it will not happen again, and it is not who gets the credit or the blame.

What we are doing in this debate is arguing about which party is going to get the proper advantage and the manner in which the Whitewater affair is brought to conclusion. That should not be what determines how we act and what we do.

Let me make a suggestion of some of the things that I have heard from the people in my State. They have told me, "Senator, when politicians investigate politicians, it produces political results, especially in an election year." That is pretty simple and pretty accurate and pretty easy for people to understand. When politicians investigate politicians, it produces political results, especially in a political election year. That is why we had such a difficult time trying to bring this to a resolution that makes sense to the average American, who is less concerned about the politics of all of this, but is far more concerned about just getting it behind us.

If wrong was done, it should be punished. If it was not done, we should go on with the other problems facing the Congress and not spend the time we have been spending debating this issue endlessly while other problems continue to fester.

Let me suggest that the Congress has already spoken about how to get this done outside of the political arena. Does anybody remember what the Congress did and why we did it when we created an independent counsel? I remember the arguments, and I thought they made a lot of sense. The argument for doing that in investigating Whitewater was simple. Let us take the politics out of it and make sure we do not have politicians investigating politicians, producing political results. Therefore, this Senate created the independent counsel, and the independent counsel has been adequately funded. There is no term limit. They could go on forever and always until they bring a conclusion to this whole case.

As we stand here on the floor of the Senate, there is a trial going on, for gosh sakes, in the State of Arkansas on Whitewater. People have been indicted. There is a Federal prosecutor who is presenting the evidence in a court of law, in a Federal court. They are moving to a conclusion of this, and it is being done outside of the political arena.

We have a former Reagan Justice Department official, Kenneth Starr, who was established as the independent counsel. We said we are going to take it out of Congress and out of politics and give it to an independent counsel who does not have any political baggage. He is not a Democratic person, a Democratic chairman, or a Democratic ranking member, or a Republican chairman, or Republican ranking member; he is an independent counsel. What did we do? We have given that person unlimited funding. Does any agency in the Government get that? Not the defense or anything else. He has unlimited funding. He has a professional staff of over 130 people that have been working since they began in January 1994. Guess how much money they have spent? They have spent $25.6 million investigating this one issue. Yet, we are spending time on the floor of the Senate saying, no, we like the politics so much that we just cannot let it go. We like the investigation so much, so let us extend it, and we need a little bit more money to continue doing that.

We spent $400,000 in the Banking Committee in 1994 investigating, and $950,000 in 1995 with the special Whitewater Committee investigating it. The Senate spent $1.3 million-plus investigating this as a political interest for everybody in this body.

Let me suggest that what the American people want—not what Congress wants—which is what Congress should want, is to bring this to a conclusion, bring it to a conclusion in a fair manner, prosecute and convict those who did wrong, exonerate those who have been falsely accused, if there are any; and if there has been no wrongdoing, finish it. The way to finish it is not by a continuation of politics as usual. I am not impugning anybody who has served hours over here, but it is time for the Congress to recognize what the American people want, and what they would like to see is a nonpolitical conclusion. A nonpolitical conclusion says that politics be damned; if somebody did something wrong, they will be prosecuted. If they did not, they will not.

I think the American people recognize that, in a political election year with a November Presidential election, it is not going to be possible for a political investigation to produce anything but political results. The only way to ensure that that does not happen is to continue to allow the independent counsel, which we all created just for this purpose, to do his job. He has spent $25 million doing it already. Let them complete it. No one has suggested that they are not doing their job. Then, when that investigation is over, completed, at least the American public will be able to say, you know, they checked it out and they did it in the right fashion, and the politicians did not do it, the professionals did it.

I urge rejection of the motion.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Florida.

Mr. MACK. Mr. President, there was a recent "Nightline" program that dealt with a new book on the market that, I believe, is entitled "Blood Sport." It is a book that was written by an individual by the name of James Stewart, a Pulitzer Prize-winning author. One of the books he wrote was entitled "Den of Thieves." He has an impeccable set of credentials.

My understanding of the genesis of this book is that Susan Thomases, an attorney and close personal friend of the Clintons, went to Mr. Stewart and suggested it for the purpose of, as my colleague from Louisiana had indicated, trying to come to a nonpolitical conclusion.

So maybe where I ought to start in summing up what this "Blood Sport" is all about is going to the last comments I had intended to make which had to do with the conclusion that is reached in Mr. Stewart's book. I am going to have some quotes. The quotes are going to come actually from "Nightline," not necessarily from the book, because Ted Koppel, in essence, asked Mr. Stewart what was the conclusion that he drew as a result of doing this book. He said it was "a study in the acquisition and wielding of power and, in the end, a study of the arrogance of power—the things they can do and get away with as an elected official and then how honest and candid they are when questioned about it."

It is interesting that at the time when there seems to be more and more interest developing in the country with respect to what went on with Whitewater, we had this "Nightline" show again the other night, this new book "Blood Sport"—and now Time magazine apparently is going to be doing a series for 3 weeks about Whitewater—that my colleagues on the other side of the aisle now seem to be an extension of the White House strategy to deal with the issue. All through this process they have delayed, they have misinformed, they have done everything possible, frankly, to move it to a point where they would be able to say "this is political."

So what are we supposed to do? Is this because this is a political year, we are supposed to stop the pursuit of truth?

Again, the charge that I think my colleagues on the other side of the aisle have opened themselves up for is that they are now an extension of the activities of the White House. They are going to do whatever they can to keep us from moving forward on this issue.

In his book, Mr. Stewart kind of outlined what he saw as the mindsets of the Clintons with respect to Whitewater. Again he said on "Nightline" that they had "an attitude bordering on negligence from the beginning," that they had the "belief that someone else will take care of us because of our power as high elected officials in Arkansas." They had "a willingness to accept favors from those who were regulated by the State."

I am sure that the chairman remembers the hearings that we had with Beverly Bassett Schaffer, who was an individual who was appointed to a position of securities commissioner, I believe, in Arkansas and who received a phone call from Mrs. Clinton, acting as an attorney for Madison, asking the question, "Who should I send some papers with regard to the preferred stock issue, who should I send those to in your office?" Mind you, there has been a lot said from the First Lady's perspective that she was trying to do everything possible to make sure that there was no impression created that she would be using her position for her personal gain.

I ask you, if there really was a concern about this, why would you risk shattering everything that you were trying to accomplish by making a phone call down to the commissioner herself, and say, "Who should I send it to in your office?" It makes absolutely no sense.

On some of the basic underlying issues, again, author Stewart flatly contradicts Hillary Clinton. He said, "It is simply not true" that the Clintons had no active role in the Whitewater investment. To the contrary, Mrs. Clinton "singlehandedly took control of the investment" in 1986 once the McDougal empire began to crumble. She handles everything from loan renewals to correspondence. She also had possession of all the records, many of which, by the way, are now missing.

Mr. Stewart points out that the Clintons are likely guilty of at least one Federal crime, the same Federal crime for which the McDougals are now on trial.

Mind you, the reason I did this this way today was that I wanted to use an unbiased source, if you will. The friends on the other side of the aisle say we are being political about this. I am responding to both a book and to a series of articles that will take place, the first of which was in Time magazine this week, and "Nightline." I mean, this is what he is saying, that the crime that I was referring to a moment ago is knowingly inflating the value of their share of Whitewater investment to a financial institution.

In a 1987 financial disclosure statement, Mrs. Clinton listed the value of their share of Whitewater as nearly double the bank's recent estimates, and she did this to get more money to shore up a failing investment. If that is proven, that is in fact is fraud.

There also are some interesting comments with respect to the Foster suicide. Stewart believes that the reasons Mr. Foster listed in his suicide note do not actually reflect the true nature of all that was bothering him at the time, and notably again the author said there were things "so serious that he"—Foster—"will not dare write them down." Those things involve—again, this is what the author is suggesting—those things involve the First Lady, Whitewater, and ethical violations which put Web Hubbell in a Federal prison.

Mr. Stewart also believes, as I do, that it is entirely possible that the billing records that mysteriously turned up in the White House residence were formerly in Vince Foster's office. If that is so, one or more felonies have been committed, and it is just a question of figuring out who the guilty parties are.

With respect to damage control efforts, according, again, to the author, Mr. Stewart, after White House staff had introduced the notion of cooperating fully with the investigators, Mrs. Clinton interrupted and said—and I am quoting him now as he is quoting here—"I am not going to have people pouring over our documents. After all, we are the President."

The suggestion here is that by virtue of the grandeur of power of their office, they should not have to endure the experience of legitimate investigation. In essence, it says to me that the First Lady believes she and the President are above the law.

A moment ago I read the conclusion—I am going to state it again—of what Mr. Stewart's book is about. He said it was "a study in the acquisition and wielding of power and, in the end, a study of the arrogance of power—the things that they can do and get away with as an elected official, and then how honest and candid they are when questioned about it."

If any of my colleagues on the other side of the aisle are listening, I would ask you to ponder the final words of Mr. Stewart—I believe an unbiased source, a source that Mrs. Clinton and her friend Susan Thomases believes to be evenhanded and capable of finding out the truth about their involvement in Whitewater. He said, "The truth is important in our society. Just as important in our society, I do not think that you can put a price tag on these things." And then he goes on to say that if you feel the investigation has been harsh or nasty, the reason for that—again quoting him—"is because the truth was never honored in the first place."

So I ask my colleagues on the other side of the aisle that it is time to quit filibustering. It is time to stop being an extension of the White House strategy. It is time to allow the American people to get the facts and to let them draw their own conclusions as to who is right and who is wrong.

I yield the floor.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes remaining. The Senator from New York has 4 minutes remaining.

Mr. SARBANES. Mr. President, I yield myself 5 minutes.

Mr. President, I think that a very significant statement was made on the floor of the Senate yesterday by the distinguished Senator from Hawaii, Senator INOUYE.

Senator INOUYE, as we know, chaired the Iran-Contra hearings. He served on the Watergate hearings. And he said yesterday in the course of his remarks—and I am now quoting him—"This Republican extension request"—referring to the resolution that is before us—"is unprecedented, and it is unreasonable."

Let me repeat that. It "is unprecedented, and it is unreasonable. The U.S. Senate has never before conducted an open-ended political investigation of a sitting American President during a Presidential election year."

He is correct on that. This is unprecedented in all the previous inquiries and investigations. My distinguished colleague from Connecticut earlier in the debate put in a table which indicated that all of those inquiries have had fixed dates for their conclusion.

Senator INOUYE later went on in his statement—referring back to the work of the Iran-Contra Ccommittee, which completed its work actually in significantly less time than is being proposed for this committee—to say, and I quote him: "Yes, there were requests by Democrats and Republicans"—this is back at the time when we were going to undertake the Iran-Contra hearings.

Yes, there were requests by Democrats and Republicans that we seek an indefinite time limit on the hearings, but the chairman of the House committee, Representative HAMILTON, and I, in conjunction with our vice chairs, strongly recommended against an open-ended investigation. We sought to ensure that our investigation was completed in a timely fashion to preserve the committee's bipartisanship and to avoid any exploitation of President Reagan during an election year.

At that time, one of the most consistent spokesman that the Iran-Contra inquiry not extend into the election year and not be open ended, as some Democrats, who were in control of the Congress, were intending, one of the most consistent exponents of a limitation in that regard was Senator DOLE, who repeatedly, both in this Chamber and in conversations with the media, underscored the point of having a closing date and keeping the matter out of the Presidential election year. What happened was that the Democrats responded to Senator DOLE and, in fact, not only agreed to an ending date but moved that date forward to get it even further away from the election year. In fact, Senator DOLE recognized and acknowledged that in the course of debate in this Chamber.

We have a comparable situation here. In fact, Senator DOLE said:

> I am heartened by what I understand to be the strong commitment of both the chairman and vice chairman to avoid a fishing expedition. I am pleased to note that as a result of a series of discussions which have involved myself, the majority leader and the chairman and vice chairman designate of the committee, we have changed the date on which the committee's authorization will expire.

In fact, what they did was they moved it up. That was thanks very much to Senator INOUYE's leadership, who, as I said, stated yesterday, and let me just quote him again:

> We sought to ensure that our investigation was completed in a timely fashion to preserve the committee's bipartisanship and to avoid any exploitation of President Reagan during an election year.

When this resolution was passed by an overwhelming bipartisan vote, an essential premise of it was the ending date of February 29. Many of us believed the committee could have completed its work within that timeframe.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. I yield myself the remaining amount of time. Is there 2 additional minutes?

The PRESIDING OFFICER. Two additional minutes.

Mr. SARBANES. Senator INOUYE indicated yesterday that the Iran-Contra Committee intensified its hearings as it approached its deadline in order to complete the work. They did 21 days of hearings in the last 23 days.

This committee, in contrast, in the last 2 weeks of February, before the February 29 date, did 1 day of hearing—in the last 2 weeks. The Iran-Contra Committee did 21 out of 23 days. This committee, the Whitewater Committee, has worked at a much more intense pace at an earlier time. Back last summer, in 3 weeks in the latter part of July and the first part of August, the committee held 13 days of hearings.

The minority leader, Senator DASCHLE, did not put out a proposal: Well, you have reached February 29. This is the end of it. In an effort to be reasonable and accommodating, he said, we will agree to an extension of 5 weeks in which to conduct hearings, an additional month beyond that in which to submit the report. Let me point out this committee itself held 13 days of hearings during a 3-week period last summer. The Iran-Contra Committee held 21 days of hearings in less than a 4-week period in July and August 1987. So an intense hearing schedule of that sort is clearly possible. It has been done before. It could be done again.

I submit that the proposal offered by the minority leader is a reasonable proposal. It is an effort to provide an accommodation in this matter, allow the committee to continue its work and bring it to an appropriate conclusion, and avoid moving this thing into an election year with a perception, increasing perception, that it is being done for partisan political reasons.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not think it behooves anyone to denigrate a proposal to accomplish that which I believe the American people want and are entitled to. More importantly, it is our constitutional responsibility to get the facts and hold these hearings.

The offer put forth by our colleagues on the other side is inadequate. It is a step in the right direction, but it is inadequate because there are key witnesses, facts, and information that will not be available to us by April 5. They just will not be available to us. There is no way, that witnesses who are presently on trial, or who will be called to testify while the trial is taking place will be available to this committee. Their proposal will place us in the position that, come April 5, we will be back here and they will say once again you are doing it.

That is why we have to reject it. I hope we can come to some kind of meaningful understanding that would give us the ability to go forth and have, at least, a reasonable opportunity of getting as many of the facts as we can, and avoid the political season and the conventions.

Now, my colleague, Senator MACK, has pointed out that much of the delay has been occasioned because the administration has not promptly produced—and/or people who work for the administration—documents that were subpoenaed and requested.

Second, this is not some political conspiracy. There have been nine people who have pled guilty already—nine. David Hale pled guilty. He was a former judge, friend of the Clintons, and friend of their business partners, the McDougals; Matthews pled guilty to trying to bribe Hale; Fitzhugh, he worked in the bank, pled guilty; Robert Palmer, real estate appraiser for the Madison bank, pled guilty; Web Hubbell, former law partner of the First Lady, pled guilty; Chris Wade, former real estate broker for Whitewater, pled guilty; Neal Ainley, former president of the Perry County Bank—by the way, that is the bank that lent Governor Clinton $180,000 for his 1990 gubernatorial race—pled guilty; Stephen Smith, former Clinton aide, former president and coowner of the Madison Bank and Trust that was owned by Governor Tucker, he pled guilty; Larry Kuca, former director, Madison Financial Corp., pled guilty.

Now, let me tell you, we are going to attempt to bring a number of these people in to get the complete story. I have to say it seems to me that my colleagues have become an extension of the White House in attempting to keep the facts from coming to the American people. If they want to do that, then they are going to have to take the onus of these things. Again, this is just the beginning. This is the third time we have come to the Senate for an extension, and we run into this filibuster, this stonewall. The New York Times says it is silly. It is silly.

The Washington Post says just because Democrats want to bring this to an end does not mean it will end. The people are entitled to the facts.

We have offered a compromise and I think it is reasonable—4 months, an extension for 4 months for the public hearings. This proposal would give us an opportunity to do our job, and that is to get all the facts and to present them to the people as best we can. We may not be able to get all of them, but at least we can do the best we can.

Finally, this was an undertaking that was voted overwhelmingly, 96 to 3. To attempt to turn this, now, into a political witch hunt, which is how it has been characterized, is wrong and it is improper. We have not been able to complete our work because there has been a conscious effort to shield the facts from the committee and the American people.

The PRESIDING OFFICER. The time of the Senator has expired.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture on the motion to proceed to S. Res. 227.

The legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. Res. 227 regarding the Whitewater extension.
>
> Alfonse D'Amato, Trent Lott, C.S. Bond, Fred Thompson, Slade Gorton, Don Nickles, Paul Coverdell, Spencer Abraham, Chuck Grassley, Conrad Burns, Rod Grams, Richard G. Lugar, Mike DeWine, Mark Hatfield, Orrin G. Hatch, and Thad Cochran.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate shall be brought to a close?

The yeas and the nays are ordered under rule XXII.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Kansas [Mr. DOLE] are necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is absent on official business.

The PRESIDING OFFICER (Ms. SNOWE). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 51, nays 46, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—51

Abraham
Ashcroft
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—3

Bennett
Dole
Moynihan

The PRESIDING OFFICER. The ayes are 51, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, thank you very much.

VISIT TO THE SENATE BY THE HONORABLE JOHN BRUTON, PRIME MINISTER OF IRELAND

Mr. HELMS. Madam President, I ask unanimous consent that the Senate stand in recess for 7 minutes while we formally welcome the distinguished Prime Minister of Ireland, John Bruton.

[Applause.]

RECESS

There being no objection, at 2:24 p.m., the Senate recessed until 2:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. SNOWE).

Mr. SMITH. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REBUTTAL TO PRESIDENTIAL SPEECH

Mr. SMITH. Madam President, I want to just take a moment of the Senate's time to respond briefly to a speech that President Clinton delivered in New Jersey last Monday. The President decided to give a very political speech on the environment and made several misstatements that I believe need to be corrected.

It is interesting that in that speech he decried the fact that there were political divisions now over the environment. I read the speech, and for the life of me I cannot understand how his speech could do anything except to exacerbate political divisions, if there are any.

The President of the United States accused the Congress of moving forward on Superfund legislation that would "let polluters off the hook and make the taxpayers pay." I am the chairman of the Superfund Subcommittee on the Environment and Public Works Committee and have been working on the bill for almost 2 years. I think I know what I am talking about when I say very frankly and bluntly that is a false statement. There is not another nice way to say it. It is simply not true.

Let me take a moment to explain. Since its inception, the Superfund Program has been paid for by industries that were considered, in a broad sense, to be responsible for the bulk of the toxic waste problem. That is how we pay for Superfund. Those taxes that are collected as follows: an excise tax on 42 feedstock chemicals; an excise tax on imported chemical derivatives; an excise tax on petroleum; and the corporate environment income tax. All of those taxes together paid by these large corporations who are responsible for much of the environmental—some of these environmental problems we had, paid into a fund called Superfund. Together, all of those taxes raise roughly $1.5 billion every year. They are then deposited into that Superfund.

Maybe I am missing something. I do not think the average taxpayer is importing chemical derivatives. It is safe to say that the taxpayer is not—I repeat not—being asked to pick up the tab for the Superfund Program. That is not the way it is now. That is not the way it is going to be under the legislation that we are drafting—in a bipartisan way, I might add—here in the Senate.

I believe those taxes should be extended. In fact, I included an extension of those taxes in the Superfund reform legislation that I introduced last year as we were making changes in that legislation. I am still advocating the extension of those taxes. Both the House and the Senate passed a temporary extension of the taxes last year. Guess what? We passed the extension of these taxes on these companies that pollute, and the President vetoed—I repeat, the President vetoed—that legislation.

I read the whole speech, and I did not find any reference to that in the President's speech last Monday. That, in fact, at the very same time standards that help us put money in the Superfund trust fund to clean up the sites, like the one the President visited in New Jersey, was vetoed by the President of the United States. I find it outrageous he would go to New Jersey, to one of those brown-field sites, and say that. It is false.

Let there be no misunderstanding: The taxpayers have never—never, I repeat—been asked to pay for polluters, and not a single bill introduced in Congress, including my own, would ask the taxpayers to do it.

Mr. President, read the bills. Read the bills that have been introduced. Read my bill, Mr. President. The bill that I am working on with your colleagues in the Senate, every day, as we speak—staff, working to get a bipartisan bill—that Superfund Program has always been, and will be in the future, financed by taxes on various industries. Nothing has changed.

Second, the President claimed on Monday—this is particularly disturbing—"a small army of powerful lobbyists" have descended upon the Capitol to launch a "full-scale attack" on our environmental laws. According to the President, these lobbyists and congressional Republicans just cannot wait to gut each and every one of our environmental laws—every one of them.

I have a message to deliver to the President. Check in with the EPA, your own EPA, Mr. President. Talk to them. For the past several weeks and months, my staff has been in daily discussions with the Democrat and Republican Senate staff and the EPA, trying to work out a commonsense approach to reform our Nation's Superfund Program, a program that has spent $30 billion and cleaned up 50 sites in 15 years, Mr. President. It does need reform. It needs more than that. It needs a dramatic overhaul, and you know it.

While we are working toward this solution together, the President is making it more difficult with inflammatory and inaccurate rhetoric. The only individuals working on drafting legislation are elected officials and their representatives. To suggest otherwise, that somehow this Senator or any Senator or any Congressman is allowing a lobbyist to write a bill, is an insult and demagogic at worst.

Let me just say this, Mr. President, give one example. You tell me where any lobbyist in any Senator's office is writing a bill. Put your words up there one more time, Mr. President, and back it up with fact. Show me one case, one example, where any Senator is using a lobbyist to write his bill. You have insulted me, personally, Mr. President, and that is exactly the way I take it. You have insulted many other people, good people, in both parties in the House and the Senate.

As the chairman of the Senate Subcommittee on Superfund and Risk Assessment, as a father, a sportsman, environmental issues are as much concern to me as you. It may come as a surprise, Mr. President, but my daughter drinks the same water as your daughter does, breathes the same air. My sons and I fish in the same rivers, or rivers that are similar. There is not a Senator or Congressman that I know who wants to trash our environment.

Do we have differences as to how to clean it up? Of course. To say we want to trash it or imply that we do is outrageous. That is exactly what the President implied last Monday. Apparently, the President believes that his way is the only way to a clean and healthy environment. I am sorry, I disagree.

When the President hits the campaign trail, he tends to get a little bit excited and he says some things he really does not mean. I am willing to forgive that. Mr. President, admit it: You were wrong in what you said.

President Clinton campaigned on a tax cut, and he raised taxes. He vetoed a tax cut. He campaigned on welfare reform, and he vetoed welfare reform. He campaigned on a balanced budget, and he vetoed a balanced budget. In those instances where the President has taken a strong position on an issue, he always finds a way to change his mind.

Given that fact, I will give the President the benefit of the doubt. I will assume he did not intend to impugn the integrity of dozens of hard-working men and women who are working in the various committees, working on environmental legislation in the House and the Senate. I am certain that this false accusation just slipped out in the heat of the moment and was not carefully thought out. This is a campaign year, but it need not be a year where bipartisan consensus is made impossible by cheap political shots. That is exactly what this is, Mr. President. You owe every one of us an apology—myself, my staff, Democrats who have worked on this issue, we would not be working day in and day out with the Senate Democrats and EPA officials if we did not think there was a real opportunity to pass a strong Superfund reform bill early this year. That is exactly what we are going to do, in spite of that rhetoric. That is my goal, to get this bill on the floor of the Senate within the next couple of months, hopefully, that all of us can support and be proud of.

We are going to put it on your desk, Mr. President. Maybe you will veto that like you did the balanced budget that you promised, or welfare reform that you promised. But we are going to put it on your desk. I suggest, Mr. President, with the greatest respect, that you tone down the rhetoric a little, read the speeches before you deliver them, see what your staff puts in them. I do. Maybe you ought to do that, too. Talk to some of your colleagues in the Senate and in the House and find out what we are really doing before you take any more cheap shots.

Madam President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask unanimous consent to proceed as in morning business for 5 minutes.

Mr. PRYOR. Reserving the right to object, Madam President. I will not object to my friend's request, but I would like to inquire of the managers as to the status of the legislation. Are we moving along with amendments? It seems like in the last hour or 2 we have made speeches as in morning business.

Mr. CRAIG. Madam President, the manager of the bill has just stepped off the floor, but I know they are working to reduce the number of amendments, to try to resolve as many issues as they can, to get us to a final passage document. The manager has just returned to the floor.

Mr. PRYOR. Madam President, then if we are going to make speeches as in morning business, may I ask unanimous consent that after the distinguished Senator from Idaho has completed his statement, I be recognized for a 10-minute period.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 1614 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

GENERIC DRUGS

Mr. PRYOR. Madam President, my colleagues, Senator CHAFEE and Senator BROWN, and I have submitted an amendment that every authority I have consulted says should already be the law but for a simple congressional mistake. According to our United States Trade Representative, the Secretary of Health and Human Services, the Food and Drug Administration, and the Patent and Trademark Office, our amendment should have been part of the GATT implementing legislation known as the Uruguay Round Agreements Act.

Congress made a mistake, Madam President. We left the amendment out of the GATT legislation. We forgot. It is as simple as that. It has happened before, and it will undoubtedly happen again.

The very unfortunate result of our error is that every day a few pharmaceutical companies are earning an extra $5 million a day, courtesy of the American taxpayer, the American consumer, the American veteran, and the American senior citizen. Today, however, we have a unique opportunity, Madam President, to correct that mistake. We could implement the law as it was intended, saving consumers billions of dollars and fulfilling our obligations under the GATT treaty, all in one stroke. Let us take this opportunity today to put our mistake behind us.

Madam President, I know this issue is familiar to all of my colleagues. Last December we brought this amendment to the floor and sought a vote which we never got. There was an effort to kill the amendment with a sense-of-the-Senate resolution and call for future hearings. When I withdrew the amendment, along with my colleagues—Senators CHAFEE and BROWN—from consideration, I promised, like MacArthur, to "return." Today, my colleagues and I have returned to the floor of the Senate.

Here is the single fact which I urge my colleagues to keep in mind. Ambassador Kantor testified only 2 weeks ago that the Pryor-Chafee-Brown amendment "would do nothing more than fulfill our obligations to be faithful to what we negotiated in the GATT treaty." He confirmed that it would "carry out the intent not only of the negotiations and what the administration intended, but also what the Congress itself intended."

Those were the words of our U.S. Trade Representative, Ambassador Mickey Kantor. In other words, Madam President, all of us in the Congress believed that the substance of this amendment was part of the GATT agreement which we enacted into law. We assumed at that time that the GATT transition provisions were universal in nature and scope, but we in fact neglected to include a specific, conforming amendment. As a result, if we do not accept this amendment, we are then deliberately carving out a special exemption from the GATT treaty for one single industry—indeed, for a small number of pharmaceutical companies within this single industry.

As my friend and colleague—and almost seat mate—Senator PAUL SIMON of Illinois, has stated, "This is as classic a case of public interest versus special interest as you could find." A very fine statement by Senator SIMON.

Madam President, I received a letter from several of my colleagues yesterday about this issue. But there is a misconception that they have raised and must be dispelled. I am certain they did not have the facts which I feel at this time must be discussed. In this letter, my colleagues write:

> The committee learned during the Judiciary hearing that because of ongoing patent litigation, no potential generic manufacturer of Zantac can expect to enter the market before September of this year, regardless of what Congress does or doesn't do.

I am afraid that this allegation is in fact untrue. I am sure it will come as no surprise that it was the company called Glaxo and the Pharmaceutical Research and Manufacturers Association who made this allegation before the Judiciary Committee 2 weeks ago. What they neglected to share with our colleagues were some very critical facts—facts which I hold in my hand. As Paul Harvey would say on the radio, Madam President, "Here is the rest of the story."

There is litigation over Zantac, which is the best selling prescription drug in the world. It is delayed because it was Glaxo—the company that has the patent—who asked the court to delay its ruling, thus denying all generic competition.

I have in my hand a copy of the brief submitted by Glaxo's lawyers to the court. Madam President, should we not inquire into the reason that Glaxo gave the court for delaying action and for restraining immediate competition from a market after 17 years of monopoly protection and extremely high prices? It was simple. It was because of the GATT loophole. Glaxo told the court in its brief that it has a patent extension which would shield it from generic competition until the year 1997.

Madam President, the reason Glaxo will not face any generic competition until 1997 is because of the very same GATT loophole we are trying to correct. Glaxo wants to delay the court. They want to delay action in the Congress because every day that we delay, Madam President, is another jackpot payday for Glaxo—and for every other company benefiting from this loophole.

Let me reemphasize this point: The reason these companies are shielded from generic competition is that Congress made a mistake and forgot a conforming amendment when the GATT legislation was passed. The court is now delaying its ruling because we in the Senate have not acted on the Pryor-Chafee-Brown amendment. Every day that we delay is another day the court has no reason to act. Now we need to give the court that reason to act.

As soon as we have enacted this amendment, the courts will take notice and have reason to act. They will have a statutory basis for allowing immediate generic competition for Zantac and other drugs on the market. As a result, we will see generic Zantac reach the market as quickly as possible at something like one-half of the price of brandname Zantac.

So now we can see why Glaxo would have us believe we have plenty of time to act. They want us to delay. Why not? Every day is an extra $5 million in their pockets, courtesy of the American consumer and the American taxpayer. The companies opposed to our amendment are the very reasons why the courts are taking their time. But if we pass this amendment, the courts will act expeditiously—no ifs, no ands, and no buts.

Madam President, we must also remember that there are a dozen other drugs affected by this GATT loophole, costing hundreds of millions of dollars more for the American consumer than they should. None of these products are affected by litigation, and all of these products would be available much more rapidly as generics once the amendment is enacted.

Madam President, I mentioned the hearing held 2 weeks ago by the Judiciary Committee. The hearing did one thing and one thing only: It confirmed what we already knew—that Congress made a mistake. After a year of exhaustive review, discussion, and debate, we held a single 3-hour hearing and discovered once again that the Washington Post was right when they called this "an error of omission." And the New York Times was right once again when they wrote on the morning after the hearing that "Glaxo's trade loophole" should be closed.

Let me quote from that New York Times editorial:

> Congress finds it hard to remedy the simplest mistakes when powerful corporate interests are at stake. In 1994, when Congress approved a new trade pact with more than 100 other countries, it unintentionally handed pharmaceutical companies windfall profits. More than a year later, Congress has yet to correct this error.

And most recently, Madam President, on March 6th, the Des Moines Register of Des Moines, IA, wrote that it is "patent nonsense" to let this "costly congressional blunder" go uncorrected, which "Congress could correct in a jiffy."

Let me conclude, Madam President, with the following observation: We have a vast body of evidence at our disposal from the U.S. Trade Representative, the FDA, the Department of Health and Human Services, the Patent Office, and the CONGRESSIONAL RECORD. That body of evidence shows that Congress made a mistake.

Today is our opportunity to correct that mistake—to spare the American consumers unnecessary expenses and guarantee 100 percent equitable treatment for all American companies under the GATT treaty.

The alternative is to ignore the evidence—to choose to side with a few drug companies. There were two Glaxo lobbyists actually testifying at last month's hearing.

They happened to disagree with the U.S. Government, with our U.S. Trade Representative, with our Patent Office, and many others.

I am asking today, on behalf of Senator CHAFEE, Senator BROWN and myself, for this body to consider the possibility that Glaxo has a deep financial interest in this issue and may not be as objective as four or five executive agencies of our Federal Government.

This is not a partisan issue. It is not a partisan choice. It never has been. It is about fixing a mistake. It is about doing right. It is about serving consumers. It is about taking on a special interest which has entered this fight and making certain that the public interest prevails.

I thank the Chair for recognizing me. I yield the floor.

Mr. LOTT. Madam President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask for third reading.

The PRESIDING OFFICER. Are there further amendments?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, it is 3:15. The chairman of the Appropriations Committee is here ready to work. The leadership is working to identify amendments that are going to be offered. There are a couple of amendments that are pending that have been set aside, but it is our hope that those amendments will be acted on. If the Members do not show up and offer their amendments, I would support the chairman's effort to go to third reading.

I think it is totally ridiculous that on Thursday afternoon at 3:15, Senators who have amendments on the list to be offered will not show up and offer their amendments. This is what makes the Senate look so bad. That is why we wind up working at night, like nocturnal animals, instead of human beings who work in the daylight.

Members will show up later on this afternoon and they will want to go have supper with their families, they will want to keep commitments they have made, they will want to see their children before they go to sleep, they would like to have a good night's sleep. They are not going to be able to do that because they will not show up and offer amendments now, in the middle of the afternoon.

This is the kind of thing that leads to bad relationships between Members, because they get exhausted. They do not do the work during the day, and then they try to do it at night.

I urge my colleagues, this is not a partisan thing, it is not a leadership thing, this is just an individual Senator saying: Please, let us do our work. The committee staff and the committee leadership is here, ready to work. Come over, bring your amendments, let us get some time agreements, let us get our work done, let us move this bill through.

This is an embarrassment. We have been working on this omnibus appropriations bill since Monday. That is why we started on Monday, so we could, hopefully, get it done. Do the Members want to be here next Tuesday, Wednesday, and Thursday night doing the same thing?

I just make one last plea, I am not going to do it again today, that Members come on over and bring their amendments and offer them now, or forever hold your peace. I hope the chairman, when these amendments that are pending are completed—and I urge they be acted on shortly—that we go to third reading. We have always threatened it, but we have never done it. This would be a good one to give it a shot on.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3497 TO AMENDMENT NO. 3466

(Purpose: To restore funding for the Competitiveness Policy Council)

Mr. HATFIELD. Mr. President, I ask unanimous consent to send an amendment to the desk that has been cleared on both sides that does not appear on the list that we have adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

> The Senator from Oregon [Mr. HATFIELD], for Mr. BINGAMAN, proposes amendment numbered 3497 to amendment No. 3466.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place, insert the following:
>
> COMPETITIVENESS POLICY COUNCIL
>
> SALARIES AND EXPENSES
>
> For necessary expenses of the Competitiveness Policy Council, $100,000.

Mr. HATFIELD. Mr. President, during a previous time of trying to assimilate the various amendments, in the Judiciary and now, there was a Bingaman amendment relating to the Competitive Policy Council in which Senator DASCHLE, the minority leader, and Senator LOTT, as the assistant majority leader, had entered into an understanding, an agreement, in their attempt to reduce the number of amendments.

Unfortunately, there was a slippage of communication, and the staff at that time was not informed of this agreement. So we are now validating that which had been agreed to by Senator DASCHLE and Senator LOTT. It has no budgetary impact, but it does make good the commitments made.

So, Mr. President, I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 3497) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was adopted and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3495

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment by the Senator from Utah to the substitute of the Senator from Oregon.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 3495, AS MODIFIED

Mr. HATFIELD. Mr. President, I would like to clear the parliamentary situation at this moment in order to make way for Senator HARKIN by sending to the desk a modification of Senator HATCH's amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment as modified is as follows:

On page 755, between lines 20 and 21, insert the following:

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(Including Transfer of Funds)

For an additional amount for "Salaries and Expenses," $3,900,000.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDING FUND

Limitations on Availability of Revenue

(Rescission)

Of the funds made available for installment acquisition payments under this heading in Public Law 104–52, $3,500,000 are rescinded: *Provided*, That of the funds made available for advance design under this heading in Public Law 104–52, $200,000 are rescinded: *Provided further*, That the aggregate amount made available to the Fund shall be $5,062,449,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

(Rescission)

Of the funds made available under this heading in Public Law 104–52, $200,000 are rescinded.

CHAPTER 12

On page 755, line 22, redesignate the section number, and

On page 756, line 8, redesignate the section number.

Mr. BIDEN. Mr. President, I support the amendment offered by Senators HATCH, SHELBY, and GRASSLEY regarding the drug office. I strongly support the addition of $3.9 million to help our new Drug Director—General McCaffrey—with the increased staff he needs. As my colleagues know, I have the distinction of being the author of the law that opened the Office of National Drug Control Policy. It took more than a decade worth of effort to start this office—the Reagan administration opposed my every effort to have a Drug Director. It was not until 1988 that they finally relented.

Let me also offer a little history about why the drug office staff was reduced in the first place. Under the previous administration, the Drug Office had become overrun with political appointees. Frankly, it became a political dumping ground with the greatest percentage of political appointees of any Cabinet agency. This was not the only reason for the reduction in staff, but it was the key reason I did not oppose the reduction.

But, today we have a new Drug Director, an accomplished, impressive general who has been tasked with the difficult job of bringing action to our national effort against drugs. The General has asked for, and the President has formally requested, an additional $3.9 million to increase the staff by 80 personnel.

Today, we are offered an amendment sponsored by Republican Senators that provides what General McCaffrey requested. It is my hope that this signals that my Republican colleagues will be as supportive of General McCaffrey's future requests as they are of this one.

Mr. GRASSLEY. Mr. President, I am pleased to support additional funding for the Office of National Drug Control Policy to cover certain salary and expenses. The efforts by the new Director, General McCaffrey, to restore the effectiveness and credibility of that office must be welcomed as a step in the right direction—at last. In supporting this legislation, I am expressing my hope and that of many of my colleagues that the administration will now put the drug issue back into the picture of its policy priorities.

As many Members in both the House and Senate have remarked in the last several years, we have seen little in the way of serious leadership or direction from the administration on this issue. Drug policy sank without a trace almost from day one when the President fired virtually the whole of the drug czar's staff at that time. Lee Brown, his first incumbent, never had a chance. Without staff, without support, without credibility, he was left to languish in obscurity along with drug policy. Now we are preparing to vote to restore funding to that office in order to reinstate the positions cut in 1993. I hope everyone appreciates the irony of this process. Nevertheless, if restoring these positions will put us back on the track of serious and sustained narcotics control policies, then it is money well spent.

In doing this, however, we are engaging in an act of faith. We have seen no performance yet. What we are doing is investing in a possibility. It is an investment that I believe we must make, but we must also expect sound performance in return. We need to see a renewed emphasis on drug policy. We need to see a renewed strategy linked to meaningful and measurable performance criteria. We need to see a serious effort to promote drug policy on the Hill and with the American public. We need a drug czar who will fight for drug policy even if that means embarrassing some of his fellow Cabinet members.

I hope that this money will help do these things, and I for one will be looking closely to see that we get a return on our faith.

Mr. HATFIELD. Mr. President, I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Utah.

The amendment (No. 3495), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, what we have just done is very simple; that is, that Senator HATCH had cleared the concept on both sides of the aisle in terms of expanding the support for the drug czar. The question was on the offset. This is budget neutral. The money has been offset from GSA. That has also been cleared. I thank the Chair.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3498 TO AMENDMENT NO. 3466

(Purpose: To establish a fraud and abuse control program in order to prevent health care fraud and abuse)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes amendment numbered 3498 to amendment No. 3466.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, I am back on the floor today to try to attack the problem I have spoken about many times over the years, a problem I have been working on, first as chairman of the appropriations subcommittee dealing with labor, health, human services, and education, and now as ranking member of that under the able leadership of Senator SPECTER. I have been for years working on the waste, fraud, and abuse situation, particularly as it pertains to the Medicare Program.

I have asked for and obtained over the last several years many investigations by the GAO and by the Inspector General's Office of HHS. Quite frankly, Mr. President, what they have come up with is just startling. I am not going to take the time of the Senate here today. I have spoken about this many times before on the Senate floor. Again, every day that we put off attacking this problem and making the necessary changes is a day that wastes, literally, hundreds of millions of dollars in waste, fraud, and abuse, money that is going out and not coming back, money of our taxpayers that is being wasted.

How extensive is this, Mr. President? The General Accounting Office and others have estimated that up to 10 percent of health care expenditures in Medicare is lost every year to fraud, waste, and abuse. Well, 10 percent of what? Medicare this year is spending about $180 billion. So 10 percent of that is $18 billion. GAO has said about up to that much is being lost every year.

As we know, we are trying to find some savings in Medicare to reach a balanced budget, to make the Medicare system more secure, to make sure that it meets its obligations through the next 7 years. Quite frankly, the trustees have said we need about $89 billion to do that over the next 7 years. Obviously, if we are wasting $18 billion a year and we are talking about 7 years, we are talking about $126 billion going out for waste, fraud, and abuse during that period of time.

Assuming that we cannot save every dollar, we cannot end every iota of waste and abuse—which I wish we could—if we could only save 60 percent of it, or 50 percent of it, we would be well on or way toward finding that $89 billion.

Common sense dictates that waste, fraud, and abuse should be the first target of any responsible plan to reduce Medicare expenditures. I am pleased, on a bipartisan basis, the Appropriations Committee—and I especially want to pay tribute to the good work of Senator SPECTER and our chairman, Senator HATFIELD, for their help in doing this—the Appropriations Committee agreed to my amendment to this bill to restore the cut in funding for the HHS inspector general to tackle this problem.

The amendment I am offering today builds on that. It is very similar to an amendment I offered last year, I regret to say, unsuccessfully, to the budget reconciliation bill. However, we did get, I believe, 44 votes on that, and I know that a lot of Senators I talked to since that time now, I think, have a deeper appreciation for the magnitude of what we are talking about in terms of waste and abuse. I am hopeful that we might gain even more votes on this amendment yet.

This amendment I offer would significantly expand the abuse-fighting activities that have been proven to save money, strengthen the penalties for committing fraud, cut waste in Medicare payments by insisting on greater competition, as well as through the use of state-of-the-art private sector technologies. It would provide new incentive to consumers and providers to expose Medicare abuses and would reduce excessive paperwork and duplicative forms.

Mr. President, this proposal just makes common sense. It would reduce the budget deficit. The CBO estimated the nearly identical amendment I offered last year would have reduced the deficit by $4.8 billion over 7 years. I am convinced, however, based on years of analysis by the GAO and the inspector general and others, that this would save much more money than that.

For example, every dollar invested in antifraud activities by the inspector general and the Justice Department results in significant savings to taxpayers. I have a chart here to show that. Mr. President, this is a chart showing the savings per employee.

From 1991 to 1995; this is from the inspector general's office, HHS: If you take every employee, including the secretaries, that are in the inspector general's office, the savings per employee, 1991, was $4.8 million, and it has gone up to $9.7 million last year.

Now, talking about the savings per dollar spent. For every dollar we put into the inspector general's office last year, they returned $115 to the taxpayers of this country. Let me reemphasize that: For every $1 that we put into the inspector general's office, they returned back—this is real money; this is not phony money; this is money they actually brought back or stopped from being paid out—$115 they returned to the taxpayers for every $1 we put into the inspector general's office.

Yet their efforts to stop Medicare waste, fraud, and abuse are underfunded. In addition, efforts to combat health care fraud and abuse are not coordinated adequately between Federal, State, and local agencies. As a result, many fraud schemes move from State to State to avoid detection. I point out, Mr. President, because of the underfunding of the inspector general's office, right now there are 24 States in which there is no presence by the inspector general's office. Not only that, Mr. President, you wonder why there is so much waste, fraud, and abuse? Right now, less than 5 percent of the payments are audited. If you have 24 States in which there is not even an inspector general's presence, and you only audit, say, 3 to 5 percent of the claims, you can see the chances of being caught are pretty slim. That is why we need to invest more in fighting waste, fraud, and abuse.

This amendment would change that by more than doubling our investment in fighting fraud and abuse. The Medicare trust fund would invest directly in these efforts, providing a stable, adequate source of funding, and reaping a huge return in savings to Medicare.

The amendment would also require greater coordination of Federal, State, and local law enforcement efforts to combat health care fraud. All agencies investigating health care fraud and abuse will share information and otherwise coordinate activities, since fraudulent schemes are often replicated in different health programs.

The fight against Medicare fraud and abuse is also limited by inadequate sanctions and loopholes in the law that make it easier for offenders to escape any penalty. This amendment would strengthen sanctions against providers who rip off Medicare. Those convicted of health care fraud and felonies related to controlled substances would be kicked out of Medicare. Penalties for those found to have provided kickbacks, charged Medicare excessive fees, or submitted false claims or otherwise abusive activities—the penalties would be increased. Maximum fines would be increased from $2,000 to $10,000 for violation. In addition, fines could be imposed on HMO's and other managed care plans for abusive activities. No such penalty exists under current law.

Mr. President, think about this: Right now the maximum fine if you submitted a false claim or otherwise abusive activities is $2,000. That is hardly an incentive for someone to stop this practice when they may be filing false claims for thousands and thousands of dollars a year. Again, Mr. President, a lot of times these claims come in, and if they are ever caught they just claim they made a mistake, just made a mistake. Well, the fines and penalties is just a slap on the wrist, and off they go.

I must tell you, Mr. President, after looking at this for the last almost 7 years now, I am convinced that there is absolutely near zero kind of a sanction or a threat of sanction against anyone filing false claims or abusive activities.

Lastly, right now a managed care plan that submits the claims for the group itself, right now, no fine or no such penalty can be imposed on those

HMO's, an invitation to raid the Medicare trust fund.

Mr. President, this amendment would also strengthen criminal remedies available to combat health care fraud and abuse by creating a new health care fraud statute, authorizing forfeiture of property gained through the commission of health care fraud. Well, if we can have forfeiture of property for controlled substances, then if people commit fraud against the health care system and they gain property by doing so, we ought to have that right of forfeiture. It creates a criminal statute prohibiting obstruction of criminal health care investigations and provides other legal tools to go after criminal health care fraud cases.

This is all in my amendment as a result of, as I have said, over 7 years of investigations by my subcommittee and by the GAO and the inspector general's office. These hearings, along with the IG's office, have repeatedly documented massive losses to Medicare due to excessive payments for equipment, services and other items.

For example, Medicare pays over $3,000 a year to rent portable oxygen concentrators that only cost $1,000 to buy. Mr. President, I was on a radio program, a call-in radio show, as I am sure all of us do in our own States, WMT radio in Cedar Rapids, several weeks ago. I was talking about this Medicare fraud and abuse. I had a caller call in. We found out who he was and we later got hold of him. He has been on an oxygen concentrator now for 4 years. The rent has been $300 a month. Medicare pays it. He has been on it for 4 years. Medicare pays $300 a month, or $3,600 a year for 4 years. They paid over $14,000 in rent. They could have bought it for $1,000. That is the kind of abuses that are taking place.

We found cases where Medicare is paying up to $2.32 for a gauze pad that the Veterans Administration purchases for 4 cents. Also, a recent series of reports by the HHS inspector general found that Medicare had been billed for such outrageous items as a trip to Italy to inspect a piece of sculpture, country club memberships for executives, golf shop gift certificates, and Tiffany crystal pictures for executives. These items are not specifically disallowed as indirect costs to Medicare. My amendment closes that loophole.

That is a fact. Right now, an executive or health care provider can take a trip, write it off, and have Medicare pay for it.

My amendment would also end Medicare's wasteful reimbursement practices with regard to durable medical equipment, medical supplies, and other items by requiring competitive bidding to assure Medicare gets the best price possible. This system has been successfully used by many in the private sector and the Veterans' Administration.

For example, take the oxygen concentrator I just spoke about. While Medicare pays over $3,000 a year to rent it, the Veterans' Administration pays less than half that much every year for the same oxygen concentrators, many times from the same company, the same supplier. Why? Because the Veterans' Administration engages in competitive bidding and Medicare does not.

When I tell audiences that in Iowa and other places around the country where I speak about this, they are dumbfounded. They say, you mean the Veterans' Administration puts out for competitive bids certain items that Medicare does not? I say, yes, Medicare has no competitive bidding, none whatsoever, zero.

Well, now, it would seem to me that if you really want to have a really conservative approach to this, what we ought to do is mandate competitive bidding, like the Veterans' Administration does. I want to make this clear, also. Some people say, well, you cannot have competitive bidding because it would reduce the quality. Well, under my provision, quality standards would have to be maintained and access could not be reduced. In other words, we issue the quality standards and then say, OK, now you competitively bid on it.

For the life of me, I cannot understand why, after all of these years, after all the documentation, after all the hearings and investigations that have gone on year after year, this Congress cannot pass legislation mandating competitive bidding for Medicare. I tell my audiences that, and they do not believe it. They absolutely do not believe that Medicare does not engage in competitive bidding. Well, they do not and, to this day, we have not mandated that they do so.

Last year, I finally got the Director of HCFA, Health Care Financing Administration, who administers Medicare, to agree that, yes, they could utilize competitive bidding and, yes, it could be implemented and, yes, it would save them money. So the head of the agency himself says it will save them money. He says they can do it. Yet, this Congress will not let them do it.

So I say to people around America, if you are mad, if you are upset about all the waste in Medicare, do not take it out on Medicare because they are only doing what the Congress tells them to do. The Congress, so far, has told them you cannot engage in competitive bidding.

I must say, Mr. President, this really is the heart of this amendment. It is the guts of this amendment. Oh, we can dance around the edges, we can provide increased penalties, which we ought to do, and which this amendment does, and we can provide for more computers and software to catch these practices, and this amendment does that; but if you adopted all those and still did not adopt competitive bidding, Medicare will be throwing billions of dollars away in wasteful spending because we would not be getting the best deal for the taxpayer.

What would we do around here if the Defense Department did not engage in competitive bidding? What if they said they were going to go to contractors and say, "What do you want for this piece of military equipment?" And the contractor says, "I want $1,000." We say, "OK, that is what you will get." Now, if you think the stories about toilet seats that cost $600, and things like that which came up in the past are abusive, wait until you see some of the things that come out in Medicare.

Well, I have a device—and we do not show things like that on the floor, but I have a blood glucose monitor, as small as the palm of my hand, which is used with people with diabetes; it tells them their glucose level. We found out Medicare is paying up to $211 for each one of these. I sent my staff to a local K-Mart, and they bought one for $49.99 Yet, Medicare is paying $211 for it. We got that one item stopped. It took a while to get it stopped. That will save about $25 million over 5 years. But that is just one item.

Mr. President, we also found, thanks to the good work of the GAO, that while Medicare once led the health care industry in technology for processing claims and preventing waste and abuse, it has fallen way behind. A recent report by the General Accounting Office found that, in 1994, $640 million in improper payments could be prevented if Medicare had employed commercially available detection software that is already used in the private sector.

In fact, many of the same insurers that administer Medicare use this software to stop inappropriate payments for their private sector business.

I had a witness testify before my subcommittee—I think it was last year or the year before maybe. Their organization is the claims processor for Medicare in the Northwestern part of the United States. They also process for their own individual claims—in this case with Blue Cross-Blue Shield. They told me that they have one set of software for what they do privately and another set for what they do for Medicare. Yet Medicare will not adopt what they use on the private side to catch and stop these abusive payments.

This is a study that I had done. It came out in May 1995 from the GAO: "Commercial Technology Could Save Billions Lost to Billing Abuse." Here is what it said. It said HCFA could save over $600 million annually by using commercial systems to detect code manipulation. Also beneficiaries—the people themselves—would save over $140 million a year that they are paying out of pocket to this code manipulation.

There are a lot of examples here of unbundling. Here is one where a physician was paid for interpreting two x rays because he unbundled. He put it under two codes. He was paid $32. When the GAO investigated it, he should only have been paid $16 rather than $32. That may not sound like a bunch of money. But that is twice what he should have been paid, and multiply that by thousands and thousands every day throughout the Nation it adds up to real money. The GAO came up with a lot of examples of this.

Let me say at the outset, is this doctor who submitted two charges when he should have only charged once being fraudulent? Maybe; maybe not. It may have been an honest mistake on that doctor's part. Maybe the nurse, or his assistant, or maybe his secretary, or his administrator who takes care of his billing said, "Well, he took one x ray here and another x ray here. So that is two different things. So we will apply under two different codes." It could have been an honest mistake. Yet, he got paid $32 when he only should have been paid $16. Using commercially available software that we have on the market today that would have been stopped. Blue Cross would not have paid that. They would not have paid $32. They would have paid $16.

So, again, whether it is an honest mistake, or whether a fraudulent claim, we need the software that will stop that.

I might point out that GAO found out that only 8 percent of doctors had billed inappropriately—8 percent. So 92 percent of the doctors are doing just fine. But the 8 percent are the ones that are really digging into our pockets. That is why we need the software. So even if we adopted the software there would not be any impact on the vast majority of providers out there.

So, Mr. President, my amendment would require Medicare contractors to employ this private sector commercial software within 180 days—6 months. What is the cost of this? GAO estimated the cost of doing this would be $20 million the first year and savings of over $600 million—not a bad deal for the taxpayers and for the beneficiaries under Medicare.

So, Mr. President, we know that Medicare beneficiaries and other health care consumers are the front line in detecting and reporting Medicare fraud and abuse. Currently though they have little information and incentive to aggressively watch for and report such activities. Likewise the providers lack the incentives to report problems.

Let me relate what happened to me a couple of years ago. Shirley Pollock's—a constituent of mine in Atlantic, IA—mother-in-law had been in a nursing home for a few weeks. And when she got the Medicare report which said "This is not a bill" because Medicare paid the claim. On that Medicare claim it reported that Medicare had paid for over $5,000 in bandages for about 3 weeks of nursing home care.

Shirley Pollock looked at this. Of course, it said, "This is not a bill." She went to the nursing home, and said, "I have been here with my mother-in-law. I know she did not use $5,000 worth of bandages in 3 weeks." She was told, "Do not worry about it. You do not have to pay it anyway."

I tell you. If you want to get heads nodding if you ever go to a senior citizens meeting, relate a story like that and you will see a lot of heads nod because the same things have happened to senior citizens all over this country. They get the report of what Medicare has paid. It says, "This is not a bill." A lot of times they just throw it away because it says "This is not a bill." And if they ever question the payment they are told, "Do not worry about it. You do not have to pay it. Medicare pays it."

Thank goodness for people like Shirley Pollock. She was not going to take that for an answer. She said, "Someone is paying it, and it is not right." She got hold of my office. We looked into it, and found that was right. They should never have paid that. So we got that taken care of.

But there is not enough incentive out there for people to come forward like that.

So what my amendment does is make it easier for Medicare beneficiaries to check their bills for errors—first of all, by giving them assured access to itemized bills. It would also require that when beneficiaries receive their statements from Medicare they are asked to carefully review it, and to report any suspected problems to a listed toll-free number.

Third, it would establish rewards of up to $10,000 for reports by consumers that lead to criminal convictions for health care fraud and up to 10 percent of amounts recovered from abusive billings.

Three things: The first thing is itemization. I do not know how many of you have ever looked at a Medicare claim form; payment form. When these things come into Medicare, no itemization is required. You do not have to itemize. So a lot of the times, as GAO pointed out, Medicare is paying for things and they do not even know what is there.

So, Mr. President, let say you are a provider and you submitted a bill to Medicare for $1,000. You do not have to itemize what that thousand dollars is for. Medicare pays you. But you obviously have an itemized list someplace because it makes up $1,000. So if you, as a provider, have the list, it would seem to me that itemized account ought to also be made available to the consumer so the consumer can look at it and see whether or not they got something. That ought to be available to Medicare, too. I know some people say, well, this is more paperwork. The fact is that the provider who is putting a claim on Medicare for reimbursement already has to have that itemized list. With the modern computers that we have that can read all this data, that is not a problem at all.

One constituent of mine said, you know, it is like when you go to a grocery store and you pile your cart full of groceries and you go through the checkout counter. What if they just added up all your groceries and they gave you a bill and said, "Here, your groceries are $83.50, but you don't get a an itemized list of what you bought." You would not stand for it. So just as easy as it is for a checkout counter in a grocery store to give you a long list of everything you bought and the number and how much it cost, the same thing could happen in Medicare for the services, the equipment and devices provided.

Second, a little bit of an incentive. There is nothing like a little bit of incentive, so we provide for up to a $10,000 reward for any person who provides information that leads to a criminal conviction of health care fraud, and up to 10 percent of amounts recovered from abusive billings. So there would be an incentive in there for people to take a very careful look at what they are being billed.

Mr. President, I have taken a lot of time, but I wanted to lay this out because this is a comprehensive plan to combat waste and abuse in Medicare and other health programs. It is a commonsense approach. I hope we can adopt it. It will save us money for the taxpayers. It will save the Medicare trust fund money. It will save beneficiaries money because there is a lot of this money that is out of pocket that they have to spend. I pointed out that GAO said that by having this new technology, it would save beneficiaries $140 million a year.

So any way you cut it, I believe this is an amendment that will help make the Medicare system more sound, more secure, and save us in fraud, waste, and abuse.

I do not know the disposition of the managers of the bill as to this amendment. It is my understanding that if this amendment were adopted, it would be approved by the administration.

Yes, I just have had reassurance of that, that the administration would accept these provisions. As I said, I have spent several years of subcommittee investigations and my own time on this. There is nothing in this amendment that has not been carefully thought out and looked at by the Inspector General's Office, the Justice Department, the Health Care Finance Administration, and others to make sure that it will really do the job. So I hope it can be adopted and sent down to the White House, whatever happens to this bill otherwise, and get it approved and save us a lot of money.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I just want to respond to what the distinguished whip said about Members working on their amendments.

I have been, over the past 18 hours or so, working with members of the Appropriations Committee, and Senator HATFIELD and the staff have been very cooperative in trying to work on something that we can do to address the concerns I have about disaster relief funds in this bill being declared an emergency and off budget and therefore adding to the deficit. We are working and have been and will continue to work to try to come to some agreement where we can put this spending within the context of the budget laid out last year so we do not cause an increase in the deficit. I know everyone wants to work on that in good faith, so this negotiation will continue. I wish to tell the Members and the whip this is ongoing, and I am optimistic we will come to some favorable conclusion on that issue.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, is the Harkin amendment the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. I ask unanimous consent that the HARKIN amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 3500 TO AMENDMENT NO. 3466

(Purpose: Delete language concerning certification of population programs)

Mr. McCONNELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself and Mr. DOLE, proposes an amendment numbered 3500.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 756, Title III—Miscellaneous Provisions, strike section 3001, beginning on line 14 "The President," through line 25, ending "such restrictions."

Mr. HATFIELD. Mr. President, I ask if the Senator will yield.

The PRESIDING OFFICER. Does the Senator from Kentucky yield?

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 3498

Mr. HATFIELD. Mr. President, the Senator from Iowa [Mr. HARKIN] has presented an amendment that deals with a mutual concern of issues.

I am grateful that the Senator put together a way to deal with these issues. The only problem is that under the current parliamentary situation, this is an appropriations measure, and, as the Senator realizes, out of this rather extensive amendment, which is almost 100 pages, there is a lot of legislation in the amendment as well as earmarks relating to appropriations.

I would have to, probably, raise a point of order against the amendment being considered on this vehicle. Both from the standpoint of our personal working relationship, that I treasure, and our mutual interest that we share on so many of these issues, I would not like to do that, and I would like to also assure the Senator that I am willing to cooperate and work with him to find some suitable alternative to this particular vehicle. It is fragile enough, without adding more problems to it, in terms of so much legislation.

So, I just say I deeply regret the situation I am in, but in order to move this bill on through to a conference with the House and, hopefully, to the signature of the President, I wonder if the Senator would consider the possibility of postponing this action to a time when we could join together in partnership?

Mr. HARKIN. Mr. President, if the Senator will yield?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I understand. I do not want to add to the problems our distinguished chairman has with this bill. I was hoping perhaps the Finance Committee and others would approve of this and let it go on through. As I said, I know it is authorization, but we have other authorizing things that are in this bill, too. But I understand for some reason there are some who do not want this on this bill. I had hoped we could have prevailed on this, but I understand the chairman's position on this. I know he is in a position where he has to try to get this bill through.

We do not want to hold it up any longer. We want to get it through as soon as possible. There are some very important things in this bill, like education and other things that we got in it, that I hope we can hold.

With the assurance of the chairman that perhaps we can find some other vehicle to get this thing through this year, Mr. President, I then ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

So the amendment (No. 3498) was withdrawn.

Mr. HATFIELD. Mr. President, I thank the Senator. Let us put our staffs together, sooner rather than later, to try to work out some strategy.

Mr. HARKIN. I thank my colleague.

Mr. HATCH. Mr. President, I ask unanimous consent that, notwithstanding the existing unanimous consent limiting amendments, that I be able to offer the D.C. Police amendment which was originally a part of my drug czar's amendment. The floor manager and several Members expressed their hope that this amendment would not be considered as part of the drug czar's amendment.

I understand it has been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3499 TO AMENDMENT NO. 3466

(Purpose: To provide assistance to the District of Columbia Police Department)

Mr. HATCH. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3499 to amendment numbered 3466.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 29, line 18, insert the following: "*Provided further*, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the Police Chief for law enforcement purposes, conditioned upon prior written consultation and notification being given to the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations."

Mr. HATCH. Mr. President, I ask that the amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3500

Mr. HATFIELD. I thank the Senator from Kentucky.

Mr. President, do we have a time agreement?

The PRESIDING OFFICER. There is no limitation on debate at this time.

Mr. McCONNELL. I had heard it might be acceptable to the other side to have 1 hour equally divided. That would certainly be appropriate and agreeable with me.

Mr. HATFIELD. We will proceed.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. The chairman of the Appropriations Committee, my good friend, has inserted language in the underlying bill which affects a provision in the recently passed foreign operations bill. The very reason it only recently passed is because the foreign operations bill was ping-ponged back and forth across the Capitol, between the House and the Senate, over a period of 3 or 4 months, during which we had nine different votes in the two Houses on the question of abortion.

I understand the concerns that Senator HATFIELD has raised with regard to this provision. However, this is not a new topic of debate. In trying to pass the foreign operations bill, as I just indicated, we voted nine times on modifications, amendments, and variations of the language that my good friend from Oregon is now attempting to change. I fear that his language, like earlier proposals, will simply reopen a contentious debate in which Congress and the administration simply do not agree. This is just an area of deep-seated disagreement.

Over on the House side, initially, Congressman CHRIS SMITH and others sought restrictions on population funding that would assure none of our resources was used by institutions which carry out abortions. At no point has anyone opposed supporting legitimate and voluntary family planning services.

I believe the proposal put forward by Congressman SMITH, which I included in my chairman's mark for the foreign operations bill, was reasonable. Our proposal would have had no adverse impact on the availability of family planning. But the administration objected to the application of the so-called Mexico City standards on population programs.

As a result, after months of debate and nine votes, we reached a stalemate. At the time of final passage, Senator HATFIELD and I agreed the entire issue was more appropriately dealt with by the authorization committees.

To encourage them to continue negotiations and reach a settlement of this policy matter with the administration, we delayed the provision of any population funds until July 1, and at that point disbursed the funds on a limited basis over the next 15 months.

Frankly, I continue to believe we have done the best possible job we could under the circumstances. I have never been involved in a more difficult legislative endeavor than trying to reach some kind of compromise which the previously passed bill embodied.

I hope we take the view, at least for this fiscal year, that a deal is a deal. I think the language in the bill jeopardizes the commitment we made to allow the authorization process to resolve the issue. I really hope we will not reopen this matter today. I think we run the risk of losing the entire omnibus resolution. I do not think the House is going to budge 1 inch on this issue.

So it seems to me we potentially put the omnibus—we actually do put the omnibus appropriations bill in the very same position the foreign operations bill was in for months, stuck in a legislative ditch.

My good friend, the chairman of the full committee, certainly appreciates the issue, that issue, was an enormously complicated problem. I know he has a big task in managing this 781-page bill. But I urge my colleagues, regardless of whether you consider yourself pro-life or pro-choice, we finally struck a deal on the foreign operations bill which has already passed and was signed by the President, which carries us through September 30. We finally, after nine votes, reached a compromise. Nobody was particularly happy with it, but it is now the law. I hope we will not undo that compromise here, halfway through this fiscal year, and run the risk of putting this omnibus appropriations bill in the very same condition that the foreign operations bill was in October, November, December, and January.

So, I hope my colleagues will support the amendment I have at the desk. I think it will allow us to get past this issue. We are going to have to deal with it again in next year's bill. We are already beginning to develop the foreign operations appropriations bill for next fiscal year, and this issue obviously is not going to go away. But we have reached a compromise for the current year, and I hope we stick to that. We take the view that a deal is a deal, at least for this fiscal year.

I urge all of my colleagues to support the McConnell amendment, which, hopefully, we will be able to vote on sometime in the near future. Senator DOLE, I might add, is a cosponsor of my amendment.

With that, Mr. President, I have really completed my remarks. I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I want to echo my colleague's remarks, because we have an excellent working relationship. I think sometimes, on highly emotional issues like this one—emotional on both sides of the issue—that there is always a fear, with good friends differing on an issue, of rupturing a good friendship.

I want to assure the Senator from Kentucky I have no intention of doing that. The Senator needed help on the Jordan funding system. We worked that out in the Appropriations Committee. The Senator has sought our help even today on this appropriations bill. We have been responsive to that.

So whether we agree or disagree on this issue does not in any way impair my concern and desire to help the Senator when he makes the request for help as chairman of the committee.

But I also at the same time am a little bit dismayed that my colleague would move to strike this provision I have included in the committee substitute concerning international voluntary family planning. I would like to review the history of this last year. Let me state briefly where things stand.

First of all, let me say this is not a negotiated compromise. We, at no time—the Senate had no opportunity to negotiate this issue with the House. We were given this kind of approach, and it was that or nothing. So this is not a negotiated settlement on this issue or even a provision of this bill that has been worked out with the House.

In late January, when the Senate passed H.R. 2880 to keep the Government from shutting down, the bill included a provision restricting the expenditure of funds for the International Family Planning Program administered by the U.S. Agency for International Development.

Again, let me underscore, this so-called compromise was worked out on the House side unilaterally and presented to us. Our choice was to accept it or to shut the Government down. If anybody remembers, I stood on the floor of the Senate and apologized for having the Senate put in this position.

As a result, we put forth our own bill, an original appropriations omnibus bill that is now before the Senate, because we were not going to be put into that situation of being handed a document of controversial issues and told, "Take it or shut the Government down." And that is where we were.

The Senate has a right to have its views expressed, to have its views debated, to have its views understood and negotiated with the House. This is not a compromise. This is a unilateral demand of the House to take it or shut the Government down, and we had no option. I want to make that point clear.

The bill included a provision restricting the expenditure of funds for the International Family Planning Program. These funds for international voluntary family planning were cut by 35 percent from 1995 fiscal year levels. However, interestingly, listen to this, two further restrictions were added which ensured that no funds may be allocated, unless authorized, until July 1, 1996, and thereafter funds may only be allocated each month in amounts no larger than 6.67 percent of the total.

This will effectively lead to an 85-percent cut in funding for fiscal year 1996 because the authorizing committee failed to act on this matter and has yet to act on this matter, the Senate Foreign Relations Committee.

They had a chance in a recent conference on the foreign aid reauthorization bill to act, and they did not act.

I want to say clearly that I am pro-life to the extent that I do not necessarily have to have exceptions for rape and incest, because I believe that life begins at the point of implantation, not at conception. Over 50 percent of the eggs abort naturally at conception before they are implanted, and you have 10 days to 2 weeks to take care of that situation, even in rape and incest.

So I speak as a pro-life Senator. I have voted pro-life for more years and more often probably than 90 percent of the other Members of this Senate, because I have been here now almost 30 years.

I am pro-life as it relates to capital punishment, too, and I am pro-life as it relates to war as well. But nevertheless, I am unabashedly pro-life, and I come from a State that is the most pro-choice State in the Union, by all surveys. In fact, it is so pro-choice that we had, through an initiative, an assisted-suicide proposal that passed in a vote of the people. So if we did not get them zapped in the womb, we can zap them at the other end of the lifespan.

But nevertheless, that is the character of my State. We have the lowest church membership per capita of any State in the Union. We have the highest percentage of atheists per capita of any State in the Union, according to the New York University religious survey.

I am just stating the political environment from which I come. You, obviously, can understand this is carried into my political elections as a handicap. I stand unashamedly as a pro-life Senator.

But let me say this. There are ways to reduce abortion and the demand for abortion, and that is contraception. "Family planning" is perhaps a more subtle way to express it. I think anybody who has had biology 101 understands why. So I will not go into the details of how this reduces the demand for abortion. It is pretty obvious.

Therefore, it seems to me when we make available family planning devices and contraception abroad in those countries that do not have access and that are experiencing the continued population explosions that are going to impact not just their country but the whole world, we have an opportunity to deal with a cause rather than just the effect. I think after the period of time that this bill has been bouncing around, we even have more ramifications and we have more evidence of why this position is a valid position.

A very recent methodological summary, put together by a coalition of groups, including the Alan Guttmacher Institute, estimates that this restriction on funding will lead to 1.9 million unplanned births and 1.6 million more abortions. These figures have been attacked by groups such as the Population Research Institute, an arm of the pro-life Human Life International, which claims that the Alan Guttmacher Institute is funded by Planned Parenthood and, thus, cannot be trusted to give accurate numbers, though it ironically cites the Guttmacher statistics to support its own assertions.

Now, you cannot have it both ways. If you say this is not a credible institute in making the studies on one hand, you cannot turn around and cite their statistics to prove your case on another question that relates to abortion. That is precisely what the PRI has done.

But listen to this. The PRI's [Population Research Institute] a pro-life organization, most recent study states that the actual number of unplanned births resulting from a 35-percent cut in funding will be 500,000, and they further estimate that there will be 450,000 more abortions as a result of the cuts.

Now, is that not interesting? If you take the Guttmacher estimate, it is a higher level. But even the PRI studies show, yes, it will not be 500,000, or as Guttmacher says it will not be a million, but it will be 450,000.

PRI goes on to argue that they believe other countries will donate more funds to make up for the lack of United States contributions.

In effect, they are saying, we, in a way, are going to answer this problem in the United States by asking other countries to increase their contributions. However, using PRI's own numbers, this would result in 129,000 more abortions, hardly negligible, as PRI claims, 129,000 more abortions. In my view, whether the number is 1.6 million, 450,000 or 129,000 makes little difference. Even one more abortion is one too many.

That is why I cannot understand why my colleagues who say they are pro-life would object to the provision that I have included in this committee substitute.

This provision states the following:

> SEC. 3001. The President may make available funds for population planning activities or other population assistance pursuant to programs under title II and title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, . . . notwithstanding the provisions of section 518A of such Act, if he determines and reports to the Congress that the effects of those restrictions would be that the demand for family planning services would be less likely to be met and that there would be a significant increase in abortions than would otherwise be the case in the absence of such restrictions.

Bear in mind, we have not put language in here that automatically makes that money available to family planning. The President has to certify that there is a relationship between the absence of that money or the great reduction of that money and as a result more abortions.

So for those, again, who are concerned that perhaps we are just giving the President more money to spend, there is that restriction in this provision. Let me repeat, funds would be made available only if the President certifies there would be a significant increase in abortions as a result of these restrictions.

Honestly, I cannot believe that anyone who claims to be pro-life and opposed to abortion would support a funding restriction that may lead to increases in abortions. If the President makes a certification that the action taken by Congress will lead to an increase in abortions, I would expect every Member in Congress who takes a pro-life stand to act to reverse this horrible result. To oppose the committee position makes no sense to me at all.

We can argue the merits of family planning until we are blue in the face. I believe the evidence proves that international voluntary family planning programs have contributed to reducing unplanned pregnancies and abortions worldwide. I can give you some recent examples of where international voluntary family planning has made a difference specifically. In Hungary, where voluntary family planning services were introduced 8 years ago, the abortion rate has dropped by 60 percent and continues to fall. Although programs in the Newly Independent States and in Russia, where the average woman—listen to this—the average woman has between four and eight abortions during her lifetime, are too new to make reliable calculations, similar success is expected, or was before the funding cuts.

Mr. President, I stated in this Chamber on February 6:

> The family planning language included previously in H.R. 2880 is not prolife, it is not prowoman, it is not prochild, it is not prohealth, and it is not profamily planning. It inflicts the harm of a profound misconception on the very poor families overseas who only ask for help in spacing their children through contraception, not abortion.

The statistics provided by the Alan Guttmacher Institute prove this, and those from the Population Research Institute fail to refute it. Therefore, I implore my colleagues, especially those who take a pro-life position, to carefully examine the language I have introduced in this bill. If you are opposed to abortion or in favor of family planning, you should vote to oppose the McConnell motion to strike.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, we have visited and revisited this issue many times. We struggled with the House of Representatives over this issue for 3 frustrating, unproductive months, and we could not resolve it. We finally agreed to let the matter be resolved in the authorizing legislation. Why then, as some of my colleagues are asking, would Senator HATFIELD choose to reopen the debate in the current legislation? I suggest, Mr. President, for two very important reasons:

First of all, the authorizers punted. They did not address the issue in the authorizing language. Thus, we are left with an authorizing bill that was reported out of conference which does not address this issue. This part of the compromise, which we added to the last CR, was not fulfilled.

Second, the language that Senator HATFIELD has added to the current continuing resolution is sound policy. As he has just so eloquently stated, the simple, honest truth is that maintaining effective family planning programs is the best hope we have of limiting abortions. It is an elementary equation, I believe, that contraception does reduce abortions.

Mr. President, arguments to the contrary are just misinformed. We cannot prevent abortions worldwide by preventing women from having access to the very information and services that enable them to prevent unplanned pregnancies.

I applaud my friend from Oregon for his thoughtfulness on this issue. Senator HATFIELD is not an advocate of abortion rights, and yet he authored the provision in the omnibus budget bill that Senator McCONNELL is trying to strike out.

Why would a Senator who does not support abortion take the lead on restoring funding for international population assistance programs? It is because Senator HATFIELD judiciously realizes the most effective way we can use our budget dollars is to prevent abortions and to promote effective, safe, and comprehensive pregnancy-prevention services.

Senator HATFIELD's provision restores funding for population-assistance programs if the President determines that cutting this funding would increase the number of abortions being performed. If you are against abortions, it seems to me, Mr. President, you must be for Senator HATFIELD's language.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I would like to thank the Senator from Kansas, Mr. President, for her very astute and calmly stated remarks on a very, very tough issue. I appreciate her contribution.

Mr. President, this is a unanimous-consent agreement that is cleared on both sides. I ask unanimous consent that there be 1 hour for debate on the pending McConnell amendment, to be equally divided in the usual way, and that following the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the McConnell amendment, and that no amendment be in order to the McConnell amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I, too, would like to thank the Senator from Oregon for his leadership on this issue.

Mr. President, yet again, the Senate is debating funding and restrictions on the international family planning account. In many ways it is a debate I cannot understand, for the supporters of this amendment are only ensuring that the incidence of abortion worldwide will increase, and that is a trend that would disappoint and trouble every single Member of this body. Mr. President, I rise to oppose strongly this amendment, that is, the amendment of the Senator from Kentucky, and to support Senator HATFIELD's very reasonable and practical provision on population in the omnibus appropriations bill.

My colleagues are all familiar with the difficult disagreements that have ensued this year over the U.S. population program. For months now, the Senate and House have lobbed amendments back and forth concerning what restrictions should be placed on family planning assistance in our foreign aid program. Unfortunately, as I have always argued, the debate in Congress has almost always been perilously miscast, as it is miscast again today. This is not, as some have portrayed it, a debate about a woman's right to abortion. The law has been on the books, Mr. President, since 1973, unchallenged, that U.S. assistance cannot be used to finance abortions.

That is the law. That is the way it has been for 23 years. The problem we are addressing here is access to family planning services. The only connection this has to abortion is that more widespread voluntary family planning will reduce the number of abortions worldwide. That is a goal that everybody, I think, without question, shares.

The genius of the Hatfield provision is that it spells this out clearly and precisely. It says that if the President cannot determine that our population program does not reduce the incidence of abortion, then the restrictions laid out in the continuing resolution passed in January will go into effect.

Mr. President, there is an ironic and dangerous twist to this debate. The opponents of the Hatfield language seem to be caught up in a shortsighted goal to advance what is both an isolationist and antiabortion agenda. This is based on the somewhat perverse assumption and wrong assumption that population assistance increases the incidence of abortion.

Mr. President, we will take a look at how wrong that reasoning is. Over 100 million women worldwide, and who knows how many couples, do not use family planning because they do not have access to basic health care. One out of five of the women will undergo unsafe abortions. Statistics indicate that some will die. Some will be disabled. Some will never be able to bear children again. Some may deliver babies that have no chance of leading a healthy life.

The U.S. population program educates women and couples about family planning and increases access to contraception and basic health care. Mr. President, it saves women's lives. It is a life saver. Why would we want to cut that account by 85 percent or deeper than any other foreign aid account as currently written in January's continuing resolution?

For example, Mr. President, in Africa, 1 out of every 21 women die as a result of complications of pregnancy. That is roughly 200 times the rate for European women. Mr. President, African women deserve the right to family planning. Their lives depend on it. Their nation's development depends on it. The countries of the former Soviet Union, including Russia, where women have no sustained access to family planning and virtually no access to any quality contraception, the average woman undergoes nine abortions in her lifetime. An average of nine abortions in those places where people do not have access to family planning.

Our population programs in Russia and throughout Africa are designed to reduce the rate of abortion. There is no rational justification to cut these programs.

Mr. President, it is a well-documented fact that when couples have access to family planning, the incidence of abortion goes down. That is the whole confusion in this debate. If you want to increase abortion, support the McConnell amendment and the language of a January continuing resolution; if you want to really and truly reduce the incidence of abortion, as I do, and if you oppose abortion outright as Senator HATFIELD does, then the population program is one of the most important foreign aid accounts we have. Family planning simply stated is an important part of the solution to abortion.

If this is not true, then the President cannot report it. Under the Hatfield language, the population program would be reduced. I think this is really a very good compromise, for if population programs do not reduce the incidence of abortions, then I agree, we should reexamine them.

Mr. President, fact, statistics, logic and United States national interest dictate that the population program is an essential cornerstone of our goal of global development. I urge the defeat of the McConnell amendment. I sincerely thank the Senator from Oregon not only for his courage but also for his wisdom in crafting the underlying amendment.

Mr. LEAHY. Mr. President, what is the parliamentary situation on time?

The PRESIDING OFFICER. Debate is limited to 1 hour, 30 minutes each side.

Mr. LEAHY. Would the Senator from Oregon yield me 4 or 5 minutes?

Mr. HATFIELD. I yield 5 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, the foreign operations conference report, which was signed into law on February 12, categorically prohibits the use of any funds for abortion. It also prohibits the use of any funds in China.

But that legislation contains a provision that was inserted by the House at the behest of the right-to-life lobby, which will cut funding for voluntary, international family programs by one-third.

Those family planning programs have one purpose—to give couples in developing countries the means to avoid unwanted pregnancies and reduce the number of abortions. The funds are used to purchase and distribute contraceptives, to improve the quality and safety of contraceptives, to educate couples about spacing the births of their children, and maternal and child health.

Why anyone would be against that is a mystery to me, but that is what the House did. And because they recessed immediately afterward, the Senate had no opportunity to amend it. We were presented with the choice of closing down the Government again, or accepting the House provision word for word.

Anyone who wants to see fewer abortions, and fewer women die from botched abortions, should deplore what the House did, and support the Hatfield language in this bill.

The House provision would prohibit the obligation of any family planning funds before July 1 unless they are specifically authorized.

The whole purpose of that provision was to give an incentive to the authorizing committees to resolve the Mexico City issue. We were told that was what they wanted—an opportunity to resolve it themselves.

But the authorization conferees hardly discussed the issue. In fact, they specifically decided not to authorize these programs. In one of the more hypocritical maneuvers I have seen in a long time, the House authorizers revealed that their real agenda is to destroy the international family planning program.

Without an authorization, the House provision says that only 65 percent of the fiscal year 1995 level for family planning may be obligated, and then only at the rate of 6.7 percent per month.

What will be the effect of the House provision? According to conservative estimates: 7 million couples in developing countries who have used modern contraceptives, will be left without access to them; there will be 4 million more unintended pregnancies; 1.9 million more unplanned births; 1.6 million more abortions; 8,000 more women dying in pregnancy; and 134,000 more infant deaths.

Mr. President, that would be unforgivable, particularly since it is entirely avoidable.

The United States has been the world's leader in the effort to stabilize population growth. Tens of millions of people are born into terrible poverty each year. Anyone with an ounce of sense knows that if we make it harder for people to avoid pregnancy, the result will be more abortions, not less.

The Hatfield language ensures that that will not happen. It would prevent the House provision from going into effect if the President determines that it would result in significantly more abortions.

Every Senator, whether pro-life or pro-choice, should support the Hatfield language, and oppose this amendment. I want to commend Senator HATFIELD for his leadership on this, and for his determination to correct this problem. He is solidly pro-life, but he is also a stalwart supporter of family planning because he knows that family planning is the way to reduce abortions.

That is what we all want, and why all Senators should vote to keep the Hatfield language in the bill.

Mr. President, I ask unanimous consent that two newspaper editorials which are representative of dozens of similar editorials from around the country expressing strong support for Senator HATFIELD's position, be printed in the CONGRESSIONAL RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 12, 1996]

FAMILY PLANNING FIASCO

The continuing resolution that brought government workers back to the job last January is due to expire at the end of the week. One of the matters that must be settled before that can be done is the future of American assistance to family planning efforts abroad. This has nothing to do with abortion, since no U.S. funds can be spent outside the United States for that purpose. Rather, what is at stake is this country's extremely valuable and long-supported work in the developing world to provide couples with information and materials needed to plan the spacing and total numbers of their children.

In January, one regular appropriations bill was attached to the continuing resolution by the House. It cut international family planning money 35 percent below 1995 levels, and it put two additional restrictions on these expenditures: Nothing can be spent before July 1, and thereafter the funds would be doled out at the rate of 6.7 percent a month until the new fiscal year begins on October 1. This amounts to an effective cut of 85 percent in a single year, which is a terrible idea. Sen. Mark Hatfield, chairman of the Appropriations Committee, has put a saving clause in the pending bill that would allow the president to spend appropriated funds without these two restrictions if he can demonstrate that they will have the effect of reducing demand for family planning services and lead to a significant increase in abortions. That won't be hard to do. An effort will be made, probably today, to strike the Hatfield language and retain the restrictions.

The United States contributes about 17 percent of all public funds spent on family planning in the developing world outside China, which does not receive this kind of aid. Various organizations have made estimates on what would follow a cut of 85 percent—how many unplanned children would be born, how many women would die in childbirth or having abortions, for instance. Predictably, these figures have been challenged by others who believe that the poorest people in the world will simply buy their own contraceptives or remain abstinent. But the exact numbers don't matter, for the damage will be severe. American foreign aid has been instrumental in the developing world's increasing family planning success. This, in turn, has spurred economic progress and brought about tremendous improvement in the health and welfare of women and children in recipient countries. Legislators more interested in pleasing an extreme slice of the American electorate than in saving lives and reaching out to the poor of the world should not be allowed to succeed.

[From the Portland, Press Herald, Mar. 12, 1996]

SENATE SHOULD PROTECT NEEDED INTERNATIONAL AID

The abandoned baby girls pictured here testify eloquently to the need for U.S. support of voluntary international family planning programs.

A key vote on that support is expected in the Senate today.

The babies shown here, abandoned in India, are far from alone. World population expands by nearly 100 million people a year. Ninety percent are born in developing countries. Countless are desperately poor and unwanted.

Family planning programs, long supported by U.S. aid, provide assistance that can break the desperate cycle. They give families the power to plan. They do not provide abortions. U.S. law has forbidden use of foreign aid funds for abortion for two decades.

Even so, opponents continue to attack the funding on that basis. That's why the Hatfield Amendment coming before the Senate is so important. It would enable the president to override restrictions, now in place on family planning aid if he can report to Congress that they unwisely "will result in significantly more abortions, as well as a greater unmet need for family planning services."

That is an amendment in the best interest of everyone involved.

The Senate should approve it.

Mr. LEAHY. On behalf of the Senator from Oregon [Mr. HATFIELD], I yield 5 minutes to the Senator from Maine, [Ms. SNOWE].

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I thank the Senator from Vermont for yielding me this time to speak on this very important issue.

I regret that the Senate is in a position to address this issue once again because the Senate has spoken on many occasions in support of international family planning. So I think it is unfortunate that we are here today to have to fight an amendment that, basically, would decimate family planning support by the U.S. Government on behalf of international family planning programs around the country.

I think everybody knows that the United States has traditionally been a leader in international family planning assistance. This has been the case ever since this issue rose to international prominence with the 1974 U.N. Population Conference in Bucharest. At that time, a number of Third World developing countries perceived family planning as a Western effort to reduce the power and influence of Third World countries.

It is a sad irony that we are here today because the U.S. Government became a leader on this issue to influence the Third World countries, to insert themselves into the developing family planning programs. They have done that. We have been a traditional leader in international family planning and have had unrivaled influence worldwide for setting standards for these programs. An estimated 50 million families around the globe use family planning as a direct result of U.S. leadership and population assistance programs. Now we are confronted with the idea of basically eliminating any U.S. support for U.S. international family planning programs.

The passage of the continuing resolution back in January came at a terrible price to these programs. After the date of July 1, funding may be provided at 65 percent of the 1995 level, appropriated on a monthly basis at 6.5 percent for 15 months.

As a result, U.S. population assistance expenditures could drop from $547 million last year to only $72 million during 1996. This means a loss of revenue to the program of $475 million, or a cut of 85 percent in funding for 1996.

Senator HATFIELD, who has been a champion in fighting for international family planning assistance programs throughout his career, included language in the omnibus appropriations bill that would restore the funding. The Hatfield provision would nullify the funding cuts in the continuing resolution. If not, this will lead to a significant increase in abortion. Senator MCCONNELL is offering an amendment that would basically strike the Hatfield language and preserve the cuts contained in the continuing resolution. This will have a devastating impact on women, children, and families all over the globe, particularly in the developing countries. The Alan Guttmacher Institute, and other respected research institutions, predict that as a result of these cuts, at a minimum, 7 million couples in developing countries who would have used modern contraceptives will be left without access to family planning. Four million more women will experience unintended pregnancies.

We can expect 1.9 million more unplanned births; 1.6 million more abortions and countless miscarriages; 8,000 more women dying in pregnancy and childbirth, including those from unsafe abortions; and 134,000 infant deaths.

So let us make very clear what the impact of the McConnell amendment will be. It will result in more abortions, more women dying, and more children dying. It appears to be incongruous— in fact, it is inconceivable— that opponents of abortions would support cuts to family planning which would result, undoubtedly, in many more abortions, particularly because current law prohibits the use of any U.S. population assistance funds for abortion-related activities.

So this debate should not be about the fact that population assistance programs support abortion. They do not. In fact, they reduce the incidence of abortions worldwide. So the issue is not about encouraging abortion. It is about preventing unwanted pregnancies and preventing abortions, and because of the continuing resolution, organizations that provide family planning services with American funds are already determining which of their programs will have to be cut or eliminated. A local affiliate of International Planned Parenthood in Brazil estimates that 250,000 couples who rely on its services will lose access to family planning and related health care. In Peru, a country that is among the poorest in Latin America and where 90 percent of women surveyed say they want to prevent or delay another pregnancy, more than 200,000 couples will lose services.

Families in these extremely poor countries cannot afford to lose this vital U.S. family planning assistance. But this will become a certainty should the Senate pass the McConnell amendment.

Mr. President, the United States has been a model nation on international family planning programs, and other countries look to our leadership and to our example. The implications of these reductions in U.S. aid contained in the continuing resolution are far broader than one might think. If other countries follow our lead, the impact will be devastating to the health of women and families of developing nations. Ironically, last Friday, March 8, was International Women's Day. Is this the gift that Congress will bequeath to the women around the world in honor of International Women's Day? Greater poverty? Increased maternal death? More abortions? Increased infant death?

I urge my colleagues to reject the McConnell amendment because hanging in the balance are lives around the world. I hope we will not want to set this kind of example for other countries with respect to this very critical program if we are going to do everything that we can to reduce the explosion in population growth in other countries, and particularly in the developing world. The increase in population alone worldwide was 100 million, the greatest increase ever, and that is not the direction we want to take. In fact, the United States ought to take the leadership and reject the McConnell amendment and support Senator HATFIELD's provision.

Mr. HATFIELD. Mr. President, I yield 6 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the distinguished Senator from Oregon.

Mr. President, again, I join with my colleagues in encouraging colleagues to vote for the Hatfield provision.

In the final days of January, in an effort to avert a third Government shutdown, this body passed by unanimous consent a continuing resolution which included a provision that will decimate international family planning programs. After studying this provision more closely, we now know that the effects will be far greater than was known at the time the Senate acted on the bill.

We are currently in the sixth month of the fiscal year. Unfortunately, we are living under an extraordinary reduction in family planning funding. In fact, it has received no funding from any continuing resolution since October 1, 1995. As we know, the January continuing resolution prohibits any funding for family planning until July 1. Beginning in July, the program will be funded at a level reduced 35 percent from the 1995 funding level, to be allocated on a month-by-month basis for the next 15 months. So, in effect, you really have a reduction that is catastrophic.

Mr. President, in dollar figures, the family planning program has been cut from $527 million in 1995 to $72 million in 1996, which is an 85-percent cut in 1 year. One can only conclude that that cut is not just a cut to try to reduce overall spending commensurate with the other reductions in the budget; it is punitive, purposeful, and it is wrong. Fortunately, in the continuing resolution before us today—the 10th continuing resolution and I certainly hope the last funding bill we are going to debate in 1996—we have the opportunity to reverse those cuts and restore critical funding for these vital family planning programs.

I congratulate Senator HATFIELD for his efforts to try to do this and express my very firm support and conviction that the international family planning programs are in our best interest and do not have to do with abortion. To the degree that any arguments about abortion enter into this debate, it is a preventive measure. I think everybody has spoken to the fact that this planning money will reduce abortions and avoid a catastrophic situation which will only result in a great deal more abortions than we would want.

Funding for these programs is an investment that will save the lives of thousands of women and prevent millions of unplanned births and abortions in the future. These programs ensure that mothers all over the world are going to give birth to, more often than not, healthy babies, and that the competition for resources in our world is not even more severe for those babies who are born into it because of continued significant overpopulation problems.

I joined Senator SIMPSON in representing the United States at the 1994 International Conference on Population and Development in Cairo, where the United States went to great lengths to play a leadership role in galvanizing the international community to action on this issue. The conference called for a global effort, which we signed onto, which we helped lead, and which the Vatican signed onto, to help address the overpopulation and to work together to promote maternal and child health care, as well as educational opportunities for women and for girls, and, most importantly, family planning programs. After pledging to provide world leadership in the area of international family planning, we should not now abandon our global partners at this juncture.

Mr. President, I again want to just emphasize what I think we must understand and underscore in this debate. Family planning does not mean abortion. In fact, family planning has been proven to rule out the incidence of abortion through education and contraception. Family planning programs help women and families living in impoverished countries to begin childbearing at a later stage of life, to space their children apart, and to avoid unwanted pregnancies. The issue of helping families to better plan for children is in the interest of everybody on this planet.

In addition, Federal law, now in effect, prohibits the United States from funding any abortions abroad. The U.S. Agency for International Development has widely and strictly abided by that law. Those who argue that international family planning programs fund abortions are simply wrong, and they argue in contravention of the law of the United States.

Mr. President, by denying people access to the family planning programs worldwide and by slashing their funding, there will be an estimated 4 million more unintended pregnancies, close to 1 million infant deaths, tens of thousands of deaths among women—and I emphasize, for those who oppose permitting women to choose abortion as an alternative—that the result of cutting this money will create 1.6 million more abortions. I think none of us want to encourage that abortion.

So, Mr. President, I simply say that these programs provide 17 million families worldwide with the opportunity to responsibly plan their families, to responsibly space their children, to provide a better life for those children, to provide for healthy children, and to avoid adding to a population problem that hurts all of us and hurts the unborn generation even more severely.

I hope my colleagues will vote against the McConnell amendment which is counter to all of our interests.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Chair.

Mr. President, I strongly oppose the pending amendment. I believe Senator HATFIELD and the Appropriations Committee have recommended a very prudent policy with respect to international family planning assistance. To strike the language as they have proposed—as the pending amendment would do—I think would be a very serious mistake.

On Thursday of last week, I spoke in this Chamber about the severe restrictions the current continuing resolution places on U.S. funding for international family planning. If these restrictions remain in place, I too, fear that abortions will come to be regarded as the only form of birth control in many desperately poor developing nations.

I know some of my colleagues would prefer that we not raise such an unpleasant prospect, but this is exactly what will occur. As family planning services become less accessible, more unwanted pregnancies and more abortions will be the inevitable result.

The language in the bill before us simply stipulates that the restrictions on family planning assistance will be lifted if it is determined that they will result in a significant increase in abortions and a greater unmet need for family planning services. It surely seems to me that those who are eternally concerned about the practice of abortion—and we all should be—would be eager to embrace this or any other policy that helps to reduce the number of abortions that are actually performed.

That is where we are. It is an extraordinary thing through the years for me—and, yes, I am pro-choice on abortion, and, yes, I believe that men should not even vote on the issue. That is my view. I have held it for many a year. And I respect those on other side of the issue. It is a deeply personal issue in every sense—an intimate personal issue, and not one of us will ever change our opinion.

If you can reflect on why we are not getting things done in the appropriations area, you might reflect that four appropriations bills have been stalled continually on the issue of abortion. Let us just vote up or down somewhere along the line about once a year on abortion, and then move on instead of hanging on, tacking it on, driving us all to an emotional and tattered edge continually. That is what we do with the issue, and we are all good at it.

The population of the Earth has doubled since 1940—since the beginning of mankind to 1940. Since 1940 until 1996, the population of the Earth has doubled. If anybody can believe and tell me how it doubles again in the year 2067, how the resources of the Earth can sustain human beings who will be starving, who will be out of water, food, clothing, timber, just because of how many footprints will fit on the Earth, and then what legacy have we left but poverty and starvation and all the rest—which to me is really a remarkably bizarre result. That is where we are.

So, I thank the Chair. I thank Senator HATFIELD and all of those who admire him in all things that he does to try to bring reason and responsibility to all of our debates and good common sense.

Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. President, before he is recognized, I ask unanimous consent to have printed in the RECORD a letter from the Department of State representing the administration's viewpoint on this particular issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the Administration's strong and unqualified support for your efforts to remedy the severe limitations imposed on U.S. international family planning programs in the FY 1996 Foreign Operations Appropriations legislation.

As you know, the final agreement reached in Congress on the FY 1996 Foreign Operations Appropriations bill delays population funding until July 1, 1996, and then requires that these funds be disbursed over a 15-month period, at a rate of 6.7 percent per month. The net effect of these restrictions would be to reduce U.S. funding for international family planning programs to approximately $75 million in FY'96, from an appropriated level of $525 million in FY'95.

This kind of massive reduction in U.S. funding will have a major deleterious impact on women and families all over the world. Family planning services help to prevent unintended pregnancies and abortion, reduce maternal and infant mortality and encourage overall family health. Experts inside and outside the government are in agreement that the congressionally imposed constraints will prevent access to family planning for almost 7 million couples. As a result, more than four million women will experience unplanned pregnancies—leading to as many as 1.6 million more abortions.

For the past 25 years, the United States has been the world's leader in encouraging the provision of voluntary family planning services around the world. Our efforts have helped to reduce rapid population growth rates to the benefit of our international economic and security interests, as well as those of the countries and families with whom we have worked.

The Administration wants to work with you and your colleagues in the Congress to encourage global health and reduce recourse to abortion. We believe that your amendment will do both and we enthusiastically support its adoption.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator from Oregon.

Mr. President, I oppose efforts to undermine the provision Senator HATFIELD included in this bill, which is intended to reduce the need for abortion.

In the continuing resolution approved by the Congress in January, funding for voluntary international family planning programs was capped at 65 percent of the level provided in fiscal year 1995. This represented a steep reduction below the President's budget request for international family planning programs in fiscal year 1996. Even more, the continuing resolution prevented the Agency for International Development from spending any of those funds until July 1, 1996.

These draconian cuts and restrictions will hamstring the voluntary population program, result in an increase in abortions, and undermine the United States development efforts in the long run.

Unfortunately, the Senate was not given much opportunity to debate this or any other provision in the last continuing resolution, which was required immediately to keep the Government functioning. The House of Representatives sent us the bill at the 11th hour and then adjourned for a long recess. Because the House of Representatives was no longer in session, the Senate effectively had no choice but to accept this provision along with the rest of the provisions included in the continuing resolution. To do otherwise would have resulted in a Government shutdown.

Though advocated by opponents of abortion, the irony is that the funding restriction in current law will result in more—not fewer—abortions. On the other hand, the provision Senator HATFIELD included in this bill is intended to reduce the need for abortion by freeing up funds for voluntary international family planning programs. Let me repeat that statement. The provision in the bill before us is intended to reduce the need for abortion. For this reason, I do not understand why Members of the Senate who oppose abortion are seeking to delete it.

Ask yourselves, "What is the net effect of reduced funding for voluntary family planning and reproductive health programs?" Less money? But what does that actually mean? Does it mean programs will be available to help educate women in developing countries about how to avoid unwanted pregnancies? Absolutely not. Does it mean fewer abortions? Clearly not.

The funding restriction on voluntary family planning programs in current law will, I believe, inevitably result in more abortions. It is estimated that approximately 50 million couples worldwide benefit from U.S. funded family planning services.

But because of the draconian reductions included in the last continuing resolution, estimating conservatively, approximately 7 million of these couples will no longer have access to the very services that enable them to plan the timing and size of their families. Millions of families in Africa, Asia, Latin America, and Caribbean will no longer have access to information so vital to making family planning decisions.

Blocking access to this information in developing countries can only have one result: an increase in unintended pregnancies. And that can only lead to an increase in abortion.

These cuts are clearly at odds with America's long-term development interests. Without the funds to train personnel in population control or educate families in the poorest countries, there is no doubt that population sizes will increase. Unchecked population growth perpetuates hunger, disease, and poverty. It undermines opportunities for economic growth and political stability in developing countries. It also has a lasting and harmful effect on our ability to protect the global environment.

And who are those most affected by these cuts in voluntary family planning programs? Mostly, it's poor women and their children in developing countries. Poor women who seek to chart a better future by planning the number of children they will bear. Women who seek to elevate themselves politically and economically and pursue greater opportunities for their children.

Mr. President, I commend Senator HATFIELD for rectifying this wrong in the bill that is before us. The provision he has included in the bill will enable the President to restore voluntary international family planning funding if he certifies that funding restrictions will result in an increase in abortions. I wholeheartedly endorse his remedy and urge my colleagues to fully support it as well. It gives the President a necessary tool to use to head off the devastating effects funding cuts on family planning services will certainly engender.

Mrs. MURRAY. Mr. President, I rise in strong opposition to the McConnell amendment. This amendment would continue the assault on our International Family Planning Assistance Program, and leave millions of families worldwide without these vital services.

In January, in hopes of averting another Government shutdown, the Senate attached the foreign operations appropriations bill to the continuing resolution. As a member of this subcommittee, I was happy to see these programs receive much needed funding. Unfortunately, the continuing resolution contained a provision that drastically cut funding for our international family planning programs.

Essentially, this language said that none of the appropriated funds can be spent until July 1. After that, money can only be spent on a month-to-month basis at a rate of 6.7 percent a month until the new fiscal year begins on October 1. The result of this is that funding for U.S. population assistance will be reduced by about 85 percent from last year's level. This is a disastrous situation that will severely hamper this program.

Mr. President, shortly after the last continuing resolution passed, Senator HATFIELD vowed to fix this problem. I want to commend him for his leadership and action on this issue. Senator HATFIELD's solution states: "If the restrictions in current law will result in significantly more abortions as well as a greater unmet need for family planning services, the restrictions will be nullified." I think this is a responsible and direct approach.

Without the Hatfield language, millions of couples will lose access to these valuable services. There will be a higher incidence of unplanned pregnancies, an increase in infant deaths, and more women dying from unsafe conditions.

Ironically, by denying support to international family planning assistance, a vote for the McConnell amendment may well have the unintended effect of increasing the incidence of abortion.

Mr. President, the United States has been a leader in international population assistance since 1965. During that time, we have made significant progress in increasing access to health care, improving women's health worldwide, and providing family planning services. But this progress will stop if we don't fund the programs.

This last year, the Senate continually showed its support for international family planning and its funding. Now we have an opportunity to rectify a very troubling situation.

I strongly urge my colleagues to vote against the McConnell amendment and support the Hatfield language.

Mr. CHAFEE. Mr. President, I would like to take just a moment to speak in favor of the provision in this appropriations measure regarding international population assistance. The amendment before us would strike this provision, a move I believe would be unwise.

The international family planning program was cut 35 percent in the Fiscal Year 1996 Foreign Operations Act from fiscal year 1995 levels. In addition, two restrictions were added, the effects of which will lead to an 85-percent cut to the program. The net effect of this cut is a budget which will go from $547 million in 1996 to $72 million.

Senator HATFIELD added a provision to this bill which states that if the President determines that the restrictions in current law result in more abortions and a greater need for family planning services which is not met, the funding restrictions will be lifted. This seems to me, Mr. President, to be a reasonable approach. I am sure that those who are opposed to abortion do not want to support a policy which increases abortions.

I must say, Mr. President, I am always perplexed by those who oppose family planning and also oppose abortion. Study after study has shown that lack of family planning leads to more unintended pregnancies which leads to more abortions. Consider two countries: Russia has very little contraception available, and abortion is the primary method of birth control. The average Russian woman has at least four abortions in her lifetime. Alternatively, Hungary has made family planning services more widely available and the abortion rate has dropped dramatically.

Mr. President, the United States plays a critical role in providing family planning services abroad. It has been certified over and over again that none of the funds are used to pay for abortions, as required by law. I feel strongly that we should continue our leadership role in this area. I urge my colleagues to defeat the McConnell amendment and support the Hatfield language in the bill.

Mr. HELMS. Mr. President, as the Senator from Kentucky asserted, section 3001 of the pending bill is unacceptable to the House. And unless that section is dropped, it will surely lead to another Federal shutdown. Simply put, section 3001 is another enormous additional gift of the American taxpayers' dollars to various pro-abortion organizations, and the House will never agree to it.

Because of this issue, the fiscal year 1996 foreign operations appropriations bill bounced back and forth between the House and Senate for several months until a compromise was worked out on the previous continuing resolution. And unless section 3001 is changed, Congress will be in precisely the same predicament as before; section 3001, as currently drawn, will grind the Federal Government to a halt, and the blame will perch squarely on the shoulders of section 3001's supporters in the Senate.

Mr. President, I am bewildered at suggestions that section 3001 of the pending bill is somehow pro-life. The author of section 3001, Chairman HATFIELD, stated on the Senate floor this past month, and repeated in Saturday's Washington Post that "For those of us who take a pro-life position, this is the most effective way to reiterate our profound opposition to the practice of abortion." Mr. President, I have constantly sought to protect the lives of unborn children throughout my 24 years in the Senate. I respectfully disagree with my good friend, Senator HATFIELD's statement—I find it difficult to understand his conclusion that section 3001 is even remotely a pro-life position.

After all, the loudest proponents of Senator HATFIELD's so-called pro-life language are the leaders of the abortion industry and their lobby. Any statistics purporting to claim that the compromise worked out in the previous continuing resolution would cause more abortions and more unintended pregnancies are bound to be contrived, and are based on studies produced by recipients of international population control funding—which was reduced substantially in the previous CR. In fact, it occurs to me that the numbers were cooked up to ensure that these groups can receive even more of the American taxpayers' money. The best that can be said of them is that they are purely hypothetical estimates based on guesses.

Mr. President, I wonder about the groups coming up with these statistics, who are they and how did they obtain such doubtful statistics? Among the groups cited in Saturday's Washington Post was the Futures Group which just happens to be the recipient of substantial funding from the Agency for International Development's population control program. Another group cited by the Washington Post was the Alan Guttmacher Institute, the research arm of the Planned Parenthood Federation of America—an active promoter of abortion.

Then, of course, there is the International Planned Parenthood Federation whose role in this massive lobbying campaign is perhaps the most transparent because as currently drawn, section 3001 will guarantee that the International Planned Parenthood Federation will receive 100 percent of its U.S. taxpayer funding—with no strings attached. The International Planned Parenthood Federation is a major force behind efforts to overturn the compromise worked out in the previous CR, which was agreed to by the House and the Senate and by President Clinton.

This is because the International Planned Parenthood Federation, and many of its affiliates, are in the business of promoting and performing abortions. They make no bones about it. Consider, if you will, excerpts from the Federation's own 1994–95 annual report supplement:

> Where it was suspected that abortion was likely to be made illegal/or delegalized in a country, FPAs [family planning affiliates] should act immediately to raise awareness and, with IPPF's [International Planned Parenthood Federation's] regional and international support, lobby where possible to prevent this from occurring.
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> The FPA [family planning affiliate] of Nepal has initiated efforts aimed at liberalizing abortion law.
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> The FPA [family planning affiliate] of Sri Lanka's recent research into attitudes toward abortion was a major factor in the successful lobby of the Government to change the law to permit abortion for victims of rape and incest in 1994, a major step forward for the Region. The FPA is continuing to push for further liberalization.
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> Under the project "Motivation of Leadership," AUPF [IPPF's affiliate in Uruguay] held several meetings with parliamentarians from different political parties interested in promoting a law to legalize abortion. It is likely that a new attempt to liberalize the abortion law may succeed before the end of 1995.
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> * * * * *
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> The FPAs [family planning affiliates] of Swaziland, Burkina Faso, Zambia and Senegal have conducted research to identify existing laws on abortion. The research findings are expected to be used for advocacy for legal and policy reform [that is, to liberalize abortion laws].

Finally, Mr. President, the Planned Parenthood Federation of America boasted in its 1994–95 annual report about having performed 133,289 abortions in the United States. There is no telling how many abortions International Planned Parenthood affiliates are responsible for worldwide. How could anybody be duped into believing that the International Planned Parenthood Federation seeks to protect the lives of unborn children? Of course, it does not. The Federation is in the business of destroying the lives of helpless, innocent unborn children. It is, in fact, the world's leader in promoting abortions, and that crowd is thrilled by Senator HATFIELD's proposed language in this bill.

Clearly, the primary supporters of this provision are pro-abortion. Having read Senator HATFIELD's characterization of section 3001 as pro-life, one is obliged to wonder what the pro-life groups have to say? They strongly oppose the current language in section 3001. In the same Washington Post article, the Christian Coalition asserted that "We consider Senator HATFIELD's argument preposterous, that somehow, giving money to International Planned Parenthood organizations is going to reduce abortions. That is absurd." National Right to Life has informed me that they are appalled at section 3001 and the claims that is somehow represents the pro-life view.

Mr. President, I must say to those who may be inclined to support section 3001, that if they genuinely want to "reiterate [their] profound opposition to the practice of abortion," they should vote for the amendment offered by the Senator from Kentucky. This entire effort is orchestrated by a handful of powerful organizations in the abortion business and their well-heeled lobbyists—including the Agency for International Development. The Senate should stand up to these groups and reject their tactics by supporting the pending amendment.

Mr. President, a vote for the pending amendment—not section 3001 of the continuing resolution—will protect the lives of unborn children. A vote against the amendment is a boon for the abortion industry and its lobby, and will very likely result in another Government shutdown.

Mr. President, I ask unanimous consent that two articles be printed in the RECORD. The first is the March 9, Washington Post article and the second is an article by Nicholas Eberstadt that appeared in the March 11, Washington Times. Mr. Eberstadt's analysis refutes the statistics used to support the language in the bill, and should be required reading.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Mar. 11, 1996]

BIRDS, BEES AND BUDGET CUTS

(By Nicholas Eberstadt)

For advocates of Third World population control—or as they new prefer to say, "stabilizing world population"—the resort to scare tactics in debates and policy battles, is nothing new. Quite the contrary: The specter of disastrous consequences (famine, plague, vast and needless human suffering) is routinely invoked by the neo-Malthusian lobby in its attempts to silence opponents and to proselytize the unconvinced.

The latest dire claims from this alarmist approach to public policy discourse have just been unveiled in Washington. Today Congress is being warned that millions of unwanted Third World pregnancies (thus, unwanted Third World births and abortions) will be on its hands if it does not immediately reverse itself, and add hundreds of millions of dollars to the prospective foreign aid program population budget. The gambit, and its supporting "evidence," are entirely of a piece with the anti-natalist movement that authored them: amazing, but not surprising.

The background to this unfolding drama was a January 1996 vote, in the House of Representatives and the Senate, to cut America's international "population assistance" funds by about 35 percent from the level of the previous year. The slated total—about $380 million—would mean a reduction of over $200 million. It looked to be a dramatic cutback (although due to the enthusiastic, high-level support that population programs have enjoyed in the Clinton administration, the "cutback" would still have left these programs with more money than they had under President Bush).

The claxons immediately sounded. Nafis Sadik, executive direct of the United Nations Population Fund (UNFPA), raised the threat, among several others, of a renewed global population explosion. "The way U.S. funding is going," she told the New York Times, "17 to 18 million unwanted pregnancies are going to take place, a couple of million abortions will take place, and I'm sure that 60,000 to 80,000 women are going to die because of those abortions—and all because the money has been reduced overnight."

Treated as a serious prognosis (rather than, say, a rhetorical outburst disguised by numbers), Dr. Sadik's prophecy, would have had some remarkable implications. For its arithmetic to work, for example, population growth in such places as Latin America and Indonesia (where, currently, modern contraceptives are widely used) would basically have to double from one year to the next. To all but the most committed anti-natal advocates, the implausibility of this official UNFPA assertion was patent. Implausible (or easily falsifiable) claims do not make good debaters' points. The Sadik prophecy was thus quietly retired before the battle to cancel the congressional cutbacks began in earnest.

The ammunition that is now being used in the effort to overturn the funding reduction programs comes from the Alan Guttmacher Institute, the research arm of the Planned Parenthood Federation of America. On its face, the Guttmacher analysis sounds inherently more reasonable than Dr. Sadik's. Instead of 17 to 18 million unwanted Third World pregnancies, the Guttmacher analysis indicates that U.S. population aid cutbacks will result in about 4 million. (To be more exact: 3,956,544 "unwanted pregnancies from budget cuts"—this is a very precise study.) Unlike the Sadik pronouncement, moreover, the Guttmacher paper offers a meticulous explanation of its methodology, a detailed breakdown of its calculations, and a long list of citations and references utilized in the exercise.

Yet for all its seeming rigor and statistical precision, this Guttmacher study is nothing but an elegant fantasy. For despite its sober and careful tone, there is absolutely no reason to expect the correspondence between "budget cuts" and extra Third World pregnancies anticipated in its pages to occur in a real world populated by human beings.

The reason the Guttmacher study is so flawed as to be useless is both simply and fundamental: It ignores the fact that human beings—in poor countries as well as rich ones—respond to changes in their circumstances, and strive to improve their lot in the face of constraint.

Forget for the moment that the impending congressional cuts might well be made up by other governments (Western aid-giving countries, or even Third World aid-taking countries themselves). For the Guttmacher study to make sense, there would have to be a fixed, mechanical and determinative relationship in our world between a population's usage level of publicly provided modern contraceptives and its levels of pregnancy or fertility. By the logic animating this exercise, less public money for contraception would mean that a corresponding proportion of adults would automatically cease practicing birth control.

These Guttmacher assumptions would be perfectly reasonable if Third World parents were blind automatons or heedless beasts. Beasts, after all, do not deliberately regulate their procreation, and automatons are built to follow an immutable routine. Everything we know about Third World parents, though, suggests that a more human vision of them would be rather more successful in describing, and predicting, their behavior—including their "population dynamics."

After all: Survey results from country after country in Asia, Africa, and Latin America consistently demonstrate that parents throughout the Third World (like parents in rich countries) have pronounced views about their own "desired family size"—and that their own "desired family size" is in fact the best predictor of their country's fertility level. Though they may be deemed ignorant by the planners who propose to improve their lives, Third World parents do not believe that babies are simply found under cabbages. They know how to make babies and how to avoid births, and put the sort of effort into achieving those objectives that would be expected of major life decisions.

If international funding for government-sponsored family planning programs falls, Third World parents will not fatalistically abandon their views about their own desired family size and fall into a breeding frenzy, as the Guttmacher study implicitly presumes. Instead they will attempt to achieve their goals by other means. They may use "traditional" family planning methods (which brought low fertility to Europe before modern contraceptives were invented). They may practice abstinence—no modern method is more effective than this. They may even spend some of their own money to purchase modern contraceptives. (Though population planners talk endlessly about the "unmet need" for modern contraceptives in the Third World, the simple fact is that poor people have an "unmet need" for practically everything—and their spending decisions reveal their preferences and priorities.)

Since it is completely tone-deaf to the very human qualities at the center of the family formation process, the Guttmacher calculations cannot provide a realistic estimate of the demographic consequences of Congress' impending population fund cutbacks. In truth, that impact is probably incalculable. Depending upon how couples behave, it is possible that those cutbacks would have a small demographic impact—or virtually none at all. Conversely, if the Guttmacher methodology were actually valid, the population funding increases during the Clinton years should be credited with bringing birth rates in Third World countries down significantly—but not even the neo-Malthusian lobby has been bold enough to make this extravagant claim.

The current population funding contretemps, of course, is not the first occasion upon which junk science has been brought to Capital Hill in the hope of influencing legislation. It is not the first time that representatives and senators have heard claimants depict catastrophes in their effort to fend off cuts to their own particular spending programs. By and large, however, such conduct is still the exception in Washington. For the population-control lobby, by contrast, such conduct now seems to define the norm. As long as that population lobby exists, demographic demagoguery—like death and taxes—promises to be a fact of life.

[From the Washington Post, Mar. 9, 1996]

ABORTION FORECAST RENEWS FIGHT FOR OVERSEAS FAMILY PLANNING AID

(By Barbara Vobejda)

A new law that deeply cuts U.S. aid for international family planning will result in at least 1.6 million more abortions in developing countries in one year, according to a study that has reignited a battle over the funds and split the antiabortion community.

The study, issued this week by a group of population organizations, also estimates that the funding cuts will mean that 7 million couples in developing countries who would have used modern contraceptive methods no longer will have access to them, resulting in 1.9 million more unplanned births, 134,000 more infant deaths, and 8,000 more women dying in childbirth and pregnancy, including from unsafe abortions.

Those numbers are fueling renewed efforts by Sen. Mark O. Hatfield (R-Ore.), who chairs the Appropriations Committee, to rally support among antiabortion groups in his effort to restore the overseas family planning funds.

"For those of us who take a pro-life position, this is the most effective way to reiterate our profound opposition to the practice of abortion," Hatfield said on the Senate floor last month. "All the antiabortion speech this chamber can tolerate will not reduce the number of unintended pregnancies as swiftly or as surely as our support for voluntary family planning."

Hatfield is attempting to attach language to the interim spending measure Congress must pass before government funding expires March 15. The language would allow the president to restore funds if he certifies that the lack of aid will lead to a significant increase in abortions.

While Hatfield has support in the Senate and from the White House, he must win over the House, where there is strong opposition from some antiabortion lawmakers.

In late January, Congress approved legislation that cut funding for the U.S. Agency for International Development's family planning program by 35 percent, from $547 million to $356 million. The funds were further reduced by restrictions that prevent any spending until July 1 and require that funds be parceled out at a monthly rate over the next 15 months. As a result, funding for this fiscal year was reduced by about 85 percent from 1995.

The study on the effect of the cuts took into account the 35 percent cut, but not the spending restrictions, which would presumably further raise the number of abortions and deaths. It was conducted by demographers and others at the Futures Group, Population Action International, the Population Reference Bureau, the Population Council and the Alan Guttmacher Institute.

The cut in funding follows years of disagreement over the use of U.S. aid for family planning overseas. The reduction was attached to the continuing resolution approved in late January at the urging of Rep. Christopher H. Smith (R-N.J.), an ardent abortion foe.

Hatfield, who also opposes abortion, has had mixed success in his efforts to find support among antiabortion advocates. Some groups have dismissed the new study and Hatfield's efforts to restore funding.

"We consider Sen. Hatfield's argument preposterous, that somehow, giving money to International Planned Parenthood organizations, is going to reduce abortions. That is absurd," said Brian Lopina, who heads the Washington office of the Christian Coalition.

Opponents to family planning assistance have argued that, despite a ban on use of the funds for abortions, the assistance frees up other money that can then be used for abortion.

But others with strong antiabortion views contend that family planning assistance is the most effective way to reduce abortions. "To knock out this funding based on a misguided pro-life agenda is absolutely the wrong thing to do," said Gordon Aeschliman, president of the Christian Environmental Association, which conducts development projects in 14 countries.

He said antiabortion groups that work over seas see the "clear connection" between family planning and reduced human suffering. "Unfortunately, in the U.S., the strong wing in the pro-life movement sees family planning as the same as forced abortion, which is inaccurate."

Ms. MIKULSKI. Mr. President, I strongly oppose the McConnell amendment. It is another attempt to deny health care to the world's poorest women.

The McConnell amendment seeks to maintain a provision of the foreign operations bill that would decimate America's effort to improve health care for the world's poorest women. A recent report by the Alan Guttmacher Institute estimates that these cuts will mean that 7 million couples in developing countries would no longer have access to contraceptives. There would be almost 2 million unplanned births. And there could be up to 1.6 million additional abortions.

Those who support the McConnell amendment claim to want to reduce the number of abortions. But the effect of this provision will be just the opposite. Family planning prevents unwanted pregnancies and abortions. You would think this basic fact would not need to be restated on the floor of the U.S. Senate.

U.S. international family planning funds are not spent on abortion. So now, some insist on going after basic health care services that prevent pregnancy.

Over 100 million women throughout the world cannot obtain or are not using family planning because they are poor, uneducated or lack access to care. Twenty million of these women will seek unsafe abortions. Some women will die, some will be disabled. We could prevent some of this needless suffering.

This issue won't go away. The majority of the Senate opposes the irrational and cruel effort to end U.S. assistance for international family planning. I commend Senator HATFIELD for his principled stand on this issue. We will continue the fight to enable the world's poorest women to control and improve their lives.

Ms. MOSELEY-BRAUN. Mr. President, we have done better in this legislation than our House counterparts in protecting the lives and health of women around the globe.

There is a provision in this bill that allows restrictions on dispensing international family planning funds to be lifted if the President determines that the restrictions would result in significantly more abortions and a greater unmet need for family planning services.

The McConnell amendment would deny the President the ability to make this determination and leave the current funding restrictions in place. I strongly urge my colleagues to vote against the McConnell amendment because the clear outcome will be an increase in abortion and an increase in infant death—something no Senator can support.

According to the Alan Guttmacher Institute and a consortium of expert demographers, the current funding restrictions will result in at least 1.9 million unplanned births and 1.6 million abortions. The McConnell amendment would result in over 1.6 million abortions. This amendment is not about allowing women to choose, but about forcing them into a choice they don't want to make.

If we do not retain the language in the bill and overturn the current funding restrictions, we could cause 8,000 women around the world to die in pregnancy and childbirth and 134,000 infants to die from low birth weight and undernourishment. That is something that I cannot live with and I do not believe my colleagues can either.

We should encourage families who are trying to make deliberate decisions about their ability to have and care for additional children. We should provide women with an option to unwanted pregnancy and abortion. We should not force families into dangerous or unwanted pregnancies.

I support the language currently in the bill because it allows the President to lift the restrictions on family planning funds. It allows the President to make a sound public policy decision based on the facts. And the facts are that if women are denied family planning assistance, many will turn to abortion.

I oppose the McConnell amendment because it would result in abortions, in infant death, and in maternal death. I urge my colleagues to oppose the McConnell amendment.

I ask unanimous consent that an article from the Atlanta Constitution, written by the director of the population unit at CARE, that illustrates the need for international family planning funds, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Atlanta Constitution]

CUTTING MONEY, COSTING LIVES

(By Maurice I. Middleberg)

Last July, I snapped a photograph of a couple who had become family planning providers in the remote Andean village of Cushcandahy, Peru, 11,000 feet in the mountains. Their modest home displayed a sign: "Plantification Familiar Aqui (Family Planning Here).".

Thanks in part to funds from the U.S. Agency for International Development, CARE has trained more than 1,400 workers and introduced family planning services to thousands of people in Peru, from the Amazon basin to the Andean mountaintops.

Unfortunately, the efforts of CARE and other humanitarian agencies to bring family planning to villages around the globe have been jeopardized by the congressional resolution of the budget impasse. The funds available for family planning were cut by 35 percent. Even worse, a set of unprecedented procedural requirements threatens to reduce the actual flow of funds to a trickle.

Meanwhile, here are the facts: Some 120 million women in the developing world want to stop or postpone childbearing but do not have access to family planning services. Women in the developing world are 100 times more likely than American women to die as a result of childbirth. Half a million women—one every minute of every day—die each year from complications of pregnancy and childbirth; 5 million women suffer serious illnesses or trauma.

In developing countries, more than 10 percent of births end in the death of the infant before his or her first birthday, a rate more than 10 times as high as in the United States. High infant mortality is in part attributable to the fact that many births are high risk; that is, they occur to very young women, to women over age 35, to women who have already had many pregnancies or who have given birth in the preceding 24 months. In many countries, simply spacing births could reduce the infant mortality rate by one-fifth.

Ten million to 12 million illegal abortions occur each year in the developing world. CARE does not support abortion services directly or indirectly. Reducing funding for family planning services means that fewer women will be able to avoid the unwanted pregnancies that too often conclude in abortion.

We find the action by Congress particularly puzzling in view of its laudable decision to protect other child health programs such as immunization. It may be a simple lack of understanding of the health benefits of family planning.

The cuts in family planning programs are disporportionate—three times the 11 percent cut in foreign aid overall. In addition, agencies cannot get the funds until July 1, nine months into the fiscal year and five months after Congress appropriated the money. Therefore, the funds will be doled out at a rate of one-fifteenth of the appropriation each month.

As we were entering the village of Cushcandahy, the local health worker said to me, "In these villages, they say that only God and CARE come to visit." The truth is that God and CARE have relied on the compassion and enlightened self-interest of the American people to build the links between Atlanta and Cushcandahy.

International family planning programs are of virtually no budgetary significance, totaling only a few hundredths of 1 percent of the U.S. government budget. They also have been extraordinarily successful: In 1965, 10 percent of women in the developing world used contraceptives; today, more than 50 percent do.

Congress should rethink the excessive cuts and burdensome rules it has mandated and restore a program that reflects American interests and generosity.

Mr. HATFIELD. Mr. President, I yield back all the time of Senator MCCONNELL at his direction, and I yield back whatever time I might have. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. DOLE], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is absent on official business.

I further announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "nay."

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 52, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—43

Abraham
Ashcroft
Bond
Breaux
Brown
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—52

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Simpson
Snowe
Specter
Wellstone
Wyden

NOT VOTING—5

Bennett
Dole
Kennedy
Moynihan
Stevens

So the amendment (No. 3500) was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, is there any order for offering amendments?

The PRESIDING OFFICER. Amendments will be laid aside to offer amendments.

If the Senator will withhold, the Senate is not in order. I ask Members of the Senate, those who have business, to please do so off the Senate floor, so the Senator from Arkansas can be heard.

Mr. BUMPERS. Mr. President, I had understood that we were going back and forth. I do not think there are any takers on the Democratic side for an amendment right now. I may be mistaken. If there is an amendment over here, somebody should offer it right now. Otherwise, Senator COHEN and I have an amendment that we were supposed to offer at the earliest possible time, but I do not see him on the floor.

Mr. SANTORUM. The Senate is not in order.

Mr. BUMPERS. I am really talking, trying to take up time, hoping he will come to the floor and offer an amendment.

The PRESIDING OFFICER. The Senator from Arkansas has the floor. The Senate will please come to order so the Senator can be heard.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3501 TO AMENDMENT NO. 3466

(Purpose: To permit recipients of Legal Services Corporation grants to use funds derived from non-Federal sources to testify at legislative hearings or to respond to requests for certain information)

Mr. COHEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] for himself and Mr. BUMPERS, proposes an amendment numbered 3501 to amendment No. 3466.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 504 under the heading "Administrative Provisions-Legal Service Corporation—

(1) redesignate subsection (e) as subsection (f); and

(2) insert after subsection (d), the following new subsection:

"(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made.".

Mr. COHEN. Mr. President, the amendment that I am offering today with Senator BUMPERS is very simple and very straightforward. It would permit legal services organizations across the country to use non-Federal funds to cover the costs of testifying at legislative hearings, commenting on administrative regulations, and responding to requests for information from public officials.

Mr. President, I find it ironic that as we are seeking to devolve more and more responsibility to the States, that we would preclude those organizations representing low-income individuals from testifying before legislative bodies, offering comment on regulatory proposals, or responding to inquiries from lawmakers.

We have a situation in the State of Maine in which the chairman of the Judiciary Committee, a Republican, has a very cooperative relationship with Pine Tree Legal Assistance. This Republican Senator has urged that the restriction on the use of non-Federal money be lifted so that Pine Tree can be called to testify before the committee.

I do not understand why we would seek to preclude non-Federal funds from being used in a way that will actually, hopefully, avoid lengthy court battles. We are talking about the possibility of turning Medicaid over to the States in the way of a block grant and reforming a host of critical social programs. During these reform efforts, the States will be adopting regulations and proposals that would have an impact upon the lives of those that the programs are designed to serve. Yet, the very lawyers who would be called upon to help the poor are relegated to bringing lawsuits or to representing them in court, when in fact their expertise would be helpful to legislators that formulate policies, to agencies that implement the programs, and to lawmakers who seek some clarification in fairly esoteric areas of the law.

This amendment is very simple. It says that legal services organizations across the country are not precluded from using non-Federal funds for the purposes of testifying at legislative hearings, commenting on administrative regulations, and responding to requests for information from public officials.

Mr. President, there have been a number of restrictions included in the bill to preclude activities which the Congress has decided that no longer should be carried out by legal services attorneys. But it seems to me that this list of restrictions should not include a blanket prohibition on the participation of attorneys representing the poor before legislative bodies.

So I hope that this amendment will be supported by a wide variety of our colleagues because it does not present a threat to the proponents of restricting activities of legal services lawyers. Rather, it will ultimately be beneficial to lawmakers and government officials who are seeking to craft programs that will have a direct impact upon the poorest of our society.

So I hope that my colleagues will join Senator BUMPERS and myself in supporting this legislation.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I was wondering if the Senator from Maine would be willing to enter into a time agreement and have a specific vote at 6:30 on this?

Mr. COHEN. What time?

Mr. GREGG. At 6:30.

Mr. COHEN. Does Senator BUMPERS have any objection to a time limitation on this?

Mr. BUMPERS. What was the request?

Mr. GREGG. A vote at 6:30.

Mr. BUMPERS. It is fine with me. We can probably do it in less time than that.

Mr. GREGG. Mr. President, I withdraw my request.

Mr. COHEN. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me begin by saying I hope the Senator from New Hampshire and the senior Senator from Texas will look very carefully at this amendment and accept it. It is not only a harmless amendment, it is a very beneficial amendment.

It is an amendment that corrects a problem that apparently was not foreseen. It would be difficult for me to believe that the Congress intended that Legal Services Corporation grant recipients not even to be permitted to testify if a congressional committee asked them to, or to respond to the committee's questions.

Let us assume that the Senator from New Hampshire wanted the answer to a question about a lawsuit brought in New Hampshire in which a Legal Services grantee was involved. They would not even be able to answer it. The Senator from Maine has crafted this amendment in a way that could offend nobody in Congress because it allows Legal Services grantees use only non-Federal funds to respond to inquiries. They can only use money that the grantee has received from non-Federal sources to answer specific questions in writing.

To me, what we have done to the Legal Services Corporation is a real travesty, but I am not here to reopen that debate. But, Mr. President, just to give you some idea of what we did, we put 19—count them—19 specific restrictions on the Legal Services Corporation of things that they have always done and can no longer do.

We had never before restricted the Legal Services Corporation on any of those things as long as they were using their own self-generated money. But now the way the bill is crafted, the Presiding Officer or any Member of the Senate or any of the committees of the Senate could call a Legal Services grantee and ask them for information, and the way the bill is crafted now they could not answer it.

What kind of nonsense is that? This amendment simply says that the Legal Services professionals can respond to specific requests for comment on proposed rules, or legislative proposals, if they are asked and if they have comments to offer. We are a lot better hearing from them during the rulemaking process than we are hearing their arguments later in the courtroom.

This amendment precludes lobbying. There are two things, it seems to me, that have really caught the attention and the exasperation of the Senate more than anything else—one is lobbying by the Legal Services Corporation and its grantees and the other are class actions.

I sit on the appropriations subcommittee that funds them, so I can tell you, it has been draconian what we have done to them. But consider the fact that unless this amendment is adopted, those Legal Services providers will be prohibited from responding even to congressional inquiries about their activities. Think about that. You cannot even ask them about their activities because they would be prohibited from answering. The way the law is drafted now, they will not be able to appear at hearings to answer questions.

So, Mr. President, the amendment permits only specific responses to specific written requests for information by State legislators, by Members of Congress and committees of Congress, or agency officials. And the response can be made only to the official who made the inquiry. I do not think I have ever argued for an amendment that was needed as badly as is this one. I cannot imagine it not being accepted. I hope it will be, and we can get on to another amendment. Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, I support this amendment. It is a very modest amendment to allow legal service providers who receive non-Federal funds to participate in a very limited way in responding to areas which are of interest on the legislative process and representation of the poor.

The pendulum has swung very far in opposition to the representation of the poor from community legal services because of concerns which have arisen over their representation of plaintiffs in class actions or over other kinds of representation.

We have really come a long way, Mr. President, in our society in relatively few years. It has only been since 1963, in the landmark case of Gideon versus Wainwright, that an individual was entitled to representation in a criminal case, as Justice Hugo Black put it, before he was hauled into court.

Before that time, in a criminal case there was no requirement there be a defense counsel except in capital cases. Now we have seen evolve, with community legal services, broader legal representation of the poor, a much needed, highly controversial subject which has occupied much floor time and debate here. By and large, we have maintained representation for the poor. Now there is a restriction which goes much, much too far.

To have an amendment that says a recipient may use funds derived from sources other than the Legal Services Corporation to comment on public rulemaking, which is a very limited matter, hardly inspiring litigation, or to respond to a written request for information or testimony from a Federal, State, or local agency, legislative body or committee, or a member of one of those entities, so long as the response is made only to the parties that make the request, and the recipient does not arrange for the request to be made, is extraordinarily limited and circumscribed.

I hope this amendment could be accepted; if not, that there be a very strong vote in support of this amendment. I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3502 TO AMENDMENT NO. 3466

(Purpose: To require that contracts to carry out programs of assistance for Bosnia and Herzegovina using funds appropriated for that purpose be entered into only with corporations and other organizations organized in the United States)

Mr. FAIRCLOTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] proposes an amendment numbered 3502.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 751, line 7, insert after "1974:" the following: "*Provided further*, That contracts to carry out programs using such funds shall, to the maximum extent practicable, be entered into with companies organized under the laws of a State of the United States and organizations (including community chests, funds, foundations, non-incorporated businesses, and other institutions) organized in the United States:".

Mr. FAIRCLOTH. Mr. President, this amendment is very simple. The bill provides $200 million in foreign aid for Bosnia. Much of the money will be used to reconstruct Bosnia. This amendment requires, to the maximum extent possible, any contract derived from the aid from this $200 million should go to American businesses or organizations. It is not mandatory, but to the greatest extent possible, this money should come back to American businesses.

This amendment has been cleared on both sides. I am told the administration does not oppose it. I urge its adoption.

Mr. GORTON. Mr. President, I am informed that the amendment proposed by the Senator from North Carolina has been cleared by both sides. Both sides accept it, and it can be adopted by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3502) was agreed to.

Mr. GORTON. I move to reconsider the vote.

Mr. FAIRCLOTH. I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3503 THROUGH 3507, EN BLOC, TO AMENDMENT NO. 3466

Mr. GORTON. Mr. President, I send a package of five amendments to the desk and ask they be made in order, notwithstanding the fact, in one instance, one of the amendments amends an amendment already numbered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the en bloc amendments.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes amendments Nos. 3503 through 3507, en bloc, to amendment No. 3466.

Mr. GORTON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3503 through 3507), en bloc, are as follows:

AMENDMENT NO. 3503

(Purpose: To partially restore funds in the Department of the Interior's and the Department of Energy's administrative accounts)

On page 405, line 17, strike "$567,152,000" and insert in lieu thereof "$567,753,000".

On page 412, line 23, strike "$497,670,000" and insert in lieu thereof "$497,850,000".

On page 419, line 22, strike "$1,086,014,000" and insert in lieu thereof "$1,084,755,000".

On page 424, line 21, strike "$729,995,000" and insert in lieu thereof "$730,330,000".

On page 428, line 6, strike "$182,339,000" and insert in lieu thereof "$182,771,000".

On page 447, line 7, strike "$56,456,000" and insert in lieu thereof "$57,340,000".

On page 447, line 13, strike "$34,337,000" and insert in lieu thereof "$34,516,000".

On page 474, line 21, strike "$416,943,000" and insert in lieu thereof "$417,092,000".

On page 475, line 21, strike "$553,137,000" and insert in lieu thereof "$553,240,000".

On page 440, line 19, strike "March 31, 1996" and insert in lieu thereof "September 30, 1996".

Mr. GORTON. Mr. President, the purpose of this amendment is to partially reinstate funds to the Department of the Interior and Department of Energy administrative accounts. Accounts within those departments were reduced to offset C&O Canal repair and park maintenance. Due to the lateness in the year, it is recognized that the Department of the Interior's Departmental Office account and the Office of the Solicitor account need flexibility to move funds within those two offices. Therefore, the reduction areas for those two offices are not identified.

The amendment changes the availability of $8 million of unobligated and unexpended funding within the operation of Indian programs from March 31, 1996. These funds would have otherwise expired as of September 30, 1995. The availability of the funding has been extended to help cover employee severance, relocation, and related expenses. The amendment is necessary because of the delay in the completion of the fiscal year 1996 Interior appropriations bill.

AMENDMENT NO. 3504

(Purpose: To provide emergency funding for the U.S. Fish and Wildlife Service to repair dmage caused by flooding in Alaska)

On page 740, line 6 of the bill, strike "$34,800,000" and insert "37,300,000" in lieu thereof.

Mr. GORTON. Mr. President, Senator STEVENS amendment provides an additional $2.5 million to the Fish and Wildlife Service construction account in the emergency supplemental appropriations title of this bill. These funds would be used to repair flood damage to Fish and Wildlife Service facilities along the Kenai River in Alaska. I have been informed by the Fish and Wildlife Service that these projects would have been included in the Department's emergency request to the Office of Management and Budget, but that the extent of the damages was not known in time.

AMENDMENT NO. 3505

On page 740 of the bill, insert the following after line 3:

RESOURCE MANAGEMENT

For an additional amount for Resource Management, $1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers and other agencies on fish and wildlife habitat issues related to damage caused by floods, storms and other acts of nature: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Mr. GORTON. Mr. President, Senator KEMPTHORNE's amendment provides $1.6 million to the Fish and Wildlife Service's Resource Management account in the emergency supplemental appropriations title of this bill. These funds would enable the Fish and Wildlife Service to provide technical assistance on fish and wildlife issues to FEMA, the Natural Resources Conservation Service, the Corps of Engineers, and other agencies involved in disaster response.

AMENDMENT NO. 3506

On page 480, line 14, after "*Provided*," insert "That of the funds provided, $800,000 shall be used for inhalant abuse treatment programs to treat inhalant abuse and to provide for referrals to specialized treatment facilities in the United States: *Provided further*,".

AMENDMENT NO. 3507

On page 744, beginning on line 1, strike "emergency" through "Mine" on line 2, and insert in lieu thereof the following: "response and rehabilitation, including access repairs, at the Amalgamated Mill".

Mr. GORTON. These amendments, Mr. President, have also been cleared on both sides. They consist of a Gorton amendment restoring funds to administrative accounts within the Interior bill and changing the date for availability of Bureau of Indian Affairs funds that otherwise would expire on September 30, 1995; second, a Stevens amendment providing funds for flood damage to Fish and Wildlife Service facilities on the Kenai River; third, a Kempthorne amendment to provide emergency funds that will enable the Fish and Wildlife Service to provide technical assistance to other agencies involved in disaster response; a Daschle amendment providing funds to the Indian Health Service for inhalant abuse treatment; and a Hatfield amendment on an amalgamated mill site.

I ask they be adopted en bloc, with each description printed in the RECORD.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

So the amendments (Nos. 3503 through 3507), en bloc, were agreed to.

Mr. GORTON. I move to reconsider the vote, and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, after consultation with the Democratic leader, I ask unanimous consent that all remaining first-degree amendments in order to H.R. 3019 under the previous consent agreement must be offered by 8 p.m. this evening—I emphasize offered by 8 p.m. this evening—with the exception of the managers' package, two amendments by the majority leader, and two amendments by the Democratic leader, and one each for the managers of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAMM. I suggest the absence of a quorum.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold his request?

The Senator from California.

PRIVILEGE OF THE FLOOR

Mrs. BOXER. First, Mr. President, I ask unanimous consent that Elyse Wasch of my staff be granted privilege of the Senate floor during the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3508 TO AMENDMENT NO. 3466

(Purpose: To permit the District of Columbia to use local funds for certain activities)

Mrs. BOXER. Mr. President, I discussed this with the manager, Senator GORTON. At this time I ask that the pending amendment be laid aside, and I will send to the desk an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mrs. MURRAY, proposes an amendment numbered 3508 to amendment numbered 3466.

On page 222, line 4, insert "Federal" before "funds".

Mrs. BOXER. Mr. President, thank you very much.

I am perfectly willing to agree to a short time agreement because I know the manager is anxious to move on. I would be happy to agree to 10 minutes on a side for this amendment. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Mr. President, I think that the offer made by the Senator from California is an appropriate one as far as I can tell. As a consequence, we will agree to 20 minutes equally divided, 10 minutes on a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. May I ask that there be no second-degree amendments permitted on my amendment. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Mr. President, for the moment—because I know there is an opponent of this amendment—I am not going to be able to agree to that. I hope we will be able to do so very shortly.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. I do not believe anyone will, in fact, make a second-degree. I think there will be opposition. But it is very difficult for me to accept this time agreement where we will be able to just talk 10 minutes on each side, if I do not have an agreement about second-degree amendments, I am going to have a problem.

Mr. GORTON. Then I suggest that the Senator from California simply proceed with her argument, and we will see what we can do with that unanimous-consent request.

Mrs. BOXER. I thank the manager very much. I do not believe we are going to have a problem. It is a very straightforward amendment which I would like to explain.

As I understand the comments of the Senator from Washington, at this time we are not operating under a time agreement, and I will just proceed.

The PRESIDING OFFICER. The Senator from California should know that the Senate is still under a time agreement as a result of unanimous consent.

Mrs. BOXER. I ask unanimous consent that the unanimous consent be vitiated given the fact that we were not able to get agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER. Thank you, Mr. President. I will not take a great deal of time. This is a very simple, straightforward amendment.

Mr. President, my amendment would restore the current law, the law that we have lived under since 1993, as it pertains to abortion funding policy for the District of Columbia.

In 1993, this body decided no Medicaid funding could be used for abortion but that, in fact, the District of Columbia was free to use its locally raised revenue as it saw fit. So that if women who did not have the ability to pay for an abortion—they were in trouble, they were in crisis, and they needed help—they would be able to get it. That policy has been overturned by this Congress in this continuing resolution, and it started in December.

So right now the District of Columbia is treated quite differently than any other city or State in this great country. It is the only jurisdiction, Mr. President, in the country which is told that it cannot use its locally raised funds as it sees fit.

All I do with this amendment is clarify that point by saying no Federal funding can be used for abortion in Washington, DC, except for rape, incest, and the life of the mother.

So there is still a very broad prohibition on Medicaid funding—which I have to say to my friend I certainly do not support, but I know that the votes are not here to change that prohibition on Medicaid funding.

So I am addressing this amendment just to the District's locally raised funds. What we say by way of my amendment is the District of Columbia should be treated as every other jurisdiction—have the right to make local funding decisions as it decides.

What we have here now is that none of the funds appropriated under the act shall be expended for any abortion, except where the life of the mother would be endangered if the fetus were carried to term, or if the pregnancy is a result of an act of rape or incest. What my amendment says is that none of the Federal funds—which means that the District of Columbia funds which are locally raised—could be used if the people in D.C. decide that is the proper policy.

I want my colleagues to understand that what I am offering is not a change really at all. It is going back to the way the law was since 1993.

I have stood on this floor, and I have listened to my friends on the other side of the aisle talk quite eloquently about the importance of letting State and local jurisdictions decide how to spend their own revenue. As a matter of fact, they talked about getting Federal funds as a block grant and deciding how to expend the Federal funds that are in a block grant. In other words, the virtue of local control seems to really be a strong point on the other side of the aisle except when it comes to women's reproductive health care. When they now say that the locally raised funds cannot be used for abortion, I think it is inconsistent at its best and I think it is mean spirited at its worst.

I want to quote one friend of mine, Senator GREGG, Republican Senator from New Hampshire, who said in another context—I am quoting directly from the RECORD:

> Federal programs should be returned to the States to be operated as State programs with the flexibility being given to the State government where there is as much compassion as in Washington to deliver these services to the needy and to the more needy.

That is a statement from January 3, 1996, so here is a Senator from New Hampshire saying that the local people are just as compassionate and should make the decisions on how to serve the needy, and my amendment says you are right, Senator GREGG, that is what we ought to be doing. And that is in fact what the District of Columbia has been doing with its locally raised revenues since 1993. They have determined that since there is a ban on Medicaid funding for abortion except in rare circumstances, they would come to the rescue, if you will, when women find themselves in deep trouble, deep trouble, and make an agonizing choice, which is their own choice, and they will stand by their side. I think it is wrong for us to dictate to the District on this issue.

Again, I think it is most inconsistent. So if the Boxer amendment passes here, the District would have the ability to spend its own money the way it wishes in terms of providing reproductive health care services of abortion to low-income women.

Now, I have to say that in this bill we are denying abortion services to low-income women, and I think that simply stops them from exercising their right to choose. The right to choose means nothing, Mr. President, even with Roe v. Wade and subsequent decisions affirming Roe v. Wade, if you cannot afford to get an abortion and there is nobody there to help you.

In its wisdom, this Congress says no Medicaid funding may be used for abortion except in certain circumstances, in narrow circumstances. I oppose that. I do not have the votes to overturn that. Maybe someday I will have those votes. Maybe someday we will have a pro-choice Senate and a pro-choice House. We do not have that right now. But, at the minimum, we should not be telling the District of Columbia what to do with its own funds.

So, Mr. President, I am going to hope that there will be no second-degree amendment to my amendment at this time. I urge my colleagues to accept my amendment and let the District of Columbia decide how to spend its locally raised revenues without congressional interference.

Mr. President, I would like to ask the manager of the bill what he has in mind in terms of how to deal with my amendment. I am anxious to get it voted on or set aside to be voted on. I do not think we need to have much debate unless there are many who wish to speak.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I appreciate the courtesy of the Senator from California in her desire to move this entire matter forward.

I see the Senator from Indiana is in the Chamber, and I say, Mr. President, that the Senator from California was willing to agree to 10 minutes to a side and no second-degree amendments. We did not want to make that agreement without the presence of the Senator from Indiana. And now, if the President will inquire of the Senator from Indiana, we will see if we can get an agreement on disposing of this amendment.

Mr. COATS. If the Senator will yield, I just walked in the Chamber and I am not 100 percent sure of even what the amendment says. I think I have the gist of what the amendment is, and I think that there are probably a number of Senators who may want to speak on the amendment. I could easily check that and try to find out within the next few minutes as to whether or not that is the case and whether or not a reasonable time limit would entertain. But I cannot speak for other Members. I would like to speak in opposition to this amendment, but I cannot speak for other Members, and I am not prepared to agree to a time limit at this particular point.

Mrs. BOXER. If I might take back my time.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. Mr. President, at the present time, as I understand it, there is no time agreement, so the Senator from California has not forfeited any rights to further time. And so I hope we are going to be able to arrange a time agreement relatively soon, but obviously we cannot do so right now.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, the reason I obtained the floor—I just asked if the Senator would answer a question for me—is because I spoke to the Senator from Indiana yesterday about my intention on this. I hope he realizes I am proceeding in good faith. I am trying to make the point that we should go back to the 1993 law that said that although Medicaid funding could not be used, no Federal funding could be used for abortion, that the District would have the ability to decide what they wanted to do with their local funds without being dictated to. In fact, we now change the law and we tell them they may not use their own funds.

I am very happy to agree to any time agreement that the Senator feels is reasonable, but I would like to at least get an agreement that there not be any second-degree amendments.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. As I said before——

Mrs. BOXER. I would yield to my friend for a question—or a comment.

Mr. COATS. I thank the Senator. I appreciate the Senator from California yielding.

As I indicated before, I can speak for myself. I cannot speak for others. It is true that the Senator spoke to me about offering the amendment. In the context of what we are doing here, a time limit is reasonable. It is just that I cannot speak for other Senators who I know would want to speak in opposition to the Senator's amendment. I would be happy to check with those Senators and try to get an answer back to the Senator from California and announce to the Senate a reasonable time agreement.

In answer to the Senator's other point, it appears to me that the Senator's amendment attempts to extend the rights that our States, 50 States do not have to the District of Columbia. This Senator is not prepared to do that. I do not know if other Senators are prepared to do that.

I think that question has to be addressed in the Chamber as well as the viability of the commingling, of extending the full abortion rights to the District of Columbia when we are not really certain how the funds are commingled between District funds and Federal funds. Everybody knows that the District of Columbia is bankrupt. We do not know how they are applying the funds or what Federal funds they are going to be getting or how the services would be funded or how the funds would be separated. I think there a number of questions that have to be asked.

In response to the Senator's question, I would be happy to try to ascertain what response other Senators might want to give.

Mrs. BOXER. I would like to take back my time and thank my colleague.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Clearly, there is much that could be debated on this. I, for one, do not see it as so complicated because every city and every county in America has the ability to use its own funds. When I am in working in Washington I have an apartment in the District of Columbia, where I stay. If I park in the District of Columbia and a meter runs out, I pay a fine to the District of Columbia, and therefore they clearly have their own locally raised funds.

My colleague is right. I do not believe that they should be treated differently than any other city, any other county, and any other State vis-a-vis the ability of any city, county, or State to use their own locally raised money as they will.

For example, I was on the board of supervisors of a county, a suburban county north of San Francisco, a beautiful place called Marin County, and the board of supervisors there quite unanimously—we came from different parties, different views—did give funding to Planned Parenthood for their clinic in which they, in fact, provided family planning services. They also provided abortions.

Now, that is a county. We do not stand up here and say that county cannot use its own legally raised funds in any way to assist Planned Parenthood.

If I might ask the manager, in an attempt to be as helpful as I can in moving the process, would it suit the manager's purposes if I asked unanimous consent to lay this amendment aside? If I can ask that question without losing my right to the floor, if that would help my friend, then I would be glad to ask that it be laid aside with no second-degree amendments allowed until we take it up again.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. The first part of the request by the Senator from California is perfectly acceptable. But as I heard the remarks from the Senator from Indiana, he is not prepared to say there will not, under any circumstances, be a second-degree amendment.

Certainly we can lay this amendment aside now while the contending parties try to reach an agreement on how it will be dealt with, and go on to something else. I have, for example, a short colloquy I would like to enter.

If the Senator from California would like to lay the amendment aside, recognizing she will certainly be recognized again to bring it back up and she has forfeited none of her rights?

Mrs. BOXER. Mr. President, I ask unanimous consent the amendment be laid aside until it is brought back.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Washington.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3509 TO AMENDMENT NO. 3466

Ms. MIKULSKI. Mr. President, I ask unanimous consent to lay aside the pending amendment so I may offer an amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 3509 to Amendment No. 3466.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike page 692, line 21 through page 696, line 2, and insert:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: *Provided*, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a) (4)): *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further*, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further*, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): *Provided further*, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): *Provided further*, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: *Provided further*, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs.

SENSE OF SENATE

It is the Sense of the Congress that accounting for taxpayers' funds must be a top priority for all federal agencies and government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

On page 624 of the bill, line 10, strike "$10,103,795,000" and insert "$10,086,795,000", and on page 626, line 23, strike "$209,000,000" and insert "$192,000,000"

Ms. MIKULSKI. Mr. President, this is an amendment on national service, which we will not debate at this time. I wish to just file it while we are continuing our conversation with the subcommittee chairman, so I, therefore, ask unanimous consent the amendment be temporarily laid aside, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3496 TO AMENDMENT NO. 3466

Mr. GORTON. Mr. President, I ask unanimous consent the pending amendment be laid aside and I call up amendment No. 3496.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself and Mrs. MURRAY, proposes an amendment numbered 3496 to Amendment No. 3466.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SECTION 1. DESIGNATION.

The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in section 1 shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center."

Mr. GORTON. Mr. President, as was the case with the distinguished Senator from Maryland, I simply want this amendment to be considered as proposed, against the unanimous consent that will limit amendments in the future, that I hope fervently soon will be adopted.

With that, it having been proposed, I ask unanimous consent it now be laid aside for consideration later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, what is the pending business?

The PRESIDING OFFICER. All the amendments have now been temporarily set aside.

AMENDMENT NO. 3501

Mr. GRAMM. Mr. President, I would like to go ahead and speak in opposition to the Cohen-Bumpers amendment, while we are here waiting for some resolution on other issues.

Would that be in order?

The PRESIDING OFFICER. Yes, it would be in order.

Mr. GRAMM. Mr. President, we have had an amendment offered by Senator COHEN, on behalf of himself and Senator BUMPERS. What their amendment does is it seeks to empower the Legal Services Corporation to engage in commenting on public rulemaking, testifying before legislative committees, briefing regulators and legislators on pending bills and legislation. Let me try to give our colleagues a little history of where we have come from, because I think this is typical of the problem we have in dealing with an agency like the Legal Services Corporation.

When the Commerce, State, Justice bill was reported out of the Appropriations Committee, I am proud to say that we killed the Legal Services Corporation. In subcommittee, a level of funding for legitimate legal aid was entered into as a compromise, and the bill came to the floor. Then Senator DOMENICI, the Senator from New Mexico, offered an amendment to restore the Legal Services Corporation and provide more money for it, but as part of that amendment he restricted what the Legal Services Corporation could do. Those limitations were not as great as those that we had coming out of committee, but the point is, in that amendment he banned the Legal Services Corporation from lobbying and from engaging in the process of debating rulemaking.

I remind my colleagues, the objective of the Legal Services Corporation is to provide legal services to poor people. As we all know, the Legal Services Corporation has become very heavily involved in public policymaking. The Legal Services Corporation files lawsuits against election dates, they file lawsuits involving numerous areas where people are trying to engage in their relationship with each other, and they have become very heavily involved in lobbying and in testifying before committees and doing other things that have nothing to do with their narrow mandate.

Senator DOMENICI offered an amendment to raise their level of funding, which I opposed. I spoke against it. We had a long and spirited debate on it and I lost. Senator DOMENICI's provision prevailed. It provided more money, but with strict limits on what the Legal Services Corporation could do.

The appropriations bill that is before us adds $22 million for the Legal Services Corporation above the level agreed to in conference. In addition, in the contingency section of the bill, the Legal Services Corporation would get another $9 million.

Now we have an amendment by Senator COHEN and by Senator BUMPERS that seeks to lift the restrictions on the Legal Services Corporation.

Granted, there is a figleaf which seeks to differentiate between what

Senator DOMENICI has done and what they are doing, and that figleaf is that it allows them to do these things if anyone asks them to do it in a written request.

Mr. President, that is obviously going to happen. This amendment is going to eliminate the restrictions in the Domenici amendment, and my colleagues who offered this amendment both voted for the Domenici amendment.

So, what we are saying here is we had a debate about killing the Legal Services Corporation. That was successful in committee. An amendment was offered on the floor that said, "OK, we'll give them this money, but only under strict limitations to see that they do what their mandate is."

That amendment was adopted. As far as I know, all the supporters of this amendment voted for it.

Then we came in and added another $31 million to Legal Services Corporation in this bill, and now we are going back and lifting the restrictions so that the Legal Services Corporation will be able to spend the money on lobbying largely unencumbered and can, in fact, get back into exactly the kind of activities that the Domenici amendment at least claimed to prohibit.

Could the Domenici amendment have been adopted had this provision been part of it? My guess is it could not.

I do not know where the votes are on this. I am opposed to the Legal Services Corporation because I think it is a runaway Government program which spends entirely too much time and energy and money promoting political and social causes that are not part of its mandate. We live in a great free country. If someone wants to promote their views and philosophy and values, they have a right to do it, but they do not have a right to do it with the taxpayers' money.

I thought we had restrictions that were reasonable under the Domenici amendment. We are now in the process of lifting those restrictions. I am strongly opposed to this amendment and hope to see it defeated.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am saddened by the position taken by the Senator from Texas.

Mr. President, was I recognized?

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. SIMON. Mr. President, I wonder if my colleague will yield so I may offer two amendments and ask unanimous consent that they be set aside.

Mr. BUMPERS. Absolutely.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENTS NOS. 3510 AND 3511 TO AMENDMENT NO. 3466

Mr. SIMON. Mr. President, I offer these two amendments, and I send them to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes amendments numbered 3510 and 3511 to amendment No. 3466.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3510

On page 771, below line 17, add the following:

SEC. 3006. (a) Subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding after paragraph (3), flush to the subsection margin, the following: "Notwithstanding any other provision of law, including the matter under the heading 'NATIONAL SECURITY EDUCATION TRUST FUND' in title VII of Public Law 104–61, the work of an individual accepting a scholarship or fellowship under the program shall be the work specified in paragraph (2), or such other work as the individual and the Secretary agree upon under an agreement having modified service requirements pursuant to subsection (f).".

(b) Such section is further amended by adding at the end the following:

"(f) AUTHORITY TO MODIFY SERVICE AGREEMENT REQUIREMENTS.—The Secretary shall have sole authority to modify, amend, or revise the requirements under subsection (b) that apply to service agreements.".

(c) Subsection (a) of such section is amended by adding at the end the following:

"(5) EMPLOYMENT OPPORTUNITY OUTREACH.—The Secretary shall take appropriate actions to make available to recipients of scholarships or fellowships under the program information on employment opportunities in the departments and agencies of the Federal Government having responsibility for national security matters.".

AMENDMENT NO. 3511

On page 582, line 14, strike "$1,257,134,000" and insert "$1,257,888,000".

On page 582, line 16, before the semicolon insert the following: ", and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991".

On page 582, line 16, strike "$1,254,215,000" and insert "$1,254,969,000".

On page 587, line 15, strike "and III" and insert "III, and VI".

On page 587, line 17, strike "$131,505,000" and insert "$139,531,000".

On page 587, line 20, before the semicolon insert the following: ", and of which "$8,026,000 shall be available to carry out title VI of the Library Services and Construction Act and shall remain available until expended".

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

On page 592, line 7, strike "$196,270,000" and insert "$201,294,000".

On page 592, line 7, before the period insert the following; ", of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973".

Mr. SIMON. Mr. President, I ask unanimous consent that the amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. I thank my colleague.

AMENDMENT NO. 3501

Mr. BUMPERS. Mr. President, if I may have the attention of the Senator from Texas for a moment, there is no point belaboring this issue. I want to make three or four salient points.

First, the 19 restrictions that were put on the Corporation's grantees are not touched in this amendment. They are still intact. Many of them deal with lobbying.

Second, no Federal funds can be used to carry out the actions permitted by this amendment. Only non-Federal funds received by a grantee may be used.

Third, the request has to come from a legislator, a Member of Congress, or an agency to a grantee. Let me give the Senator from Texas this illustration.

Let us assume that in the State of Texas the legislature thinks that the Legal Services Corporation's grantees in that State are doing a super job, but the Federal funds have been cut off, we have reduced Legal Services Corporation funding.

Let us assume the Texas State Legislature wants to give a few million dollars to some of the Legal Services Corporation grantees, but before doing so, they would like for some of those people to come in and testify as to what their activities have been and maybe limit the use to which they can put the money the legislators propose to give them.

First, they have to make a request, we will say, of the Dallas grantees, Legal Services of Dallas. If the State Legislature of Texas or a legislator or a committee wants to ask that grantee to come in, they would have to direct it in writing and the grantee would have to respond to that specific request, and only money that the grantee had generated on its own—not Federal money, money of its own—could be used to answer a written inquiry.

It seems to me almost ludicrous to say we are not going to allow a committee of Congress or a State legislative committee or a Senator or a State legislator to get information that they need to make these decisions, particularly when the grantees are using their own money.

What kind of a fix would we be in here? The Legal Services Corporation can come in and testify before the Senator's committee and tell him why they think they need more money, but a grantee could not. The Senator from Texas, as chairman of this committee, can write to the head of the local Legal Services provider in Dallas and say, "Please come forthwith before my committee and testify."

As the bill is drafted, even if he submitted it in writing, they could not honor that request.

I sit on the Appropriations Subcommittee that able Senator from Texas chaired. I was there when the debate took place about how much we were going to give the Legal Services Corporation, and I, indeed, did support Senator DOMENICI's amendment. I never heard of such unintended consequences.

All Senator COHEN and I are doing is trying to redress a problem that we believe the Senate did not intend to cause. Our amendment does not in any way allow grantees or the Corporation to do anything to avoid complying with those 19 specific restrictions. I hope the Senator from Texas will reconsider.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Texas.

Mr. GRAMM. Mr. President, let me remind my colleagues that the restrictions imposed in the Domenici amendment applied to all funds at the Legal Services Corporation, not just taxpayer funds. We have spent years debating this issue when the Legal Services Corporation has gotten involved in labor disputes, when the Legal Services Corporation has gotten involved in the politics of disputing election dates, when the Legal Services Corporation has become involved, basically, in political and partisan causes.

It has often reminded me of an analogy you might have of the pastor of the First Baptist Church going to the Baptist student union and he discovers a brothel in one of the back rooms. The argument that would be made by the Senator from Arkansas is, "Well, it just so happens that we didn't use the money from the Baptist Church for that room. Actually, only 80 percent of our budget comes from the Baptist Church, and that room was not part of the funds that came from the Baptist Church, and the electricity it used, and the natural gas for heating were not part of that budget."

The point is, no pastor would ever buy into that logic. So when the Domenici amendment was offered, it recognized this problem and said, "If you take taxpayer money, your job is to represent poor people, your job is not advocating political causes." That was the purpose of the Domenici amendment.

If our colleague from Arkansas was willing to limit this to simply appearing before committees to ask for money, I might be willing to agree to that. But clearly he is not going to agree to that limitation. When you allow the Legal Services Corporation to be involved in all of these activities based on a written request, what you are doing is circumventing the limitations that we imposed in the Domenici amendment.

So, we first get the money by saying we are going to restrict the activities, and then we come back in a second amendment and we take the restrictions off. It seems to me that those who voted for the Domenici amendment basically had put together a deal that they wanted the money, the money was supposed to go to help poor people get legal services, and they were willing as part of that to have strict limits on what the Legal Services Corporation could do with its money. It could not lobby, it could not be involved in political activities. There were a series of other restrictions that were included, including restrictions not just on the Federal money but all money commingled with it. We are now seeing an effort to undo that. I am opposed to it. I think this is bad policy. I do not know where the votes are, but if this amendment is voted on, and I intend to vote against it.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I ask unanimous consent that I may submit an amendment.

The PRESIDING OFFICER. The amendment will be submitted and numbered.

Mr. THOMAS. Mr. President, if none of my colleagues are asking for time, I wish to discuss the amendment.

The PRESIDING OFFICER. The Parliamentarian informs the Senator from Wyoming that he has not reserved the right to debate the submitted amendment pursuant to the unanimous-consent agreement at the desk.

Mr. THOMAS. Then, I guess I cannot do it. I ask the Presiding Officer what the arrangement is going to be now. We have a limited amount of amendments that can be proposed?

The PRESIDING OFFICER. Yesterday, there was a unanimous-consent agreement that was entered into reserving the right to offer amendments by certain named Senators. The name of the Senator from Wyoming was not included in that.

Mr. THOMAS. Mr. President, I ask unanimous consent to have it considered.

Mrs. BOXER. I object temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, before I send an amendment to the desk and ask for its immediate consideration—well, I ask unanimous consent to temporarily set aside the current pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Before I send this amendment to the desk and ask for its immediate consideration, might I inquire as to whether this Senator's name is on that list?

The PRESIDING OFFICER. The name of the Senator from Indiana is on the list.

Mr. COATS. This Senator is pleased to hear that information.

AMENDMENT NO. 3513 TO AMENDMENT NO. 3466

(Purpose: To amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana [Mr. COATS], for himself and Mr. GRAMS, proposes an amendment numbered 3513 to amendment No. 3466.

Mr. COATS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—With respect to the State government involved, or the Federal Government, restrictions under subsection (a) include the restriction that, in granting a legal status to a health care entity (including a license or certificate), or in providing to the entity financial assistance, a service, or another benefit, the government may not require that the entity fulfill accreditation standards for a postgraduate physician training program, or that the entity have completed or be attending a program that fulfills such standards, if the applicable standards for accreditation of the program include the standard that the program must require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) VOLUNTARY ACTIVITIES.—Nothing in this section shall be construed to—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions;

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals or entities who have voluntarily elected to perform abortions; and

"(iii) affect Federal, State or local governmental reliance on standards for accreditation other than those related to the performance of induced abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

Mr. COATS. Mr. President, I do not intend to debate this amendment at this particular time. I have been in negotiations with the Senator from California relative to her amendment. We are attempting to work out an agreement whereby we can offer our amendments for a limited period of debate and prevent second degrees from being offered so that the amendments can be dealt with on their merits and voted on an up-or-down basis. I want to put the amendment in place so that when we reach that agreement we can proceed on that basis. I will just very briefly describe this amendment, without debating it, for my colleagues' information.

Until January 1, 1996, the Accrediting Council for Graduate Medical Education did not require that a hospital train its residents to perform induced abortions. Such training, if it was necessary, was done on a voluntary basis. On January 1, 1996, the accrediting council changed its standards and now requires those facilities and residents to undergo training in induced abortion procedures in order to receive its accreditation.

As a consequence, most Federal Government rules regarding reimbursement to these hospitals and regarding grants and loans available to residents and resident training programs are pegged to the hospitals and training programs receiving the accreditation of the Accrediting Council for Graduate Medical Education. These facilities, if they choose not to require this abortion training, will lose their Federal funding.

It is important that they retain this. While there is a conscience clause exemption, obviously that does not apply to secular hospitals, most of which do not require mandated abortion training. That is the essence of the amendment. It is a nondiscrimination amendment which would prevent any government, Federal or State, from discriminating against hospitals or residents that do not perform, train, or make arrangements for abortions. It would prevent, therefore, governments from denying these providers Medicare reimbursement, loans, or licenses to practice medicine.

It does not—it is important for my colleagues to understand this—this legislation does not prevent the accreditation council, a private, quasi-Government accrediting agency, the ACGME, it does not prevent them from promulgating any standard that they wish to promulgate regarding abortion. We are not telling them who to accredit and who not to accredit.

We are simply saying that if they did not accredit because a hospital, for whatever reason—conscience reasons, moral reasons, religious reasons, community standards reasons, business reasons—decided not to mandate the requirement of teaching their residents abortion procedures, that they will not be in a position of losing their funds.

That is a quick summary of the amendment. We probably will have time to debate it more at length, but I did want to offer it and will continue to work with the Senator from California in achieving some type of balanced approach to these two amendments.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I appreciate the fact that the Senator from Indiana and I are really working to try to expedite these issues. They are difficult issues. They are divisive issues in the Senate. We certainly disagree, but we are never disagreeable to each other. I think that if we can devise a way that we can debate the amendments and dispose of them and do it in a way where everybody gets a chance to explain the amendments, I will certainly be happy to agree to reasonable time limits.

Let me just say on the amendment by the Senator—and I am not going to debate at length, as he did not debate at length; I do not intend to do that—it gives me great concern because, in the end, I think what we are going to have is a situation where there will be enormous pressure on hospitals across this country not to teach their residents how to do surgical abortions. I just do not want to go back to the days of the back alleys. I feel this would lead us back to those very dangerous days.

I will not take the Senate's time at this point to debate this at length. I know we will have a chance to do that later.

At this time, I yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from Oregon, notes the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3514 THROUGH 3517, EN BLOC, TO AMENDMENT NO. 3466

Mr. BOND. Mr. President, I send four amendments to the desk en bloc: the first, on behalf of Senator PRESSLER; the second by me, relating to clarifying the rent-setting requirements on housing assistance under section 236; the third, for me, increasing the amount available under the HUD drug elimination grant program; the fourth, by me, to establish a special fund in the Department of Housing and Urban Development to meet milestones in restructuring its administrative organization.

I ask all four amendments be filed and set aside.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes amendments Nos. 3514 through 3517, en bloc, to amendment No. 3466.

Mr. BOND. Mr. President, I ask unanimous consent reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3514 through 3517), en bloc, are as follows:

AMENDMENT NO. 3514

(Purpose: To provide funding for a Radar Satellite project at NASA)

Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

AMENDMENT NO. 3515

(Purpose: To clarify rent setting requirements of law regarding housing assisted under section 236 of the National Housing Act to limit rents charged moderate income families to that charged for comparable, non-assisted housing, and clarify permissible uses of rental income is such projects, in excess of operating costs and debt service)

On page 689, after line 26 of the Committee substitute, insert the following new section:

SEC. . (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

On page 631, after the colon on line 24 of the Committee substitute, insert the following:

"*Provided further*, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate):

Provided further, That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded:".

AMENDMENT NO. 3516

(Purpose: To increase in amount available under the HUD Drug Elimination Grant Program for drug elimination activities in and around federally-assisted low-income housing developments by $30 million, to be derived from carry-over HOPE program balances)

On page 637, line 20 of the Committee substitute, insert the following new proviso before the period:

"*Provided further*, That an additional $30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this program under this heading, without regard to any percentage limitation otherwise applicable".

AMENDMENT NO. 3517

(Purpose: To establish a special fund dedicated to enable the Department of Housing and Urban Development to meet crucial milestones in restructing its administrative organization and more effectively address housing and community development needs of States and local units of government and to clarify and reaffirm provisions of current law with respect to the disbursement of HOME and CDBG funds allocated to the State of New York)

On page 779, after line 10, of the Committee Substitute, insert the following:

MANAGEMENT AND ADMINISTRATION DEPARTMENTAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, $20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: *Provided*, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: *Provided further*, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: *Provided further*, That by February 1, 1997 the Secretary shall certify to the Congress that headquarters on-board staffing levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: *Provided further*, That if the certification of headquarters personnel reductions required by this Act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block grant program.

Mr. BOND. I ask unanimous consent that the amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3518 TO AMENDMENT NO. 3466

Mr. LAUTENBERG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3518 to amendment No. 3466.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3518

At the end of title III, insert:

SEC. . Section 347(b)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (P.L. 104–50), is amended to read as follows:

"(3) chapter 71, relating to labor-management relations,".

Mr. LAUTENBERG. Mr. President, the amendment I have sent to the desk would serve to restore the basic right to organize to thousands of hard-working employees at the Federal Aviation Administration. As many Members are aware, the FAA is poised to announce a substantial restructuring of its personnel system. The authority allowing the FAA Administrator to reform the personnel system was granted as part of the fiscal year 1996 Transportation Appropriations Act. The Administrator was directed to have the new personnel system in place and functional on April 1, 1996.

Unfortunately, the legislative language enabling these reforms to be implemented had the unintended effect of taking away the right of FAA employees to be represented by a union and to have the terms and conditions of their employment negotiated by their union. Obviously, we did not intend this language to have that effect. I raised this concern during conference committee deliberations on the transportation bill. However, it was thought by the House subcommittee leadership that this problem could be addressed in the Statement of Managers. As such, the statement of managers accompanying this provision in the transportation appropriations conference report states unequivocally that, and I quote:

> The conferees do not intend that the personnel management reforms included in this bill, force the disestablishment of any existing management-labor agreement, or lead to the dissolution of any union representing FAA employees.

Regrettably, since that time, our legislative language has been restrictively interpreted by the Federal Labor Relations Authority. Based on their reading, they are refusing to hear any FAA labor dispute cases, effectively leaving the FAA's thousands of employees without recourse or resolution in ongoing cases pertaining to pay and compensation, benefits, and discipline.

The April 1 deadline for implementation of the new personnel system is upon us. If this situation is not resolved by April 1, thousands of FAA employees will be left without the right to organize. As such, I am taking this opportunity to include this technical fix in the continuing resolution in order to ensure its timely passage and avert any further negative impact.

I am pleased to be joined in this amendment by the ranking member of the Senate Commerce Committee, Senator HOLLINGS, and the ranking member of the aviation subcommittee, Senator WENDELL FORD. The FAA reform bill, as reported by the Commerce Committee, would serve to correct this error. However, it is not clear at this time that the Commerce Committee bill can become law before April 1.

Mr. President, we need FAA reform. The procurement and personnel reforms contained in the appropriations bill will assist the FAA in meeting current and future responsibilities for the safety of our aviation system. However, other aspects of the reform agenda have yet to be addressed. Air traffic continues to rise while it becomes more and more difficult each year to fund all of the FAA's needs.

Everyone will be asked to make sacrifices as part of the process of reforming the FAA. And the FAA employees are willing to do their part. They are among the most dedicated employees in the Federal service. But it is unfair in the extreme to deprive them of rights guaranteed to virtually all other Federal employees under Chapter 71, of title 5, United States Code—to organize and be represented in collective bargaining. Rectifying this error will assure these dedicated employees of a fair process for negotiating their grievances and a structured process for resolving disputes.

I am not aware of any opposition to this restoration of rights for FAA employees and I would ask my colleagues to join Senator HOLLINGS, Senator FORD, and me in providing a just remedy by adopting this amendment.

Mr. President, I ask unanimous consent the amendment be set aside for consideration of it at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3484 THROUGH 3488, EN BLOC, TO AMENDMENT NO. 3466

Mr. SANTORUM. I send en bloc amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes amendments Nos. 3484 through 3488, en bloc, to amendment No. 3466.

Mr. SANTORUM. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3484 through 3488), en bloc, are as follows:

AMENDMENT NO. 3484

(Purpose: Expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance)

SEC. . SENSE OF THE SENATE REGARDING THE THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that the Conference on S. 1594, making Omnibus Consolidated Rescissions & Appropriations for Fiscal Year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any federal disaster assistance.

AMENDMENT NO. 3485

(Purpose: Expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance)

SEC. . SENSE OF THE SENATE REGARDING THE THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

SENSE OF THE SENATE.—It is the Sense of the Senate that Congress and the relevant committees of the Senate shall examine the manner in which federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any federal assistance, providing for such funds out of existing budget allocation rather than taking the expenditures off budget and adding to the federal deficit.

AMENDMENT NO. 3486

(Purpose: to require that disaster relief provided under this Act be funded through amounts previously made available to the Federal Emergency Management Agency, to be reimbursed through regular annual appropriations Acts)

(The text of the amendment numbered 3486 is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT 3487

(Purpose: To reduce all Title I discretionary spending by the appropriate percentage (.367%) to offset federal disaster assistance)

At the end of title II of the committee substitute, add the following:

SEC. . (a) Not withstanding any other provision of this title, none of the amounts provided in this title is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(I) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Each amount provided in a nonexempt discretionary spending nondefense account covered by title I is reduced by the uniform percentage necessary to offset nondefense discretionary amounts provided in this title. The reductions required by this subsection shall be implemented generally in accordance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. SANTORUM. I ask unanimous consent that the amendments be set aside.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside so I might send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3519 TO AMENDMENT NO. 3466

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3519 to amendment No. 3466.

Mr. GRAMM. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee substitute, insert the following:

"Notwithstanding any other provision of this Act, no part of any appropriation contained in this Act which is subject to the provisions of section 4002 shall be made available for obligation or expenditure.".

Mr. GRAMM. Mr. President, this appropriations bill has an extraordinary provision in it. In fact, I am not aware that a similar provision has ever been in a bill that I have seen considered in the Congress. This is the contingency provision whereby we seek to bribe the President to enter into a budget by saying we will give him $4.8 billion to spend if he will enter into any budget that we will agree to.

Mr. President, if such a proposal were made by a private party, they would be subject to being sent to the Federal penitentiary. I do not understand, if our objective is to lower spending and balance the budget, how bribing the President with additional funds will get us closer to home or closer to the achievement of that objective.

I know there are many people in this body who are committed to the principle that somehow if we will just give the President enough money to spend, he will do what we want him to do. It seems to me that he will take the money and spend it, and we will end up not doing what we want to do. The problem is, what I want to do is not spend the money.

We, in trying to bribe the President by giving him $4.8 billion, are, in essence, using as the bribe the money that I want the President to help us save.

Now, we have adjusted this contingency fund because we decided on an amendment offered by Senator SPECTER to go ahead and give him $2.7 billion now. So the contingency fund is actually substantially lower than the $4.8 billion. The point remains: We need to be cutting spending, not increasing it.

While I am very much in support of working out a budget agreement, I do not believe that we are going to succeed by giving the President more money in return for reaching a budget agreement, when we hope the budget agreement will spend less money.

It seems to me a contradiction in terms, movement in the wrong direction, and wrongheadedness. Might I say, it shows how we have lost our way in this Congress. If anybody told me when the Contract With America was passed, when we sent it to the President, that we would be now, several months later, offering to give the President $4.8 billion of new discretionary spending authority if he would simply agree to any budget—there is no requirement in this bill this budget be balanced that he would agree to. If he will just agree to any budget with us, we will give him $4.8 billion.

As I said, the number has been slightly adjusted because we decided not to wait until the agreement. There was such excitement about spending this money that we took $2.7 billion and decided to go ahead and spend it, not to even wait on the contingencies. I assume this amendment will not be adopted. But I want to give people an opportunity to vote to strike this contingency fund out. It seems to me that we ought to be cutting spending, not increasing it. And if we have trouble getting the President to agree to a budget, it seems that the solution is to make these temporary spending bills tighter and tighter and tighter, until the President will finally realize that it is in his interest, as well as the country's interest, to agree to a budget.

So I urge my colleagues to vote for this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, in a moment, I am going to send an amendment to the desk. This is a sense-of-the-Senate amendment. I will read this:

To urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advanced-appropriated funding for fiscal year 1997.

I am working with colleagues on both sides of the aisle, and later on I think we will be able to work out an agreement, and I can summarize it at that point. My understanding is that we need to get amendments in.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3520 TO AMENDMENT NO. 3466

(Purpose: To urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advance-appropriated funding for FY 1997)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KERRY, Mr. LEAHY, Ms. SNOWE, Mr. SANTORUM, Mr. KENNEDY, Mr. GLENN, and Mr. PELL, proposes an amendment numbered 3520 to amendment No. 3466.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

The Senate finds that:

Record low temperatures across the country this winter, coupled with record snowfalls in many areas, have generated substantial and sustained demand among eligible low-income Americans for home heating assistance, and put many who face heating-related crises at risk;

Home heating assistance for working and low-income families with children, the elderly on fixed incomes, the disabled, and others who need such help is a critical part of the social safety net in cold-weather areas;

The President has released approximately $900 million in regular Low Income Home Energy Assistance Program (LIHEAP) funding for this year, compared to a funding level of $1.319 billion last year, and a large LIHEAP funding shortfall remains which has adversely affected eligible recipients in many cold-weather states;

LIHEAP is a highly targeted, cost-effective way to help approximately 6 million low-income Americans to pay their energy bills. More than two-thirds of LIHEAP-eligible households have annual incomes of less than $8000; more than one-half have annual income below $6000.

LIHEAP program funding has been substantially reduced in recent years, and cannot sustain any further spending cuts if the program is to remain a viable means of meeting the home heating and other energy-related needs of low-income people in cold-weather states.+

Traditionally, LIHEAP has received advance appropriations for the next fiscal year. This allows states to properly plan for the upcoming winter and best serve the energy needs of low income families.

Congress was not able to pass an appropriations bill for the Departments of Labor, Health and Human Services, and Education by the beginning of this fiscal year and it was only because LIHEAP received advance appropriations last fiscal year that the President was able to release the $578 million he did in December—the bulk of the funds made available to the states this winter.

There is currently available to the President up to $300 million in emergency LIHEAP funding, which could be made available immediately, on a targeted basis, to meet the urgent home heating needs of eligible persons who otherwise could be faced with heating-related emergencies, including shut-offs, in the coming weeks;

Therefore, it is the sense of the Senate that:

(a) the President should release immediately a substantial portion of available emergency funding for the Low Income Home Energy Assistance Program for FY 1996, to help meet continuing urgent needs for home heating assistance during this unusually cold winter; and

(b) not less than the $1 billion in regular advance-appropriated LIHEAP funding for next winter provided for in this bill should be retained in a House-Senate conference on this measure.

Mr. SARBANES. Mr. President, I rise today to express my support for the amendment offered by the Senator from Minnesota, Senator WELLSTONE. This amendment reiterates the Senate's strong commitment to maintaining funding for the Low Income Home Energy Assistance Program [LIHEAP] despite efforts in the House of Representatives to terminate this program and urges House and Senate conferees to continue to fund LIHEAP at the Senate level of $1 billion.

Congress first authorized the Low-Income Home Energy Assistance Program in 1981 at a time of unprecedented energy costs in order to help low-income households maintain an adequate level of heat in their homes to ensure their health and safety. This program helps an approximate 6.1 million households each year in the 50 States, the District of Columbia, and the U.S. commonwealths and territories. For many of these households, which represent the most vulnerable segment of the population, including the elderly, the disabled, the working poor and children, the assistance they receive through LIHEAP can mean the difference between having to choose between heating their home in the cold winter months or other vital needs such as food, warm clothing, and medical care.

Mr. President, a recent study by the National Consumer Law Center indicated that there is a widening gap between the level of LIHEAP funding and the total heating and cooling costs for low-income families. While the LIHEAP benefits provided to these needy families can not meet their entire energy costs, the average benefit of $216 per household for heating assistance can prove critical to the efforts of senior citizens and working poor families on a fixed income to stay safely in their homes.

In my own State of Maryland, LIHEAP funds cover only about 20 percent of the cost of the average heating bill for eligible recipients. The Maryland Energy Assistance Program, which administers the LIHEAP program, draws on support from other public sector sources, non-profit agencies, private industry and public utilities in order to best meet the compelling energy needs of approximated 90,000 low-income Marylanders.

This collaboration between public and private sector entities has resulted in a number of innovative programs to make home energy more affordable to the most vulnerable group of Maryland citizens. Special payment arrangements with utilities, expanded public education and energy conservation programs, including weatherization assistance, and direct access to other energy-related programs, serve to make the LIHEAP program in Maryland a successful coordinated effort.

Mr. President, this winter has seen record snowfalls in the Mid-Atlantic region and bitterly cold temperatures across much of the country. This severe winter weather threatened the safety of millions of Americans and strained States' ability to help needy families at a time when the budgetary impasse made the very future of the LIHEAP program uncertain. This program is effective and over the years has helped many families in need with their energy bills. Support of Senator WELLSTONE's amendment will send a strong message to the House of Representatives that the Senate will persist in its efforts to maintain adequate funding for the Low-Income Home Energy Assistance Program and I urge my colleagues to join me in supporting it.

SYMPATHIES TO THE PEOPLE OF SCOTLAND

Mr. WELLSTONE. Mr. President, while I have the floor, I do not want to interrupt if there are other Senators with amendments. I want them to have an opportunity to offer them. If not, let me just take a moment to read a resolution that has been accepted on both sides extending sympathies to the people of Scotland:

Whereas, all Americans were horrified by the news this morning that 16 kindergarten children and their teacher were shot and killed yesterday in Dunblane, Scotland, by an individual who invaded their school;

Whereas, another 12 children and 3 adults were apparently wounded in the same terrible assault;

Whereas, this was an unspeakable tragedy of huge dimensions causing tremendous feeling of horror and anger and sadness affecting all people around the world;

And, whereas, the people of the United States wish to extend their sympathy to the people of Scotland in their hours of hurt, pain, and grief;

Therefore, be it resolved by the Senate of the United States that the Senate on behalf of the American people does extend its condolences and sympathies to the families of the little children and others who were murdered and wounded, and to all the people of Scotland with fervent hopes and prayers that such an occurrence will never ever again take place.

Mr. President, I wanted to read this on the floor. This has been accepted. This is the unanimous voice of the U.S. Senate.

I wish there was more that we could do. But I think it is important that we recognize what has happened and send our love and our support.

Mr. President, I yield the floor.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, I ask unanimous consent that all pending amendments be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENTS NOS. 3521 AND 3522 TO AMENDMENT NO. 3466

Mr. BOND. Mr. President, I send to the desk two amendments for Senator McCAIN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. McCAIN, proposes amendments numbered 3521 and 3522 en bloc to amendment No. 3466.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3521

(Purpose: To require that disaster funds made available to certain agencies be allocated in accordance with the established prioritization processes of the agencies)

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding chapters 2, 4, and 6 of this title—

(1) funds made available under this title for economic development assistance programs of the Economic Development Administration shall be made available to the general fund of the Administration to be allocated in accordance with the established competitive prioritization process of the Administration;

(2) funds made available under this title for construction by the United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the Service; and

(3) funds made available under this title for community development grants by the Department of Housing and Urban Development shall be allocated in accordance with the established prioritization process of the Department.

AMENDMENT NO. 3522

(Purpose: To require the Secretary of Veterans Affairs to develop a plan for the allocation of health care resources of the Department of Veterans Affairs)

SEC. . PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(A) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

Mr. BOND. Mr. President, I ask that those amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3501

Mr. BOND. Mr. President, I would like to move to an amendment that has been cleared which I would like to call up on behalf of Senators COHEN and BUMPERS numbered 3501.

The PRESIDING OFFICER. That amendment has already been filed.

Mr. BOND. That amendment has already been filed. I understand that it has been cleared on both sides. It is an amendment to permit recipients of Legal Services Corporation grants to use funds derived from non-Federal sources to testify at legislative hearings, or to respond to requests for certain information.

As I understand it, this amendment is acceptable to both sides. Therefore, it will not require a rollcall vote. I assume that we can move to a voice vote to adopt this amendment.

Mr. CRAIG. Mr. President, I rise to express my serious concerns with the Cohen-Bumpers amendment regarding the ability of Legal Services Corporation grantees to testify on legislation or rulemaking before Federal, State, or local government bodies. I will not block this amendment at this time, but I think this is a topic worthy of greater deliberation and one that should be revisited.

Earlier today, I offered an amendment, which was accepted on both sides, that was prompted by the oft-reported tendency of LSC grantees to exceed the bounds of the law, of its own rules, and of appropriate behavior in pursuing agendas that are often political or ideological, and not oriented toward providing legal services.

The Senate had a significant debate over LSC funding during our original consideration of the Commerce-State-Justice appropriation bill because of this very issue.

Even in rejecting the Appropriations Committee's recommendation to replace the current LSC system with block grants to the States, the Senate still voted, in adopting the Domenici amendment, to try to focus the activities of LSC grantees on their mission to provide legal representation to the needy in legal proceedings. That is the only LSC-grantee activity that the Federal Government has any business funding, directly or indirectly. Political and policymaking advocacy clearly are—and ought to be—considered inappropriate.

In this area and others, the Senate has come down firmly against Federal subsidies for lobbying and advocacy. Three times last year, the Senate adopted different Simpson-Craig amendments along these lines that related to Federal grants, in general. The one that became law, in the Lobbying Disclosure Act of 1995, prevents any Federal grants, awards, or loans from going to IRS 501(c)(4) organizations that engage in lobbying activities.

The Senate has been building this record on indirect subsidies of lobbying and advocacy for two reasons: First, the public should not be forced to subsidize political and policymaking advocacy on behalf of special interests, and second, dollars are fungible.

Most LSC grantees take money from multiple sources. It all gets mixed in one pot. The more you put in the pot from any source, the more you subsidize every item in that grantee's agenda, including those that Federal dollars should not support.

I supported the block grant approach to providing legal aid because local control generally leads to better oversight. Even in the Domenici amendment, which was a compromise, there were provisions designed to address the concern that we lack adequate oversight and accountability when it comes to how LSC grantees use their funds.

I understand the balance that the authors of this amendment believe they are striking, and I am not unsympathetic. There are some matters on which it would be appropriate for LSC grantees to offer testimony or information, in a way that is directly relevant to their mission to provide legal representation to the needy.

However, I think there is a risk here that this amendment may enable what is essentially lobbying. I don't believe the Senate wants LSC grantees to use Federal dollars to free up non-Federal funds to pay for activities we don't want supported by Federal dollars. An indirect subsidy is as real as a direct one.

This is an issue that deserves more lengthy and serious debate, and this language deserves closer examination and possibly fine-tuning than can be given in the final rush to finish a 780-page omnibus appropriations bill. I look forward to that process.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 3501) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3520

Mr. WELLSTONE. Mr. President, I will take just a few minutes to summarize the amendment that I just submitted which has been laid aside for the moment.

This amendment deals with energy assistance. As I said to the Chair, I think there is broad bipartisan support.

Mr. President, there are really two parts to the amendment. I mean part of what we are talking about is really bolstering the Senate's position about funding next year for energy assistance as we go into conference. This is a commitment that there at least be $1 billion for the whole Nation for energy assistance for people in our country.

The second part of the amendment deals with the emergency assistance in the here and now. Mr. President, in my State of Minnesota last year there were 110,000 households who received this. This is a lifeline program for many elderly people, for many families with children, the low- and moderate-income citizens, and quite frankly it has enabled people not to be put in the position of "heat or eat".

In my State this year, fewer households have been served. I think last year we received about $50 million. This year we received about $35 million. What is going to happen if there is no additional assistance as these bills accumulate? It is warm right now in Washington, but we have had brutally cold weather, and we are going to go back to more of that weather this month. The bills will accumulate, and the real concern is that people will not be able to afford those bills.

Mr. President, this is an amendment that, as I said, I believe will have broad bipartisan support. I think it really is all about values and our priorities.

I think what we are saying in this sense-of-the-Senate amendment is that in the United States of America people should not go cold. Surely in our country, we can extend a hand and help people who need that help. This is a program that has not required very much by way of investment in resources. But it makes a huge, very concrete, and important difference in the lives of many people. To the cold weather States, like my State of Minnesota, this is a program that is hugely important.

So, Mr. President, I propose the sense-of-the-Senate amendment because this is an issue that is staring people in the face. It is extremely important that people do not go without heat. Therefore, I think it is extremely important that this amendment be agreed to.

I can talk more about the amendment later on. Other colleagues are here on the floor. As I said, I hope there will be good bipartisan support for this.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry. My understanding is that it is in order now to send to the desk amendments provided that you have a prior consultation with the managers of the bill and get what is known as a "slot" to speak.

The PRESIDING OFFICER. The Senator should ask unanimous consent that the pending amendment be laid aside. When that is granted, an amendment is in order if the Senator's name is on the list.

Mr. WARNER. Mr. President, I ask unanimous consent that the pending amendments be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Parliamentary inquiry. Is it not correct that the name of the Senator from Virginia is on the list?

The PRESIDING OFFICER. The Senator is authorized to offer a relevant amendment.

AMENDMENT NO. 3523 TO AMENDMENT NO. 3466

(Purpose: To prohibit the District of Columbia from enforcing any rule or ordinance that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland)

Mr. WARNER. Mr. President, I offer an amendment which I send to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3523 to amendment No. 3466:

At the end of title I of section 101(b), add the following:

SEC. 156. None of the funds provided in this Act may be used directly or indirectly to implement or enforce any rule or ordinance of the District of Columbia Taxicab Commission that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

Mr. WARNER. I thank the Chair.

Mr. President, this is not going to be regarded as an earth-shaking amendment, but it is one that is very important in my judgment to every one of us in the Senate and, indeed, in the House of Representatives. We have every day constituents who come to visit us from our States, from many places, and they have to rely upon the indigenous transportation. Part of that transportation is taxicabs operated under the jurisdiction of the District of Columbia, the jurisdiction of the sovereign State of Maryland, and the jurisdiction of the sovereign State of Virginia. For some 50 years, there has been a general format of understanding between these three jurisdictions as to how the taxis will allocate the various customers, business and the like.

Out of the blue, the D.C. Taxi Commission, without any notification, to my knowledge, of either the appropriate authorities in Maryland and Virginia, said that henceforth they are going to start a certain policy which would be at considerable variance with what had been in place for some 50 years and what is now operating.

Speaking for myself, I have lived in the greater metropolitan area for many years. I have been concerned about the quality of the taxi service, the ability of the drivers to understand even the simple basic things—language, locations. I am concerned about the overall public safety as that is associated with those cabs, primarily those cabs that are licensed in the District of Columbia.

But, anyway, the purpose of this amendment is to not permit any of the funds appropriated for the District of Columbia to be used for the purpose of trying to implement such agreements as the D.C. Taxi Commission acting unilaterally wishes to put in effect.

In my judgment, the proper way is to go to the Council of Governments, referred to as COG, and COG has many times taken into consideration the needs and requirements of the District of Columbia, the Commonwealth of Virginia, and the great State of Maryland, and resolved them. That is what should be done in this case. So I think it is a matter, while not of earth-shaking proportions, that should be considered by the Congress in terms of saying to the District: Wait a minute. You are not to implement any agreement which will impact on our constituents coming from many places to visit the Nation's Capital. Let the Council of Governments arbitrate a fair allocation between the States of Virginia and Maryland and the District of Columbia and work out an appropriate agreement.

So, Mr. President, I will soon consult with the managers. Perhaps they can accept this amendment at this time. Otherwise, I will ask that it be laid aside.

Mr. President, to accommodate the managers and the leadership, I will ask unanimous consent that my amendment be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. After consultation with the Democratic leader and lots of other people, I ask unanimous consent that all remaining first-degree amendments in order to H.R. 3019 under the previous consent agreement must be offered by 8 p.m. this evening, with the exception of the managers' package, two amendments by the majority leader, two amendments by the Democratic leader, one for the Democratic manager, and one for the minority manager, and it be in order for the mover of the amendment to withdraw his or her amendment.

Mr. WARNER. Mr. President, reserving the right to object, and I certainly do not wish to object, I am also here to protect the interests of the Armed Services Committee and the desires of the chairman of that committee, Senator THURMOND, to put in sequence here an amendment on behalf of himself and other members of the committee.

Could I inquire of the manager if Senator THURMOND could be given an appropriate slot, or whatever terminology the distinguished leader wishes to use, to put that amendment in?

Mr. LOTT. If I might respond, Mr. President, certainly that would be in order if the amendment is offered by the designated hour. No time has been set yet as to the order that they will be brought up. We are just trying now to ascertain exactly what amendments we have, and when the manager, the distinguished chairman, returns there will be an order set up then. I am sure this will be put in the sequence.

Mr. WARNER. As I understand, the distinguished majority whip assures the Senator, speaking on behalf of Senator THURMOND——

Mr. LOTT. I do give that assurance to the distinguished Senator from Virginia.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. WELLSTONE. Mr. President, reserving the right to object, I wanted to ask the Senator, does this mean that it is—in terms of this agreement, I gather that the leaders can offer amendments for Senators if they were not here before 8 if those amendments had been on the list as part of the original agreement?

Mr. LOTT. That is my understanding, Mr. President.

Mr. WELLSTONE. Is that the Senator's understanding?

Mr. LOTT. Yes, it is.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object further, Mr. President, I wonder if the distinguished leader would consider this unanimous consent request, and I state it at this time.

Mr. President, I ask unanimous consent that the amendment that I will soon send to the desk on behalf of Senator THURMOND be filed under Senator THURMOND's name in lieu of one of the relevant amendments reserved by the Senator from Arizona, Mr. MCCAIN. Would there be any objection to that?

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the unanimous consent request of the Senator from Mississippi?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alaska object?

Mr. MURKOWSKI. The Senator seeks recognition.

The PRESIDING OFFICER. The question before the body is the unanimous consent request of the Senator from Mississippi.

Is there objection? Without objection, it is so ordered.

The Senator from Mississippi.

Mr. LOTT. Mr. President, in light of this new agreement, for the information of all Senators, there will be no votes between now and 8:30 p.m., and any votes ordered between now and 8:30 will be stacked to occur at 8:30 p.m. this evening on a case-by-case basis. With that, I yield the floor.

AMENDMENT NO. 3524 TO AMENDMENT NO. 3466

(Purpose: To reconcile seafood inspection requirements for agricultural commodity programs with those in use for general public consumers)

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, if it is in order, I will send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment of the Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. STEVENS, proposes an amendment numbered 3524 to Amendment No. 3466.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page , beginning with line , insert the following:

SEC. . SEAFOOD SAFETY.

(a) Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995) or produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of such regulations, shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

Mr. MURKOWSKI. Mr. President, this amendment would simply end featherbedding in the Department of Agriculture relative to the process of seafood inspection as we know it today. I am especially concerned about the current regime for the canned salmon industry in the United States.

As the Chair is well aware, a significant portion of that industry is based in my State of Alaska, and a good portion of that industry is controlled, through the State of Washington. As a consequence of the development of the industry over the years, there is an inspection program operated by the State of Alaska which meets all the criteria of the Federal Food and Drug Administration. This assures the consistent quality and wholesomeness of the salmon canned in Alaska. However, the USDA and only the USDA requires yet another, completely redundant layer of inspection, the cost of which is charged back to the canner.

That means we have a situation where salmon going into the marketplace, going into the Safeway, going into Giant, going on the shelves of the grocers throughout the United States—is subject to an inspection that has been traditional in the industry involving both State and Federal oversight.

However, for reasons unknown to the Senator from Alaska, the Department of Agriculture believes that what is good enough for the American salmon consumer is not good enough for the Federal programs that purchase this salmon with taxpayer dollars. So, the USDA demand that the salmon it purchases, available for our programs for the homeless and others, be inspected by an additional USDA inspector who must actually stand in the cannery at all times. This procedure is only required for salmon that goes into the USDA program.

This is an additional cost to the Federal Government, and additional cost to the canner; additional cost, ultimately, to the consumer. It is really featherbedding. The USDA wants to keep Federal inspectors employed, even though they are not responsible for the safety of the salmon, and even though the commercial product sold in every grocery in the Nation is not subject to this continuous inspection.

This particular amendment simply would alleviate this burden and no longer make necessary this inspection by the USDA.

I might add, the inspection process as required by USDA often requires far more than just putting one inspector in each cannery. The canneries work well beyond an 8 to 5 day. They work when the fish are in, which requires in many cases a continuous 24-hour a day operation to ensure the quality of the pack.

USDA's insistence is outdated. It has roots that are unfathomable. But the main issue is not its cause but its effect. The programs that protect the average consumer are necessary. They are appropriate. I support them. But it is not necessary nor is it appropriate for the Department of Agriculture to add an additional bureaucratic layer beyond the ones in place for you and me.

As a consequence, Mr. President, I ask my colleagues, at the appropriate time, to consider adopting this amendment. I have discussed it with some of the floor managers. I do not know whether the Senator from Virginia has any interest in the subject or not.

Mr. President, I will further offer an additional amendment which I will send to the desk. I ask the pending amendment be set aside.

The PRESIDING OFFICER (Mr. JEFFORDS). Without objection, it is so ordered.

AMENDMENT NO. 3525 TO AMENDMENT NO. 3466

(Purpose: To provide for the approval of an exchange of lands within Admiralty Island National Monument)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3525 to amendment No. 3466.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1.

(a) SHORT TITLE.—This section may be cited as the "Greens Creek Land Exchange Act of 1996."

(b) FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

(c) DEFINITIONS.

As used in this section—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

(d) RATIFICATION OF THE AGREEMENT. The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

(e) IMPLEMENTATION OF THE AGREEMENT.

(1) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(2) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the "Greens Creek Land Exchange Account" into which shall be deposited the first $5,000,000 in royalties received by the United States under part

6 of the Agreement after the distribution of the amounts pursuant to paragraph (3) of this subsection. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to paragraph (1) of this subsection.

(3) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(4) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(5) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(6) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(7) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this section shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

(f) RESCISSION RIGHTS.

Within 60 days of the enactment of this section, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this section. Rescission shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a rescission, the status quo ante provisions of the Agreement shall apply.

Mr. MURKOWSKI. Mr. President, I ask the amendment be set aside for future consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, moments ago I received a request to send an amendment to the desk on behalf of the chairman of the Armed Services Committee, the senior Senator from South Carolina [Mr. THURMOND].

AMENDMENT NO. 3526 TO AMENDMENT NO. 3466

(Purpose: To delay the exercise of authority to enter into multiyear procurement contracts for C–17 aircraft)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, for himself, Mr. NUNN, Mr. WARNER, Mr. COHEN, Mr. LOTT, Mr. SMITH, Mr. COATS, Mr. SANTORUM, Mr. INHOFE, Mr. EXON, Mr. ROBB, Mr. BRYAN, and Mr. KEMPTHORNE, proposes an amendment numbered 3526 to amendment No. 3466.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 754, line 4, strike out the period at the end and insert in lieu thereof ": *Provided further*, That the authority under this section may not be used to enter into a multiyear procurement contract until the day after the date of the enactment of an Act (other than an appropriations Act) containing a provision authorizing a multiyear procurement contract for the C–117 aircraft.".

Mr. WARNER. Mr. President, this amendment is cosponsored by Senators NUNN, myself, COHEN, LOTT, SMITH, COATS, SANTORUM, INHOFE, EXON, ROBB, BRYAN, and KEMPTHORNE. We are contacting other Members, all of those being members of the Senate Armed Services Committee. I am of the opinion there will be other members of the committee that will seek to become cosponsors. For that purpose, I ask unanimous consent now that further Members may add their names.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to briefly address the amendment.

Mr. President, I rise to introduce an amendment which would allow the Senate Armed Services Committee an adequate opportunity to review the proposed multiyear contract for the C–17 program. I would think that all Members who have an interest in ensuring that taxpayer dollars are spent wisely on defense programs would support this amendment.

This morning, at a hearing of the Senate Armed Services Committee, I joined with my colleagues in telling the Secretary of the Air Force and the Chief of Staff of the Air Force how concerned we are with the approach which the administration has adopted concerning the C–17 program. Quite simply, a supplemental appropriations bill is not an appropriate vehicle for granting the authorization to proceed with such a large acquisition program. In my view, there is no justification for bypassing the authorizing committee in a decision of this magnitude.

We are talking about a program to purchase 80 additional C–17 aircraft, over 7 years, at a cost of almost $22 billion. If we proceed with the administration's proposal—as contained in the Senate bill—we will be giving the Pentagon the authority to sign a contract which commits this Nation to a major acquisition program with a $22 billion price tag. We will be rubber-stamping a Defense Acquisition Board [DAB] recommendation that an additional 80 C–17 aircraft is the proper solution for our airlift requirements in the future, and that this multiyear contract is the best way to achieve that goal. We must not be rushed into such a decision. This program deserves careful and thorough scrutiny by the Armed Services Committee.

By treating this program separately—by dealing with it outside of the normal authorization process—we will not have the opportunity to weigh this program against the other competing priorities in the procurement accounts—across the services. The C–17 program, as proposed, will eat up a substantial share of the procurement budget for the next 7 years. We must understand the full impact of this decision—for the entire defense budget—before committing ourselves to such a program.

I remind my colleagues that this is a program which has been plagued by problems in the past. The Armed Services Committee has stood by the C–17 program in its lean years. It appears that our faith in this program has been justified. The C–17 is performing well in Bosnia, and it appears that the problems of the past have been corrected.

Our argument today is not with the aircraft—but with this unusual expedited process that would effectively strip the Armed Services Committee of its responsibilities to examine a proper authorization for the 7-year multiyear contract for the C–17.

I urge my colleagues to support the pending amendment.

AMENDMENT NO. 3527 TO AMENDMENT NO. 3466

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. HATFIELD, for himself and Mr. DOLE, Mr. MCCONNELL, and Mr. LEAHY, proposes an amendment numbered 3527 to amendment No. 3466.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

To the substitute on page 750, between lines 18 and 19, add the following:

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, $50,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

Mr. WARNER. I ask unanimous consent that be laid aside.

Mr. COATS. Mr. President, I wonder if I could ask the Senator from Virginia to just yield for a moment? I have an amendment I would like to offer on behalf of Senator DOLE. I need to beat the clock. May I take 30 seconds to do that?

Mr. BURNS. If the Senator will yield, this Senator has three to offer before 8 o'clock.

Mr. WARNER. Mr. President, I wish to accommodate my colleagues.

Let me just say in one further sentence, the purpose of the amendment by Mr. THURMOND and myself is to go to the jurisdiction of our committee over a very important contract, relating to C-17's.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I ask unanimous consent the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3528 TO AMENDMENT NO. 3466

(Purpose: To allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3528 to amendment No. 3466.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473, provided that the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall not be effective if:

(1) a competing license application if filed within 90 days of the date of enactment of this act, or

(2) the Federal Energy Regulatory Commission issues and order within 90 days of the date of enactment of this act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

Mr. BURNS. Mr. President, I also ask unanimous consent the present amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3529 TO AMENDMENT NO. 3466

(Purpose: To provide for Impact Aid school construction funding)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3529 to amendment No. 3466.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a)(1) From any unobligated funds that are available to the Secretary of Education to carry out section 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994) not less than $11,500,000 shall be available to the Secretary of Education to carry out subsection (b).

(2) Any unobligated funds described in paragraph (1) that remain unobligated after the Secretary of Education carries out such paragraph shall be available to the Secretary of Education to carry out section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(b)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term "construction" has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary of Education not later than 30 days after the date of enactment of this Act.

Mr. BURNS. Mr. President, I ask unanimous consent the present amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3530 TO AMENDMENT NO. 3466

(Purpose: To establish a commission on restructuring the circuits of the United States Courts of Appeals)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3530 to amendment No. 3466.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

Subtitle B—Commission on Restructuring the Circuits of the United States Courts of Appeals

SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the "Heflin Commission" (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

SEC. 922. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) Meetings.—The Commission shall meet at the call of the Chairman.

SEC. 923. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 924. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 925. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report.

SEC. 926. REPORT.

No later than 2 years after the date of the enactment of this subtitle, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

On page 79, line 10 add the following:

"Of which not to exceed $3,000,000 shall remain available until expended for the Twelfth Circuit Court of Appeals.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 3531 TO AMENDMENT NO. 3466

Mr. COATS. Mr. President, on behalf of Senator Dole, myself, and Mr. Lieberman, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana [Mr. Coats], for himself, Mr. Dole, Mr. Coats, and Mr. Lieberman, proposes an amendment numbered 3531 to amendment No. 3466.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 404, between lines 17 and 18, insert the following:

Subtitle N—Low-Income Scholarships

SEC. 2921. DEFINITIONS.

As used in this subtitle—

(1) the term "Board" means the Board of Directors of the Corporation established under section 2922(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 2922(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 2923(d)(1), means a private or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 2923(d)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through activities described in section 2923(d)(2); and

(4) the term "poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 2922. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) General Requirements.—

(1) In general.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) Duties.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this subtitle, and to determine student and school eligibility for participation in such program.

(3) Consultation.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the Board of Education, the Superintendent, the Consensus Commission, and other school scholarship programs in the District of Columbia.

(4) Application of provisions.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(5) Residence.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) Fund.—There is hereby established in the District of Columbia general fund a fund that shall be known as the "District of Columbia Scholarship Fund".

(7) Disbursement.—The Mayor shall disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year for which such disbursement is made.

(8) Availability.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(9) Uses.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) Authorization.—

(A) In general.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $5,000,000 for fiscal year 1996;

(ii) $7,000,000 for fiscal year 1997; and

(iii) $10,000,000 for each of fiscal years 1998 through 2000.

(B) Limitation.—Not more than $250,000 of the amount appropriated to carry out this subtitle for any fiscal year may be used by the Corporation for any purpose other than assistance to students.

(b) Organization and Management; Board of Directors.—

(1) Board of directors; membership.—

(A) In general.—The Corporation shall have a Board of Directors comprised of 7 members, with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Speaker of the House of Representatives, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Majority Leader of the Senate, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker and Minority Leader of the House of Representatives and Majority Leader and Minority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(13) CONGRESSIONAL INTENT.—Subject to the results of the program appraisal under section 2933, it is the intention of the Congress to turn over to District of Columbia officials the control of the Board at the end of the 5-year period beginning on the date of enactment of this Act, under terms and conditions to be determined at that time.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG–16 of the Educational Service of the District of Columbia, to be fixed by the Board .

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 2933(c).

SEC. 2923. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (d)(1) and enhanced achievement scholarships under subsection (d)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation shall first award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia kindergarten, except that this subparagraph shall apply only for academic years 1996, 1997, and 1998; or

(B) have received a scholarship from the Corporation in the year preceding the year for which the scholarship is awarded.

(2) SECOND.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students described in subsection (a) who are not described in paragraph (1).

(c) SPECIAL RULE.—The Corporation shall attempt to ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels.

(d) USE OF SCHOLARSHIP.—

(1) TUITION SCHOLARSHIPS.—A tuition scholarship may be used only for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia.

(2) ENHANCED ACHIEVEMENT SCHOLARSHIP.—An enhanced achievement scholarship may be used only for the payment of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program;

(B) the costs of tuition and mandatory fees for, and transportation to attend, after-school activities that do not have an academic focus, such as athletics or music lessons; or

(C) the costs of tuition and mandatory fees for, and transportation to attend, vocational, vocational-technical, and technical training programs.

(e) NOT SCHOOL AID.—A scholarship under this subtitle shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 2924. SCHOLARSHIP PAYMENTS AND AMOUNTS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award a scholarship to a student and make payments in accordance with section 2930 on behalf of such student to a participating eligible institution chosen by the parent of the student.

(b) NOTIFICATION.—Each eligible institution that desires to receive payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this subtitle is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this subtitle, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this subtitle is refused admission, of the reasons for such a refusal.

(c) TUITION SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,000 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 50 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $1,500 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) ENHANCED ACHIEVEMENT SCHOLARSHIP.—

(1) EQUAL TO OR BELOW POVERTY LINE.—For a student whose family income is equal to or below the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $1,500 for 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LINE.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) 50 percent of the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $750 for fiscal year 1996 with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(e) ALLOCATION OF FUNDS.—

(1) FEDERAL FUNDS.—

(A) PLAN.—The Corporation shall submit to the District of Columbia Council a proposed allocation plan for the allocation of Federal funds between the tuition scholarships under section 2923(d)(1) and enhanced achievement scholarships under section 2923(d)(2).

(B) CONSIDERATION.—Not later than 30 days after receipt of each such plan, the District of Columbia Council shall consider such proposed allocation plan and notify the Corporation in writing of its decision to approve or disapprove such allocation plan.

(C) OBJECTIONS.—In the case of a vote of disapproval of such allocation plan, the District of Columbia Council shall provide in writing the District of Columbia Council's objections to such allocation plan.

(D) RESUBMISSION.—The Corporation may submit a revised allocation plan for consideration to the District of Columbia Council.

(E) PROHIBITION.—No Federal funds provided under this subtitle may be used for any scholarship until the District of Columbia Council has approved the allocation plan for the Corporation.

(2) PRIVATE FUNDS.—The Corporation shall annually allocate unrestricted private funds equitably, as determined by the Board, for scholarships under paragraph (1) and (2) of section 2923(d), after consultation with the public, the Mayor, the District of Columbia Council, the Board of Education, the Superintendent, and the Consensus Commission.

SEC. 2925. CERTIFICATION OF ELIGIBLE INSTITUTIONS.

(a) APPLICATION.—An eligible institution that desires to receive a payment on behalf of a student who receives a scholarship under this subtitle shall file an application with the Corporation for certification for participation in the scholarship program under this subtitle. Each such application shall—

(1) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subsection (c);

(2) contain an assurance that the eligible institution will comply with all applicable requirements of this subtitle;

(3) provide the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards, completed not earlier than 3 years before the date such application is filed;

(4) describe the eligible institution's proposed program, including personnel qualifications and fees;

(5) contain an assurance that a student receiving a scholarship under this subtitle shall not be required to attend or participate in a religion class or religious ceremony without the written consent of such student's parent;

(6) contain an assurance that funds received under this subtitle will not be used to pay the costs related to a religion class or a religious ceremony, except that such funds may be used to pay the salary of a teacher who teaches such class or participates in such ceremony if such teacher also teaches an academic class at such eligible institution;

(7) contain an assurance that the eligible institution will abide by all regulations of the District of Columbia Government applicable to such eligible institution; and

(8) contain an assurance that the eligible institution will implement due process requirements for expulsion and suspension of students, including at a minimum, a process for appealing the expulsion or suspension decision.

(b) CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after receipt of an application in accordance with subsection (a), the Corporation shall certify an eligible institution to participate in the scholarship program under this subtitle.

(2) CONTINUATION.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subsection (d).

(3) EXCEPTION FOR 1996.—For fiscal year 1996 only, and after receipt of an application in accordance with subsection (a), the Corporation shall certify the eligibility of an eligible institution to participate in the scholarship program under this subtitle at the earliest practicable date.

(c) NEW ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this subtitle for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(A) a list of the eligible institution's board of directors;

(B) letters of support from not less than 10 members of the community served by such eligible institution;

(C) a business plan;

(D) an intended course of study;

(E) assurances that the eligible institution will begin operations with not less than 25 students;

(F) assurances that the eligible institution will comply with all applicable requirements of this subtitle; and

(G) a statement that satisfies the requirements of paragraph (2), and paragraphs (4) through (8), of subsection (a).

(2) CERTIFICATION.—Not later than 60 days after the date of receipt of an application described in paragraph (1), the Corporation shall certify in writing the eligible institution's provisional certification to participate in the scholarship program under this subtitle unless the Corporation determines that good cause exists to deny certification.

(3) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under paragraph (1) from an eligible institution that includes an audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this subtitle unless the Corporation finds—

(A) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(4) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this subtitle for a year succeeding the year for which the determination is made for—

(A) good cause, including a finding of a pattern of violation of program requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(2) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of its decision to such eligible institution and require a pro rata refund of the payments received under this subtitle.

SEC. 2926. PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.

(a) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this subtitle shall—

(1) provide to the Corporation not later than June 30 of each year the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 3 years before the date the application is filed; and

(2) charge a student that receives a scholarship under this subtitle the same amounts for the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon an eligible institution as a condition of participation in the scholarship program under this subtitle.

SEC. 2927. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall be deemed to be a recipient of Federal financial assistance for the purposes of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et

seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) REVOCATION.—Notwithstanding section 2926(b), if the Secretary of Education determines that an eligible institution participating in the scholarship program under this subtitle is in violation of any of the laws listed in subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 2928. CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(b) PRIVATE OR INDEPENDENT SCHOOL SCHOLARSHIPS.—

(1) DETERMINATION OF ELIGIBLITY FOR SERVICES.—If requested by either a parent of a child with a disability who attends a private or independent school receiving funding under this subtitle or by the private or independent school receiving funding under this subtitle, the Board of Education shall determine the eligibility of such child for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) REQUIREMENTS.—If a child is determined eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), the Board of Education shall—

(A) develop an individualized education program, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), for such child; and

(B) negotiate with the private or independent school to deliver to such child the services described in the individualized education program.

(3) APPEAL.—If the Board of Education determines that a child is not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), such child shall retain the right to appeal such determination under such Act as if such child were attending a District of Columbia public school.

SEC. 2929. CONSTRUCTION PROHIBITION.

No funds under this subtitle may be used for construction of facilities.

SEC. 2930. SCHOLARSHIP PAYMENTS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make scholarship payments to participating eligible institutions on a schedule established by the Corporation.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—

(A) BEFORE PAYMENT.—If a student receiving a scholarship withdraws or is expelled from an eligible institution before a scholarship payment is made, the eligible institution shall receive a pro rata payment based on the amount of the scholarship and the number of days the student was enrolled in the eligible institution.

(B) AFTER PAYMENT.—If a student receiving a scholarship withdraws or is expelled after a scholarship payment is made, the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any scholarship payment received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

(b) FUND TRANSFERS.—The Corporation shall make scholarship payments to participating eligible institutions by electronic funds transfer. If such an arrangement is not available, then the eligible institution shall submit an alternative payment proposal to the Corporation for approval.

SEC. 2931. APPLICATION SCHEDULE AND PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for awarding student scholarships under this subtitle that includes a list of certified eligible institutions, distribution of information to parents and the general public (including through a newspaper of general circulation), and deadlines for steps in the scholarship application and award process.

SEC. 2932. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 2933. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Department of Education shall provide for an independent evaluation of the scholarship program under this subtitle, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level; and

(3) the satisfaction of parents of scholarship students with the scholarship program.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 2934. JUDICIAL REVIEW.

The United States District Court for the District of Columbia shall have jurisdiction over any constitutional challenges to the scholarship program under this subtitle and shall provide expedited review.

SEC. 2936. OFFSET.

In addition to the reduction in appropriations and expenditures for personal services required under the heading "PAY RENEGOTIATION OR REDUCTION IN COMPENSATION" in the District of Columbia Appropriations Act, 1996, the Mayor of the District of Columbia shall reduce such appropriations and expenditures in accordance with the provisions of such heading by an additional $5,000,000.

SEC. 2937. OFFSETS.

Notwithstanding any other provision in this Act or in the District of Columbia Appropriations Act, 1996, the payment to the District of Columbia for the fiscal year ending September 30, 1996, shall be $655,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law, 93–198, as amended (D.C. Code, sec. 47–3406.1).

SEC. 2938. FEDERAL APPROPRIATION.

Notwithstanding any other provision in this Act or in the District of Columbia Appropriations Act, 1996, the Federal contribution to Education Reform shall be $19,930,000, of which $5,000,000 shall be available for scholarships for low income students in dangerous or failed public schools as provided for in Subtitle N and shall not be disbursed by the Authority until the Authority receives a certification from the District of Columbia Emergency Scholarship Corporation that the proposed allocation between the tuition scholarships and enhanced achievement scholarships has been approved by the Council of the District of Columbia consistent with the Scholarship Corporation's most recent proposal concerning the implementation of the emergency scholarship program. These funds shall lapse and be returned by the Authority to the U.S. Treasury on September 30, 1996, if the required certification from the Scholarship Corporation is not received by July 1, 1996.

SEC. 2939. EDUCATION REFORM.

In addition to the amounts appropriated for the District of Columbia under the heading "Education Reform", $5,000,000 shall be paid to the District of Columbia Emergency Scholarship Corporation authorized in Subtitle N."

Mr. COATS. Mr. President, given the time, I yield the floor.

AMENDMENT NO. 3532 TO AMENDMENT NO. 3466

Mr. COVERDELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL] for himself, Mr. STEVENS, and Mr. INOUYE, proposes an amendment numbered 3532 to amendment No. 3466.

Mr. COVERDELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, on page 540, line 11 after "Act" insert: "and $5,000,000 shall be available for obligation for the period July 1, 1995 through June 30, 1996 for employment-related activities of the 1996 Paralympic Games."

In the pending amendment, on page 597, line 21 after "expended" insert: ", of which

$1,500,000 shall be for a demonstration program to foster economic independence among people with disabilities through disability sport, in connection with the Tenth Paralympic Games."

Mr. LAUTENBERG. Mr. President, may I ask our colleague to just withhold for 1 minute while I fashion a unanimous consent request here? There are amendments still ready to go.

When the Senator from Georgia finishes, it will be past the bewitching hour of 8 o'clock.

I ask unanimous consent if we can keep the amendment filing period open for another 30 minutes—another 15 minutes?

Mr. MURKOWSKI. Mr. President, I object.

Mr. LAUTENBERG. Will the Senator from Alaska accept a 5-minute delay?

Mr. MURKOWSKI. The Senator will accept 5 minutes.

Mr. LAUTENBERG. I submit the unanimous consent request for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I simply rise to express some disappointment in the fact that we have had an amendment with respect to China and Taiwan that we intended to offer. It has been approved by the administration and the ranking minority member of Foreign Relations supports it. Yet, the other side of the aisle has objected to its submission.

I am very sorry about that. It would seem to me that this body would want to speak out on the China effort. However, through their staff and through their workings, they have kept us from doing that. We will have to bring it up in another fashion.

This was submitted by Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. LIEBERMAN, Mr. ROTH, and Mr. FORD. I simply want to say we will have to find another way, but I should think this body would want to speak out on the current situation in China or Taiwan.

Mr. MURKOWSKI. I wonder if I can ask my good friend from Wyoming if he recalls sometime ago this body voted 97 to 1 on a resolution welcoming President Li as he visited his alma mater in New York and the issue of our responsibility to Taiwan at that time was discussed at great length in this body. I think it is fair to say my friend from Wyoming participated in that debate. This body did vote overwhelmingly to support the resolution welcoming President Li to visit his alma mater.

I believe, as the Senator from Wyoming has indicated, the amendment has broad bipartisan support and, in view of the recent action by the P.R.C. to intervene in the first free election process in Taiwan, that my friend from Wyoming could give me any indication as to why anyone would object in this body to allowing a substitution so that this amendment could be presented tonight?

It is my understanding the amendment was not filed. As a consequence when an effort was made to get a ruling from the Parliamentarian, the Parliamentarian indicated that substitution would be appropriate if it was perhaps unanimous—I am paraphrasing it—and there was an objection.

What would be the basis for someone to object to the consequence of the bullying tactics of the P.R.C.?

Mr. THOMAS. I have to say to the Senator that I am not certain. This was designed with the assistance and involvement of the administration to support some of the things they are doing, certainly to rededicate ourselves to the commitments that we have made through the Taiwan agreements.

In any event, I am sure we will make another effort. I am very disappointed we were not able to bring that forward.

Mr. MURKOWSKI. If I may follow up with another question. Is the understanding of the Senator from Alaska correct that the objection was from the other side of the aisle?

Mr. THOMAS. Yes, that is correct, it was from the other side of the aisle.

Mr. MURKOWSKI. I hope we have an opportunity tonight to get an explanation as to why there is an objection in this body for bringing up a topic that is, obviously, before the entire world as we look at what China has initiated relative to the launching of missiles to an area adjacent to the island of Taiwan, initiated a naval activity of significant magnitude, when clearly the elections are about to take place on the 23d of March. And it seems, indeed, unfortunate that we cannot get an explanation as a consequence of the commitments that were made under the Taiwan Relations Act to ensure that Taiwan was adequately provided with enough defensive capability to meet their needs subject to a declining amount over the years, as well as a requirement that the President of the United States evaluate the threat to the security of Taiwan, relative to any threat that might exist, and report back to the Congress relative to that threat.

I say to my friend from Wyoming, we have obviously had a significant threat, as evidenced by the missiles, as evidenced by the naval activity. I ask my friend from Wyoming if he would not agree that an expression of support to reaffirm the Taiwan Relations Act would not seem to be appropriate, timely, and in order at this time?

Mr. THOMAS. I certainly agree with that analysis and suggest to the Senator that we did involve ourselves very deeply in this and had bipartisan support, administration support. I think it still would be the desire of this body to have a statement, and we intend to bring it up in another way.

I thank my friend very much.

Mr. MURKOWSKI. If I might ask my colleague one more question, since I joined with him and cosponsored the resolution to reaffirm the Taiwan Relations Act by the U.S. Senate, and that is if it is his intention to pursue this matter and bring it up on the next vehicle that, obviously, is moving? Is that the intent of the Senator from Wyoming?

Mr. THOMAS. Yes. Let me say that is our intention, and I do believe really that the Members of this body do want to make a statement. I think this statement generally reflects what we are for, and we will make every effort to bring it up at the earliest possible time.

Mr. MURKOWSKI. I thank my colleague. I appreciate the reassurance. I think as we look at the tensions in the world today and recognize the obligation the United States has under the Taiwan Relations Act that, indeed, a voice of support is indicated by the amendment to reaffirm the terms and conditions of the Taiwan Relations Act. The fact that the administration further supports that action, we find ourselves in a rather perplexing situation where no one who is objecting seems to care to come to the floor and explain the basis for the objection. I commend my friend from Wyoming for his diligence and commitment to persevere on something that I think is, indeed, appropriate and timely.

I thank my good friend for joining me in a colloquy.

If there are no further Senators wishing recognition at this time, I ask unanimous consent to speak for 5 minutes as in morning business until such time as another Senator seeks recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

RELATIONSHIP BETWEEN TAIWAN AND CHINA

Mr. MURKOWSKI. Mr. President, I would like to continue relative to the matter that the Senator from Wyoming and I discussed, because I think we have seen an extraordinary series of events take place. I am referring specifically to the fact that on the 23d of March, free elections will take place in Taiwan.

It is significant that we have seen an extraordinary activity as evidenced by Beijing who has seen fit to harass the process, threaten the Taiwanese with a military presence, missile threats, as well as naval activity of significant merit.

The consequences of that effort seem to have been misdirected, however, because President Li, who is running for reelection, in the sense that these would be free elections, is in a situation where he has been attacked by the Government of Beijing, time and time again, as fostering independence for Taiwan.

Yet, the Taiwanese know, and most of us who have followed the election process are aware, he is not the candidate of independence. Dr. Peng is the candidate of independence. The people in Taiwan are aware of the distinction. As a consequence, Mr. President, as they have continued their attacks on President Li, it has rallied the support of the Taiwanese people around President Li.

I can only assume that the attack against President Li was directed in hopes that somehow he would receive less than perhaps 50 percent of the vote. Well, we will have to see what percentage of the vote he will ultimately receive. But clearly the attacks seem to have helped President Li's popularity in Taiwan. I was recently over there, about 3 weeks ago, and had an opportunity to meet with various officials, including President Li.

One of the other interesting things, as a consequence of the presence of the PRC in the election process in Taiwan, is an extraordinary realization and identification of Taiwan as a significant voice in international affairs. Now it seems that there is more concern being leveled by Beijing against Taiwan's prominence. Taiwan is called upon to participate in humanitarian contributions and various activities by international organizations. They clearly are one of the most prosperous countries in the world, having the highest per capita capital reserves of virtually any other nation.

So what we see today is the perplexing situation where, on one hand, we have the focus of a democracy initiating its first free elections, a real concern internally by the Chinese leadership as to what role they should play with their renegade province, recognizing that next year Hong Kong is basically within the total control of China, when 1997 comes, and in 1997 the people's Congress will meet to basically set the parameters for the next 5 years and the hierarchy of the leadership in China.

We do not know what the mindset of that leadership is. We can only guess. But it is fair to say that their extreme views of what should be done—and as we look at the capability of the M-9 missile and the accuracy of that missile to be launched from within China to targets on either end of Taiwan, southern and northern target areas, and we note the capability of the naval activities, clearly, there has been a strong signal sent.

The difficulty in trying to determine just how this is ultimately going to play out, I think, deserves the action that was proposed tonight by my friend from Wyoming, and that is a reaffirmation of the Taiwan Relations Act. As I said earlier and we discussed in our colloquy, the President of the United States has an obligation to come before the Congress if, indeed, in his opinion, the national security interests of Taiwan are in jeopardy. I think the President and the administration's actions so far are to be commended. We have, by our display of naval power, intelligence and other assets, basically reinforced our commitments to the Taiwan Relations Act.

There are a couple of other significant events that probably should be noted, Mr. President, and that is the reality that initially the Chinese indicated they would cease their missile tests on the 15th. Further, they would cease their naval activities on the 20th. And, of course, we have the date of the 23d for the free democratic elections in Taiwan.

So I think we will have to watch those dates very closely, Mr. President, to see if, indeed, the Chinese are serious in terminating the missile activities, terminating the naval activities on the dates that they have stated. If they do not, why, clearly they intend to escalate the tensions that are now in existence. And, as a consequence, Mr. President, I fear for the ultimate disposition because the Taiwan Relations Act mandates that the resolve of China and the issues of China with regard to its two provinces, particularly Taiwan, will be by peaceful means.

So I guess we will just have to wait and see what the ultimate outcome of this is as each day goes by, but I think it is most appropriate this body reaffirm the terms and conditions of the Taiwan Relations Act. We have already seen, under the terms of that act, the ability of the Taiwanese to seek military assistance in the form of purchases for their defensive needs—I want to stress defensive needs—as a prerequisite of the Taiwan Relations Act. That activity has been carried out by the United States on a decreasing dollar amount. We have the request for some of the higher technological capabilities associated with the Patriot missile system as an antiballistic missile defense.

There are some of us in the Congress that feel perhaps this is the time to escalate those sales and offer the people of Taiwan the psychological assurance, as well as the real assurance, of what that type of technology should be. This Senator from Alaska is reserving his firm opinions on that depending on what the situation is as we approach these dates of significance relative to a determination of whether or not Beijing simply wants to show its strength with regard to Taiwan or whether we can expect an extended period of tensions.

In my meetings with President Li, I had the assurance that after the elections, assuming President Li were elected, that he would initiate communications with Beijing in an attempt to reduce tensions. I think that that will occur. My concern is what price Beijing may demand of Taiwan with regard to easing those tensions.

So I will encourage my friend again from Wyoming to pursue the resolution that is before this body that unfortunately we were unable to bring up tonight because of objection on the other side. I would again hope that some of my colleagues on the other side who have raised these objections would come before this body so that we might enter into a discussion, because obviously, if there are issues that the Senator from Alaska is not aware of that are appropriate, why, they should be considered.

If it is objection for the sake of objection, why, indeed, that is an unfortunate set of circumstances. I hope my friend from Wyoming will renew the request on the next vehicle. I will certainly look forward to joining him.

Mr. President, I yield the floor. I see some of my colleagues seeking recognition.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3524

Mr. BUMPERS. Mr. President, if I could have the attention of the Senator from Alaska.

Mr. MURKOWSKI. Yes.

Mr. BUMPERS. I was curious about two things. No. 1, has the Senator offered his amendment that would require the Federal Government to buy back from the Alaskan salmon industry $23 million worth of Alaskan salmon?

Mr. MURKOWSKI. I have no idea where the Senator from Arkansas came up with that interpretation. The answer is, absolutely no.

What the Senator from Alaska has proposed is an amendment that would eliminate a mandatory inspection by the Department of Agriculture on salmon sold into the Department of Agriculture's food give-away program, as opposed to the inspections that exist for all other salmon that is canned in salmon canneries throughout the United States. All other salmon is canned, is inspected under State and Federal regulations, and ends up on the shelves of Giant or Safeway where it is available to all consumers. There is absolutely no reference to a mandate to buy any Alaska salmon in this amendment.

Mr. BUMPERS. It does not require the Federal Government to spend anything for Alaskan salmon?

Mr. MURKOWSKI. It requires the Federal Government to stop insisting on a dual inspection process mandated only by USDA for salmon that is purchased under their program. It does not require purchase of one can of salmon.

Mr. BUMPERS. All the amendment says is, if any salmon is purchased, it would eliminate the dual inspection?

Mr. MURKOWSKI. No, it says if salmon is purchased by the USDA for its Federal programs, that it does not require a special inspection, which is the current requirement.

Mr. BUMPERS. Let me ask a couple questions, if I may.

Mr. MURKOWSKI. Happy to respond.

Mr. BUMPERS. The Food and Drug Administration's inspection, for example, of canned salmon is for the purposes of determining its safety, that is, that it is clean and edible; is that correct?

Mr. MURKOWSKI. I think, as a matter of fact, that the process recognized by the FDA—but is actually performed by the State, does assure wholesomeness. However, in doing so it also assures the level of quality that you and I might find in our favorite store. It is my understanding that the safety standard is uniform under the State as well as Federal requirements for the inspection before the salmon can ends up on a Safeway shelf or a Giant Food shelf, or available to any retail or wholesale purchase. The USDA cannot explain when we get into a discussion why it should use a completely different standard than the one considered good enough for everyone else.

I hope my friend from Arkansas can perhaps enlighten me as to why a dual inspection would be necessary above and beyond the existing inspection that is required for domestic retail and wholesale sales and to put product on store shelves in the United States for the homemaker.

Mr. BUMPERS. Let me ask the Senator from Alaska who, in his opinion, would inspect this salmon for quality—not for safety, but for quality? Some of it is graded, I guess No. 1, No. 2, No. 3, No. 4. Who does that inspection?

Mr. MURKOWSKI. Traditionally, as the Senator may know, we have five types of Pacific salmon. Obviously, there is a quality differential. The buyers would inspect the salmon by lot inspections. In other words, each can of salmon carries on the lid a special code. That code says where it was packed. It identifies a date, a type, and a quality.

A buyer will go into the warehouse—they do not buy from the canneries in Alaska or Washington or Oregon. They go to a warehouse in Seattle and make a determination of what quality they want. Do they want pink salmon? Do they want skin or bone? Do they want red or sockeye or silver or chum? So the buyer makes that choice.

The inconsistency here is if the USDA will buy your salmon, they demand you have an inspector in your cannery even before they say they are willing to buy. It is just the USDA. The question is, why?

Mr. BUMPERS. If the amendment of the Senator only eliminates the necessity for what he has described as a double inspection of salmon——

Mr. MURKOWSKI. In effect, that is correct.

Mr. BUMPERS. Does it apply to anything else except salmon?

Mr. MURKOWSKI. I am concerned with canned salmon.

Mr. BUMPERS. It would not apply to anything except salmon?

Mr. MURKOWSKI. Well, it would apply to other canned seafood, but it is directed primarily at salmon. There may be a requirement for tuna. Tuna is not one of the fisheries in the northern part of the west coast, so I am not as familiar with it. I do not really think it makes a difference.

There is an inspection process—both State and Federal, a mandatory requirement, in order for the product to be placed on the shelf of the grocery stores. That applies to other types of fish in a can, as well—mackerel, tuna, perhaps.

Mr. BUMPERS. Can the Senator assure the Senate that his amendment would eliminate the necessity for two inspections? Specifically, an inspection by the Department of Agriculture that would apply to all commodities bought by the Department of Agriculture, for example, for the School Lunch Program, it would apply to all canned seafoods?

Mr. MURKOWSKI. Certainly, it is the intention of the Senator from Alaska not to exclude any. My interest just happens to be in salmon.

The rationale behind that is, we have a considerable amount of salmon that is canned in our State and in the State of Washington, and we look to find relief in selling a portion of that to the USDA in their food program. Much to our chagrin, we find out unless that particular pack has an additional inspection, we cannot break into that market. It is pretty hard to explain why there should have to be an additional inspector in a cannery above and beyond the inspections that are required to put it on the consumer shelf.

Mr. BUMPERS. Senator, what is the purpose of the amendment? Why do you want to eliminate the Department of Agriculture's right to determine the quality of the fish?

Mr. MURKOWSKI. That is not an issue in this regard. They can make a determination of what quality they want. They do that as a buyer. This involves a specific inspection. No other industry has to pay extra for a dual inspection to sell into the USDA program, to my knowledge, except the fish products industry. I do not believe it is required in the chicken producing areas.

I know my friend from Arkansas well enough to know that he is concerned about ensuring that there is nothing more in the amendment from the Senator from Alaska than trying to get rid of something that no one has been able to give a satisfactory explanation for. That is, why the USDA should demand an inspection for only the purchases they make as opposed to the inspections that are good enough for the consumer and buyers that represent the consumer. If Safeway or Giant come in and buy a carload of salmon, they pick it out by quality. They pick it out by looking through the lots to determine the various quality, doing samples and so forth. It has to meet a Federal and State inspection process to ensure that it is suitable to go to the commercial ventures.

That is fine, but the USDA says, "We will not buy it and put it out in our programs unless it has been through yet another process—and a very expensive one for the producers. And it seems that the bureaucracy of the USDA want to keep government inspectors on the job and active. But if other systems are good enough for every one else, why should this particular program have to have special exception? That is the justification for the amendment.

Mr. BUMPERS. The Department of Agriculture is strenuously opposed to the Senator's amendment. Do you know what their opposition is?

Mr. MURKOWSKI. I assume their opposition is that there will be less inspectors around. They will have to find something else to do, with perhaps retraining. It would certainly save the Government some money. I am certainly sensitive to the inquisitiveness of my friend from Arkansas. The question is if we have adequate inspections of the product, why is it necessary that a Federal agency deems that it must have its own special requirements? I have met with them, I add to my friend from Arkansas, and they have no explanation. They say they have always done it. We said, "Well, it defies logic. The product meets all Federal and State standards of cleanliness, of quality; otherwise, it could not go on the shelves." Do we need more? Obviously, no.

Mr. BUMPERS. Senator, let me tell you what my concern is. I do not want to belabor this. I know that Alaska had a very bountiful salmon harvest, and we are all grateful that you did have such a bountiful harvest. But a bountiful harvest in salmon, as it does with rice, soybeans, and everything else, sometimes has a down side, where the market is glutted, the price is low, and the number of customers decline, because they have more than they want.

Now, the Department of Agriculture tells me that they have a lot of salmon on hand from 1991 and 1993. I think the way the Senator's amendment has been represented to me was that the Senator steadfastly denies that, and I certainly accept his explanation. It is his amendment. I have immense respect for him, and I applaud him for trying to do something for his constituents. We all try to take care of the economic interests of our States.

But I am concerned about two things. No. 1, I do not understand why the Senator wants to eliminate an inspection procedure which has been as traditional as the Sun coming up in the morning, and No. 2, why the Senator would want to eliminate that inspection which, it is my understanding, goes to the heart of the quality of the product. We all know you have sockeye, you have silver, chum, you have a lot of different kinds of salmon. I assume that when that salmon is being canned, it is also graded for safety to make sure it is safe to eat, and second, for quality.

My guess is that if Giant Food were going to buy a shipload of silver or sockeye salmon, they would want to have some idea about the quality of it. Unless the Department of Agriculture is permitted to make that determination, nobody knows what the quality is.

Mr. MURKOWSKI. Well, the Senator is incorrect in that assumption. First of all, the Senator from Alaska does not know anything about the chicken business, but I do know something about the salmon business. I assume the Senator from Arkansas knows an awful lot about the chicken business. We are both concerned with quality control, because you are not going to sell your chicken, and I am not going to sell my salmon, unless we have quality control and the assurance that the purchaser receives the highest quality product. Now, that is the case that exists currently in the canned salmon industry, and as far as I know, in the canned fish industry as a whole. The fish must pass inspections that are set out by the State and Federal Government. That seems to be good enough for the consumers of the product, except the USDA, which requires—only on their purchases—not the purchases of the Safeway or Giant—an extra inspection process. They want a person in the cannery—and the canneries are not located in Juneau; they are located out in the hinterland where the fish actually come in.

Now, a Federal inspector works 8 hours a day. It is not good enough to have just one in a plant because your plant may be working 14 hours a day. If there are no fish, you still have to pay for that inspector, because he has to be there.

What has occurred here is that a giant bureaucracy has developed. I support the position of the Senator from Arkansas for quality control, maintenance, and so forth. But what we have under the program is an industry check, a State check, a Federal check, and then in the warehouse, a spot check of the entire pack that is going out for sale, where they randomly open certain cases and look at the quality, look at the wholesomeness of it, actually do a test on a portion of the lot, because no one can afford to put a product on the market that does not meet the Food and Drug Administration's safety standard of wholesomeness—just like the chicken industry in the Senator's State simply cannot afford this.

If you were in a situation where everybody was buying Arkansas chicken and it met whatever your State requirements were, and your Federal requirements, and suddenly the USDA said, "Well, for the chicken we are going to buy, that is not good enough. We have to have another inspector in all of your plants, or we are not going to buy any of your product." That is the situation we are in today.

Mr. BUMPERS. Does the Senator assure me and the other Senators here that there is nothing in this amendment that would require USDA, or any other Government agency, to buy any salmon in any amount?

Mr. MURKOWSKI. I have the amendment in front of me. I would be happy to read it to the Senator.

Mr. BUMPERS. The Senator is familiar with his amendment.

Mr. MURKOWSKI. I am familiar with it. It does not mandate a purchase of any specific amount of salmon.

Mr. BUMPERS. The answer to that question is yes or no?

Mr. MURKOWSKI. The answer is no.

AMENDMENT NO. 3525

Mr. BUMPERS. Second, that is all I wanted to know. We took a long time to do that. With the second amendment the Senator is offering, is that the Greens Creek land exchange?

Mr. MURKOWSKI. The Senator from Alaska has filed a Greens Creek land exchange amendment. It is my understanding, since we both share a committee assignment relative to some 40 bills that are being held up, that there is also an intent to clear tonight some seven or eight bills that are currently being held in the House, and we hope that they could come over tonight and be accepted. I think Senator BRADLEY has been involved in directing as to whether or not that process will be cleared. I might add to the Senator from Arkansas that the Greens Creek amendment is also in that package. I might also add that the administration happens to support the Greens Creek amendment. I know of no opposition.

Mr. BUMPERS. I supported it. Has it been reported out of our committee?

Mr. MURKOWSKI. Yes.

Mr. BUMPERS. Is it on the calendar?

Mr. MURKOWSKI. Hopefully, it will be. Hopefully, it could go through tonight. It depends on the clearance.

Mr. BUMPERS. I support it and will support it here.

I am curious. I had a bill. I wanted to put a land exchange in Arkansas on your Greens Creek exchange. I was told that the Senator from Alaska, as chairman of the committee, did not want to do that because it had not been reported out of committee. My question was, has the Greens Creek exchange been reported out of committee?

Mr. MURKOWSKI. Yes, it has. It is at the desk now. It could go through tonight.

I find myself picking up the habit of my friend from Arkansas. I was reminded by my staff that I am wandering around to the extent of my cord. So I had better crawl back.

I thank the Senator.

Mr. BUMPERS. That habit will never get the Senator from Alaska in trouble.

I thank the Senator from Alaska.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

TAIWAN RESOLUTION

Mr. JOHNSTON. Mr. President, there has been some conversation here on the floor which I caught on my television as I went home about the so-called Taiwan resolution.

Since I was the one who put an objection into the unanimous-consent consideration of that resolution, I wanted to tell my colleagues what my problems were with that issue and why I object to the unanimous-consent consideration of that resolution.

Mr. President, with the thrust of the resolution, I have no problem. I do not agree, really, with all of the wording of it. But you never can always embrace every jot and tittle in words and mood swings. But with the general thrust—which is to strongly condemn the People's Republic of China for, in effect, saber rattling in the Strait of Taiwan—Mr. President, with that I have no problem.

But, Mr. President, we have gotten into a situation where the United States now has two of our largest aircraft carriers in the Strait of Taiwan. We have the largest country in the world, one of the fastest growing countries in the world, soon to be the largest market in the world, clearly the linchpin of stability in all of Asia, and we are in a very dangerous situation with them.

How in the world did we get there, Mr. President? We got there, in my judgment, because of the fault of the United States Congress, because of the fault of the People's Republic of China, because of the fault of this administration, and because of the fault of Taiwan and their President Li Teng-hui.

The fact that this fault is shared does not diminish or ameliorate the fact that we have two carrier groups in the Strait of Taiwan in a situation that could lead, probably not to war, but, Mr. President, it could lead to great difficulties. It could lead to an incident—two ships bump in the night, a rocket goes astray and hits on Taiwanese territory. And there will be those in the Congress who would say, "Let us go. Let us attack. Let us get the smell of grapeshot. Boy, the blood is running. Let us go over and fight."

Mr. President, we are playing with fire with the largest country in the world. I am old enough to remember when we egged on the people in Hungary to revolt. Remember those broadcasts? Some of you will remember. They went across the border. We wanted them to revolt, and they revolted. They wanted to know where the United States was, and we were nowhere to be found. I remember women pulling open their shirts in front of tanks and daring them to shoot.

Mr. President, before we get our macho up too much, I believe we ought to rationally consider this question. I believe we ought to consider the basis of our relationships with China and with Taiwan and cool our rhetoric a little bit—and yes; condemn the People's Republic of China for what they are doing, but at the same time realize that it is the Shanghai Communique with its reaffirmations which was begun by President Richard Nixon, to the applause of Republicans, to the applause of Democrats, and to the applause of the country back in 1972, and reaffirmed by five Presidents. We have to understand that that communique, a one-China policy, two systems, peaceful reunification, is the basis of our relationship with China.

My problem with this resolution is not that it condemns the People's Republic of China. for saber rattling. I agree with that. But it misstates, I believe, the basis of our relationship with China.

In paragraph 5 on page 2, it says, "Relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means." As far as that goes, it is correct. It has always been our expectation that it be by peaceful means, and we ought to reaffirm that. But by leaving out the Shanghai Communique we are suddenly shifting ground.

Mr. President, I believe anyone who thinks that we can shift ground from the Shanghai Communique, the one-China policy to which Taiwan has repeatedly adhered and stated that they were for, that anyone who thinks we can go to a two-China policy and independent Taiwan without a great deal of difficulty does not know anything about the Far East and about what is going on.

If we are to do that, Mr. President, let us do it with our eyes wide open, and let us also do it with our pocketbooks wide open because here comes the new cold war if we are going to do that.

That is my objection to this, Mr. President. It is a subtle shift.

I asked the author, could we put in some words there, keep everything the same and just put in some words that say, in effect, we recognize the Shanghai Communique. The author told me he had no objection. But the chairman of the Foreign Relations Committee, Mr. HELMS, does, and other Members on that side of the aisle have objection to that. You see, that is the problem.

There is an intention in this body to shift ground to retreat from the Shanghai Communique, to go to a subtle recognition of Taiwan as an independent country. That is why I voted against the visit of Li Teng-hui to this country, Mr. President. I was the only Member of either body to vote against that visit. Oh, it was a sentimental return to his alma mater, Cornell, and we like Li Teng-hui. I met him, and I like him very much. I find him to be a very attractive leader. He is entitled to a lot of credit. He has brought Taiwan to a democratic system. It is a prosperous country. They do business with my State. I am for him. I think he is great.

But anybody who thinks that was an innocent little visit to the old alma mater and that is all it was about, Mr. President, did not read the press. You know he promised no press conference. But they put out the word subtly that, "If you reporters will be hiding behind the bushes when he walks around the Elipse, you just may be able to get an answer to your questions."

When he campaigns in Taiwan, he is stating things that, on the one hand, are ambiguous and, on the other hand, are promoting or moving his country in the direction of independence.

Maybe, Mr. President, at some time this body will consider that question and come to a different answer. I do not think so. I think if we had hearings and fully considered the question, we would say that President Nixon was right, President Carter was right, President Ford was right, President Bush was right, President Reagan was right, and now President Clinton is right. Indeed, Taiwan was right to go along with the Shanghai Communique.

Mr. President, I do not propose to fight this resolution because to fight the resolution itself would be to indicate that I somehow have some approval of what the People's Republic of China is doing in the strait.

I do not. I think it ought to be condemned. When Vice Foreign Minister Liu was here 3 days ago and the distinguished Senator from California and I had a luncheon for him and had a long discussion with 10 Senators there, Vice Minister of Foreign Affairs Liu made it clear that the friendship of the United States and Taiwan is indelible, there should be no cause for alarm. China does not mean to go to war. But the United States needs to understand, Vice Minister Liu said, that independence for Taiwan is inadmissible, that all other issues are simple compared to this issue.

I think it bears repeating every time we have a chance that we should not by indirection allow ourselves to get into a situation where we are shooting out there in the strait of Taiwan and people are scratching their heads and saying, "How did we get there?"

Now, I said the administration was at fault, and they were because they indicated to Foreign Minister Qian Qichen that there would be no visit by Li Teng-hui, and they changed, and after the Congress almost unanimously agreed with the resolution inviting Li Teng-hui to the United States we might understand that, but the Chinese, frankly, did not, because they had been assured, they thought, that there would be no such visit.

I believe the Congress was at fault, even though I am the only one apparently, only one who voted that way and one of only a few who shared the view that I thought it was a political visit because Li Teng-hui treated it as a political visit, the world treated it as a political visit, and indeed the Foreign Relations Committee chairman and other members there have put in resolutions saying that we ought to admit Taiwan to the United Nations—that is reserved only for independent countries—that that ought to be done.

So, Mr. President, I do not plan to oppose this resolution, but if it is brought up tonight I will want to question the authors of it as to their intent with respect to the Shanghai communique. It is very important that the Shanghai communique not be departed from.

Several Senators addressed the Chair.

Mr. MURKOWSKI. I wonder if I might ask my friend a question.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. JOHNSTON. I will yield to the Senator from Georgia for a question.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. NUNN. Will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. NUNN. Is the Senator saying if we are going to consider a resolution on this sensitive subject that we ought to hear every word of exactly what we are doing, not do it at this hour of the night when people are not paying attention and understand what we say on the floor of the Senate?

Sometimes we do not take it seriously but other countries do. I have reservations about the way this resolution is worded. It is not what is in it.

It is what is not in it. There is not much I disagree with, but it leaves out the whole history of the United States relationship with China, how it evolved under President Nixon, what happened when we normalized, the Reagan communique in 1982. All of that is left out of it. We are all concerned about what is going on in China, but we do not further the cause of stability and peace in that area of the world by ignoring what we have agreed to, by ignoring the history of President Nixon's visit, by ignoring the one-China policy which was adhered to not only by the United States when we said that we would respect China's view that that was their policy but also by the people on Taiwan. For years that is what has brought stability and prosperity to that part of the world.

If they are going to change that policy politically by Taiwan or certainly by military force by China, then we ought to oppose both. We ought to oppose it vigorously because that is going to cause turmoil in that part of the world for a long time to come.

So if the Senator from Louisiana is saying let us go slow, let us do not pass this tonight, I am with him. I think he is absolutely right. We are not going to solve anything. This is more heat than it is light. And we need to be very careful.

I would be glad to work with Senators on that side of the aisle in carefully wording and making sure we reflect the history, making sure we have an overall perspective, making sure we understand the U.S. agreements, what we have agreed to. We have not always lived up to what we said we were going to do either. I think we all have deep concern about the dangerous situation developing there. We have deep friendship for the people on Taiwan and deep admiration.

So I would just ask the Senator, have I captured the essence of the point he is making here?

Mr. JOHNSTON. Mr. President, the Senator from Georgia has captured precisely the point, precisely the point. It is not what it says. It is what it leaves out. It is a subtle shift of ground. It is the mood of abandonment of the Shanghai communique and its progeny that are the problem here, and I wish we would just take some time in committee, as the Senator from Georgia points out, to carefully word on a bipartisan basis a resolution that, yes, condemns the use of force in Taiwan; yes, reaffirms our commitment to a peaceful settlement of this problem but, Mr. President, one that, as the Senator from Georgia says, fully reveals the content of our policy with China.

We are in this soup right now with two carrier groups in the Strait of Taiwan because we acted hastily and treated the visit of Li Teng-hui as if it were simply a visit to the alma mater. I think we realize now that it was a whole lot more. It has gotten us with two carrier groups over there. That is what led to it.

And so, Mr. President, I say let us go slowly. I do not oppose what it says. But let us work it out so it truly reflects American policy.

Several Senators addressed the Chair.

Mr. MURKOWSKI. I wonder if my colleague will yield for a question.

Mr. LOTT. Parliamentary inquiry.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. JOHNSTON. I will yield to the Senator.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, if I could get a clarification here, I believe that the Senator has indicated that there would be objection and we are not going to have a vote on this issue tonight, as I understand it, and we had announced to all the members 1½ hours or so ago that we would have a vote at or about 8:30. The distinguished Senator from Minnesota has been on his feet for probably close to an hour now seeking to get recognition to speak on an amendment that is the pending business.

Now, Mr. President, is that the——

The PRESIDING OFFICER. That is not the pending business. The pending business is the amendment of the Senator from Georgia [Mr. COVERDELL].

Mr. LOTT. Would the Chair repeat that?

The PRESIDING OFFICER. The pending business is the amendment of Senator COVERDELL of Georgia.

Mr. LOTT. I believe, Mr. President, it would be in order to ask for the regular order on the Grams amendment.

Mr. MURKOWSKI. Mr. President, I wonder if I could finish my one question of the Senator from Louisiana.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. LOTT addressed the Chair.

Mr. MCCAIN. Regular order, Mr. President.

Mr. LOTT. In order to wrap this up, I would yield to Senator DORGAN, and then I am going to yield to Senator MURKOWSKI. But I would like to get on with the business I told the Members we have.

Mr. DORGAN. I only want to amplify the point the Senator has made. The cloakroom indicated there was going to be a vote at 8:30 on an amendment that was pending. This is probably an appropriate time for a China debate here in the Senate, but I would certainly support the inclination of the Senator from Mississippi to get the regular order and move to the amendments that are now pending.

Mr. LOTT. Mr. President, would the Senator from Alaska like to——

Mr. MURKOWSKI. I would just like to ask my friend from Louisiana, with whom I share the responsibility on the Energy and Natural Resources Committee, and we work together, if, indeed, on page 2, line 23——

Mr. LOTT. Mr. President, who has recognition at this point?

The PRESIDING OFFICER. The majority whip has the floor.

Mr. LOTT. Mr. President, I would like for us to be able to wrap this issue up. I know the Senator has some more comments to make on it, but we did say the regular order would be the Grams amendment, I believe.

Mr. MURKOWSKI. I thought there was a reference to Senator DORGAN.

The PRESIDING OFFICER. If the majority whip wishes, the regular order will be the amendment of the Senator from Minnesota, Mr. GRAMS.

Mr. LOTT. I believe that is the order, Mr. President, and I would like to ask for that at this time.

The PRESIDING OFFICER (Mrs. HUTCHISON). The amendment 3492 is now pending.

The Senator from Minnesota is recognized.

AMENDMENT NO. 3492

Mr. GRAMS. I thank the Chair. I will not take a lot of time. I know everybody is in a hurry to wrap this up for tonight.

I think this is a very important amendment that I offered last night. It has a growing number of cosponsors as well. It is called the taxpayer protection lockbox amendment. I think it is very important because I think we have been talking about trying to get a budget together, spending authority for this Government over the next couple weeks, for a couple of months in order to avoid a shutdown.

I think it was a glaring example this last week, when we are talking about a lockbox, we are talking about trying to save the taxpayers some money, when the President asked for over $8 billion in new spending and he wants this Congress to come up with that much money.

There have been many amendments that have been offered that have cut spending trying to save the taxpayers some dollars. Those dollars have always gone for a savings and a cut, but it has never been a cut. It has never reduced the amount of spending for that year. Those dollars that are saved are always just shuffled off into another pot and somehow get spent before the end of the year.

The request that has been made by the President is supposed to come from new spending. In other words, there is even some estimated savings, savings that we are going to have if we pass a balanced budget. Since those dollars are out there floating, everybody is trying to get their hands on those projected savings dollars. In fact, we have a number of amendments pending on the floor that are asking for those same dollars to be spent over and over and over again.

So my objection is that this should not be a shell game for the taxpayers. We should not be using smoke and mirrors when it comes to the budget. If we are going to reduce appropriations or spending levels, they actually should be reduced. The taxpayers should see that benefit in a smaller budget.

Instead, all we do is move those dollars from one hand and we put them into another hand, and at the end of the day they are spent and the taxpayer is handed a larger bill.

Mr. WELLSTONE. Madam President, can we have order in the Chamber?

The PRESIDING OFFICER. The Senate will come to order.

Mr. GRAMS. Just a couple of quick other notes. This is not the first time this idea has been introduced. The lockbox language has been adopted by the House three times already, by large votes, the latest vote, 373 to 52. Also, it has the support of a number of groups such as the Citizens Against Government Waste, Citizens for a Sound Economy, the National Federation of Independent Businesses.

Madam President, if we are going to be responsible for the taxpayers, we should get our house in order. If we are talking about saving some money, let us make sure we do save it and just do not play a shell game and put it in another pocket and spend it later.

Madam President, I will yield to the Senator from Missouri who had a comment.

Mr. ASHCROFT. Does the Senator from Minnesota yield?

Mr. GRAMS. Yes.

Mr. ASHCROFT. I think I understand what the Senator is saying here, and I think the point is this. When something comes to the floor here and we knock funding out of an appropriation, instead of that being available to reduce the debt——

Mr. WELLSTONE. Madam President, there are two Senators out here speaking on an amendment. They have a right to be heard. May we have order here?

The PRESIDING OFFICER. Will the Senators who are having the caucus in the middle of the Chamber please repair to the Cloakroom?

The Senator from Missouri is recognized to pose a question to the Senator from Minnesota.

Mr. ASHCROFT. The Senator from Missouri thanks the Chair.

It is my understanding that what the Senator is saying is, when we strike something from an appropriations measure and we would reduce the amount of the appropriation, that currently that money is not reduced from spending, but it just becomes available for spending in other areas. Is that correct?

Mr. GRAMS. That is correct.

Mr. ASHCROFT. So all the efforts we make to amend spending measures here and reduce them just allow the diversion of funds to other sources?

Mr. GRAMS. That is correct. The taxpayer is under the belief that money is being saved in their name, but it is just being moved from one pocket and put into another.

Mr. ASHCROFT. The Senator's measure would say whenever we reduce a spending measure here by amendment, that the reduction would go into a special category which could only be used to reduce the deficit?

Mr. GRAMS. That is right.

Mr. ASHCROFT. So when we had an amendment to occasion savings, that would be real savings and not just a diversion to other sources?

Mr. GRAMS. That is correct.

Mr. ASHCROFT. It seems to me that some of the rules of industry ought to apply. One of the great rules of industry is that your system is designed to give you what you are getting. It may not be designed to give you what you wanted to get, but it is designed to give you what you are getting. We have been getting a lot of debt and maybe it is because we need to redesign the structure.

Mr. GRAMS. That is hopefully what this will do. It is the first step in trying to change the budget process.

Mr. ASHCROFT. That will be when we reduce the spending on the floor as a result of an amendment; instead of that money automatically just being diverted to other spending, it would go into a special category which could only be used to reduce the deficit?

Mr. GRAMS. And reduce our budget obligations for that fiscal year.

Mr. ASHCROFT. The second part of the Senator's measure is, I guess, related to revenues. If we project a certain amount of money that comes in as revenues and for spending, and then we get more money than that, the Senator creates another special fund, that if our revenues come in higher than projected, that money goes into a deficit-reduction account as well?

Mr. GRAMS. That is correct. Say our projected revenues will be $1.6 trillion and because of the hard work of the American workers, it comes in at $1.7 trillion, that additional $100 billion really should benefit the taxpayers and workers of this country to pay off the deficit and not to be laid on the table for people to grab at it and spend it in different ways.

Mr. ASHCROFT. So the bonus would be to the next generation by having lower debt instead of a bonus being to politicians to have bigger spending?

Mr. GRAMS. That is correct.

Mr. ASHCROFT. So the two components are to change the system so when we amend the system and we amend a measure to reduce spending, the money goes into a special lockbox or fund for deficit reduction, and in the event we have higher-than-anticipated revenues, we sweep those revenues into deficit reduction instead of dumping them into a slush—a fund that can be appropriated for additional spending?

Mr. GRAMS. That is correct.

Mr. ASHCROFT. If I might commend my colleague, I think this is the kind of structural change we need. We have been for the last three decades just amassing debt and passing on the responsibility to pay that to the next generation. It is high time we develop a technique and change the structure, which would provide that when we do have the discipline to cut a spending measure, that the cut goes to deficit reduction instead of just being diverted to something else.

I thank the Senator for proposing this measure, and I intend to support it. I think it is a major benefit, not only to us here but to the next generation.

Mr. McCAIN. Madam President, I am pleased to join my colleague from Minnesota, Senator GRAMS, in supporting the Deficit Reduction Lockbox Act of 1995 as an amendment to the Omnibus Appropriations Act.

This is a simple amendment. Often Members stand on the floor and make that claim that this or that proposal is simple. Well, this is. For all the legislative language, it mandates that if any money is cut from an appropriations bill or if revenues raised by the Federal Government are in excess of budgetary projections, the money can only be used to reduce the deficit or cut taxes.

Often a Member will go to the floor to oppose a program or project. The Member will fight to eliminate this or that waste or abuse of Government spending. And from time to time, the effort will be successful and funding to some program will be cut.

But unfortunately, instead of using the money for deficit reduction, it is often used to fund yet another pork barrel project.

Madam President, when the Senator from Minnesota and I oppose earmarks and pork barrel funding, we are not taking such action so that the money can be used for some other pork project. We are doing so because we want the money to be used for deficit reduction. We are doing so because of the budget crisis that our Nation faces.

The No. 1 dilemma facing the future of this country is not whether another bridge is built, whether a 13th swine research center is built, whether we do or do not study the effect on the atmosphere of flatulence in cows, or if we build another supercomputer to study the aurora borealis—it is this Nation's debt. What we must do is restore the fiscal integrity of this Nation and the only way to do that is to reduce the debt.

Two final points, first, I want to note that this amendment has been endorsed by Citizens Against Government

Waste, Citizens for a Sound Economy, and the National Federation of Independent Business.

Second, this body has gone on record supporting lockbox language in the past. During consideration of the line item veto, the Senate adopted an amendment regarding the lockbox. The House has also passed lockbox language—adopting an amendment very similar to this one just last week. I would hope that we could now follow the House's lead.

This amendment will not alone solve this problem. But it is an important step in the right direction. Together with passage of a constitutional amendment to balance the budget and the line-item veto, a powerful body of legislation, we will do much to restore the integrity of the congressional budget process.

Mr. CRAIG. Mr. President, I am pleased to rise in support of the amendment offered by the Senator from Minnesota [Mr. GRAMS], the Taxpayer Protection Lockbox Act of 1996. I commend the Senator on his amendment and am proud to be a cosponsor.

It only makes common sense: When the Senate or the other body passes an amendment to cut spending, with great fanfare about how fiscally responsible it is and how it will help reduce the deficit, we should make sure that the cut is, indeed, a cut. Many of us in both bodies have been frustrated by supposed spending cuts only to learn that the money supposedly saved becomes immediately available for spending on some other programs. That just shouldn't happen.

The Lockbox Act would be an invaluable help to honest budgeting. It would be a blow for truth in legislating. It would finally put an end to one of the gimmicks that has fed so much public cynicism about how Congress goes through the budget process.

This amendment is very similar to an amendment adopted by the other body, which was offered by Congressman MIKE CRAPO of Idaho. It is also similar to one title of a budget process reform package I introduced in the last Congress, the Common-Cents Budget Reform Act. Not only is this sound legislation, it also has a good Idaho pedigree.

I support Senator GRAMS in his offering of this amendment and I call on our colleagues to adopt it. It would remove, once and for all, one insidious way in which Congress in the past have cooked the books. A vote for the Lockbox Act is a vote for better government, more honest budgeting, and a more accountable Congress.

Mr. GRAMS. Madam President, I understand the yeas and nays have been ordered on this amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor? The Senator from Minnesota has the floor. Does he yield the floor? Does the Senator from Minnesota yield to the Senator from New Mexico?

The Senator from New Mexico.

Mr. DOMENICI. Madam President, let me say to Senator GRAMS, I share his concern about getting the budget under control, but I have to oppose this amendment because it violates the Budget Act and is subject to a point of order.

I do not choose to discuss the amendment very much, other than to say to the Senate that the way things work right now, the Budget Committee produces a budget resolution; it is voted on by both Houses and eventually becomes the budget resolution for both Houses. As far as domestic discretionary and defense discretionary spending, after that budget resolution is completed, the Appropriations Committee, under the leadership of the chairman, allocates to subcommittees the amount of discretionary money that is available for the entire year, and that total amount of money becomes a cap beyond which you cannot spend unless Congress declares an emergency for funds that would exceed the cap.

Let me give the Senate an example of how far we have come in just this year. By enforcing those caps, we will save $21 billion in just the discretionary appropriated accounts. Without one nickel of savings in entitlements, we save $21 billion.

What that means is that every bill that comes before the Senate is part of the cumulation of subcommittee allocations that equal the cap. We do not need another piecemeal cap, which means on the floor of the Senate we readjust the caps based upon what actions we take on appropriations bills. We took the action. This year the action is to save $21 billion.

I understand there is a fervent desire—and I have great respect for it—to do even more than the formal binding caps that were established this year by the Republicans in both Houses, which save $21 billion. I do not believe we should now establish another piecemeal approach to reducing the caps on the basis of individual votes on appropriations bills on the Senate floor.

The last time the House visited this item, they passed it by two votes. I believe the U.S. Senate has a far more reasonable and rational approach, which is to send this proposal, this kind of change, to the committees of jurisdiction so you look at it in the context of the overall the budget process, not just this one piece.

Having said that, it is with regret that I must make a point of order under section 306 of the Congressional Budget Act. I make the point of order.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Madam President, I want to say I have the deepest respect for the chairman of the committee, Mr. DOMENICI, and also the highest respect, of course, for the hearing process, but I would like to see a vote on this. So I move to waive the Budget Act, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I further announce that the Senator from New York [Mr. MOYNIHAN] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 57, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—36

Abraham
Ashcroft
Baucus
Brown
Coats
Coverdell
Craig
DeWine
Faircloth
Feingold
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hutchison
Inhofe
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Warner

NAYS—57

Akaka
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
D'Amato
Daschle
Dodd
Domenici
Dorgan
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Thurmond
Wellstone
Wyden

NOT VOTING—7

Bennett
Dole
Kassebaum
Kennedy
Moynihan
Pryor
Stevens

The PRESIDING OFFICER. On this vote the yeas are 36 and the nays are 57. Three-fifths of the Senators duly sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected.

The amendment of the Senator from Minnesota contains matter within the jurisdiction of the Senate Budget Committee but the pending bill was not reported by the Budget Committee. Therefore, the amendment violates section 306 of the Budget Act. The point of order is sustained. The amendment fails.

AMENDMENT NO. 3508

Ms. MIKULSKI. Madam President, I rise in strong support of the amendment offered by Senator BOXER. This amendment will ensure that the District of Columbia can make its own decisions on whether to use locally raised revenues for abortion services.

I oppose the provision included in the bill as reported from the committee. Under the committee's bill, neither Federal nor locally raised funds could be used for abortion.

Frankly, I oppose any restrictions on funding for abortion services. But the language in the committee bill is particularly onerous.

Madam President, let me offer three reasons why the committee's language is objectionable, and why the Boxer amendment must be approved:

First, the language in the bill is an assault on the local prerogatives of the District of Columbia.

Second, it threatens the health of poor women.

Third, it is part of a wide ranging attack on women's reproductive rights.

Let me explain.

First of all, the committee's provision is an unwarranted intrusion on the District's sovereignty. It restricts the ability of the District to use its own, locally raised revenues for access to abortion.

No other jurisdiction is told how to use its own revenues. Every State can make its own decision on using its own funds to provide access to abortion for poor women.

Seventeen States, including the State of Maryland, provide Medicaid funding for abortion under all or most circumstances. That is their right. Thirty-three States have chosen not to use their funds for abortion. I may not agree with them on this point, but it is their right to make that decision.

The District should be given the same autonomy as the States to create its own policy about matters of public health. The Boxer amendment will assure that the District has that right.

Madam President, the provision currently in the bill tramples on the rights of women who live in the District, especially those who are poor and most vulnerable.

For poor women who cannot afford basic health care without Government assistance, this denies access to abortion services. Poor women should have the same choices to terminate a pregnancy that other women have.

Finally, Madam President, the provision in the bill as it now stands is part of a disturbing series of assaults on women's reproductive rights.

Throughout the fiscal year 1996 appropriations process, we have seen one attack after another on women's constitutionally protected right to choose. I strongly oppose these efforts to chip away at women's rights.

I urge my colleagues to vote for the Boxer amendment. I would prefer to strike the entire provision, so that there would be no restrictions on either the Federal funds or locally raised revenue. But I recognize that is not possible given the current composition of this body.

So while it may be that we cannot strike the restriction on Federal funds, surely at a minimum we must protect the right of the District of Columbia to use locally raised revenues as it sees fit.

Not to do so violates the District's right to determine its own affairs. It is unfair to poor women who reside in the District. And, it is one more effort to undermine reproductive rights.

I urge support of the Boxer amendment.

PRIDE

Mr. COVERDELL. Madam President, I would like to take this opportunity to commend the subcommittee chairman for his leadership and for his sensitivity to the alarming rate of increased drug use among our teens.

Mr. GREGG. I thank my good friend and share his concern about drug use among our youth.

Mr. COVERDELL. In my capacity as chairman of the Western Hemisphere Subcommittee for the Senate Foreign Relations Committee, I recently held a field hearing in my home State of Georgia about drugs. One of the witnesses, Dr. Thomas J. Gleaton who is the president of the Parents' Resource Institute for Drug Education or PRIDE, testified that we are on the brink of a national disaster. I frankly agree with him.

Dr. Gleaton testified that teen drug use peaked in 1979 when 55 percent of senior high school students reported using an illicit substance in the previous year; that level dropped steadily through 1992 to 25 percent. However, the shocking evidence over the past 3 years shows a rapid reversal. If current trends continue, drug use will pass the high mark of 1979, and we will have more high school seniors using drugs than are not. That, to me, is shocking.

One of the reasons I am sold on PRIDE's approach to this growing problem is its emphasis on parental involvement as a main deterrent to drug use among our children. A recent Barbara Walters interview with Colin Powell illustrates the power of parental involvement. Ms. Walters asked General Powell if he had ever used drugs. General Powell replied that he never used drugs because if he had, he would have had to answer to his mother.

I would ask the Senator if he, in his capacity as the chairman of the Commerce, Justice, State, and Judiciary Appropriations Subcommittee, would support using a portion of Office of Justice Programs funding to maintain the work of groups who seek to stop drug use among our children through grassroots efforts like PRIDE?

Mr. GREGG. The subcommittee shares the Senator from Georgia's belief that an important component in winning the war against drugs is putting an end to drug use among our youth. Further, the subcommittee would encourage the Office of Justice Programs to support grassroots efforts like the one described by the Senator from Georgia.

Mr. COVERDELL. I thank my friend and appreciate his support.

MENTAL HEALTH BLOCK GRANT

Mr. DOMENICI. Madam President, I rise today to express my concern about the funding level proposed in this bill for the mental health block grant. While I am pleased that the bill retains separate funding for the Path Program, which provides critical services to homeless Americans with mental illnesses, the mental health block grant proposal is another matter. The Senate cuts the block grant by 18 percent, down to $226.3 million, while the House proposes level funding at $275.4 million.

Cutting the block grant is penny wise and pound foolish. The block grant is the primary Federal discretionary program supporting community-based mental health services for adults and children. States use the block grant to fund community-based treatment, case management, homeless outreach, juvenile services, and rural mental health services for people with serious mental illness. The block grant plays a particularly important role in States like New Mexico where we have numerous underserved areas where there is often inadequate access to may different types of vital health care services.

The block grant provides up to 39.5 percent of the Community Mental Health Services budget controlled by State mental health agencies. Although it constitutes a small portion of many States' overall spending on mental health, its impact on community-based services is undeniable.

The bill cuts block grant funds at a time when States are placing more emphasis on cost-effective community-based services. More and more States are closing or downsizing their State hospitals in an effort to save funds. The States are replacing those services with more cost-effective services at the community level. The block grant helps ensure that individuals who leave institutions have somewhere to go for treatment, and are not simply relegated to the streets.

According to the National Association of State Mental Health Program Directors, fiscal year 1993 was the first time that State hospital inpatient spending equaled spending on community-based services. The mental health block grant played an important role in this transition, and I believe this trend will only continue in the future.

I understand very well the constraints facing the Appropriations Committee. But I believe the spending in the mental health block grant is cost-effective, and if the House is willing to provide level funding, it is my hope that the Senate can do so as well. I urge the committee to accept the House number.

EPA RESEARCH FACILITY, RESEARCH TRIANGLE PARK, NORTH CAROLINA

Mr. FAIRCLOTH. Madam President, I would like to ask the distinguished chairman of the Committee on Environment and Public Works, Senator CHAFEE, to clarify the intent of his amendment concerning funds to construct a new research facility for the U.S. Environmental Protection Agency at Research Triangle Park, NC.

I understand the chairman's concern that this proposed project be reviewed by the appropriate authorizing committees of the Senate and House of Representatives. However, I have a concern that if the Congress does not act in time for contracts to be awarded in this fiscal year, that the cost will escalate dramatically.

I believe that the distinguished chairman is aware of my 2-year efforts to lower the overall costs associated with the project. As such, it would be unfortunate to experience needless delay resulting in higher costs to the taxpayers. Does the chairman intend to schedule committee consideration of a resolution authorizing this project in the near future?

Mr. CHAFEE. I would be pleased to respond to the Senator's question. I am indeed aware of your successful efforts to lower the overall costs of this important project. It is not my intention to sacrifice these savings by delaying authorization. Instead, this amendment will preserve the Environment and Public Works Committee's authority to review and determine spending levels for the construction of Federal buildings.

With respect to committee consideration of a resolution authorizing the project, it is my intention to schedule a business meeting as expeditiously as possible. I am confident that we could consider a resolution well before the April 19, 1996, deadline established in the amendment.

Mr. FAIRCLOTH. I appreciate the chairman's response. I have one final question for the chairman. Will the prospective committee resolution allow for multi-year funding? That is, will the authorization permit incremental appropriations over the next few fiscal years for this project to be completed?

Mr. CHAFEE. Yes. Authorizations provided by committee resolutions approving construction of Federal buildings stand unless and until subsequently modified by the committee.

AMENDMENT NO. 3493

Mr. JEFFORDS. Madam President, I would like to take this opportunity to explain my vote today in support of Senator MURRAY's amendment to the Omnibus Rescissions and Appropriations Act. A year ago this body passed what had become known as the salvage timber rider. Given the threats this provision posed to the health of many valuable forest environments and the potential impacts of harvesting timber under suspension of environmental laws on fish and wildlife habitat, I opposed that amendment. Today, I supported Senator MURRAY's amendment for the same reason. Senator MURRAY's amendment offered our Nation a reasonable, well thought out, environmentally and economically sound alternative to current law on timber salvage.

Although many people feel that any timber salvage program threatens our natural resources, I believe our Nation needs an effective, environmentally sound timber salvage program that addresses the risks posed by persistent drought, disease, and insect infestation. Senator MURRAY has met the challenge of developing a reasonable and effective response to this issue.

I am supporting Senator MURRAY's amendment for several reasons: First, it repeals the previous salvage timber amendment; second, it institutes a temporary program that increases public participation in salvage timber sales; third, it mandates compliance with all environmental laws; and, finally, it requires a comprehensive study of forest health by the National Academy of Sciences.

I applaud Senator MURRAY for her diligence and hard work in bringing this amendment to the floor. Mrs. MURRAY developed an approach that garnered the support of a wide array of constituents, a formidable task on any issue.

Our Nation has reached a point where we can no longer tinker at the edges of the forest management system of our country. For both economic and environmental reasons, we need to create certainty in how our forests will be managed. I believe that Senator MURRAY's amendment is a positive step in that direction and will resolve what has been a difficult and unsustainable situation.

JOINT IMPLEMENTATION ACTIVITIES

Mr. BENNETT. Madam President, it has come to my attention that there may be a need to give the Environmental Protection Agency additional guidance and budgetary flexibility regarding their support for climate changes studies in developing countries and their contribution to joint implementation activities carried out by Federal agencies to reduce CO_2 emissions worldwide. At present, a total of $8 million is appropriated for these activities in the omnibus appropriations bill.

As I understand it, there is a development consensus that the United States can achieve significantly greater CO_2 reductions and better value for dollars spent by supplementing that $8 million with another $4 million, drawn from the general allocations provided to the global climate account. CO_2 reductions accomplished under joint implementation activities accrue to the United States. I am not proposing that we incorporate this direction to EPA today, but I am suggesting that this is an issue that we should discuss prior to and during conference with the House, especially if this kind of programmatic flexibility will assure that we achieve our environmental objectives in a way that is most cost effective and which demonstrates the U.S. commitment to environmental protection.

TERMINUS OF THE NATCHEZ TRACE PARKWAY

Mr. COCHRAN. The Natchez Trace Parkway is nearing the end of construction on 445 miles of historic roadway through Mississippi and Tennessee. The parkway has been under construction since 1937 and only the final 20 miles remain to be completed along with an intermodal visitor's center at the terminus in Natchez, MS, a cost-share project that combines Federal, State, and local funds.

The fiscal year 1996 Interior section of the omnibus consolidated rescissions and appropriations bill contains $3,000,000 for construction of the Natchez Trace Parkway. This $3,000,000 is insufficient to complete construction of any of the remaining miles on the parkway and the National Park Service has indicated that the appropriated funds can be used for the cost-share visitor center project to be located at the terminus of the parkway. This transfer of funds will be a single appropriation to the National Park Service to be used for the construction of the visitors center.

I have worked on this project with my friend and colleague, Senator GORTON, chairman of the Appropriations Subcommittee on the Interior, and Senator BYRD, my friend from West Virginia and distinguished ranking member of the Appropriations Committee and ask them if they are in agreement that it would be acceptable for the $3,000,000 provided for construction on the Natchez Trace Parkway in fiscal year 1996 to be used for the project at the parkway's terminus?

Mr. GORTON. That is correct. In providing these funds the committee is aware of the need to initiate construction of the intermodal center, and that providing these funds would fulfill the Federal commitment to this cost-shared visitor center project.

Mr. BYRD. I concur with the chairman and my friend from Mississippi that using these funds for such a project at the terminus of the Natchez Trace Parkway is a proper use of the appropriated funds, and that agreeing to this proposal at this time will not impose any outyear construction costs for this project on the Interior bill.

GENERIC RANITIDINE

Mr. FAIRCLOTH. Madam President, today the distinguished Senator from Arkansas offered a statement with regard to patent litigation concerning an application filed with the FDA for generic ranitidine. In fact, that applicant has declined several opportunities to expedite this case. Moreover, the applicant has introduced a new counterclaim which will begin a new round of discovery, thereby significantly delaying the trial.

Geneva filed an ANDA for generic ranitidine tablets and notified Glaxo Wellcome in March 1994. Glaxo Wellcome filed a patent infringement suit in March 1994. Under the Hatch-Waxman procedures, the 30-month statutory injunction runs through September 1996. A trial date has not been set.

A trial court decision is not considered final if an appeal is taken. Thus it is highly unlikely that a final court ruling will occur prior to September 1996.

Even if the trial had already begun, it is unlikely that the trial and appeal could be completed by September. In an earlier patent infringement case against Novopharm with respect to the validity of the Form 2 patent, the trial court ruled in Glaxo Wellcome's favor in September 1993. Novopharm appealed the same month, but the appeal was not decided for 19 months, in April 1995.

Geneva had delayed the case. After their initial request for an expedited trial, Geneva has made little effort to expedite the proceedings, even after the district court in Royce versus Bristol Myers Squibb ruled that the FDA could approve ANDA's prior to the GATT-amended patent expiration dates.

Also, after the discovery schedule was set in January of this year, Geneva amended their original complaint to add a new action. Glaxo Wellcome has argued against allowing them to amend their complaint partially because it will open up the discovery process and further delay the proceedings, probably beyond the July 1997 patent expiration date for Zantac.

CROP INSURANCE

Mr. DASCHLE. Madam President, I rise to call attention to a serious problem facing our Nation's farmers. Currently farmers are required to purchase crop insurance coverage to be eligible for farm program benefits. The deadline for purchasing crop insurance has already expired for Southern commodities and will expire Friday, March 15, for Midwestern commodities. Under normal circumstances, these deadlines would not be a problem; however, the farm bill has yet to be enacted, farm program provisions have not been announced, and farmers are uncertain about what crops they can or can't plant and still be eligible for farm program benefits.

As you know, I have strongly supported a viable crop insurance program and have urged farmers to utilize important risk management tool. However, to require farmers to meet the crop insurance closing deadlines without knowing what will be in the farm bill, what they can or can't plant, or whether or not they even have to purchase crop insurance at all does not make common sense to me.

Madam President, I would prefer to address this issue by simply extending the deadline to purchase crop insurance, but I understand it will be scored by CBO as a cost and thus require an offset.

Mr. COCHRAN. Madam President, my colleague raises a valid and important point. Farmers are in fact, facing uncertainty and a potentially serious situation concerning purchase of crop insurance for 1996. Many believe they are not going to be required to buy it; others may believe that they are already covered when, in fact, they aren't because the automatic extension of their 1995 policy won't cover all the crops they may plant in 1996. For example, a farmer who planted cotton last year and corn this year is not covered under an extension of his old policy. And, because the closing date has or soon will pass, he will not be able to purchase insurance.

I am pleased to report to the Senate that the conferees on the farm bill are aware of this issue. I hope my colleagues will work to see that this is addressed as part of the conference agreement on that bill by temporarily extending the purchase date for those producers who want to purchase insurance. We should not send a mixed message by allowing broad cropping flexibility, while remaining totally inflexible about insurance purchase dates for the 1996 crops.

I appreciate the designated Democratic leader for raising this important issue. I agree this is a problem and should be corrected.

AMENDMENT NO. 3513

Ms. MIKULSKI. Madam President, I rise in opposition to the amendment offered by Senator COATS. The amendment would allow hospitals whose programs have not been accredited by the Accreditation Council on Graduate Medical Education [ACGME] to continue to receive Federal funds if the accreditation was denied because the program did not provide abortion training.

Let me share with you three reasons why I oppose the amendment.

First of all, if the amendment is adopted, the Congress will be imposing its judgment of what should be taught in OB/GYN residency programs over that of the medical professionals of the ACGME.

Second, the amendment would create a bureaucratic nightmare. If Federal agencies cannot be guided by ACGME accreditations in administering Federal programs, what standards will be used?

Third, under this amendment the number of physicians trained to provide abortions—a legal medical procedure—will continue to decline, jeopardizing women's health.

As my colleagues know, the ACGME is a private medical accreditation body which sets the standards for over 7,400 residency programs in this country. The American Medical Association, the American Hospital Association, the American Association of Medical Colleges, the American Board of Medical Specialties, and the Council of Medical Specialty Societies are all a part of ACGME.

They are the medical experts who know what should be included in a complete medical training program. Earlier this year, the experts of the ACGME unanimously agreed that ACGME's standards should be modified to require that residency programs provide training in abortion procedures.

But, let me be clear. The ACGME recognized that people and institutions have strongly held beliefs on the issue of abortion. So, the ACGME ensured that these new standards do not compel any institution or person with moral or religious objections to abortion to participate in training. It respects the beliefs of individuals and of institutions. Under the ACGME policy, training programs with moral or religious objections are permitted to refer their students to other facilities to receive this training.

I believe the Congress should respect the medical expertise and judgment of the ACGME. Politicians should not be setting the standards for medical residency programs. That is the job of experts.

It is ironic that at a time when we see efforts to reduce the role of big government, proponents of this amendment seek to substitute the judgment of Government for what should be the judgment of medical experts.

If this amendment is adopted, Federal agencies will face a bureaucratic nightmare. If Federal programs cannot rely on the ACGME accreditation in making decisions on funding medical education or other programs, what standard should they use?

Will the Government have to devise another Federal accreditation standard? Will the Federal Government require the States to set up new standards? It seems to me that either of these options results in more redtape for medical programs, more bureaucracy, and more government involvement in the private sector.

Do we allow residence programs to receive Federal funds if they have not had to receive any accreditation at all? This option would mean residency programs have not had to meet any quality of care standard at all. Surely that is not in the best interests of patients or medical institutions. And, surely that cannot be the intent of those offering this amendment. Yet, I fear that it could well be the result.

Let me make one further point, Madam President. There is a growing shortage of physicians who are trained in abortion procedures and willing to provide abortion services. This constitutes a serious risk to the health of America's women, for whom access to safe and legal abortion is disappearing.

In fact, in 45 States, the number of physicians who perform abortions declined between 1982 and 1992. Currently, in 84 percent of counties in the United States, not a single physician provides abortion services. At the same time, the number of residency programs that routinely offer training in first-trimester abortions has declined from 23 percent in 1985 to only 12 percent in 1992.

Abortion is legal in this country. But the constitutionally protected right to choice is endangered if there are no physicians trained in providing abortion services. It is essential that women who need abortion services have access to qualified and well-trained health care providers.

That is what the ACGME standards would ensure. That is why the Congress should not undermine the ACGME standards. That is why this amendment should be defeated.

DEPARTMENT OF JUSTICE LOCAL LAW ENFORCEMENT BLOCK GRANTS

Mr. JOHNSTON. Mr. President, if I could I would like to engage the distinguished Senator from New Hampshire [Mr. GREGG] in a colloquy with respect to provisions in this bill which relate to funding under the Justice Department Violent Crime Reduction Programs, State and Local Law Enforcement Assistance Program. I am specifically speaking to the issue of the local law enforcement block grants. It is my understanding that in the case of the Commonwealth of Puerto Rico, the authority to enforce felony crime statutes is vested solely in the Commonwealth Police Department. It is also my understanding that when the committee took up this provision that the committee did not intend to preclude the Puerto Rico Commonwealth Police Department, the only law enforcement agency with the authority to enforce our felony crime statutes, from being eligible for community policing funds. Is my understanding correct that the committee was unaware of this specific circumstance with respect to Puerto Rico?

Mr. GREGG. The Senator is correct, the committee was in fact unaware of these circumstances.

Mr. JOHNSTON. I would hope that the Senator would ensure that this matter is clarified when this bill reaches conference and the final conference agreement reflects that the terms and conditions of the local law enforcement block grants do not preclude the Puerto Rico Commonwealth Police Department from being eligible for community policing funds?

Mr. GREGG. Yes, I want to assure my good friend from Louisiana, that on behalf of the committee that we intend to correct this matter in conference.

Mr. JOHNSTON. I want to thank my good friend from New Hampshire for this clarification. I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, the bill now before us in the 10th continuing resolution for this fiscal year. That is 10 times too many. We should and could have done better. The American people have patiently endured two major Government shutdowns which severely disrupted their lives. Americans deserve to know that their Government will remain open, that it is not in danger of another shutdown. They deserve to know that agencies that perform important functions, and that affect all of our lives, are funded through the fiscal year 1996 year.

We are over 5 months into the fiscal year 1996. The fiscal year is nearly half over, yet we are still operating our Government in a piecemeal fashion. Five appropriation bills remain pending. These bills include funds for the Departments of Labor, Health and Human Services, Education, Veterans Affairs, Housing and Urban Development, and dozens of other agencies.

Rather than passing another stop-gap continuing resolution, we should complete action on the remaining appropriation bills. We should be working to avoid another Government shutdown. Hostage-taking and legislative blackmail is not the way to arrive at the kind of solution we need to solve our budgetary problems.

As you know, a number of the provisions of this legislation have been vetoed by the President or have drawn veto threats. The President indicated that insufficient funding for priority programs was a major reason for his vetoes.

When this bill arrived in the Senate it lacked over $8 billion in funds for important programs. The President identified several high priority programs in the areas of education, crime, and the environment and called for $8.1 billion to be added back to those programs. He also offered a number of suggestions to offset that spending; the administration's budget offsets come from potential savings in other areas of the budget, so that we can restore funding without increasing the deficit. However, rather than incorporating the administration's request, the committee responded by adding back only $4.8 billion. On the face of it, this additional spending appears to be a move in the right direction. However, this money is not real; this money is contingent on future actions that may or may not occur. As a result, the President has threatened to veto this bill in its current form.

If we are to make real progress we need to get our priorities straight. In a recent poll, Americans stated that they were concerned about education, crime, jobs, and health care. Americans are concerned about earning a fair wage, about their children's education, and about their ability to live in safe and healthy communities. Spending priorities should reflect these priorities.

Domestic discretionary spending is being badly squeezed in this bill. However, domestic discretionary spending is not one of the major causes of the budget crisis the Federal Government is facing. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and that percentage is steadily declining.

While I firmly believe that if we are to stay on track and balance the budget, every program needs to be reviewed for spending reduction. However, I believe that these reductions need to be made in a fair and equitable way. This bill, however, guts important programs upon which millions of working Americans depend.

JOB TRAINING

One of the greatest concerns of public officials, nonprofits, and business groups throughout my State is that Congress is eliminating the summer jobs program for youth. This program trains young people for jobs that actually exist, teaches them about work habits, and keeps them off of the streets and out of harms—or troubles—way. Cities and towns throughout Illinois are telling me that young people count on these jobs, but that without funding at the $635 million level, there will be almost no summer program.

Programs such as those that provide young people with summer employment and job training, train dislocated workers in new occupations, and provide a transition from school-to-work for the Nation's young people should not be pawns in a budget chess match. We should not hold young people, dislocated workers, and students, among others, hostage to our demands.

I am glad my colleagues supported the bipartisan amendment to restore funds—to provide opportunity for this Nation's workers and future workers. This amendment also restored funding for education the foundation for the future success of our Nation's youth.

EDUCATION

Mr. President, we are not living in a global economy, and education is the key to it. Education increases our productivity and competitive edge. It promotes our economy, raises the standard of living, and improves the quality of life for our people.

Education opens the doors of opportunity in American society. Today, access to quality education is more important than ever. The abilities to read and write are no longer enough: today, a student must also learn to speak the language of computers, and must learn about our changing, global, competitive economy.

The bipartisan amendment restoring funding for many important education programs was a step in the right direction. I urge my colleagues to help keep these additions in the bill when it goes to conference.

ENVIRONMENT

And I hope we can provide additional funding for essential environmental activities. In this area the bill is sadly lacking. Mr. President, time after time in poll after poll, Americans across the country have supported and continue to support environmental protections. They want strong environmental laws. Americans want an environment that is safe and healthy. And they want their children and grandchildren to be able to do the same.

The cuts in the EPA budget now included in this bill will slow cleanup of Superfund sites, limited the power of the EPA to maintain safe drinking water standards, such as contamination by radon, and limit the EPA's ability to enforce laws that protect the quality of the environment. The EPA cannot sustain cuts of this magnitude and still do the job of protecting the public health.

These cuts in the EPA budget are part of environmental rollbacks some in this Congress have proposed, and that the American people simply do not support. Mr. President, I believe that jeopardizing the environment to achieve short-term budgetary benefits is simply wrong.

WOMEN'S PROGRAMS

While we have done a shameful job when it comes to the environment, we have done a few things right when it comes to protecting the lives and health of women in this country and around the globe. We have given the President the ability to lift the restrictions on international family planning and we have not included a House provision giving States the right to refuse Medicaid abortions for women in the case of rape or incest nor a House provision allowing medical colleges to be accredited without training OB/GYN's in abortion procedures.

I urge my colleagues to hold the line on these provisions. The striking of the first or the inclusion of the later two provisions would result in death and hardship for women in the United States and throughout the world.

It is crucial that we allow the President to lift the restrictions on international family planning funds. According to a consortium of expert demographers, the current funding restrictions will result in at least 1.9 million unplanned births and 1.6 million abortions. Eight thousand women around the world will die in pregnancy and childbirth and 134,000 infants will die. Our role should be to encourage families who are trying to make deliberate decisions about their ability to have and care for additional children. Our role should not be to punish these families by forcing them into dangerous or unwanted pregnancies.

We must prevent the inclusion of provisions allowing State governments to refuse to pay for Medicaid abortions in the case of rape or incest. The women who would seek an abortion prohibited by this provision are women living in poverty who have recently been the victim of a sexual assault by a stranger, a friend, or a family member. We have already placed enormous limits on the rights of poor women to choose to terminate a pregnancy, this provision brings us into the realm of the horribly absurd. Rape and incest are not something any woman should ever experience. Being forced, by poverty, to carry a pregnancy resulting from rape or incest is horrific.

Finally, we must prevent the inclusion of a provision to overturn the requirements of the Accreditation Council on Graduate Medical Education (ACGME) that residency training programs in obstetrics and gynecology provide medical training in abortion. This is not a requirement that doctors perform abortions, but simply a requirement that a doctor know and understand all the procedures related to pregnancy and childbirth. Women's lives depend on the full knowledge and skill of their doctors. Providing the opportunity for physicians to learn all the tools available to save a woman's life is not too much to ask.

Mr. President, I believe that we need to move to a balanced budget. And we need to do it in a way that does not sacrifice the long-term goals of the American people to achieve illusory short-term cuts. We need a budget that restores fiscal discipline to the Federal Government. We need a budget based on the realities facing Americans. Most importantly, we need a budget for our future.

I believe that we can achieve that kind of budget, if we put aside partisan bickering and political point scoring, and if we get down to the work the American people elected us to do.

Mr. HATFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Madam President, we are working very diligently with the distinguished Democratic leader to try to work out an agreement for how we will proceed for the balance of the night and on Friday, Monday, and Tuesday. I think we are close to getting an agreement worked out here momentarily, so that Members will know what they can expect in terms of recorded votes, if any, tonight, or on Tuesday and Wednesday.

In the interim, while we are trying to get that wrapped up, we will go ahead and proceed with the Bond-Mikulski amendment. Our intent is to just have that offered and debated, and then if we can get an agreement, we will announce that to the Members how that one and others will be disposed of. When we get that agreement, we will notify all Members.

I yield the floor.

Mr. BOND. Madam President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 3532 offered by the Senator from Georgia, Senator COVERDELL.

Mr. BOND. Madam President, I ask unanimous consent that that amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3482

Mr. BOND. Madam President, I ask that amendment No. 3482 to the committee substitute amendment, previously debated and set aside, be called up.

Mr. KERRY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BOND. I call for the regular order with respect to that amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Ms. MIKULSKI, Mr. DASCHLE, Mr. KERRY, Mr. KENNEDY, Mr. LIEBERMAN, and Mr. LEVIN, proposes an amendment numbered 3482 to amendment No. 3466.

AMENDMENT NO. 3533 TO AMENDMENT NO. 3482

(Purpose: To increase appropriations for EPA water infrastructure financing. Superfund toxic waste site clean ups, operating programs, and for other purposes and to increase funding for the Corporation for National and Community Service (AmeriCorps) to $400.5 million)

Mr. BOND. Madam President, I send to the desk a second degree amendment to amendment No. 3482 on behalf of myself and Senator MIKULSKI.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 3533 to amendment No. 3482.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. BOND. Madam President, it has been suggested that, in order to facilitate the consideration of these amendments, we ask for time agreements. I ask unanimous consent that there be 30 minutes allotted for the debate of this amendment with the control under the normal fashion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BOND. Thank you very much, Madam President.

This measure inserts a new title V adding funds for EPA and for AmeriCorps. The increase for EPA includes $200 million for State revolving loan funds for wastewater and drinking water infrastructure, $50 million for Superfund, and $75 million for EPA operating programs. The amendment also removes the contingency requirement on $162 million of EPA funds contained in title IV.

These additional funds are offset by debt collection legislation of $440 million and rescissions of unobligated contract authority of $48 million.

The amendment also increases funding for the AmeriCorps program by $17 million, for a total of $402.5 million. This increase is offset by a reduction in HUD property disposition funding, provides $20 million to help HUD restructure and clarify its existing law for HUD block grants to New York, transfers $30 million for additional drug elimination funding in HUD-assisted housing, clarifies existing law for demolishing public housing in Texas, clarifies the rent rules in HUD-assisted housing, and provides program direction to NASA for a new satellite.

Madam President, this second-degree amendment that my ranking member, Senator MIKULSKI, and I have submitted to the Lautenberg amendment reflects a great deal of effort. We have worked long and hard to come to an agreement in order for us to increase funding in this measure in a manner that is consistent with balancing the budget. We have insisted all along that additional funding be offset, and we have worked with my ranking member, Senator MIKULSKI, primarily. Today we had advanced additional funds for an offset of $440 million, and we have found additional funding, and we have placed that in what we believe is the highest priority areas.

In January of this year, the administration, after vetoing this bill, came back and said that they wanted $966 million added into spending in this measure for EPA in fiscal year 1996. We have added $487 million in funding for EPA with additional offsets today. That amount, combined with the $240 million in additional EPA funds in title I of the underlying amendment, means that we are able to fund, through offsets, $727 million of the $966 million requested.

I think this is more than a generous compromise. It is a good-faith attempt at resolving the fiscal year 1996 budget for EPA. I understand that the administration has not been able to agree to it. At least, today, for the first time, they talked with us, and I am grateful for that. But, most importantly, I think this represents a compromise that Members on both sides of the aisle can work with.

There are many, many items that were in this original bill that we have been able to increase. The amendment provides funding for the highest priorities for EPA, funding for the States' toxic waste site cleanups, and EPA core operating programs. Under this measure, EPA should not have to have a furlough or a reduction in force for a single employee. Enforcement spending would actually increase by over $10 million. States would receive an 80 percent increase in their water infrastructure State revolving funds, and all Superfund sites posing real risk would receive cleanup dollars.

It has an additional $300 million for water infrastructure State revolving funds, bringing the total amount to $2.025 billion compared to $1.2 billion available in fiscal year 1995.

Madam President, this provides money for State revolving funds. It includes $50 million additional for the Superfund, and it provides funds to begin cleanups in every single toxic waste site which poses a real threat to human health for the environment, if the site is ready to go in the Superfund cleanup.

Madam President, the amendment before us today adds $487 million in funding for EPA, with real offsets. This amount, together with the $240 million in additional EPA funds in title I of the committee-reported bill, total $727 million.

Madam President, this represents 75 percent of the administration's requested add-back list of $966 million. This is more than a generous compromise and a good faith attempt at resolving the fiscal year 1996 budget for EPA.

Each of the items included in this amendment were requested by the administration in its January wish list to the Congress. There are no congressional earmarks or add-ons.

The amendment represents what we believe to be the highest priorities for EPA-funding for the States, toxic waste site cleanups, and EPA's core operating programs. The amounts provided prevent EPA from having to RIF or furlough a single employee.

Enforcement spending would actually increase by $10 million over fiscal year 1995. States would receive an 80-percent increase in their water infrastructure State revolving funds over what they got last year. And all Superfund sites posing real risks would receive cleanup dollars.

The amendment includes an additional $300 million for water infrastructure State revolving funds. This brings the total amount of State revolving funds available through this bill to $2.025 billion—compared to only $1.2 billion in available funds in fiscal year 1995. These funds enable States and communities to make significant progress in meeting their water infrastructure construction needs.

These funds are provided for both clean water and drinking water State revolving funds, to enable communities to build and upgrade water treatment plants to continue the progress which has been made to clean up and maintain the water quality of our rivers, lakes, and streams, and to provide safe drinking water.

The amendment includes an additional $50 million for Superfund, bringing Superfund spending to the fiscal year 1995 level, and increasing the amount spent on actual cleanups—rather than overhead costs—by $150 million. Even while I and others have very strong concerns about the way the current Superfund program works, additional funds are made available through this amendment to address real threats.

Let me say clearly that funds are available to begin cleanups at every single toxic waste site posing a real threat to human health or the environment if the site is ready to go in the Superfund cleanup pipeline.

The amendment would fund EPA's proposed new laboratory in Research Triangle Park, NC, a research facility which will help EPA improve the quality of its research so that decisions are based on sound science. This is not a pork project, Madame President. This project replaces a deteriorating facility inappropriate to conducting research.

The amendment would result in a total appropriation of $6.44 billion for EPA—an increase of $35 million above the amount of funding actually available to EPA in fiscal year 1995.

In addition, carryover funds of $225 million would be available, making a total of $6.7 billion available to EPA in fiscal year 1996. This is $248 million more than what EPA had available to it in fiscal year 1995.

Madam President, this amendment does not provide everything on the administration's wish list because frankly, the administration's wish list is not about real environmental priorities. The administration's wish list is about pork-barrel projects and boutique programs. It is about continuing to provide funding for programs which do not afford opportunities to reduce real threats to human health and the environment.

Despite grave concerns about EPA's ability to manage and prioritize, we have been willing to provide more funds to the Agency's most important programs.

Madam President, I reiterate that this does not provide everything on the administration's wish list because, frankly, the wish list had things that were beyond our ability to fund and things that were not real environmental priorities. Some were pork barrel projects or boutique programs. But I think, thanks to the excellent work—and I emphasize the excellent work—of my ranking Member and the Senator from New Jersey who offered the underlying amendment, we have come together with a workable amendment. I hope all of us can support that.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I rise to support this bipartisan agreement to restore funds for the important environmental programs, including funding for National Service.

I want to thank my colleagues, Senator BOND and Senator LAUTENBERG, and their staffs as well as my own for all of their hard work in developing this agreement.

This is a compromise agreement. It provides an additional $487 million for the core EPA programs. These programs are fully offset in this bill to keep EPA fully staffed so that enough people are there to get the job done to ensure clean rivers and drinking water and to clean up hazardous waste sites. The environment is a priority of the American people, and I think it is the priority of this Congress.

There was more that we wanted to do. There was more that I certainly wanted to do in this bill, particularly in the area of the environmental programs. But they were not included in this amendment because we could not arrive at sufficient offsets.

One of the key programs that is not in this area, with great reluctance, is the cleanup of Boston Harbor; also, the cleanup of the Chesapeake Bay, which is in my own State. The programs that were included there that would have been important are also not included in this amendment.

We have consistently in the past supported the funding for Boston Harbor, and, as the chairman and ranking member of the VA-HUD know, I am committed to the cleanup of Boston Harbor and will continue to work to solve this problem.

In this legislation, Senator BOND and I have found efforts to find additional funds for EPA. Again, I thank him for his efforts to move the process forward to provide real money—not funny money—to deal with real environmental concerns. This additional $487 million is an investment in that.

I also want to say thank you for the ability to provide additional money for National Service, which brings National Service to a total of $4.5 million. This amount will fund 23,000 participants in the program. It restores funding for the Points of Light Foundation, and as part of the amendment, like the EPA funding, that is part of a bipartisan effort.

My colleague, Senator GRASSLEY, has worked with us on helping resolve many of our concerns. I want to thank Senator GRASSLEY for working with our former colleague, Senator Wofford, to address the very valid concerns and criticisms for National Service.

I look forward to working with Senators GRASSLEY and BOND to ensure that these valid concerns are addressed.

This amendment would ensure taxpayers get a dollar's worth of effort for a dollar's worth of taxes and address valid concerns about the program.

I believe this is the absolute minimum level this Congress should provide for National Service.

Even more should be done, but I recognize this may be the best we can do with the money available.

This amendment will increase funds for innovation and assistance by $15 million to support demonstration programs involving national nonprofit and volunteer organizations and other agencies and provide another $2 million of the Points of Light Foundation for a total of $5.5 million.

This amendment also addresses valid concerns about the program's efficiency and accountability.

It eliminates grants to Federal agencies, makes improvements in the Corporation's grant review process, and requires a study of the Corporation by the National Association of Public Administrators.

Let me assure my colleagues I have a full offset for my amendment in the FHA Multifamily Property Disposition program.

Let me tell you why I think it is so important to provide these funds and why we must continue to support National Service.

National Service meets compelling needs in our society. It provides opportunity for young people; it helps meet the needs of communities; and it cultivates the habits of the heart.

National Service provides opportunity by giving young people access to higher education and training. For many Americans, their first mortgage is their student debt. After graduation, many of them owe $15,000, $30,000, or even more. Through National Service, young people can work off some of their student debt.

Second, National Service meets compelling needs in America's communities. Young people serve their communities. For example in education, young people tutor children and teach adults basic reading skills.

They help protect public safety. For example, in my own state of Maryland, in Montgomery County, AmeriCorps volunteers operate a Community Policing program, where volunteers help control crime by running community education seminars and outreach projects.

In other communities, they patrol vacant buildings and teach conflict resolution skills. They help meet compelling human needs by distributing food to sick people and poor families.

They help address environmental concerns like restoring neighborhood parks, and helping communities recover from floods and disasters. After recent floods in Pennsylvania, AmeriCorps teams assisted the Red Cross to help 10,000 families devastated by that disaster.

Third, National Service teaches the habits of the heart. It is not a social program. It is a social invention designed to create the ethic of service in today's young people. It provides an opportunity structure so young Americans can receive a reduction in their student debt or a voucher for further education in exchange for full-time community service.

National Service is a movement toward community building, it is about neighbor helping neighbor, and it is about helping people who help themselves. National Service fosters the spirit of community in Americans, it brings people together and teaches a new generation that by working together it is possible to create a better world.

I urge my colleagues to take another step toward community building and encouraging habits of the heart by voting to increase the funds to National Service.

Mr. GRASSLEY. Madam President, I rise to speak briefly on the issue of funding in the continuing resolution for the Corporation for National and Community Service and the AmeriCorps program.

As many of my colleagues know, for over a year and a half I have raised concerns about the costs of the AmeriCorps Program. Last summer, the General Accounting Office [GAO] issued a report that substantiated my concerns, finding that the average cost per participant is approximately $27,000, with the Federal Government providing roughly $20,000, State and local governments $5,000, and the private sector providing only 8 percent of these high costs.

There is no question that these measurements are not in keeping with the goals and vision of this program as originally articulated by President Bill Clinton.

I have stated in testimony and in letters to the President and administration officials that I would be willing to support funding for this program if the administration would commit to several specific program reforms, most importantly, increasing the private sector match and decreasing the cost per participant.

It has been my desire to ensure the taxpayers' money is spent efficiently and to increase the number of young people who will be provided assistance to pay for college. To that end, I met several weeks ago with Senator Harris Wofford, the chief executive officer of the Corporation. Since that meeting, we have been engaged in negotiations on how to improve and reform the AmeriCorps Program.

I am pleased to state that I believe these negotiations have achieved real progress. While there are still points that need to be addressed, Senator Wofford has indicated in a letter to me his commitment to implementing meaningful program reforms, control costs and increase the private sector match, as I have strongly suggested.

It is for this reason that I am willing to support funding for the Corporation and, in turn, AmeriCorps.

As my colleagues know, I have never criticized the good work performed by the young people who participate in AmeriCorps. I have met with young people from my State who participate in the I CAN Program that allows young people at Iowa State University and several other colleges in Iowa to perform community service while attending college full time. There is no question these college students are a benefit to their community.

However, we should not forget the 3.9 million young people who do volunteer work in their community without compensation. These volunteers help form the backbone of community service in America.

As I say, my concern is not the work performed, but the costs to the taxpayer and the possibility that more young people could be provided assistance if AmeriCorps is reinvented. My hope is that the reforms that Senator Wofford and I have agreed to will help ensure that the program meets the original goals articulated by President Clinton.

It is my view that this President, any President, has the right to see an initiative, such as this, be given an opportunity. However, the initiative must remain in keeping with the President's original intent. And that has been my focus, to keep this program's costs and private sector match in line with the President's promises.

Let me assure my colleagues that no one should take my statements today to mean that I am ready to anoint the Corporation with garlands.

The Corporation has serious problems, most significantly in the area of financial management. A recent audit of the Corporation, contracted by the Inspector General, indicates that there is an immediate need for fundamental reforms in financial management at the Corporation.

In addition, the Corporation must now implement the reforms that have been proposed, as well as meeting the goals for per capita costs and private sector match that it will establish.

My colleagues can be certain that, just as I have with agencies such as the Department of Defense and the IRS, I will continue to aggressively watchdog the taxpayers' money at the Corporation.

Madam President, in closing, let me reiterate how pleased I am to have worked with Senator Wofford on this issue. I commend him for his sincere efforts to reform the program. There is no question that the Corporation has benefited from his commitment and the fresh perspectives he has brought as chief executive officer.

Let me note too, the work of Congressman HOEKSTRA who has been a true watchdog for the taxpayers on this program. As I stated earlier, I share his strong concerns about the financial management at the Corporation.

I also want to commend the work of the chairmen of the committee and subcommittee, Senators MARK HATFIELD and KIT BOND. I know it has been difficult to find funding for this program.

I especially want to thank Senator BOND. It has been my pleasure to work closely with him on this matter and appreciate all his efforts to address our mutual concerns that the taxpayers' money be spend effectively and wisely in this program.

Mr. CAMPBELL. Madam President, I join my colleagues, Senators BOND and MIKULSKI, the chairman and ranking minority member of the Senate Appropriations Subcommittee on Veterans, Housing and Urban Development, and Related Agencies, on which I serve, in supporting an increase in funding for the National Service Program. This amendment provides $403 million for the National Service Program in fiscal year 1996.

I voted in support of establishing this program in 1993 because it gives young people a chance to serve their communities and earn education awards to finance their education. Currently, there are over 450 participants in Colorado's AmeriCorps programs who are engaged in serving low-income communities, tutoring at-risk youth, mentoring students, helping young people stay out of gangs, and providing health services in rural areas.

The Corporation for National Service sponsors important service programs for native Americans nationwide. Current activities in this area include improving safety on reservations, constructing community facilities, improving access to medical services for low-income elders, tutoring students, and reducing violence among young people. The Ute tribes in my State and over 20 other tribal organizations throughout the country are benefiting from the National Service Program.

The Corporation also is working with the National Coalition for Homeless Veterans. Dedicated individuals are serving homeless veterans by providing them access to health care, substance abuse treatment, and training to seek jobs.

It is my hope that the Corporation for National Service continue and expand its support under this amendment for programs assisting those in our communities that need it the most and continue to build bridges with programs assisting veterans, tribal organizations and at-risk youth.

Mr. PRESSLER. Madam President, I rise tonight to comment on this amendment, offered by Senators BOND and MIKULSKI, to provide, among other things, additional funding for the Environmental Protection Agency. I am a cosponsor of this amendment because it includes funding that is very necessary to the people of Watertown, SD. This amendment would provide $13 million for the reconstruction of a wastewater treatment facility in Watertown, SD.

The city of Watertown has worked for more than 10 years to overcome Clean Water Act violations. Now, the city is facing an expensive lawsuit, fines of up to $25,000 per day, and the high costs of restructuring the wastewater treatment plant. I have worked closely with Watertown's Mayor Brenda Barger, who is seeking a reasonable settlement to the lawsuit with the EPA.

The city of Watertown's innovative/alternative technology wastewater treatment facility was built as a joint partnership with the EPA, the city, and the State of South Dakota in 1982. The plant was constructed with the understanding that the EPA would provide assistance in the event the new technology failed. The facility was modified and rebuilt in 1991 when it was unable to comply with Clean Water Act discharge requirements. Unfortunately, the newly reconstructed plant still was found to violate Federal regulations. That is why the city now faces a possible lawsuit by the Federal Government, and fines of up to $25,000 per day.

The city of Watertown, under the very capable guidance of Mayor Barger, has entered into a municipal compliance plan with the EPA. Under the agree plan, Watertown should achieve compliance by December 1996. However, without Federal assistance, Watertown will be unable to complete the reconstruction by the date set forth by the EPA. In addition, the compliance plan does not address the issue of the onerous civil and administrative penalties that continue to accumulate against the city.

Under the law, Watertown could accumulate an additional $14 million in penalties before the treatment facility is able to comply with the Clean Water Act requirements.

Madam President, I don't know of any cities in South Dakota that can afford those kinds of penalties.

Watertown is working hard to comply with the law. However, to succeed, Watertown needs the constructive cooperation of the Federal Government. The funding in the amendment offered by my friend from Missouri reflects the kind of constructive cooperation needed. As I said, it would provide $13 million to the city of Watertown to rebuild Watertown's wastewater treatment facility.

Madam President, this project is necessary for the health and safety of the people of Watertown. Already this year, the city has increased consumer water rates from $9/month to $16/month in order to fund the water treatment facility reconstruction project. The city is prepared for additional rate increases in order to cover a portion of the total project cost of $25 million.

The city also has worked diligently to secure a variety of available funding sources, including an allocation of $1 million from the State of South Dakota. Additionally, the city of Watertown has committed to a local match of $8.25 million. This Federal appropriation of $13 million would enable the city to complete construction on the water treatment facility in a timely manner, as required by the EPA.

Madam President, I believe the merits of this project are clear. Construction of this facility would allow the city of Watertown to provide its residents with a safe water supply which complies with the Clean Water Act and thus ensures that the environment is protected.

I have enjoyed working with Senator BOND, chairman of the Appropriations Subcommittee that provides funding for the Environmental Protection Agency, and Senator MIKULSKI, the ranking member on that subcommittee. I know I represent the citizens of Watertown, SD, when I say thank you for your commitment to securing this funding. This is a great first step. As I said, this is a constructive effort. I sincerely hope that the EPA will show the same constructive, cooperative spirit to the people of Watertown.

Mr. GRASSLEY. Madam President, in closing let me briefly state my support for the amendment offered by Senator MIKULSKI on AmeriCorps. While I believe the Appropriations Committees has provided sufficient funding for the Corporation, I recognize the desire of the administration and Senator MIKULSKI to see a small increase in the amount of funds provided by the committee.

I believe this amendment is a good compromise that will allow the VA/HUD bill to proceed and be signed by the President.

The amendment contains a sense of the Senate that I have worked on with Senator KASSEBAUM stating that the President should expeditiously nominate a CFO for the Corporation and that the Corporation should make implementation of financial management reforms a top priority.

In meeting with accountants from Arthur Anderson, who conducted the independent audit of the Corporation, they stated that the appointment of a CFO was the single most important thing that needs to be done to begin the effort to get the Corporation's financial house in order.

The amendment also allows the Corporation to spend up to $3 million for implementing financial management reforms.

Finally, I am pleased that in conjunction with this amendment, the Corporation has agreed that they will set aside $10 million for an education-awards only program that I have advocated. Under this new program, the Corporation will provide only educational awards to young people who perform community service. These funds could help up to 4,000 young people pay for college.

Madam President, I want to recognize Senator BARBARA MIKULSKI for her work. She has been a strong advocate for AmeriCorps. Earlier this fall, I said that I thought there would be funding for this program. I made that statement in part because of the confidence I had that Senator MIKULSKI's determination would win the day. Certainly, she deserves a great deal of the credit for the funding contained in this bill already and all the credit for the passage of this amendment.

Mrs. MIKULSKI. Madam President, I will now yield the floor but reserve the remainder of whatever time our side might have.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3509 WITHDRAWN

Ms. MIKULSKI. Madam President, I ask unanimous consent that an amendment that I have pending on National Service be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is withdrawn.

So the amendment (No. 3509) was withdrawn.

The PRESIDING OFFICER. Who yields time? The Senator from Missouri.

Mr. BOND. How much time?

Mr. MCCAIN. Thirty seconds.

Mr. BOND. Thirty seconds.

Mr. MCCAIN. Thirty seconds.

Mr. BOND. I yield a minute to the Senator from Arizona.

Mr. MCCAIN. I am not real familiar with this amendment. I just saw it. I am not sure we need $200 million for State revolving funds or $50 million for Superfund, $75 million—$162 million in funds offset by unobligated airway trust fund contract authority. I did not know that was unobligated.

All this is another increase in spending. That is really all this is about. I think it is time it came to a stop, and at least I would like to be on record as being in opposition to it.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I ask the Senator from Maryland if I can have 5 minutes.

Ms. MIKULSKI. I yield the Senator from New Jersey 5 minutes.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Jersey.

Mr. LAUTENBERG. I may not need 5 minutes, Mr. President, but I thank my colleague from Maryland.

This is a compromise piece of legislation. If you see lots of people concerned about what it is that we have in front of us, these are legitimate concerns for both those who support and those who object to this compromise. The amendment that is being offered, as we heard from the distinguished Senator from Missouri, includes $487 million for environmental programs instead of the roughly $900 million that was proposed in the original amendment. Unlike the earlier amendment, this amendment does not include a provision designating the proposed funding as emergency spending.

Mr. President, clearly this amendment does not increase the budget for environmental programs as much as I believe is needed. However, under the circumstances, with earnest exchanges of view, we arrived at what was a middle ground. While having been so active on matters of environmental cleanup including Superfund and clean air and others, clean water, it distresses me that we could not get more to do the environmental job that many of us here would like to see done. I am pleased to see that there is $50 million more for Superfund cleanup. It is a program that needs to be continued. And even as we choose to examine it, to reform, to make reforms where necessary or where possible, still in all this is a program that has value and should be continued.

In the final analysis, there is a major concern, major disappointment in this amendment, that concerns the Boston Harbor cleanup. Boston Harbor was an environmental disaster because of the inability to contain the pollution, the contamination that flowed into that body of water. It caused enormous increases in costs for those who use the drinking water in the area because of the costs invested thus far in trying to get it to a satisfactory condition.

Senator KERRY and Senator KENNEDY have worked very hard for a number of years to get the kind of funding that is essential to continue this job. And I hope, Mr. President, that as we consider this amendment there will be opportunities to reevaluate some of the decisions that we are making this evening. There will be a conference with the House.

The biggest deficiency in this bill is the lack of a clear-cut commitment to expend funding to clean up Boston Harbor. And again, other than that, we have fashioned a compromise—not one that is satisfactory to those who are most anxious to get the environment cleaned up to the fullest extent possible, but we do face a budget crisis here. We are interested in balancing the budget. We are interested in doing what we can with the limited resources that we have. This compromise amendment, I think, does just that.

The PRESIDING OFFICER. The Chair informs the Senator from New Jersey that he is in charge of the time which is remaining, which is 10 minutes and 18 seconds on that side, and 5 minutes and 11 seconds for the majority.

Mr. BOND. Mr. President, I yield myself such time as I may need.

I wish to call the attention of my colleagues to some basic principles which we had to follow in this bill. This bill, the VA-HUD, Independent Agencies, which includes EPA, space, FEMA, and others, took a 12 percent this year. There was no way we could continue to fund these special projects each Member had in specific cities.

Now, some people would call them pork projects, but, frankly, these are all very important, necessary environmental projects designed to clean up our waterways and other vital elements of the environment. The Environmental Protection Agency estimates that there are approximately $100 billion of infrastructure needs for clean water and safe drinking water in the country today.

What we have tried to do is to say, we are not going to appropriate, in this bill, specific sums for specific projects, because there is no way that we can know how to rank $100 billion of needs throughout the country. We have set up State revolving funds, loan funds that will revolve and provide assistance to communities, and be paid back to help other communities within that State. That is why we have worked hard to put additional dollars into the revolving fund.

We have been advised by the Under Secretary for EPA that we need to reach a level of $10 billion on the clean water fund, so that the projects can be dealt with. We are trying to get money into those revolving funds. We cannot appropriate funds for specific projects and that is why there has been much disappointment in my own State. There are major cities that want to have funds appropriated directly to them.

What we have done instead is to appropriate money for the State revolving funds. The States will make low- or no-interest loans to communities—to cities, to counties—to take care of their needs. When that is paid back it will enable others to carry out their projects.

Mr. President, it is not nearly as exciting, it is not nearly as glamorous as having an appropriated sum targeted to one city or another. We think, based on the best analysis we have made and on the scientific, professional advice, that the State revolving funds will allow the States to assist communities on a revolving basis.

Again, this bill is not all that we would like. There are many other things we would like to do. But it is paid for. It is paid for with real offsets. It is within the budget and I think it is a major contribution to continued environmental progress, but progress in a way that moves responsibility and authority back to the States, decisionmaking back to the States.

That is why I ask my colleagues to vote for it.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, how will quorum time be charged if we go into a quorum call?

The PRESIDING OFFICER. To whatever side asks for the quorum.

Mr. LAUTENBERG. I ask unanimous consent during the quorum call time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, I have to point out that I object to that since we are almost out of time and I would like to reserve 1 minute at the end.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent the time be charged to neither side during the quorum call.

Mr. KYL. Objection.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time does either side have?

The PRESIDING OFFICER. The Chair advises we have 1 minute and 23 seconds for the majority; and the opposition has 10 minutes, 18 seconds.

Ms. MIKULSKI. But there is no opposition.

The PRESIDING OFFICER. Somewhere or another we used up 4 minutes and 28 seconds.

Ms. MIKULSKI. Mr. President, are we supposed to keep talking because there are other discussions underway? Is that right?

Mr. DOMENICI. Yes, very important discussions.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum and ask it be charged to the minority side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, there is a pending amendment, is there not?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. I ask unanimous consent it be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3527

Mr. MCCONNELL. Mr. President, there is an amendment at the desk, No. 3527. I ask it be called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. HATFIELD, for himself, Mr. DOLE, Mr. MCCONNELL and Mr. LEAHY, proposes an amendment numbered 3527.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. MCCONNELL. Yes.

Mr. FORD. The Senator does not intend to ask for a rollcall vote on this one? It has been agreed to on both sides. There will not be a rollcall vote. It will be by voice.

Mr. MCCONNELL. I say this amendment is jointly sponsored by myself, the majority leader, Senator DOLE, the minority leader, Senator DASCHLE, and Senator LEAHY. It provides $50 million for emergency antiterrorism assistance for Israel. This is the program announced by the President from Jerusalem yesterday, and will provide funds to procure goods, provide training and/or grants in order to support efforts to help eradicate terrorists in and around Israel.

As might be expected given the shortness of time involved in preparation for this proposal, specific details are lacking and therefore the amendment includes notification language, so that the Congress can exercise adequate oversight for a program before the money is spent.

Mr. DASCHLE. Mr. President, on behalf of the President, Senator DOLE, Senator HATFIELD, Senator MCCONNELL, Senator LEAHY, and I are offering an amendment to provide $50 million in antiterrorism assistance to Israel.

All of us in the United States Senate have been shocked and saddened by the rash of terrorist bombings that have occurred in Israel. The four attacks from February 26 to March 4 have killed 58 people bringing terror and grief to Israelis and, for the moment, putting a halt to the peace process. One tragedy is compounded by another.

In the days since the bombings, both Israeli and Palestinian security forces have moved against the terrorists. I am pleased the Palestinian authority has moved to round up more than 600 Hamas members and raid mosques, businesses and schools owned by militants. Its arrest of three senior members of Hamas' military wing over the weekend is further evidence that it is taking seriously the need to confront Hamas' terrorist threat.

Despite these encouraging signs, however, I share Prime Minister Peres' view that these steps, while a good beginning, are clearly not enough. Chairman Arafat and the Palestinian authority must continue their efforts to root out the terrorist threat in its entirety. Finally, the United States must also contribute to the antiterrorism effort, for, without U.S. assistance, hopes for a lasting peace in the Middle East could be in serious jeopardy.

The images of the bombs' victims lying in Jerusalem's streets, of young girls at their friends' funeral, will haunt us indefinitely. The pain and loss of the victims' families and the people of Israel will always remain.

Mr. President, I can think of only one thing that could worsen the tragedy of these bombings, and that would be for these extremists to be successful in their effort to permanently derail the peace process. The Israeli people have suffered greatly through each of these bombings. While their patience must have its limits, we cannot allow the terrorists to achieve their ultimate objective.

This amendment addresses those concerns. It will assist Israel in its effort to combat terrorism. It will also add to the momentum for peace in the Middle East that was aided by President Clinton's initiatives and the resulting "summit of the peacemakers."

I hope Israelis will derive some encouragement from the international community's condemnation of the attacks as well as from Wednesday's summit. I am hopeful, as well, that this unprecedented summit will demonstrate to the terrorists that the international community stands united against them and their despicable acts.

It is unfortunate that Syria, among others, did not attend the summit, but the list of countries, including moderate Arab nations, that participated in this historic conference is most impressive: Egypt, Jordan, Kuwait, Saudi Arabia, United Arab Emirates, Yemen, Bahrain, Algeria, Morocco, Oman, Qatar, Tunisia, Canada, Russia, Britain, France, Germany, Japan, Italy, Ireland, Norway, Spain, Turkey, and the United States.

This extensive list of participants clearly represents the international community's continued commitment to the Middle East peace process. And, again, it is a sign to the Israelis that they are not alone in their battle against terrorism.

President Clinton should also be commended for establishing an international counter-terrorism alliance involving espionage agencies of several nations. I am hopeful that this initiative will help ensure that terrorist threats will not be tolerated.

This bipartisan amendment is important because it, in concert with the summit in Egypt, puts the Senate squarely in support of Israel and squarely on the side of urging the Palestinians and the Arab states, with support from the United States, to move forcefully against the terrorist threat. I hope we will send a strong, united message of support for it.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3527) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time? There being no Senator seeking recognition, in my capacity as a Senator from the State of Montana, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, after a lot of efforts, I believe we have a unanimous-consent request that will be fair to all and will give us a way to get to a conclusion on this legislation.

The majority leader feels strongly that we need to get this work completed. I think this will help us get there. So I ask unanimous consent that all remaining amendments in order to H.R. 3019 must be called up and debate concluded by 12:30 p.m., Tuesday, March 19, and that the votes occur in the order in which they were debated beginning at 2:15 p.m., Tuesday, March 19, and, following the disposition of the amendments, the Senate proceed to third reading and final passage of H.R. 3019, as amended, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object—I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further votes tonight, Friday or Monday; however, if you have an amendment to the omnibus appropriations bill, under the previous agreement you must debate your amendment Friday, Monday, or Tuesday morning. I want to emphasize it seems to me that is more than fair. I know some Members have commitments on Friday or on Monday or on Tuesday, but surely they do not have commitments all of those days. So I think this will give us ample time to debate it. The votes will occur beginning at 2:15 on Tuesday.

Also, Senators should be on notice that the Senate is expected to debate the small business regulatory reform bill tomorrow under a brief time agreement and that a vote will occur on Tuesday, also, on the small business regulatory reform bill.

There could be other votes on Tuesday in relation to cloture on the Whitewater special committee and possibly a cloture vote with respect to the product liability conference report. Therefore, Senators should be on notice that a number of votes are expected to occur on Tuesday, March 19.

Further, Mr. President, I ask unanimous consent that at 9 a.m., Tuesday, the Senate resume the Boxer and Coats amendments regarding the abortion issue, and that there be 2 hours 45 minutes of debate to be controlled in the following manner: 1 hour under the control of Senator COATS, 30 minutes under the control of Senator BOXER, 1 hour under the control of Senator SNOWE, and 15 minutes under the control of Senator MURRAY, and that following the conclusion or yielding back of time, the amendments be laid aside to occur in the voting sequence beginning at 2:15 on Tuesday; and following the debate on the Coats and Boxer amendments, I ask unanimous consent that the Senate then resume consideration of the Murkowski amendment No. 3525.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I want to thank the distinguished Democratic leader for his efforts to get this agreement. I think it is fair. We do have some other efforts we are still working on, and certainly we are going to work in good faith to fulfill all that we have discussed tonight. I yield to the distinguished Democratic leader.

Mr. DASCHLE. I thank the acting majority leader for his comments and for his leadership in bringing us to this point.

The distinguished Senator from California had a misunderstanding about when the Coats amendment was going to be debated and has informed me it would be of great help to her if she could have 15 minutes in this debate. I wonder if we might modify the unanimous consent agreement to provide her with that opportunity.

Mr. LOTT. Mr. President, I ask unanimous consent that our previous agreement be amended to provide 15 minutes for Senator FEINSTEIN of California to be involved in this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I only want to complete my thought in urging colleagues to use the time we have available to us on Friday and Monday. We have 2 full days here. There is no reason why we ought not be able to use them to the fullest extent possible. Everyone now knows what the amendments are. They ought to be laid down and debated. We ought not lose the time we have available to us on Friday and on Monday.

So I urge my colleagues to come to the floor in the next 2 days to get that work done.

Mr. LOTT. Mr. President, did we get an agreement on the unanimous-consent request for the 15 minutes for Senator FEINSTEIN?

The PRESIDING OFFICER. We have agreement.

Mr. LOTT. Mr. President, I would like to join the Senator from South Dakota in urging Members to come and be involved in this debate. We have a lot of work to do next week on very important legislation. Members need to understand that we cannot do the work we have to do on Tuesday, Wednesday, and part of Thursday or part of Tuesday. So please be prepared to come to the floor and debate these issues on Friday and Monday, be prepared to work the full day on Thursday, too.

UNANIMOUS-CONSENT AGREEMENT—SHORT-TERM CONTINUING RESOLUTION

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate receives from the House the short-term continuing resolution—and it is the identical text of what I now send to the desk—the legislation be deemed agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Thank you, Mr. President.

Mr. DOMENICI. I want to ask a question of the acting majority leader.

Mr. President, I ask the distinguished acting majority leader, on the calendar that we had previously agreed to on Monday, we were to take up as the first order of business the Grazing Reform Act. It was prescribed to be on the floor Monday and Tuesday. Might I ask, is it the intention of the leadership that we proceed to that immediately after the business which has just been described?

Mr. LOTT. It would be our intention, I say to the Senator from New Mexico, to proceed to that issue when this other is considered.

Mr. DOMENICI. I thank the Senator.

Mr. LOTT. Mr. President, I delightfully yield the floor.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 942

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of Calendar No. 342, S. 942, the small business regulatory reform bill, and it be considered under the following limitations—90 minutes of total debate equally divided between the two managers, that the only amendments in order to the bill be the following: a managers' amendment to be offered by Senators BOND and BUMPERS and an amendment to be offered by Senators NICKLES and REID regarding congressional review; further, at the expiration or yielding back of all debate time, the bill and pending amendments be set aside, with the votes to occur on Tuesday, March 19, at a time to be determined by the two leaders, and, following the disposition of all amendments, the bill be read a third time, and the Senate then proceed to a vote on final passage of the bill, all without any intervening debate or action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE COMMUNICATIONS DECENCY ACT

Mr. EXON. Mr. President, I have two articles that I will ask to be printed in the RECORD. There continues to be wholesale, gross, misleading statements with regard to the Decency Act that was included in the telecommunications bill.

Somehow we must respond to the whole avalanche of highly financed special interest groups who are opposed to the measure that overwhelmingly passed in the U.S. Senate and in the House of Representatives. I have no quarrel whatsoever with the process we incorporated in the measure to expedite the consideration by the courts.

I ask unanimous consent to have printed in the RECORD two articles, one from the Omaha World Herald of March 11, 1996, with the headline, "Internet Doesn't Fit Free-Press Concept," and another from the Omaha World Herald of March 13, 1996, with the headline, "Some Internet Fare Worse Than Indecent."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

INTERNET DOESN'T FIT FREE-PRESS CONCEPT

An illogical argument is being used to attack the Communications Decency Act, which was sponsored by Sen. J. James Exon, D-Neb. Some of the law's critics argue that the Internet, a worldwide network of computers linked by telephone lines, should be free of Government regulation under the First Amendment's freedom of the press protection.

The anti-indecency law makes it a crime to transmit indecent materials by computer when the materials are accessible to children. Arguing that the law violates press freedom is a group of plaintiffs consisting of Microsoft Corp., the Society of Professional Journalists, the American Society of Newspaper Editors and an organization calling itself the Citizens Internet Empowerment Coalition.

Certainly the Internet provides many opportunities for research, rapid communication and entertainment. But a loose, dynamic computer network isn't a newspaper. The two have little in common.

Newspapers are published by companies that depend on the trust of their customers—their readers and advertisers—to stay in business. These customers know who is in charge. They know that a publisher ultimately is responsible for the newspaper and its contents.

A newspaper has editors who select what is to be published. They rank the news in importance and broad interest. They package it for ease of comprehension. They operate under the laws of libel. The newspaper can be held accountable and be ordered to pay damages if it intentionally and maliciously publishes false and damaging information.

The Internet has no comparable editors, no comparable controls, none of the continuous process of fact-checking and verification that newspapers engage in. No person or group of people is accountable for materials that appear on the Internet. Rather, its millions of users are free to send out whatever they choose, no matter how worthless, false or perverted it might be. The result can resemble a hodgepodge of raw and random facts and opinions. Some are worthy and valuable. Others are outright nonsense.

And no one stands behind the material disseminated on the Internet.

Congress passed the Exon bill to protect children. And properly so. It's ridiculous to claim that the mantle of press freedom should be stretched to protect computerized pornographers and predators.

[From the Omaha World Herald, Mar. 13, 1996]

SOME INTERNET FARE WORSE THAN INDECENT

(By Arianna Huffington)

If there is one problem with the recently signed Communications Decency Act, which makes it illegal to post "indecent" material on the Internet, it is its name. Discussions of indecency and pornography conjure up images of Playboy and Hustler, when in fact the kind of material available on the Internet goes far beyond indecency—and descends into barbarism.

Most parents have never been on the Internet, so they cannot imagine what their children can easily access in cyberspace: child molestation, bestiality, sadomasochism and even specific descriptions of how to get sexual gratification by killing children.

Though First Amendment absolutists are loathe to admit it, this debate is not about controlling pornography but about fighting crime.

There are few things more dangerous for a civilization than allowing the deviant and the criminal to become part of the mainstream. Every society has had its red-light districts, but going there involved danger, stigmatization and often legal sanction. Now the red-light districts can invade our homes and our children's minds.

During a recent taping of a "Firing Line" debate on controlling pornography on the Internet, which will air March 22, I was stunned by the gulf that separates the two sides. For Ira Glasser, executive director of the American Civil Liberties Union, and his team, it was about freedom and the First Amendment. For our side, headed by Bill Buckley, it was about our children and the kind of culture that surrounds them.

There are three main arguments on the other side, and we are going to be hearing a lot of them in the year ahead as the ACLU's challenge to the Communications Decency Act comes to court.

The first is that there is no justification for abridging First Amendment rights. The reality is that depictions of criminal behavior have little to do with free speech. Moreover, there is no absolute protection of free speech in the Constitution. The First Amendment does not cover slander, false advertising or perjury, nor does it protect obscenity or child pornography.

Restricting criminal material on the Internet should be a matter of common sense in any country that values its children more than it values the rights of consumers addicted to what degrades and dehumanizes.

Civilization is about trade-offs, and I would gladly sacrifice the rights of millions of Americans to have easy Internet access to "Bleed Little Girl Bleed" or "Little Boy Snuffed" for the sake of reducing the likelihood that one more child would be molested or murdered. With more than 80 percent of child molesters admitting they have been regular users of hard-core pornography, it becomes impossible to continue hiding behind the First Amendment and denying the price we are paying.

The second most prevalent argument against regulating pornography on the Internet is that it should be the parents' responsibility. This is an odd argument from the same people who have been campaigning for years against parents' rights to choose the schools their children attend. Now they are attributing to parents qualities normally reserved for God—omniscience, omnipresence and omnipotence. In reality, parents have never felt more powerless to control the cultural influences that shape their children's character and lives.

The third argument that we heard a lot during the "Firing Line" debate is that it would be difficult, nay impossible, to regulate depictions of criminal behavior in cyberspace. We even heard liberals lament the government intrusion such regulations would entail. How curious that we never hear how invasive it is to restrict the rights of businessmen polluting the environment or farmers threatening the existence of the kangaroo rat.

Yet, it is difficult to regulate the availability of criminal material on the Internet, but the decline and fall of civilizations throughout history is testimony to the fact that maintaining a civilized society has never been easy. One clear sign of decadence is when abstract rights are given more weight than real lives.

It is not often that I have the opportunity to side with Bill Clinton, who has eloquently defended restrictions on what children may be exposed to on the Internet. When the president is allied with the Family Research Council, and Americans for Tax Reform is allied with the ACLU, we know that the divisions transcend liberal vs. conservative. They have to do with our core values and most sacred priorities.

REMEMBERING HALABJA

Mr. PELL. Mr. President, this weekend will mark the anniversary of one of humanity's darkest moments. Eight years ago, on March 16, 1988, Iraqi President Saddam Hussein's forces, besieged by Iranian forces on the Faw Peninsula and losing ground to Kurdish insurgents in northern Iraq, commenced an attack on the Kurdish city of Halabja. There, Iraqi forces used poison gas resulting in the death of as many as 5 to 6 thousand Kurds, most of whom were innocent noncombatants.

In the 8 years since the poison gas attack, Halabja has become the single most important symbol of the plight of the Kurdish people—the very embodiment of Iraq's brutality toward the Kurds. The unforgettable images of the victims—a man frozen in death with his infant son; a little girl wearing a scarf, her face swollen in the first stages of decomposition—remain seared in the Kurdish psyche. Much as the Bosnians will never forget the ethnic cleansing of Srebrenica, the Kurds will never forget the attack on Halabja.

Incredibly, as we now know, Halabja was not the only instance when Iraq employed chemical weapons against the Kurds, nor was it the end of Iraqi repression against the Kurds. Although clearly the most dramatic, Halabja was but one of a series of Iraqi atrocities against the Kurds. Beginning in the mid to late 1980's—and culminating in the infamous Anfal campaign of 1988—Iraqi forces systematically rounded up Kurdish villagers and forced them into relocation camps, took tens of thousands of Kurds into custody where they were never heard from again, and destroyed hundreds of Kurdish villages and towns. By some estimates as many as 150,000 Kurds are missing from this period and presumed dead. Collectively, these actions amount to an Iraqi campaign of genocide against the Kurds.

I, along with the distinguished chairman of the Foreign Relations Committee, Senator HELMS, have tried very hard to call attention to the persecution of the Kurds, including by introducing the first-ever sanctions bill against Iraq in 1988 for its use of poison gas against the Kurds.

Since then, a wealth of evidence has been uncovered documenting Iraq's brutality against the Kurds, much of which was written in Iraq's own hand. The Foreign Relations Committee—particularly through the vigorous efforts of former staff member, now United States Ambassador to Croatia Peter Galbraith—led an effort to retrieve more than 18 tons of Iraqi Secret Police documents captured by the Kurds in 1991, which charts out Iraq's criminal behavior in excruciating detail. Human Rights Watch, the independent human rights organization, has done a superb job of analyzing those documents to mount an overwhelming case that Iraq has engaged in genocide against the Kurds.

This is a story that must be told. As some of my colleagues may know, the issue of genocide has a particularly strong resonance for me. Just after World War II, my father, Herbert Claiborne Pell, played a significant role in seeing that genocide would be considered a war crime. Although he met stiff resistance, my father ultimately succeeded and I learned much from his tenacity and commitment to principle. The world must oppose genocide wherever and whenever it occurs; Halabja cannot be forgotten, and Iraq must be held accountable for its atrocities against the Kurds. We simply cannot afford to let this opportunity pass by.

I wish I could say that there is a happy ending to the tragic story of the Kurds in Iraq, that there was a lesson learned by the Iraqi leadership. Sadly, I cannot. Although the Iraqi Kurds now control a significant portion of Kurdistan—a consequence of the Persian Gulf war—Saddam's ill treatment of the Kurds continues. Iraqi agents continually carry out terrorist acts against Kurdish targets, and Iraq maintains an airtight blockade of the Kurdish-controlled provinces. Since there also is a U.N. embargo on all of Iraq, the Kurds are forced to live under the unbearable economic weight of a dual embargo. In addition, Kurds in other portions of the region—particularly in Iran and Turkey—have been subjected to serious abuses of human rights and outright represssion, demonstrating that the Kurdish plight knows no boundaries. The situation has become so dire that for the past 18 months, the Iraqi Kurds —once united in their quest for autonomy and their hatred for Saddam Hussein, have resorted to fighting amongst themselves.

The situation does not seem right or fair to me. Nor does there seem to have been a proper response by the international community to the horrifying legacy of Halabja. I think there should be a much greater effort to look at ways to help the Iraqi Kurds dispel the painful memories of the past, to graduate from the status of dependency on the international donor community, and to confront our common enemy—Saddam Hussein. Only then can Iraqi Kurdistan emerge as the cornerstone of a free and democratic Iraq.

At a minimum, the international community—and the United States in particular—must reaffirm its commitment to protect the Kurds. Under Operation Provide Comfort, an international coalition including United States, British, and French forces, continues to provide air cover and protection to the Iraqi Kurds, and to facilitate the supply of humanitarian relief. The recent political changes in Turkey, however, have cast new doubt on the long-term viability of Provide Comfort, and overall economic conditions in Kurdistan continue to deteriorate. The current situation does not serve United States or international interests, nor does it help to rectify the sad history of repression against the Kurds. Our work in Iraq—both against Saddam and in support of the Kurds—is not yet done.

Mr. HELMS. Mr. President, I join with my distinguished friend, Senator PELL, the able ranking member of the Foreign Relations Committee, in recalling the massacre of thousands of Kurdish civilians 8 years ago at the town of Halabja.

On March 16, 1988, Iraqi jets, without warning, dropped chemical weapons on Halabja, a Kurdish village in northern Iraq. The attack, horrific even by Iraq's barbaric standards, killed thousands of unarmed men, women, and children.

The massacre at Halabja drew attention to Saddam Hussein's campaign of genocide directed against the Kurds of northern Iraq. However, that attention was not enough to prevent the systematic killing of hundreds of thousands of Kurdish civilians by the Government of Iraq.

Mr. President, I must commend Senator PELL for being one of the few willing to speak out about the plight of the Kurds. I worked with him in 1988 to sanction Iraq for its reprehensible behavior. Had more people around the world, and especially here in the United States, heeded Senator PELL's pleas to protect the Kurds, perhaps more could have been saved.

The final act of this tragedy, however, has not yet played out. Saddam Hussein has not abandoned his crusade against the Kurdish citizens of Iraq. If he cannot eliminate them, he will do all he can to deprive them of their basic human rights.

Mr. President, thanks to Senator PELL, the plight of the Kurds has the attention of the world. They must never be forgotten.

Mrs. FEINSTEIN. Mr. President, 8 years ago this week, in the closing weeks of the Iran-Iraq war, Saddam Hussein sent Iraqi forces to crush a rebellion among the Kurds of northern Iraq. In the assault, centered on the city of Halabja, Saddam's forces rained poison gas down upon the city, and over 5,000 Kurds, many of them civilians, lost their lives in horrifying fashion.

As research since the end of the Iran-Iraq war has shown, Halabja was only the most brutal chapter in Saddam's genocidal campaign against the Kurds of northern Iraq. From the mid-1980's through the end of the war, Iraq forced hundreds of thousands of Kurdish citizens into detention camps, kidnapped tens of thousands of others, most of whom are presumed dead, and attacked Kurdish towns and villages, often with deadly poison gas. Some 150,000 Kurds lost their lives in this infamous Anfal campaign—which can only be described as a campaign of genocide by Saddam Hussein against the Kurds of Iraq.

Sadly, this is not the only incident of Saddam's brutality against his own people. The threshold crossed by Iraq during the Anfal campaign laid the groundwork for Saddam's most recent genocidal killing spree, this time against the Marsh Arabs of southern Iraq. In the years following the gulf war, as Iraqi Shiite rebels took refuge in the remote communities of the Marsh Arabs, Saddam turned his army on this community. In the last 3 years, thousands of Marsh Arabs have disappeared, never to be heard from again, and entire villages have been burned to the ground. This time, the genocide was accompanied by an environmental outrage, as Iraqi engineers drained thousands of acres of marshlands in order to reach remote villages, wiping out a fragile ecosystem and obliterating the centuries-old way of life of the Marsh Arabs.

The Kurds, too, continue to suffer at Saddam's hand. They narrowly escaped a new round of massacres at the end of the gulf war in 1991, thanks to the intervention of the United States and our allies. Today, although the Kurds of Iraq govern the northern provinces autonomously under the protection of Operation Provide Comfort—a cooperative effort by the United States, Britain, and France—they remain subject to an internal blockade by Saddam's forces, as well as the U.N. embargo against all of Iraq, and periodic Iraqi attacks against Kurdish towns and individuals.

No Member of this body has done more to publicize and address the plight of the Kurds than the distinguished ranking member of the Foreign Relations Committee, Senator PELL. Thanks in large part to his efforts, and those of the distinguished Chairman of the Foreign Relations Committee, Senator HELMS, over 18 tons of Iraqi Government and secret police documents detailing Iraq's genocidal campaign against the Kurds—after being captured by Kurdish rebels in 1991—were brought to the United States for research and analysis. The result has been a well-documented history of Iraqi atrocities against the Kurds, including the horrific use of poison gas.

On this tragic anniversary, I want to commend Senator PELL and Senator HELMS for their leadership on this issue. I hope that the United States will continue to take a leadership role in working to ensure a better life for the Kurds of Iraq, both until and after Saddam Hussein is driven from power.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on numerous occasions I have mentioned to friends that evening in 1972 when I first was elected to the Senate. When the television networks reported that I had won the Senate race in North Carolina, I was stunned. Then I made several commitments to myself, one of them being that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them have been concerned about the Federal debt which recently exceeded $5 trillion. Of course, Congress is responsible for creating this monstrous debt which coming generations will have to pay.

Mr. President, the young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Wednesday, March 13, stood at $5,025,887,532,178.79. This amounts to $19,076.70 for every man, woman and child in America on a per capita basis.

The increase in the national debt since my report yesterday—which identified the total Federal Debt as of close of business on Tuesday, March 12, 1996—shows an increase of nearly 9 billion dollars—$8,603,940,268.76, to be exact. That 1-day increase is enough to match the money needed by approximately 1,275,792 students to pay their college tuitions for 4 years.

STATEMENT BY THE EXECUTIVE COMMITTEE OF THE FRIENDS OF IRELAND IN THE U.S. SENATE

Mr. KENNEDY. Mr. President, The Friends of Ireland is a bipartisan group of Senators and Representatives opposed to violence and terrorism in Northern Ireland and dedicated to maintaining a United States policy that promotes a just, lasting, and peaceful settlement of the conflict. The latest developments for peace and the need for an immediate restoration of the IRA cease-fire make this year's St. Patrick's Day a particularly critical time in the peace process.

I believe all our colleagues will find this year's statement by the Senate Executive Committee of the Friends of Ireland of interest, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE EXECUTIVE COMMITTEE OF THE FRIENDS OF IRELAND IN THE UNITED STATES SENATE, ST. PATRICK'S DAY, 1996

On this St. Patrick's Day, the Executive Committee of the Friends of Ireland in the United States Senate join the people of Ireland, North and South, in welcoming the latest developments for peace and in demanding an immediate restoration of the IRA cease-fire.

We welcome the Joint Communiqué issued on February 28 by Irish Taoiseach John Bruton and British Prime Minister John Major proposing steps to renew the peace process for Northern Ireland and pledging to begin all-party negotiations on June 10.

Friends of Ireland everywhere were outraged by the end of the IRA cease-fire last month and by the subsequent bombings in populated London which took the lives of three people and injured many others. Our hearts go out to the victims and the families of those killed and injured in these terrorist attacks. We condemn unequivocally the IRA violence, and we call for an immediate restoration of the cease-fire. We commend the Loyalist paramilitaries for maintaining their cease-fire in spite of the IRA's resumption of violence.

We are greatly encouraged that the political leaders of Ireland and Great Britain have recommitted themselves to achieving a lasting peace. They clearly have a mandate from the vast majority of the people of Ireland—North and South, Protestant and Catholic alike—who recently turned out in large numbers to condemn the recent violence and demand a return to peace.

Many of the Friends of Ireland had the opportunity, during the recent visit to Northern Ireland by President Clinton, to see at first hand the determination of people of all traditions to seize the opportunity for peace. This was reaffirmed by the recent rallies in which people turned out in large numbers across Ireland to condemn the recent violence and demand a return to peace. As preparations are made for the commencement of all-party negotiations on June 10, there is an obligation on all parties to ensure that this widespread commitment to peace is turned into a reality for all the people of the island.

Friends of Ireland who accompanied the President on his trip also had the opportunity to observe the excellent work of the International Fund for Ireland, which continues to create jobs and promote understanding in both communities.

In 1994, at the strong urging of responsible leaders in Northern Ireland and Ireland, many of the Friends of Ireland wrote to President Clinton to suggest an encouraging gesture be made towards Gerry Adams, by giving him a limited visa to visit this country, in hopes that it might bring dialogue and an end to violence. John Hume later called the visa, "crucial" to achieving the subsequent cease-fire. We believe that the participation of Sinn Fein in all-party negotiations is vital for the success of the peace process, but Sinn Fein cannot take its place at the peace table without the restoration of the cease-fire.

In an effort to move beyond the pre-condition that weapons be handed over prior to all-party negotiations, an international commission led by former Senator George Mitchell was established by the British and Irish Governments to assess the issue and make recommendations to overcome the impasse. We commend Senator Mitchell and the other members of the commission for the outstanding job they have done. The commission found that turning in weapons in advance of talks would not occur and suggested constructive alternative ways forward.

When the Irish and British Governments launched the Mitchell Commission last November, they had agreed to "the firm aim" of achieving all-party negotiations by the end of February. Unfortunately, that target date was missed, due to the introduction of a new pre-condition by Prime Minister Major that elections must occur before talks can take place. The insistence by the British Government that elections precede all-party negotiations created unnecessary delays in the process and aroused concern in the Nationalist community of a return to the days when the Unionist majority imposed its will through the Stormont Parliament.

We are also disappointed by the lack of willingness, on the part of the leaders of the largest Unionist parties in Northern Ireland, to participate in good faith in the peace process, despite the fact that the process so clearly has the support of the people of their community. The Friends of Ireland urge the leadership of the Ulster Unionist Party and the Democratic Unionist Party to engage fully in the search for a fair and comprehensive settlement. There is now a unique opportunity for all sides—Nationalists and Unionists—working with the two Governments to advance the cause of peace.

We pledge to continue to do all we can to support the peace process. On this St. Patrick's Day, we rededicate ourselves to working with all those who continue to be genuinely committed to the achievement of a lasting peace for Northern Ireland.

FRIENDS OF IRELAND EXECUTIVE COMMITTEE,
UNITED STATES SENATE
Edward M. Kennedy.
Claiborne Pell.
Daniel Patrick Moynihan.
Christopher J. Dodd.

U.S. CONSUMPTION OF FOREIGN OIL? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 8, the United States imported 7,315,000 barrels of oil daily, 506,000 barrels less than the 7,821,000 barrels imported during the same period 1 year ago, but 986,000 barrels more than the 6,329,000 barrels imported the previous week, March 1, 1996.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the United States—now 7,315,000 barrels a day.

CHINA AND TAIWAN

Mr. DASCHLE. Mr. President, during the past 3 weeks, several unfortunate events that threaten peace and stability around the world have occurred. In Israel and in the skies off the Cuban coast, innocent men, women, and children have lost their lives as a result of those tragedies. Moreover, countless others continue to suffer the consequences of increased tensions between countries and groups of people who have long been separated by ideological or religious differences.

Like many of my colleagues, I have already expressed my outrage at the unnecessary tragedy in the Straits of Florida and the unconscionable suicide bombings in Israel. I want to take this opportunity to voice my strong concerns about the recent escalation of tensions between the People's Republic of China and the Republic of China on Taiwan.

In the past week, China has taken several actions intended to intimidate the people of Taiwan and influence its upcoming presidential elections. On March 5, Beijing announced its decision to conduct guided-missile tests near Taiwan. Three days later, China launched the first three missiles in tests it intends to conduct until March 15. On March 9, China announced its plans to conduct live-ammunition war exercises in the Strait of Taiwan until March 20, just 3 days before Taiwan's presidential elections.

As Secretary of State Warren Christopher indicated recently, these actions are "risky, and smack of intimidation and coercion." China's actions create grave risks to stability in that region. I urge China's leadership to halt these dangerous and provocative actions immediately.

Make no mistake, the risk is real. China's missile tests and military exercises are dangerous in and of themselves, and they increase the chances of an accident that could cause tensions to spiral out of control.

When China conducted similar missile tests in July and August of last year, the target areas were 85 and 80 miles north of Taiwan, respectively. By contrast, the target zone for the surface-to-surface missiles fired last week are only half as far from Taiwan, and far too close to major airline and shipping routes.

Of the three missiles launched last week, two landed near the port of Keelung which is only 23 miles from Taiwan's northern coast and approximately 30 miles from Taipei, Taiwan's capital. The third missile landed in a target zone near the port of Kaohsiun, which is only 35 miles from Taiwan's southern coast.

Thankfully, the three missiles fired last week and the one fired this week landed where the Chinese intended. However, China intends to conduct similar missile tests in the same zones. If one of these missiles should stray off-course and mistakenly land in Taiwan, or hit a ship or an airliner, the repercussions would be severe. Needless to say, under such circumstances, Taiwan could not be expected to sit idly by, and the Clinton administration has continually warned that if an accident occurs, China "will be held accountable." I would like to lend my voice to those warnings.

Even if China's missile tests and military exercises go as planned, the inevitable result is greater difficulties in the day-to-day lives of the Taiwanese people. Taiwan's stock market has already experienced a great deal of volatility, and the fluctuations would have been greater had it not been for government initiatives. Flights for commercial airlines will also be disrupted this week when aircraft will be forced to change routes to avoid China's military exercises, and shipping has been delayed or diverted to avoid the missile test zones.

Despite the heroic efforts by President Lee to keep the people of Taiwan calm during these trying times, China's threatening actions will continue to inject fear into the daily lives of the Taiwanese people. Beijing's time and efforts would be far better spent trying to communicate with Taiwan in a nonthreatening and peaceful way rather than carrying out reckless missile tests and military exercises.

Finally, Mr. President, there should be no misunderstanding that if China's missile tests and military exercises should develop into actual military action against Taiwan, the United States is well prepared to respond. The carrier U.S.S. *Independence*, accompanied by three warships, was recently ordered to move near Taiwan. Moreover, the U.S.S. *Nimitz* and five to six additional ships are expected to arrive near Taiwan before the upcoming presidential elections.

The irony is that China is conducting missile tests and military exercises in order to curb support for Taiwan independence. The fact of the matter is, most Taiwanese, as well as a majority of their elected leaders, are committed to reunification, but only reunification achieved through peaceful means.

United States policy, as spelled out in the 1979 Taiwan Relations Act, stipulates that the future relationship between China and Taiwan should be determined by peaceful means. I sincerely hope China will not miscalculate United States resolve in this regard. With the leadership of President Clinton, the United States stands ready to assist Taiwan if necessary. Again, I urge the People's Republic of China to cease its intimidation of Taiwan and to resolve its differences with the Taiwanese peacefully.

NATIONAL ACADEMY OF SCIENCES FOLLOW-UP REPORT ON AGENT ORANGE

Mr. DASCHLE. Mr. President, I would like to call to our colleagues' attention important new findings on the relationship between Agent Orange exposure and certain health conditions. Earlier today, the Institute of Medicine [IOM], which is part of the National Academy of Sciences [NAS], released an update to their 1994 report, "Veterans and Agent Orange: Health Effects of Herbicides Used in Vietnam." These reports were mandated in the Agent Orange Act of 1991 (Public Law 102-4), which I authored with Senator JOHN KERRY, Senator ALAN CRANSTON and Representative LANE EVANS.

This report confirms what Vietnam veterans have long known: The Vietnam war is still claiming innocent victims.

Unfortunately, the findings announced today validate veterans' worst fears about Agent Orange—that their children are suffering serious health consequences as a result of their parents' military service.

The report found evidence suggestive of an association between veterans' exposure to Agent Orange and the presence of a severe form of spina bifida in their children.

This type of spina bifida is an incurable birth defect characterized by a deformity in the spinal cord that often results in serious neurological problems, which require lifelong medical treatment. The cost of caring for a child with spina bifida can devastate a family.

The report concluded that there is inadequate evidence at this time to determine whether there may be an association to Agent Orange exposure and any other birth defects.

The Federal Government has a moral responsibility to help veterans whose children suffer from spina bifida and to meet their children's health care needs. This should include the provision of essential medical care and case management services to coordinate health and social services for the child.

But the Government's responsibility does not end there. American soldiers were exposed to Agent Orange, and some of their children are now paying a terrible price. The Federal Government also has a responsibility to compensate these families.

Department of Veterans Affairs Secretary Jesse Brown has said he will appoint a task force to review the findings of the new IOM-NAS report and make policy recommendations to him within 90 days. I applaud the Secretary for his aggressive pursuit of the scientific facts related to Agent Orange and am hopeful that the task force will help Congress and the Secretary identify appropriate measures to address this unprecedented situation.

Toward that end, I am asking Secretary Brown to direct the task force to consider the following several specific questions as part of their review:

First, what is the most appropriate way to provide health care to veterans' children with spina bifida—through the VA directly or through contracts with other providers?

Second, what kinds of case management services are needed to maximize the quality of life for these children, and their ability to function? And how can they be delivered most effectively?

Third, should veterans' children with other birth defects be provided those same services?

Finally, what is the most appropriate means of compensating the families of children who suffer from spina bifida as a result of their parent's exposure to Agent Orange?

I am also asking the Secretary to ensure that the task force, as it considers these questions, seeks the input of organizations and individuals familiar with the unique treatment and case management needs of children suffering from spina bifida and other birth defects. I also hope the panel will consult with experts in the field of injury compensation for children. Congress and the VA have an obligation to seek and heed the best advice these experts have to offer.

We need answers to these questions as soon as possible. The families of these children need help, and they have waited long enough.

Mr. President, the association between Agent Orange exposure and spina bifida was not the only new finding in this report. The IOM Committee also updated its finding on skin cancer, moving it from category IV—"uggestive of no association with exposure"—to category III—diseases for which there is "insufficient evidence to make a determination."

This change underscores the fact that we still do not understand fully the long-term effects of Agent Orange exposure. To facilitate my colleagues' and the public's understanding of these findings, I ask that a table from today's report, which explains the four-tiered classification system and summarizes the results of this study, be printed at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DASCHLE. Until we have all the facts, Congress must continue, as we have done since 1981, to give veterans the benefit of the doubt and provide them free health care for conditions potentially related to their exposure.

The NAS is helping us compile an important scientific record that is instrumental to Congress' effort to address the health and compensation needs of veterans. I commend the Institute of Medicine for its excellent work. This report builds on our scientific knowledge of the long-term health consequences of exposure to Agent Orange and other herbicides. It recognizes that our understanding of these issues is still evolving. And it recommends additional work that should be done to further that understanding.

The NAS report also serves as a valuable reminder that the impact of war is felt decades beyond the final shots. This holds for the Persian Gulf war as well as the war in Vietnam. We must be prepared to learn from the scientific effort on Agent Orange and apply these lessons to the effort to discover the true health effects of environmental hazards on the men and women who served in the gulf and on their children.

I look forward to working with the Senate Veterans' Affairs Committee, veterans organizations, the Department of Veterans Affairs, the NAS, independent scientists, and others to address the issues raised in this report and to continue to search for the truth and a better understanding of the lasting health effects of military service.

EXHIBIT 1

Table 1–1. Updated summary of findings in occupational, environmental, and veterans studies regarding the association between specific health problems and exposure to herbicides.

SUFFICIENT EVIDENCE OF AN ASSOCIATION

Evidence is sufficient to conclude that there is a positive association. That is, a positive association has been observed between herbicides and the outcome in studies in which chance, bias, and confounding could be ruled out with reasonable confidence. For example, if several small studies that are free from bias and confounding show an association that is consistent in magnitude and direction, there may be sufficient evidence for an association. There is sufficient evidence of an association between exposure to herbicides and the following health outcomes: Soft-tissue sarcoma, non-Hodgkin's lymphoma, Hodgkin's disease chloracne.

LIMITED/SUGGESTIVE EVIDENCE OF AN ASSOCIATION

Evidence is suggestive of an association between herbicides and the outcome but is limited because chance, bias, and confounding could not be ruled out with confidence. For example, at least one high-quality study shows a positive association, but the results of other studies are inconsistent. There is limited/suggestive evidence of an association between exposure to herbicides and the following health outcomes: Respiratory cancers (lung, larynx, trachea), prostate cancer, multiple myeloma, acute and subacute peripheral neuropathy (new disease category), spina bifida (new disease category), porphyria cutanea tarda (category change in 1996).

INADEQUATE/INSUFFICIENT EVIDENCE TO DETERMINE WHETHER AN ASSOCIATION EXISTS

The available studies are of insufficient quality, consistency, or statistical power to permit a conclusion regarding the presence or absence of an association. For example, studies fail to control for confounding, have inadequate exposure assessment, or fail to address latency. There is inadequate or insufficient evidence to determine whether an association exists between exposure to herbicides and the following health outcomes: Hepatobiliary cancers, nasal/nasopharyngeal cancer, bone cancer, female reproductive cancers (cervical, uterine, ovarian), breast cancer, renal cancer, testicular cancer, leukemia, spontaneous abortion, birth defects (other than spina bifida), neonatal/infant death and stillbirths, low birthweight, childhood cancer in offspring, abnormal sperm parameters and infertility, cognitive and neuropsychiatric disorders, motor/coordination dysfunction, chronic peripheral nervous system disorders, metabolic and digestive disorders (diabetes, changes in liver enzymes, lipid abnormalities, ulcers), immune system disorders (immune suppression and autoimmunity), circulatory disorders, respiratory disorders, skin cancer (category change in 1996).

LIMITED/SUGGESTIVE EVIDENCE OF NO ASSOCIATION

Several adequate studies, covering the full range of levels of exposure that human beings are known to encounter, are mutually consistent in not showing a positive association between exposure to herbicides and the outcome at any level of exposure. A conclusion of "no association" is inevitably limited to the conditions, level of exposure, and length of observation covered by the available studies. In addition, the possibility of a very small elevation in risk at the levels of exposure studied can never be excluded. There is limited/suggestive evidence of no association between exposure to herbicides and the following health outcomes: Gastrointestinal tumors (stomach cancer, pancreatic cancer, colon cancer, rectal cancer), bladder cancer, brain tumors.

Note.—"Herbicides" refers to the major herbicides used in Vietnam: 2,4-D (2,4-dichlorophenoxyacetic acid); 2,4,5-T (2,4,5-trichlorophenoxyacetic acid) and its contaminant TCDD (2,3,7,8-tetrachlorodibenzo-p-dioxin); cacodylic acid; and picloram. The evidence regarding association is drawn from occupational and other studies in which subjects were exposed to a variety of herbicides and herbicide components.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING PROPOSED RESCISSIONS OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 131

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on March 13, 1996, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which, pursuant to the order of January 30, 1975, as modified by the order of April 1986, was referred jointly to the Committee on Appropriations, Committee on the Budget, and the Committee on Armed Services:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report five proposed rescissions of budgetary resources, totaling $50 million. These rescission proposals affect the Department of Defense.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 13, 1996.*

MESSAGES FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints Mr. MARKEY of Massachusetts as a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, to replace Mr. WYDEN of Oregon.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 45. Concurrent resolution authorizing the use of the Capitol Rotunda on May 2, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham.

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, and it requests the concurrence of the Senate.

H. J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ENROLLED BILL SIGNED

At 7:11 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2036. An act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide the needed flexibility, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURE READ THE FIRST TIME

The following bill was read the first time:

S. 1618. A bill to provide uniform standards for the award of punitive damages for volunteer services.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2127. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated March 1, 1996; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on Budget.

EC–2128. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a report of real estate asset inventory; to the Committee on Banking, Housing, and Urban Affairs.

EC–2129. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Ninoy Aquino International Airport, Manila, Philippines; to the Committee on Commerce, Science, and Transportation.

EC–2130. A communication from the Assistant Secretary of the Interior (Land Minerals Management), transmitting, pursuant to law, a report relative to natural gas and oil leases; to the Committee on Energy and Natural Resources.

EC–2131. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–2132. A communication from the Executive Director of the Northeast Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, the annual report for calendar year 1995; to the Committee on Energy and Natural Resources.

EC–2133. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report entitled "Progress on Superfund Implementation in Fiscal Year 1995"; to the Committee on Environment and Public Works.

EC–2134. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the national Intelligent Transportation Systems program; to the Committee on Environment and Public Works.

EC–2135. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on countries with which the U.S. has an economic or trade relationship; to the Committee on Finance.

EC–2136. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–2137. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

EC–2138. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–221 adopted by the Council on February 6, 1996; to the Committee on Governmental Affairs.

EC–2139. A communication from the Assistant Attorney General, transmitting, pursuant to law, a report entitled "Child Victimizers: Violent Offenders and Their Victims"; to the Committee on the Judiciary.

EC–2140. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2141. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2142. A communication from the Director of Selective Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2143. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2144. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2145. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2146. A communication from the Chairman of the U.S. Consumer Product Safety Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2147. A communication from the Staff Director of the U.S. Commission On Civil Rights, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2148. A communication from the Chief Executive Officer of the Corporation for National Service, transmitting, pursuant to law, notice relative to the report of the auditability of its financial statements and systems; to the Committee on Labor and Human Resources.

EC–2149. A communication from the Secretary of Labor and Chairman of the Board, and the Executive Director of the Pension Benefit Guaranty Corporation, transmitting jointly, pursuant to law, the report of its financial statements for fiscal year 1995; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on March 13, 1996:

By Mr. HATCH, from the Committee on the Judiciary:

Gary A. Fenner, of Missouri, to be U.S. District Judge for the Western District of Missouri.

Joseph A. Greenaway, of New Jersey, to be U.S. District Judge for the District of New Jersey.

James P. Jones, of Virginia, to the U.S. District Judge for the Western District of Virginia.

Ann D. Montgomery, of Minnesota, to be U.S. District Judge for the District of Minnesota.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 1613 A bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the dietary guidelines for Americans under the school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 1614 A bill to provide for the stabilization, enhancement, restoration, and management of the Coeur d'Alene River Basin watershed, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1615 A bill to modify the project for navigation, Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself, Mr. MURKOWSKI, Mr. AKAKA, and Mr. STEVENS):

S. 1616 A bill to establish a visa waiver pilot program for nationals of Korea who are traveling in tour groups to the United States; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. THOMAS):

S. 1617 A bill to amend title 31, United States Code, to prohibit the use of appropriated funds by Federal agencies for lobbying activities; to the Committee on Governmental Affairs.

By Mr. ABRAHAM (for himself, Mr. DOLE, and Mr. HATCH):

S. 1618 A bill to provide uniform standards for the award of punitive damages for volunteer services; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE (for himself and Mr. BRADLEY):

S. Res. 231. A resolution extending sympathies to the people of Scotland; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 1613. A bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL SCHOOL LUNCH ACT AMENDMENT ACT OF 1996

• Mr. COCHRAN. Mr. President, the bill that I am introducing today will amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the School Lunch and Breakfast Programs.

The National School Lunch Program is a program that works.

The National School Lunch Program currently operates in over 92,000 schools and serves approximately 26 million children each day. In my State of Mississippi approximately 7 out of 10 children participate in the School Lunch Program. It is very important to have the flexibility to serve the children healthy meals while reducing time consuming paperwork.

The Healthy Meals for Healthy Americans Act of 1994 contained provisions to improve and simplify the National School Lunch Program. It included a requirement that schools implement the Dietary Guidelines for Americans.

We must allow for local and regional food preferences. Further, not every school district has the resources to conduct sophisticated nutrient analysis of each meal or to hire a nutritionist.

The legislation that I am introducing today would not delete or postpone in any way the requirement that the School Lunch Program implement the Dietary Guidelines in a timely manner. Rather, my legislation will allow local schools to implement the Dietary Guidelines with greater program flexibility and less expense.

This legislation has the strong support of the school food service administrators in Mississippi.

I urge Senators to support it.•

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 1614. A bill to provide for the stabilization, enhancement, restoration, and management of the Coeur d'Alene River Basin watershed, and for other purposes; to the Committee on Environment and Public Works.

THE COEUR D'ALENE RIVER BASIN ENVIRONMENTAL RESTORATION ACT OF 1996

• Mr. CRAIG. Mr. President, I am today introducing, with the cosponsorship of Senator KEMPTHORNE, the Coeur d'Alene River Basin Environmental Restoration Act of 1996. This legislation would allow for a workable solution to clean up the historic effects of mining on the Coeur d'Alene Basin in north Idaho.

This legislation establishes a process that is centered around an action plan developed between the Governor of the State of Idaho and a Citizens Advisory Commission comprised of 13 representatives of affected State and Federal Government agencies, private citizens, the Coeur d'Alene Indian Tribe, and affected industries. The responsibilities of this commission are very important to the ultimate success of cleaning up the basin.

The Silver Valley of north Idaho has made contributions to the national economy and to all of our country's war efforts for well over a century. The Federal Government has been involved in every phase of mineral production over the history of the valley. It is, therefore, appropriate that Congress specifically legislate a resolution of natural resources damages in the Coeur d'Alene Basin and participate in funding such a plan.

I want to make clear this legislation does not interfere with the ongoing Superfund cleanup within the 21-square mile Bunker Hill site. This legislation sets up a framework for voluntary cleanup of affected areas outside this 21-square mile area. In drafting this legislation, I have worked with the mining industry, the Coeur d'Alene tribe, local governments, the Governor of Idaho and citizens in north Idaho. It is only through the involvement of all these parties that a solution will be reached.

Throughout this effort it has been clear that all parties want the basin cleaned up, and they want the cleanup done with the concerns of local citizens and entities addressed and with controls and cleanup decisions made in Idaho, not in Washington, DC. These are the guiding principles that I have applied in developing this legislation.

Local cleanup has already begun in the headwaters of the basin's drainage. Nine Mile Creek and Canyon Creek have had proven engineering designs implemented within their drainages. The Coeur d'Alene River Basin Environmental Restoration Act of 1996 would assure that this type of meaningful restoration could continue. However, the actions needed in each part of the basin are not clear. That is why my bill calls for the Governor of Idaho and the Citizens Advisory Commission to develop an action plan that can address the varying conditions within the basin. For example, engineering solutions will certainly work in portions of the basin—but not every place. The steeper gradient streams in the upper basin respond well to engineering fixes, but these types of fixes may only exacerbate problems in the lower, flatter portions of the basin. Local input and control through the action plan can address such diversity and the need for varying environmental fixes.

The Department of Justice is currently threatening a lawsuit for alleged natural resources damages in the area addressed by this legislation. For the Federal Government to follow such a course would be folly. When the Federal Government litigates under Superfund, the members of the legal profession benefit, as litigation eats away at whatever resources are available for a cleanup. Litigation does not benefit the citizens affected by a cleanup and certainly does not benefit the resources that are purported to be the primary consideration when such a suit is pursued. I do not intend to see cleanup resources in north Idaho to go to litigation and not to cleanup. It is my goal to see the Coeur d'Alene basin cleanup is not litigated away. That is the reason I have introduced this legislation. It will clean up the basin, not litigiously waste the basin's resources.

I think it is an important step toward a historic cleanup of a very important and beautiful area of the country.•

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1615. A bill to modify the project for navigation, Mississippi River Ship Channel, Gulf to Baton Rouge, LA, and for other purposes; to the Committee on Environment and Public Works.

CHALMETTE SLIP DREDGING PROJECT LEGISLATION

Mr. BREAUX. Mr. President, I introduce today, together with my senior colleague from Louisiana, Senator J. BENNETT JOHNSTON, a bill to authorize the Corps of Engineers to conduct maintenance dredging for the Chalmette Slip. The project is needed to assist the St. Bernard Port, Terminal and Harbor District conduct its current daily business more effectively and to facilitate future development.

Located in St. Bernard Parish near mile 90.5 of the Mississippi River, the project's authorization would be carried out as part of the currently authorized and ongoing operations and maintenance project for the Mississippi River, Baton Rouge to the Gulf of Mexico.

The slip's depth is now approximately 30 feet. The authorization would allow it to be deepened to 33 feet, over a distance of approximately 1,500 feet.

With the additional depth needed to help the port operate more effectively and to improve its operations, the project certainly is a justified one.

Senator JOHNSTON and I are hopeful that the proposed Chalmette Slip authorization will be included as part of the Water Resources Development Act legislation when it is taken up by the Senate.

We urge its consideration and passage.

By Mr. INOUYE (for himself, Mr. MURKOWSKI, Mr. AKAKA, and Mr. STEVENS):

S. 1616. A bill to establish a visa waiver pilot program for nationals of

Korea who are traveling in tour groups to the United States; to the Committee on the Judiciary.

KOREAN NATIONALS VISA WAIVER PILOT PROGRAM

• Mr. INOUYE. Mr. President, I rise to introduce legislation that would establish a Visa Waiver Pilot Program for Korean nationals who are traveling in tour groups to the United States. I am joined in this effort by Senators MURKOWSKI, AKAKA, and STEVENS.

According to the 1995 National Trade Estimate Report entitled "Foreign Trade Barriers," in 1994, the United States trade deficit with the Republic of Korea was $1.6 billion, or $718 million greater than in 1993. United States merchandise exports to the Republic of Korea were $18 billion in 1994, up $3.3 billion from 1993. United States imports from the Republic of Korea totaled $19.7 billion in 1994, 14.8 percent more than in 1993. The Republic of Korea is the sixth largest trading partner of the United States.

Travel and tourism play a major role in reducing the United States' unfavorable balance of trade. There is an increasing demand by citizens of the Republic of Korea to visit the United States. In fiscal year 1994, 320,747 nonimmigrants visas were issued to Korean travelers. In fiscal year 1995, 394,044 nonimmigrant visas were issued to Korean travelers. Of this amount, 320,120 were tourist visas.

The Republic of Korea is not eligible to participate in the current Visa Waiver Pilot Program. Thus, Koreans are required to obtain a visa to travel to the United States. Unfortunately, U.S. visas can not be processed in a reasonable time frame. There is often a 2 to 3 week waiting period to obtain tourist visas. Although the Secretary of State has attempted to address the problem by including additional personnel in the consular section at the U.S. Embassy in Seoul, visa processing delays do continue.

The legislation we are introducing today would establish a 3-year pilot program that would waive the visa requirement for Korean nationals traveling as part of a group tour to the United States. Under the program, selected travel agencies in Korea would be allowed to issue temporary travel permits. The applicants would be required to meet the same prerequisites imposed by the United States Embassy.

The pilot legislation also includes additional restrictions to help deter the possibility of illegal immigration. These are:

The stay in the United States is no more than 15 days.

The visitor poses no threat to the welfare, health, and safety, or security of the United States.

The visitor possesses a round-trip ticket.

The visitor who is deemed inadmissible or deportable by an immigration officer would be returned to Korea by the transportation carrier.

Tour operators will be required to post a $200,000 performance bond with the Secretary of State, and will be penalized if a visitor fails to return on schedule.

Tour operators will be required to provide written certification of the on-time return of each visitor within the tour group.

The Secretary of State and the Attorney General can terminate the pilot program should the overstay rate exceed 2 percent.

Accordingly, I urge my colleagues to join us in cosponsoring this legislation.

Mr. President, I ask unanimous consent that the bill text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. KOREA VISA WAIVER PILOT PROGRAM.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) travel and tourism play a major role in reducing the United States unfavorable balance of trade;

(2) the characteristics of the Korean travel market do not permit long-term planning for longer trips;

(3) applications for United States visas cannot now be processed in a reasonable period of time;

(4) the Secretary of State has attempted to solve the problem by adding additional staff to the consular section at the United States Embassy in Seoul;

(5) unfortunately, these additions have not resulted in any discernable improvement in reducing visa processing delays;

(6) further, it is unlikely, given the current fiscal environment, to expect funding to be available for further staff additions in sufficient numbers to effect any significant improvement in the time required to process visa applications;

(7) most of the nations of the South Pacific, Europe, and Canada do not currently require Koreans entering their countries to have a visa, thus providing them with a serious competitive advantage in the tourism industry;

(8) the United States territory of Guam has been permitted by the United States Government to eliminate visa requirements for Koreans visiting Guam, with resultant impressive increases in travel and tourism from citizens of the Republic of Korea;

(9) any application under existing procedures to add the Republic of Korea, or any other nation to the group of favored nations exempted from United States visa regulations, would require many years during which time the United States could well lose its competitive advantages in attracting travel and tourism from the Republic of Korea;

(10) the Republic of Korea, as a gesture of goodwill, has already unilaterally exempted United States tourists who seek to enter the Republic of Korea from the requirement of obtaining a visa; and

(11) growth in Korean travel to the United States has not kept pace with growth in travel to non-United States destinations, and cumbersome and time-consuming visa processing procedures are widely recognized as the cause of this loss of market share and competitiveness with alternative destinations.

(b) PILOT PROGRAM.—The Secretary of State and the Attorney General jointly shall establish a pilot project (in this section referred to as the "pilot program") within six months of the date of the enactment of this Act under which the requirement of paragraph (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(B)(i)(II)) is waived during the pilot program period in the case of any alien who meets the following requirements:

(1) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of, and presents a passport issued by, the Republic of Korea. The Republic of Korea is urged to provide machine readable passports to its citizens in the near future.

(2) SEEKING ENTRY AS TOURIST.—The alien is applying for admission to the United States during the pilot program period as a nonimmigrant visitor for pleasure (as described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B))), as part of a group tour to the United States.

(3) PERIOD OF STAY.—The alien seeks to stay in the United States for a period of not more than 15 days.

(4) EXECUTES IMMIGRATION FORMS.—The alien before the time of such admission completes such immigration form as the Attorney General shall establish.

(5) ENTRY INTO THE UNITED STATES.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Immigration and Naturalization Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.

(6) NOT A SAFETY THREAT.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

(7) NO PREVIOUS VIOLATION.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

(8) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).

(c) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

(1) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

(2) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(d) TERMINATION OF AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may terminate the pilot program under this section on or after a date which is one year after the date of the establishment of the pilot program if—

(1) during the preceding fiscal year, the overstay rate for nationals of the Republic of Korea entering the United States under the pilot program exceeds the overstay rate of such nationals entering the United States with valid visas; and

(2) the Attorney General and the Secretary of State have jointly determined that the

pilot program is leading to a significant increase in the number of overstays by such nationals.

(e) SPECIAL BOND AND NOTIFICATION REQUIREMENTS FOR TOUR OPERATORS.—

(1) IN GENERAL.—Nationals of the Republic of Korea may not enter the United States under the terms of this section unless they are accompanied for the duration of their authorized admission period by a tour operator who has fulfilled the following requirements:

(A) The tour operator has posted a bond of $200,000 with the Secretary of State.

(B) The Secretary of State, under such regulations as the Secretary may prescribe, has approved an application by the tour operator to escort tour groups to the United States.

(C) The tour operator provides the name, address, birthdate, passport number, and citizenship of all prospective tour group members to the Secretary of State no less than one business day prior to the departure date of the group, under such regulations as he may prescribe, in order to determine that the prospective travelers do not represent a threat to the welfare, health, safety, and security of the United States.

(D) The tour operator excludes from the tour group any person whom the Secretary of State denies permission to travel to the United States.

(E) The tour operator provides written certification or other such evidence prescribed by the Secretary of State and Attorney General which documents the return to Korea of each tour group member.

(2) FORFEITURE OF BONDS.—Bonds posted in accordance with this subsection shall be forfeited in whole or in part and a tour operator's authorization to escort tours to the United States may be suspended or revoked if the Secretary of State finds that the tour operator—

(A) has failed to disclose a material fact in connection with the application required under paragraph (1)(B);

(B) fails to comply with the advance notification and refusal requirements of paragraphs (1)(C) and (1)(D);

(C) has failed to take adequate steps to ensure that visitors who are being escorted to the United States under the terms of an approved application return to their country of residence; or

(D) is found at any time to have committed a felony or any offense under the immigration laws of the United States.

(f) PARTICIPATION BY TOUR AGENTS.—The Secretary of State shall periodically review the overstay rate of nationals of the Republic of Korea that corresponds to each tour agent participating in the program under this section. The Secretary may terminate the participation in the program of any tour agent if the Secretary determines that the corresponding overstay rate is excessive.

(g) DEFINITIONS.—For purposes of this section—

(1) GROUP TOUR.—The term "group tour" means travelers who take advantage of group-purchased hotel or airfare packages, as guided, supervised, and arranged by a tour agent in the Republic of Korea approved or licensed by the Department of State.

(2) OVERSTAY RATE.—The term "overstay rate" means, during a specified period of time, the proportion that the number of aliens remaining in the United States after the expiration of their visas bears to the total number of aliens entering the United States during that period of time.

(3) PILOT PROGRAM PERIOD.—The term "pilot program period" means the three-year period immediately following the establishment of the pilot program.•

• Mr. MURKOWSKI. Mr. President, I rise today to support the Korea visa waiver pilot project legislation. I have worked closely with Senators INOUYE, AKAKA, and STEVENS on this legislation. This bill addresses the problem of the slow issuance of United States tourist visas to Korean citizens, and their, too often, subsequent decision not to vacation in the United States.

Koreans typically wait 2 to 3 weeks to obtain visas from the United States Embassy in Seoul. As a result, these spontaneous travelers decide to go to one of the other 48 nations that allow them to travel to their country without a visa, including both Canada and New Zealand.

This bill provides the legal basis for a carefully controlled pilot program for visa free travel by Koreans to the United States. The program seeks to capture the Korean tourism market lost due to the cumbersome visa system. For example, in 1994, 296,706 nonimmigrant United States visas were granted to Koreans of which 7,000 came to Alaska. It is predicted that there would be a 500- to 700-percent increase in Korean tourism to Alaska with the visa waiver pilot project. In New Zealand, for example, a 700-percent increase in tourism from Korea occurred after they dropped the visa requirement.

This pilot program allows visitors in a tour group from South Korea to travel to the United States without a visa. however, it does not compromise the security standards of the United States. The program would allow selected travel agencies in Korea to issue temporary travel permits based on applicants meeting the same preset standards used by the United States Embassy in Seoul. The travel permits could only be used for supervised group tours.

Many restrictions are included in the legislation for the pilot proposal.

The Attorney General and Secretary of State can terminate the program if the overstay rates in the program are over 2 percent.

The stay of the visitors is less than or equal to 15 days.

The visitors have to have a roundtrip ticket, in addition, the visitors have to arrive by a carrier that agrees to take them back if they are deemed inadmissible.

We recommend to the Secretary of State to institute a bonding and licensing requirement that each participating travel agency post a substantial performance bond and pay a financial penalty if a tourist fails to return on schedule.

The one-time return of each tourist in the group would be certified after each tour.

Security checks are done to ensure that the visitor is not a safety threat to the United States.

This legislation's restrictions ensure that the pilot program will be a successful program. I urge my colleagues to support this legislation.•

By Mr. STEVENS (for himself and Mr. THOMAS):

S. 1617. A bill to amend title 31, United States Code, to prohibit the use of appropriated funds by Federal agencies for lobbying activities; to the Committee on Governmental Affairs.

THE FEDERAL ANTI-LOBBYING ACT OF 1996

• Mr. STEVENS. Mr. President, today I rise to introduce the Federal Agency Anti-Lobbying Act, a bill to prevent Federal agencies from using taxpayer funds to lobby Congress or encourage others to do so.

Too many times under the administration, Federal officials have used their position in an attempt to foster public support or opposition to pending legislation.

Spending taxpayer funds on politically motivated lobbying activities isn't just wasteful, it's wrong.

Taxpayers, who come from all walks of life and all ends of the political spectrum, should not be forced to finance lobbying activities on behalf of causes they might oppose, or know nothing about.

Especially in this age of fiscal austerity, no one should ever use Federal money to lobby the Federal Government. This bill goes after the most blatant examples—where Federal agencies are producing and spreading propaganda—and encouraging others to lobby on their behalf.

The abuses addressed by this bill are already illegal, but the existing law, which employs criminal sanctions, has never been enforced. It has been subject to many different interpretations by the Justice Department, but never one that included enforcement.

This bill includes civil sanctions, providing for easier enforcement, and helps clear up any ambiguities.

Under this bill, the President, the Vice President, and Senate-confirmed Federal officials are allowed to speak out on the administration's position—but they cannot place pressure on nongovernmental organizations.

Executive branch officials are allowed to communicate with Congress directly about upcoming bills.

But the bill does not allow the administration to continue what has become in essence a grassroots lobbying operation at taxpayer expense.

The bill will bring a halt to the outrageous practice of Government agencies providing talking points, briefing books, pamphlets, and other activities undertaken to foster the support or opposition to pending legislation.

When the Founding Fathers designed our Government, they adhered strictly to the doctrine of separation of powers. This bill is an attempt to return our Government to their ideal.

The executive branch should concern itself with implementing the laws passed by Congress, not with trying to influence the outcome of legislation for their own—or others' special interests.

The legislative process is the purview of the legislative branch. We welcome the administration's input, but not their lobbying activities. This bill will protect the taxpayers by ending these practices.●

ADDITIONAL COSPONSORS

S. 942

At the request of Mr. BOND, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 1027

At the request of Mr. BROWN, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1027, a bill to eliminate the quota and price support programs for peanuts, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1166

At the request of Mr. LUGAR, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1563

At the request of Mr. SIMPSON, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1563, a bill to amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, and for other purposes.

S. 1592

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1592, a bill to strike the prohibition on the transmission of abortion-related matters, and for other purposes.

S. 1596

At the request of Mr. MURKOWSKI, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1596, a bill to direct a property conveyance in the State of California.

S. 1597

At the request of Mr. DORGAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1597, a bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

AMENDMENT NO. 3492

At the request of Mr. GRAMS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of Amendment No. 3492 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

SENATE RESOLUTION 231—EXTENDING SYMPATHIES TO THE PEOPLE OF SCOTLAND

Mr. WELLSTONE (for himself and Mr. BRADLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 231

Whereas all Americans were horrified by the news this morning that 16 kindergarten children and their teacher were shot and killed yesterday in Dunblane, Scotland, by an individual who invaded their school;

Whereas another 12 children and 3 adults were apparently wounded in the same terrible assault;

Whereas this was an unspeakable tragedy of huge dimensions causing tremendous feelings of horror and anger and sadness affecting all people around the world; and

Whereas the people of the United States wish to extend their sympathy to the people of Scotland in their hours of hurt and pain and grief;

Therefore be it resolved by the Senate of the United States that the Senate, on behalf of the American people, does extend its condolences and sympathies to the families of their little children and others who were murdered and wounded, and to all the people of Scotland, with fervent hopes and prayers that such an occurrence will never, ever again take place.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

MURRAY (AND OTHERS) AMENDMENT NO. 3493

Mrs. MURRAY (for herself, Mr. LEAHY, Mr. BAUCUS, Mr. BUMPERS, Mrs. FEINSTEIN, Mr. BRADLEY, Ms. MOSELEY-BRAUN, and Mrs. BOXER) proposed an amendment to amend No. 3466 proposed by Mr. HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—TIMBER SALVAGE

SEC. ___01. SHORT TITLE.

This title may be cited as the "Public Participation in Timber Salvage Act of 1996".

SEC. ___02. VOIDING OF CONFLICTING PROVISION.

Section 325 of the Omnibus Rescissions and Appropriations Act of 1996 is void.

SEC. ___03. FINDINGS.

Congress finds that—

(1) when events such as forest fire, wind storms, or epidemic disease or insect infestations occur, the Forest Service and the Bureau of Land Management should have available the tools necessary to harvest timber

expeditiously in order to get a high commodity value from dead or dying trees;

(2) improving the health of our forests is a national priority that should be addressed through comprehensive analysis and public involvement, and should focus not only on the health of trees, but on the health of the entire forest, including watersheds, soils, fisheries, and wildlife; and

(3) timber sales, including salvage timber sales, should be conducted in accordance with all applicable laws in order to ensure the sustainability of the components and functions of the forests.

Subtitle A—Repeal of Emergency Salvage Timber Sale Program

SEC. __11. REPEAL OF EMERGENCY SALVAGE TIMBER SALE PROGRAM.

Section 2001 of Public Law 104–19 (109 Stat. 240; 16 U.S.C. 1611 note) is repealed.

SEC. __12. EXISTING TIMBER SALE CONTRACTS.

(a) SUSPENSION.—Notwithstanding any outstanding judicial order or administrative proceeding interpreting subsection (k) of section 2001 of Public Law 104–19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act), the Secretary of Agriculture and the Secretary of the Interior shall suspend each timber sale that the Secretary concerned determines that was being undertaken under the authority provided in the subsection.

(b) REPLACEMENT OR TERMINATION OF TIMBER SALE CONTRACTS.—

(1) IN GENERAL.—Notwithstanding any other provision of contract law, the Secretary concerned shall negotiate with a purchaser of timber offered, awarded, or released pursuant to section 318 of Public Law 101–121 (103 Stat. 745) or section 2001(k) of Public Law 104–19 (109 Stat. 246; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) to modify the sale to comply with environmental and natural resources laws or to provide, within 1 year after the date of enactment of this Act (unless otherwise agreed by the Secretary and the purchaser), a volume, value, and kind of alternative timber as a replacement for the remaining timber offered, awarded, or released.

(2) ENVIRONMENTAL AND NATURAL RESOURCE LAWS.—Modified sales or replacement timber provided under paragraph (1) shall comply with—

(A) any applicable environmental or natural resource law;

(B) any resource management plan, land and resource management plan, regional guide or forest plan, including the Northwest Forest Plan and any plan developed under the Interior Columbia Basin Ecosystem Management Project; and

(C) any relevant standard or guideline, including PACFISH, INFISH, and Eastside screens, and shall be subject to administrative appeal and judicial review.

(3) TERMINATION.—If the Secretary and the purchaser do not reach agreement under paragraph (1), the Secretary concerned may—

(A) exercise any provision of the original contract that authorizes termination; or

(B) if the Secretary concerned determines that termination or modification of the contract is necessary to avoid adverse effects on the environment or natural resources, terminate or modify the contract.

(c) PAYMENT FOR TIMBER SALE CONTRACTS RELINQUISHED.—Any claim, whether as a result of a judgment or an agreement, against the Federal Government arising from a timber sale contract offered, awarded, or released under section 318 of Public Law 101–121 (103 Stat. 745), from section 2001(k) of Public Law 104–19 (109 Stat. 246; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act), from this Act, or from the exercise of the Secretary's right to suspend, modify, or terminate the contract may be—

(1) paid from funds made available under section 1304 of title 31, United States Code, and shall not require reimbursement under section 13(c) of the Contract Disputes Act of 1978 (41 U.S.C. 612(c));

(2) paid through a certificate of bidding rights credits to be used by the purchaser (or a successor or assign of the purchaser) as payment for past, current or future timber sales; or

(3) paid through funds appropriated for the purpose.

(d) REPAYMENT OF GOVERNMENT GUARANTEED LOANS.—The Secretary may repay any government-guaranteed loan related to a timber processing facility.

(e) NEGOTIATIONS BETWEEN THE SECRETARY CONCERNED AND THE PURCHASER.—The Secretary concerned and the timber sale purchaser may use any combination of methods provided in subsections (b) and (c) or other authorized means to dispose of a timber sale contract under this section.

(f) DISPUTES.—Any claim by a purchaser against the Federal Government relating to a contract replaced, modified, suspended, or terminated under this section shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) except that reimbursement under section 13(c) of that Act is not required.

(g) FUNDING.—The Secretary concerned shall pay purchasers for agreements negotiated in this subsection from any funds available to the Secretary.

SEC. __13. SALES INITIATED UNDER EXISTING LAW.

(a) IN GENERAL.—A sale initiated but not awarded to a purchaser by the Forest Service or the Bureau of Land Management under subsection (b) or (d) of section 2001 of Public Law 104–19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) as of March 5, 1996, shall be subject to all environmental and natural resource laws. The Secretary concerned may elect to proceed with sales initiated under subsection (b) of section 2001 of Public Law 104–19 either under the provisions of subtitle C of this Act or other applicable law authorizing the Secretary concerned to conduct salvage timber sales. *Provided however*, that if, prior to enactment to this Act, an environmental assessment or environmental impact statement has been issued for public comment, the public comment period shall not be repeated and the proposal shall proceed through the applicable agency appeal process.

(b) SALES AWARDED TO PURCHASERS.—

(1) IN GENERAL.—A timber sale contract that has been awarded to a purchaser under subsection (b) or (d) of section 2001 of Public Law 104–19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) shall, notwithstanding the commencement of contract performance, be subject to—

(A) in the case of Forest Service sales, administrative appeal in accordance with section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (106 Stat. 1419; 16 U.S.C. 1612 note);

(B) in the case of Bureau of Land Management sales, protests filed in accordance with section 5003.3 of title 43, Code of Federal Regulations (or any successor regulation); and

(C) judicial review.

(3) REQUIREMENTS.—Section 2001 of Public Law 104–19 (109 Stat. 240; 16 U.S.C. 1611 note) (as in existence prior to the date of enactment of this Act) shall apply to any claim under paragraph (1) related to compliance with any expedited procedural requirement. Any other claim shall be subject to applicable law.

(4) TERMINATION OR MODIFICATION.—If the result of the protest or judicial review indicates a need to terminate or modify the awarded contract, the Secretary concerned may—

(A) exercise any provision of the original contract that authorizes termination and payment of specified damages, where applicable; or

(B) if the Secretary concerned determines that termination or modification of the contract is necessary to avoid adverse affects on the environment or natural resources, terminate or modify the contract.

Subtitle B—Northwest Forest Plan

SEC. __21. NORTHWEST FOREST PLAN.

(a) DIRECTION TO COMPLETE TIMBER SALES.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall expeditiously prepare, offer, and award timber sale contracts consistent with the Northwest Forest Plan.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, make funds available for qualified personnel, such as biologists, hydrologists, and geologists, to complete any watershed assessment or other analyses required for the preparation, advertisement, and award of timber sale contracts in order to meet the probable sale quantities and other goals of the Northwest Forest Plan.

(2) SOURCE.—If there are no other unobligated funds appropriated to the Secretary of Agriculture or the Secretary of the Interior that may be made available as required by paragraph (1), the Secretary concerned shall make funds available from amounts that are available for the purpose of constructing forest roads in the regions to which the Northwest Forest Plan applies.

(c) SAVINGS PROVISION.—Nothing in this subtitle affects the legal duties of Federal agencies with respect to the planning and offering of timber sales, including salvage timber sales under this title.

Subtitle C—Lawful Expediting of Salvage Timber Sales

SEC. __31. DEFINITIONS.

In this subtitle:

(1) DISLOCATED RESOURCE WORKER.—The term "dislocated resource worker" means a resource worker who—

(A) has been terminated or received notice of termination from employment and is unlikely to return to employment in the forest products industry, including employment in the harvest or management of logs, transportation of logs or wood products, processing of wood products (including pulp), or the manufacturing and distribution of wood processing or logging equipment because of diminishing demand for the worker's skills;

(B) has been terminated or received notice of termination from employment as a result of salmon harvest reductions, including a worker employed in the commercial or recreational harvesting of salmon or the commercial buying and processing of salmon; or

(C) is self-employed and has been displaced from the worker's business in the forest products or fishing industry because of diminishing demand for the business's services or goods.

(2) SALVAGE TIMBER SALE.—The term "salvage timber sale" means a timber sale—

(A) in which each unit is designed to remove trees that are dead from any cause (except arson found to have been committed to produce timber sales), or that have been determined by reliable scientific methods to have a high probability of dying within 1 year as a result of disease, blowdown, fire, or insect damage; and

(B) that includes a small percentage of other trees to the extent necessary to secure human safety or provide for reasonable and environmentally sound access to and removal of dead or dying trees described in subparagraph (A).

(3) STREAMLINED CONSULTATION.—The term "streamlined consultation" means the expedited procedures for conducting interagency coordination and consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as set forth in items 4, 5, and 6 of enclosure 4 of the August 18, 1995, interagency letter on implementing the salvage sale provisions of Public Law 104–19.

SEC. ___32. SALVAGE TIMBER SALES SCOPE AND FACILITATION.

The Secretary of Agriculture, acting under this subtitle and through the Chief of the Forest Service, and the Secretary of the Interior, acting under this subtitle and through the Director of the Bureau of Land Management, shall—

(1) offer salvage timber sales under this Act only on Forest Service and Bureau of Land Management land utilizing existing and generally operable roads (except that spur roads of less than .25 mile may be constructed or reconstructed to permit access to individual timber sale units and existing and generally operable roads may be reconstructed) located outside—

(A) any unit of the National Wilderness Preservation System or any area recommended in a record of decision for a land management plan for wilderness designation;

(B) any roadless area in which forest and land management resource plans limit timber sales or roads;

(C) any area administratively identified as late successional or riparian or withdrawn from timber harvest for other conservation purposes, in which a salvage timber sale would be inconsistent with agency standards and guidelines for the area; and

(D) any area withdrawn by Federal law for any conservation purpose;

(2) expeditiously prepare, offer, and award timber salvage sales described in paragraph (1);

(3) enter basic forest inventory, including data on vegetation, soils, riparian systems, fisheries, wildlife habitat, and other relevant information into the Geographical Information System or other existing resource maps and make the inventory data easily available to incorporate into individual projects;

(4) notwithstanding the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) or other applicable law, permit forest and district offices to procure computer software using available funds to facilitate resource inventory;

(5) if helpful in expediting salvage sales, alter the agency tree marking and designating requirements by writing into timber sale contracts—

(A) readily determinable characteristics to guide the contractor in selecting trees to harvest; and

(B) fines and penalties, including debarment, to enforce subparagraph (A), except that this paragraph shall not alter agency marking or designating requirements for trees to remain uncut for wildlife, riparian, or other conservation measures;

(6) perform timely revegetation and slash removal operations consistent with applicable laws (including regulations) and silvacultural practice; and

(7) undertake watershed and other restoration activities including road decommissioning in or near the salvage timber sale by first offering the work to dislocated resource workers or individuals certified by an appropriate resource management apprenticeship program and ensure work is performed according to requirements of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.).

SEC. ___33. SALVAGE TIMBER SALE DOCUMENTATION AND APPEAL PROCEDURES.

(a) PREPARATION OF DOCUMENTS.—In conducting a salvage timber sale under this subtitle—

(1) to speed compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), agencies shall, to the maximum extent practicable—

(A) complete informal consultation within 30 days and formal consultation within 60 days after submission of a biological assessment using the streamlined consultation process;

(B) establish a key contact person in each regional office of the Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, and the National Marine Fisheries Service to facilitate issue resolution; and

(C) establish regional and national interagency dispute resolution teams; and

(2) in the case of the Forest Service, prior to publishing a notice of a proposed action under section 215.5 of title 36, Code of Federal Regulations (or any successor regulation), and in the case of the Bureau of Land Management, prior to publishing a notice of decision under section 5003.2 of title 43, Code of Federal Regulations (or any successor regulation), on a proposed timber salvage sale, facilitate public participation in the sale planning and preparation by providing appropriate notice in accordance with section 1506.6(b)(3) of title 40, Code of Federal Regulations (or any successor regulation), and allowing any member of the public to attend not less than 1 interdisciplinary team meeting, not less than 1 of which will be held during evening hours.

(b) ADVISORY COMMITTEES.—

(1) IN GENERAL.—The Forest Service and Bureau of Land Management may form 1 or more committees to advise agencies on proposed salvage timber sales if each committee will facilitate public involvement in decisionmaking.

(2) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a committee formed under paragraph (1).

(3) NOTICE.—The Secretary concerned shall provide appropriate notification to the public of any meeting of a committee formed under paragraph (1) at least 10 days prior to the meeting and the meeting shall be open to the public, unless the Secretary concerned determines that all or a portion of the meeting will be closed in accordance with section 552b(c) of title 5, United States Code.

(c) EXPEDITING ADMINISTRATIVE APPEALS.—

(1) IN GENERAL.—Subject to paragraph (2), administrative review of a decision of the Forest Service or the Bureau of Land Management under this subtitle shall be conducted—

(A) in the case of the Forest Service, in accordance with section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (106 Stat. 1419; 16 U.S.C. 1612 note); and

(B) in the case of the Bureau of Land Management, after the area manager makes a decision, as described in section 5003.3 of title 43, Code of Federal Regulations (or any successor regulation), and in accordance with applicable protest and appeal procedures.

(2) EXCEPTIONS.—

(A) FOREST SERVICE APPEAL.—An appeal of a decision must be filed not later than the later of—

(i) 30 days after the publication of a decision document for a salvage timber sale; or

(ii) mailing of notice to interested parties, in keeping with relevant agency regulations.

(B) FINAL DECISION.—The agency concerned shall issue a final decision not later than 30 days after the deadline for an administrative appeal has passed and may not extend the closing date for a final decision.

(d) EXPEDITING JUDICIAL REVIEW.—

(1) IN GENERAL.—Any person may challenge a salvage timber sale under this subtitle by bringing a civil action in a United States district court.

(2) TIME FOR CHALLENGE.—An action under paragraph (1) shall be brought on or before the date that is 30 days after the date on which an agency provides notice of a final decision regarding a salvage timber sale, unless the plaintiff shows good cause why the action should be permitted to be brought after that date.

(3) TIME FOR APPEAL.—Any appeal of a district court decision on a salvage timber sale under this Act shall be brought not later than 30 days after the first date on which the appeal may first be filed.

(4) EXPEDITIOUS CONSIDERATION.—

(A) IN GENERAL.—The district and appellate courts shall, to the extent practicable, expedite proceedings in a civil action under this subsection.

(B) PROCEDURES.—To expedite proceedings under this subsection, a court may shorten the time allowed for the filing of papers or for other procedures that would otherwise apply.

SEC. ___34. FUNDING TO IMPLEMENT THIS SUBTITLE.

To facilitate implementation of section ___32 (including expediting salvage timber sales, entering basic forest inventory, procuring computer software, and undertaking watershed and other restoration activities), a Forest Service regional office or a Bureau of Land Management district may use the permanent timber salvage fund.

SEC. ___35. EXPEDITED PROCEDURAL REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary concerned, in consultation with the Council on Environmental Quality, shall develop regulations to expedite full compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other appropriate environmental laws for a decision regarding a proposed salvage timber sale authorized under this title.

(b) TIME LIMIT.—The Secretary and the Council on Environmental Quality shall, to the extent practicable—

(1) limit the time necessary for public participation and agency analysis for a proposed action regarding a salvage timber sale authorized under this title to 120 days after notice of proposed action; and

(2) establish safeguards to provide flexibility on the limitation referred to in paragraph (1) to provide for full compliance with the National Environmental Policy Act of

1969 (42 U.S.C. 4321 et seq.) and any other appropriate environmental law.

SEC. ___36. OTHER SALVAGE TIMBER SALES.

Nothing in this subtitle shall be construed to affect the authority of the Secretary of Agriculture, acting through the Chief of the Forest Service, or the Secretary of the Interior, acting through the Director of the Bureau of Land Management, to conduct salvage timber sales under other applicable laws.

SEC. ___37. PILOT PROGRAM TO SELL STEWARDSHIP CONTRACTS FOR FOREST SERVICES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management, and the Secretary of Agriculture, acting through the Forest Service, shall implement a program to demonstrate the feasibility of harvest contracts for salvage timber sales and associated forest activities.

(b) USE AUTHORIZED.—The forest resource managers and district resource managers shall use stewardship contracts to carry out resource activities in a comprehensive manner to restore and preserve the ecological integrity and productivity of forest ecosystems and to encourage or enhance the economic sustainability and viability of nearby rural communities. The resource activities should be consistent with the land management plan for achieving the desired future conditions of the area being treated.

(c) AREAS.—

(1) INTERIOR.—The Secretary of the Interior shall establish up to 5 pilot projects per Bureau of Land Management district to carry out this section.

(2) AGRICULTURE.—The Secretary of Agriculture shall establish up to 5 pilot projects per Forest Service region to carry out this section.

(d) DEVELOPMENT AND USE OF CONTRACTS.—Each resource manager of a unit in which a pilot program is initiated may enter into stewardship contracts with qualified non-Federal entities (as established in Federal Government procurement regulations or as determined by the Secretary). The resource manager shall select the type of stewardship contract most suitable to local conditions. Contracts should clearly describe the desired future condition for each resource managed under the contract and the evaluation criteria to be used to determine acceptable performance. The length of a stewardship contract shall be consistent with section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(e) PROCESS.—To carry out this section, the Secretary concerned shall establish a process to—

(1) offer 1 or more contracts to a qualified non-Federal entity to carry out forest rehabilitation and stewardship activities, including salvage timber sales and to collect and sort any wood harvested; and

(2) have the agency concerned sell, or contract with a qualified non-Federal entity different than the entity in paragraph (1) to sell, the harvested wood.

(f) FOREST SERVICE STUDY.—

(1) IN GENERAL.—The Chief of the Forest Service shall conduct a study of alternative systems for administering forest ecosystem health-related activities, including modification of special account and trust fund management and reporting, stewardship contracting, and government logging.

(2) SIMILARITIES AND DIFFERENCES.—The study shall compare and contrast the various alternatives with systems in existence on the date of the study, including—

(A) ecological effects;

(B) monitoring and research needs;

(C) Federal, State, and local fiscal and other economic consequences; and

(D) opportunities for the public to be involved in decisionmaking before activities are undertaken.

(3) REQUIREMENTS OF STUDY.—To ensure the validity of the study, in measuring the effect of the use of contracting, the study shall specify the costs that contractors would bear for health care, retirement, and other benefits afforded public employees performing the same tasks.

(4) TRANSMITTAL.—The report shall be transmitted to Congress prior to January 1, 1998.

SEC. ___38. HEADING.

This subtitle shall remain effective until September 30, 1999.

Subtitle D—Timber Stand Health Prioritization

SEC. ___41. REVIEW OF TIMBER STAND HEALTH.

The Secretary of the Interior and the Secretary of Agriculture, respectively, shall review the health of timber stands on Bureau of Land Management and Forest Service lands and shall each—

(1) identify, not later than March 1 of each year, the timber stands on Bureau of Land Management or Forest Service lands, as applicable, that are not in a healthy condition; and

(2) prepare a document to prioritize areas that would benefit from rehabilitation activities to restore timber stands to a healthy condition.

SEC. ___42. REHABILITATION PRIORITIZATION.

To determine which areas of land should receive the first attention, each resource area or ranger district shall consider where intervention or treatment—

(1) has the best opportunity to restore health to affected timber stands;

(2) has the greatest potential to reduce the risk of wildfires, especially where human safety and private property are threatened; and

(3) is the least controversial, such as on lands located outside of wilderness, unroaded areas, riparian areas, late successional reserves, or other sensitive areas.

SEC. ___43. FOREST TIMBER STAND HEALTH REPORT.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall prepare an annual report (which shall be known as the Forest Timber Stand Health Report) to evaluate the overall health of the forest timber stands on Bureau of Land Management and Forest Service lands, respectively.

(b) REQUIRED INFORMATION.—The Forest Timber Stand Health Report shall contain—

(1) quantitative and qualitative data on the health of timber stands concerned; and

(2) a review of the actions taken to attempt to improve the health of the timber stands.

SEC. ___44. ECOLOGICAL EFFICACY OF ACTIVITIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall enter into a contract with the National Academy of Sciences for the purpose of conducting a study of the ecological consequences of various activities intended, at least in part, to improve forest ecosystem health.

(b) ACTIVITIES EXAMINED.—The activities examined under subsection (a) shall include—

(1) prescribed fire, site preparation for reforestation, artificial reforestation, natural regeneration, stand release, precommercial thinning, fertilization, other stand improvement activities, salvage logging, and brush disposal;

(2) historical as well as recent examples and a variety of conditions in ecological regions; and

(3) a comparison or various activities within a watershed, including activities conducted by other Federal land management agencies.

(c) TRANSMITTAL.—The report shall be transmitted to the Chief of the Forest Service and to Congress not later than 2 years after the date of enactment of this Act.

SEC. ___45. AUTHORIZATION FOR FUNDING.

There are authorized to be appropriated such funds as are necessary to carry out this subtitle.

SEC. .EMERGENCY DESIGNATION.—Congress hereby designates all amounts in this entire subtitle as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided, That these amounts shall only be available to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted by the President to the Congress.

SEC. 12. (e) Funds for Buyouts and Other Expenditures Under this Subsection.—The Secretary concerned shall pay purchasers for volumes returned to the government and any additional costs to implement this section from any funds available to the Secretary.

SEC. 13. LOST RECEIPTS.—Of the funds made available for the Department of Agriculture Forest Service under the heading "National Forest System" for General Administration in fiscal year 1996 and any unobligated balances from funds appropriated in prior years under such heading, $80,000,000 are rescinded; of the funds made available for the Department of Agriculture Forest Service under the heading "Forest Research" in fiscal year 1996 and any unobligated balances from funds appropriated in prior years under such heading, $30,000,000 are rescinded.

CRAIG AMENDMENT NO. 3494

Mr. CRAIG proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In the matter under the heading "PAYMENT TO THE LEGAL SERVICES CORPORATION" under the heading "LEGAL SERVICES CORPORATION" in title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996, strike "$291,000,000" and all that follows through "$1,500,000" and insert the following: "$290,750,000 is for basic field programs and required independent audits carried out in accordance with section 509; $250,000 is for a payment to an opposing party for attorney's fees and expenses relating to civil actions named In the Matter of Baby Boy Doe, and Doe v. Roe and Indian tribe, with docket numbers 19512 and 21723 (Idaho February 23, 1996); $1,500,000".

HATCH (AND OTHERS) AMENDMENT NO. 3495

Mr. HATCH (for himself, Mr. GRASSLEY, and Mr. SHELBY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 755 between lines 20 and 21 insert the following:

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses," $3,900,000.

THE WHITE HOUSE OFFICE

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $650,000 are rescinded.

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $650,000 are rescinded.

OFFICE OF MANAGEMENT AND BUDGET

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $500,000 are rescinded.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

Limitations on Availability of Revenue

(RESCISSION)

Of the funds made available for installment acquisition payments under this heading in Public Law 104-52, $1,900,000 are rescinded: *Provided*, That the aggregate amount made available to the Fund shall be $5,064,249,000.

UNITED STATES TAX COURT

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 104-52, $200,000 are rescinded.

CHAPTER 12

On page 755, line 22 redesignate the section number, and

On page 756, line 8 redesignate the section number.

Page 29, line 18, insert the following:

"*Provided further*, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the Police Chief for law enforcement purposes, conditioned upon appropriate consultation with the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations."

GORTON (AND MURRAY) AMENDMENT NO. 3496

Mr. GORTON (for himself and Mrs. Murray) proposed an amendment No. 3466 proposed by Mr. Hatfield to the bill H.R. 3019, supra; as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. DESIGNATION.

The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in section 1 shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center."

BINGAMAN AMENDMENT NO. 3497

Mr. HATFIELD (for Mr. Bingaman) proposed an amendment to amendment No. 3466 proposed by Mr. Hatfield to the bill H.R. 3019, supra; as follows:

At the appropriate place, insert the following:

Competitiveness Policy Council

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council, $100,000.

HARKIN AMENDMENT NO. 3498

Mr. HARKIN proposed an amendment to amendment No. 3466 proposed by Mr. Hatfield to the bill H.R. 3019, supra; as follows:

At the end of the amendment, add the following new title:

TITLE V—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 500. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud, Waste, and Abuse Reduction Act of 1996".

Subtitle A—Fraud and Abuse Control Program

CHAPTER 1—FRAUD AND ABUSE CONTROL PROGRAM

SEC. 501. FRAUD AND ABUSE CONTROL PROGRAM.

(a) Establishment of Program.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B of such Act the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"Sec. 1128C. (a) Establishment of Program.—

"(1) In general.—Not later than July 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) Coordination with health plans.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) Guidelines.—

"(A) In general.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) Information guidelines.—

"(i) In general.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) Confidentiality.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) Qualified immunity for providing information.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) Ensuring access to documentation.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) Authority of inspector general.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Additional Use of Funds by Inspector General.—

"(1) Reimbursements for investigations.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) Crediting.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) Health Plan Defined.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) Establishment of Health Care Fraud and Abuse Control Account in Federal Hospital Insurance Trust Fund.—Section 1817 of the Social Security Act (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Health Care Fraud and Abuse Control Account.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in section 542(c) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 502. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

"(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

"(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(h) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment of this Act.

CHAPTER 2—ENHANCING CONSUMER AND PROVIDER ROLES IN COMBATING HEALTH CARE FRAUD, WASTE, AND ABUSE

SEC. 511. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than July 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

SEC. 512. IMPROVING INFORMATION TO MEDICARE BENEFICIARIES.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b-2) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall provide a statement which explains the benefits provided under this title with respect to each item or service for which payment may be made under this title which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to such item or service.

"(2) Each explanation of benefits provided under paragraph (1) shall include—

"(A) a statement that, because billing errors do occur and because medicare fraud, waste, and abuse is a significant problem, beneficiaries should carefully check any statement of benefits received for accuracy and report any questionable charges;

"(B) a clear and understandable summary of—

"(i) how payments for items and services are determined under this title; and

"(ii) the beneficiary's right to request a itemized bill (as provided in section 1128A(n)); and

"(C) a toll-free telephone number for reporting questionable charges or other acts that would constitute medicare fraud, waste, or abuse, which may be the same number as described in subsection (b).".

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a), as amended by section 531, is amended by adding at the end the following new subsection:

"(n) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after July 1, 1996.

SEC. 513. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 514. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than July 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 515. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B of such Act the following new section:

"CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

SEC. 516. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than July 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of

carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 516 of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 517. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

CHAPTER 3—SANCTIONS FOR COMMITTING FRAUD OR ABUSE

SEC. 521. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of the Social Security Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 522. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 523. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 524. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) Conforming amendment.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 525. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) Exclusion of Individuals and Entities From Participation in Federal Health Care Programs.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) Applicability of Bankruptcy Provisions.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) Civil Monetary Penalties.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) Offset of Payments to Individuals.—Section 1892(a)(4) of the Social Security Act (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 526. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) Application of Intermediate Sanctions for Any Program Violations.—

(1) In general.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) Other intermediate sanctions for miscellaneous program violations.—Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) Procedures for imposing sanctions.—Section 1876(i) of the Social Security Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) Conforming amendments.—Section 1876(i)(6)(B) of the Social Security Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) Agreements With Peer Review Organizations.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) Effective Date.—The amendments made by this section shall apply with respect to contract years beginning on or after July 1, 1996.

SEC. 527. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) In General.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) Ineligible Persons.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) Definitions.—

(1) Health care fraud.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) Original source.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) No Judicial Review.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. 528. EFFECTIVE DATE.

The amendments made by this chapter shall take effect July 1, 1996.

CHAPTER 4—CIVIL MONETARY PENALTIES

SEC. 531. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud, Waste, and Abuse Reduction Act of 1996 (as estimated by the Secretary) shall be deposited into the general fund of the Treasury.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of the Social Security Act (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect July 1, 1996.

CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 541. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 561(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 542. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 561(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 543. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 544. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 545. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 546. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 547. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 548. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 549. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 516(f)(6) of the Health Care Fraud, Waste, and Abuse Reduction Act of 1996.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

CHAPTER 6—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 551. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) of the Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) of the Social Security Act (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

CHAPTER 7—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 561. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 562. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 563. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 564. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 562 and 563 are satisfied.

SEC. 565. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

SEC. 566. STANDARDS FOR PHYSICAL THERAPY SERVICES FURNISHED BY PHYSICIANS.

(a) APPLICATION OF STANDARDS FOR OTHER PROVIDERS OF PHYSICAL THERAPY SERVICES TO SERVICES FURNISHED BY PHYSICIANS.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph 14;

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(16) in the case of physicians' services under 1848(j)(3) consisting of outpatient physical therapy services or outpatient occupational therapy services, which are furnished by a physician who does not meet the requirements applicable under section 1861(p) to a clinic or rehabilitation agency furnishing such services.".

(b) CONFORMING AMENDMENT.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting "(subject to section 1862(a)(16))" after "(2)(D)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 1996.

SEC. 567. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)), as amended by section 531(g), is amended by adding at the end the following new paragraph:

"(4)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

SEC. 568. ITEMIZATION OF SURGICAL DRESSING BILLS SUBMITTED BY HOME HEALTH AGENCIES.

Section 1834(i)(2) (42 U.S.C. 1395m(i)(2) is amended to read as follows:

"(2) EXCEPTION.—Paragraph (1) shall not apply to surgical dressings that are furnished as an incident to a physician's professional service.".

Subtitle B—Additional Provisions to Combat Waste, Fraud, and Abuse

CHAPTER 1—WASTE AND ABUSE REDUCTION

SEC. 571. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 572. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1846 of such Act the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1997. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals, including those residing in rural and other underserved areas.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals, including those residing in rural and other underserved areas, is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)), as amended by section 566, is amended—

(1) by striking "or" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; or"; and

(3) by inserting at the end the following new paragraph:

"(17) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

SEC. 573. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) of the Social Security Act (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 574. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) of the Social Security Act (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) of such Act (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) of the Social Security Act (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 575. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after July 6, 1996.

CHAPTER 2—MEDICARE BILLING ABUSE PREVENTION

SEC. 581. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subtitle referred to as "ADPE") meeting the requirements of section 582 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 582. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subtitle shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 583. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 581(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 581(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 584. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 581.

SEC. 585. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j-1395w-4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

HATCH AMENDMENT NO. 3499

Mr. HATCH proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

Page 29, line 18, insert the following:

"*Provided further*, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon prior written consultation and notification being given to the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations."

MCCONNELL (AND DOLE) AMENDMENT NO. 3500

Mr. MCCONNELL (for himself and Mr. DOLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 756, title III—Miscellaneous Provisions, strike Sec. 3001, beginning on line 14 "The President," through line 25, ending "such restrictions."

COHEN (AND BUMPERS) AMENDMENT NO. 3501

Mr. COHEN (for himself and Mr. BUMPERS) proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

In section 504 under the heading "Administrative Provisions-Legal Services Corporation—

(1) redesignate subsection (e) as subsection (f); and

(2) insert after subsection (d), the following new subsection:

"(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made."

FAIRCLOTH AMENDMENT NO. 3502

Mr. FAIRCLOTH proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

On page 751, line 7, insert after "1974:" the following: "*Provided further*, That contracts to carry out programs using such funds shall, to the maximum extent practicable, be entered into with companies organized under the laws of a State of the United States and organizations (including community chests, funds, foundations, non-incorporated businesses, and other institutions) organized in the United States.".

GORTON AMENDMENT NO. 3503

Mr. GORTON proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

On page 405, line 17, strike "$567,152,000" and insert in lieu thereof "$567,753,000".

On page 412, line 23, strike "$497,670,000" and insert in lieu thereof "$497,850,000".

On page 419, line 22, strike "$1,086,014,000" and insert in lieu thereof "$1,084,755,000".

On page 424, line 21, strike "$729,995,000" and insert in lieu thereof "$730,330,000".

On page 428, line 6, strike "$182,339,000" and insert in lieu thereof "$182,771,000".

On page 447, line 7, strike "$56,456,000" and insert in lieu thereof "$57,340,000".

On page 447, line 13, strike "$34,337,000" and insert in lieu thereof "$34,516,000".

On page 474, line 21, strike "$416,943,000" and insert in lieu thereof "$417,092,000".

On page 475, line 21, strike "$553,137,000" and insert in lieu thereof "$553,240,000".

On page 440, line 19, strike "March 31, 1996" and insert in lieu thereof "September 30, 1996".

STEVENS AMENDMENT NO. 3504

Mr. GORTON (for Mr. STEVENS) proposed an amendment to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

To the amendment numbered 3466: On page 740, line 6 of the bill, strike "$34,800,000" and insert "37,300,000" in lieu thereof.

KEMPTHORNE AMENDMENT NO. 3505

Mr. GORTON (for Mr. KEMPTHORNE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

To the amendment numbered 3466:

On page 740 of the bill, insert the following after line 3:

"RESOURCE MANAGEMENT

"For an additional amount for Resource Management, $1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers and other agencies on fish and wildlife habitat issues relating to damage caused by floods, storms and other acts of nature: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".

DASCHLE AMENDMENT NO. 3506

Mr. GORTON (for Mr. DASCHLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 480, line 14 after "*Provided*," insert "That of the funds provided, $800,000 shall be used for inhalant abuse treatment programs to treat inhalant abuse and to provide for referrals to specialized treatment facilities in the United States: *Provided further*,".

GORTON AMENDMENT NO. 3507

Mr. GORTON (for Mr. HATFIELD) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 744, beginning on line 1, strike "emergency" through "Mine" on line 2, and insert in lieu thereof the following: "response and rehabilitation, including access repairs, at the Amalgamated Mill".

BOXER (AND MURRAY) AMENDMENT NO. 3508

Mrs. BOXER (for herself and Mrs. MURRAY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 222, line 4, insert "Federal" before "funds".

MIKULSKI AMENDMENT NO. 3509

Ms. MIKULSKI proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

Strike p. 692, line 21 through p. 696, line 2 and insert:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: *Provided*, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further*, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2): *Provided further*, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): *Provided further*, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): *Provided further*, that not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: *Provided further*, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs.

SENSE OF SENATE

It is the Sense of the Congress that accounting for taxpayers' funds must be a top priority for all federal agencies and government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

On page 624 of the bill, line 10, strike "$10,103,795,000" and insert "$10,086,795,000", and on page 626, line 23, strike "$209,000,000" and insert "$192,000,000".

SIMON AMENDMENT NOS. 3510–3511

Mr. SIMON proposed two amendments to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3510

On page 771, below line 17, add the following:

SEC. 3006. (a) Subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding after paragraph (3), flush to the subsection margin, the following: "Notwithstanding any other provision of law, including the matter under the heading 'NATIONAL SECURITY EDUCATION TRUST FUND' in title VII of Public Law 104–61, the work of an individual accepting a scholarship or fellowship under the program shall be the work specified in paragraph (2), or such other work as the individual and the Secretary agree upon under an agreement having modified service requirements pursuant to subsection (f).".

(b) Such section is further amended by adding at the end the following:

"(f) AUTHORITY TO MODIFY SERVICE AGREEMENT REQUIREMENTS.—The Secretary shall have sole authority to modify, amend, or revise the requirements under subsection (b) that apply to service agreements.".

(c) Subsection (a) of such section is amended by adding at the end the following:

"(5) EMPLOYMENT OPPORTUNITY OUTREACH.—The Secretary shall take appropriate actions to make available to recipients of scholarships or fellowships under the program information on employment opportunities in the departments and agencies of the Federal Government having responsibility for national security matters.".

AMENDMENT NO. 3511

On page 582, line 14, strike "$1,257,134,000" and insert "$1,257,888,000".

On page 582, line 16, before the semicolon insert the following: ", and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991".

On page 582, line 16, strike "$1,254,215,000" and insert "$1,254,969,000".

On page 587, line 15, strike "and III" and insert "III, and VI".

On page 587, line 17, strike "$131,505,000" and insert $139,531,000".

On page 587, line 20, before the semicolon insert the following: ", and of which $8,026,000 shall be available to carry out title VI of the Library Services and Construction Act and shall remain available until expended".

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

On page 592, line 7, strike "$196,270,000" and insert "$201,294,000".

On page 592, line 7, before the period insert the following: ", of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973".

THOMAS (AND OTHERS) AMENDMENT NO. 3512

Mr. THOMAS (for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, and Mr. ROTH) submitted an amendment intended to be proposed by them to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019 supra; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS REGARDING MISSILE TESTS BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 8 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan.

(2) On March 5, 1996, the Xinhua News Agency announced that the People's Republic of China would conduct missile tests from March 8 through March 15, 1996, within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung.

(3) The proximity of these tests to the ports and the accompanying warnings for ships and aircraft to avoid the test areas is resulting in the effective disruption of the ports, and of international shipping and air traffic, for the duration of the tests.

(4) These tests are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan.

(5) Relations between the United States and the Peoples' Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means.

(6) The strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act.

(7) The Taiwan Act states that peace and stability in the western Pacific "are in the political, security, and economic interests of the United States, and are matters of international concern".

(8) The Taiwan Relations Act states that the United States considers "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States".

(9) The Taiwan Relations Act directs the President to "inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom".

(10) The Taiwan Relations Act further directs that "the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger".

(11) The United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means.

(12) These missile tests and accompanying statements made by the Government of the People's Republic of China call into serious question the commitment of China to the peaceful resolution of the Taiwan question.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States deplores the missile tests that the People's Republic of China is conducting from March 8 through March 15, 1996, and views them as a potentially serious threat to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

(2) the Government of the People's Republic of China should cease its bellicose actions directed at Taiwan and instead enter into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Straits in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

(3) the President, consistent with section 3(c) of the Taiwan Relations Act (22 U.S.C. 3302(c)), should immediately consult with Congress on an appropriate United States response to the tests should the tests pose an actual threat to the peace, security, and stability of Taiwan; and

(4) the President should, consistent with the Taiwan Relations Act (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened threat.

COATS (AND GRAMS) AMENDMENT NO. 3513

Mr. COATS (for himself and Mr. GRAMS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

SEC. . ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to provide such training, to preform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—With respect to the State government involved, or the Federal Government, restrictions under subsection (a) include the restriction that, in granting a legal status to a health care entity (including a license or certificate) or in providing to the entity financial assistance, a service, or another benefit, the government may not require that the entity fulfill accreditation standards for a postgraduate physician training program, or that the entity have completed or be attending a program that fulfills such standards, if the applicable standards for accreditation of the program include the standard that the program must require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) VOLUNTARY ACTIVITIES.—Nothing in this section shall be construed to—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions;

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals or entities who have voluntarily elected to perform abortions; and

"(iii) affect Federal, State or local governmental reliance on standards for accreditation other than those related to the performance of induced abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

PRESSLER AMENDMENT NO. 3514

Mr. BOND (for Mr. PRESSLER) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

BOND AMENDMENTS NOS. 3515–3517

Mr. BOND proposed three amendments to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3515

On page 689, after line 26 of the Committee substitute, insert the following new section:

SEC. 17. (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

On page 631, after the colon on line 24 of the Committee substitute, insert the following: "*Provided further*, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): *Provided further*, That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded:".

AMENDMENT NO. 3516

On page 637, line 20 of the Committee substitute, insert the following new proviso before the period: ": *Provided further*, That an additional $30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this purpose under this heading, without regard to any percentage limitation otherwise applicable".

AMENDMENT NO. 3517

On page 779, after line 10, of the Committee Substitute, insert the following:

MANAGEMENT AND ADMINISTRATION

DEPARTMENAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, $20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: *Provided*, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: *Provided further*, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: *Provided further*, That by February 1, 1997 the Secretary shall certify to the Congress that headquarters on-board staffing levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: *Provided further*, That if the certification of headquarters personnel reductions required by this act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block grant program.

LAUTENBERG AMENDMENT NO. 3518

Mr. LAUTENBERG proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title III, insert:

SEC. . Section 347(b)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (P.L. 104–50), is amended to read as follows:

"(3) chapter 71, relating to labor-management relations.".

GRAMM AMENDMENT NO. 3519

Mr. GRAMM proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the committee substitute, insert the following:

"Notwithstanding any other provision of this Act, no part of any appropriation contained in this Act which is subject to the provisions of section 4002 shall be made available for obligation or expenditure.".

WELLSTONE (AND OTHERS) AMENDMENT NO. 3520

Mr. WELLSTONE (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KERRY, Mr. LEAHY, Ms. SNOWE, Mr. SANTORUM, Mr. KENNEDY, Mr. GLENN, and Mr. PELL) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place, insert the following:

The Senate finds that:

Record low temperatures across the country this winter, coupled with record snowfalls in many areas, have generated substantial and sustained demand among eligible low-income Americans for home heating assistance, and put many who face heating-related crises at risk;

Home heating assistance for working and low-income families with children, the elderly on fixed incomes, the disabled, and others who need such help is a critical part of the social safety net in cold-weather areas;

The President has released approximately $900 million in regular Low Income Energy Assistance Program (LIHEAP) funding for this year, compared to a funding level of $1.319 billion last year, and a large LIHEAP funding shortfall remains which has adversely affected eligible recipients in many cold-weather states;

LIHEAP is a highly targeted, cost-effective way to help approximately 6 million low-income Americans to pay their energy bills. More than two-thirds of LIHEAP-eligible households have annual incomes of less than $8,000; more than one-half have annual incomes below $6,000.

LIHEAP program funding has been substantially reduced in recent years, and cannot sustain any further spending cuts if the program is to remain a viable means of meeting the home heating and other energy-related needs of low-income people in cold-weather states;

Traditionally, LIHEAP has received advance appropriations for the next fiscal year. This allows states to properly plan for the upcoming winter and best serve the energy needs of low income families.

Congress was not able to pass an appropriations bill for the Departments of Labor, Health and Human Services, and Education by the beginning of this fiscal year and it was only because LIHEAP received advance appropriations last fiscal year that the President was able to release the $578 million he did in December—the bulk of the funds made available to the states this winter.

There is currently available to the President up to $300 million in emergency LIHEAP funding, which could be made available immediately, on a targeted basis, to meet the urgent home heating needs of eligible persons who otherwise could be faced with heating-related emergencies, including shut-offs, in the coming weeks;

Therefore, it is the sense of the Senate that:

(a) the President should release immediately a substantial portion of available emergency funding for the Low Income Home Energy Assistance Program for FY 1996, to help meet continuing urgent needs for home heating assistance during this unusually cold winter; and

(b) not less than the $1 billion in regular advance-appropriated LIHEAP funding for next winter provided for in this bill should be retained in a House-Senate conference on this measure.

McCAIN AMENDMENTS NOS. 3521–3522

Mr. BOND (for Mr. McCAIN) proposed two amendments to amendment No. 3466 to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3521

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding chapters 2, 4, and 6 of this title—

(1) funds made available under this title for economic development assistance programs of the Economic Development Administration shall be made available to the general fund of the Administration to be allocated in accordance with the established competitive prioritization process of the Administration;

(2) funds made available under this title for construction by the United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the Service; and

(3) funds made available under this title for community development grants by the Department of Housing and Urban Development shall be allocated in accordance with the established prioritization process of the Department.

AMENDMENT NO. 3522

SEC. . PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

WARNER AMENDMENT NO. 3523

Mr. WARNER proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title I of section 101(b), add the following:

SEC. 156. None of the funds provided in this Act may be used directly or indirectly to implement or enforce any rule of ordinance of the District of Columbia Taxicab Commission that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 3524

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page . beginning with line , insert the following:

SEC. . SEAFOOD SAFETY.

(a) Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995) or produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of such regulations, shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

MURKOWSKI AMENDMENT NO. 3525

Mr. MURKOWSKI proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

SECTION 1.

(a) SHORT TITLE.—This section may be cited as the "Greens Creek Land Exchange Act of 1996".

(b) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims

would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

(c) DEFINITIONS.—As used in this section—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96-487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

(d) RATIFICATION OF THE AGREEMENT.—The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

(e) IMPLEMENTATION OF THE AGREEMENT.—

(1) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(2) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the 'Greens Creek Land Exchange Account' into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to paragraph (3) of this subsection. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to paragraph (1) of this subsection.

(3) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(4) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(5) ADMINISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(6) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(7) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this section shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

(f) RECISION RIGHTS.—Within 60 days of the enactment of this section, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this section. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington, District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply

THURMOND (AND OTHERS) AMENDMENT NO. 3526

Mr. WARNER (for Mr. THURMOND, for himself, Mr. NUNN, Mr. WARNER, Mr. COHEN, Mr. LOTT, Mr. SMITH, Mr. COATS, Mr. SANTORUM, Mr. INHOFE, Mr. EXON, Mr. ROBB, Mr. BRYAN, and Mr. KEMPTHORNE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 754, line 4, strike out the period at the end and insert in lieu thereof ": *Provided further*, That the authority under this section may not be used to enter into a multiyear procurement contract until the day after the date of the enactment of an Act (other than an appropriations Act) containing a provision authorizing a multiyear procurement contract for the C-17 aircraft.".

HATFIELD (AND OTHERS) AMENDMENT NO. 3527

Mr. WARNER (for Mr. HATFIELD, for himself, Mr. DOLE, Mr. DASCHLE, Mr. MCCONNELL, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

To the substitute on page 750, between lines 18 and 19, add the following:

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, $50,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BURNS AMENDMENT NO. 3528

Mr. BURNS proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

SEC. . CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473, provided that the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall be effective if:

(1) a competing license application is filed within 90 days of the date of enactment of this act, or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

BURNS (AND OTHERS) AMENDMENT NO. 3529

Mr. BURNS (for himself, Mr. REID, Mr. BAUCUS, Mr. CAMPBELL, Mr. PRESS-

LER, and Mr. DASCHLE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a)(1) From any unobligated funds that are available to the Secretary of Education to carry out section 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994) not less than $11,500,000 shall be available to the Secretary of Education to carry out subsection (b).

(2) Any unobligated funds described in paragraph (1) that remain unobligated after the Secretary of Education carries out such paragraph shall be available to the Secretary of Education to carry out section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(b)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term "construction" has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary of Education not later than 30 days after the date of enactment of this Act.

BURNS AMENDMENT NO. 3530

Mr. BURNS proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the amendment add the following:

Subtitle B—Commission on Restructuring the Circuits of the United States Courts of Appeals

SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the "Heflin Commission" (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

SEC. 922. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 923. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 924. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 925. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report.

SEC. 926. REPORT.

No later than 2 years after the date of the enactment of this subtitle, The Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

On page 79, line 10 add the following: "Of which not to exceed $3,000,000 shall remain available until expended for the Twelfth Circuit Court of Appeals."

DOLE (AND LIEBERMAN) AMENDMENT NO. 3531

Mr. COATS (for Mr. DOLE, for himself and Mr. LIEBERMAN) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 404, between line 17 and 18, insert the following:

Subtitle N—Low-Income Scholarships

SEC. 2921. DEFINITIONS.

As used in this subtitle—

(1) the term "Board" means the Board of Directors of the Corporation established under section 2922(b)(1);

(2) the term "Corporation" means the District of Columbia Scholarship Corporation established under section 2922(a);

(3) the term "eligible institution"—

(A) in the case of an eligible institution serving a student who receives a tuition scholarship under section 2923(d)(1), means a private or independent elementary or secondary school; and

(B) in the case of an eligible institution serving a student who receives an enhanced achievement scholarship under section 2923(d)(2), means an elementary or secondary school, or an entity that provides services to a student enrolled in an elementary or secondary school to enhance such student's achievement through activities described in section 2923(d)(2); and

(4) the term "poverty line" means the income official poverty line (as defined by the Office of

Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 2922. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation", which is neither an agency nor establishment of the United States Government or the District of Columbia Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the scholarship program in accordance with this subtitle, and to determine student and school eligibility for participation in such program.

(3) CONSULTATION.—The Corporation shall exercise its authority—

(A) in a manner consistent with maximizing educational opportunities for the maximum number of interested families; and

(B) in consultation with the Board of Education, the Superintendent, the Consensus Commission, and other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this subtitle, and, to the extent consistent with this subtitle, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident of the District of Columbia.

(6) FUND.—There is hereby established in the District of Columbia general fund a fund that shall be known as the "District of Columbia Scholarship Fund".

(7) DISBURSEMENT.—The Mayor shall disburse to the Corporation, before October 15 of each fiscal year or not later than 15 days after the date of enactment of an Act making appropriations for the District of Columbia for such year, whichever occurs later, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year for which such disbursement is made.

(8) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(9) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(10) AUTHORIZATION.—

(A) IN GENERAL.—There are authorized to be appropriated to the District of Columbia Scholarship Fund—

(i) $5,000,000 for fiscal year 1996;

(ii) $7,000,000 for fiscal year 1997; and

(iii) $10,000,000 for each of fiscal years 1998 through 2000.

(B) LIMITATION.—Not more than $250,000 of the amount appropriated to carry out this subtitle for any fiscal year may be used by the Corporation for any purpose other than assistance to students.

(b) ORGANIZATION AND MANAGEMENT; BOARD OF DIRECTORS.—

(1) BOARD OF DIRECTORS; MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors comprised of 7 members, with 6 members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Speaker of the House of Representatives, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint 2 members of the Board from a list of at least 6 individuals nominated by the Majority Leader of the Senate, and 1 member of the Board from a list of at least 3 individuals nominated by the Minority Leader of the Senate.

(D) DEADLINE.—The Speaker and Minority Leader of the House of Representatives and Majority Leader and Minority Leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member of the Board not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the 6 members of the Board in the 30-day period described in subparagraph (A), then the Speaker of the House of Representatives and the Majority Leader of the Senate shall each appoint 2 members of the Board, and the Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 1 of the Board, from among the individuals nominated pursuant to subparagraphs (A) and (B), as the case may be. The appointees under the preceding sentence together with the appointee of the Mayor, shall serve as an interim Board with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of the Board.

(3) ELECTIONS.—Members of the Board annually shall elect 1 of the members of the Board to be chairperson of the Board.

(4) RESIDENCY.—All members appointed to the Board shall be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia Government when appointed to or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(7) GENERAL TERM.—The term of office of each member of the Board shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of 2 consecutive terms of 5 years each. A partial term shall be considered as 1 full term. Any vacancy on the Board shall not affect the Board's power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee of the Corporation, except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS OR EMPLOYEES.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States Government or of the District of Columbia Government.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be provided a stipend. Such stipend shall be at the rate of $150 per day for which the member of the Board is officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(13) CONGRESSIONAL INTENT.—Subject to the results of the program appraisal under section 2933, it is the intention of the Congress to turn over to District of Columbia officials the control of the Board at the end of the 5-year period beginning on the date of enactment of this Act, under terms and conditions to be determined at that time.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation, not to exceed level EG-16 of the Educational Service of the District of Columbia, to be fixed by the Board .

(2) STAFF.—With the approval of the Board, the Executive Director may appoint and fix the salary of such additional personnel as the Executive Director considers appropriate.

(3) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay greater than the annual rate of pay of the Executive Director.

(4) SERVICE.—All officers and employees of the Corporation shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State, and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The financial statements of the Corporation shall be—

(A) maintained in accordance with generally accepted accounting principles for nonprofit corporations; and

(B) audited annually by independent certified public accountants.

(2) REPORT.—The report for each such audit shall be included in the annual report to Congress required by section 2933(c).

SEC. 2923. SCHOLARSHIPS AUTHORIZED.

(a) ELIGIBLE STUDENTS.—The Corporation is authorized to award tuition scholarships under subsection (d)(1) and enhanced achievement scholarships under subsection (d)(2) to students in kindergarten through grade 12—

(1) who are residents of the District of Columbia; and

(2) whose family income does not exceed 185 percent of the poverty line.

(b) SCHOLARSHIP PRIORITY.—

(1) FIRST.—The Corporation shall first award scholarships to students described in subsection (a) who—

(A) are enrolled in a District of Columbia public school or preparing to enter a District of Columbia kindergarten, except that this subparagraph shall apply only for academic years 1996, 1997, and 1998; or

(B) have received a scholarship from the Corporation in the year preceding the year for which the scholarship is awarded.

(2) Second.—If funds remain for a fiscal year for awarding scholarships after awarding scholarships under paragraph (1), the Corporation shall award scholarships to students described in subsection (a) who are not described in paragraph (1).

(c) Special Rule.—The Corporation shall attempt to ensure an equitable distribution of scholarship funds to students at diverse academic achievement levels.

(d) Use of Scholarship.—

(1) Tuition scholarships.—A tuition scholarship may be used only for the payment of the cost of the tuition and mandatory fees for, and transportation to attend, an eligible institution located within the geographic boundaries of the District of Columbia.

(2) Enhanced achievement scholarship.—An enhanced achievement scholarship may be used only for the payment of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction provided by an eligible institution which enhances student achievement of the core curriculum and is operated outside of regular school hours to supplement the regular school program;

(B) the costs of tuition and mandatory fees for, and transportation to attend, after-school activities that do not have an academic focus, such as athletics or music lessons; or

(C) the costs of tuition and mandatory fees for, and transportation to attend, vocational, vocational-technical, and technical training programs.

(e) Not School Aid.—A scholarship under this subtitle shall be considered assistance to the student and shall not be considered assistance to an eligible institution.

SEC. 2924. SCHOLARSHIP PAYMENTS AND AMOUNTS.

(a) Awards.—From the funds made available under this subtitle, the Corporation shall award a scholarship to a student and make payments in accordance with section 2930 on behalf of such student to a participating eligible institution chosen by the parent of the student.

(b) Notification.—Each eligible institution that desires to receive payment under subsection (a) shall notify the Corporation not later than 10 days after—

(1) the date that a student receiving a scholarship under this subtitle is enrolled, of the name, address, and grade level of such student;

(2) the date of the withdrawal or expulsion of any student receiving a scholarship under this subtitle, of the withdrawal or expulsion; and

(3) the date that a student receiving a scholarship under this subtitle is refused admission, of the reasons for such a refusal.

(c) Tuition Scholarship.—

(1) Equal to or below poverty line.—For a student whose family income is equal to or below the poverty line, a tuition scholarship may not exceed the lesser of—

(A) the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $3,000 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) Above poverty line.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, a tuition scholarship may not exceed the lesser of—

(A) 50 percent of the cost of tuition and mandatory fees for, and transportation to attend, an eligible institution; or

(B) $1,500 for fiscal year 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) Enhanced Achievement Scholarship.—

(1) Equal to or below poverty line.—For a student whose family income is equal to or below the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $1,500 for 1996, with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) Above poverty line.—For a student whose family income is greater than the poverty line, but not more than 185 percent of the poverty line, an enhanced achievement scholarship may not exceed the lesser of—

(A) 50 percent of the costs of tuition and mandatory fees for, and transportation to attend, a program of nonsectarian instruction at an eligible institution; or

(B) $750 for fiscal year 1996 with such amount adjusted in proportion to changes in the Consumer Price Index for all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(e) Allocation of Funds.—

(1) Federal funds.—

(A) Plan.—The Corporation shall submit to the District of Columbia Council a proposed allocation plan for the allocation of Federal funds between the tuition scholarships under section 2923(d)(1) and enhanced achievement scholarships under section 2923(d)(2).

(B) Consideration.—Not later than 30 days after receipt of each such plan, the District of Columbia Council shall consider such proposed allocation plan and notify the Corporation in writing of its decision to approve or disapprove such allocation plan.

(C) Objections.—In the case of a vote of disapproval of such allocation plan, the District of Columbia Council shall provide in writing the District of Columbia Council's objections to such allocation plan.

(D) Resubmission.—The Corporation may submit a revised allocation plan for consideration to the District of Columbia Council.

(E) Prohibition.—No Federal funds provided under this subtitle may be used for any scholarship until the District of Columbia Council has approved the allocation plan for the Corporation.

(2) Private funds.—The Corporation shall annually allocate unrestricted private funds equitably, as determined by the Board, for scholarships under paragraph (1) and (2) of section 2923(d), after consultation with the public, the Mayor, the District of Columbia Council, the Board of Education, the Superintendent, and the Consensus Commission.

SEC. 2925. CERTIFICATION OF ELIGIBLE INSTITUTIONS.

(a) Application.—An eligible institution that desires to receive a payment on behalf of a student who receives a scholarship under this subtitle shall file an application with the Corporation for certification for participation in the scholarship program under this subtitle. Each such application shall—

(1) demonstrate that the eligible institution has operated with not less than 25 students during the 3 years preceding the year for which the determination is made unless the eligible institution is applying for certification as a new eligible institution under subsection (c);

(2) contain an assurance that the eligible institution will comply with all applicable requirements of this subtitle;

(3) provide the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards, completed not earlier than 3 years before the date such application is filed;

(4) describe the eligible institution's proposed program, including personnel qualifications and fees;

(5) contain an assurance that a student receiving a scholarship under this subtitle shall not be required to attend or participate in a religion class or religious ceremony without the written consent of such student's parent;

(6) contain an assurance that funds received under this subtitle will not be used to pay the costs related to a religion class or a religious ceremony, except that such funds may be used to pay the salary of a teacher who teaches such class or participates in such ceremony if such teacher also teaches an academic class at such eligible institution;

(7) contain an assurance that the eligible institution will abide by all regulations of the District of Columbia Government applicable to such eligible institution; and

(8) contain an assurance that the eligible institution will implement due process requirements for expulsion and suspension of students, including at a minimum, a process for appealing the expulsion or suspension decision.

(b) Certification.—

(1) In general.—Except as provided in paragraph (3), not later than 60 days after receipt of an application in accordance with subsection (a), the Corporation shall certify an eligible institution to participate in the scholarship program under this subtitle.

(2) Continuation.—An eligible institution's certification to participate in the scholarship program shall continue unless such eligible institution's certification is revoked in accordance with subsection (d).

(3) Exception for 1996.—For fiscal year 1996 only, and after receipt of an application in accordance with subsection (a), the Corporation shall certify the eligibility of an eligible institution to participate in the scholarship program under this subtitle at the earliest practicable date.

(c) New Eligible Institution.—

(1) In general.—An eligible institution that did not operate with at least 25 students in the 3 years preceding the year for which the determination is made may apply for a 1-year provisional certification to participate in the scholarship program under this subtitle for a single year by providing to the Corporation not later than July 1 of the year preceding the year for which the determination is made—

(A) a list of the eligible institution's board of directors;

(B) letters of support from not less than 10 members of the community served by such eligible institution;

(C) a business plan;

(D) an intended course of study;

(E) assurances that the eligible institution will begin operations with not less than 25 students;

(F) assurances that the eligible institution will comply with all applicable requirements of this subtitle; and

(G) a statement that satisfies the requirements of paragraph (2), and paragraphs (4) through (8), of subsection (a).

(2) Certification.—Not later than 60 days after the date of receipt of an application described in paragraph (1), the Corporation shall

certify in writing the eligible institution's provisional certification to participate in the scholarship program under this subtitle unless the Corporation determines that good cause exists to deny certification.

(3) RENEWAL OF PROVISIONAL CERTIFICATION.—After receipt of an application under paragraph (1) from an eligible institution that includes an audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 12 months before the date such application is filed, the Corporation shall renew an eligible institution's provisional certification for the second and third years of the school's participation in the scholarship program under this subtitle unless the Corporation finds—

(A) good cause to deny the renewal, including a finding of a pattern of violation of requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(4) DENIAL OF CERTIFICATION.—If provisional certification or renewal of provisional certification under this subsection is denied, then the Corporation shall provide a written explanation to the eligible institution of the reasons for such denial.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—The Corporation, after notice and hearing, may revoke an eligible institution's certification to participate in the scholarship program under this subtitle for a year succeeding the year for which the determination is made for—

(A) good cause, including a finding of a pattern of violation of program requirements described in section 2926(a); or

(B) consistent failure of 25 percent or more of the students receiving scholarships under this subtitle and attending such school to make appropriate progress (as determined by the Corporation) in academic achievement.

(2) EXPLANATION.—If the certification of an eligible institution is revoked, the Corporation shall provide a written explanation of its decision to such eligible institution and require a pro rata refund of the payments received under this subtitle.

SEC. 2926. PARTICIPATION REQUIREMENTS FOR ELIGIBLE INSTITUTIONS.

(a) REQUIREMENTS.—Each eligible institution participating in the scholarship program under this subtitle shall—

(1) provide to the Corporation not later than June 30 of each year the most recent audit of the financial statements of the eligible institution by an independent certified public accountant using generally accepted auditing standards completed not earlier than 3 years before the date the application is filed; and

(2) charge a student that receives a scholarship under this subtitle the same amounts for the cost of tuition and mandatory fees for, and transportation to attend, such eligible institution as other students who are residents of the District of Columbia and enrolled in such eligible institution.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon an eligible institution as a condition of participation in the scholarship program under this subtitle.

SEC. 2927. CIVIL RIGHTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall be deemed to be a recipient of Federal financial assistance for the purposes of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(b) REVOCATION.—Notwithstanding section 2926(b), if the Secretary of Education determines that an eligible institution participating in the scholarship program under this subtitle is in violation of any of the laws listed in subsection (a), then the Corporation shall revoke such eligible institution's certification to participate in the program.

SEC. 2928. CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(b) PRIVATE OR INDEPENDENT SCHOOL SCHOLARSHIPS.—

(1) DETERMINATION OF ELIGIBLITY FOR SERVICES.—If requested by either a parent of a child with a disability who attends a private or independent school receiving funding under this subtitle or by the private or independent school receiving funding under this subtitle, the Board of Education shall determine the eligibility of such child for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) REQUIREMENTS.—If a child is determined eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), the Board of Education shall—

(A) develop an individualized education program, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), for such child; and

(B) negotiate with the private or independent school to deliver to such child the services described in the individualized education program.

(3) APPEAL.—If the Board of Education determines that a child is not eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) pursuant to paragraph (1), such child shall retain the right to appeal such determination under such Act as if such child were attending a District of Columbia public school.

SEC. 2929. CONSTRUCTION PROHIBITION.

No funds under this subtitle may be used for construction of facilities.

SEC. 2930. SCHOLARSHIP PAYMENTS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make scholarship payments to participating eligible institutions on a schedule established by the Corporation.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWAL.—

(A) BEFORE PAYMENT.—If a student receiving a scholarship withdraws or is expelled from an eligible institution before a scholarship payment is made, the eligible institution shall receive a pro rata payment based on the amount of the scholarship and the number of days the student was enrolled in the eligible institution.

(B) AFTER PAYMENT.—If a student receiving a scholarship withdraws or is expelled after a scholarship payment is made, the eligible institution shall refund to the Corporation on a pro rata basis the proportion of any scholarship payment received for the remaining days of the school year. Such refund shall occur not later than 30 days after the date of the withdrawal or expulsion of the student.

(b) FUND TRANSFERS.—The Corporation shall make scholarship payments to participating eligible institutions by electronic funds transfer. If such an arrangement is not available, then the eligible institution shall submit an alternative payment proposal to the Corporation for approval.

SEC. 2931. APPLICATION SCHEDULE AND PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for awarding student scholarships under this subtitle that includes a list of certified eligible institutions, distribution of information to parents and the general public (including through a newspaper of general circulation), and deadlines for steps in the scholarship application and award process.

SEC. 2932. REPORTING REQUIREMENTS.

(a) IN GENERAL.—An eligible institution participating in the scholarship program under this subtitle shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Student achievement in the eligible institution's programs.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families of scholarship students.

(6) Student attendance for scholarship and nonscholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules at the eligible institution.

(8) Number of scholarship students enrolled.

(9) Such other information as may be required by the Corporation for program appraisal.

(b) CONFIDENTIALITY.—No personal identifiers may be used in such report, except that the Corporation may request such personal identifiers solely for the purpose of verification.

SEC. 2933. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Department of Education shall provide for an independent evaluation of the scholarship program under this subtitle, including—

(1) a comparison of test scores between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level;

(2) a comparison of graduation rates between scholarship students and District of Columbia public school students of similar backgrounds, taking into account the students' academic achievement at the time of the award of their scholarships and the students' family income level; and

(3) the satisfaction of parents of scholarship students with the scholarship program.

(b) PUBLIC REVIEW OF DATA.—All data gathered in the course of the study described in subsection (a) shall be made available to the public upon request except that no personal identifiers shall be made public.

(c) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees. Such report shall include a review of how scholarship funds were expended, including the initial academic achievement levels of students who have participated in the scholarship program.

(d) AUTHORIZATION.—There are authorized to be appropriated for the study described in subsection (a), $250,000, which shall remain available until expended.

SEC. 2934. JUDICIAL REVIEW.

The United States District Court for the District of Columbia shall have jurisdiction over *any constitutional challenges to the scholarship program under this subtitle and shall provide expedited review.*

SEC. 2936. OFFSET.

In addition to the reduction in appropriations and expenditures for personal services required under the heading "PAY RENEGOTIATION OR REDUCTION IN COMPENSATION" in the District of Columbia Appropriations Act, 1996, the Mayor of the District of Columbia shall reduce such appropriations and expenditures in accordance with the provisions of such heading by an additional $5,000,000.

SEC. 2937. OFFSETS.

Notwithstanding any other provision in this Act or in the District of Columbia Appropriations Act, 1996, the payment to the District of Columbia for the fiscal year ending September 30, 1996, shall be $655,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

SEC 2938. FEDERAL APPROPRIATIONS.

Notwithstanding any other provision in this Act or in the District of Columbia Appropriations Act, 1996, the Federal contribution to Education Reform shall be $19,930,000, of which $5,000,000 shall be available for scholarships for low income students in dangerous or failed public schools as provided for in Subtitle N and shall not be disbursed by the Authority until the Authority receives a certification from the District of Columbia Emergency Scholarship Corporation that the proposed allocation between the tuition scholarships and enhanced achievement scholarships has been approved by the Council of the District of Columbia consistent with the Scholarship Corporation's most recent proposal concerning the implementation of the emergency scholarship program. These funds shall lapse and be returned by the Authority to the U.S. Treasury on September 30, 1996, if the required certification from the Scholarship Corporation is not received by July 1, 1996.

SEC 2939. EDUCATION REFORM.

In addition to the amounts appropriated for the District of Columbia under the heading "Education Reform", $5,000,000 shall be paid to the District of Columbia Emergency Scholarship Corporation authorized in Subtitle N."

COVERDELL (AND OTHERS) AMENDMENT NO. 3532

Mr. COVERDELL (for himself, Mr. STEVENS, and Mr. INOUYE) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In the pending amendment, on page 540, line 11 after "Act" insert: "and $5,000,000 shall be available for obligation for the period July 1, 1995 through 30, 1996 for employment-related activities of the 1996 Paralympic Games".

In the pending amendment, on page 597, line 21 after "expended" insert: ", of which $1,500,000 shall be for a demonstration program to foster economic independence among people with disabilities through disability sport, in connection with the Tenth Paralympic Games".

BOND (AND OTHERS) AMENDMENT NO. 3533

Mr. BOND (for himself, Ms. MIKULSKI, and Mr. HARKIN) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

In lieu of the matter proposed to be inserted by Amendment No. 3482 to the Committee Substitute amendment, insert:

TITLE V—ENVIRONMENTAL INITIATIVES

CHAPTER 1—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCY

ENVIRONMENTAL PROTECTION AGENCY

Environmental Programs and Management

In addition to funds provided elsewhere in this Act, $75,000,000, to remain available until September 30, 1997.

Buildings and Facilities

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended, for the construction of a consolidated research facility at Research Triangle Park, North Carolina: Provided, That pursuant to the provisions of section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)), that no funds shall be made available for construction of such project prior to April 19, 1996, unless such project is approved by resolutions of the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, respectively: Provided further, That in no case shall funds be made available for construction of such project if prior to April 19, 1996, the project has been disapproved by either the Senate Committee on Environment and Public Works or the House Committee on Transportation and Infrastructure: Provided further, That notwithstanding any other provision of this Act, the paragraph under this heading in chapter 4 of title IV of this Act shall not become effective.

State and Tribal Assistance Grants

In addition to funds provided elsewhere in this Act, $200,000,000, to remain available until expended, for capitalization grants for state revolving funds to support water infrastructure financing: Provided, That of the funds made available by this paragraph, $125,000,000 shall be for drinking water state revolving funds, but if no drinking water state revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended.

Hazardous Substance Superfund

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 5001. Notwithstanding any other provision of this Act, amounts provided in title IV of this Act for the Environmental Protection Agency, with the exception of amounts appropriated under the heading "buildings and facilities", shall become available immediately upon enactment of this Act.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National and Community Service Programs

Operating Expenses

(Including Transfer of Funds)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997; *Provided*, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): *Provided further*, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further*, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): *Provided further*, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): *Provided further*, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: *Provided further*, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community

Corps programs: *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs: *Provided further*, That prior to September 30, 1996, the General Accounting Office shall report to the Congress the results of a study of state commission programs which evaluates the cost per participant, the commissions' ability to oversee the programs, and other relevant considerations: provided further, That the matter under this heading in title I of this Act shall not be effective.

Sense of Congress

It is the Sense of the Congress that accounting for taxpayers' funds must be a top priority for all federal agencies and government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

Funding Adjustment

The total amount appropriated under the heading "Department of Housing and Urban Development, Housing Programs, Annual contribution for assisted housing", in title I of this Act is reduced by $17,000,000, and the amount otherwise made available under said heading for section 8 assistance and rehabilitation grants for property disposition is reduced to $192,000,000.

CHAPTER 2—SPENDING OFFSETS

Subchapter A—Debt Collection

SEC. 5101. SHORT TITLE.

This subchapter may be cited as the "Debt Collection Improvement Act of 1996".

SEC. 5102. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the provisions of this subchapter and the amendments made by this subchapter shall be effective on the date of enactment of this Act.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraph (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall—

"(i) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period; and

"(ii) consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under the standards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based only on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations, and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7)(A) Any Federal agency that is owed by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

(c) Section 3701(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 5202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(f) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives.".

SEC. 5203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended in paragraph (8)(B)—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 5204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial, or legislative agency".

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

"(B) For purposes of this section 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate."; and

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97-365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by adding at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such persons's relationship with the government.

"(3) For purposes of this subsection:

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"§3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is resolved, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 5241. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97-365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103-387) is repealed.

(c) Section 631 of the Tariff Act of 1930 (19 U.S.C. 1631), is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by inserting after subsection (c) the following new subsection:

"(d) Sections 3711(f) and 3716-3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986.";

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(B) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

SEC. 5242. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from another account or from revenue received from Section 701. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of governmentwide debt collection activities. Costs properly chargeable to the Account include, but are not limited to—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout. A taxpayer identification number shall be included with each claim provided if it is in the agency's possession.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) will be disposed of under the loan sales program of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or a disbursing official of the United States designated by the Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180-day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative, or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative, or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized—

"(A) to prescribe such rules, regulations, and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies.".

SEC. 5243. COMPROMISE OF CLAIMS.

(a) Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

(b) This section shall be effective as of October 1, 1995.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"§ 3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed five percent of the debt collection improvement amount as described in paragraph (3).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under section 502 of the Debt Collection Improvement Act of 1996), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation Acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practicable after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal Government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subpart H—Definitions, Due Process Rights, and Severability

SEC. 5281. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United

States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico where there is also a Federal monetary interest or in cases of court ordered child support."; and

(3) by adding after subsection (f) (as added in section 5202(a)) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any Federal department, agency, or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5282. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

Subpart I—Reporting

SEC. 5291. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later than three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding non-tax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

PART II—JUSTICE DEBT MANAGEMENT

Subpart A—Private Attorneys

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99-578, 100 Stat. 3305) are hereby repealed.

Subpart B—Nonjudicial Foreclosure

SEC. 5311. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.

"3401. Definitions.

"3402. Rules of construction.

"3403. Election of procedure.

"3404. Designation of foreclosure trustee.

"3405. Notice of foreclosure sale; statute of limitations.

"3406. Service of notice of foreclosure sale.

"3407. Cancellation of foreclosure sale.

"3408. Stay.

"3409. Conduct of sale; postponement.

"3410. Transfer of title and possession.

"3411. Record of foreclosure and sale.

"3412. Effect of sale.

"3413. Disposition of sale proceeds.

"3414. Deficiency judgment.

"§ 3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§ 3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§ 3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§ 3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§ 3405. Notice of foreclosure sale; statute of limitations

"(a) IN GENERAL.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclosure shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§ 3406. Service of notice of foreclosure sale

"(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) NOTICE BY MAIL.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§ 3407. Cancellation of foreclosure sale

"(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender;

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§ 3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§ 3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§ 3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"§ 3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"§ 3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"§ 3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums; and

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§ 3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

SUBCHAPTER B—FAA GRANTS-IN-AID FOR AIRPORTS

FEDERAL AVIATION ADMINISTRATION GRANTS-IN-AID FOR AIRPORTS

(Airport and Airway Trust Fund)

(Rescission of Contract Authority)

Of the available contract authority balances under this account, $48,000,000 are hereby rescinded, in addition to any such sums otherwise rescinded by this Act.

On page 637, line 20 of the Committee substitute, following new proviso is deemed to be in inserted before the period:

": *Provided further*, That an additional $30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this purpose under this heading, without regard to any percentage limitation otherwise applicable".

"SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-213) is repealed effective the date of enactment of Public Law 104-19. The Secretary is authorized to demolish the structures identified in such section. The Secretary is also authorized to compensate those local governments which, due to this provision, expended local revenues demolishing the developments identified in such provision.".

On page 779, line 10, of the Committee substitute, the following deemed to be inserted:

MANAGEMENT AND ADMINISTRATION

DEPARTMENTAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, $20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: *Provided*, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: *Provided further*, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: *Provided further*, That by February 1, 1997 the Secretary shall certify to the Congress that headquarters on-board staffing levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: *Provided further*, That if the certification of headquarters personnel reductions required by this Act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public law 101-625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block grant program.

On page 771 line 17 the following new section is deemed to be inserted:

SEC. . Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

On page 689, after line 26 of the Committee substitute, the following new section is deemed to be inserted:

SEC. . (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (ii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

On page 631, after the colon on line 24 of the Committee substitute, insert the following:

"*Provided further*, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): *Provided further*, That the immediately foregoing proviso shall apply hereinafter to projects for which plans of action are to be funded under section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded:".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing on "HUB Zones: Revitalizing Inner Cities and Rural America" on Thursday, March 21, 1996, at 10:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Paul Cooksey at 224-5175.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will hold an oversight hearing on Thursday, March 28, 1996, on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 14, 1996, to receive testimony on the Defense authorization request for fiscal year 1997 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, March 14, 1996, session of the Senate for the purpose of conducting a hearing on international aviation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct an oversight hearing Thursday, March 14, at 2 p.m., hearing room (SD–406), on wetland mitigation banking under section 404 of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 14, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S. 1425, Revised Statutes 2477 Rights-of-Way Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 14, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentations of the Paralyzed Veterans of America, Jewish War Veterans, the Retired Officers Association, Association of the U.S. Army, Non-Commissioned Officers Association, and Blinded Veterans Association.

The hearing will be held on March 14, 1996, at 9:30 a.m., in room 345 of the Cannon House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 14, 1996, at 2 p.m. to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, March 14, 1996, in open session, to receive testimony on current and future military readiness as the Armed Forces prepare for the 21st century.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. LOTT. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs, Subcommittee on Post Office and Civil Service to hold a hearing on Thursday, March 14, at 9:30 a.m. on USPS reform—conversation with customers.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PEACE IN NORTHERN IRELAND

• Mr. DODD. Mr. President, I rise today to speak on the prospects for peace in Northern Ireland.

Over the past 2 years, Catholics and Protestants in Northern Ireland have made significant strides toward achieving a fair and lasting peace for their troubled land.

And as one of more than 40 million Irish-Americans, I take great pride in the critically important role that the United States and, in particular, President Clinton is playing in this process.

It was the President's courageous move, in February 1994, to grant a visa to Sinn Fein leader Gerry Adams that set the wheels of peace in motion.

That step, controversial at the time, was a critical factor in leading to the IRA's unilateral announcement of a cease-fire, 6 months later.

For the first time in 25 years, the threat of violence in Northern Ireland was but a distant and unrealized fear.

The roadblocks, the checkpoints, the house-to-house searches that defaced Northern Ireland for a generation began to disappear.

And, in stark contrast to the past 25 years of sectarian conflict—which claimed 3,000 Catholic and Protestant lives—when the people of Northern Ireland gathered together over the past 2 years it was more often to celebrate and not to grieve another untimely death from the troubles.

The desire for peace among the peoples of Northern Ireland was underscored just this past December, when President Clinton became the first American President to travel to Northern Ireland.

I had the great pleasure of joining the President on this trip.

And I guarantee that regardless of one's political, ethnic or ideological persuasion, it was impossible not to be genuinely moved by the heartfelt reception that the President received.

On several occasions the President was welcomed by crowds of more than 250,000 people, all intent on listening to his message of reconciliation.

This outpouring of support is indicative of the great desire among the majority of Northern Ireland's residents to live in peace with their neighbors.

But, just a month ago, those hopes for peace were dealt a stinging blow by an IRA bomb that rocked London's Docklands district killing 2 people, injuring more than 100 and causing millions of dollars in property damage.

This reprehensible act serves as a nightmarish reminder that the peace process in Northern Ireland is far from complete.

The 17-month cease-fire in Northern Ireland, which made such progress in diminishing the fears and anxieties of violence among millions of Protestants and Catholics, was ripped asunder.

The image of British soldiers patrolling the streets of Belfast—a vision many of us hoped and believed had been banished—disturbingly reappeared on our television screens.

What's more the London bombing threatened to permanently derail the peace process, which has come so far in moving the peoples of Northern Ireland closer to peace than at any time in a generation.

For this reason, I am particularly heartened that at this moment of crisis, both Prime Minister Major and Prime Minister Bruton stepped forward to put Northern Ireland firmly back on the path toward peace.

On February 28, Mr. Major and Mr. Bruton outlined a new proposal for bringing all parties to the peace table by June 10.

Now the two governments are seeking to work out arrangements for a broadly acceptable electoral process that will lead immediately to all party talks in June.

I commend Prime Minister Major for going the extra mile at this critical juncture in the peace process, in part by dropping his precondition that the IRA decommission prior to the commencement of all party talks.

I only regret that British authorities did not see the wisdom of that approach sooner when it was first recommended by Senator Mitchell and the other members of the International Body.

Perhaps if they had, the current escalation in tensions could have been avoided and the parties might already be engaged in substantive talks toward peace.

The actions of Prime Minister Major and Prime Minister Bruton echo the words of the wonderful Irish poet Seamus Heaney, who recently won the Nobel Prize for Literature. In his poem, Station Island, Heaney writes:

> You lose more of yourself than you redeem doing the decent thing.

Well Mr. Major and Mr. Bruton did the decent thing and I applaud both of them for their foresight and their vision.

Let me also say that Mr. Major's compromise is commendable in light of the IRA's recent wave of bombing attacks in London. These irresponsible actions have only created confusion and greater animosity in the search for peace.

The IRA's actions eroded goodwill between Catholics and Protestants and threatened to derail what was already a fledgling peace process.

The time is now for the IRA to make clear to all parties in the conflict that they are truly prepared to enter into inclusive all-party negotiations to bring a fair and lasting settlement to the conflict. And, if Sinn Fein is to be an active participant in helping to shape the agenda for all party talks, the IRA must refrain from further violence.

The future of Northern Ireland will not be found in the barrel of a gun. Compromise will not be achieved under the threat of violence. This is a lesson the IRA must understand and accept.

The first step in affirming that commitment would be for the IRA to immediately reinstate the 17-month cease-fire they brazenly and foolishly broke last month.

The second step would be for Sinn Fein to show a greater willingness to compromise on the decommissioning issue.

I think we all recognize the need for Sinn Fein to be at the negotiating table and directly involved in all-party talks.

Thus, we must redouble our efforts in the coming weeks to settle on an elective process that will be broadly acceptable to all parties and which will lead to a lasting peace in Northern Ireland.

I remain optimistic that by March 17, St. Patrick's Day, all the involved parties, working together, will be able to agree upon a fair and comprehensive agenda for all party talks in June.

In order to reach this goal all sides, Catholics and Protestants, Irish and British, must act in good faith in order to smooth the process toward genuine reconciliation.

As an American of Irish descent, the resolution of the conflict in Northern Ireland is of particular significance and importance to me. Both sides of my family immigrated to this country from Ireland.

For me a foreign trip to Ireland is akin to a family reunion.

That is why I am so desperate to see this process succeed and bring a lasting peace to Northern Ireland. And I believe that today we stand on the cusp of a truly new era of peace and reconciliation between Catholics and Protestants.

In the spirit of St. Patrick's Day, I am once again reminded of the words of Seamus Heaney:

> History says, don't hope on this side of the grave, but then once in a lifetime, the long, far tidal wave of justice can rise up, and hope and history rhyme. So hope for a great sea change on the far side of revenge. Believe that further shore is reachable from here. Believe in miracles and cures and healing wells.

At no time in the history of Northern Ireland have Catholics and Protestants been so close to that point where hope and history rhyme. Together with all involved parties, the American people must stand together with those whose goal is peace and reconciliation in Northern Ireland.•

TRIBUTE TO THEODORE O. WALLIN, PH.D.

• Mr. D'AMATO. Mr. President, I am pleased to recognize Theodore O. Wallin, Ph.D., for his outstanding contributions and achievements in the fields of transportation and education. Professor Wallin has served as the director of the Franklin program in transportation and distribution management, chairman of the marketing, transportation and distribution management department, and associate professor of transportation and marketing at Syracuse University.

Professor Wallin is recognized as a world renowned expert in the areas of transportation economics, management, and public policy, and has published numerous articles in several scholastic journals. He has worked for the development of the Salzberg Transportation Institute at Syracuse University and has authored a number of research projects for New York State and Federal governmental agencies.

In addition to his research, Professor Wallin has served as president of the Alpha Chapter of Delta Nu Alpha International Professional Transportation fraternity and was recognized by Nu Alpha as the Outstanding Man of the Year in 1984.

As a member of the American Society of Transportation and Logistics, the American Marketing Association, the Council of Logistics Management, editorial board for the Transportation Journal and Journal of Transportation Management, Dr. Wallin has contributed considerably to the Department of Management at Syracuse University. He has been recognized as an outstanding faculty member several times during his tenure at the university.

As United States Senator from New York and an alumni of Syracuse, I am particularly pleased to wish Dr. Theodore Wallin success as he continues his distinguished career as the resident director of the newly established Syracuse University Division of International Programs Abroad in Hong Kong.•

TRIBUTE TO CONGRESSMAN JIM BUNNING

• Mr. LEVIN. Mr. President, I rise today to pay tribute to a colleague of mine, JIM BUNNING, who was recently inducted into the Baseball Hall of Fame. This is an outstanding honor and one for which he and his family should be very proud. I take special interest in his election because for 9 years, from 1955 to 1963, he pitched for the Detroit Tigers. Being a Tigers fan and a Detroit resident I had the good fortune to see JIM BUNNING pitch on a number of occasions. He was a tremendous pitcher. Although Detroit's record varied through those years, JIM BUNNING could be counted on for a solid game. It was unfortunate for Detroit, but advantageous for baseball history, that JIM left the Tigers, and the American League, and moved to Philadelphia, and the National League. He would soon become the only player in baseball history to throw a no-hitter in each league. His lifetime statistics are similarly impressive. JIM BUNNING is one of those remarkable men who has succeeded not only on the field of sport but in the arena of public service. Since his departure from baseball in 1971, he has become an adroit and respected legislator. Although we don't serve on the same team here in Congress, JIM BUNNING, for his athletic and congressional achievements will always have my deep respect and admiration.•

HANDS-ON/MINDS-ON TECHNOLOGIES PROGRAM

• Mr. BINGAMAN. Mr. President, I rise today to recognize Sandia National Laboratories for its communication coordination of the hands-on/minds-on technologies [HMTech] program in New Mexico. This program enhances the study of science and technology in the African-American student population and further encourages these students to enter technology related careers. Mr. President, this year the HMTech program reached a milestone—its 10th year of operation.

The HMTech project has touched the lives of more than 1,000 New Mexico students. The project began in 1986 as a program to promote academic achievement in the African-American student population and provide activity based science and engineering activities. HMTech's primary goal is to support the development of a scientific and technically trained student base with hands-on technology opportunities. HMTech's class activities include drafting, ecology, health, medicine, physics, computer science, electronics, chemistry, math, and communications skills.

Mr. President, providing a child-centered approach to instruction, HMTech is an intensive 6-week evening program offered each fall and spring at no charge to students grades 5 through 12. African-American instructors, including scientists, engineers, and technicals, staff the project, volunteering their expertise and their time to the HMTech program for classroom instruction.

The HMTech also has a very exciting and extensive tutorial program. HMTech provides students after school tutorials in math and science, a multidisciplinary homework hotline, scholastic aptitude test [SAT] tutorials, college preparatory classes, parent involvement workshops, and workshops for the instructors and volunteers.

Mr. President, for its outstanding accomplishments, sincere interest in expanding the minds of young people, and its outstanding service to New Mexico and our Nation in education and technology, I would like to commend those who make the HMTech program a success.●

THE RETIREMENT OF PETE CARRIL

● Mr. LAUTENBERG. Mr. President, this year March Madness will have two New Jersey teams competing for the men's college basketball championship. I rise to extend my personal congratulations to the Monmouth University Hawks and the Princeton University Tigers, who have earned berths in the NCAA tournament.

Mr. President, the Monmouth Hawks represent one of New Jersey's fine institutions of higher learning. Monmouth University's appearance in the NCAA tournament this year is its first ever, and an accomplishment of which the college is deservedly proud. The Hawks, led by coach Wayne Szoke, have amassed an impressive 20–9 record this year with their well-run motion offense, long-range shooting, and tenacious defense. Back in November, nobody picked them to make it to the NCAA tournament, but they are a team on the rise. Their next opponent is sure to find that out. I am pleased that Monmouth University has this opportunity to get some well-deserved national recognition and wish the Hawks the best of luck in their game tonight.

The Princeton Tigers represent one of the finest universities in the world and are not new to the NCAA tournament. However, this appearance is a special one for the Tigers as it represents the last for their great coach, Pete Carril. Coach Carril has decided to retire after 29 magnificent years at Princeton and there is no doubt that Princeton and all of college basketball will sorely miss him. On behalf of his many fans in New Jersey, I wish him the best of luck in his future, and particularly in Princeton's game tonight.●

MODIFICATION OF APPOINTMENT OF CONFEREES—H.R. 2854

Mr. LOTT. Mr. President, I ask unanimous consent that with respect to the previous consent on the appointment of conferees to H.R. 2854, the consent be modified to reflect the following: With respect to the Democratic conferees, that other Democratic members of the Senate Committee on Agriculture may substitute for named Democratic members of the conference as needed, provided that no more than six Republicans or five Democratic conferees participate in the conference meetings at any given time; that the total number of Democratic and Republican conferees signing the conference report do not exceed the number so named as conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1618

Mr. ABRAHAM. Mr. President, I send a bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1618) to provide uniform standards for the award of punitive damages for volunteer services.

Mr. ABRAHAM. Mr. President, I now ask for its second reading.

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ABRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's executive calendar: Executive calendar nomination Nos. 365, 480, 498 through 501, 503, 504, 505 and 506.

I further ask unanimous consent that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; any statements relating to the nominations appear at the appropriate place in the RECORD; the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, I just would like to make an inquiry about one officer that I believe is on the list. I want to confirm the fact that he is on the list. Captain Padgett was supposed to be confirmed tonight. I believe his name is on the list. I would like confirmation.

Mr. ABRAHAM. I confirm for the Senator from Nebraska that Officer Padgett is on the list.

Mr. EXON. I thank my friend from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. I yield the floor.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from Michigan?

There being no objection, the nominations considered and confirmed en bloc are as follows:

NAVY

The following-named captain in the line of the U.S. Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, Section 624, subject to qualifications, therefore, as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. John B. Padgett II [redacted] U.S. Navy.

DEPARTMENT OF THE TREASURY

James E. Johnson, of New Jersey, to be an Assistant Secretary of the Treasury.

AIR FORCE

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Thomas R. Case [redacted]
Brig. Gen. Donald G. Cook [redacted]
Brig. Gen. Charles H. Coolidge, Jr. [redacted]
Brig. Gen. John R. Dallager [redacted]
Brig. Gen. Richard L. Engel [redacted]
Brig. Gen. Marvin R. Esmond [redacted]
Brig. Gen. Bobby O. Floyd [redacted]
Brig. Gen. Robert H. Foglesong [redacted]
Brig. Gen. Jeffrey R. Grime [redacted]
Brig. Gen. John W. Hawley [redacted]
Brig. Gen. Michael V. Hayden [redacted]
Brig. Gen. William T. Hobbins [redacted]
Brig. Gen. John D. Hopper, Jr [redacted]
Brig. Gen. Raymond P. Huot [redacted]
Brig. Gen. Timothy A. Kinnan [redacted]
Brig. Gen. Michael C. Kostelnik [redacted]
Brig. Gen. Lance W. Lord [redacted]
Brig. Gen. Ronald C. Marcotte [redacted]
Brig. Gen. Gregory S. Martin [redacted]
Brig. Gen. Michael J. McCarthy [redacted]
Brig. Gen. John F. Miller, Jr [redacted]
Brig. Gen. Charles H. Perez [redacted]
Brig. Gen. Stephen B. Plummer [redacted]
Brig. Gen. David A. Sawyer [redacted]
Brig. Gen. Terryl J. Schwalie [redacted]
Brig. Gen. George T. Stringer [redacted]
Brig. Gen. Gary A. Voellger [redacted]

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of Title 10, United States Code, Sections 8373, 8374, 12201, and 12212:

To be major general

Brig. Gen. James F. Brown [redacted] Air National Guard of the United States.

Brig. Gen. James McIntosh [redacted] Air National Guard of the United States.

To be brigadier general

Col. Gary A. Brewington [redacted] Air National Guard of the United States.

Col. William L. Fleshmar [redacted] Air National Guard of the United States.

Col. Allen H. Henderson [redacted] Air National Guard of the United States.

Col. John E. Iffland [redacted] Air National Guard of the United States.

Col. Dennis J. Kerkmar [redacted] Air National Guard of the United States.

Col. Stephen M. Koper [redacted] Air National Guard of the United States.

Col. Anthony L. Liguori [redacted] Air National Guard of the United States.

Col. Kenneth W. Mahon [redacted] Air National Guard of the United States.

Col. William H. Phillips [redacted] Air National Guard of the United States.

Col. Jerry H. Risher [redacted] Air National Guard of the United States.

Col. William J. Shondel [redacted] Air National Guard of the United States.

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Brian A. Arnold [redacted]
Col. John R. Baker [redacted]
Col. Richard T. Banholzer [redacted]
Col. John L. Barry [redacted]
Col. John D. Becker [redacted]
Col. Robert F. Behler [redacted]
Col. Scott C. Bergren [redacted]
Col. Paul L. Bielowicz [redacted]
Col. Franklin J. Blaisdel [redacted]
Col. John S. Boone [redacted]
Col. Clayton G. Bridges [redacted]
Col. John W. Brooks [redacted]
Col. Walter E.L. Buchanan, II [redacted]
Col. Carrol H. Chandler [redacted]
Col. John L. Clay [redacted]
Col. Richard A. Coleman, Jr [redacted]
Col. Paul R. Dorda [redacted]
Col. Michael M. Dunn [redacted]
Col. Thomas F. Giocond [redacted]
Col. Thomas B. Goslin, Jr [redacted]
Col. Jack R. Holbein, Jr [redacted]
Col. John G. Jerniga [redacted]
Col. Charles L. Johnson, I [redacted]
Col. Lawrence D. Johnstor [redacted]
Col. Dennis R. Larser [redacted]
Col. Theodore W. Lay, I [redacted]
Col. Fred P. Lewis [redacted]
Col. Stephen R. Lorenz [redacted]
Col. Maurice L. McFann, Jr [redacted]
Col. John W. Meincke [redacted]
Col. Howard J. Mitchel [redacted]
Col. William A. Moormar [redacted]
Col. Teed M. Moseley [redacted]
Col. Robert M. Murdock [redacted]
Col. Michael C. Mushala [redacted]
Col. David A. Nagy [redacted]
Col. Wilbert D. Pearson, Jr [redacted]
Col. Timothy A. Peepe [redacted]
Col. Craig P. Rasmusser [redacted]
Col. John F. Regn [redacted]
Col. Victor E. Renuart, Jr [redacted]
Col. Richard V. Reynolds [redacted]
Col. Earnest O. Robbins II [redacted]
Col. Steven A. Roser [redacted]
Col. Mary L. Saunders [redacted]
Col. Glen D. Shaffer [redacted]
Col. James N. Soligar [redacted]
Col. Billy K. Stewart [redacted]
Col. Francis X. Taylo [redacted]
Col. Rodney W. Wood [redacted]

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard C. Bethurem [redacted], U.S. Air Force.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Gen. Richard E. Hawley [redacted] U.S. Air Force.

ARMY

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Joseph W. Arbuckle [redacted]
Col. Barry D. Bates [redacted]
Col. William G. Boykin [redacted]
Col. Charles M. Burke [redacted]
Col. Charles C. Campbell [redacted]
Col. James L. Campbel [redacted]
Col. Joseph R. Capka [redacted]
Col. George W. Casey, Jr [redacted]
Col. John T. Casey [redacted]
Col. Dean W. Cash [redacted]
Col. Dennis D. Cavin [redacted]
Col. Robert F. Dees [redacted]
Col. Larry J. Dodger [redacted]
Col. John C. Doesburg [redacted]
Col. James E. Donald [redacted]
Col. David W. Foley [redacted]
Col. Harry D. Gatanas [redacted]
Col. Robert A. Harding [redacted]
Col. Roderick J. Isler [redacted]
Col. Dennis K. Jackson [redacted]
Col. Alan D. Johnson [redacted]
Col. Anthony R. Jones [redacted]
Col. William J. Lennox, Jr [redacted]
Col. James J. Lovelace, Jr [redacted]
Col. Jerry W. McElwee [redacted]
Col. David D. McKiernan [redacted]
Col. Clayton E. Melton [redacted]
Col. Willie B. Nance, Jr [redacted]
Col. Robert W. Noonan, Jr [redacted]
Col. Kenneth L. Privratsky [redacted]
Col. Hawthorne L. Proctor [redacted]
Col. Ralph R. Ripley [redacted]
Col. Earl M. Simms [redacted]
Col. Zannie O. Smith [redacted]
Col. Robert L. VanAntwerp, Jr. [redacted]
Col. Hans A. VanWinkle [redacted]
Col. Robert W. Wagner [redacted]
Col. Daniel R. Zanini, [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, U.S.C., sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Stanhope S. Spear [redacted]

NAVY

The following named Captains in the line of the U.S. Navy for promotion to the permanent grade of Rear Admiral (lower half), pursuant to Title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. William Wilson Pickavance, Jr., [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. George Richard Yount, [redacted]

NOMINATION OF COL. WILLIAM J. SHONDEL

Mr. BYRD. Mr. President, I am pleased that the President has nominated Colonel William J. Shondel for the rank of Brigadier General. Colonel Shondel, a native of Clinton, Ohio, earned undergraduate and graduate degrees from Ohio State University, and also earned a master's degree from Marshall University.

Colonel Shondel currently serves as the Assistant Adjutant General for Air, West Virginia Air National Guard. Prior to this he held many demanding positions, including Director of Logistics for the West Virginia Air National Guard, overseeing all maintenance, supply, transportation and logistics support for two C–130 airlift groups.

Before joining the Air National Guard, Colonel Shondel had a distinguished career in the U.S. Air Force where he was named the Air Force Outstanding Supply Officer of the year and his unit was rated the best in the nation for three consecutive years.

Colonel Shondel is a distinguished Reserve Officer Training Corps graduate, as well as a graduate of Squadron Officers School, Air Command and Staff College, and Air War College. His major decorations include the Meritorious Service Medal, Air Force Commendation Medal, Air Force Achievement Medal, Air Force Outstanding Unit Award, and the National Defense Service Medal.

Mr. President, I am pleased to cast my vote for the confirmation of Col. William J. Shondel as Brigadier General, and I urge my colleagues to support this nomination.

NOMINATION OF COL. WILLIAM L. FLESHMAN

Mr. BYRD. Mr. President, I am pleased that the President has nominated Colonel William L. Fleshman for the rank of Brigadier General. Colonel Fleshman is a native of Charleston and a graduate of the West Virginia Institute of Technology.

Colonel Fleshman has held many responsible positions within the West Virginia Air National Guard since he was commissioned in May, 1962, and graduated from pilot training in December, 1963. Most recently, he has been assigned as the Commander of the West Virginia Air National Guard, headquartered in Charleston.

Prior to his current assignment, Colonel Fleshman served for eleven years as the Deputy Commander for Maintenance of the 130th Tactical Airlift Group, and from July, 1987 through August, 1988, he concurrently served as the Group Vice Commander. Due to his demonstrated ability and leadership, he was promoted to the position of Commander, 130th Tactical Airlift Wing in August, 1988, and served in this position for six years, when he was appointed to his present position.

Colonel Fleshman is a command pilot with more than 6,000 flying hours. He is a graduate of Squadron Officers School, Air Command and Staff College, and the Industrial College of the Air Force, where he graduated with high honors. His decorations include the Bronze Star, Meritorious Service Medal, Air Force Commendation Medal, Armed

Forces Reserve Medal, Combat Readiness Medal, and the Air Force Outstanding Unit Award. He was awarded the Southwest Asia Service Medal for Desert Shield/Storm and the Liberation of Kuwait Medal.

Mr. President, I am pleased to cast my vote for the confirmation of Col. William L. Fleshman as Brigadier General, and I urge my colleagues to support this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

EXTENDING SYMPATHIES TO THE PEOPLE OF SCOTLAND

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 231, a resolution expressing condolences to the families of children killed and wounded in Dunblane, Scotland, submitted earlier today by Senator WELLSTONE; that the resolution be agreed to, and the motion to reconsider be laid upon the table, and that the preamble be agreed to; that any statements relating thereto be printed in the RECORD at the appropriate place, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 231) was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 231

Whereas all Americans were horrified by the news this morning that 16 kindergarten children and their teacher were shot and killed yesterday in Dunblane, Scotland, by an individual who invaded their school;

Whereas another 12 children and 3 adults were apparently wounded in the same terrible assault;

Whereas this was an unspeakable tragedy of huge dimensions causing tremendous feelings of horror and anger and sadness affecting all people around the world; and

Whereas the people of the United States wish to extend their sympathy to the people of Scotland in their hours of hurt and pain and grief; Now, therefore, be it

Resolved by the Senate of the United States, That the Senate, on behalf of the American people, does extend its condolences and sympathies to the families of the little children and others who were murdered and wounded, and to all the people of Scotland, with fervent hopes and prayers that such an occurrence will never, ever again take place.

ORDERS FOR FRIDAY, MARCH 15, 1996

Mr. ABRAHAM. Mr. President, I ask unanimous consent when the Senate completes its business today it stand in adjournment until the hour of 9:45 a.m., Friday, March 15; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders reserved for their use later in the day, and there then be a period for morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each. Further, that at 10 a.m., the Senate begin consideration of S. 942 as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ABRAHAM. For the information of all Senators, the Senate will debate the small business regulatory relief bill tomorrow. Any votes ordered in relation to that bill will occur on Tuesday.

On Friday, following the small business bill debate, the Senate will resume consideration of the continuing resolution. Senators should be prepared to offer their amendments during Friday's session.

Under the previous order, there will be no votes until Tuesday, March 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ABRAHAM. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:49 p.m., adjourned until Friday, March 15, 1996, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 14, 1996:

DEPARTMENT OF DEFENSE

ROBERT E. ANDERSON, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2001, VICE CLARENCE S. AVERY, TERM EXPIRED.

LONNIE R. BRISTOW, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2001, VICE GOPAL SIVARAJ PAL, TERM EXPIRED.

SHIRLEY LEDBETTER JONES, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 2001, VICE GEORGE TYRON HARDING, IV, TERM EXPIRED.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

SUSAN BASS LEVIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1999, VICE RICHARD C. HACKETT.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEVIN EMANUEL MARCHMAN, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE JOSEPH SHULDINER.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOHN J. CUSICK [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED COLONEL OF THE U.S. MARINE CORPS FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. ARNOLD FIELDS [redacted]

IN THE NAVY

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LINE AS LIMITED DUTY OFFICERS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, LINE

To be lieutenant

JAMES L. ABRAM [redacted]
LISA L. ALBUQUERQUE, [redacted]
JAMES R. ALDERSON [redacted]
ALFRED D. ANDERSON [redacted]
RICKY A. ANFINSON [redacted]
CHRISTOPHER E. ANGEL [redacted]
HERMAN L. ARCHIBALD [redacted]
ERNEST B. ASHFORD [redacted]
CHARLES D. AUXTER [redacted]
ROLAND B. AVELINO [redacted]
STEVEN J. AVERETT [redacted]
PAUL J. BACENET [redacted]
ALLEN D. BALABIS [redacted]
JEFFREY BALL [redacted]
JAMES W. BALLINGER [redacted]
JEFFREY W. BARNETT [redacted]
RALPH G. BARRETT [redacted]
VICTOR A. BARRIOS [redacted]
ROBERT D. BEASLEY [redacted]
ROY G. BEJSOVEC [redacted]
LAREDO M. BELL [redacted]
REYNOLFO D. BELTEJAR [redacted]
JAMES BENNETT, JR. [redacted]
MICHAEL H. BLUM [redacted]
JOHNNY E. BOWENS [redacted]
HAROLD T. BRADY [redacted]
ALLEN E. BRANTON [redacted]
LAURAINE L. BRAY [redacted]
TOMMY W. BROWN [redacted]
APRIL L. BUCK [redacted]
BILLY R. BURCH [redacted]
MICHAEL R. BUTTREY [redacted]
ERNEST M. BUTTS [redacted]
RAUL V. CALIMLIM [redacted]
MANOLITO Y. CALMA [redacted]
PELAGIO B. CAOILE [redacted]
SHIRLEY J. CARTER [redacted]
TERRY B. CARWILE [redacted]
JEFFREY L. CHANEY [redacted]
ROGER L. CHANEY, [redacted]
MICHAEL E. CHESLEY [redacted]
ROBERT N. CHEVRETTE [redacted]
THOMAS K. CHO [redacted]
THOMAS A. CHORLTON [redacted]
HUGH W. CLARKE, JR. [redacted]
JAMES D. CRAYCRAFT [redacted]
ANTHONY R. CREED [redacted]
RICHARD L. CROCKER [redacted]
STEPHEN E. CRUME [redacted]
ANTHONY M. CUNNING [redacted]
LARRY K. DAVIS [redacted]
JACK D. DEAN [redacted]
EMELITO T. DEGUZMAN [redacted]
HOWARD L.S. DENSON [redacted]
GREGORY J. DEVEAU [redacted]
KENNETH DIMKE [redacted]
CLIFFORD DINGLER [redacted]
JAMES R. DIXON [redacted]
RICHARD E. DOBKINS [redacted]
JOHN A. DONNELL [redacted]
JESSIE L. DOVE [redacted]
THOMAS E. DRABCZYK [redacted]
ANTHONY S. DULL [redacted]
RICHARD B. DUQUE [redacted]
DAVID L. EDMING [redacted]
KENNETH R. ELLARD [redacted]
DANIEL K. EMERSON [redacted]
FRANK ESPINOSA, JR. [redacted]
PAUL C. EVANS [redacted]
ROBERT B. FARMER [redacted]
MATTHEW J. FEEHAN [redacted]
JOHN J. FERRARA [redacted]
DAVID FERREIRA [redacted]
LINWOOD O. FISHER [redacted]
WILLIAM P. FISHER [redacted]
FARYLE G. FITCHUE [redacted]
GREGORY P. FOOTE [redacted]
LEO T. FORD [redacted]
DANIEL J. FOSTER [redacted]
THOMAS W. FOX [redacted]
SCOTT W. FRAMPTON, [redacted]
TIMOTHY M. FRANCIS [redacted]
VINCENT W. FRESCHI [redacted]
MICHAEL J. GAGNON [redacted]
SCOTT W. GALOW [redacted]
NONATO A. GAOIRAN [redacted]
PATRICK G. GARRISON [redacted]
HERIBERTO GONZALEZ [redacted]

DAVID K. GRAMPP [redacted]
WAYNE S. GRAZIO [redacted]
RICHARD A. GREEN [redacted]
GEORGE F. GREENE [redacted]
DAVID M. GROSS [redacted]
RAYMOND GULLEY [redacted]
JAMES L. HANLEY III [redacted]
SALNAVE B. A. HARE [redacted]
DANIEL J. HARTNETT [redacted]
EVERETT HAYES [redacted]
RAY L. HEDGPATH [redacted]
KEITH L. HEDRICK [redacted]
LUIS A. HERNANDEZ [redacted]
EVAN S. HIGGINS [redacted]
BETTY J. HILL [redacted]
THOMAS A. HOLDER [redacted]
MELVIN T. HOLLIS [redacted]
LAWRENCE J. HOLLOWAY [redacted]
EDWARD HOLMES [redacted]
WILLIAM K. HOMMERBOCKER [redacted]
JOHN A. HUCKS [redacted]
MAX C. HUG [redacted]
MARK A. HUMPHREY [redacted]
VERNON C. HUNTER [redacted]
ROLANDO C. IMPERIAL [redacted]
ROBERT G. INFANTE, JR. [redacted]
JOSEPH H. JAMISON, JR. [redacted]
GREGORY S. JEFFERY [redacted]
DONALD L. JENKINS, JR. [redacted]
DANNY J. JENSEN [redacted]
PAUL C. JENSEN [redacted]
PATRICK K. JOHNSON [redacted]
ANTHONY W. JONES [redacted]
LARRY R. JONES [redacted]
ROBERT E. JONES [redacted]
KARL J. JORDAN [redacted]
GREGORY A. KARR [redacted]
EDWARD D. KATZ [redacted]
BETTYE D. KEEFER [redacted]
THOMAS M. KEEFER [redacted]
LARRY E. KELLEY [redacted]
DAVID M. KELSEY [redacted]
OSCAR R. KELSICK [redacted]
CALVIN L. KELSO [redacted]
THEODORE J. KIMES [redacted]
JOHN S. KING II [redacted]
KARL W. KING [redacted]
WILLIE, KING, JR. [redacted]
WILLIAM K. KIVLAN [redacted]
BRUCE KUKICH, [redacted]
TODD L. LAKE [redacted]
DANE B. LAMBERT [redacted]
DANIEL J. LANGLAIS [redacted]
TOBY A. LAYMAN [redacted]
BRIAN R. LEE [redacted]
LEMUEL D. LEE [redacted]
MICHAEL J. LENT [redacted]
MICHAEL J. LISSY [redacted]
GRANT S. LITTLE [redacted]
GARY D. LOVE, [redacted]
MATTHEW V. LYDICK [redacted]
GERALD A. MACKE [redacted]
SUZETTE S. MAFFETT [redacted]
JOAN E. MALONE [redacted]
DANIEL K. MALONEY [redacted]
WILLIAM G. MANDERS, JR. [redacted]
GARLAND D. MANGUM [redacted]
JEFFREY L. MANIA [redacted]
RUDOLPH MASON [redacted]
GEORGE E. MASTER [redacted]
THOMAS R. MATHISON [redacted]
JIMMIE A. MCMATH, [redacted]
JAMES D. MCNEASE [redacted]
ALBERT R. MEDFORD [redacted]
EDWARD J. MESSMER [redacted]
JACK A. MIDGETT, JR. [redacted]
SHARON A. MIDKIFF [redacted]
KEVIN L. MILLER [redacted]
ROBERT L. MILLER [redacted]
PAUL F. MITCHELL [redacted]
DANIEL E. MONTGOMERY [redacted]
JAMES A. MORETZ [redacted]
KIRK T. MORFORD [redacted]
PAUL J. MORIN [redacted]
JESSE R. MOYE, IV [redacted]
KENNETH R. MULDER [redacted]
CHARLES G. MURPHY [redacted]
ROBERT A. MURRAY, JR. [redacted]
ROBERT L. MURRAY [redacted]
RICKEY D. NEVELS [redacted]
MARK C. NISBETT [redacted]
BRUCE L. NIX [redacted]
LENA R. NULL [redacted]
RAYMOND M. NUSZKIEWICZ [redacted]
DAVID A. OBRIEN [redacted]
TIMOTHY J. OBRIEN [redacted]
THOMAS D. OCCHIONERO [redacted]
PATRICK D. OSHAUGHNESSY [redacted]
ROBERT OUTLAW [redacted]
KARENLEIGH A. OVERMANN [redacted]
SILVERIO Q. PADUA, JR. [redacted]
CURTIS B. PAGE, JR. [redacted]
PETER P. PASCANIK [redacted]
MARQUIS A. PATTON [redacted]
RALPH G. PAYTON [redacted]
MARK C. PERSUTTI [redacted]
CHARLES M. PHILLIP [redacted]
PAUL D. PHILLIPS [redacted]
WILLIAM A. PITARD [redacted]
WILLIAM M. POLLITZ [redacted]
HUGH RANKIN [redacted]
THOMAS F. REBMAN [redacted]
LOWELL P. REDD, [redacted]
MICHAEL A. REID [redacted]
DAVID F. REISCHE [redacted]
THEODORE B. REYES [redacted]
EUGENE A. RHODES, JR. [redacted]
KEITH W. RHODES [redacted]
CHARLES M. ROWELL, [redacted]
KENNETH R. ROYALS [redacted]
JAMES R. RUSSELL [redacted]
JOHN E. RUSSELL [redacted]
JAMES P. SAUERS, JR. [redacted]
MATTHEW P. SCHAEFER [redacted]
CHARLES E. SCHUCK [redacted]
RANDALL L. SEAVY [redacted]
JEFFREY L. SHEETS [redacted]
JOHN K. SHELBURNE, [redacted]
JAIME V. SINGH [redacted]
DAVID F. SMITH, JR. [redacted]
JAMES C. SMITH, JR. [redacted]
KAREN E. SMITH, [redacted]
LINDA J. SMITH [redacted]
STEVEN F. SMITH, JR. [redacted]
WALTER F. SMITH, JR. [redacted]
GREGORY A. SPANGLER [redacted]
JACQUELINE V. STALLINGS [redacted]
DUANE T. STANFIELD [redacted]
DANIEL D. STARK [redacted]
ALAN B. STAUDE [redacted]
RICHARD P. STEVENSON [redacted]
WAYNE D. STONER [redacted]
PERRY W. SUTER [redacted]
KENNETH E. SWIGART [redacted]
ANTHONY H. TALBERT [redacted]
CHRISTOPHER P. TAYLOR [redacted]
THOMAS J. TAYLOR [redacted]
MICHAEL S. THOMPSON [redacted]
CORINTHIA E. THOMS [redacted]
DELLA F. TOPF [redacted]
CRISTY L. TREHARNE [redacted]
DENIS W. TREMBLAY, JR. [redacted]
ROGER A. TRUITT [redacted]
RICHARD A. TUCKER [redacted]
FREDERICK W. TURNER [redacted]
CRAIG W. TWIGG [redacted]
PETER C. VANKUREN, [redacted]
MICHAEL J. VANWIE [redacted]
JOHN S. VISOSKY [redacted]
JOHN B. VLIET [redacted]
JOHN R. WARGI [redacted]
JAMES C. WASHINGTON [redacted]
BRIAN C. WATSON [redacted]
ANTHONY D. WEBER [redacted]
WILLIAM D. WHELCHEL [redacted]
LARRY S. WHITE, [redacted]
LINWOOD, WHITERS [redacted]
CHARLESWORTH C. WILLIAMS [redacted]
ERIC M. WINANS [redacted]
BENNIE R. WOODS [redacted]
WILLIAM WOODS [redacted]
STEPHEN G. YOUNG [redacted]
CHRISTOPHER J. ZALLER [redacted]

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE SUPPLY CORPS AS LIMITED DUTY OFFICERS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, SUPPLY CORPS

To be lieutenant

ROBERT D. CLERY [redacted]
MARCIA T. COLEMAN [redacted]
LUIS D. DANCEL [redacted]
CHERYL L. FEARS [redacted]
JORGE GONZALEZ [redacted]
ROBERT L. GOODE [redacted]
CHARLES E. GREENERT [redacted]
FEDERICO G. NALOS [redacted]
KENNETH A. PIECZONKA [redacted]
GARFIELD M. SICARD [redacted]
EDWARD R. STORTI [redacted]
TOBY C. SWAIN [redacted]
JAMES WOOLFORD [redacted]

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE CIVIL ENGINEER CORPS AS LIMITED DUTY OFFICERS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, CIVIL ENGINEER CORPS

To be lieutenant

KURT R. BRATZLER [redacted]
JAMES N. COULTER [redacted]
DENNIS E. EDWARDS [redacted]
KIRK C. KELTON [redacted]
JOHN W. NEUHAUSER [redacted]
RICKY R. RODRIQUEZ [redacted]

THE FOLLOWING-NAMED TEMPORARY LIMITED DUTY OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT IN THE LAW PROGRAM AS LIMITED DUTY OFFICERS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589(A):

LIMITED DUTY OFFICERS, LAW PROGRAM

To be lieutenant

ROBERT E. CATTERTON, JR. [redacted]
EMMA TURNER [redacted]
ROBERT E. WILLIAMS [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate March 14, 1996:

DEPARTMENT OF THE TREASURY

JAMES E. JOHNSON, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NAVY

THE FOLLOWING-NAMED CAPTAIN IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS, THEREFORE, AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. JOHN B. PADGETT III [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG GEN. THOMAS R. CASE, [redacted]
BRIG GEN. DONALD G. COOK, [redacted]
BRIG GEN. CHARLES H. COOLIDGE, JR. [redacted]
BRIG GEN. JOHN R. DALLAGER [redacted]
BRIG GEN. RICHARD L. ENGEL [redacted]
BRIG GEN. MARVIN R. ESMOND [redacted]
BRIG GEN. BOBBY O. FLOYD [redacted]
BRIG GEN. ROBERT H. FOGLESONG [redacted]
BRIG GEN. JEFFREY R. GRIME [redacted]
BRIG GEN. JOHN W. HAWLEY [redacted]
BRIG GEN. MICHAEL V. HAYDEN [redacted]
BRIG GEN. WILLIAM T. HOBBINS [redacted]
BRIG GEN. JOHN D. HOPPER, JR. [redacted]
BRIG GEN. RYAMOND P. HUOT [redacted]
BRIG GEN. TIMOTHY A. KINNAN [redacted]
BRIG GEN. MICHAEL C. KOSTELNIK [redacted]
BRIG GEN. LANCE W. LORD [redacted]
BRIG GEN. RONALD C. MARCOTTE [redacted]
BRIG GEN. GREGORY S. MARTIN [redacted]
BRIG GEN. MICHAEL J. MCCARTHY [redacted]
BRIG GEN. JOHN F. MILLER, JR. [redacted]
BRIG. GEN. CHARLES H. PEREZ [redacted]
BRIG. GEN. STEPHEN B. PLUMMER, [redacted]
BRIG. GEN. DAVID A. SAWYER [redacted]
BRIG. GEN. TERRYL J. SCHWALIER [redacted]
BRIG. GEN. GEORGE T. STRINGER [redacted]
BRIG. GEN. GARY A. VOELLGER [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 8373, 8374, 12201, AND 12212:

To be major general

BRIG. GEN. JAMES F. BROWN [redacted]
BRIG. GEN. JAMES MCINTOSH [redacted]

To be brigadier general

COL. GARY A. BREWINGTON [redacted]
COL. WILLIAM L. FLESHMAN [redacted]
COL. ALLEN H. HENDERSON [redacted]
COL. JOHN E. IFFLAND [redacted]
COL. DENNIS J. KERKMAN [redacted]
COL. STEPHEN M. KOPER [redacted]
COL. ANTHONY L. LIGUORI [redacted]
COL. KENNETH W. MAHON [redacted]
COL. WILLIAM H. PHILLIPS [redacted]
COL. JERRY H. RISHER [redacted]
COL. WILLIAM J. SHONDEL [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. BRIAN A. ARNOLD, [redacted]
COL. JOHN R. BAKER [redacted]
COL. RICHARD T. BANHOLZER, [redacted]
COL. JOHN L. BARRY, [redacted]
COL. JOHN D. BECKER [redacted]
COL. ROBERT F. BEHLER [redacted]
COL. SCOTT C. BERGREN [redacted]
COL. PAUL L. BIELOWICZ, [redacted]
COL. FRANKLIN J. BLAISDELL [redacted]
COL. JOHN S. BOONE [redacted]
COL. CLAYTON G. BRIDGES [redacted]
COL. JOHN W. BROOKS [redacted]
COL. WALTER E.L. BUCHANAN, III [redacted]
COL. CARROL H. CHANDLER, [redacted]
COL. JOHN L. CLAY, [redacted]
COL. RICHARD A. COLEMAN, JR. [redacted]
COL. PAUL R. DORDAL [redacted]
COL. MICHAEL M. DUNN [redacted]
COL. THOMAS F. GIOCONDA [redacted]
COL. THOMAS B. GOSLIN, JR. [redacted]
COL. JACK R. HOLBEIN, JR. [redacted]
COL. JOHN G. JERNIGAN [redacted]

COL. CHARLES L. JOHNSON I [redacted]
COL. LAWRENCE D. JOHNSTON [redacted]
COL. DENNIS R. LARSEN [redacted]
COL. THEODORE W. LAY II [redacted]
COL. FRED P. LEWIS [redacted]
COL. STEPHEN R. LORENZ [redacted]
COL. MAURICE L. MC FANN, JR. [redacted]
COL. JOHN W. MEINCKE [redacted]
COL. HOWARD J. MITCHELL [redacted]
COL. WILLIAM A. MOORMAN [redacted]
COL. TEED M. MOSELEY [redacted]
COL. ROBERT M. MURDOCK [redacted]
COL. MICHAEL C. MUSHALA [redacted]
COL. DAVID A. NAGY [redacted]
COL. WILBERT D. PEARSON, JR. [redacted]
COL. TIMOTHY A. PEEPE [redacted]
COL. CRAIG P. RASMUSSEN [redacted]
COL. JOHN F. REGNI [redacted]
COL. VICTOR E. RENUART, JR. [redacted]
COL. RICHARD V. REYNOLDS [redacted]
COL. EARNEST O. ROBBINS, II [redacted]
COL. STEVEN A. ROSER [redacted]
COL. MARY L. SAUNDERS [redacted]
COL. GLEN D. SHAFFER [redacted]
COL. JAMES N. SOLIGAN [redacted]
COL. BILLY K. STEWART [redacted]
COL. FRANCIS X. TAYLOR [redacted]
COL. RODNEY W. WOOD [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD C. BETHUREM [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. RICHARD E. HAWLEY, [redacted] UNITED STATES AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be brigadier general

COL. JOSEPH W. ARBUCKLE [redacted]
COL. BARRY D. BATES [redacted]
COL. WILLIAM G. BOYKIN [redacted]
COL. CHARLES M. BURKE [redacted]
COL. CHARLES C. CAMPBELL [redacted]
COL. JAMES L. CAMPBELL [redacted]
COL. JOSEPH R. CAPKA [redacted]
COL. GEORGE W. CASEY, JR. [redacted]
COL. JOHN T. CASEY [redacted]
COL. DEAN W. CASH [redacted]
COL. DENNIS D. CAVIN [redacted]
COL. ROBERT F. DEES [redacted]
COL. LARRY J. DODGEN [redacted]
COL. JOHN C. DOESBURG [redacted]
COL. JAMES E. DONALD [redacted]
COL. DAVID W. FOLEY [redacted]
COL. HARRY D. GATANAS [redacted]
COL. ROBERT A. HARDING [redacted]
COL. RODERICK J. ISLER [redacted]
COL. DENNIS K. JACKSON [redacted]
COL. ALAN D. JOHNSON [redacted]
COL. ANTHONY R. JONES [redacted]
COL. WILLIAM J. LENNOX, JR. [redacted]
COL. JAMES J. LOVELACE, JR. [redacted]
COL. JERRY W. MC ELWEE [redacted]
COL. DAVID D. MC KIERNAN [redacted]
COL. CLAYTON E. MELTON [redacted]
COL. WILLIE B. NANCE, JR. [redacted]
COL. ROBERT W. NOONAN, JR. [redacted]
COL. KENNETH L. PRIVRATSKY [redacted]
COL. HAWTHORNE L. PROCTOR [redacted]
COL. RALPH R. RIPLEY [redacted]
COL. EARL M. SIMMS [redacted]
COL. ZANNIE O. SMITH [redacted]
COL. ROBERT L. VAN ANTWERP [redacted]
COL. HANS A. VAN WINKLE [redacted]
COL. ROBERT A. WAGNER [redacted]
COL. DANIEL R. ZANINI [redacted]

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICER FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTIONS 3385, 3392 AND 12203(A):

To be major general

BRIG. GEN. STANHOPE S. SPEARS [redacted]

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS IN THE LINE OF U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. WILLIAM WILSON PICKAVANCE, JR. [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. GEORGE RICHARD YOUNT [redacted]

EXTENSIONS OF REMARKS

WHAT IT MEANS TO ME TO LIVE IN AMERICA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. HORN. Mr. Speaker, amidst the current congressional debate over the U.S. immigration policies, it is very important to remember why so many people from around the world want to live in our country. My father was such an immigrant who came from his native Germany to the United States.

Recently, I was reminded of my father's reasons for immigrating when I attended the awards ceremony given to honor the winners of the Sertoma Club of Long Beach, California's Fifth Annual Heritage Month Essay Contest. The essay contest topic was "What It Means to Me To Live in America." The winners—all young people from Long Beach and Lakewood, CA—represent the many faces of America. Some are recent immigrants; others, native born. But all write words that are a moving tribute to the fundamental spirit of our Nation—the right to be free, the opportunity to build a better life, and the chance to follow one's dreams.

As the immigration debate continues, Congress would do well to remember the insightful words of these young people. They speak directly to the heart of what makes our Nation great.

WHAT IT MEANS TO ME TO LIVE IN AMERICA

(By Lauren Struve)

We often take for granted all the privileges that come with living in a country where human rights are protected and enforced. Little does the average American take time to think about those who aren't as lucky as we are. Those who are told exactly what to say, do, and even think.

In America we are given the freedom of speech, which is a freedom like no other. This allows one to express his or her true opinions through written, verbal, or visual pieces, which some unfortunate people in other countries will never have the opportunity to experience.

Just thinking about how different life would be if we were unable to choose what was in store for us is unimaginable. In America we are able to lead or own lives and create a future for ourselves. We make crucial, sometimes life-changing, decisions every day and always have the opportunity to change our minds or fix our mistakes.

I truly believe that if people would take the time to appreciate their country and all that it offers them, things would be different. Perhaps people would be a little more sympathetic to those who are not blessed with these remarkable rights.

AMERICA'S A FREE COUNTRY

(By Kim Du)

"We come to America for freedom. We want you childrens to have a good education and a better future." This is what my dad often tells us kids.

I think that America is a beautiful country. A land where people from all over the world bring their hope and dreams to build a better life. A place where they don't know what's awaiting for them but still wanted to come and start all over again.

They wanted to come to a place where everybody is equal. A land where they have the right to choose their own religion. A land where they can take part in the government and together they decide what they wanted for their nation. A place where everything is possible if you try hard enough and a land where you can made your dream come true.

AMERICA

(By Michael D. Ghali)

America . . . the land among the many, but clearly standing above them all! America . . . the land of the fifty states bonding together to form a union. When I think of America, I think of the freedom and especially the freedom of speech.

The first freedom of speech is voting which is one person's voice in the world of politics. One person's voice standing up when elections come around. Whether a person is voting for president or the mayor of a city, voting is a big part of being an American.

Other important parts of freedom of speech include the right to form interest groups. This is important because it lets you stand up for what you believe. This again lets a person speak his or her voice and be heard by others. One group which comes to mind is the Sierra Club. That club is an environmental group who fights to save endangered species and keep the earth clean.

The last but not least important (to me) is the right to attend congress meetings which is part of participatory democracy. This lets a person know what is happening in the world around them and does not leave them out of the system. This keeps people on track and caring about the world around them.

In conclusion, I say America is a loving country with many rights I could not live without. God Bless you America.

WHAT IT MEANS TO ME TO LIVE IN AMERICA

(By Cyril Balanque)

To me, living in America is a privilege. Its filled with many diverse people from different cultures. Everyday I learn something new because of all the people around me, especially at school. To live in America means freedom. Our forefathers worked hard to win this land and I think we should appreciate it.

Many advantages are gained by living here. We have the right for religious freedom. We can worship whomever we wish. Living in America brings more rights than other countries. For example, the right for life, liberty, and the pursuit of happiness. In some other countries people are still slaves working in factories. Here, in America, we are free, but we have some limitations accompanying it.

Living in America means responsibility. We're free but if we don't obey by the rules it could be total chaos. We have rights for certain things, not everything. The Constitution gives us things we can do but laws gives us guidelines on how to abide them.

Altogether, to me, America means hard work. Mostly everybody in the United States work. At home and at school too. People worked really hard to establish America. Since then, people have improved the way we live. America has really come a long way.

WHAT IT MEANS TO ME TO LIVE IN AMERICA

(By Acquin Time)

To live in America, it means freedom, peace, and rejoiceful times to every person in this world that we have. Freedom means a person who is not under a person's control and who has their own rights

Freedom is like a freshly white dove soaring through the sky, searching for what is right. This is what freedom means to me and how it feels, and what it means to live in America.

Living in America brings joy and tears to those who's heart has been aching for so long to get to America. To them, it gives them peace because they have been aching to get here because, they been going through hard times and been suffering from all the hatred and the unpeaceful world around them. America gives us the right to testify and stand up for what you believe. You have all those rights. America is a loving and a caring country. It supports you when you need their help most.

I believe that America is the best country you could live in because there is no racism going around like other countries today. Students of every race gets to go school together and learn. Some kids of every other five races gets along together.

America is not only a country who supports you, allow you to vote, it gives you the power to stand up for your rights.

Long time ago, a man named Martin Luther King Jr. said, "I have a dream." Yes, I do have a dream. My dream is that one day every one in this whole world would someday be free.

Free is a word that brings peace to every person in this world's heart. As for me, it did. I was one of those who didn't have freedom. Everything was so strict, but now I have that chance and I took it. I'm very glad that I look it.

So this is what America means to me, "Freedom." I once was a bird who's been searching and soaring through the sky, looking for a place where they'd accept me for what and who I am. I found that place. That place is America.

WHAT IT IS LIKE TO LIVE IN AMERICA

(By Allegra Ban)

I am a young woman of Croatian descent. My father was born in Russia, his father in Yugoslavia. I will never know what it is like to be native to these places, yet from family stories I have heard, I can imagine.

My grandfather, Papa as we call him, came to America in search of the "promise" land. To him America was the place he could be what he wished, not what his father was and his father's father. An Ironworker.

I think the true moment of freedom came in the new country when my grandfather

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

watched his oldest son, my father, graduate from University High.

Then Berkeley.

Then M.I.T.

My grandfather sits silently some nights, staring out over the calm of what he calls his own. Looking closely, you can still see Russia in his eyes. From this, I know how lucky I am to live and be of this country. By leaving Russia, my papa gave my father the chance to be something other than an Ironworker. He gave me more opportunities than I can imagine. For this I am thankful. This is what makes me American.

The Ironworks shop where Howard Ban was apprenticed was destroyed in early 1990 by Serbian revolutionaries.

WHAT IT MEANS TO LIVE IN AMERICA

(By Alexander J. Negvesky)

America was founded on the beliefs of equality and freedom from tyranny. Together, they form the basic idea of America, and are our inalienable rights. I have never thought of America as a country, but more of as a union of all the people within the boundaries of the United States. I have seen the news reports about other countries fighting for their freedom. The countries seem the be controlled by dictators. People shouldn't have to fight for their freedom. It is a right they should have to begin with. We have many freedoms; freedom of speech, religion, choice, and the press are the most important of our freedoms. I am happy to live in America and to be an American. I enjoy exercising my rights. If they were taken away from me, I would fight to get them back. Freedom is part of America, and I hope it always will be.

LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS

(By Fred Ngo)

Through mountains and hills has America over to get to its greatest achievement, a nation full of equity and freedom. This achievement stated in the Constitution for all to see, follow, and know that America is the people and can't survive without the people.

The Constitution is a wonder. How could a little group of people work together to form the blueprints for an entire government? Powers of the people, rules of the government, everything was included. It all starts out with "We the people of the United States of America . . ." These powerful words represent all people of the U.S. "In order to form a more perfect union. . . ." meaning all work together to operate the government. One line in the Declaration of Independence is also important. "That they are endowed by their Creator certain unalienable rights that among these are life, liberty, and the pursuit of happiness." The 3 guaranteed rights of the people and the goal of every government. They are the rights all should have. Is America a place of freedom? Yes, it is. How? Because here, you have life: a chance to live, you have liberty: to be free and independent, you have a chance at happiness.

TRIBUTE TO STAGECRAFTERS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. LEVIN. Mr. Speaker, as the Stagecrafters present their 40th anniversary season, I rise today to recognize the important role that this community theater has played in the lives of citizens of Royal Oak and theater lovers throughout southeastern Michigan.

What began in the summer of 1956 with a production of Noel Coward's "Blithe Spirit," presented in a garage in Clawson, has evolved into a large family of 250 volunteers, 2,400 season ticketholders, 21,000 main stage audience members in their own house, and a reputation as one of the finest community theater groups in Michigan.

Each year Stagecrafters presents a full season of drama and musical theater. In the late 1970's Stagecrafters added the popular youth theater group for ages 12 to 18, and studio productions of nonbox office shows performed during the summer.

In 1984, recognizing the need for an adequate space for both production and audience accommodation, the search began in earnest for a permanent home. The city of Royal Oak offered to help Stagecrafters purchase the historic, decaying Washington Theater. With help from the Royal Oak Downtown Development Authority and the National Bank of Royal Oak this volunteer community theater group undertook the purchase and restoration of this recognized landmark. The Baldwin Theater reopened in 1985, one of the oldest theaters left in existence in southeast Michigan and the only historic theater in operation in Oakland County, a jewel in the city's crown.

Through this effort, Stagecrafters has, indeed, played a vital role in the redevelopment of downtown Royal Oak for more than a decade.

Today the Baldwin Theater balcony has been added as an active second stage with its own following. The youth theater group continues to be one of the best in the State and has hosted two international community theater competitions; a sister-theater relationship has been developed with St. Albans in England. The theater features an infrared assistive listening system for the hearing impaired, and the Wurlitzer Theater Pipe Organ has been restored—the only theater organ in an open-to-the-public space in Oakland County. A capital campaign is under-way now to improve the exterior of the Baldwin Theater and install a replica of the original marquee.

In this 40th anniversary season, Stagecrafters' ability to restore the Baldwin Theater building through volunteer efforts, and to consistently provide high quality dramatic entertainment at affordable prices, makes Stagecrafters unique among community theater groups in the United States.

NATIONAL PEOPLE'S ACTION DAY

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. RUSH. Mr. Speaker, the National People's Action is a national network of more than 300 community organizations from 38 States across the country. The National People's Action is made up of thousands of members in many different organizations that work together to resolve neighborhood problems at local and national levels.

The enactment of the Home Mortgage Disclosure Act which protects urban areas and minorities from loan discrimination, and providing technical assistance to community groups which directly led to over $25 billion in Community Reinvestment Act lending agreements are a few of the numerous major accomplishments of the National People's Action.

Mr. Speaker, Saturday, April 27 to Monday, April 29, 1996 National People's Action holds its 25th national neighborhoods conference. In recognition of this organizations dedication and commitment to community service let it be known that Monday, April 29, 1996 and each April 29, thereafter, shall be known as "National People's Action Day".

CONGRATULATIONS SHELBYVILLE HIGH BASKETBALL TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. POSHARD. Mr. Speaker, I rise today to congratulate the Shelbyville High School basketball team on their championship season. For the past 2 years, Shelbyville has proven themselves a force to be reckoned with on the hardwoods of central Illinois. It is only fitting that, having been ranked No. 1 for most of the season, the Rams became the first State champion team to win the title in Peoria's Carver Arena.

After making the trip to the "Elite Eight" before falling in 1995, the virtually unchanged Rams roster came back in 1996 determined and prepared to achieve their goal of proving they truly were No. 1. This year's Rams team compiled an all-time record high in the school's history, finishing the season 34–1, and bringing the State championship trophy home to Shelbyville for the first time ever. In addition, they have the added distinction of having the best 2-year won-loss record in the State of Illinois for the 1995–96 combined seasons.

Blending their abilities for this No. 1 team were: Kevin Herdes, Todd Wilderman, Mike Steers, Roger Jones, Rich Beyers, Ben Short, Dirk Herdes, Aaron Rohdemann, Tim Hardy, Harlan Kennell, Jim Brix, and Ryan Shambo. This talented bunch of players were led by first-class coach Sean Taylor and his assistant coaches, Bob Herdes and Jarrett Brown. They are the perfect example of what teamwork is all about and should all be proud of their contribution toward this winning effort. Lending their support and leading the community in Ram Fever Spirit were cheerleaders Jennifer L. Banning, Rachel Bitzer, Catherine Eberspacher, Angie Gregg, Brooke Peifer, Malea Price, Monica Nohren, Shauna Galvin, Leslie Kirksey, Brooke White, Jennifer S. Banning, Kelly Hoene, Carrie Skinner, Destany Lucas, Rebecca White; sponsors Dixie Burrell and Lisa Alberson; Ram mascot Dan Kiley; and team managers George Bolinger and John Evans.

I am honored to represent Shelbyville in Congress; and it is with great pleasure that I pay tribute to these excellent students, who won not only with talent, but by displaying the intangible qualities that define a champion: discipline, esprit de corps, and grace under pressure. I wish them equal success in their future endeavors.

COMMENDING DOCTORS RUSS, RUSSANO, AND SHERMAN

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. MARTINI. Mr. Speaker, true happiness dwells in activity, both physical and spiritual. Joy, pleasure, satisfaction, delight, all the elements of true happiness, reside in doing the right things well. For a select few, the right thing to do is to serve a community in distress.

Despite the myriad problems that plague many of New Jersey's major cities, the dentists of the Downtown Dental Center have stubbornly clung to their inner city practice for the past 25 years. I applaud Doctors Leo Russ, Robert Russano, and Stephen Sherman for their collective sense of loyalty to the people of Paterson, NJ as well as their unwavering perseverance to do a job well. These men invest in their community, flourish in their practice, and help others to live better, healthier lives.

Benjamin Franklin made the exultation to "work while it is called today, for you know not how much you may be hindered tomorrow. One today is worth two tomorrows; never leave that till tomorrow which you can do today." The doctors of Downtown Dental take this truism to heart. They see more than 200 patients a day with no required appointment 6 days a week. With this miraculous resolve and constancy, the doctors of Downtown Dental perform a genuinely needed service to the people of Paterson. Indeed, Leo Russ, Robert Russano, and Stephen Sherman have never waited for someone else to do the job.

Life's greatest joys are found in what one does with one's life. And, Doctors Russ, Russano, and Sherman should be admired for the great work they are doing with their lives. With Downtown Dental, the character of the work has become inseparable from the character of the men doing the work. Their loyalty to the people of Paterson endures every assault and it does not cringe under pressure.

I congratulate the doctors of the Downtown Dental Center as they challenge all of us to take up the task of helping others. Those who have missed the joy of working on behalf of others have certainly missed something very special. Thank you Doctors Russ, Russano, and Sherman for your true, honest, and willing labor.

NATIONAL MARINE SANCTUARIES RENEWAL ACT OF 1996

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. FARR. Mr. Speaker, I am extremely happy today to be able to join a bipartisan coalition of marine sanctuary supporters in introducing the National Marine Sanctuaries Renewal Act of 1996. This bill will reauthorize funding for the National Marine Sanctuary Program which is set to expire on September 30, 1996.

The country's 13 marine sanctuaries are the national parks of our oceans. They celebrate and preserve some of the Nation's most significant ocean resources. Like our national parks, our marine sanctuaries focus out attention on how important sound environmental stewardship is to our quality of life and the sustainability of our economies.

The National Marine Sanctuary Program began modestly in 1975 off North Carolina's stunningly beautiful outer banks to protect the Civil War wreck of the world's first iron ship, the U.S.S. *Monitor*. The program expanded several years later to protect sensitive marine resources off the California and Florida coasts. The program reached its full maturity in the fall of 1992 with the designation of the Monterey Bay National Marine Sanctuary.

The Monterey Bay National Marine Sanctuary embraces the entire coast of my central California coastal district. It is the largest protected marine area in the United States and second only to Australia's Great Barrier Reef in size worldwide. It encompasses more than 4,000 square nautical miles of open ocean along 350 miles of shoreline. It is unique among all marine preserves in being so accessible from shore. Most of my constituents don't pass a day without seeing sanctuary waters and are grateful that the sanctuary has protected their coast from offshore oil development.

However, marine sanctuaries are not just about conserving resources. They are also about protecting coastal economies. The Monterey Bay Sanctuary is a key to my district's billion dollar tourism industry. Indeed, one of this Nation's premiere tourist attractions, the Monterey Bay Aquarium, is a thriving private business that showcases the extraordinary marine life of the Monterey Bay Sanctuary. The sanctuary also helps support a prosperous fish industry.

All of this comes at a very modest cost. The entire sanctuary program costs less than $12 million a year to administer. It is truly a bargain for the taxpayers. But, like all government programs, the sanctuaries need to make the most of their funding. This bill helps them accomplish that by allowing the sanctuaries to develop, trademark, and market logos and other merchandise to help supplement their funding.

I urge support of the bill.

LOCKHEED-MARTIN CHAIRMAN DANIEL TELLEP RECEIVES 1996 JAMES FORRESTAL MEMORIAL AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. MONTGOMERY. Mr. Speaker, I want to take this opportunity to congratulate Daniel M. Tellep, chairman of the board of Lockheed-Martin, who was honored this week with the 1996 James Forrestal Memorial Award. The 1996 annual awards dinner was cohosted by the National Security Industrial Association [NSIA] and the American Defense Preparedness Association. This year, the NSIA presented its Forrestal Award at the dinner held here in Washington.

I wanted to share with my colleagues the remarks Mr. Tellep made in accepting this prestigious award.

SHALL WE WAIT AND SEE?

(Forrestal Award Acceptance Speech)

I thank you from the bottom of my heart for this most special award.

I feel honored . . . humbled . . . and deeply appreciative;

Honored when I think of the names of others to whom you've conferred this award and

Humbled to join their ranks. I'm

Appreciative because this award also reflects the shining achievements of the men and women I work with.

James Forrestal himself also provides excellent perspective on an occasion like this.

He once said in reference to himself:

"You can't make a hero out of a man in a business suit. I'm just a businessman trying to do a job and that's the whole story."

That's also my whole story. I, too, am just a businessman and it has been my privilege for the past 41 years trying to do a job in the aerospace and defense industry in support of our military services.

As a businessman, I returned last night from an eleven-day trip to the mid-east. . .

A volatile, vitally important region.

The trip was a kaleidoscope of countries, cultures, cuisines, people, and events.

During the trip I also tried to stay abreast of the news in this country. The Republican primaries, for example.

Flying home and thinking ahead to my remarks this evening I thought: "How can I make something coherent and relevant out of over two dozen meetings in that complex, turbulent region?" Looking back, there was a common thread to the discussions in each of the countries. Invariably, we discussed three topics:

Economics . . . peace . . . and . . . military preparedness.

What I found was consistent, clear logic on these topics. In each country, their philosophy was basically the same. They said this:

First . . . we desire economic growth and development . . . but that depends on peace and political stability.

Second, peace and political stability depend as much on military preparedness as diplomacy.

Third, military preparedness deserves high priority because it is inextricably linked to national political and economic goals.

As I listened to these recurring themes, I felt that there were great similarities to attitudes in this country on the desire for economic growth and peace.

But there is also a difference here at home on the priority to accord military preparedness . . . compared to what I found abroad.

In our country we continue to search for a fresh national security policy.

And we debate the proper level of defense expenditures.

Lately, however, these issues appear secondary to the presidential campaign.

This is Super Tuesday and along the way, we've witnessed the ups and downs and then the shakeout of the Republican candidates. As we did, it struck me that something vital was missing from the debates and the news coverage;

Something beyond a flat tax, the deficit, immigration, abortion and trade policy.

What has been missing is any serious discussions of the candidates' views on defense and national security.

This morning's Washington Post, for example, has 115 column inches of space devoted to the election but not one mention of defense.

This diffuse, lower key focus on defense here in the U.S. is strikingly different than what I encountered on my trip.

Abroad, defense is seen as a guarantor for economic health. Here, defense is often seen as a source of budget to be tapped for other purposes.

This is disconcerting since we are about to elect not just our president . . . but also our Commander-in-Chief.

Defense should be a front-burner topic but it isn't and it is a profound reflection of our times.

The fact that defense isn't very high on the political or national agenda is easy to explain.

With the collapse of Communism and the end of the Cold War, we are having difficulties in seeing threats to our national interests.

For a moment, think back to the Cold War.

Volumes of policy statements could be conveniently distilled into two galvanizing words . . .

These two words telegraphically described a single grave threat, provided continuity of support for a national policy . . . and underpinned our national will.

Those words were, of course, Contain Communism.

Today we lack those two or three words which serve as shorthand for a broadly supported . . . focussed national security program.

It's not "be prepared" and it's not "dial 911 U.S.A."

What it is, is still emerging.

I assert that peacekeeping and nation building aren't it either, because although our military forces can and do perform such missions under special circumstances, this is not what we are trained for and not something which justifies current levels of defense expenditures.

Does our inability to provide a succinct phrase to describe threats to our national interests mean there aren't any? Hardly.

I'll return to this in a moment, but first let's review the course we've been on for the past seven years.

Basically, we've downsized and we've continued to conduct studies to help define our force structure.

I don't have to remind you of the downsizing.

The defense budget is down by some 40 percent in constant dollars since its peak in the late 1980's.

The procurement account is down 72 percent in real purchasing power for $138 billion in 1985 to $39 billion in the fiscal year 1997 request.

Our force structure—including Army divisions, warships, carriers, and fighter squadrons—has already been reduced by at least one-third in just over six years. And more cuts are on the way.

In contrast to other areas of the budget where cuts are in the context of reducing the rate of growth, these are deep, real reductions.

I also think that the comportment of the military services and our industry during this massive downsizing has been remarkable. To their credit, the services "saluted" and the industry "got with it."

The question is, "when have you gone too far in downsizing and when do you stop?"

Here are a couple of perspectives worth considering. History shows that five times in this century America's military forces have fought major wars. Following each of the previous four, filled with the promise of peace, America proceeded to dismantle its military capability . . . only to be disappointed to find itself once again engaged in war a few years later.

New York Times columnist, A.M. Rosenthal, recently observed, "the deep reductions in the armed forces . . . could turn out to be the essence of wisdom. It could also turn out to be the greatest misjudgment since the U.S. disarmed itself after World War II knowing that Stalin would not be stupid enough to bother us."

To answer the question on how deep the downsizing should be, we have a penchant for analysis and modelling.

We do bottom up reviews and define MRC's . . . Major Regional Conflicts.

It is almost as if we hope that somewhere in the computer we can find the answer.

Now, I'm not against modelling or computer studies . . .

But it is not a substitute for something more basic—the sort of deep inner conviction President Reagan felt when he launched the Strategic Defense Initiative.

That brings us back to the issue of the threat.

Frankly, I don't think we—the collective "we"—have done a good job in conveying to the American public the worldwide spectrum of threats to our national security and economic interests.

But all it takes is newspapers, a map and a compass.

The public press is a rich source of information on the military activities and postures of nations worldwide. The headlines hardly suggest a peaceful world and an era of tranquility.

We know for example, that the Mediterranean is a virtual stew of over 80 submarines from as many as 12 nations.

We know that over 20 countries are building ballistic missiles . . . and China is flexing its muscles with them in the Taiwan Straits. We know that there are at least a half dozen nuclear "wannabees" in addition to the eight countries that already possess nuclear weapons.

We know that modern high technology weapons are available worldwide.

For example more than 400 MiG 29's—the equivalent of our front-line fighters—are in the service of 22 foreign countries.

We know that Russia recently sold four modern diesel submarines to Iran.

In a sense, the soviet arms threat is still there * * * it's just more geographically distributed.

This list goes to include terrorism which can be the spark for a major conflict in a region where we have vital interests.

All this and more just from the public press.

If newspaper reports don't fully convey the picture of a world laced with threats, a map and a compass help.

Take a compass, a world globe, and strike arcs of 500 or 1,000 or 1,500 miles from countries possessing ballistic missiles to countries which could be the intended targets. It soon becomes apparent that much of the world falls under the sinister umbrella of potential missile attacks.

The threat also extends to the men and women from our services stationed in countries of threatened allies—as they were in the Gulf War.

We saw in Desert Storm that the single event which caused the greatest casualties among U.S. troops, was when a Scud impacted barracks housing our soldiers.

Do we need any more analyses to tell us that we need upgraded missile defenses to protect our troops and our allies now and not five or more years from now?

In discussing the pervasive nature of threats—a situation in many ways much worse than when we faced the monolithic Soviet threat—I'm reminded of another conversation during my mid-east trip.

A high ranking defense official explained his views this way:

Despite a situation which you and I would call reasonably clear, he said:

"We don't really know what the threat will be and when it will occur. Intelligence has failed us." He want on to say:

"We don't try to react to a narrowly defined threat, instead we look at the size and balance of the forces we want.

We use the most advanced technology because it gives us the qualitative edge.

When we have a qualitative edge, we don't coast. We try to add to it. This saves lives.

If we don't use our forces, we've succeeded through deterrence.

Besides, it's always good insurance, something we must have.

This clear view makes sense for us as well.

Now, despite the frustrations I've expressed and which many of you must share, I believe there is room for optimism.

Optimism that we may be on the threshold of arresting, if not reversing the protracted decline in defense budgets * * * and the downsizing and force reductions.

I point to recent remarks by two highly respected defense leaders—our Secretary of Defense, Bill Perry, and the Head of the Joint Chiefs of Staff, Admiral Bill Owens.

Recently Bill Perry took an unequivocal public stand that the basic strategic underpinnings of the administration—the ability to fight two full-scale theater conflicts at once—isn't possible without increasing the defense procurement budget over the next five years to somewhere in the range of $50–60 billion per year from today's level of $39 billion.

Admiral Owens' remarks echo those of Secretary Perry's. He also rejected the thought of further cuts in combat forces and focussed on reducing fixed costs to improve the tooth-to-tail ratio of our forces.

In addition to Perry, Owens and other military leaders, there is also a substantial block is Congress who believe it is time to halt the decline in defense.

But I'm not sure it will happen unless we can help the American public understand the basics which are so obvious to us:

That we are in an era of "come-as-you-are" wars.

That the equipment which performed so well in the Gulf War was the technology of the 60's * * * the development of the 70's * * * the production of the 80's.

That this equipment won't do for the year 2010 and that the real debate is over the capability we want our military forces to have past the turn of the century.

That defense is different than fast foods—you can't just order it and get it because lead times are measured in years, and the systems for the year 2010 should be in development today.

That relations among nations rise and fall on a much shorter time scale than that required to equip and train an armed force.

That it is unacceptable to fight wars of parity—in effect winning by one point in double overtime. The fact that the last person left standing on the battlefield is an American does not constitute victory.

That because of our high regard for the lives of our men and women in service, we need sustained investments in advanced technologies to minimize casualties when conflict is unavoidable.

That we should not let the fact that the bright incandescent light of the Soviet threat has gone dim blind us to dozens of glowing embers which can ignite anywhere at any time.

I believe that the American public will accept these basics and that even in the face of other pressing issues, they will support a strong defense.

I also believe they do not want to disregard the lessons of history and have us make the grave error of undermining America's military capability—leaving it to future generations to pay the price not in dollars but in lives. . .

The columnist I referred to earlier also asked a profound question in connection with the observation that an enormous chemical weapons plant is nearing completion in Libya.

He observed that conventional wisdom is that Quadafi would never be mad enough to use these weapons against the west or our allies in the mid-east.

Mr. Rosenthal then simply asked the rhetorical question, "He would not be mad enough to do that . . . would he? "Shall we wait and see?"

Whether it is Libya's chemical weapons or any one of dozens of potential threats to our national interests . . . shall we wait and see?

I'm on the side of Bill Perry, Admiral Owens, our service leaders, and those in Congress who say, no.

. . . That it is time to arrest and reverse the decline in defense . . . rather than wait and see.

I also believe that the time is now...in the fiscal year 1997 budget, rather than in future years.

Looking ahead there are several immediate things we can and must do:

First, we must make a better case to the American public on the global nature of threats and our current defense posture. On this note a recent poll shows that two-thirds of the American public believe that we are now protected by a ballistic missile system—despite the fact that no such system exists.

Second, we must take steps to see that defense becomes an issue in the current election cycle, with a focus on Fiscal Year 1997 defense budget.

Third, we must reestablish the firewalls around the defense budget so that it does not become a checkbook for the rest of the federal budget.

Fourth, we must continue to spend each dollar for defense more efficiently by continuing the DOD's excellent start on acquisition reform and by improving the tooth-to-tail ratio of our armed forces by shedding ourselves of excess depot capacity.

We can do this and arrest the protracted decline or we can wait and see.

Again . . . Forrestal's words ring true.

Advising President Truman in 1945 when Stalin began breaking the agreements reached at Yalta, Forrestal said:

"We might as well meet the issue now as later on."

For us, some fifty years later, we might as well meet the issue in our next cycle of defense budgets and not wait and see.

TRIBUTE TO HORACE RAYMOND GEORGE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, it is with sadness that I pay tribute to the memory of a remarkable man from the city of Milwaukee, Horace Raymond George. I would like to extend my greatest sympathy to the George family by taking a moment to reflect on the rich life of this fine family man.

Mr. George was born in Chicago and raised in Louisiana. As a youth, he loved to play basketball which he matched with an even greater appetite for reading. Mr. George found employment at a local drugstore where he had access to scores of newspapers to satisfy his hunger for knowledge. He came to Wisconsin to study economics at the University of Wisconsin-Madison where he also attended law school, earning his degree in 1950. After serving as a judge advocate during the Korean war, he settled in Milwaukee with his wife Audrey.

Determined to establish his own law practice, Mr. George worked nights for the American Motor Co. while using his days to get the practice up and running. A skilled and diligent attorney, he also worked as a field attorney for the Department of Veterans Affairs, was a lecturer at Wisconsin Law School, and was a member of the Wisconsin, Illinois, Texas, and District of Columbia bars. Mr. George was admitted to practice before the U.S. Supreme Court. In 1984, Wisconsin Law School honored Mr. George for his outstanding commitment and dedication to the legal profession, awarding him their special recognition award.

In addition to his professional endeavors, Mr. George will long be remembered for his selfless work on behalf of our community. He was active in the Knights of Columbus and the St. Thomas Moor Legal Society. Mr. George also served on the boards of St. Anthony's Hospital and the Wisconsin Center. He will also be long remembered for his vivid interest in Egyptian and African art, history, and culture.

Mr. George is survived by his beloved wife Audrey, his son Gary, a State senator and former classmate and colleague of mine from Milwaukee, his sons Mark, Michael, Gregory, and his daughter Janice. Indeed, this is a loss that will be felt throughout Milwaukee and the entire State of Wisconsin, for Horace Raymond George touched the lives of many during his rich 71 years.

I ask my colleagues to join me in remembering the honorable and gracious memory of Horace Raymond George. I am certain that his legacy will endure for years to come.

NEIL SMITH, KANSAS CITY CHIEFS HONORED

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Ms. MCCARTHY. Mr. Speaker, I rise today to pay tribute to one of NFL's finest defensive players and one of Kansas City's finest citizens, Neil Smith of the Kansas City Chiefs. Mr. Smith is in Washington today to accept a prestigious award from the U.S. Junior Chamber of Commerce [JAYCEES] which has selected Neil Smith as a member of the Congress of Ten Outstanding Young Americans.

Neil Smith spent his childhood struggling in school with a learning disability. He was in junior high school before the education system acknowledged his special challenges and helped him discover ways in which he could learn and succeed. Neil Smith will never forget the cruel labels placed on children with dyslexia. That is why today he dedicates time and energy to help youngsters living with learning disabilities.

As a former educator, I personally appreciate Mr. Smith's selfless efforts to heighten public awareness and find solutions for individuals with disabilities. He is the national spokesperson for Foundation for Exceptional Children's "Yes I Can" Program which encourages disabled children to reach their goals and recognizes their many achievements. He recently partnered with the Learning Disabilities Association of Missouri to fund and produce a public service announcement aimed at dispelling the misconception that children with learning disabilities are "dumb" or "slow". He says they just need to be shown things in a different way.

Neil Smith's efforts remind the Congress that these youth need the support of an education system that works for them, not against them. All children have dreams and each and every one of them deserves the opportunity to achieve those dreams just as Neil Smith has. In Mr. Smith's words, "People with learning disabilities are not unfortunate. The unfortunate people are quarterbacks." Thank you, Neil, for your dedication to our children and your inspiring energy both on and off the field.

THE COMMON SENSE CORPORATE RESPONSIBILITY ACT OF 1996

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. VISCLOSKY. Mr. Speaker, because I am concerned about the hundreds of billions in taxpayer dollars spent every decade on Fortune 500 corporations and special interests, today I am introducing legislation that will cut $39.575 billion in corporate welfare and end welfare for Ronald McDonald. The House has already passed the Personal Responsibility Act to reform welfare. it's time to pass the Commonsense Corporate Responsibility Act and get some of our richest corporations off the Government dole. This bill puts a balanced budget, jobs, education, and a clean environment ahead of handouts to Fortune 500 companies and special interests.

Estimate on total corporate welfare expenditures range from $200 billion to $500 billion over 5 years, which would go a long way toward balancing the budget and investing in our future. This bill would save $39.575 billion over 5 years by ending 6 programs and reforming 1 program, some of the most egregious corporate welfare programs. Because

I've limited this legislation to the most egregious examples, my bill is a litmus test for anyone who is serious about ending corporate welfare.

My bill will end the territorial possessions tax credit, which will save taxpayers $19.8 billion over 5 years. Corporations chartered in the United States are subject to U.S. taxes on their worldwide income. However, the U.S. Territorial Possessions Tax Credit provided by section 936 of the IRC permits qualified U.S. corporations a tax credit that offsets some or all of their U.S. tax liability on income from business operations in the possessions. My bill would eliminate this tax credit because the current incentive encourages companies to move jobs and capital out of the 50 States to overseas locations. The tax credit is not cost effective because foregone tax collections are high compared to the number of jobs created in the possessions. For example, taxpayers lose an average of $70,000 in revenue for every job created in Puerto Rico. The many drug companies and electronic firms that have set up subsidiaries in the possessions often assign ownership of their most valuable assets—patents, trade secrets and the like—to their territorial operations, and then claim that a large share of their total profits is earned in the possessions and therefore eligible for the tax break.

My bill will end the Foreign Sales Corporation [FSC] tax credit, which will save taxpayers $7.8 billion over 5 years. The tax code's FSC provisions permit U.S. exporters to exempt 15 percent of their export income from U.S. taxation. This encourages U.S. companies to form subsidiary corporations in a foreign country—which can just be a mailing address—to qualify as a FSC. A portion of the FSC's own export income is exempt from taxes, and the FSC can pass on the tax savings to its parent because domestic corporations are allowed a 100-percent dividends-received deduction for income distributed from a FSC. This program does not increase U.S. exports, and it may actually expand our trade deficit.

My bill will end special tax treatment of alcohol fuels, which will save taxpayers $3.875 billion over 5 years. Manufacturers of gasohol (a motor fuel composed of 10 percent alcohol), get a tax subsidy of 54 cents per gallon of alcohol used. Also known as ethanol, 95 percent of current production is derived from corn. The subsidy is designed to encourage the substitution of alcohol fuels produced from corn for gasoline and diesel. The gasohol tax break was enacted to lower the cost of producing a fuel that is not competitive. It targets one, specific, alternative fuel over many others—such as methanol, liquefied petroleum gas, compressed natural gas, or electricity—that could also substitute for gasoline or diesel. Alcohol fuel not only costs more, but also requires substantial energy to produce, diminishing the net, overall, conservation effect. Providing tax subsidies for one type of fuel over others is an inefficient allocation of resources when the subsidized fuel is more costly to produce than other fuels. Substantial losses in Federal tax revenue have primarily benefited Archer-Daniels-Midland, the Nation's chief gasohol producer.

My bill will end irrigation subsidies, which will save taxpayers $4.15 billion over 5 years. Irrigation subsidies encourage inefficient use of water resources, including production of water-intensive crops in arid regions. In these regions, loss of natural river flows has destroyed wetlands and devastated fish and wildlife populations. Many of these subsidies go toward production of surplus crops, which the U.S. Government pays farmers not to grow. This double dipper subsidy costs taxpayers as much as $830 million annually. Also, these subsidies foster agricultural production on marginal lands, the cultivation of which requires excessive chemicals. Polluted drainage and runoff from these lands contributes to the degradation of rivers and streams, as well as to the contamination of aquifers and poisoning of fish and wildlife.

My bill will end the practice of subsidizing the purchase of produce by foreign consumers, which will save taxpayers $3.5 billion over 5 years. The United States Department of Agriculture subsidizes the export of agricultural commodities through the Export Enhancement Program [EEP]. U.S. exporters, primarily multinational commodity firms, participating in the EEP negotiate directly with buyers in a targeted country, then submit bids to the USDA for cash bonuses. The program, established under the Reagan administration, is ostensibly meant to match European export subsidies, but does more to boost exporters' profits than U.S. farm production. The program has not been an effective counterweight to foreign subsidies and has depressed world commodity prices, penalizing competitors who do not subsidize their exports.

My bill will end the Market Promotion [MPP], which will save taxpayers $550 million over 5 years. The Market Promotion Program [MPP], which will save taxpayers $550 million over 5 years. The Market Promotion Program spends $110 million per year underwriting the cost of advertising American products abroad. In 1991, American taxpayers spent $2.9 million advertising Pillsbury muffins and pies, $10 million promoting Sunkist oranges, $465,000 advertising McDonald's Chicken McNuggets, $1.2 million boosting the international sales of American Legend mink coats, and $2.5 million extolling the virtues of Dole pineapples, nuts, and prunes. Wrangler of Japan—partly owned by Mitsubishi—collected $1.1 million from American taxpayers to advertise jeans in Japan, which were not even manufactured in the United States. The MPP has done little to assure that funds increase overseas promotional activities rather than simply replace private funds that would have been spent anyway. These companies hardly need a Federal subsidy for advertising, and the program has become a virtual entitlement for some of the biggest corporations in America.

My bill will reform the Mining Act of 1872, which will save taxpayers $300 million over 5 years. The 1872 Mining Act permits companies (foreign or domestic) to extract valuable minerals from Federal land—taxpayer-owned land—for next to nothing. They can purchase land for $2.50 per acre and pay no royalties on the minerals they extract. Each year, $2 billion to $3 billion worth of minerals are taken from public lands. Mining companies can "patent"—or buy—20-acre tracts of land for $5 an acre or less. This patenting process has been used to sell more than 3.2 million acres of public land, an area about the size of Connecticut. Also, massive environmental damage has been left by mining operations on public lands. The cost of such cleanups is estimated at between $32 to $72 billion. The Atlanta Journal and Constitution newspaper editorialized that a Canadian company * * * was able to steal a $10 billion gold mine from the United States taxpayers, who owned both the property and the mineral rights. The company paid less than $10,000 for the land. My bill would charge royalties and lease land.

The legislation I am introducing today will be a good start toward ending corporate welfare and balancing the Federal budget. I urge you and all of my House colleagues to support it.

THE ONLINE PARENTAL CONTROL ACT OF 1996

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Ms. ESHOO. Mr. Speaker, today I'm introducing the Online Parental Control Act of 1996 to fix a major flaw in the telecommunications reform bill. My proposal strengthens the control parents have over their children's access to online materials and better protects the first amendment rights of computer users.

First, it replaces the controversial indecency standard with a constitutional harmful to minors standard.

Second, it provides additional incentives for the development of better parental control technologies, as well as the use of labeling or segregating systems which would allow parents to restrict access to online materials.

I support efforts to address this issue in court. But I also believe a protracted legal battle will potentially leave children exposed to harmful material and place the free speech rights of computer users in jeopardy for an extended period of time.

Congress needs to offer both sides of this controversy a reasonable opportunity to resolve it. The Online Parental Control Act, I believe, is the sensible opportunity.

Mr. Speaker, I urge my colleagues to support this effort to protect both children and free speech by cosponsoring this legislation.

LEGISLATION TO ELIMINATE THE DISINCENTIVE FOR EMPLOYERS TO PROVIDE BONUSES TO CERTAIN EMPLOYEES

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BALLENGER. Mr. Speaker, today I am joined by Mr. GOODLING and Mr. FAWELL in the introduction of legislation to eliminate the disincentive under the Fair Labor Standards Act for employers to provide bonuses to hourly paid employees. Presently, the FLSA requires that certain payments to a nonexempt employee—such as commissions, gainsharing, incentive, and performance contingent bonuses—must be included in the employee's regular hourly rate of pay for the purposes of calculating overtime pay.

It is becoming more common for companies to link pay to performance as they look for innovative ways to improve employee performance. More employers are awarding one-time payments to individual employees or to groups of employees in addition to regular wage increases. Employers have found that rewarding employees for high quality work improves their performance and the ability of the company to compete. If a company's profits exceed a certain level, employees are able to receive a proportionate piece of the profits. Unfortunately, many employers who choose to operate such pay systems can be burdened with unpredictable and complex overtime liabilities.

Under current law, an employer who wants to give an employee a bonus must divide the payment by the number of hours worked by the employee during the pay period that the bonus is meant to cover and add this amount to the employee's regular hourly rate of pay. This adjusted hourly rate must then be used to calculate time-and-a-half overtime pay for the pay period. Employers can easily provide additional compensation to executive, administrative, or professional employees who are exempt under the FLSA without having to recalculate rates of pay.

Some employers who provide discretionary bonuses do not realize that these payments should be incorporated into overtime pay. One company ran afoul of the FLSA when they gave their employees bonuses based on each employee's contribution to the company's success. The bonus program distributed over $300,000 to 400 employees. The amount of each employee's bonus was based on his or her attendance record, the amount of overtime worked, and the quality and quantity of work produced.

When the company was targeted for an audit, the Department of Labor cited it for not including the bonuses in the employees' regular rate for the purpose of calculating each employee's overtime pay rate. Consequently, the company was required to pay over $12,000 in back overtime pay to their employees. The company thought it was being a good employer by enabling its employees to reap the profits of the company and by paying wages that were far above the minimum. These types of actions taken by the Department of Labor are especially surprising in view of Labor Secretary Reich's exhortations to businesses to distribute a greater share of their earnings among their workers.

This legislation will eliminate the confusion regarding the definition of regular rate and remove disincentives in the FLSA to rewarding employee productivity. The definition of regular rate should have the meaning that employers and employees expect it to mean—the hourly rate or salary that is agreed upon between the employer and the employee. Thus, employers will know that they can provide additional rewards and incentives to their nonexempt employees without having to fear being penalized by the Department of Labor regulators for being too generous.

JUDICIAL MANDATE AND REMEDY CLARIFICATION ACT

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. MANZULLO. Mr. Speaker, I rise today to introduce legislation that I believe is long overdue. This bill, the Judicial Mandate and Remedy Clarification Act of 1996, seeks to limit the authority of Federal courts to fashion remedies that require State and local jurisdictions to assess, levy, or collect taxes in any way, shape, or form.

We are currently entering into a debate on reforming the Federal Tax Code. We will be studying the impact of Federal tax policy on personal savings and spending, on State and local governments, as well as the over all effect on the economy.

It is time for Congress to address the effect judicial mandates and taxes have on State and local governments. Actions by Federal judges that directly or indirectly force a State or local government to raise taxes have serious ramifications on our Nation's economy. In many cases, remedial decisions have forced State and local governments to increase taxes, further squeezing take-home pay or affecting property values.

For example, in the congressional district I serve, people living in Rockford Illinois Public School District 205 are alarmed over the sharp increase in their property taxes as part of a remedy decision to pay for the implementation of a desegregation lawsuit against the school district. The complaints I have received include the fact that taxpayers are funding millions of dollars for a master, attorney's fees, consultants, and so forth, while seeing little money going to educate their children. They also complain that huge hikes in real estate taxes are making homes in Rockford very difficult to sell. Seniors have advised me that they can barely pay the taxes on their homes. This situation with the Rockford schools is dividing, if not slowly eroding the ties that bind the community.

Rockford, IL, is not the only community affected by judicial taxation. Hundreds of school districts across the country have the same problems. A Federal judge in Kansas City ordered tax increases to fund a remedy costing over $1 billion. Yet, there has been little improvement in the school system. Lawyers, masters, and consultants have been the beneficiaries of such court orders while the childrens' education has seen little improvement.

Judicial taxation is not, however, limited to school districts. Federal judges have ordered tax increases to build public housing and expand jails. Any State or local government is subject to such rulings from the Federal courts.

The U.S. Congress is given the authority under article III of the U.S. Constitution to define the scope of judicial powers.

My bill will place very strict limitations on the power of a Federal court to increase taxes for purposes of carrying out a judicial order. It is not a statement about desegregation, prison overcrowding, or any other decision where a Federal law has been broken. It is about taxpayers obligated to pay for Federal court remedies through higher taxes without recourse—i.e., taxation without representation. Judicial remedies should be, must be, tempered by the community's ability to pay for it, without raising taxes.

If a school board, municipality, or State government feels that taxes must be raised, then the people should be asked. Otherwise, the governing board must operate within its means. There is no such thing as a school district dollar just as there is no such thing as a Federal tax dollar. The money belongs to the people. Judicial taxation is a back door method to take people's hard-earned money without representation.

A judge works under the parameters of the laws available to him or her. The purpose of my legislation is to make it very difficult for Federal judges, who are unelected officials, to raise taxes, and therefore press them to work within the budgetary constraints of the State or local government.

Any lasting result that could come out of a judge's remedial decision must come from the community and must have the people behind it. There has been no success in cases where judicial mandates alone act as the remedy. As I mentioned before, there are many people who are willing to make a positive contribution to solving these problems. By relieving the State and local governments of the burden of judicial taxation, the people of a State, city, or school district will be able to step forward and be part of a solution that is best for the community.

Let me be explicitly clear that I am not talking about whatever remedies are made by the court. I am talking about how to pay for whatever remedy or settlement results from any decision. That is where Congress can have input into this area. I take no position on what remedial actions may be enacted—that is a matter of the elected officials on the State and local level, but I am compelled to take a position on how those Federal court remedies are funded.

Mr. Speaker, I urge that congressional hearings be held soon on the effects of these court orders and this important legislation. Congress must bring to light the effects of such remedies. In the past, there have been attempts to limit the power of the Federal courts to act in certain areas, but there has been little focus on placing restrictions on the courts issuing orders that are essentially unfunded judicial mandates. To date, none of these bills has passed. That is why I crafted carefully focused language to address this very difficult issue.

THE MOTHER AND CHILD PROTECTION ACT OF 1996

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. TOWNS. Mr. Speaker, I rise today to introduce legislation which ensures that newborn babies and their mothers receive appropriate health care in the critical first few days following birth.

The legislation requires insurance companies, HMO's, and hospitals to offer mothers and newborns at least 48 hours of inpatient care following normal births and 120 hours after caesarean sections. Mothers may choose to go home earlier but insurers and HMO's must then offer them a home care visit within 24 hours of discharge.

The typical length of stay over a decade ago for a woman and her infant after delivery was 3 to 5 days for a vaginal delivery and 1 to 2 weeks for a caesarean delivery. Over the past few years the typical length of stay decreased to 24 hours or less for an uncomplicated vaginal delivery and 2 to 3 days for a caesarean. In some regions around the country, hospitals are now discharging women 6 to 12 hours following a vaginal birth.

Health care organizations such as the American Medical Association [AMA] have stated that early discharge of women and infants after delivery cannot be considered medically prudent. The AMA's policy on early discharge is that it is a decision which should be based on the clinical judgement of attending physicians and not on economic factors. Furthermore, national medical health care organizations such as the AMA and the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, all agree that shorter hospital stays are placing the health of many newborns and mothers at risk.

There is reason for concern for the trend toward shorter hospital stays. Health care officials agree that the shorter stay increases the incidence in newborns of jaundice, dehydration, phenylketonuria [PKU], and other neonatal complications. For an example, adequate PKU test requires a newborn to have had 24 hours of milk feeding and most babies are not fed until 4 hours after birth. If a newborn is discharged prior to the 24 hours of milk feeding, then the hospital readmissions for undetected jaundice, a common condition in newborns and the easiest to treat. PKU and severe jaundice are conditions that can cause mental retardation if not detected early. Clearly if newborns spend more time in the hospital, then these and other conditions can be easily detected and treated, saving lives and money.

A recent study by the Dartmouth-Hitchcock Medical Center found that within an infant's first 2 weeks of life, there is a 50-percent increased risk of readmission and a 70-percent increased risk of emergency room visits if the infant is discharged at less than 2 days of age. Other studies indicate that early release is just as harmful to mothers as to infants.

Mothers can develop serious health problems such as hemorrhaging, pelvic infections, and breast infections. There is also the concern that opportunities for educating new mothers in the care of their newborns are lost when inappropriate early discharge occurs. This, coupled with the fact that many mothers are simply too exhausted to care for their children 24 hours after delivery, often leads to newborns receiving inadequate care and nourishment during their crucial first few days of life.

A 48-hour minimum stay is consistent with steps being considered by some States. For example, my bill is very similar to one which recently passed the New York Assembly, and which is being considered in the Senate. New Jersey, Maryland, and North Carolina have also enacted laws on maternity hospital stays.

Prevention has always been a way to cut health care costs. However, discharging mothers and newborns early creates its own costs. When a child suffers brain damage or other permanent disabilities because they did not receive adequate early care, insurers are then forced to pay for treating patients for conditions which could have been prevented or lessened if caught earlier.

Mr. Speaker, this bill allows new mothers to focus on learning to care for their newborns and themselves instead of being concerned with when their insurance coverage will run out.

CONDEMNING RESTRICTIONS ON THE MEDIA AND THE CLOSING OF THE SOROS FOUNDATION IN SERBIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. LANTOS. Mr. Speaker, with my distinguished friend and colleague from Nebraska, Mr. BEREUTER, and the bipartisan support of a number of our colleagues, I have introduced a resolution deploring recent actions by the Government of Serbia that restrict freedom of the press and freedom of expression, deplores the decision of the Serbian Government to prevent the Soros Foundation from continuing its democracy-building and humanitarian activities in Serbia, and calling upon the Government of Serbia to remove immediately these restrictions against freedom of the press and the operation of the Soros Foundation.

Recently, the autocratic President of Serbia, Slobodan Milosevic, closed down the only independent television station in Belgrade. This follows the government closure just over 1 year ago of the leading independent daily newspaper in the country. Mr. Speaker, this is an outrage. As Slobodan Milosevic tries to work his way back into acceptance by the civilized world community—and we should encourage him to do that—he continues his autocratic and antidemocratic moves against the news media in Serbia.

But, Mr. Speaker, this is not all. The Milosevic government has also closed down the Soros Foundation, a humanitarian and charitable organization that has done an enormous amount of good for the people of Serbia and, indeed, for the peoples of countless other countries. It is an organization that has established an outstanding reputation for encouraging democratization and the development of open, pluralistic civil societies in the former Communist countries of Central and Eastern Europe and the republics of the former Soviet Union.

The decision of the Serbian Government to withdraw the registration of the internationally renowned Soros Foundation is most likely related to the activities of the foundation in encouraging freedom of the press and freedom of expression. The Soros Yugoslavia Foundation was established in Serbia in 1991. Its board was comprised of prominent scholars and intellectuals from different ethnic backgrounds and regions. Since its establishment, the foundation has dispersed millions of dollars in grants for a variety of programs.

The programs that most likely earned for the foundation the hostility of the Milosevic government were those which it sponsored supporting the free media and freedom of expression. Beginning in 1992, the foundation initiated a program to support independent media, including assisting the start-up of some 40 independent media outlets, restarting publications in Albanian, Hungarian, and Slovak languages and initiating a major research project on repression in the media.

The Soros Foundation was also involved in establishing the Association of Independent Electronic Media in Serbia and in establishing a media center in Belgrade to promote cooperation between journalistic associations. Grants were provided to permit many journalists in Serbia to attend symposia and workshops abroad and to encourage communication between Serbian and foreign journalists. In 1994 the foundation began support for an independent daily newspaper in Belgrade—Nasa Borba—after Serbian Government authorities absorbed Borba, previously the most prominent independent newspaper published in Belgrade.

The problem of government control of the media in Serbia is an issue of major concern to the United States, Mr. Speaker. The latest issue of "County Reports on Human Rights Practices in 1995," which was released by the Department of State just last week, reflects both the conditions in Serbia and the problem this represents for the United States. The report on Serbia notes the following:

> An important factor in Milosevic's rise to power and almost total domination of the political process is his control and manipulation of the state-run media. Freedom of the press is greatly circumscribed. The Government discourages independent media and resorts to surveillance, harassment, and even suppression to inhibit the media from reporting its repressive and violent acts.
>
> Opposition politicians and minority ethnic groups are routinely denied access to the state-run mass media; they are vilified in the government-controlled media, and their positions misrepresented. This year the government-controlled press mounted a campaign against nongovernmental organizations [NGO's] and international humanitarian organizations. In some instances personnel of United Nations and religious organizations were not granted visas to continue their work; in at least one case, the Government revoked the registration of a major NGO.

Mr. Speaker, the government of Serbia and President Slobodan Milosevic need to understand how we in the United States feel about these serious issues. They need to understand our firm and unequivocal commitment to freedom of the press and to the vital necessity of freedom of expression. The resolution that I have introduced with Mr. BEREUTER is intended to make that clear and unequivocal. It is important that we in the Congress reaffirm our commitment to these vital democratic principles and that the Government of Serbia know of our commitment.

Mr. Speaker, I ask that the text of our resolution be placed in the RECORD, and I invite my colleagues to join as cosponsors of this resolution to demonstrate our support for freedom of the press and to make clear to Serbian authorities our commitment.

H. RES. 378

A resolution deploring recent actions by the government of Serbia that restrict freedom of the press and freedom of expression and prevent the Soros Foundation from continuing its democracy-building and humanitarian activities on its territory and calling upon the government of Serbia to remove immediately restrictions against freedom of the press and the operation of the Soros Foundation.

Whereas free and independent news media and freedom of expression are fundamental tenets of democracy and are vital to assuring democratic government;

Whereas democracy can exist only in an environment that is free of any form of state control or censorship or official coercion of any kind and where freedom of the press is protected by the rule of law;

Whereas independent radio and television stations and independent newspapers in Serbia have recently been subjected to restrictions, harassment, intimidation, and closure;

Whereas the internationally respected humanitarian and philanthropic organization, the Soros Foundation, has been denied the legal authorization to function in Serbia, and one of the principal activities of the Soros Foundation in Serbia has been to provide assistance for regular publication and distribution of independent daily, weekly, and local newspapers and to provide equipment and technical assistance to independent radio and television outlets; and

Whereas parliamentary elections will take place in Serbia in the near future and the existence of free and independent news media is essential to the proper functioning of democratic elections: Now, therefore, be it

Resolved, That the House of Representatives—

(1) deplores the recent actions of the government of Serbia that restrict freedom of the press and freedom of expression and hamper civic organizations and democratic opposition groups;

(2) deplores the actions of the government of Serbia in revoking the legal registration of the Soros Foundation, which therefore prevents the Foundation from further activity in Serbia, and commends the Soros Foundation for its past activities in Serbia and elsewhere in support of freedom of the press, freedom of expression, and the development of democratic institutions;

(3) calls upon the government of Serbia to remove immediately those restrictions against the independent press and against independent radio and television stations, to remove immediately restrictions that have hampered free activity by civic organizations and democratic opposition groups, and to restore immediately the right of the Soros Foundation to operate fully in Serbia;

(4) declares that United States economic and other assistance for Serbia and United States support for full participation of Serbia in international financial institutions should be conditioned on the full functioning of independent news media, civic organizations, and democratic opposition groups; and

(5) requests that the President and the Secretary of State convey to appropriate officials of the governments of Serbia, including President Slobodan Milosevic, the Prime Minister, and the Minister of Foreign Affairs, this expression of the views of the Congress.

JOHN F. GRIMES HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Mr. John F. Grimes, a good friend of mine from Pittston, PA. This Sunday, Jack will be honored as the 1996 Man of the Year at the annual St. Patrick's Day Banquet of the Friendly Sons of St. Patrick. I am pleased to have been asked to recognize Jack as he is awarded this honor.

Mr. Speaker, Jack Grimes is a man of great wisdom and is certainly worthy of being named the Friendly Sons' Man of the Year. He was born in Pittston and has lived there all of his life. In 1942, after graduating from St. John the Evangelist High School, Jack began a 21-year career with the Lehigh Valley Railroad. Within just a few years of beginning his career with the railroad, Jack was appointed assistant division engineer and became the youngest person ever to be assigned to that position of responsibility. During his career, Jack earned two professional licenses: surveyor and civil engineer.

Although Jack remained very committed to his job, he made community service a major part of his life. He served as the president of the Lions Club of Pittston, and has been a lector and usher at St. Mary's Church. He has also contributed to the city of Pittston by serving as both secretary and president of the planning commission. He has served the commission for over 30 years.

Knowing of Jack's commitment to his community, his colleagues called on him to be the executive director of the Pittston Chamber of Commerce. During his tenure, Jack reactivated the Pittston Area Industrial Development Authority as a subsidiary function of the chamber. He has aggressively campaigned to bring new industry to the region, and has helped publicize Pittston's strongest assets to companies seeking to relocate in the city. Jack Grimes has become a valuable partner with local, county, and State officials who diligently work to revitalize the Greater Pittston area.

Since he became involved with the chamber of commerce, Jack has helped to bring nearly three thousand jobs to the Greater Pittston area. Although many people would be satisfied with this accomplishment, Jack believes in going the extra mile. He wants to continue the campaign to revitalize the city, and plans to market the Pittston area on the World Wide Web. I am sure that Jack's involvement with this project will result in the continuation of Pittston's development.

Another distinguished leader will present the award to Jack. This individual is my good friend, His Excellency John McCarthy, Ambassador of Australia. When I learned Jack was being honored, I contacted Ambassador McCarthy to ask him if he would present the award. Always gracious, the Ambassador accepted my invitation and agreed to visit Pittston for this special event. The Ambassador's strong ties to the large Irish population that exists in Australia make him one of the most appropriate leaders to present this award to Jack.

Mr. Speaker, Jack Grimes embodies the leadership qualities that the Friendly Sons honor each year, I applaud their decision to choose Jack as the 1996 Man of the Year. On behalf of the people of Pittston, I extend my deepest appreciation to Jack Grimes for a lifetime of commitment to promoting industrial and business development throughout his community.

HONORING SCOTT O'GRADY

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. NETHERCUTT. Mr. Speaker, I rise to honor Air Force Capt. Scott F. O'Grady, who today received the Purple Heart, the Bronze Star, and the Air Force Commendation Medal at a special ceremony at the Pentagon.

Scott's heroism and courage during his 6 days in hiding in hostile Bosnian territory after his F–16 was shot down by a Serb missile made him an immediate celebrity upon his return to the United States. Americans were riveted by the story of his avoiding detection by armed patrols and using basic survival techniques to stay alive for 6 days without food and water before his ultimate rescue by a group of courageous Marines from the U.S.S. *Kearsage.*

On Friday, June 2, 1995, Scott was piloting his F–16 Falcon in a routine combat air patrol with another F–16 as part of the NATO operation to enforce a no-fly zone over Bosnia. Suddenly, he detected missiles aimed at him from the ground and took evasive maneuvers. One missile exploded between the two planes, but the second one scored a direct hit on Scott's plane, forcing him to eject. Dazed from the force of his abrupt separation from the aircraft and suffering burns from the explosion, Scott parachuted to the ground where Bosnian Serb troops were already searching for him.

Quickly gathering his wits, he pressed his body to the ground to avoid discovery. He then used his survival training to collect dew for drinking water and gather grasses and insects for food. He stayed alive with only these things for 6 long days and was able to move around only at night. When the rescue team arrived on Thursday, they found him exhausted yet unbowed by his ordeal.

I had the pleasure of meeting this young man when he returned to the United States for a hero's welcome that included a ceremony with President Clinton and Secretary Perry. He was exceedingly modest about his exploits and full of praise for his rescuers.

I believe that Scott embodies the qualities for which Americans are respected around the world, namely dedication to duty, belief in God, rugged individualism, and a never-say-die spirit that keeps us going even when we fear that all is lost.

I am proud of this native son of the State of Washington, who hails from my hometown of Spokane. I wish him congratulations and best wishes for the future.

FRIENDS OF IRELAND, ST. PATRICK'S DAY, 1996

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. WALSH Mr. Speaker, though in the course of Irish history there have been many extraordinary years, surely the time since the Friends of Ireland's last St. Patrick's Day statement must be labeled one of significance.

With the exhilaration of hope, we participated on the heels of a year-long cease fire in the march toward peace. We joined the historic visit to Northern Ireland by President Bill Clinton, the first by a sitting U.S. President. Our bipartisan congressional delegation met with political leaders in Northern Ireland and in the Republic. We carried a message of peace from Speaker NEWT GINGRICH.

A month ago we were shocked by the interruption of that peace, and the resumption of violence by one group. We were shocked, because we had come to believe in the possibility of a permanent peace.

Now we are again heartened by a promise to convene all-party talks on June 10.

In light of events, it is important for us at this juncture to condemn outright the bombings by the enemies of peace. Whatever their faction, whatever their affiliations, whatever their politics, we are unanimous in saying this.

By killing and terrorizing, you have set back the struggle. By disrupting the lives of innocents, you have not judiciously brought attention to the history of discrimination in the north. Instead you have validated suspicion and mistrust and made the job of peacemaking that much more difficult.

Having made this plea, we in the Friends of Ireland send our sympathies to all the families who have been the victims of violence and terror over the years. Like a wound re-opened, this breach of the peace pains you perhaps the most.

At the same time we congratulate the masses of people, Protestant and Catholic, unionist and republican, who have demonstrated to take back the peace. We stand with them in spirit and encourage them wholeheartedly.

It is significant that 1 year ago, in our St. Patrick's Day statement, we spoke confidently about peace as a result of the cease fire. We now look hopefully toward next year when we may speak of cease fire and peace as a result of all-party talks.

We note that St. Patrick's Day is both a Catholic and Protestant holiday. The Friends use this occasion to remember and restate our commitment to all the people of Ireland. And it is important for all Irish people to know that we believe firmly in the philosophy of the Forum for Peace and Reconciliation, with whom our congressional delegation met when in Dublin with the President in December. Simply stated, the philosophy is this: There must be room in Ireland's future for all the cultures and traditions of its past.

We will continue to support economic assistance by way of the International Fund for Ireland and other means. Established in 1986, the Fund creates jobs, which in turn promote social development, which in turn encourages reconciliation among all groups. We believe this all the more after touring with President Clinton at a business park in Belfast supported by the Fund.

Lastly, we applaud the work of former Senator George Mitchell, the President's envoy, and stand ready to assist his significant effort in any way we can.

It is a tentative time in Ireland. While in Belfast just a few months ago, many of us met with the political leaders on all sides of the struggle. We heard consistently, even from those who are affiliated with paramilitaries on both sides, that peace is an honorable goal, a desirable goal. Events may have slowed the advance of peace—but we do not believe violence can ever erase the desire.

The Friends of Ireland properly represents the will of the United States as it relates to our alliance with the people of Ireland, north and south. We want very much for there to be peace and prosperity in Ireland.

We pledge our continued friendship. We will work tirelessly for peace. And we pray that all leaders will have the wisdom and patience to make this another extraordinary year in Irish history—one which brings what the people demand, a lasting peace.

INJUNCTIVE RELIEF AMENDMENTS ACT OF 1996

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. FAWELL. Mr. Speaker, I am pleased today to introduce the Injunctive Relief Amendments Act of 1996. This legislation will establish a uniform standard governing the award of preliminary injunctive relief under section 10(j) of the National Labor Relations Act [NLRA]. It will also allow parties against whom injunctive relief is sought an opportunity to review and respond to legal memoranda or documents presented to the National Labor Relations Board [NLRB] in support of such relief.

Section 10(j) of the NLRA authorizes the NLRB, upon the issuance of an unfair labor practice complaint, to petition a U.S. district court for appropriate temporary relief or restraining order. Most courts have followed a two-prong test for determining when section 10(j) injunctive relief is appropriate: first, whether there is a reasonable cause to believe that an unfair labor practice has occurred, and second, whether, injunctive relief is just and proper. The reasonable cause prong of the test requires the Board to produce some evidence in support of the petition, but does not demand that the court be convinced of the validity of the theory of liability. There is a split among the courts of appeals as to the meaning of the just and proper prong of the test with some circuits opting for a traditional equity test and others for a less demanding standard of whether an injunction is necessary to avoid a frustration of the remedial purposes of the act.

The Injunctive Relief Amendments Act would require the Board to satisfy the higher traditional equity standard before a Federal court could issue injunctive relief under the NLRA. I believe, like in other areas of the law, injunctive relief under labor law should be available only when the traditional equity test for such relief is met. Certainly, the standard for granting any relief under the NLRA should be the same whether your case is heard in Chicago or New York or Boston or Detroit or San Francisco.

The legislation also addresses my observation, harkening back to my own days practicing law, of how closed the process for adjudicating unfair labor practice complaints seems to be. There is no real discovery, as there would be in a lawsuit filed in court, and the respondent in a complaint seems to acquire information about the charges against him or her only by happenstance. The Injunctive Relief Amendments Act tales a small step to open the process by allowing parties to review and respond to materials submitted to the Board in support of seeking injunctive relief under section 10(j). My hope is that opening the process in this way will increase the sense of fairness or impartiality perceived by those who are impacted by the NLRB's adjudicatory processes.

REGULATION OF TOBACCO

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. COLLINS of Georgia. Mr. Speaker, many citizens in Georgia have concerns over the Food and Drug Administration's proposal to regulate tobacco. As a result, the Georgia House of Representatives passed a resolution asking the U.S. Congress to rescind any action giving the FDA authority to regulate tobacco.

I submit Georgia House Resolution 980 for the Congress' careful consideration.

HOUSE OF REPRESENTATIVES

H.R. NO. 980

By: Representatives Reaves of the 178th, Floyd of the 138th, Hudson of the 156th, Royal of the 164th, James of the 140th and others.

A Resolution

Petitioning the President of the United States and the Congress of the United States to rescind and remove any action that would give the Food and Drug Administration regulatory powers over the tobacco industry; and for other purposes.

Whereas the tobacco industry has been a vital part of the economy of the State of Georgia for more than 250 years; and

Whereas tobacco products are legally grown and produced in this state for the enjoyment of adults who choose to use those products; and

Whereas tobacco growers are productive citizens of the State of Georgia; and

Whereas the plan by the Food and Drug Administration is to severely and unnecessarily restrict the marketing of legal products grown in the State of Georgia; and

Whereas tobacco companies, growers, tobacco producing states, and individuals who work within the industry sincerely and publicly oppose young people smoking; and

Whereas the laws of Georgia forbid the sale of tobacco products to youth under 18 years of age; and

Whereas the tobacco industry is more than adequately regulated by other state and federal agencies and tobacco products are the most highly taxed commodity in the country; and

Whereas FDA Commissioner Kessler has publicly stated that he wants to put the tobacco industry, including our tobacco farmers, out of business; and

Whereas regulation of the tobacco industry by the FDA is costly, unnecessary, and unwarranted.

Now, therefore, be it resolved by the House of Representatives, That this body hereby petitions the President of the United States and the Congress of the United States to rescind and remove any action that would give the Food and Drug Administration regulatory powers over the tobacco industry.

Be it further resolved, That the Clerk of the House of Representatives is authorized and directed to transmit appropriate copies of this resolution to the President of the United States and the Congress of the United States.

In House, Read and Adopted, February 26, 1996.

ROBERT E. RIVERS, Jr.,
Clerk.

TRIBUTE TO DAVID E. SMITH

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. LEVIN. Mr. Speaker, I rise today to recognize Commissioner David E. Smith, who is retiring from public office after many years of distinguished service to the city of Pleasant Ridge, MI.

Throughout his career, Mr. Smith has been an active and influential leader in civic affairs and projects, with membership on a wide range of boards and organizations. In 1981, he began his service to Pleasant Ridge as a delegate and cochair of the Ferndale-Pleasant Ridge Cable Commission. This led to his membership on the Intergovernmental Cable Communications Authority. From 1985 to 1987 he was a planning commissioner, and in 1987 he was elected to the city commission, serving until 1996.

While a city commissioner, Mr. Smith was a member of the Pleasant Ridge Foundation and the city of Pleasant Ridge 75th Anniversary Celebration Committee. In these positions, as others, Mr. Smith earned the admiration and regard of the city, his colleagues, and the community at large. I congratulate him on his accomplishments and thank him for his service to the community.

OLDER WORKERS WEEK

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to join with the Jewish Family Service of Greater Miami in celebration of Older Worker Week, March 10–16, to honor two older workers.

Alice Perrin—for her efforts as a clerk-in-training at the North Miami Foundation for Senior Citizens, she has been selected as the 1996 Jewish Family Service of Greater Miami's Senior Aide of the Year.

Selected from among 75 senior aides, Haitian-born Perrin, 64, began a new career 3 years ago as a clerk in the Jewish Family Service of Greater Miami training program for older workers. Her caring and willingness to assist has made her an asset to the North Miami Foundation team. She provides access and critical information to the foundation for Creole-speaking clients, and is an outstanding example of the reliable, enthusiastic, and capable mature worker.

Dorothy Patterson—82, of Miami is also being bestowed honors for her extraordinary commitment to her fellow older workers. She is the assistant director of the Jewish Family Service Seniors AIDES Project, and has served as an ideal mentor for the 70 participants.

Ms. Patterson commits of her time to serve the needs of others by also being actively involved in the Church of the Open Door in Liberty City, singing in the choir, and serving as a member of the Women's Fellowship. She also devotes every Saturday toward helping to feed the homeless on the streets of Miami.

Alice Perrin and Dorothy Patterson are true examples of older citizens who have dedicated their life to continued service. They provide an example for all of us to follow.

A PASTOR FOR THE COMMUNITY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BARCIA. Mr. Speaker, learning to live one's life according to the Scriptures is both tremendously rewarding and tremendously challenging. For the past 40 years, the people of Saginaw have been blessed with individuals who can both guide and encourage people to live their lives to the fullest, including living in the image that the Bible has suggested for us. Pastor Roosevelt Austin, Sr., and his wife Nurame, have helped countless men, women, and children improve the quality of their lives with the spiritual direction of the Baptist Church. They are being honored for their 40 years of service to their church and their community, and I can think of no individuals who better deserve this recognition.

Coming to Michigan from Louisiana, Pastor Austin has served as both the associate pastor and the pastor of the Zion Missionary Baptist Church in Saginaw. He has led from the pulpit and from the streets during these years, having also served as an advisor to Delta College and its campus ministry, as well as being the spiritual advisor for the Saginaw County Jail. He has been a board member of the NAACP, the president of Saginaw Training Center, Inc., a board member of the Commission on Quality Education for all Children, and a member of the Saginaw City Council.

Throughout this time, he has been supported and aided by his wife, Nurame, who has served as a community volunteer, and has been certified as a teacher by the Evangelical Teachers' Training Association. She has been recognized for her community service by the Michigan House of Representatives, the Zeta Phi Beta Sorority, the Saginaw County Community Action Center, and Top Ladies of Distinction, Inc.

They have been blessed with three children, Roosevelt Austin, Jr., who is also a minister, Dona, and David. These lives have been made far richer by the wonderful example set by their parents.

Pastor Austin has a motto which is profound encouragement to each of us. He believes that "Our lives are songs; God writes the music and we set them to music at pleasure; and the song grows glad, or sweet or sad, as we choose to fashion the measure." We each have been given an opportunity to succeed in a wide variety of fashions. It is up to each of us if we want our own songs to sing glad, or to let the refrain be sad.

Mr. Speaker, I urge you and our colleagues to join me in thanking Pastor Roosevelt and Nurame Austin for their wonderful 40 years of devotion. I am sure that their work will continue with even more impressive results for years to come.

ST. PATRICK'S DAY 1996: A DAY OF CELEBRATION AND DEDICATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. MALONEY. Mr. Speaker, we are all looking forward to St. Patrick's Day festivities back home.

For me, the upcoming celebrations bring back memories of the wonderful friends I made in Ireland last year when I accompanied President Clinton on his historic visit to that beautiful country—and of the message they conveyed in their words and actions: We want peace.

For those of us involved with Irish issues, the recent setbacks brought true heartache. But that's why now, more than ever, the United States must stand firm in its commitment to help the Irish people win a lasting peace.

Perhaps our best opportunity to do this is by promoting opportunities for economic growth in Northern Ireland and the Republic. This will be mutually beneficial, since one-third of all foreign business in the Republic is United States-owned.

We've already taken several steps toward that goal. President Clinton has appointed a Special Envoy for Economic Initiatives on Ireland, and the White House convened a conference on trade and investment in Ireland. This week I was proud to vote to continue funding for the International Fund for Ireland.

But I firmly believe we must do more. Along with my New York colleagues PETER KING and TOM MANTON, I have introduced H.R. 2844, the Ireland Economic Development Act. My bill would authorize the issuance of loan guarantees for economic development and job creation activities in the Republic of Ireland and Northern Ireland.

I think Dan O'Kennedy said it best: "Prosperity and peace go hand in hand—that's why the Irish-American Unity Conference strongly supports H.R. 2844, the Ireland Economic Development Act."

I urge all my colleagues who are friends of Ireland to cosponsor H.R. 2844 before going home this St. Patrick's Day.

And every Member of this Congress should support the MacBride Principles, which I and 226 other Members of Congress cast our vote for earlier this week.

I authored the New York City MacBride Principles Contract Compliance Law, which made it illegal for the city of New York to award contracts to companies which discriminate against Catholic workers in Northern Ireland.

We should have a zero tolerance policy for discrimination: That's the statement we make when we vote for the MacBride Principles.

Last, but by no means least, my heart goes out to all the families still threatened with cruel separation by deportation proceedings. I am committed to continuing my work on this issue with members of the Ad Hoc Committee for Irish Affairs, and I urge my colleagues to get involved.

We all love taking part in the fun of St. Patrick's day celebrations. But this year, as we put on our green shirts, we must all resolve to roll up our sleeves and do the hard work necessary to help realize a bright and promising future for Ireland and her people.

TAX AND SPEND NEVER ENDS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. PACKARD. Mr. Speaker, the President has proclaimed the era of Big Government to be over, but his $8 billion reelection pork package looks more like business as usual—taxing America's hard-working families and spending it on frivolous Federal programs.

President Clinton is stubbornly insisting upon $8 billion more in Federal spending for Big Government programs, just to keep his key voting constituencies happy. The American taxpayers and their children should not have to finance President Clinton's reelection campaign.

We must not foolishly dole out money as though the American people were a money tree. The President wants more money for questionable programs. One such program helps guide a person through the 160 job training programs in the Federal Government. Is this not the same man who challenged Congress to consolidate 70 overlapping and antiquated job training programs? Now, he wants another program to help 160 other programs. In addition, he wants more money to send overseas for an environmental project so that children in foreign countries can be educated in environmental studies and can learn how to measure rainfall. This kind of spending just does not make sense.

Mr. Speaker, hard-working American families want responsible government and responsible spending. What the President wants amounts to nothing more than tax and spend Big Government. My Republican colleagues and I pledged to cut Big Government down to size and we will keep our promise. It is time the President remembered his pledge to American families instead of his election contributors.

CONTINUITY OF CARE WEEK

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. RUSH. Mr. Speaker, the concept of continuity of care is an essential component of today's health care delivery system.

The professional responsible for continuity of care comprise a variety of disciplines, educational backgrounds, and practice in diverse setting. These professionals function as facilitators, caregivers, and advocates to ensure that patients receive quality, cost-effective health services.

Mr. Speaker, in recognition of these individuals' dedication and commitment to health care, the third week of September 1996, and each September thereafter, shall be known as "Continuity of Care Week."

COMMENDING THE YOUNG ITALIAN AMERICAN A.C.E.S. CLUB OF UNICO

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. MARTINI. Mr. Speaker, for the past 7 years, the Young Italian American ACES—Athletic, Cultural, Educational, Social/Service—Club of UNICO National has been sharing fellowship, support, benevolence, friendship, and hope with those less fortunate. And, in celebration of Saint Joseph Day's, the ACES Club sponsored by the Belleville UNICO Chapter will once again respond to the needs of the community by preparing a traditional Sicilian Alter for the sick and the needy.

The ACES Club provides a living example of what the Roman Statesman Seneca meant when he wrote that wherever there is a human being, there is an opportunity for kindness. Certainly, the ACES Club proves to all of us that no selfless act of kindness is insignificant. Indeed, heroic compassion is first learned through loving kindness. By faithfully evidencing the love and justice of Saint Joseph, the Young ACES Club reminds us that society is most profoundly changed not by huge, impersonal institutions but by people determined to make a positive difference.

Acts of compassion and mercy add meaning to our lives and to the lives of those around us. The Young Italian American ACES Club's consistent example of volunteerism teaches the valuable lesson that all of humankind is all our business. Truly, it gives us greater satisfaction to be helpful than helped.

The 18th century statesman Edmund Burke described voluntary associations that feed the hungry, house the homeless, and clothe the needy as "little platoons." The ACES Club is a modern day example of a little platoon performing works of mercy and helping to produce the spirit by which people do good out of compassion, not compulsion.

The young people of the ACES Club perform the highest role of citizenship as they love their neighbor and respond to the needs of the community. This year the ACES Club will distribute the Saint Joseph's donations to a broad range of civic and charity organizations that serve the sick and the less fortunate. This standard of enduring goodness shows us that the health of society depends on how well its individual citizens treat one another.

The Young Italian American ACES Club of UNICO National is the embodiment of goodwill and generosity. I greatly admire the ACES Club's dedication to loving others and promoting justice in the best tradition of Saint Joseph. Furthermore, I offer my congratulations to the Belleville UNICO Chapter for challenging young people to take up the task of helping others.

Happy Saint Joseph's Day.

THE ACCOMPLISHMENTS OF CHARLES SHUMAN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to a great friend of the State of Illinois. Earlier this year, Mr. Charles Shuman retired from his position as a Sunday schoolteacher at the First United Methodist Church in Sullivan, IL. What makes this a memorable event is that Mr. Shuman taught his class faithfully for 60 years. And this has been just one facet of his exceptional life. He has been a longstanding friend of the Democratic Party, as well as a former president of the American Farm Bureau. It is with great respect and admiration that I say thank you to Charles for his phenomenal contributions to life in central Illinois.

Our present world moves at a seemingly nonstop pace. There never seems to be enough hours in the day, and everything from technology to fashion changes right before our eyes. But how small some of these developments seem when compared to an older generation's observance of motor cars and radio. Charles used to ride to church in a horse and buggy when in grade school, his family wrapping warmed bricks for the ride to help keep them warm. To this day he remembers vividly his first encounters with radio, automobiles, and movies. Despite these drastic changes in the world around him, Charles knew what was important to him and stood by it. His devotion to the church was one of these things, and he began his Sunday school teaching with the same boys' class he himself had participated in as a student. He met his wife Ida while teaching, and the two formed a coed teenage class. Later Charles taught the builder's class for young married couples.

The devotion Mr. Shuman has displayed over the years has touched countless lives both in and out of his classroom, and serves as an example of what faith can provide for each of us in our lives. As Charles has said, "I always felt that one of my objectives in life was to find how to walk closer to God, and it seemed to me that Sunday school Bible study was one way to do it." And as he has shown, change is no excuse for losing sight of what is truly important. I am honored to represent Charles Shuman in the U.S. Congress, and I wish him many more years of health and happiness.

INTERNATIONAL FAMILY PLANNING

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. FARR. Mr. Speaker, I rise today to bring your attention to the crisis in funding for international family planning programs.

The United States has traditionally provided developing countries with money to create effective, voluntary family planning programs. However, in the fiscal year 1996 Foreign Operations appropriations bill, family planning programs were cut by 85 percent, from $547 to $356 million.

A recent study by the Alan Guttmacher Institute, a nonprofit corporation for reproductive health research, policy analysis and public education, stated funding cuts will restrict 7 million couples in developing countries from using modern contraceptive methods. This will result in 1.9 million more unplanned births, 134,000 more infant deaths, and 8,000 more women dying in childbirth and pregnancy, including from unsafe abortions. In fact, due to the dearth of funding, there will be at least 1.6 million more abortions in developing countries in just 1 year.

Family planning services offer often lifesaving health care services, including family planning, prenatal services, maternal and infant health programs, treatment of infertility, and the prevention of AIDS. The more we limit funds for family planning, the more we will spend on money for destitute children and health care for the sick.

Long-term costs of the cuts may prove so disastrous that the United States will wind up spending more than it will save. Worsening population trends mean the United States may confront more international instability, greater depletion of important global resources and ultimately much higher levels of foreign aid assistance.

International family planning funding must be restored. Not only is it a public health issue, but family planning is the answer to the question of overpopulation. Global population now exceeds 5.7 billion people. If nothing is done to stem this growth, the Earth's population will quadruple to over 19 billion people by the end of the next century. Uncontrolled population growth not only causes extreme poverty, unemployment, and urban overcrowding, but it is having an enormously damaging effect on our environment and public health.

In much of the developing world, overpopulation, caused mainly by the lack of access of women to basic reproductive health services and information, is contributing to impoverishment, malnutrition, and hopelessness. The damaging effect on the world's environment is resulting in resource depletion, tropical deforestation, extinction of certain plants and animals, and pollution of air, water, and land. Population growth is outstripping the capacity of many nations to make even slight gains in economic development leading to political instability.

Overpopulation must be addressed by sustainable development programs. There are three key areas which will target overpopulation directly: international family planning, financial commitment, and technical expertise. Practically every major innovation in the population and family planning field can be linked to U.S. support. Modern technology has also been applied to the population field in the areas of mass communication, biotechnology, and biomedical research in the development of new contraceptives.

Funding for international family planning is not about whether women in third world countries have abortions. The ramifications to funding cuts stretch from health counseling to global warming. Family planning directly deals with the protection of our environment, economy, and the health of women and children. We must work to maintain sustainable development programs to protect our environment, public health, and future. Please join me in the fight to restore this vital funding.

HARD TIME FOR GUN CRIMES ACT

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. CHRISTENSEN. Mr. Speaker, today I am introducing the Hard Time for Gun Crimes Act.

This bill would make it clear that the problem with guns in our society is not the guns but the felons who use them for a criminal purpose. The bill would dramatically increase the penalties for possessing, brandishing, or discharging a firearm during the commission of a Federal felony.

For instance, under my bill, if you fire a gun during the commission of a Federal crime: If it's the first offense, you'll get 30 extra years in jail; if it's the second offense, you'll get a minimum 50 extra years in jail.

The key message is that we've had it with gun-related violence. Americans have zero tolerance for gun crime, so our justice system should too. Our families and children shouldn't be afraid to walk to school, go to the grocery store, and leave their windows open at night.

That's why I think we should work to keep those who would misuse guns in jail. No more slick criminal defense attorneys pushing criminals to freedom through legal loopholes. No more soft sentences after teary speeches before the bench. No more legal gymnastics setting criminals free after a fraction of their allotted time in jail.

For 30 years, we've heard about rehabilitation and the root causes of crime. We should try to reform those who've committed crimes. We should try to address the grinding poverty of our urban areas, with welfare reform, for instance. But one of the root causes of crime—is criminals. Put a career criminal back on the street, and he's not rehabilitated, he's rejuvenated. What's gotten lost is punishment.

The Hard Time for Gun Crimes Act sends a clear message: If you use a gun to commit a felony, plan on spending the next few decades behind bars—no exceptions.

TRIBUTE TO GEORGE DITOMASSI, THIS YEAR'S AMBASSADOR OF IRELAND AWARD

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to pay tribute today to George Ditomassi, a constituent of mine who has distinguished himself both professionally and privately, as a man of significant accomplishment and compassion. Mr. Ditomassi is the Chairman of Milton-Bradley Co. in East Longmeadow, MA, a toy and game manufacturer owned by the Hasbro Corporation.

For as long as I can remember, George Ditomassi has given generously to the communities in which he lives and works. Year-in and year-out George Ditomassi is a good friend and neighbor to western Massachusetts. Though he sits on the corporate boards of some of America's largest companies, he also contributes his time to local and neighborhood organizations. In his many and varied roles, George Ditomassi has favorably impacted the lives of thousand of other people. That, in part, is why I have chosen to recognize him here today.

On Sunday, March 17, St Patrick's Day, George Ditomassi will be given the Ambassador of Ireland Award by the Holyoke, MA, St Patrick's Day Parade Committee. The Ambassador's Award is given annually to an American citizen who is judged by the committee to have built an economic or social bridge between our two great nations. George Ditomassi fits this description extremely well.

Raised in Holyoke, a long-time Irish enclave in western Massachusetts, George Ditomassi understands well the contributions that Irish-Americans have made to American society. As a businessman, he clearly understands the value that is added to a company by a well educated and highly skilled workforce, the type which is found in Ireland.

As the chairman of the Milton-Bradley Co., Mr. Ditomassi has guided his company's decision to own and operate a manufacturing facility in Waterford County, Ireland. With over 500 people employed by Milton-Bradley at the facility, the plant is one of the largest employers in Waterford. It is a boon to the local economy and Mr. Ditomassi calls it "a jewel in our crown." It is his stewardship of this investment in the Irish economy that has qualified George Ditomassi for the 1996 Ambassador of Ireland Award and also, it is the other part of why I have chosen to recognize him in the House of Representatives today.

Mr. Speaker, I ask my colleagues to join me today in congratulating George Ditomassi for his upcoming receipt of the Ambassador of Ireland Award, and also, for a lifetime of service to his community.

IN HONOR OF WILLIAM DEAN, WORLD WAR I VETERAN

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. THURMAN. Mr. Speaker, I rise today to honor a remarkable individual, William Dean, who passed away on March 11, 1996.

Mr. Dean, who lived with his wife at Cloverleaf Farms, Brooksville, was 1 of fewer than 20 World War I veterans in Florida. He would have celebrated his 97th birthday on March 20.

Mr. Speaker, veterans of World War I have stood up for America longer than any other group—three quarters of a century. Their determination and pressure has insured that benefits and programs are today available for all veterans.

In June 1917, William Dean, at the tender age of 18, was mustered from his regiment in the Philadelphia, Pennsylvania National Guard and sent to the battlefields of Europe.

Mr. Dean served with distinction and honor in both France and Belgium as a private and then a wagoner in the cavalry. His service has been recognized by both countries with ribbons and medals.

Mr. Speaker, Mr. Dean's great service to his Nation was in keeping with a long family tradition.

His grandfather served in the Civil War with the Union Army of the Potomac, having volunteered at the age of 34 with the Pennsylvania cavalry.

While Mr. Dean may have retired to Florida, he never stopped trying to help his fellow veterans. For more than 10 years, Mr. Speaker, this dedicated individual drove his fellow veterans to hospitals in St. Petersburg and Tampa to make sure they received the quality medical care they deserved.

Mr. Speaker, Tampa and St. Petersburg are not right around the block from Brooksville; they are a long drive away. But Mr. Dean was willing and ready to give this kind of selfless service to others in need. According to his wife, the frequency of these trips made it necessary for Mr. Dean to buy a new car every 15 months.

On March 20, friends of William Dean will gather at the cemetery in Bushnell to bid farewell to a remarkable man who witnessed both the horrors of war and some of the most astounding advances in his country's history.

Mr. Speaker, Mr. Dean's life reminds us how important it is that we pay tribute to those who served and sacrificed for liberty during World War I. In William Dean's case, his service to his country continued long after he laid down his Army uniform.

THE NEW BAMC OPENS

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. GONZALEZ. Mr. Speaker, I rise today to commemorate the opening of the new Brooke Army Medical Center [BAMC] at Fort Sam Houston in San Antonio, TX.

This is a proud day—for BAMC, for the Army, and for me personally.

At long last, BAMC is a state-of-the-art, unsurpassed medical center, at the forefront of military medicine. Patients here will get the finest care, and the staff here will continue the advances in medical technology that made BAMC as famous as it is great. San Antonio will continue to advance its role as a great center for medical care and research.

There are very few people who know what a long and bitter struggle it took to bring us to this day. But today, the moment this great institution opens for business, we know that the fight was worth it, and I am proud to have led it.

The new BAMC will build on a great history and fine tradition. Starting today, Army medicine has a new reason to be proud of its history and certain of its future, which I know will be as great as its past. As today's ribbon falls, we will open the doors to a great future. Thank you, Mr. Speaker.

TRIBUTE TO STEVEN HOLTER

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. KENNELLY. Mr. Speaker, I rise today to honor an outstanding young man, Steven Holter of Hartford, CT. Steven has recently been honored with the National Center for Neighborhood Enterprise 1996 Achievement Against the Odds Award, and I am sure my colleagues will agree that his story is inspiring.

Steven grew up in a public housing complex in Hartford. Moved by the need for companionship and belonging, several of the neighborhood children formed a recreation club. What began as innocent after-school fun, however, soon became gang activity. With Steven at the helm, The Magnificent Twenties became one of Hartford's largest gangs—and the violence escalated.

Four years of brutality and bloodshed took their toll, and Steven finally tired of the ugliness. He stood before his followers one morning, and declared, "We have to move in a different direction. Today, we will curb our behavior."

"We turned from night to day, like a light switch," says Steven. The Magnificent Twenties undertook a host of community service activities, including visits to the elderly, providing food for needy families, and establishing drug- and alcohol-free discos for teens.

After 2 years of organized community service, the gang dispersed—but Steven went on, his spirit of philanthropy undimmed. Today, he continues to act as a mentor for teenagers throughout the city of Hartford. Meeting with kids in prison, making presentations in inner-city schools, or chatting with his successors on the street, Steven's message remains the same. "You can make a difference in this chaotic world," he tells them. "It won't be easy. You need to want to help yourself. No one can do this for you. Life is all about choices." He urges young men and women to make the choice for a more meaningful life, a life of service rather than of destruction.

In addition to his youth mentorship activities, Steven is also the copresident of a construction firm, Relph & Holter Home Builders, Inc. He offers young people the opportunity to train with his company to develop valuable job skills for their future.

Steven reminds neighborhood youth of their unique capacity to contribute to the community. And he gets through—after all, as Steven often says, "Can't nobody tell it the way I can tell it."

I join all my neighbors in Hartford in agreeing that nobody can. Steven is a unique and irreplaceable part of our community, and we all join in congratulating him on this well-deserved award.

GRAPHIC POSTCARD ACT OF 1996

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I rise to urge support for legislation that I have introduced, the Graphic Postcard Act of 1996. My bill, formulated after postcards showing a dismembered fetus were sent unsolicited to a number of towns in Connecticut, requires that material depicting violent or sexually explicit acts sent through the U.S. Postal Service be enclosed in an envelope emblazoned with a large print warning.

It is not unusual for parents to allow small children to open the mailbox and examine the contents. Bills, letters, and most advertisements pose no threat to young children. Sexually explicit material is already required to be covered when sent through the mail.

The right to free speech is one we all cherish. This legislation will not interfere with free speech; it does not prohibit graphic materials to be mailed, but instead places a simple requirement on their mailing in order to protect children. Like it or not, those responsible for these postcards have every legal right to use the U.S. mail to express their viewpoints. However, I believe that parents have an equal right to protect their children from graphic presentations of frightening or violent actions. Requiring an envelope and warning does not infringe on the sender's freedom of speech, it simply guarantees protection for our Nation's children.

This is a rational action to stop potentially dangerous behavior. Hundreds of my constituents have called or written to let me know they were outraged by these postcards. The level of violence in our society has reached an unprecedented level and is eroding the values that have made us a strong society. We have a special obligation to protect young hands and eyes from unsuitable material, and this is step one.

I therefore urge my colleagues to join me in support of the Graphic Postcard Act of 1996.

COMMENDATION OF INTERAGES ON THEIR 10TH ANNIVERSARY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mrs. MORELLA. Mr. Speaker, I rise today in commendation of Interages, Montgomery County's intergenerational resource center, on the eve of their 10th year anniversary celebration. Over the past 10 years, Interages has become an increasingly valuable member of our local community. Interages is dedicated to bridging the gap between senior members of our society and today's youth.

Interages programs bring volunteer youth to homebound seniors, helping to alleviate their loneliness and respond to the concerns of these otherwise isolated individuals. These young people take it upon themselves to uplift the spirits of these elderly men and women, giving their time in the interest of service to their community. Rather than finding this task a sacrifice, many of them feel that it is they who benefit from the deep friendships and exchange of ideas that often occur.

Since 1990, Interages has also sponsored the intergenerational bridges project. This project brings together elderly mentors with poor and disadvantaged youth. These young people receive the benefit of their mentors' lifetime of knowledge and experience. Often matched up with illiterate and immigrant youth, the seniors enable these at-risk students to rise above their surroundings, helping them to read, write, and speak English; the students end up with an increased sense of self-worth and a reduced risk of leaving school or engaging in criminal activity. The mentors, too, find themselves learning from their proteges, as they come to see through some of the myths surrounding disadvantaged youth in today's society.

On Sunday, March 17, Interages will officially celebrate their 10th anniversary with a celebration at the Chevy Chase Women's Club. This event will again bring together young and old in the spirit of intergenerational achievement and community service that Interages has so fully come to represent. Mr. Speaker, I hope that my colleagues will join me in commending the founder of Interages, Austin Heyman; Interages current copresidents, Jean Linehan and Robert Shoenberg, and all of Interages' dedicated volunteers and workers, on 10 years of exceptional service and in wishing them success in the years ahead.

250TH ANNIVERSARY OF TOWN OF MERRIMACK, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. ZELIFF. Mr. Speaker, let me extend my sincerest congratulations to the town of Merrimack, NH, as it celebrates its 250th anniversary on April 2, 1996. It is a pleasure to commemorate such a milestone event and recognize this New England village.

The people of Merrimack have preserved the town's historic past and traditions. Once known for timber and agricultural trade, Merrimack has welcomed new industries that promote technology and future expansion. In the 1980's, Merrimack was one of the fastest growing towns in New Hampshire. This town serves as an economical, industrial, and social tie between New Hampshire's two largest cities, Manchester and Nashua. Though these changes have occurred, Merrimack has not lost its identity and still attracts travelers to its recreational settings and scenic beauties.

I have had the opportunity to work with the people of Merrimack on a number of important issues over the last few years. I appreciate the willingness of the residents to speak frankly and honestly about issues that affect the town. These people are hard working and always concerned with what is best for their community.

Statewide, Merrimack is well known for being a close-knit, informed, and caring community symbolizing the best that New Hampshire has to offer. Allow me to wish the town of Merrimack a happy anniversary, and I appreciate the opportunity to be included in its celebration. It is an honor to represent the town of Merrimack in the U.S. Congress.

TACTILE CURRENCY FOR THE VISUALLY IMPAIRED

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BAKER of Louisiana. Mr. Speaker, today, I am introducing legislation that encourages the Bureau of Printing and Engraving to consider making Federal Reserve Notes tactually identifiable by the blind and visually impaired. This legislation enjoys considerable bipartisan support from my colleagues on the House Committee on Banking as well as other Members who share the same interests in assisting visually impaired individuals exert their independence.

In March 1994, the Bureau of Engraving and Printing commissioned the National Academy of Science to execute a study entitled "Current Features for Visually Impaired People." This recently published study explores methods of making currency more accessible for all Americans.

The report concluded that the needs of the blind could be better served if further study on specific changes such as size, color, and tactile marks be initiated.

Currently, the Department of the Treasury is engaged in efforts to redesign the Federal Reserve Note to prevent counterfeiting. Indeed, the new $100 bill is prepared to be issued nationwide right now. With this window of opportunity upon us, I believe Congress has the chance to assist the millions of visually impaired Americans who strive to live independently by marking their money more accessible to them.

My bill simply endorses the efforts of the Bureau of Printing and Engraving to study cost-effective tactile changes in Federal Reserve Notes and encourages the incorporation of those change in the national currency.

My bill does not cost the Federal Government any money, nor does it impose any undue, unfair mandates.

Such a minor change in currency will have a significant impact on the independence of visually impaired Americans. Further, a tactual mark can serve other purposes, such as being an additional counterfeit deterrent.

Visually impaired individuals are capable, independent people whose valuable contributions touch all of our lives. It is important that all Americans are afforded equal opportunities to perform at the best of their abilities. My bill stresses that importance. I hope all Members will join me to pass this legislation.

TRIBUTE TO FRED DUVAL

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. PASTOR. Mr. Speaker, I read in last week's newspapers of the resignation of Fred Duval as Deputy Chief of Protocol of the United States. This is a loss for the Department of State and the U.S. Government.

Protocol is one of those things in this town many of us take for granted. It is practiced in the breach. If it's done well, it is hardly noticed. If it is done poorly, it could have major ramifications for relations between our country and others.

In the United States, Protocol is responsible for overseeing the visits of foreign royalty, chiefs of state, heads of government, and foreign ministers. It is responsible for overseeing many ceremonial events including meals, events at Arlington Cemetery, major diplomatic gatherings, et cetera, for selecting Presidential gifts, and the administration of the Blair House. Protocol is also responsible for the accreditation of the diplomatic community, and the selection of Presidential delegations abroad.

During his almost 3 years of service, DuVal has hosted emirs, emperors, and over 120 heads of government. He spent 12 days as the host of the Emperor and Empress of Japan. He played a major role in a number of mega-events such as the PLO-Israel peace signing ceremony in September 1993, the Israel-Jordanian peace signing ceremony in Jordan, the Nixon state funeral, the Atlanta Olympics, and the 50th anniversary of the United Nations, where over 120 heads of government attended.

DuVal is widely admired and well-liked in the diplomatic community where he is often representing the President at evening embassy events, and is thought of in the State Department as one of the strongest and the most effective people to ever hold his position as Chief Deputy of Protocol.

Before coming to Washington, Mr. Duval was a constituent of mine in Arizona and has for many years been a friend.

He will be missed at the State Department, and it is as a tribute to him that I ask unanimous consent to place James Morrison's article from the Washington Times announcing his departure in the RECORD.

RABBI ARTHUR SCHNEIER RECEIVES PRESTIGIOUS VIENNA PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. LANTOS. Mr. Speaker, next week, a truly extraordinary American will become only the second American in history to be awarded the Vienna Prize by the Dr. Karl Renner Foundation. In recognition of his lifelong efforts on behalf of the human rights of the citizens of the world, Rabbi Arthur Schneier will receive this coveted award and a grant of $20,000 from the mayor of Vienna, Dr. Michael Haupl.

Rabbi Arthur Schneier is internationally known for his leadership on behalf of human rights and religious freedom. A group of distinguished citizens of Vienna, including the mayor, members of the city Senate, and prominent members of the community, have chosen Rabbi Schneier for this honor because he is an international role model for the promotion of democratic societies.

Rabbi Schneier joins with President Vaclav Havel of Czechoslovakia as the only non-Austrians to receive this distinguished award. By virtue of his international standing, Rabbi Schneier, as with President Havel, has promoted the ideas of democracy and freedom to the furthest reaches of the globe.

As founder and president of the Appeal of Conscience Foundation, Rabbi Schneier has met with Presidents, Prime Ministers, and Foreign Ministers, as well as religious leaders in the former Soviet Union, Hungary, Poland, Czechoslovakia, Albania, Romania, Argentina, Cuba, Israel, Egypt, Morocco, Bulgaria, Germany, England, Ireland, the Vatican, and Turkey.

Since 1965, when he led a group of political and religious leaders for an Appeal of Conscience rally protesting religious repression in the Soviet Union, he has championed the cause of religious freedom around the world. After the 1965 rally, he established the Appeal of Conscience Foundation, which continues to this day to provide effective and influential leadership on behalf of human rights.

The Appeal of Conscience Foundation and Rabbi Schneier have been involved in a wide range of the world's most intractable problems and most egregious human rights violations. From meeting with Foreign Minister Andrei Kozyrev to discuss United States-Russian relations to meetings with Presidents of Bosnia, Serbia, and Croatia to discuss a lasting peace in that troubled region, Rabbi Schneier has taken it upon himself to provide inspirational and effective leadership that has won him worldwide praise, including the prestigious Vienna Prize.

It brings me great pleasure to rise today to honor this exceptional religious leader on the occasion of his receiving this most deserved award. I invite my colleagues to join me in expressing our appreciation for his extraordinary efforts.

FIGHT TERRORISM, BUT DON'T DAMAGE INDIVIDUAL LIBERTIES

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BONIOR. Mr. Speaker, we all have been shocked and horrified by the acts of terrorism in Oklahoma City, in New York City, in Israel, London, Tokyo, and elsewhere.

The painful loss of innocent lives leaves us with a terrible sense of vulnerability that tears away at our peace of mind.

There are laws on the books that prosecute terrorists for the violent acts they commit—the World Trade Center bombing trial and the trial that will soon get underway in Denver, CO, show us that. We should also carefully strengthen our ability to prevent these acts of terror. But this bill doesn't get us where we need to go.

As Anthony Lewis wrote Monday in the New York Times:

> Terrorism has a cost beyond its menace to life and peace. A democratic society, feeling threatened, may put aside legal norms and adopt authoritarian measures. It may fear freedom.

This approach doesn't take us forward. It takes us back to the now-discredited ideas of the McCarthy Era, and even more recently, to the intimidating FBI interviews with Arab-American leaders during the gulf war about their supposed knowledge of possible terrorist activities, and to the "LA 8" case with its attendant revelation of secret Justice Department contingency plans for the mass roundup, internment, and deportation of Arab nationals.

When this bill first came to the floor, it would have given us selective prosecution, more wiretaps, more domestic counterintelligence, deportation of political asylum seekers, and secret evidence to be used in secret trials. While some of these problems have been corrected, the bill is still fatally flawed.

We are debating this issue in tense times, with the recent bombings in Israel still fresh in our minds. These were terrible tragedies, and we should respond, but we should do so with clear minds, with a view that values the liberties that so many have fought and died for over our history as a nation.

Mr. Speaker, let us not cast freedom aside and allow fear to prevail. We can do better than this bill, and we must, for our liberty and our safety depend on it.

WOMEN IN HEALTH CARE

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in honor of all women in the health care field.

As the health care industry continues to change dramatically and rapidly, these professionals remain steadfast in their dedication to the well-being of the aged and infirm. They work hard to keep up with the changing market, while unfailingly remaining committed to helping the sick.

And no matter what their position, everyone contributes in an essential way. I honor the efforts made by all women in all roles in providing the best quality work toward meeting the needs of patients.

When I read today the Northern New Jersey Visiting Nurses Association's newsletter, I was reminded of the challenges facing our health care workers. Their mission: Keeping people healthy by providing quality community health service by skilled and caring individuals and promoting the health and well-being of the entire community.

Nursing in particular demands such a broad array of skills and knowledge combined with attributes of compassion and commitment. From many of the health care professionals with whom I am acquainted, I know of the extraordinary job they do at continually re-educating themselves in medicine, disease, and an ever-changing, high-technology environment, while never losing sight of their most important responsibility—the health and well-being of their patients.

This sense of duty is astonishing. I was recently told of a home health aide who during the January blizzard, when so many of us were home and safe, walked a couple of miles through 5-foot snowdrifts to care for her patient and walked home. I was told of the health workers who stayed 2 or 3 consecutive days working extra shifts at the hospital to meet the needs of patients. Mr. Speaker, I applaud them.

These are truly multitalented individuals who fill an essential role in our communities. Their job not only requires strong leadership and skill, but also a heart and soul unfamiliar to many of us. Today I rise to honor them—those individuals who help us stay healthy and serve us when in need.

LEGISLATION AMENDING THE FAIR LABOR STANDARDS ACT

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. GRAHAM. Mr. Speaker, today I am introducing legislation to allow professional services firms which contract with the Federal Government to pay their professional employees on an hourly basis or a salary basis, without defeating their exemption from overtime under the Fair Labor Standards Act.

The FLSA exempts from overtime requirements professional employees who meet a duties test laid out by the Department of Labor's regulations under the act. Professional employees must also be paid on a salary basis, meaning that they must be paid on a salary or fee basis but not on the basis of number of hours worked. If the employee does not meet the duties test for a professional or the salary basis test, the Department of Labor and the courts have held that the employee is not exempt from overtime and therefore must be paid time-and-a-half for all hours worked over 40 within a 7-day period.

When the Federal Government contracts with private firms for professional services, most requests for proposals for such contracts require that the contractor submit bids as to the fee for the professional services that are based on hourly rates. However, because the contractor must bid the contracts on an hourly basis and, as a practical matter, calculate the pay of the professional employees working on the contract on an hourly basis, these employees may not meet the requirements for the overtime exemption under the act.

In addition to adversely affecting contractors, the salary basis requirement under the regulations can have the effect of requiring overtime pay for well-compensated, highly skilled employees, many of whom are lawyers, certified public accountants and financial analysts—simply because the employer compensates the employee on an hourly basis, as opposed to a salary basis.

This legislation will enable those firms contracting with the Federal Government to pay their employees in the manner which meets the requirements of the contract without running afoul of the FLSA.

EAST CENTRAL HIGH SCHOOL'S OVERALL EXCELLENCE AWARD

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to East Central High School, a school in my district, for being recognized by Redbook magazine for overall excellence in its America's Best Schools Project competition. East Central High School is 1 of 63 schools nationwide recognized for its overall excellence in academics and extra-curricular activities.

This distinction truly an accomplishment for which everyone connected to East Central High School should be proud. I applaud the faculty, school administrators, and staff for their dedication beyond the call of duty to provide the best education to their students. This is what has earned this school the recognition in Redbook. The students of East Central who have worked hard to learn and excel equally deserve praise. Last year, more than 800 students at the school brought home hard-won awards in a variety of disciplines. The parents of these students, who dedicate themselves to creating new and greater learning opportunities for their children, deserve our recognition.

East Central High School draws from both urban and rural areas, being the only high school in a school district that spans 260 square acres. The area has a low tax base, and the school and the community came together to overcome financial challenges. They did so by creating a foundation to raise funds and provide incentive grants to teachers to create new, exciting programs to challenge and excite students. In this way, parents, teachers, administrators, and members of the community have created a wide variety of choices to excite the students and to encourage them to get involved.

East Central's innovative efforts set a positive example to everyone whose goal is to enrich the lives of our children. Examples of this unique programming are impressive, as well as abundant. East Central students taking French are communicating with students in France using the Minitel, the French electronic information system. Students interested in hospitality management are receiving first-hand experience through mentoring programs at a local Marriott Hotel. Restructured English and history classes have spurred student interest to pursue these subjects beyond the required courses. New daily class schedules help students learn more with time for extra-curricular activities. Extended library hours and an after-school tutoring program fosters a complete learning environment.

Greater student achievement has been the result. The number of students on the honor roll each 9-week period increased dramatically while the student failure rate has decreased. Students have won local, regional, State, national, and international awards in history, science, literature, and agriculture. A student at East Central placed third at the International Conference for Science in Toronto, Canada. The school's one-act play took the district trophy for the first time in 10 years. Nine students placed in the U.I.L. Literary region 4 contests. The school's basketball team ranks first in the State of Texas.

I am greatly impressed by the spirit at East Central. Overcoming financial and geographic obstacles, the entire community created and continues to create a positive educational center for its students. The ability to think creatively, to put new ideas to the test, has paid off. East Central stands as an example of what a community can accomplish—not alone—but together.

THE FAST AND EFFICIENT TAX FILING ACT

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. COX of California. Mr. Speaker, many Government rules and regulations now on the books are obsolete and just plain burdensome. Today, with bipartisan support, and in behalf of taxpayers across the Nation, I am introducing the Fast and Efficient Tax Filing Act to correct one of these obsolete regulations.

Every April 15, thousands of Americans nationwide wait in long lines at the U.S. Postal Service to mail their tax returns and receive their registered mail receipts which prove that their documents were mailed on time. So even though the tax documents might arrive at the Internal Revenue Service 2 or 3 days after the due date, it is counted as being delivered on the date of the registered mail receipt. This is a good rule—it gives taxpayers peace of mind that they will not be fined or penalized if the Postal Service takes longer than expected to deliver the documents.

However, like so many other things, the devil is in the details. This timely-mailing-as-timely-filing rule applies only to documents delivered by the U.S. Postal Service. So if the same taxpayer sent his or her tax documents on the due date via Federal Express, United Parcel Service, or some other reliable private delivery service, the timely-mailing-as-timely-filing rule would not apply, and the tax documents would be considered officially late.

The timely-mailings-as-timely-filing rule was written at a time when only the U.S. Postal Service delivered mail. Today, it doesn't make any sense to limit the timely-mailing-as-timely-filing provision just to documents delivered by the U.S. Postal Service when many alternative methods are much more reliable and quicker.

The Fast and Efficient Tax Filing Act will correct this inequity by permitting the Secretary of the Treasury to expand the timely-mailing-as-timely-filing rule to include qualified private delivery services. This would both increase the efficiency of the IRS and make it easier for taxpayers to file their tax returns on time.

Mr. Speaker, I ask unanimous consent to introduce into the RECORD letters of endorsement for the Fast and Efficient Tax Filing Act from the National Taxpayers Union, the United Parcel Service, and even from a former IRS Commissioner.

I invite my colleagues to cosponsor this important bill, so that we may make life a bit easier for millions of American taxpayers.

NATIONAL TAXPAYERS UNION,
Alexandria, VA, March 7, 1996.

Hon. CHRISTOPHER COX,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN COX: The 300,000-member National Taxpayers Union strongly supports your Fast and Efficient Tax Filing Act, which would permit the Secretary of the Treasury to designate qualified delivery services for purposes of timely filing of tax documents with the Internal Revenue Service and Tax Court.

Many aspects of the Internal Revenue Code and its enforcement seem outmoded and inconsistent, but few are as archaic as the policy on the filing of tax documents. Few taxpayers are aware of the fact that the IRS will only accept a receipt from the U.S. Postal Service as evidence that a document was delivered to the tax agency on time. Every year many citizens have been placed in financial peril simply because they made a reasonable assumption that a receipt from a delivery service was adequate.

With the onset of the Information Age, many national delivery services have proven to be more reliable than the U.S. Postal Service. Indeed, private companies from law firms to financial industries often entrust Federal Express, United Parcel Service, and many others to quickly deliver documents upon which their livelihoods depend. Yet, current IRS policy forces taxpayers to patronize the postal monopoly.

Your legislation would also make the filing of important documents more convenient for taxpayers who do not have easy access to a Post Office, or do not have time to wait in long lines for Registered Mail receipts. Private delivery firms can provide the personalized, door-to-door service many citizens prefer.

A federal appeals court in San Francisco recently upheld a lower court ruling that the judicial branch cannot compel the IRS to recognize the receipts of reputable delivery services. According to the ruling, while a taxpayer may "put forth what may be a legitimate policy rationale for extending the rule to private delivery services, it is for Congress, not the courts, to make such a change."

For this reason, taxpayers are now looking to Congress to remove this onerous and pointless compliance burden. Congress should modernize the tax filing law by enacting the Fast and Efficient Tax Filing Act.

Sincerely,

DAVID KEATING,
Executive Vice President.

UNITED PARCEL SERVICE,
Washington, DC, March 13, 1996.

Hon. CHRISTOPHER COX,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN COX: United Parcel Service (UPS) strongly supports passage of the "Fast Efficient Tax Filing Act" with its goal of expanding the current timely-filing rule to include private companies. The bill would not only allow the Internal Revenue Service (IRS) to receive important documents as promptly as possible but would provide the flexibility to UPS customers to file their tax documents through a carrier of their choosing.

The information age has brought about a transformation in the way business is conducted. Consumers are continuously looking for new choices to meet their constantly changing needs. UPS alone has over 1.3 million daily pick-up customers and delivers nearly 12 million parcels and documents on a daily basis.

Private companies such as UPS present convenient and more reliable alternatives to the Postal Service. UPS offers time definite express services which would ensure the timely filing of tax documents with the IRS. In addition, UPS has the infrastructure and technology to track vital documents through its system to the final destination. These are the types of services taxpayers are looking for when dealing with the IRS.

The current IRS policy requires taxpayers to patronize the Postal Service when filing their tax returns. This is not only inconvenient for those who do not have easy access to a Post Office, but it unfairly treats private sector companies by creating an unlevel playing field between the Postal Service and its competitors.

A federal appeals court in San Francisco recently ruled that there is a legitimate policy rationale for extending the timely-mailing-as-timely-filing rule to private delivery companies but left the matter up to Congress to resolve. The time is ripe for reforming this unfair rule which does not serve the needs of society. On behalf of all taxpayers, we urge Congress to pass the Fast and Efficient Tax filing Act.

Sincerely,

ARNIE WELLMAN,
Vice President,
Corporate Public Affairs.

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
Washington, DC, March 14, 1996.

Hon. CHRISTOPHER COX,
House of Representatives, Washington, DC.
Re: Fast and Efficient Tax Filing Act

DEAR CONGRESSMAN COX: As a former IRS Commissioner, as a tax practitioner, and as a taxpayer, I enthusiastically support your proposed Fast and Efficient Tax Filing Act. The change is long overdue—I only wish I had focused on the issue and taken the step administratively while I was at the IRS!

Your proposal embodies the kind of real world, common sense legislation that the tax system so desperately needs. While the courts in Correia applied the law correctly, these are precisely the situations that drive people up the wall and destroy their confidence in government. You should be applauded for your ongoing efforts to make the system work better for citizens and taxpayers. If there is ever anything I can do to lend a hand, please let we know.

Sincerely,

FRED R. GOLDBERG, JR.

HONORING THE REVEREND KIRBYJON CALDWELL

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BENTSEN. Mr. Speaker, I rise in honor of Rev. Kirbyjon Caldwell of the Windsor Village United Methodist Church in Houston, who has done so much to provide economic opportunity and improve the quality of life for so many people in Houston. I want to insert in the RECORD the following article from the February 20, 1996, issue of the Wall Street Journal that does an excellent job of describing Reverend Caldwell's contributions to our community:

[From the Wall Street Journal, Feb. 20, 1996]

DUAL MINISTRY—A HOUSTON CLERGYMAN PUSHES CIVIC PROJECTS ALONG WITH PRAYERS

(By Rick Wartzman)

HOUSTON.—Time was when the Rev. Kirbyjon Caldwell was more focused on profits than prophets, more on rates and investments than rites and vestments.

That was before he pulled a colleague, Gerald Smith, into a conference room at the Houston investment bank where they worked and, out of the blue, told him he was leaving business for the ministry.

Knowing that the Wharton School graduate and Wall Street alumnus was on the cusp of making big money, Mr. Smith could muster only one response: "Are you crazy?" He begged his friend to slow down, at least to mull his decision overnight.

But Mr. Caldwell's mind was made up, and he tendered his resignation that afternoon. "He was completely confident that this was what he was supposed to do," recalls Mr. Smith, who now runs his own $2 billion asset-management firm. "There was just no turning him back."

Some 17 years later, at age 42, Mr. Caldwell is one of Houston's most prominent clergyman. An electrifying preacher, he took over Windsor Village United Methodist Church in 1982, when it was struggling with a mere 25 members, and he has made it flourish, with more than 9,000.

More broadly, Mr. Caldwell has emerged as a strong advocate for civil rights in Houston's black community, the largest of any city in the South. He also serves as a bridge to the white establishment, landing on the boards of Texas Commerce Bank, Hermann Hospital and the Greater Houston Partnership, a button-down business-development group long dominated by corporate executives.

But his grandest achievement may be a project now nearing completion: a multimillion-dollar business facility, located in a once-abandoned Kmart, that is reviving a blighted area of southwest Houston.

MANY FACETS

Called the Power Center, the 104,000-square-foot complex houses a Texas Commerce Bank branch; Houston Community College, which offers computer training and business classes there; a federal Women, Infants and Children (or WIC) nutrition program, expected to soon serve more than 5,000 people a month; a health clinic; a pharmacy run by a first-time businessman; a 1,900-seat banquet facility; and a private grade school founded by Mr. Caldwell. In addition, 18 of the 27 office suites have been leased to businesspeople, including to Mr. Caldwell's wife, Suzette, an environmental consultant.

"I think it's a tremendous experiment . . . to create a situation where people help themselves," says Forrest Hoglund, chairman of Enron Oil & Gas Co. and a financial contributor to the Power Center.

The project, launched four years ago, embodies what Mr. Caldwell calls "holistic salvation"—a bedrock belief that God cares not only about the soul but also about people's everyday social and financial well-being. The pastor sees a connection between economic power and civil rights. "Unless there is economic justice, you won't have peace in the community," he says. "The Old Testament speaks of that."

SUCH PROJECTS PROLIFERATING

The Power Center is hardly unique. Across the nation, ever more black churches are making commercial investments designed to help empower African-Americans economically.

Last month, on Martin Luther King's birthday, five of the country's largest black religious organizations announced they were forming a for-profit enterprise, Revelation Corp. of America, which plans to recruit millions of churchgoers and others to buy products at a discount from designated companies; in return, the companies would also funnel money back to the consumers' churches and into a national home-mortgage fund. Nationwide, black clergymen are increasingly taking on entrepreneurial roles, starting up ventures to bring capital and jobs to their areas.

What makes the Power Center special, though, is the way Mr. Caldwell so easily mixes divinity and deal-making.

"His background in banking and finance has helped him a lot," says the Rev. William Lawson, Houston's pre-eminent African-American pastor, who is leading an effort to build a shopping center in the impoverished Third Ward. "He has set a standard for most of the rest of us in terms of development around the church."

Well before the Power Center, Mr. Caldwell started several nonprofit ventures to, among other things, shelter abused children and develop low-income housing. While providing needed services, these nonprofits also give jobs to more than 125 people, placing them among the largest black-owned employers of blacks in Houston.

For a long time, Mr. Caldwell notes, black churches were pillars of economic activity, serving during Reconstruction as the community's savings institutions and insurance companies. "What we're doing," he says, "is simply taking a page from the 19th-century church."

And giving it a 20th-century twist. To get his holistic message across, Mr. Caldwell delivers potent sermons filled with the vernacular of modern life. A recent homily on the need for better communication between the sexes drew as much from the bestseller "Men Are From Mars, Women Are From Venus" as it did from Scripture. As he spoke, he tossed a basketball, football and softball to underscore key points.

This rousing style—along with a myriad of community-outreach programs and several popular choirs backed by a pulsating band—attracts many black urban professionals to Windsor Village. But the church also draws older people and the working class, making it one of Houston's most socially diverse black congregations.

As Windsor Village has expanded, so has Mr. Caldwell's power base. In turn, he has used that to attack redlining, fight to bring more minorities into the state judiciary and, early on, battle unsuccessfully to promote a black or Hispanic to the superintendent of Houston schools. In recent days, Mr. Caldwell has helped lead a protest against what he calls the unfair treatment of the family of Warren Moon, as the professional football player stands trial on spousal-abuse charges.

USEFUL BACKGROUND

Yet his intellect and leadership skills—and his years at Charleton College, in Northfield, Minn., where he majored in economics; the University of Pennsylvania's Wharton School; and then First Boston Corp., where he sold municipal bonds—have made him an attractive addition to old-line Houston institutions.

"We in the establishment bet on Kirbyjon," says Charles Miller, a wealthy Houston businessman. He helped put Mr. Caldwell on the boards of the Greater Houston Partnership and Texas Commerce Bank after meeting him through the late Mickey Leland, a Democratic congressman from Houston. Not many years ago, Mr. Miller acknowledges, many white business leaders worried that minorities let into the club might turn out to be "divisive or agitators or take advantage of the system."

But Mr. Caldwell has assuaged those fears while avoiding the impression in the black community that he has sold out or been coopted. "Although he moves with poise and ease . . . in corporate boardrooms, he also moves with the independence of knowing that his base of support comes from people who are out of the economic mainstream," says Rodney Ellis, a Democratic state senator and a former senior aide to Rep. Leland. (Mr. Caldwell's first wife, from whom he was divorced, worked as a Leland aide and was killed with him when their plane crashed in Ethiopia in 1989.)

The idea for the Power Center came to Mr. Caldwell in 1992, when he was in Jonesboro, Ark., for a family reunion and visited a Wal-Mart there. Several weeks earlier, he had been approached by the owners of Houston's Fiesta supermarket chain about what to do with the old Kmart on their property; the building, just down the road from the Windsor Village church, had long been vacant and was turning into a rat-infested eyesore.

THE SMORGASBORD IDEA

Walking through the Wal-Mart, Mr. Caldwell was struck by its wide range of products. And he thought Windsor Village should similarly offer "a smorgasbord of services"—in its case, medical, financial and educational—as "a one-stop shopping center for persons in the community."

But the church didn't have the money to lease the old Kmart—what Fiesta had in mind. So, Mr. Caldwell started negotiating. "By the time we were through, the discussion had switched from us leasing them the property to us giving them the property," says Buster Freedman, who manages Fiesta's real estate. He not only calls Mr. Caldwell a "visionary" for persuading Fiesta to make the $4.4 million donation, but a "wheeler-dealer" as well.

Attracting tenants to the Power Center hasn't always been easy. For example, Texas Commerce Bank, a unit of New York's Chemical Banking Corp., determined that the neighborhood's traffic pattern didn't make it "the right place to put a branch," Chairman Marc Shapiro says. But in the end, he adds, he was persuaded by Mr. Caldwell's ability "to attract people and energy to that spot."

Most of the Power Center's occupants and customers are black. But the area is diverse, and Mr. Caldwell is careful to reach out, making sure that fliers promoting a recent health fair, for instance, were in Spanish as well as English. "It would be insensitive, not to mention economically dumb, to fail to recognize the multicultural nature of Houston and market accordingly," he says.

Like most CEOs, Mr. Caldwell likes to tout numbers. The Power Center, he says, will generate some $26.7 million in cash flow over the next three years—"and that's real conservative"—plus more than 220 new jobs.

Before anybody could move in, the site had to be renovated, of course, at a cost of more than $4 million. Some of that money came from donations, some from federal and private grants. But most of it—$2.3 million—came from refinancing a bond offering the church had made years earlier and from issuing new debt.

Mr. Caldwell delights in recounting how the church put the deal together with American Investors Group Inc., a Minneapolis securities firm specializing in working with nonprofit groups. "They offered us the lowest NIC," he says, quickly explaining: "That means net investment cost. It's investment-banker talk."

He didn't always talk like that. A product of Kashmere Gardens, a low-income neighborhood here, he grew up around his father's clothing store, and he credits that entrepreneurial environment with helping point him toward a business career. But he says he also recognized that others from the neighborhood—"pigeon droppers, hustlers, pimps and prostitutes"—were entrepreneurs in their own way, and he learned lessons from them, too. "They lived what, materially speaking, was a good life," Mr. Caldwell remembers. He vowed to do the same, "only legally and morally."

Throughout his life, Mr. Caldwell was active in the church. And while on Wall Street, he even called his godfather, a Sunday-school teacher back in Houston to ask, "How do you know when you've been called to be a minister?"

"You'll know when you stop asking and start telling," came the reply.

In October 1978, Mr. Caldwell did just that. He had recently returned to Houston from New York and was working at Hibbard, O'Conner & Weeks, a regional investment bank, when he decided on his bold career change. He says he simply had reached a point where "my heart and my mind were in synch."

Now, at a Sunday service, more than 1,000 are packed into Windsor Village. "Welcome to Kingdom-building, Satan-busting territory," Mr. Caldwell declares. For the next 90 minutes, he is a whirlwind—kneeling down, springing up, raising his arms heavenward, mopping his brow with a blue towel—as he prays and sermonizes and laughs and sings. Behind him, a giant sign reads, "The Power Center, It's In Your Hands."

As the collection plate is passed, Mr. Caldwell invites to the altar all those with "financial celebrations and concerns." He implores them to "thank God for blessing your contracts, your business plans, your marketing decisions." As scores come forward, he shouts, "Amen."

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1996

Mr. BURTON of Indiana. Mr. Speaker, I wish to insert into the RECORD a number of items pertaining to our Cuban Liberty and Democratic Solidarity Act, which was signed into law by the President on Thursday. We are convinced that this legislation will contribute to the struggle for freedom in Cuba, and we are gratified that it is now the law of the land.

I wish to include my official statement from last week's floor debate as well as a number of news stories regarding the effects of our bill and an op-ed from a Canadian newspaper.

CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Mr. Speaker, it is with a great sense of history and responsibility that I rise in support of H.R. 927, the Cuban Liberty and Democratic Solidarity Act. This legislation has travelled a very long way and many colleagues on both sides of the aisle have worked very hard to get us to this point.

What we have before us today is nothing less than a strong, bipartisan message from the American people for Fidel Castro. That message is a very clear one: to paraphrase what Moses said to pharaoh, like Castro, the major tyrant of his day: Let your people go! Stop oppressing the people of Cuba who have suffered for 37 years under your corrupt, vicious, cruel dictatorship.

You have run the Cuban economy into the ground, you have murdered hundreds, tortured and imprisoned thousands, and you have denied freedom to the people of Cuba for far too long. You are the last dictator in this hemisphere, and one of the very last communist thugs left in the World.

Get lost!

The libertad bill, Mr. Speaker, will help to deny hard currency to the Castro regime—the very hard currency that cruel dictatorship needs to survive.

It tightens the embargo, and through codification, ensures that the embargo will remain in force until there is a democratic transition in Cuba.

It sets up a plan to assist such a democratic transition government in the future. And it protects the rights of American citizens by allowing them to sue those foreigners who traffic in their stolen property. It also denies visas to those traffickers.

Mr. Speaker, we have been working on this bill for over a year. I want to thank my colleagues, Congressman Gilman, Congresswoman Ros-Lehtinen, Congressman Diaz-

Balart, Congressman Menendez, Congressman Torricelli, Senator Helms, Senator Coverdell, and Senator Dole. I also want to thank the committee staff and legislative counsel who worked so long and hard on this bill.

Finally, to our friends, in the Cuban-American community, to Jorge Mas-Canosa and the Cuban American National Foundation, to the Valladares Foundation, to Unidad Cubana and other friends—thanks a million.

I also want to particularly thank Ambassador Otto Reich, Robin Freer, Tom Cox and the U.S.-Cuba Business Council for their indispensable help over the past months in support of our bill. We are very appreciative and we are certain that the council will continue to play a constructive role on these issues.

The four Cuban-American martyrs who gave their lives last week, Armando Alejandre, Jr., Pablo Morales, Mario de la Pena, Carlos Costa, made this possible. We dedicate this bill to their blessed memory. We will see to it that they did not die in vain.

[From Reuters, Mar. 9, 1996]

CUBA SAYS NEW U.S. LEGISLATION HAS ALREADY HURT

HAVANA.—Cuba's foreign minister, Roberto Robaina, says pending U.S. legislation to tighten Washington's embargo against the island has already hurt because potential investors have been worried that it is in the pipeline.

Given this, business people would have to be "daring" to invest now in Cuba, Robaina told Cuban state television late on Friday, reiterating his stance that the legislation was a "law against humanity."

He did not give any details of foreign companies that have been scared away by the prospect of the Helms-Burton bill, named after its Republican sponsors.

The legislation, approved this week in Congress and now awaiting President Clinton's signature, includes provisions to punish third country firms doing business in Cuba. These have been criticized by European Union countries, Canada and Mexico, which do business with the communist-ruled island.

The legislation had been in the U.S. Congress for a year but was given added momentum after Cuba downed two small exile-operated planes on February 24. The United States has led international condemnation of the incident.

Cuba argues it acted in legitimate defense of its airspace, after issuing warnings and tolerating repeated violations of its airspace over the past 20 months.

Cuban authorities are presenting Havana as a victim of unfair legislation while at the same time trying to reassure current and potential investors and traders by saying the law will have no effect.

Cuba and the United States have had no diplomatic relations and have been at odds since the 1959 revolution that brought Castro to power.

Robaina reiterated Cuba's willingness to talk with the United States on any issue as long as it was on a basis of mutual respect.

"What this cannot be is a relationship of subordination," he said.

[From the Toronto Sun, Feb. 28, 1996]

OTTAWA STILL LOVES TYRANT

Once more, Canada continues to support Cuban communist dictator Fidel Castro—despite his shooting down of two unarmed U.S. civilian planes in international air space.

The best that Jean Chretien's foreign affairs minister, Lloyd Axworthy, could do was describe as "deplorable" the shooting down of the planes by Soviet-made MiG-29 fighter jets and the killing of the four Cuban exiles.

Instead of ripping at Castro who ordered the planes shot down without even issuing any warnings first, Axworthy yesterday warned the U.S. Congress not to pass legislation that would penalize companies—including foreign ones—that do business with Cuba.

"That would be contravening international law," whined Axworthy.

Of course, it would be a real surprise if Axworthy and his boss Chretien did the right thing and really condemned Castro with some meaningful tough action. After all, they were both cabinet ministers for Pierre Trudeau, the strongly leftist Canadian prime minister who was a close buddy and supporter of Castro throughout the Cold War.

It was no accident that Trudeau shouted "Long live Commander President Fidel Castro!" to a huge, cheering crowd in Havana back in the 1970s. And it was no accident that the Trudeau regime encouraged Canadian trade to help prop up Cuba against a U.S. trade embargo. And it was certainly no accident that he encouraged Canadians to vacation in Cuba so that Castro could pick up their badly needed western dollars.

I remember reporting on some of those early Canadian tourists who were sucked into visiting there and had to put up with an endless supply of greasy chicken and bad plumbing.

Throughout that period, another big booster of Castro was the Soviet Union, which turned the island nation into an armed fortress and jump-off base for spreading communist revolution in the Western Hemisphere.

However, after the Soviet Union collapsed, Castro and his police state were left to flounder as a totally inefficient economic basket case.

Except for the continuing, never-ending support of Canada and much of the European Community. For instance, Canada has an $84-million annual trade deficit with Cuba. Our exports to it are $215 million and imports are $299 million.

For 33 years, the U.S. backed strongly by a large community of Cuban exiles, has tried to force the overthrow of Castro to give the people freedom and democracy. And with the Soviet collapse, the opportunity was at hand.

But nations such as Canada keep propping up Castro, allowing him to survive and keep the Cuban people under his heel.

Also, Castro has long been the master of creating an outside threat in order to declare an emergency and put his still formidable armed forces on alert. When his critics are becoming a bit bold, such actions help pressure the Cuban people to back him against foreign threats—one more time.

In the U.S., President Bill Clinton had been suckered into a policy of trying to appease Castro by improving trade links.

But now, with the shooting down of the two unarmed planes, he toughened the U.S. trade embargo, calling the attack "an appalling reminder of the Cuban regime: repressive, violent, scornful of international law."

Republican Sen. Jesse Helms, co-sponsor of a Congressional bill to punish those who have bought confiscated U.S. property in Cuba, declared:

"This act of terror is a searing indictment of European and Canadian policies of engagement with Fidel Castro's brutal regime."

"What we are trying to do is send a very strong signal to business communities throughout the world that we don't want them buying property of Americans taken away from them by Fidel Castro so he can get hard currency to survive as the last communist dictator," contended co-sponsor Congressman Dan Burton.

Will the Chretien government support the Americans? Of course not. Canada still backs Castro.

[From the Washington Post, Mar. 10, 1996]

CASTRO'S BLUNDER

(By Ernesto F. Betancourt)

On Feb. 24 the Cuban situation took a turn for the worse for Fidel Castro. There is a mythical notion that Castro always ends up on top. But this time it's evident he has made a mistake that will aggravate the long-run disaster he has brought upon the Cuban people and undermine the goals he was pursuing. Why did he do it?

Last year Castro launched a public relations offensive whose external objectives were to (1) prevent passage of the Helms-Burton legislation, (2) promote the image of Cuba as a safe and worthy investment location and (3) get access to the International Monetary Fund, World Bank and Inter-American Development Bank, over U.S. objections. But the most important objective was internal: to ensure consolidation of his Stalinist hold on power.

The offensive went well from the public relations point of view but was unable to bring about a solution of his economic predicament. And the meager economic and political opening wave he was forced to accept to win support from groups such as the European Community and the Inter-American Dialogue, not to mention pro-Castro advocates in the United States, was creating a threat to his political control.

In October 1995, dissident groups within Cuba agreed to come together in a loose association called Concilio Cubano, with a minimal program aimed at peacefully getting the government to grant citizens the rights guaranteed not only by the Universal Declaration of Human Rights but by the Cuban Constitution.

The Castro regime's response was the usual: unleashing against Concilio bands of police-protected hoodlums, planting false information to justify arresting the promoters and infiltrating people to generate internal conflicts within the groups.

But it wasn't working. The vision of an end to the nightmare of Castro's rule seems to have given strength to an increasing number of courageous Cubans to endure the beatings and hardships of prison and deprivation that the regime uses to discourage them. Moreover, Castro's making his appeal for support against the United States an international one is causing even more decent people worldwide to come forward to demand that, in exchange for their support, the regime make concessions to democratize Cuba and respect human rights.

The surge in internal opposition in Cuba was made financially possible by the privatization of certain service and agricultural production activities, emigrant remittances and tourism. In other words, the modest economic reforms have had a most threatening impact on Castro's rule while at the same time failing to generate enough economic improvement to allow him to tighten his hold.

For contrary to the image of being conveyed by Castro and his propagandists, the Cuban economy is not growing. The 2.5 percent growth in GDP claimed for 1995 is highly questionable in the presence of a meager

3.3 million-ton sugar crop. The sugar crop for 1996 is in serious trouble and may not increase significantly despite the borrowing of $300 million to buy fertilizer, spare parts, etc.

Meanwhile, dollarization, another basic Castro political mistake made in 1993, continues to destroy the previous egalitarian basis of Cuban society. The "winners," the 10 to 15 percent with access to dollars, are sucking food and other consumer items for the rationing markets, on which 85 to 90 percent of the population, the "losers," depend for survival. To appear to be siding with the losers, Castro lashes out at capitalists, particularly of the local variety, and takes measures against them such as the confiscatory taxes profits and private income enacted this January.

As to foreign investment, the picture is equally cloudy. The sacking in December of Ernesto Melendez, the minister in charge of foreign investment, and the imprisonment without trial of Robert Vesco reflect Castro's displeasure with the situation. The flagship of the deals, the $1.3 billion Mexican Domos Group investment in the Cuban telephone system, has turned out to be a mirage.

Faced with Concilio's rapidly escalating internal political challenge, Castro needed an external crisis to justify the measures he intended to take. For that, he selected his favorite enemies: American imperialism and the Cuban exile community. As in the past, he expected to paint himself as the victim of their aggression. As to the embargo, it was to be tightened anyway with the likely approval of the Helms-Burton law. But Castro probably thought he could extort from President Clinton the concession of entry to the IMF, World Bank and the IDB by threatening a wave of immigration during the presidential campaign.

The crisis resulting from Castro's action has backfired on him. The story the Cuban government tried to convey was not credible. You just don't down civilian airplanes, period. The infiltrated defector's premature return to Cuba provided proof of the premeditation behind Castor's actions. The truth has prevailed, and Brothers to the Rescue is clearly perceived as the humanitarian organization it is one that helped save the lives of more than 7,000 rafters and is now supporting the peaceful efforts of Concilio Cubano. The Cuban foreign minister was not able to get any significant support at the United Nations.

Castro misread President Clinton, who did not cave in to Cuban hints about massive migration, and instead announced a set of moderate but adequate measures. Among the most important; a stronger Helms-Burton has become law. It not only will dry up the speculative hopes that were feeding the investment frenzy promoted by Castro's friends and agents but will make mandatory Cuba's exclusion from international financial institutions. Radio Marti broadcasts will be able to reach more Cubans. The hopes of an economic assistance agreement with the European Community have been dashed. Castro has been disinvited to joint he Rio Group of Latin American presidents as an observer.

There are two additional measures to be expected. At a later date, once the International Civil Aviation Organization investigation is completed, aviation sanctions may be applied to Cuba and the MiG pilots may be named as war criminals. As for Concilio Cubano, its predicament is likely to be brought to the attention of the U.N. Human Rights Commission meeting in Geneva later this month by our delegation. Those being persecuted by Castro for trying to exert their legitimate rights to speak, associate and meet will get the encouragement that comes from knowing that the world has not forgotten them.

Finally, it is to be hoped that the Justice Department will revise its policies toward the Cuban American community. These are Americans who should be protected from the activities of Cuban intelligence. Instead, present policies have led to the embarrassing situation of the FBI paying a Castro agent, Maj. Juan Roque, to spy on a peaceful and humanitarian American organization, Brothers to the Rescue.

SENATE—*Friday, March 15, 1996*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

On Sunday, we will celebrate St. Patrick's Day, and, so, I feel today it is appropriate to give the Gaelic Blessing and then the prayer St. Patrick used each morning.

May the road rise up to meet you,
May the wind be always at your back
May the sun lie warm upon Your face,
The rain fall softly on your fields,
And until we meet again
May the Lord hold you
In the hollow of His hand.

Gracious Lord, we remember the words with which St. Patrick began his days. "I arise today, through God's might to uphold me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's hand to guard me, God's way to lie before me and God's shield to protect me." In Your holy name, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Wyoming is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, for the information of my colleagues this morning, there will be a period for morning business until the hour of 10 o'clock. Following morning business, the Senate will begin consideration of S. 942, the small business regulatory relief bill, under the consent agreement reached yesterday. When the Senate concludes the debate on the small business bill, it will resume consideration of the continuing resolution. Senators should be reminded that any votes ordered on the small business regulatory relief bill or the continuing resolution will occur during Tuesday's session of the Senate. No rollcall votes will occur today or on Monday. However, Senators should be prepared to debate their amendments on these days in order to complete action on the continuing resolution appropriations bill on Tuesday, as is required under the consent agreement.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

THE NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, I thank my colleague for his graciousness in allowing me some time to announce the realization of another component of our initiative to prevent violence against women: the national domestic violence hotline. The hotline, which officially opened on February 24, signifies the realization of the key provision of the Violence Against Women Act passed by the Congress as part of the 1994 crime bill.

I urge my colleagues, as we go into appropriations, to continue to fully fund this. The toll-free number is 1–800–799–SAFE. This will provide immediate crisis assistance counseling and local shelter referrals to women across the country 24 hours a day. And for women that are watching right now on C-SPAN, again, I want to repeat this number: 1–800–799–SAFE. There is also a TDD number for the hearing impaired: 1–800–787–3224.

The hotline will help to ensure that any person suffering due to violence in their home will have immediate access to information and emergency assistance whenever they need it. This is an important part of our initiative to end the family violence that has such devastating consequences for women, children, and families in Minnesota and throughout the country.

Roughly 1 million women are victims of domestic violence each year, and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger.

According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship—one out of every two women in America. The FBI also speculates that battering is the most underreported crime in the country.

It is estimated that the new hotline will receive close to 10,000 calls a day. And for all women that are watching, again, the number is 1–800–799–SAFE, and the TDD number for the hearing impaired is 1–800–787–3224.

Mr. President, my wife, Sheila, speaks about domestic violence all around Minnesota. Sheila was speaking in southern Minnesota 2 days before the hotline opened. She spoke with a woman who had been living in New York with her abusive husband and 5-month-old child. Her husband had moved to New York following their marriage, and he kept his wife and child very isolated there. The husband was very controlling and made it impossible for his wife to socialize, make friends, or have a job. He checked on her all the time to make sure that she was at home with their baby. In addition to beating her routinely and savagely, he took out a life insurance policy on her. So she lived in constant fear of being killed.

This woman told Sheila that every time she opened the apartment door, she was sure someone would be on the other side with a shotgun. Her husband at one time had been out of town on a business deal. He left in the afternoon and planned on returning the following morning. After he left, she decided that it was her only chance to get away. Panicked and pressed for time, she called a local hotline number but found it was disconnected. She was devastated. She called the legal aid society in New York City and was initially told that they could not help her.

Out of sheer desperation, Mr. President, she persisted with legal aid and was finally given a local agency phone number. Calling the local agency, the woman informed them that she wanted to return home to Minnesota. They were able to access a computer and put her in touch with a battered women shelter in her hometown. She and her baby were on a plane the next morning before her husband got home.

Mr. President, this woman was lucky. She was able to find the information she needed. But how much better it would have been if the hotline had been up and running to give her the information immediately. Unfortunately, some women might not have the whole day to track down information.

I think this shows how crucial the national network like the hotline will be for keeping women and children safe—even, literally, saving their lives. When a woman calls the hotline, her call will be answered by a counselor who can provide crisis assistance and who can also access a nationwide data base and provide the caller with up-to-date information about shelters and other services in her community. If the caller wishes, the hotline counselor can even transfer her call to a local counselor.

Because the hotline is toll-free, women can call in complete privacy, never having to fear a long-distance number will appear on their telephone bill and, therefore, alert an abusive partner. Help is also available in Spanish and other languages.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I hope that the new national domestic violence hotline will help women and families find the support, the assistance, and the services they need to get out of homes where there is violence and abuse.

In addition to establishing networks between counselors, shelter workers, law enforcement officers, and service providers, the hotline will help make sure that anyone who is not safe in their home has access to their services.

Mr. President, once again, the toll free number from the floor of the U.S. Senate is 1-800-799-SAFE, and for those that are hearing impaired, the number is 1-800-787-3224.

What I wish to do with the indulgence of my colleagues is for the next several weeks come to the floor of the Senate at least once a day when I can find the time—and I will find the time because this is a priority—to read this number. It is important that as many women and as many children and as many families as possible understand this new initiative. It is very important to making sure that women and children have the protection they needed.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent I may proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SUPERFUND REFORM

Mr. CHAFEE. Mr. President, for the past several years, we have been trying to pass legislation to fix the Superfund toxic waste cleanup program. Superfund is a program with a tortured history and certainly an uneven record of success that can only be described as truly uneven. We have accomplished some good things since the law was passed in 1980, but those accomplishments under Superfund have come at a tremendous cost.

Almost everyone agrees—and I will say, Mr. President, I do not think anyone disagrees—that Congress should enact a Superfund reform bill as soon as possible. Even President Clinton said recently that "we have to repair the Superfund toxic waste cleanup program."

I agree with the President about the need to fix Superfund. Unfortunately, in the speech that the President delivered last Monday, March 11, in New Jersey, he went on to attack the Superfund reauthorization process now underway in Congress. Using the old worn out rhetoric about "making polluters pay," the President mischaracterized the proposals on which we are now working.

I believe it is just plain wrong to imply that the Superfund liability reform proposals we are considering would shift costs from the polluters to the taxpayers. That is the theme that is being sounded. The pending proposals we are considering in the Environment and Public Works Committee would do no such thing. What we seek to do in the committee is to use money that comes from the three Superfund taxes which are levied on the chemical industry, the oil industry, and manufacturing corporations, and use the money, which does not come from the ordinary taxpayer; it comes through those three entities: chemical industry, oil industry, and manufacturing corporations, for the cleanup. This is the money that is collected for cleanup. It is paid into a Superfund trust fund for the suspected polluting class.

That is the source of revenues to fund liability reform. No one is trying to shift the cost of cleanup to our constituents. Unless one is already paying any of the three Superfund taxes, there is no need to worry about being made to pay for Superfund. There is no talk about letting polluters off the hook and making taxpayers pay. The President's advisers know this so why do they continue to misinform him about our plans? The President's invocation of the tired old "polluter pays" rhetoric does not help us get the job done. Maybe some focus group somewhere has told the President's advisers that this is a winning issue for the administration, but the rhetoric does nothing to advance the Superfund policy debate.

Under Superfund, anyone can be tarred with the polluter stigma. If you disposed of something—think of this—legally and in accordance with the best practices of the day in the 1970's or the 1960's or the 1950's or even earlier, you can still be held liable under the Superfund law and be called a polluter. You can be held liable for a law that passed way after the so-called pollution was done.

On Monday, the President suggested that Congress should "help small business and communities trapped in the liability net." In other words, the President said help those communities that dispose of these polluting substances before the enactment of Superfund. Let them off the hook. I agree with the President, but how can he ask us to let one or two groups of polluters off the hook and then complain that we are doing something wrong when we try to help others who may be trapped in the same liability net? I suppose the logic is that if you are small and a public entity—a public entity being a county or a town or city or municipality—and you are liable under Superfund, somehow that is not pollution. If you let that person off but you are something else, presumably if you are a larger business and you are a polluter, you cannot let that person off. This, it seems to me, is Superfund logic at its worst. It may be good politics, but it is irresponsible in the middle of a serious policy debate.

The timing of the President's remarks was also disappointing. We are in the middle, as I say, of a serious policy debate about Superfund in the community. In 1993 and 1994, the Democratic administration with a Democratic House and a Democratic Senate had 2 years to put together and move its own Superfund bill. They came forward with a bill, and that excused or limited the liability of big and small polluters in a number of ways. Whatever the merits of the bill, Mr. President—and I voted for it in committee—it failed to pass either branch of the then Democratically controlled House and Democratically controlled Senate. Therefore, you had at that time a Democratic President, a Democratic House, and a Democratic Senate and they could not make reforms in Superfund, showing how difficult this problem is.

Now, in our committee, Senator SMITH has taken the lead and put forward a bill some 8 months after we took over the Congress, that is, the Republicans. Since introduction of that legislation in the subcommittee, Senator SMITH and others have met with the administration for countless hours to explain the bill, to make technical changes, and to clarify its intent where needed. We are in the middle of bipartisan negotiations. We are striving to understand the administration's concern with the bill and to accommodate it wherever possible. We are waiting for more information from the administration on cost concerns the administration has raised and the impact of these changes, how they affect the agency, for example, and its resources.

In short, the administration has a serious forum in the Environment and Public Works Committee where we are meeting every day to exchange views on Superfund. This is why I find it curious and disappointing that the administration would choose this particular time to launch a factually inaccurate and politically contrived attack on the negotiation process and product.

I have counseled colleagues on both sides of the aisle in the committee that I am fortunate enough to chair that we must have a bipartisan approach if we are going to solve these complex environmental problems. I believe Superfund could be a model for how we can reach agreement on a sensitive problem in this year, a difficult year because of the political implications of the Presidential campaign. I believe Superfund could be a model for how we reach agreement on these difficult matters. I fail to understand how the President's advisers on environmental issues, who surely understand that Superfund proposals cannot be reduced to simple solutions and slogans such as "polluters must pay," can engage with us in serious negotiations while on the other hand they seek partisan advantage based on distortions.

Mr. President, it is time for the administration to choose. Does it want Superfund this year or is it willing to miss this chance and permit Superfund to continue to exact its hideous toll on our economy? If we are going to fix Superfund, the administration must tone down its rhetoric and work with us to fix this badly broken program.

I thank the Chair and yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator may proceed.

Mr. THOMAS. I thank the Chair. I will be brief so the Senate can move on.

TAIWAN RESOLUTION

Mr. THOMAS. Mr. President, I wish to indicate how disappointed I was last evening that we were unable to take up the resolution on Taiwan and the Taiwan Straits. We had prepared a sense-of-the-Congress resolution early in the week, had distributed it and talked to many. It was agreed to by the administration. It was also sponsored by the chairman of the Foreign Relations Committee and the ranking member. In any event, the upshot was that its introduction was objected to on the minority side, I think largely by the staff, and therefore we did not do it. We do intend, however, to come back and do that next week.

Mr. President, as all of my colleagues know, over the last 8 months the People's Republic of China has held an increasing number of missile tests and military exercises.

Last year, starting in July, there were 21 to 26 missile tests; in July and August, troop movements in provinces bordering Taiwan. The purpose of these tests has obviously been to intimidate the Taiwanese. They have been accompanied by denunciations of President Li. They have been timed to coincide, of course, with the election that takes place there.

Now, unfortunately, the People's Republic of China has escalated the situation with these new tests, tests that are the closest ever to the main island and purposely, of course, timed to affect the election which will take place later this month. They have also been close to Taiwan's two ports, and that has been very worrisome. These are reckless, I think, and greatly disturbing to most people in this country.

We have a strong interest in the peaceful settlement of the Taiwan question. That interest of ours is central to the three communiques and the People's Republic of China joint communiques that we have entered into over the years, as well as the Taiwan Relations Act, which is to provide stability in that part of the world and which provides for a one-China policy and which provides for a peaceful movement toward that one-China policy.

I firmly believe we need to reexamine our relationship with China. I think we have to narrow the number of issues in which we become involved and not seek to run their country. But when we do have agreements, then we have to make sure that they are adhered to by both the Chinese and ourselves. Our relationship currently is filled with items that have not been consistent with these agreements—the intellectual property agreements, the nuclear proliferation in Pakistan and Iraq.

So, Mr. President, it is necessary that we do state our position; that we do insist on a peaceful direction and resolution of this issue; that we do clarify our one-China policy; that we do congratulate the Taiwanese in their movement toward democracy and open markets and urge that same open market approach take place in China.

So I commend the Taiwanese, their government, for reacting calmly to these provocations. They, I think, have shown considerable restraint, and I congratulate them on their long march toward democracy. I hope that continues during the election next week.

I yield the floor.

NATIONAL GOVERNORS' ASSOCIATION WELFARE AND MEDICAID PROPOSALS

Mr. ROTH. Mr. President, 3 months ago President Clinton vetoed the Balanced Budget Act of 1995. The failure to balance the Federal budget continues to hang like a dark cloud over American families and businesses. The heavy yoke of Federal budget deficits still threaten to choke off economic growth and future prosperity. Moreover, by vetoing this legislation, the President also preserved a welfare system which traps millions of children into a cycle of dependency.

A few weeks after the balanced budget veto, President Clinton stopped welfare reform again by vetoing H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995. However, the President also pledged that, "I am nevertheless determined to keep working with the Congress to enact real, bipartisan welfare reform."

Mr. President, 1 month ago the men and women who serve as the chief executives of our 50 States presented the President, the Congress, and the American people with bold new proposals to restructure Medicaid and reform the welfare system. Gathering from across the country, the Governors set aside their own differences and found the common ground and bipartisan consensus which have been missing in Washington. The Governors have presented us with a fresh opportunity to bridge the differences which divide the Congress and the President.

The Committee on Finance has recently completed a series of hearings on the National Governors' Association proposals. On February 22, six Governors, four Democrats and two Republicans, urged the Congress to quickly pass both welfare and Medicaid reforms. We heard from Governors Carper, Chiles, Engler, Miller of Nevada, Romer, and Thompson—who along with Gov. Mike Leavitt of Utah—created the welfare and Medicaid proposals at a time when few believed such a task would be possible.

It would have been easy for these Governors to allow politics and individual interests to divide them. Instead, they put their reputations on the line when it would have been safe to simply leave the task for someone else. This was an effort that was built on a genuine search for common ground and bipartisanship.

Indeed, the proposals were adopted unanimously with the support of the most conservative and most liberal Governors and everybody in between.

The Finance Committee heard additional testimony from the Secretary of Health and Human Services and two panels of experts on the Governors' proposals. Let me briefly summarize and highlight some of the most important provisions of the NGA proposal.

In welfare reform, the Governors agreed to build upon H.R. 4 which President Clinton vetoed, but they have responded favorably to many of the President's requests. The President called for additional child care funds. The Governors ask for $4 billion more in child care funds. The President insists he supports time limits on welfare benefits and the Governors agree.

The President called for protecting States in the event of an economic downturn, so the Governors propose another $1 billion for the contingency fund.

The President objected to certain Federal mandates and the Governors agree. The President and the Governors also agree on the concept of performance bonuses to reward States for moving families from welfare to work.

In "Restructuring Medicaid," the Governors responded to many of the President's concerns outlined in his veto of the Balanced Budget Act. Perhaps most important, States would guarantee Medicaid coverage to nearly every current Medicaid recipient. The current mandatory services would all be guaranteed. The Governors increased funding for persons with disabilities. The Governors agreed to continue current nursing home laws and regulations.

These are all significant compromises for the Governors to make. These changes demonstrate that the Governors are firmly committed to this bipartisan effort.

In a speech to the National Conference of State Legislatures last July, President Clinton expressed doubts about whether block grants for Medicaid and food stamps would keep pace with changing economic conditions. Once again, the Governors responded to the President's concerns. Governor Romer has described the NGA Medicaid proposal as a "true combination of a per capita cap and a block grant." Under the Governors' proposal, each State would receive a base allocation of funds. In addition, there would be a supplemental insurance umbrella to provide funding for unanticipated growth in the program.

In light of all of these changes, one might objectively expect an enthusiastic endorsement of the NGA proposals from the administration. The proposals moved significantly to the President's positions. They were constructed with the help of Democratic Governors, some who served with President Clinton in the National Governors' Association when he was a Governor.

To be candid, the administration's response to the Governors' proposal has been profoundly disappointing. Even with all of the modifications offered in the Governors' proposals, Secretary Shalala testified the administration opposes the NGA proposal in its present form. It is apparent that while the administration talks about comprehensive reform, it, in fact, prefers the status quo.

At this year's State of the Union Address, President Clinton told the Congress and the American people that, "the era of big government is over." I guess the folks at HHS did not get the message.

In describing the current welfare system, the Governors and the administration would seem to be talking about two different worlds. The current welfare system is a masterpiece of mediocrity at best. But time and again, the administration talks about protecting children as if the current system were good for children. In contrast, the Governors have told Congress that the current welfare policies "punish parents who work too much, they punish mothers and fathers that want to stay together, they punish working families who save money, and they reward teenagers who have babies out of wedlock." This is not a legacy to leave for our children.

The family is the cell of society and Washington has proven it does not know how to build strong families, only bureaucracies. And now the bureaucracy threatens to stop bipartisan welfare reform.

The Governors are looking forward while the Federal bureaucracy clings to the past. While the administration talks about a commitment to the present system, Governor Thompson talks about being trapped in a failed system. The bureaucracy would have us believe that States are poised to callously reduce health care coverage for the poor. In contrast, Governor Thompson believes he would be able to expand health coverage to an additional 30,000 children who are not covered today if reforms are made. He would add hospital coverage for 32,000 indigent adults.

While the Governors tell us that immediate action is necessary, the administration wants to appoint a commission to study the current Medicaid formula.

While Democratic and Republican Governors alike sharply criticize the current waiver process and the heavy hand of the Health Care Financing Administration, Secretary Shalala defends keeping the power in the hands of the Federal bureaucracy. The very idea that the Federal Government must protect children and the elderly from the Governors and State legislatures is not only wrong. It is insulting.

President Clinton had it exactly right when he told the National Conference of State Legislatures last July that "we couldn't have done all this without a strong commitment to changing the way the government does the people's business here in Washington, because the old federal ways and the old federal bureaucracy were not going to permit the kind of changes we have to make to get to the 21st century."

How prophetic and how ironic. The old Federal ways and the old Federal bureaucracy are alive and well and are now standing in the way of authentic welfare reform. How predictable but disappointing.

Well, Mr. President, the Chief Executive cannot escape the blame for this result.

President Clinton went on to say that, "reinventing Government means reinventing the way the Federal Government does business with you as well. We have worked very hard to forge a genuine partnership between the States and the National Government."

Mr. President, at the current rate of spending, the welfare system is driving both partners into bankruptcy. Who then will be left to serve the needy?

Over the next 7 years, the Federal, State, and local governments will spend more than $2.4 trillion on the current welfare and Medicaid programs. That is equal to all State and local government expenditures between 1992 and 1994. In 1994, for $2.4 trillion, you could have purchased:

Every farm, including the value of all land and buildings in the United States;

All livestock;

Every new house sold in the United States;

All household equipment sold in the United States, including all furniture, every television, all dishes, every kitchen appliance, and home computer;

Every piece of clothing and all shoes sold;

All nonresidential buildings, that is, every office building, hospital, and school purchased in 1994.

All nonresidential information processing equipment including all office computers and photocopying equipment.

These are some of the things you could have bought in 1994 and there would still have been enough money to fund the entire Medicaid Program in 1994. It is simply outrageous for the administration to scare the American people about slowing the rate of growth in these programs.

We need to talk about what happens if we do nothing. The plain fact remains that if we do nothing to the current welfare system, more children will be on welfare in the coming years. It is time the administration stopped hiding behind children.

The NGA proposals have sparked an important debate not only about the future of these programs, but the future of the relationship between the States and the Federal Government as well. Despite Secretary Shalala's opposition to every fundamental change to the current welfare system, we should move forward on the Governors' welfare and Medicaid proposals. It is time to dispell the false choices conjured up by the bureaucracy and give the States the opportunity to change the future.

Mr. President, 37 months ago, President Clinton promised the Nation's Governors that he would work with them to "remove the incentive for staying in poverty." He told the Governors that "many people stay on welfare not because of the checks * * * they do it solely because they do not want to put their children at risk of losing health care or because they do not have the money to pay for child care * * *."

As President Clinton has indicated, Medicaid must be part of the solution for returning families to work. Separating Medicaid from the rest of the welfare reform package simply will not work. Medicaid reform is welfare reform. If the President genuinely wants bipartisan welfare reform, his administration cannot pitch the NGA proposal out as just so much straw.

At that NGA meeting 3 years ago, President Clinton also told the Governors that the American people "don't want our process divided by partisanship or dominated by special interest, or driven by short-term advantage."

Mr. President, the Governors have given us the opportunity to meet this expectation. it is my hope that the President will join with us and embrace this opportunity.

If the administration rejects this last best chance for bipartisanship in the next few weeks and welfare reform fails for a third time, the American people should clearly understand that Governors they elected were defeated by the Federal bureaucracy and the special interests it serves. The American people should then judge the administration not by its words but by its deeds.

THE RUSSIAN POULTRY DISPUTE

Mr. ROTH. Mr. President, I want to say a few words about recent developments in the United States-Russian trade relationship. In February, Russian Prime Minister Chernomyrdin announced a ban effective tomorrow—March 16—against imports of American-produced poultry to protect Russian farmers. This proposed ban is of great concern to American agriculture and, if imposed, would be a terrible blow to the American poultry industry.

Our poultry sales to Russia have been one of our great exporting success stories. In 5 short years, Russia has become the largest foreign market for United States-produced chicken and turkey—worth over $500 million a year The tremendous growth in popularity of American poultry with Russian consumers is due, in no small part, to its recognized quality and reasonable price.

On March first, I sent a letter and spoke to our trade representative, Mickey Kantor, expressing my concerns over the proposed Russian ban and Moscow's increasing protectionism against foreign imports. I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, March 1, 1996.

Hon. MICHAEL KANTOR,
U.S. Trade Representative, Washington, DC.

DEAR MR. AMBASSADOR: I am writing in reference to our two conversations on the Russian Government's recent ban on imports of United States-produced poultry. Apparently, this ban is part of a broader projectionist plan by the Russian Government to block agricultural imports into Russia. As I told you, these actions will severely hurt the U.S. poultry and agribusiness industries.

If the Russian Government does not act swiftly to end the ban on poultry imports, I strongly urge the Administration to take forceful retaliatory measures. Immediate action should include: Trade retaliation under Section 301 against imports of Russian products—in particular on imports of aluminum and other ferrous and non-ferrous metals.

An across-the-board freeze on Export-Import Bank loans and credits to Russia, including the recently approved $1 billion assistance package for the Russian aircraft industry.

Suspension of U.S. assistance programs to Russia, including those from the U.S. Department of Agriculture and the United States Agency for International Development, which focus on assisting the global competitiveness of the Russian economy.

Should these measures not result in a satisfactory response from Moscow, the Administration should also reconsider its support for the International Monetary fund's recently concluded $10 billion economic-assistance package for Russia.

Let me reiterate that I am particularly shocked by these protectionist actions by the Russian Government, given the generous assistance the U.S. has provided in helping Russia to enter the global economy.

I greatly appreciate your support on this issue, which is of utmost importance to the U.S. poultry and agribusiness industries.

Sincerely,

WILLIAM V. ROTH, Jr.

Mr. ROTH. Shortly after I sent that letter, Russian Prime Minister Chernomyrdin told Vice President GORE that the ban was off and that American poultry exports to Russia could continue uninterrupted. Based on press reports, I understand Russia's chief veterinarian still threatens to block imports of United States poultry.

Mr. President, due to these conflicting signals from Moscow, it is unclear what action the Russian Government will take. I hope that Prime Minister Chernomyrdin is good on his word. We will have to see what the Russians do after tomorrow.

However, if the ban is imposed, I strongly urge the administration to take the forceful and immediate responses I outlined in my letter to Ambassador Kantor—including retaliation against Russian imports into the United States, a freeze on Export-Import Bank loans and credits, and suspension of American foreign assistance programs to Russia.

If these measures should prove to be insufficient, then I would urge the administration to reconsider United States support for a $10 billion assistance package the International Monetary Fund has promised Russia.

Mr. President, if we do not send a strong message to the Russians, it will only encourage them to take further protectionist measures that will only hurt United States exporters, Russian consumers, and Russia's economic development as a full partner in the world economy.

Russia's apparent swing to protectionism is particularly disturbing given the high level of American aid to Russia. Since the end of the cold war, the United States has given over $1.5 billion in foreign assistance to Russia, not including several billion dollars we have provided to promote Russian trade. In light of U.S. generosity, Moscow's protectionist bent against American products is simply astonishing.

I trust that the Russian Prime Minister's word will be good, the poultry ban will not go into effect, and that Russia's commitment to free trade will not weaken, but will grow stronger.

JOHN P. CAPELLUPO

Mr. BOND. Mr. President, I rise at this time to recognize a fellow citizen for the achievements and contributions he has made to this Nation and industry in which he has worked for three decades.

John P. Capellupo, president of McDonnell Douglas Aerospace, will step down from his position and retire from this leading U.S. producer of military aircraft on March 31.

As a member of the Senate Appropriations Committee Subcommittee on Defense, I am intimately aware of the contributions that John Capellupo has made to aerospace and the national security of the United States.

Mr. Capellupo, or Cap as he is widely known, began his aerospace career in 1957 working as a technical analyst on the F–101B aircraft and super Talos missile programs at what was then the McDonnell Aircraft Co. in St. Louis. He rose steadily through the engineering ranks, into program management, and ultimately, to the company's highest leadership positions. In February 1989, he was named president of McDonnell Douglas Missile Systems Co. In January 1990, he left St. Louis for Long Beach, CA, to become deputy president of Douglas Aircraft, the company's commercial and military transport division. In May 1991, he returned to St. Louis as president of what is now McDonnell Douglas Aerospace.

Throughout his distinguished career, Mr. Capellupo served as a driving force behind a diverse list of successful and essential military programs: the AV–8B, F/A–18, T–45, C–17, Apache helicopter, and Harpoon, SLAM, and Tomahawk missiles. Most recently, he provided the management focus on affordability which dramatically reduced costs on the new Joint Direct Attack Munitions Program.

Yet of all his achievements and contributions to our national defense, none eclipses his work to bolster our maritime strength via the F/A–18 Hornet program. He was there on day one when the idea of a combination fighter and attack aircraft—a strike fighter—was no more than a study project with a fancy acronym. He shepherded the program through its infancy, planned its growth and improvement, and watched it mature into the safest, most reliable and maintainable aircraft ever flown into combat by the Navy. Never one to fear following a tough act, Mr. Capellupo later directed the studies that defined the Navy's strike fighter for the 21st century—the F/A–18E/F Super Hornet. Under his leadership, and with the future of Naval aviation hanging in the balance, this program has become a monument to efficient and effective defense program management.

In my tenure in the Senate and as the Governor of Missouri, I have worked with thousands of business leaders and defense officials from across the country and around the world. There are very few of the same high caliber as John Capellupo. His energy, integrity, enthusiasm, and dedication are unequaled. So, too, are his achievements on behalf of our military strength and national security. For this, our great Nation and its people thank him and wish him and his family the very best.

RECOGNITION OF THE REPUBLIC OF CHINA PRESIDENTIAL ELECTION

Mr. CRAIG. Mr. President, on March 17, 1996, Representative and Mrs. Benjamin Lu of the Taipei Economic and Cultural Representative office in Washington, DC, will sponsor the Music for Democracy concert at the Kennedy Center. It will be an occasion to celebrate Taiwan's long journey toward democracy.

The late President Chiang Ching-Kuo nurtured the seeds of democracy on Taiwan by lifting the emergency decree, liberalizing personal freedoms and legalizing opposition political parties. After Chiang's death in 1988, President Lee Teng-Hui presided over further economic and political liberalization, vowing to make the Republic of China a nation built on economic opportunity and democracy.

Now in 1996, Taiwan is indeed a success story with a strong, growing economy and open democratic elections. Over the last 8 years, the People of the Republic of China have participated in the free election of the National Assembly, three elections of the Legislative Yuan, the election of the Governor of Taipei Province, and mayoral elections in Taipei and Kaohsiung.

The most notable in the progression will occur on March 23 of this year, when Taiwan will hold its first free and direct election of the President of the Republic of China.

Mr. President, there will be four presidential candidates on the ballot, the incumbent President Lee Teng-Hui being one of the four. This presidential election will answer the old question of whether democracy is possible or appropriate in a Chinese society. As the Republic of China has demonstrated to the world, democracy is truly appropriate and possible for Taiwan, and for all countries. Democracy, in Taiwan's case, has been achieved without sacrificing either political stability or economic growth.

I have met President Lee Teng-Hui and have been impressed by his commitment to democratic principles. I also understand from individuals associated with President Lee and his Government, such as Professor N. Mao, that he is a man truly dedicated to making the Republic of China a first-rate nation and its people prosperous and free.

Mr. President, I commend Representative and Mrs. Lu for sponsoring the Music for Democracy Concert on March 17. I join the people of the Republic of China on Taiwan in their celebration of democracy and commend President Lee for his efforts in leading the Republic of China down that road. Mr. President, I salute President Lee and his people.

MEASURE PLACED ON THE CALENDAR—S. 1618

Mr. BOND. Mr. President, I understand there is a bill due for second reading at the desk.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1618) to provide uniform standards for the award of punitive damages for volunteer services.

Mr. BOND. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Under rule XIV, the bill will be placed on the calendar.

CONCLUSION OF MORNING BUSINESS

Mr. BOND. Mr. President, what is the pending business?

The PRESIDING OFFICER. If there is no further morning business, morning business is concluded.

SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1995

The PRESIDING OFFICER. Under the previous order, we will now turn to S. 942.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 942) to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of the Regulatory Flexibility Act have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by the Regulatory Flexibility Act.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of the Regulatory Flexibility Act;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

SEC. 4. EFFECTIVE DATE.

This Act shall become effective on the date 90 days after enactment.

TITLE I—REGULATORY COMPLIANCE SIMPLIFICATION

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, ensure that the guide is written using sufficiently plain language to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) SINGLE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through a single source of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—Except as provided by this subsection, an agency's designation of a small entity compliance guide shall

not be subject to judicial review. In any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small business guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 103. INFORMAL SMALL ENTITY GUIDANCE.

(a) IN GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency, it shall be the practice of the agency to answer inquiries by small entities concerning information on and advice about compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance provided by an agency to a small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages imposed on such small entity.

(b) PROGRAM.—Each agency shall establish a program for issuing guidance in response to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

SEC. 104. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 to small business concerns; and

"(S) developing programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.".

SEC. 105. MANUFACTURING TECHNOLOGY CENTERS.

The Manufacturing Technology Centers and other similar extension centers administered by the National Institute of Standards and Technology of the Department of Commerce shall, as appropriate, provide the assistance regarding regulatory requirements, develop and distribute information and guides and develop the programs to provide confidential onsite assessments and recommendations regarding regulatory compliance described in Section 104 of this Act.

TITLE II—REGULATORY ENFORCEMENT REFORMS

SEC. 201. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman utilizing existing personnel to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a confidential means to comment on and rate the performance of such personnel;

"(B) establish means to solicit and receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement related activities with respect to the small business concern, and maintain the identity of the person and small business concern making such comments on a confidential basis; and

"(C) based on comments received from small business concerns and the Boards, annually report to Congress and affected agencies concerning the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices and personnel of each agency; and

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administration and to the heads of affected agencies.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members appointed by the Administration, after receiving the recommendations of the chair and ranking minority member of the Small Business Committees of the House and Senate.

"(4) Members of the Board shall serve for terms of three years or less.

"(5) The Administration shall select a chair from among the members of the Board who shall serve for not more than 2 years as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.—

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 202. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity.

(b) CONDITIONS AND EXCEPTIONS.—Policies or programs established under this section may contain conditions or exceptions such as—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered by the small entity through participation in a compliance assistance or audit program operated or supported by the agency or a State, or through a compliance audit resulting in disclosure of the violation;

(3) exempting small entities that have been subject to multiple enforcement actions by the agency;

(4) exempting violations involving willful or criminal conduct; and

(5) exempting violations that pose serious health, safety or environmental threats or risk of serious injury.

TITLE III—EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504(b)(1) of title 5, United States Code, is amended—

(1) by striking "$75" in subparagraph (A) and inserting "$125";

(2) by striking ", or (ii)" in subparagraph (B) and inserting ", (ii)";

(3) at the end of subparagraph (B), by striking ";" and inserting the following: ", or (iii) a small entity as defined in section 601;";

(4) by striking "; and" in subparagraph (D) and inserting ";"; and

(5) by adding at the end the following new subparagraphs:

"(F) 'prevailing party' includes a small entity with respect to claims in an adversary adjudication brought by an agency (1) that the small entity has raised a successful defense to, or (2) with respect to which the decision of the adjudicative officer is substantially less than that sought by the agency in the adversary adjudication, provided that such small entity has not committed a willful violation of the law or otherwise acted in bad faith, and

"(G) in an adversary adjudication brought by an agency against a small entity, in the determination whether the position of the agency, including any citation, assessment, fine, penalty or demand for settlement sought by the agency, is 'substantially justified' only if the agency demonstrates that such position does not substantially exceed the decision of the adjudicative officer in the adversary adjudication, and the position of the agency is consistent with agency policy.".

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended in paragraph (d)(2)—

(1) by striking "$75" in subparagraph (A) and inserting "$125";

(2) by striking ", or (ii)" in subparagraph (B) and inserting ", (ii)";

(3) by striking "; and" subparagraph (G) and inserting ";";

(4) in subparagraph (H)—

(i) after "prevailing party," by inserting "includes a small entity with respect to a claim in a civil action brought by the United States (1) that the small entity has raised a successful defense to, or (2) with respect to which the final judgement in the action is substantially less than that sought by the United States, provided that such small entity has not committed a willful violation of the law or otherwise acted in bad faith, and"; and

(ii) at the end of the subparagraph, by striking the period and inserting "; and"; and

(5) by adding at the end the following new subparagraph:

"(I) In a civil action brought by the United States against a small entity, a position of the United States, including any citation, assessment, fine, penalty or demand for settlement sought by an agency, is "substantially justified" only if the United States demonstrates that such position does not substantially exceed the value of the final judgement in the action, and the position of the United States is consistent with agency policy.".

TITLE IV—REGULATORY FLEXIBILITY ACT AMENDMENTS

SEC. 401. REGULATORY FLEXIBILITY ANALYSES.

(a) Initial Regulatory Flexibility Analysis.—Section 603(a) of title 5, United States Code, is amended—

(1) by inserting after "proposed rule", the phrase ", or publishes a notice of interpretive rule making of general applicability for any proposed interpretive rule"; and

(2) by inserting at the end of the subsection, the following new sentence: "In the case of interpretive rule making involving the internal revenue laws of the United States, this section applies only to regulations as that term is used in section 7805 of the Internal Revenue Code of 1986 that impose a record keeping, reporting or paperwork requirement on small entities.".

(b) Final Regulatory Flexibility Analysis.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or otherwise publishing an initial regulatory flexibility analysis, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of, and an estimate of the number of, small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 402. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by agency action is entitled to judicial review of agency compliance with the requirements of this chapter, except the requirements of sections 602, 603, 609 and 612.

"(2) Each court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review any claims of noncompliance with this chapter, except the requirements of sections 602, 603, 609 and 612.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of such one year period, such lesser period shall apply to a petition for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, a petition for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the one year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) If the court determines, on the basis of the rulemaking record, that the agency action under this chapter was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court shall order the agency to take corrective action consistent with this chapter, which may include—

"(A) remanding the rule to the agency, or

"(B) deferring the enforcement of the rule against small entities, unless the court finds good cause for continuing the enforcement of the rule pending the completion of the corrective action.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Except as otherwise required by this chapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct a rule making.

"(d) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(e) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rule making for the rule or at the time of publication of the final rule, along with a statement providing the factual and legal reasons for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record and the".

SEC. 404. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) Small Business Outreach and Interagency Coordination.—Section 609 of title 5, United States Code, is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities", by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following new subsection:

"(b) Prior to publication of an initial regulatory flexibility analysis—

"(1) an agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, collect advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsection 603(b), paragraphs (3), (4) and (5);

"(5) the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsection 603(b), paragraphs (3), (4) and (5), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule or the decision on whether an initial regulatory flexibility analysis is required.

"(c) Prior to publication of a final regulatory flexibility analysis—

"(1) an agency shall reconvene the review panel established under paragraph (b)(3), or if no initial regulatory flexibility analysis was

published, undertake the actions described in paragraphs (b) (1) through (3);

"(2) the panel shall review any material the agency has prepared in connection with this chapter, collect the advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsection 604(a), paragraphs (3), (4) and (5);

"(3) the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsection 604(a), paragraphs (3), (4) and (5), provided that such report shall be made public as part of the rulemaking record; and

"(4) where appropriate, the agency shall modify the final rule or the decision on whether a final regulatory flexibility analysis is required.

"(d) An agency may in its discretion apply subsections (b) and (c) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, my ranking member, Senator BUMPERS, and I are very pleased to be able to bring to the floor this vitally important small business regulatory reform bill. I want to express at the beginning my heartfelt thanks to Senator BUMPERS, to his staff, and to the many Members on both sides of the aisle and their staffs who helped us work on this measure. We will be presenting a managers' amendment very shortly, when they complete drafting all of the good ideas that came in.

We had a very good hearing on this in the Small Business Committee. Lots of people have had good ideas. We have been able to incorporate most of them. We are not able to handle all of them. But this measure is targeted clearly to small business.

As we come up on the first anniversary of the White House Conference on Small Business, I think it is very important that we move forward. I appreciate the Members who have allowed us to go forward today with this bill.

As most of my colleagues know, last June almost 2,000 delegates to the White House Conference on Small Business came to Washington to vote on an agenda of top concerns for small business. The top 60 recommendations were published by the conference last September as a report to the President and Congress entitled "Foundation for a New Century." Three of the top recommendations in the White House conference call for reforms in the way that Government regulations are developed, the way they are enforced, and reforms in Government paperwork requirements.

The common theme of all recommendations is the need to change the culture of Government agencies, the need to provide a responsive ear and a responsive attitude toward small business and small entities.

Let me emphasize, while we are talking about small business, many people just think maybe it is the business downtown on the square or the mom-and-pop operation or the small contractor, but this bill also includes small entities. We have many entities of local government, charitable entities, educational entities, that would be affected and would be protected by the provisions in this bill.

We held a hearing in Atlanta, GA, on small business. We were very graciously provided the facilities of Georgia Tech to hold that hearing. The president of Georgia Tech was kind enough to come and be with us. As he and I listened to the concerns of small business, he told me afterward, "It is amazing how many of these concerns actually affect small colleges and universities as well." So, while traditionally we think of the small for-profit entities, there are benefits as well for nonprofits, for governmental entities, and charitable organizations as well as educational entities.

One of the top recommendations of the conference of the White House and small business was to put teeth into the Regulatory Flexibility Act, to provide regulatory relief for small entities, small businesses, small towns, small school districts, small nonprofit organizations. Back in 1980, Congress passed what was called the Regulatory Flexibility Act. I suppose regulatory flexibility came from the idea that Federal agencies are supposed to look at the issuance of regulations and make them flexible, so the impact on the small entities could be made flexible enough to carry out the purpose of the underlying statute under which the regulations were issued, without imposing unnecessary burdens on those small entities, hence the name regulatory flexibility. "Be flexible," is what Congress told Federal agencies, "in dealing with regulations impacting small entities, small businesses, and not-for-profits."

There is a problem with that. Congress said we are not going to have any judicial enforcement of regulatory flexibility. With that, too many Federal agencies took that as a sign to say we are not going to pay any attention to it. When small businesses said, "Have you paid attention to regulatory flexibility?" they said, "No, it did not apply." Even the advocacy council, the Small Business Administration, has been totally stiffed by many Federal agencies when it has gone before them and said, "Look, we serve small business and believe there is a problem. It is not a reg-flex-compliant, small-entity regulation that you have issued."

We had hearings before the Small Business Committee in the past year, where the SBA's chief counsel for advocacy indicated that not only was regulatory flexibility being ignored, but that there is a tremendous burden on small business in many of these regulatory directives. In general, they say that the burden on small business is some 50 to 80 percent more per employee than it is for larger businesses.

Let me cite just one particular statistic that I found striking. In a manufacturing business, a large business can calculate that all the Federal regulations that I think we would all agree are designed to achieve worthwhile purposes of worker safety, a healthy environment, and a whole range of issues that we work on, cost about $2.50 per hour per employee.

For every hour that is worked, the manufacturing business pays the employee his or her salary, plus they have to calculate another $2.50. For a small manufacturing business with 50 or fewer employees, that costs $5 an hour. That means the small business starts off with a $2.50 an hour penalty over what the larger business has to pay. That makes our small businesses less competitive with larger businesses. It also makes our small businesses much less competitive with overseas competitors who may not have those burdens.

As a result, there has been strong bipartisan support to provide for judicial enforcement of the Regulatory Flexibility Act. The President has called for it. The Administrator of the Small Business Administration has called for it. Leading Members on both sides of the aisle in this body have called for it.

Mr. President, I ask unanimous consent to have printed in the RECORD letters of support for S. 942 that come from the National Federation of Independent Business, the Small Business Legislative Council, the National Retail Federation, the National Association of Home Builders, Associated Builders and Contractors, the National Association of Towns and Townships, and the National Association of Manufacturers.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 7, 1996.

Hon. CHRISTOPHER BOND,
Chairman, U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the more than 600,000 small business owners of the National Federation of Independent Business (NFIB), I urge all your colleagues to support S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996. The Bond-Bumpers legislation includes important provisions that have been top priorities for NFIB members for many years. It also includes provisions that were recommended by small business owners at the 1995 White House provisions that were recommended by small business owners at the 1995 White House Conference on Small Business. The bill has these important elements:

Strengthening the Regulatory Flexibility Act

Provisions that would encourage a more cooperative regulatory enforcement environment regulation.

Updating the Equal Access to Justice Act.

Providing for the judicial review of the Regulatory Flexibility Act of 1980 is of particular concern to the small business community because it has the potential to fulfill the promise of that 16 year old law. The purpose of "reg.flex." was to fit regulations to the scale and resources of the regulated entity. A strong "reg.flex." process will provide a substantial measure of the regulatory reform that small business owners have wanted for years.

The vote on S. 942 will be a "Key Small Business Vote" of the 104th Congress.

Sincerely,

DONALD A. DANNER,
Vice President,
Federal Government Relations.

SMALL BUSINESS
LEGISLATIVE COUNCIL,
Washington, DC, March 7, 1996.

Hon. CHRISTOPHER BOND,
Committee on Small Business, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC), I wish to express our strong support for your legislation to amend the Regulatory Flexibility Act (RFA) to add judicial review, and to make other small business regulatory process improvements.

As long-time supporters of the RFA, we know from first-hand experience that agencies have been able to ignore the law due to the lack of judicial review. At the time of the enactment of the original RFA, we thought it was a risk we could reluctantly accept in order for us to overcome the then formidable resistance of the bureaucracy to the entire law. Time has proven that the price was too much to pay.

The original concept of the original law is still sound. The goal is to have agencies undertake an analysis of proposed rules to determine whether they have an adverse impact on small business. If such a determination is made, then the agency must explore alternatives to mitigate the impact on small business. Unfortunately, agencies have simply ignored the law in the absence of judicial review.

Small business is at the regulatory breaking point. All too frequently, small business owners tell us, "I am not sure I can advise my son or daughter to join me in the business. It is not worth it, the hassles outweigh the joys. They just might be better off working for someone else." It is time to reverse that trend.

Enactment of the judicial review amendment to the RFA was one of the priority recommendations of last year's White House Conference on Small Business.

Congratualtions on this initiative! We look forward to working with you towards the passage and enactment.

The SBLC is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

Enclosure.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance for American Innovation.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Franchise Association.
International Television Association.
Machinery Dealers National Association.
Mail Advertising Service Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Chimney Sweep Guild.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear & Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Wood Flooring Association.
NATSO, Inc.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
The Retailer's Bakery Association.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC Business Councils.
Society of American Florists.
Turfgrass Producers International.

NATIONAL RETAIL FEDERATION,
Washington, DC, March 13, 1996.

Hon. KIT BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR KIT: On behalf of the National Retail Federation (NRF) and America's 1.4 million U.S. retail establishments, I am writing to strongly support your bipartisan, "Small Business Regulatory Enforcement Fairness Act" (S. 942). For years Main Street retailers have been shouting for relief from the federal regulatory nightmare. The bipartisan legislation you've assembled should provide exactly that.

This bill includes important relief for small retailers—in particular strengthening the Regulatory Flexibility Act. Reg-Flex was designed to force federal regulators to consider the excessive burden regulations place on small businesses. The improvements included in this bill will give family-owned retailers the hammer necessary to break the regulatory juggernaut. It will help provide Main Street businesses with the common sense solutions they have been searching for.

Other features of the bill such as its "Plain English" requirement and its direction to agencies to set-up programs to waive civil penalties for first-time violations are also important and valuable. Small retailers simply cannot afford to spend valuable time in non-productive activities.

Again thank you on behalf of America's retailers and the one in five Americans employed in the retail industry for your leadership in important regulatory relief.

Sincerely,

JOHN J. MOTLEY III,
Senior Vice President,
Government and Public Affairs.

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, March 7, 1996.

DEAR SENATOR: It is my understanding that you may be considering S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996. S. 942 was reported to the full Senate unanimously by the Senate Small Business Committee on March 6, and on behalf of the 185,000 member firms of the National Association of Home Builders (NAHB), I urge you to support this bill and oppose any weakening amendments.

S. 942 is based on several recommendations of the White House Conference on Small Business (the Conference) which addresses the regulatory burden currently faced by small businesses in the United States. First of all, S. 942 would require federal agencies to streamline and simplify their regulations. Secondly, this legislation would create a Small Business and Agriculture Enforcement Ombudsman to compile the comments of small businesses with respect to regulatory enforcement, and annually rate agencies based on these comments. While this is a step in the right direction, NAHB would respectfully suggest that the Ombudsman be given meaningful authority to intervene on behalf of an aggrieved small business.

Additionally, S. 942 would establish a meaningful judicial review process for regulations under the Regulatory Flexibility Act, enabling small business owners to challenge onerous regulations in court, forcing agencies to ensure that rules do not adversely impact small businesses.

Many of our members were active participants in the Conference. Hence, we feel strongly that the recommendations adopted by the Conference should be implemented by Congress. As the recent report of the Small Business Administration (SBA) points out, small businesses currently shoulder a disproportionate share of the regulatory burden and generally have the least amount of resources to devote to regulatory compliance.

Most NAHB members are truly small businesses, and we support the provisions of S. 942. This legislation has broad, bipartisan support, and we strongly urge you to pass this bill without any weakening amendments.

Thank you for considering our views.

Sincerely,

RANDALL L. SMITH,
President.

ASSOCIATED BUILDERS
AND CONTRACTORS, INC.,
Rosslyn, VA, March 11, 1996.

Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: The Senate will soon be considering the Small Business Regulatory Enforcement Fairness Act of 1996 (S. 942). On behalf of Associated Builders and Contractors (ABC)—and its more than 18,000 contractors, subcontractors, material suppliers, and related firms from across the country—I urge you to support the legislation.

S. 942 will implement key recommendations from the 1995 White House Conference on Small Business aimed to facilitate compliance with federal regulatory and administrative requirements imposed on the private sector. ABC believes S. 942 is an important step in managing the increasing regulatory burden on U.S. companies and small businesses in particular.

In particular, the legislation would strengthen enforcement of the Regulatory Flexibility Act. It would grant judicial review to ensure regulatory flexibility requirements are carried out by allowing small businesses to challenge certain agency actions or inactions in court. This will help enforce the Regulatory Flexibility Act, which was intended to require that federal agencies "fit regulatory and informational requirements to the scale of the businesses." It is critical that Congress enact this judicial "hammer" to enforce agencies to address regulatory impacts on small businesses.

Although the nation's regulations are intended to benefit the public, they in fact place a disproportionate burden on small businessmen and women—those who actually create the vast majority of jobs in America. The Small Business Regulatory Enforcement Fairness Act of 1996 will help alleviate this main obstruction to economic development and free America's small business owners to generate valuable jobs.

The majority of ABC's members are small businesses. The U.S. Small Business Administration has identified construction contractors as one of the top small business-dominated industries responsible for generating a significant number of new jobs annually. In fact, from 1993 to 1994, general building and specialty construction contractors created almost 290,000 new jobs.

Over-regulation is not only burdensome for small businesses, but also impacts the economy. For the construction industry, excessive regulation translates into higher costs that are eventually passed onto the consumer for private sector contracts. Over-regulation on public sector contracts costs the federal government and the taxpayer millions of dollars per year. An additional burden is placed on the nation's economy because the increased cost of doing business from excessive regulations results in fewer jobs.

Again, ABC urges you to vote in support of S. 942 to help improve the ability of small businesses to comply with federal regulations. The Small Business Regulatory Enforcement Fairness Act of 1996 will encourage small business participation in the regulatory process and provide the necessary opportunity for redress of arbitrary enforcement actions. Thank you for your consideration of this important matter.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President,
Government Affairs.

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, March 7, 1996.

Hon. KIT BOND,
Chairman, Small Business Committee, U.S. Senate, Washington, DC.

DEAR SENATOR BOND: The National Association of Towns and Townships (NATaT) would like to thank you for your leadership in developing legislation to strengthen the Regulatory Flexibility Act of 1980 (RFA). NATaT strongly supports S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996. NATaT has long supported judicial review of the Regulatory Flexibility Act (RFA), which is a major component of S. 942.

NATaT represents approximately 13,000 of the nation's 39,000 general purpose units of local governments. Most of our member local governments are small and rural and have fewer than 10,000 residents. These small communities simply do not have the resources to comply with many mandates and regulations in the same fashion that larger localities are able. The impact of federal regulations on small localities was understood by the authors of the RFA and small localities were therefore included under the definition of small entities in that act.

NATaT has long recognized the failings of the RFA and has fought to strengthen it over the years. We have concluded that the only way to get federal agencies to take notice of their responsibilities under the RFA is to allow small entities to take an agency to court for failure to follow the provisions of the RFA. Strong judicial review language would do just that. NATaT strongly supports the judicial review language and would oppose any efforts to weaken it.

TOM HALICKI,
Executive Director.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, March 7, 1996.

Hon. CHRISTOPHER S. "KIT" BOND,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR KIT: The National Association of Manufacturers (NAM) is pleased to offer its strong support for S. 942, The Small Business Regulatory Enforcement Fairness Act of 1996. This measure, which may be considered on the Senate floor today, is an important down payment on improvements to the nation's regulatory system.

Senate passage of S. 942 would be an important first step toward lifting regulatory barriers to increased flexibility, productivity and growth, particularly for small companies. The measure would allow small companies to stay focused on growing their businesses and creating jobs by increasing the accountability of regulatory agencies and decreasing unnecessary compliance burdens.

A recent study commissioned by the U.S. Small Business Administration concludes that small businesses shoulder 63 percent of the total regulatory burden while accounting for 50 percent of employment and sales. According to the report, "The Changing Burden of Regulation, Paperwork, and Tax Compliance on Small Business," the average cost of regulation per employee in firms with 500 or more workers is $2,979. That compares with $5,532 for firms with 20 or fewer employees, an intolerable burden that must be reduced.

We also support the Nickles/Reid amendment, which will provide Congress with an opportunity to review major regulations under a fast track procedure. This will encourage the Federal bureaucracy to do a better job of developing sensible regulations.

The NAM believes that this legislation will yield smarter regulations that protect health, safety and the environment *and* bolster economic growth and job creation. I strongly urge you to support S. 942 and the Nickles-Reid amendment as part of a continuing effort to modernize the nation's antiquated regulatory system.

Sincerely,

JERRY J. JASINOWSKI,
President.

Mr. BOND. Mr. President, there are a number of other important amendments and provisions in this bill, in addition to providing judicial enforcement of regulatory flex. We take a very simple step of saying, with respect to compliance guides, when you write a regulation, you have to tell the small entities how, in plain English, they are supposed to abide by the regulation, what it is supposed to do, and how they can comply with it.

If a regulatory agency brings an enforcement action against a small entity, the small entity has a right to take a look at those so-called plain English guidelines and present it to the court or the administrative hearing officer and say, "Hey, look, we are doing what they told us to do," or if it is so confusing that they cannot figure it out, they have a case to make in the court or in the administrative hearing: "We had no idea what we were supposed to do to comply with this."

Another area that we think is very, very important is to change the atmosphere of inspectors and examiners who go out into the field representing the Federal Government to administer regulations.

Mr. President, you and I can cite many examples, I am sure. There are an overwhelming number of examples where dedicated public servants go out and work with the people they regulate to help them come into compliance. But I know we also can cite examples where a regulator goes out, an examiner goes out, and they think they have been sent from the king to impose fines, to impose sanctions and that their objective is to make life miserable. That is certainly the impression that too many of the witnesses before our hearings have held. They feel that there are some agencies in some areas or even some individuals who just have the wrong idea: They do not work for the people; they are there to collect fines and to impose penalties.

We set up fairness rules, and we set up an ombudsman. The ombudsman provision creates a small business enforcement ombudsman to provide a place where small businesses can complain and voice their concerns on excessive regulatory enforcement actions.

Right now, I have asked some of those small businesses why they do not complain to the guy's boss. They said, "Well, as soon as we do that, he is going to tell the inspector who is giving us so much trouble, who fined us $4,000 for not having a warning label on a bottle of kitchen dishwashing soap, and we are liable to get twice that fine the next time."

We set up an ombudsman system, regional fairness boards where you can go to complain, and if a number of small entities pinpoint a particular agency or even a particular inspector, then through the Small Business Administration, which knows the identity of the complaining witnesses, the attention of the supervisory personnel in the enforcing agency can be advised that this particular inspector or maybe this particular office is overreaching, is not performing its function of seeing that the purpose of the statute is carried out, that they are more interested in the enforcement sanctions and the fines.

We believe this will help change the culture so that regulators, examiners and inspectors know that their job, when they go out, is to see that the workplace is environmentally sound, healthful, safe and not to impose fines, and regulations. This does not take away any of the penalties. This says how you go about it should be designed to achieve compliance, not to impose penalties.

There is another measure which is included in this bill, one which was introduced by Senator DOMENICI as a result of hearings we had in New Mexico, to provide, on a pilot basis, in OSHA and EPA for the involvement of small businesses and small entities in the early stages of regulatory development, so you can have somebody sitting at the table as you look at the statute and you try to determine how best to carry it out. Somebody can say, "Well, to do this in the small entities, it will be easier to go this way to get the job done than to go that way."

We think that offers great promise. It will be tested, and we will see if we can, in fact, make sure that we get the job done of complying with the law.

Finally, there is a change in the Equal Access to Justice Act. That act is supposed to provide compensation for small businesses and small entities who are subject to regulatory proceedings, the imposition of fines. If it turns out that the Federal Government has asked for much larger fines or penalties than are warranted in the case, they are supposed to get compensation. Under existing law, however, the standards are so strict that it is a promise without performance.

We amend the Equal Access to Justice Act to level the playing field to bring some accountability to the actions between an agency and a small business entity so that when the agency makes a demand, it is going to have to be in proportion to what the violation is worth and what can actually be proven in a hearing, either administrative or judicial, to allow them to recover costs for representing themselves against an overreaching agency.

These things, I think, make this a good starting point for ensuring that Federal agencies give a hearing to small businesses and to small entities and take account of how their activities may impact those businesses.

With that, Mr. President, I hope that when we vote on this measure next Tuesday, we will have overwhelming support from this body. The House has considered but has not moved forward on legislation. I hope that by listening to Members on both sides and doing a tremendous amount of staff work—and I want to compliment not only the staff on this side, but on the minority side for their diligent work—we have a reasonably good piece of legislation.

We have made accommodations. There are a number of amendments we believe we can accept by voice vote. Senator NICKLES and Senator REID have one for congressional review that we think is vitally important. It has overwhelmingly passed the Congress. I think it was 100 to 0. That is about as good as you can get. It has already passed the Senate. I do not think we need another vote on that one, but we expect to accept that. And there will be a managers' amendment.

PRIVILEGE OF THE FLOOR

With that, as I turn to my ranking member, I ask unanimous consent to allow Tom McCully, a legislative fellow in the Small Business Committee, privilege of the floor for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, the chairman of the Small Business Committee, my colleague, Senator BOND, made a magnificent statement on this very comprehensive bill. As Mo Udall used to say, "Just about everything that needs to be said has been said, but everybody hasn't said it." I know that what I have to say will be largely repetitious, but let me start, first, by just complimenting Senator BOND for his tenacity and determination in getting this bill out of the committee and getting it to the floor.

I believe I can truthfully say this is one of the two or three times since I have been in the Senate where Members, if this becomes law, will have an opportunity to go home and actually tell the small business community that we have done something for them that was actually meaningful, that they can relate to and that they will applaud.

Sometimes the small business community can get very volatile and vocal about the fact that nobody here hears them or really cares about their problems. And there is some merit to that. Very few of the recommendations they have made at these various White House conferences on small business have ever resulted in legislation here. In 1980, when we passed the Regulatory Flexibility Act, we patted ourselves on the back and gave ourselves the good government award and went home and told the small business community what we had done for them. Not much time elapsed before they said, "You didn't do anything for us."

They were absolutely right about that. The Regulatory Flexibility Act simply has not worked. If it had, we would not be here this morning. So really the initiative taken by Senator BOND is to correct that, and to fulfill a promise to the small business community—oh, yes, if you want to put the political aspect to it—to enable the Members of the U.S. Senate to go home and appear before small business groups and tell them how much you love them, but this time you can actually justify it by pointing to this legislation, if it becomes law, which I feel sure it will.

Why did the Regulatory Flexibility Act not work? Because it had a provision in it that said the agencies who write the rules that govern the people subject to their jurisdiction, it said that those agencies, first of all, had to make a determination that the rules they were writing were or were not unduly burdensome on the small business community. If they were, of course, then they had to do a regulatory analysis of how it affected small business as opposed to others. They have to do that to make a determination anyway. If they found that this was burdensome on the small business community, then they had to go through a lot of hoops.

Agencies do not like to jump through hoops. So what did they do? Almost without exception they would simply say these regulations are not unduly burdensome on the small business community; therefore, they did not have to do anything more to accommodate the burden of that regulation on small business.

What was really the biggest omission of all in the Reg Flex Act of 1980 was that once the agency said, no, this does not hurt small business, small business could not do anything but stand there and take it because there was no judicial review. Under this bill, if they make a decision that a regulation is not burdensome, unduly harsh on small business, if they make that decision, they are going to have to defend it in court because the small business community has a right of judicial review on that determination.

So they are going to be much more circumspect about the regulation and certainly going to be much more circumspect about finding that the rules are not harsh on small business.

There are people who do not much like the judicial review part of this and say, you are going to clog the courts up with small business people contesting every regulation that has ever been written. That is powerful nonsense. Small business people do not like to spend money in court more than anybody else does.

But let me tell you, if I were going to summarize the vitality and the effectiveness of this bill in one sentence, or the reasons for it, it is because the small business people of this country spend 60 to 80 percent more dollars per employee to comply with Government regulations than big business does. How would you like to be a small business making widgets, and let us assume General Motors, one of the biggest corporations in America, also makes widgets, and you have to compete with General Motors, and then they come out with all these burdensome regulations, which are a piece of cake to General Motors, but, you know, you are going to have to spend 60 to 80 percent more than they are per employee to comply with those rules?

That is what this is all about, Mr. President. It is going to sail through. If there is a vote against this bill I am going to be surprised because everybody here knows those things I just described to you make sense.

The equal access to justice, which gives the small business community the right to go to court and to challenge some of the findings of the agencies, is long overdue. The equal access to justice, which says if the Government sues you for $1 million, and they wind up getting an award of $10,000 or even $50,000, the Justice Department, the small business person can sue for his attorney fees. This is a point that the Justice Department helped us with. And we accepted it. I applaud the Justice Department for it because the language says that if the award is disproportionately smaller than that requested, you are entitled to attorney fees.

Mr. BUMPERS. Mr. President, I am pleased to cosponsor S. 942 and the pending managers' amendment with the distinguished chairman of our committee, Senator BOND. This bill is one of the most significant accomplishments of the 104th Congress, and it is one of the best bills for the small business community in the last 15 years. It is important because it resolves major concerns to the small business community that have been unresolved for many years. And, it follows by less than 1 year the conclusion and recommendations of the 1995 White House Conference on Small Business.

Senators who support this bill can say to their small business constituents, "We not only hear you; we agree with much of what you are saying, and we are responding." With this bill, Senators can do more than give platitudes for small business. We can do something that will effect the lives of every business owner who deals with a Federal regulator.

S. 942 makes important, positive changes in two statutes which grew out of the 1980 White House Conference on Small Business: The Regulatory Flexibility Act and the Equal Access to Justice Act. This is a bill—all too rare in this Congress—which I can assure my colleagues that we would be considering if my party were in the majority. Some of today's bill's issues—particularly the judicial enforceability of the Regulatory Flexibility Act, or Reg Flex—have been the subject of consternation among small business owners almost since the act was passed in 1980. The recommendations of the White House Conference, as well as the work done by the National Performance Review under Vice President GORE, are the foundations of today's bill.

I want to emphasize that the spirit of S. 942 is one of reforming the regulatory environment—a cause which President Clinton's administration has championed since its inception both in the National Performance Review and in Executive orders which the President has signed. We are not only endorsing the Clinton administration's new regulatory philosophy, we are writing some of its program into law so that this new attitude does not change under some future President. Section 202 of the bill is specifically based on an Executive order, which President Clinton signed, providing for waiver or reduction of penalties and fines for small businesses in certain circumstances. His Executive order is exactly that approach to take if we are to change the climate of animosity between Government and small business which has existed for years.

There are several specific provisions of this bill which deserve mention. First, however, I want to compliment the chairman for the way he has handled this bill in our committee and since it was reported. Although the administration did not testify on the bill before the Small Business Committee, in subsequent days the chairman, the staff and I have held literally dozens of consultations with various agency officials about the bill. More importantly, we have worked very hard to accommodate the views and suggestions of the Clinton administration. Without exception, the suggestions and requests both from the administration and from Senators on and off the committee have been constructive and helpful. The staffs of the Finance Committee and the Governmental Affairs Committee have been especially helpful in crafting this far-reaching bill.

The Managers' amendment incorporates dozens of changes, some quite significant, in either language or policy from the bill reported by the committee. However, it does not retreat in any way from the main purpose of the bill. In fact, the administration's views have helped us to make the bill stronger and more effective for small business. I want to dispel any notion that the so-called bureaucrats have opposed this bill for fear that it would create more work for their agencies. The General Counsels' offices at Treasury, Justice, Labor, and other departments have offered advice which has improved upon what our committee originally approved 2 weeks ago.

Allowing judicial enforcement of the rights created under the Regulatory Flexibility Act of 1980—which S. 942 for the first time does—removes a bone that has been stuck in the throat of small business owners for over 15 years.

The original act did not permit anyone to go to Federal court to enforce the promise that agencies would: First, consider whether a proposed rule significantly affected a substantial number of small entities; and second, consider whether steps should be taken to account for the special problems of small entities. The only enforcement of the act was the moral authority of the law and SBA's Chief Counsel for Advocacy who is charged with monitoring agencies' implementation of Reg Flex.

Small firms, according to the GAO, pay between 60 and 80 percent more, per employee, for the cost of complying with Government regulations than do the big businesses who are often their competitors. Small business owners do not have armies of accountants, clerks, and lawyers to help them comply with the Government's endless demand for information and enforcement of rules.

For several years, the SBA Chief Counsel for Advocacy has reported to the Senate Small Business Committee on the performance of agencies in following the mandate of the Reg Flex Act. Some agencies have been conscientious, others sadly have not. That report, to date, has been almost the only means of enforcing agency compliance with the act. There is at least a perception that some agencies of the Government have routinely used the act's escape clause by saying that a significant number of small entities would not be substantially affected. This has occasionally been done when the facts were obviously to the contrary. Yet there was no legal recourse for businesses affected.

Today, all that changes. Those who should be protected by the Reg Flex Act will be. Small business owners, small town governments, and small nonprofit associations will be empowered to go into Federal court and obtain justice if a Federal agency has not followed the law. This law puts the Reg Flex Act on the same footing with other parts of the Administrative Procedure Act—which is to say that individuals are protected against actions which are arbitrary, capricious, an abuse of discretion, or otherwise not in accord with the law.

Judicial review of reg flex was one of the top recommendations of the 1995 White House Conference on Small Business, as was overall regulatory reform. Less than a year after the end of that conference, Congress is acting on those recommendations—a large part of them—by enacting these major changes in Federal regulatory law and policy. Important as judicial enforcement is, however, it is not the only big change made in this bill.

Perhaps the headline for this bill should be: IRS made subject to reg flex law. For the first time, the scope of the Reg Flex Act is being extended to cover so-called interpretative rulemakings. IRS and a few other agencies issue what are termed interpretative rules which, they say, merely explain the requirements of the statute. Nonetheless, these rules have great weight in the courts. They must be observed if the business owner wants to avoid a confrontation with the Government. Until the present moment, interpretative rules have not been subject to the requirements of the Reg Flex Act. Today, that also changes. IRS will be required to conduct an analysis under the act if a new rule substantially effects a significant number of small entities. And that finding will itself be subject to judicial review under section 5 of the Administrative Procedures Act.

Let me hasten to add that we do not believe allowing judicial review will result in a flurry of spurious lawsuits against the Government. Instead, we believe that agency rule writers will follow the new reg flex law and perform analyses which will avoid the necessity of anyone going to court. IRS particularly has a problem with tax protesters filing frivolous suits against the Government. The courts should deal summarily with such people, including imposing costs and fines in appropriate cases for those who sue to obstruct the Government.

The Equal Access to Justice Act [EAJA] which this bill amends deserves special mention. This important law allows individuals of small firms who have been sued by Government to recover their attorneys fees if they prevailed in the suit. This law has often failed of its purpose because it contained a two-part test which court decisions made nearly impossible to achieve. Under existing law, the small company must first show that he or she is a prevailing party. So, if the Government alleged 10 or 100 violations, and then only proved one minor one, the company was not a prevailing party.

Second, even if someone prevailed on each and every count, he has to show that the Government's action was not substantially justified. Courts have interpreted this phrase to mean that the Government's suit must have been without foundation in law or fact—virtually a frivolous suit under rule 11 of the civil rules. This is an almost impossible task, since the Government invariably has some basis for acting, even if it is not enough to persuade a judge or jury.

Our bill changes both these standards and makes it possible for the business owner to recover his fees by showing that the Government's final judgment was disproportionately less than an express demand by the Government during the course of the suit. So, if the Government sought $1 million to settle the case, and the judge or jury awarded, for example, $1,000 or $5,000, the defendant should be able to recover his fees. The phrase "disproportionately less" than an express demand by the Government was suggested by the Justice Department, and it was a very helpful suggestion. Obviously, this will not prohibit any agency from telling anyone the maximum legal penalty for a violation.

Additionally—and this should be emphasized by all who read and apply this section—the court or agency can deny attorneys fees if it finds that "special circumstances make such an award unjust." This phrase also came from the Justice Department, and it is contained in the current law. Clearly, we do not want to pay attorneys fees for someone who escaped conviction on a mere technicality but who was, nonetheless, probably guilty.

It is certainly not our intention to pay the lawyers for people who are essentially bad actors but who escaped punishment by the grace of the Almighty. Many circumstances, such as an exclusionary rule challenge, can be imagined where it would be wrong for the taxpayers to reimburse someone's attorneys fees, and the courts are empowered to use some reasonable discretion.

Finally, the courts are not obliged to allow the maximum rate of $125 per hour in every case. This is an increase from the $75 per hour maximum in current law, a figure which has not been changed in many years. The courts should look to existing law under section 1988 of the Civil Rights Act for guidance. Fees should be set in relation to prevailing fees actually charged in the community. Moreover, courts should require attorneys to substantiate their fees through time-sheets or other appropriate records.

The Justice Department is still not entirely satisfied with this language, as the statement of administration policy indicates. But the administration has my assurance, and that of Senator BOND, that we will continue to work with them to improve upon this language in conference with the House.

The House previously passed a bill allowing for some judicial review of reg flex decisions, but our bill is broader. Moreover, the House bill does not amend the EAJA, does not contain an ombudsman provision, and does not allow for Regulatory Advisory Boards. It is a rather narrow bill, and I hope that we will be able to persuade the House to substantially broaden it or, better yet, to accept our bill. To this point, the House has not been able to bring major regulatory reform to a conclusion, just as the Senate failed to complete debate on S. 343 earlier in this session. This bill, however, can and should go forward regardless of the outcome of those debates. This bill can only help our economy's small business sector, and I hope our colleagues in the other body will move expeditiously to send this bill to the President for his signature.

I urge my colleagues to support this important bill. The small business community will undoubtedly appreciate those who have helped us today.

Again, I want to thank Senator BOND and his staff, particularly Keith Cole and Louis Taylor, for their cooperation and support during the development and consideration of this bill. This bill shows that reasonable people of good will can still accomplish a great deal in this Congress, and I hope it will be a precedent for other bills.

Mr. President, on the equal access to justice, I point out it was the Justice Department that came up with the phrase which I think is almost a stroke of genius when they said, "Why don't you use the term 'disproportionate award'?" That is, if the Government sues for $1 million and they get a disproportionately smaller amount than that, then the small businessperson is entitled to his attorney fees. There are some exceptions to that, of course—if he has been guilty of a criminal act or willful wrongdoing or something like that—but normally he not only will be entitled to attorney fees, but the equal-access-to-justice provision, which is essentially incorporated here with Senator FEINGOLD, essentially the amendment he offered on the floor—I think it passed 98–0—that increased the amount the small businessperson could recover from $75 an hour to $225 an hour. We have put that in this bill.

Now, Mr. President, there are some cases in which offenses can be waived, penalties can be waived, under a certain set of conditions. If you really want, sometimes, to enforce a regulation, no exception, cross every "t" and dot every "i", you can still make things a little tough for some small business people.

The National Performance Review Group headed up by Vice President GORE had recommended that there be a provision in here that some people could be excused from burdensome penalties if it was rather unintentional and had been corrected. That ought to be a source of some strength. I, frankly, thought that labor might oppose that, but they did not. It is not designed to ratify or condone bad conduct on the part of some small businessman but just to keep it from being too harsh.

Now, Mr. President, the final thing that I want to mention, there is a provision in here—and it may not be perfect; some people have voiced considerable reservation about it—but the provision is that the Small Business Administration will be home to an omsbudsman, and that ombudsman is there to take complaints from the small business community.

You have heard that classic joke for 100 years, "I'm here from the IRS and I am here to help you," and people are terrified when the IRS walks in. Usually if that agent happens to be abusive—and I use the IRS because they are that agent happens to be abusive on top of the fact you know that he is there to get in your pocketbook, it makes it doubly troublesome. This is also true of a lot of people who come into your pa lot of people who come into your plant to enforce the OSHA laws or all the other regulations that they write. If a small business man or woman feels that he or she has been put upon in an unfair, burdensome, and abusive way, they will have somebody to report that to.

It just occurred to me, Mr. President, one of the biggest cases I ever had involved a defense contract. My client was a manufacturer of tent pins. Tent pins came in different sizes, anywhere from 18 inches to 24 inches, and they were designed, of course, to drive in the ground to hold a tent up for the army, for the troops. Now, you have to understand the tent pins had to be absolutely perfect—sanded. You would not believe the regulations that my client had to comply with to build a tent pin which, when used, was going to be hit by a sledgehammer.

He had one of those crazy, as luck would have it, a crazy inspector. The guy used to go through his trash at night after he would leave to see if he could find something. The reason I am telling you that—it is humorous now because that happened 35 years ago; it was not funny then—it bankrupted my client. It took 7 years—I had never had a case in the U.S. Court of Claims before. They sent a referee down to Fort Smith, AR, and we tried that thing. It took a week. Happily, the referee of the Court of Claims was a very attentive judge. He was an elderly man. He understood the problem. He listened very carefully. He awarded my client, I believe, $100,000, one of the biggest judgments I ever got. You would think I could remember to the penny what it was.

It turned out, as a personal note, that Betty and I were getting ready to take our daughter to Boston to Children's Hospital for what we knew was going to be a tremendous expense and we did not know how to pay for it, and I collected on that judgment 3 days before we left. It saved my life.

I have had firsthand experience with the Government inspector who bankrupted my client. We did get that amount of money. But that was after 7 years. We did not get a dime of interest. We did not get a dime of penalty. We did not get a dime in attorney fees. All we got were actual damages.

Now, as a country lawyer in a town of 2,000 people, I could not believe the Government treated people like that. They admitted they were wrong, but no attorney fees, no interest, no penalty, after 7 years. Well, at least these people are going to be entitled to attorney fees.

Mr. President, I ask unanimous consent to add Senator CAROL MOSELEY-BRAUN as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I yield the floor.

Mr. BOND. Mr. President, I yield myself 2 minutes. I would like to add—to make sure we have a list of cosponsors, I will read for the record the cosponsors:

In addition to Senator MOSELEY-BRAUN, Senator BUMPERS and myself, we have Senator BURNS, Senator COATS, Senator COVERDELL, Senator DEWINE, Senator DOLE, Senator DOMENICI, Senator FAIRCLOTH, Senator FRIST, Senator GRAMS of Minnesota, Senator GRASSLEY, Senator HUTCHISON, Senator KEMPTHORNE, Senator KERRY of Massachusetts, Senator LIEBERMAN, Senator LOTT, Senator LUGAR, Senator PRESSLER, Senator ROBB, Senator STEVENS, and Senator WARNER.

I also note that a number of these people, including Senator ROBB, are working very actively with us, with Senator NICKLES, with Senator JOHNSTON, Senator DOLE, and others on a broader regulatory reform package. I think they want it understood, as I certainly do, that this does not supplant the need for other regulatory reform efforts, and it in no way is a substitute for them. We think this is a very important rifle shot to deal with the problems of small business, and we believe it does not deal with the broader regulatory issues.

Now, Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the legislative history of this measure which is prepared by staff for Senator BUMPERS and me on behalf of the committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE LEGISLATIVE HISTORY FOR S. 942

I. SUMMARY OF THE LEGISLATION

The final version of the bill, embodied in a managers amendment, makes a series of technical and other amendments to S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996. The amendment resolves many of the questions raised by the Administration with the bill as reported by the Small Business Committee. The amendment also makes changes for better implementation of certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The scope of the RFA requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

As amended, S. 942 provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The goal of the Act is to foster a more cooperative, less threatening regulatory environment between agencies and small businesses and other entities. In addition, S. 942 provides a vehicle for effective and early participation by small businesses in the Federal regulatory process by incorporating amended provisions of S. 917, the Small Business Advocacy Act.

II. SECTION-BY-SECTION ANALYSIS

Section 1

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996."

Section 2

The bill makes findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 3

This section outlines the purposes for the bill. The bill addresses some key federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The bill provides for a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The bill also provides small businesses with legal redress from arbitrary enforcement actions by making federal regulators accountable for their actions.

Section 4

This section provides that the effective date of the Act is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. However, IRS interpretive rules proposed prior to enactment will not be subject to the amendments made in chapter four of the Act expanding the scope of the RFA to include IRS interpretive rules. Thus, the IRS could finalize previously proposed interpretive rules according to the terms of currently applicable law, regardless of when the final interpretive rule is published.

TITLE ONE

Section 101

This section defines certain terms as used in the Act. The term "small entity" is currently defined in the RFA to include small business concerns, as defined by the Small Business Act, small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small entity is straightforward, using thresholds established by the SBA for Standard Industrial Classification codes. The RFA also defines small organization and small governmental jurisdiction. Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 102

The bill requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a required Reg Flex analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 103

The bill directs agencies that regulate small businesses to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the law to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

The bill gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small businesses be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 104

The bill creates permissive authority for Small Business Development Centers (SBDC) to offer regulatory compliance assistance and confidential on-site assessments for small businesses. SBDCs would not become the single-point source of regulatory information, but would supplement agency efforts to make this information widely available. Neither this section nor the related language in section 105 are intended to grant any exclusive franchise on regulatory compliance assistance. Rather, these sections are designed to add to the currently available resources to small businesses for assistance with regulatory compliance.

Section 105

The bill authorizes Manufacturing Technology Centers, commonly known as "Hollings Centers," and other similar extension centers administered by the National Institute of Standards and Technology, to engage in the types of compliance assistance activities described in Section 104 with respect to SBDCs.

This legislation places strong emphasis on compliance assistance programs for small businesses. These programs can save businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. The bill calls for both the Small Business Development Centers and the Department of Commerce's Manufacturing Technology Centers to provide a range of technical and compliance assistance to small businesses. Some of the manufacturing technology centers already are providing environmental compliance assistance in addition to general technology assistance.

The bill also provides that it in no way limits the authority and operation of the small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990. There is strong support for that program. There are also other excellent small business technical assistance programs in various forms in different states. This bill is not intended to affect the operation and authority of those programs. comments from small business representatives in a variety of fora support the need for expansion of technical assistance programs.

Section 106

This section directs agencies to cooperate with states to create guides that fully integrate federal and state requirements on small businesses. Separate guides may be created for each state, or states may modify or supplement a guide to federal requirements. Since different types of small businesses are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where businesses tend to be small. Agencies may contract with outside entities to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

TITLE TWO

Section 201

The bill creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at SBA to give small businesses a confidential means to comment on and rate the performance of agency enforcement personnel. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to rate the performance and responsiveness of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The bill also creates Regional Small Business Regulatory Fairness Boards at SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners or operators of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the Congressional small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms.

Section 202

The bill directs all federal agencies that regulate small businesses to develop policies or programs providing for waivers or reductions of civil penalties for violations by small businesses in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small business to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Health and Safety Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

TITLE THREE

Sections 301 & 302

The bill would amend the Equal Access to Justice Act to assist small businesses in recovering their attorneys fees and expenses in certain instances when agency demands for fines or civil penalties in enforcement actions are not sustained. While this is a significant change from current law, it is not the intention of the Committee that attorneys fees be awarded as a matter of course. Rather, the Committee's intention is that awards be made frequently enough to change the incentives of enforcement personnel and to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. A goal of this bill is to encourage Government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly.

The Equal Access to Justice Act (EAJA) provides a means for prevailing small parties to recover their attorneys fees in a wide variety of civil and administrative actions between small parties and the government. This bill amends the EAJA to create a new avenue for small entities to recover their attorneys fees in situations where the government has instituted an administrative or civil action against the small entity to enforce a statutory or regulatory requirement. In these situations, the test for recovering attorneys fees in whether the final outcome imposed or ordered in the case (whether a fine, injunctive relief or damages) is disproportionately less burdensome on the small entity than the government's actual demand. This test does not provide attorneys fees if there has merely been a reduction in the burden on a small entity between the demand and the final outcome. The test is whether the demand is out of proportion with the actual value of the violation.

The comparison is always between an "express demand" by the government and the final outcome of the case. An express demand is just that—any demand for payment or performed by the government, including a fine, penalty notice, demand letter or otherwise. However, the term "express demand" should not be read to extend to a mere recitation of facts and law in a compliant.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations were the agency's demand is so far in excess of the true value of the case, as demonstrated by the final outcome, that it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the facts and circumstances of the case. In addition, the bill excludes attorneys fee awards in connection with willful violations, bad faith actions and in special circumstances that would made such an award unjust.

The bill also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgment. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

TITLE FOUR

Section 401

The bill expands the coverage of the FRA to including IRS interpretive rules that provide for a "collection of information" from small entities. The intention of the Committees to permit enforcement of the RFA for those IRS rulemakings that will be codified in the Code of Federal Regulations. Although the Committee believes IRS should take an expansive approach in interpreting which of its actions could have significant economic impact on small businesses, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings are not covered by the bill. The term "collection of information" as used in the Paperwork Reduction Act (Title 44 U.S.C., Section 3502(4)) is defined to include the obtaining or soliciting of facts or opinions by an agency through a variety of means including the use of written report forms, schedules, or reporting or record keeping requirements, which the Committee interprets to include all tax recordkeeping, filing and similar compliance activities.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact or small entities. Nothing in the bill directs the agency to choose a regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact of small entities consistent with the underling statute and other applicable legal requirements.

Section 402

The bill removes the current prohibition on judicial review of agency compliance with the RFA and allows adversely affected small entities to seek judicial review of agency compliance with the Act within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency actions. The prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to RFA, and small entities have been denied legal recourse to enforce the Act's requirements.

The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review. The bill does not subject all regulations issued since the enactment of the RFA to judicial review. After the effective date, if the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Section 403

The bill requires agencies to publish their factual, policy and legal reasons when making a certification under section 605 of the RFA that the regulations will not impose a significant economic impact on a substantial number of small entities.

Section 404

The bill amends the existing requirements of RFA section 609 for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, introduced by Senator Domenici, to provide early input from small businesses into the regulatory process. For proposed and final rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The Agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. The findings of the panel and the comments of small business representatives would be made public as part of the rulemaking record. The final bill includes modifications requested by Senator Domenici after consultations with the Administration. These modifications clarify the timing of the review panel and create a limited process allowing the Chief Counsel to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Mr. BOND. How much time does the Senator from Montana require?

Mr. BURNS. How much time does the Senator have?

Mr. BOND. I ask the Chair that question.

The PRESIDING OFFICER. The Senator from Missouri has 24 minutes, and the Senator from Arkansas has 29 minutes.

Mr. BOND. I yield to the Senator from Montana 5 minutes.

Mr. BURNS. I thank the Chair. It has been my pleasure to serve on the Small Business Committee ever since I came to the Senate, and under the chairmanship of both Senator BOND and Senator BUMPERS. I know of the hours they put in on this and the leadership they display. They have been trying to do this for quite a while. Finally, we have a product on the floor that I think will work.

Mr. President, I rise today in support of S. 942, the Small Business Regulatory Fairness Act. This is a bill that we have worked on in the Small Business Committee, with the help of many White House Committee on Small Business delegates. It is a bill that will give much needed relief to small businesses all across the country. And the end result will benefit us all.

Small businesses are responsible for the vast majority of new jobs created in the last year, in spite of everything the Government is doing to hinder that growth. In Montana, where 98 percent of our businesses are considered small business, not 1 day goes by that I do not hear "Get the Government off our backs and we would be creating more jobs," or "If you would just get out of the way, more folks would be starting new businesses and our economy would be improving."

Mr. President, from the awesome amount of paperwork that various Government agencies require to the fines that threaten small businesses if they do not comply with the thousands of regulations imposed on them, it is no wonder that some folks are discouraged from starting or growing their business.

This bill will ease some of that burden. It makes it easier for small businesses to comply with regulations by letting them know what is expected from them—in clear, simple language. And if the rule is not clear or not spelled out specifically in a compliance guide, the small business cannot be penalized. It is just one way of making the Government agency more responsible—and of making compliance easier on our small businesses. Who can argue with that?

It also directs the SBA to set up regional ombudsmen for small business and agriculture, giving folks a place to go to voice their complaints about unfair enforcement of regulations—without fear of retribution. This provides a check on the agency, forcing their inspectors to be accountable for their actions. Small businesses can critique the inspectors and Government lawyers, and we then get an idea of how responsive different agencies are to small business.

There are a lot of ways we can help small business today. The White House Conference on Small Business produced 60 recommendations of what we can do to help. In nearly every category, dealing with regulations was mentioned. There is much more to be done to curtail unnecessary regulations and reduce the presence of Government in our lives—but this is just a first step.

We will always have rules and regulations—that is just the way our Government works. And no doubt we need some of those. But let us make it easy to understand and easy to comply. Let us give those being regulated a fair chance. I would encourage my colleagues to support this important legislation on Tuesday by voting for its passage. I know Montana's small businesses are counting on this and I would imagine that small businesses all across the country, as well as their customers, would be eager to see this passed.

Mr. President, we hear stories in our home States—we all have them—when we go home and sit down with the people who are providing the biggest percentage of new jobs in this country, which is the small business community, the entrepreneurs just starting out, and they are expanding. We know how important this is. They are also saying that we have to get Government off of their backs. If we just get out of the way, more folks would go into business and they would start expanding the economy as much as they can, just on a new idea, making some things happen.

Government rules and regulations are always going to exist in some areas of business and in other areas of our life, but now we will have a part of Government that is actually going to be an advocate for small business. This will put a person in the region to whom a small business can go and take the problem they are having with a regulatory agency—someone to hear them out and who they could have a relationship with, so that they might solve their problems.

Mr. President, we had a big problem in the State of Montana in the wood products industry, which is a big industry. We have some post and pole people who treated fencepost or treated lumber. They used some chemicals that, yes, are highly toxic. Rather than working with the people to get them in compliance, the EPA just went and found the violations and made the fines so big, and the cleanup so expensive, that they all went broke. I can cite four in the State of Montana alone. Here is the bad part about it. I forget the chemical they dip the posts into now, but there was one full 55-gallon drum and one half-full of creosote. What they did is, after they took the soil, they hired a person from Portland with an incinerator to burn the soil, and a soil handler from Florida to bring it clear to Montana, and we have people in Montana that can do the same thing. That was all charged against the owner. Then they left this big hole in the ground. They did not finish burning their soil. They gave up on that. They actually opened up the 55-gallon drum and poured what was left in it back into the hole, contaminating the whole area.

Now, this is our Government at work. And then they told the poor guy, "Fence that off, would you?" He put up a 36-inch web around it without any barb on top of it.

We can cite time after time after time examples of regulators or regulation enforcers that set up their own little fiefdom, and they are king for a day. And we hope this piece of legislation, which all of us had a hand in developing, will do something about that.

I am really happy that our good friend from Oklahoma is pursuing the way we write our regulations, the way we write our administrative rules, after the piece of legislation has been introduced. I have been preaching on that for a long time. Those rules and regulations should come back to the committee of jurisdiction, if nothing else, to be reviewed so that they do reflect the intent of the law and the intent that we had.

I congratulate my chairman and ranking member on this committee because I think it is a humongous step in the right direction.

I yield the floor.

Mr. BOND. Mr. President, I thank the distinguished Senator from Montana. I note that he has been a very active participant in hearings, and he also held a very useful and productive hearing in Montana. He has contributed greatly to his committee.

Now I will yield 5 minutes to the Senator from Oklahoma, who has been very active in our issues and has come before our committee to testify on a number of small business issues. We are very happy to be able to accept an amendment that he and Senator REID of Nevada have offered.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I want to compliment my colleague, the chairman of the Small Business Committee, Senator BOND, for his leadership, as well as that of Senator BUMPERS. It is great to see two people work together and push legislation that will be a real asset to small business. That is exactly what they have done. They have worked tirelessly in this committee. I served on that committee, and I tell my colleague, when I served on that committee, it was kind of frustrating because we talked a lot, but we did not do much.

Frankly, the Senator from Missouri and the Senator from Arkansas are doing things, passing legislation to help small business, trying to make sure with the legislation they have introduced today that the impact of regulations on small business will be heard. If, for some reason, the regulatory agencies do not take small business impacts into account, their legislation will provide a means for directing the agencies to take those impacts into account in their regulations. So I compliment them for their efforts and leadership.

AMENDMENT NO. 3534

(Purpose: To provide for a substitute.)

Mr. BOND. Mr. President, in order to make the procedural activities work appropriately, if the Senator from Oklahoma will withhold, I send to the desk the managers' amendment on behalf of Senator BUMPERS and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the managers' amendment.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. BUMPERS, proposes an amendment numbered 3534.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 3535 TO AMENDMENT NO. 3534

(Purpose: To ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. REID, Mrs. HUTCHISON, Mr. DOLE, Mr. BAUCUS, and Mr. FEINGOLD, proposes an amendment numbered 3535 to amendment No. 3534.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. NICKLES. Mr. President, this is an amendment on which Senator REID, myself, and many others in the Senate, including Senator HUTCHISON, Senator BOND, Senator BUMPERS, have had a lot of input. We worked on it a lot and actually passed this amendment through the Senate on March 29, 1995, by a vote of 100 to 0. This amendment was in contrast to some legislation that the House passed. The House passed a moratorium on all regulations. We considered in the Senate actually a bill somewhat similar to that, which had passed through the Governmental Affairs Committee. However, this is a substitute.

The moratorium would have lasted only until the end of last year; it would have expired December 31, 1995. It would not have an impact today. It might have stopped some regulations that were going forward in that period of time. This legislation, though, will be permanent law. We did pass it with bipartisan support. I thank Senator REID. It is not often that we have bipartisan support on legislation that will really have a significant impact. I am glad we have it in the legislation that Senator BOND and Senator BUMPERS had, the so-called reg flex proposal, and also the congressional review proposal that Senators REID, HUTCHISON, and myself are pushing today.

This legislation, instead of having a moratorium, we will have a permanent law that says Congress should review all new regulations. If you find that an agency passes a final rule and it has a significant impact, and you do not like it, you should stop it, you should change it. We, in Congress, many times will pass a law and congratulate ourselves and say we did a good job, give the regulatory agencies a fair amount of flexibility in implementing that law, but then we kind of turn our backs and we get busy and forget about what we did.

Then we find the full impact of the law once it is final and the rules are promulgated. It may be a year or two after we pass the legislative language that we find that rules issued pursuant to that law have a very significant economic impact—sometimes very, very significant negative economic impact. Sometimes the rules can be enormously expensive. Sometimes they can be ludicrous.

Yet we are sitting on our hands in Congress. And our constituents are saying, "When did you guys pass that law? What did you do? Do you know what you were doing?" A lot of times we sit back and say, "Well, the law had very good intentions." And, if you read the statutory language, it sounded pretty good. But the final rules implementing the statutory language leave a lot to be desired.

This proposal would say that when the regulatory agencies make their final rule, notification of that final rule will be sent to Congress, and sent to the GAO. And we can review it. If it is a major rule, or significant rule as determined by the administration, usually if it has an economic impact over $100 million on the economy, that rule will be suspended for 45 days. So it does not go into effect immediately. So we have a chance to listen to people, and before it becomes final we can stop it. Under this proposal, Congress can pass a joint resolution of disapproval. We have expedited procedures in the bill so no one can filibuster, or stop the will of the majority.

So, you can get a vote in both Houses passing a resolution of disapproval, and send it to the White House, and say, "No. We think this rule is a mistake. This is not what we meant. We think it goes too far. It is too expensive, too cumbersome"—for whatever reason; maybe because our constituents are telling us this rule does not make sense. Maybe the rule does not have an economic impact over $100 million. It does not have to, if our constituents convince us that the rule does not make sense. We can stop it.

That is what this legislation is all about. This is going to encourage congressional review of rules and I think put more responsibility on Congress. We have not done very good in legislative oversight. Maybe we are too busy. For whatever reason, there are lots of rules and regulations out there that many people say are idiotic and do not make sense, and they are too expensive.

I see the occupant of the chair. I know of his profession prior to coming to the Senate as a physician. And I can think of one law that passed—the Clinical Laboratory Improvement Act. It had very good intentions. But the net result was that in a lot of areas it was very expensive. As a matter of fact, I had physicians in my State telling me, "Wait a minute. We cannot do lab tests in our own office. We have been doing it for 20 years. And I have to give blood tests. I have to give results to my patients, and quickly, if I am going to give quality health care. And now I have a rule implementing the Clinical Laboratory Improvement Act which says that I cannot do that in my office. I have to send it off to a pathologist in Nashville, TN, or Oklahoma City, or Maine. Their office is 200 miles away, and it may take 24 hours or 48 hours to turn that around." That is dangerous medicine. Maybe that rule implementing the legislative act went too far.

This proposal would give us a chance, if a regulatory agency comes down with a rule, to review that rule. And, if we do not like it for any reason, we can stop it and we send it to the President. If he disagrees with us, he can veto it.

Mr. President, I can think of any number of agencies that Congress needs to spend more time watching. And, again, maybe all of the legislation had very good intent. But the regulations' impact went too far.

There is a rule floating around right now in OSHA called ergonomics. It sounds very good. It protects people from injuries caused by repetitive motions. But, all of a sudden, the Department of Labor is telling people how high their desk has to be, or are getting ready to tell people that they cannot lift a box or a package which is over 25 pounds. The Department of Labor is suggesting you must have two people. There are implications from this regulatory proposal that could cost billions of dollars. Maybe something needs to be done to prevent injury to people from repetitive motions in the workplace. However, if the Department of Labor comes up with a final rule that is similar to the ergonomics language they have been floating, I think of a lot of us would say, "Stop that. Wait a minute."

I grew up in a machine shop. If you had someone saying that you cannot move anything over 25 pounds—we move a lot of heavy equipment around—that rule would not work.

So again we need a little common sense. That is what this legislation is all about. It is congressional review. If regulatory agencies pass a rule and it does not make sense, we have 45 days to pass a joint resolution of disapproval, and we have expedited procedures. People will not be able to filibuster that rule. So we can get it through the Senate, if you have 51 votes, and through the House if they have a majority vote, and send it to the President. If he feels very strongly that that rule does not need to be rewritten or reviewed, he can veto it. And we can try to override his veto. So we still have checks and balances. We do not suspend all rules for the 45 days, but only those rules that have significant economic impact as defined by the administration.

We made a few changes—which are different in the legislation that we passed last year in March. We changed the name of the legislation to the Congressional Review Act. We put in an exemption for hunting and fishing rules. The 45-day delay provision was changed to a complete exemption—which is different in the legislation the Senate passed last March. That was sought by Senator STEVENS. And I appreciate his input.

Also, final rules that were issued pursuant to the Telecommunications Act of 1996 are made exempt from the automatic 45-day delay provision to ensure that short deadlines recently given the FCC under Telecommunications Act can better be met.

Also, the look-back provision that was provided to permit congressional review of significant final rules issued between November 20, 1994 and date of enactment was modified by replacing "November 20, 1994" with "March 1, 1996." In other words, we say that this law will be effective for congressional review beginning March 1, 1996.

Again, I thank my colleagues—most of all, Senator REID because I have worked with him on many issues over the years, and regulatory reform has been in the forefront of our efforts. We know that we need to reduce—if not eliminate—unnecessary, burdensome, and excessively costly regulations. Adoption of our amendment is an important step in putting Congress back to the table.

This bill that we will pass shortly—finally I guess next Tuesday—in the Senate is going to make Congress be more responsible. Then if the regulatory agency passes a bad rule and we do not review it, that is our fault. Congress needs to step up. Committee chairs need to step up and monitor what the regulatory agencies are doing. And, if they do a bad job, we need to hold them accountable.

So it puts more responsibility on the Congress. We just cannot blame the agencies and wash our hands. If we pass a good bill—and say, "I cannot believe those regulatory agencies interpreted it that way. I cannot believe they did it"—now we have a chance to say, "Wait, agencies. You went too far. Rewrite your rules. Change it. Take into account what people are saying in rural Tennessee, or rural Missouri, or whatever that impact is in Arkansas."

So I think it is vitally important. This is good legislation. This will help.

Again, I thank my colleagues from Missouri and Arkansas for their legislation both on reg flex, and for their cooperation and support on congressional review.

I yield the floor.

Mr. REID. Mr. President, last year, this same amendment passed this body unanimously by a vote of 98 to 0. I remain convinced that this legislation, offered by my good friend, the senior Senator from Oklahoma, and myself, is a good solution to the problem of excessive bureaucratic regulation. This amendment, like this bill, will do a lot to put common sense back into our regulations.

As I visit the communities around Nevada, big and small, I see many small businesses trying to compete in these evolving markets. I know of many local shops and enterprises that cater to small towns just trying to remain solvent. It is the same in our big cities, Mr. President. Government should not be an obstacle to commerce and competition. I am afraid that in too many cases it is.

The U.S. Chamber of Commerce has estimated the cost of complying with regulations is $510 billion a year, approximately 9 percent of our gross domestic product.

The amount of time spent filling out paperwork has also been estimated at about $7 billion. I think that is too low. I think it is much higher than that. Now, not all regulations are bad. Some regulations are valuable and serve important purposes, but because of the regulatory efforts that we have made, we have made great progress. Our workplaces are generally safer. We have much cleaner water than we used to have, both in our rivers and streams and in our drinking water. Air quality standards are better than they used to be. The problem, though, is that many times we pass laws and then the bureaucrats step in and make very complicated regulations that go beyond the intent of our law, beyond our sound policy.

These complex regulations, as I have stated, go way beyond the intent of Congress and fail to recognize the practical implications and impact of these regulations. Under the current regulatory environment, small business owners must hire entire legal departments to comply with these countless regulations. This reality has led Americans to become frustrated and skeptical of Government, and that is not the way it should be. According to polls, more than half the American public believe that regulations affecting businesses do more harm than good. That is certainly too bad.

This amendment will allow the Congress to look at these major rules before they go into effect. We are going to pass some more laws, but when the regulations are promulgated, we are going to have the opportunity to look at them. If we do not like these regulations, we can veto them, in effect. That is the way it should be.

This amendment will allow Congress to look at these major rules. This amendment enables Congress to examine the regulations that are being promulgated and decide whether they achieve the purposes they were supposed to achieve in a rationale, economic, and least burdensome way. Congress is intended to be more than just a roadblock for regulators, but a voice representing the many segments of society to put democracy back in public policy.

This amendment is one that Members on both sides of the aisle can vote for because when we first offered it, it passed 98 to 0. And, second, it takes a commonsense approach to an issue that we all agree is a significant problem, that is, complex and burdensome regulations.

Mr. President, Americans want Congress to work together to get Government working for them, not against them. This amendment is one of those that will probably not receive a single line of print in a newspaper. Why? Because it is going to be accepted unanimously, probably, unless someone makes a mistake and votes against it. But it will pass overwhelmingly. It is being offered by the chairman of the Democratic Policy Committee and the chairman of the Republican Policy Committee—Senators REID and NICKLES. We need to do more stuff together. We need to set an example to the American public that we can work together in a bipartisan fashion to solve burdensome problems.

The way regulations are promulgated is a burdensome problem, and this amendment will do a lot to alleviate a problem that faces all Americans.

The PRESIDING OFFICER (Mr. FRIST). Who yields time?

Mr. BOND. Mr. President, I yield myself 1 minute. As I have already said, I believe that this is an excellent amendment. We have reviewed it on both sides. I commend Senator NICKLES, Senator REID, and the others for it. We are prepared to accept it.

Mr. BUMPERS. Mr. President, I compliment the Senator from Oklahoma for offering the amendment. I think it is an excellent amendment. We certainly are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3535) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, at this point I ask unanimous consent that Senators BAUCUS and FEINGOLD be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. How much time does the Senator from Virginia wish? Five minutes?

I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President. I thank my colleagues from Arkansas and from Missouri.

Mr. President, I rise today as a cosponsor of S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996 as reported from the Small Business Committee.

As our colleagues know, several of us—actually quite a number of us—have been working for many months to try to develop a responsible comprehensive regulatory reform package which can achieve bipartisan support.

The bill that we are debating this morning and will vote on on Tuesday contains elements that were included in that broader package, and I am very pleased to see those provisions move forward now with very significant support on both sides of the aisle.

Specifically, this bill on which I have had a chance to work with Senator BOND, the National Federation of Independent Businesses, and others, allows judicial review of the Regulatory Flexibility Act.

We passed the Regulatory Flexibility Act in 1980 to guarantee that the special concerns of small businesses were addressed by agencies when issuing rules, but the provisions of that act were not reviewable in court. Unfortunately, the fact that the act was therefore, in effect, unenforceable led many agencies to simply disregard its provisions. Needless to say, this has created enormous frustrations for small businesses. Not only were agencies failing to consider the impact of regulations on small businesses, but some agencies were actually flouting the law by that failure. Because of agency failure to take small business concerns into account as the law required, small businesses in many instances were forced to comply with rules that were more onerous than necessary simply because the agencies were refusing to follow the law because no courts were looking over their shoulders to make sure that they complied.

In order to make the Regulatory Flexibility Act work as intended, it has become necessary to make it judicially enforceable. Agencies will now be required to explain how a rule likely to have significant impact on small businesses has been crafted to minimize that impact on those businesses or else risk court action.

While I am pleased that the regulatory flexibility provision is moving swiftly toward becoming law, I hope—and I ask my colleagues to join in this effort—that it will not divert our effort to continue to work on a more comprehensive bill. I still believe that we can develop legislation requiring agencies to regulate in a more cost-effective fashion without undermining the ability to protect our environment, our workers or our public health. As I have stated in the past, if we can maintain the level of protections and increase the efficiency in how we attain it, consumers will ultimately reap the benefits. Of course, every dollar that business spends beyond what is necessary to protect us in our environment is one less dollar that can be used to hire an employee or fund a pay raise or pay for plant expansion. Not only will consumers benefit but so will the economy.

Regulating in a cost-effective fashion simply makes sense. If we can achieve the same environmental benefit for less money, or, even better, achieve more environmental benefit for the same money, then we simply ought to do it. I will continue to work with our colleagues to try to make that happen. Senator JOHNSTON of Louisiana and I are circulating today a discussion draft which I believe meets the dual and not mutually exclusive goals of eliminating unnecessary costs while safeguarding our environment and ourselves.

Again, Mr. President, I commend our colleagues, particularly the chairman and ranking members of the Small Business Committee, Senators BOND and BUMPERS, for taking the first steps in moving responsible regulatory reform. I look forward to continuing to work with all of our colleagues as we try to craft a responsible comprehensive regulatory reform bill.

With that, Mr. President, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I will be happy to yield the Senator such time as she may require.

Mrs. HUTCHISON. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I want to take this opportunity to say how much I appreciate the leadership that the Senator from Missouri, Senator BOND, the Senator from Arkansas, Senator BUMPERS, have provided for the small business people of our country.

We have been working together in the Small Business Committee for over a year to try to get regulatory relief for those who cannot afford the excesses to spend money, frankly, on things that do not help the bottom line, that do not help the ability to create jobs, that do not help the ability to create new capital, and that is our small business people.

They are the ones that just do not have that margin to be able to fight excessive regulations that sometimes do not make sense. I think all of us have come together in a very bipartisan spirit, under the leadership of Senator BUMPERS and Senator BOND, to say, let us give relief at least to the small business people of our country so that they will be able to grow and prosper because what will make this country economically viable once again is strong small businesses.

That is what this bill does. This bill will give some relief where it is so needed. I especially appreciate the willingness of Senator BOND and Senator BUMPERS to work with Senator NICKLES and myself on the amendment that will allow congressional review. Of course, that bill has passed the Senate by an overwhelming margin. That would allow Congress to be able to review regulations that come through.

I think that is going to be a very important first step for accountability in our regulatory agencies. It is really a matter of Congress taking responsibility for the laws it passes and the delegation that it gives to our regulators.

Mr. President, I ask unanimous consent to be listed as a cosponsor of the Nickles amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I applaud the efforts of Senator BOND and Senator BUMPERS once again. I hope that we can pass this regulatory bill, regulatory relief bill for our small businesses with a 100-percent vote. I cannot imagine anyone not wanting to do this on a very timely basis. The small business owners of our country deserve this relief. It will help our economy because once we free small businesses to be able to grow and prosper, what will happen is more jobs will be available for the working people of our country. That is in all of our best interests.

So I applaud the sponsors of the bill. I appreciate the time, and yield back my time. Thank you.

Mr. BUMPERS. Mr. President, I yield myself such time as I may consume. I compliment Senator HUTCHISON on a very fine statement. She is also one of the faithful attendants at the Small Business Committee. Sometimes we have difficulty getting a quorum. She is dedicated to the small business community and manifests that dedication by being a good steward on that committee.

Ms. SNOWE. Mr. President, the legislation that is before us today—S. 942, the Small Business Regulatory Enforcement Fairness Act, addresses what I believe is one of the most significant problems facing America's entrepreneurs and small business people, and that is the burden of excessive Federal regulations. These overreaching regulations prevent the birth and stunt the growth of small businesses all across the country. As part of our continuing efforts on this committee to stimulate business activity and increase job opportunities, this legislation acts as a Heimlich maneuver for the small businesses community that is choking on gobs of Federal redtape.

I would first like to thank the chairman of the Small Business Committee, Senator BOND, for crafting the legislation that is before us—and for working to develop the strong bipartisan consensus that now exists for its passage. Although many often speak of their support for relieving the regulatory burden shouldered by our Nation's small entrepreneurs, Senator BOND has taken action in the offering of this legislation.

Using the recommendations of the White House Conference on Small Business, S. 942 provides fundamental regulatory reform in the small business sector. This legislation contains several important measures essential to the future of small business in America.

It requires that regulators provide for a cooperative and consultative regulatory environment, no longer viewing small business as the enemy.

It establishes a Small Business and Agriculture Enforcement Ombudsman at the Small Business Administration [SBA] that will allow small businesses to express their concerns and complaints concerning the enforcement actions of agencies without fear of reprisal or retaliation.

It requires agencies to simplify language and to use forms that can actually be read and understood. I don't know how many of my colleagues have attempted to read the thousands of pages of regulations that are issued by Federal agencies, but as the small business owners in my State can attest, finding the time to read the regulations is only one one-hundreth of the battle—actually understanding them is the rest of the war.

And perhaps most importantly, it allows small businesses to finally be able to enforce a law that was enacted to fundamentally change the process by which Federal regulations are written and considered with respect to small businesses: the Regulatory Flexibility Act of 1980.

I believe the Regulatory Flexibility Act remains an excellent tool for serving the needs of the Nation's small business community. But I also believe it must be strengthened if it is to ever fulfill its objective of forcing agencies to consider the impact of their regulations on small businesses and giving small business owners a louder voice in the regulatory process.

For years, the call for judicial enforcement of Reg Flex has been clearly sounded by our Nation's small businesses. Indeed the annual report of the Chief Counsel for Advocacy in the Small Business Administration even concludes that "the only solution is to subject agency decisions * * * to judicial scrutiny." Therefore, by providing for judicial enforcement of the Regulatory Flexibility Act, the legislation we are now considering will at last provide small businesses with the fundamental right to enforce a law that has been on the books for over 16 years.

Small businesses play a critical role in the long-term growth and prosperity of our Nation by providing stable, permanent jobs. My home State of Maine is particularly reliant on small businesses for economic growth and job creation. Of the 29,920 firms with employees in Maine, all but 700 are small businesses. In addition, 61.4 percent of Maine's private nonfarm workers were employed by small businesses in 1991—far exceeding the national average of 54 percent.

Nationwide, the number of small businesses has increased by 49 percent since 1982. These entrepreneurs are responsible for 52 percent of all sales in the country, and for 50 percent of private GDP. As these numbers show, small business truly is the backbone of the U.S. economy.

This legislation recognizes that the health of the small business community has far-reaching implications for the future, and that the excessive regulatory climate facing today's small businesses is a threat to the overall strength of the entire American economy.

This legislation represents a significant step toward our goal of releasing the American entrepreneurial spirit from the bonds of excessive Federal regulation, and I urge my colleagues to join me in supporting it.

Mr. FEINGOLD. Mr. President, I rise to support this legislation, the committee substitute amendment to S. 942, and I want to commend the distinguished chairman of the Small Business Committee, Mr. BOND, for his leadership on this bill.

The measure before us contains several provisions that will afford regulatory relief to our Nation's small businesses, and will also help begin to change the attitude of Government regulators who are often viewed by small business as adversaries rather than as sources of help and guidance.

I am pleased that S. 942 contains many of the provisions that are also in bills I have introduced, S. 1350, the Small Business Fair Treatment Act of 1995, and S. 554, a bill I introduced about a year ago that strengthens the Equal Access to Justice Act.

Mr. President, the regulatory structure that has developed over the years performs important safety, health, and consumer protection functions. At the same time, few would dispute that the current regulatory system needs meaningful reform.

Mr. President, I have held nearly 250 listening sessions in my home State of Wisconsin during the past 3 years at which many of my constituents have expressed their tremendous frustration and anger with certain aspects of the regulatory process that sometimes is impractical, impersonal, and needlessly burdensome.

This body debated a regulatory reform proposal last summer that sought to respond to this widespread frustration and anger. But, in large part, that debate focused more on changes in the actual rulemaking process, and featured solutions that, if not entirely Washington-centered, at best took a Washington perspective in addressing the issue.

The measure before us takes a different approach—focusing on the day-to-day, practical problems of regulation with which small businesses must contend. I want to point to just a few of the bill's provisions in which I have had a special interest, and let me begin with the language strengthening the Equal Access to Justice Act.

That 1980 law that was intended to help small businesses and individuals who get into the ring with the Federal Government over enforcement of regulations by allowing them to recover their legal fees and certain other expenses if they prevail.

In general, I oppose the so-called loser pays or English rule under which the loser in civil litigation must pay the costs of the prevailing party. The additional risk of those costs can act as a barrier to the courts for those who are most vulnerable. That is not true, however, for the Government.

In cases where the Government brings an action against a small business or an individual, the potential cost of losing poses no such barrier to Government with its vast resources. In fact, the opposite is true.

The costs confronting a small business or an individual that is the target of a Government action may become a barrier to a just outcome, possibly forcing them to concede a violation, even when none existed, just to avoid costly litigation.

When I was elected to the Wisconsin State Senate, I authored our State Equal Access to Justice Act, and have been working to strengthen the Federal protections since coming to this body, introducing S. 554 to update and streamline the law.

The language in this bill raises the rate at which attorney's fees may be awarded from $75 to $125 an hour.

Further, it modifies the present standard by easing the requirement that a successful claimant, in addition to prevailing on the merits, show that the Government's actions were unreasonable.

To its credit, this bill makes that standard easier to attain, and in turn helps small businesses and individuals to recover their attorney's fees. I am pleased they were included.

Frankly, I believe that the substantial justification defense by Federal agencies should be deleted entirely and proposed doing so in my own legislation, S. 554.

While I look forward to pursuing the additional reforms found in my bill in the future, I applaud the authors for the improvements they have included in this legislation.

We all know how difficult it can be on a small business owner to overcome what is sometimes overbearing Government regulation.

I believe that the Equal Access to Justice Act helps ease that burden and that the improvements offered in S. 942 will make the act work better in the future.

Mr. President, as I noted earlier, there are a number of provisions in this bill that were the basis of many of the provisions in my own small business regulatory reform initiative, S. 1350, the Small Business Fair Treatment Act.

And I was glad to see the committee retained a number of those provisions, including a modified version of the sections requiring agencies to publish compliance guides describing regulations in straightforward, understandable language, and then holding agencies to that description when they are enforcing the regulation.

Beyond the obvious help these guides could provide to businesses affected by a Government regulation, requiring an agency to think out and describe a new regulation in a clear and understandable way will only enhance the ability of that agency to administer the regulation.

Another provision common to S. 942 and my proposal relates to so-called No-action Letters.

Again, though the provision is slightly different from the approach I took, it represents a real step forward in helping small businesses needing clarification of a law or regulation in a particular instance.

I was also pleased to see the section in S. 942 requiring agencies to establish procedures under which, in some circumstances, they will waive penalties on small businesses.

I had included a number of provisions in my own bill that included similar features, because it is far better to allow small firms that want to comply with laws and regulations to devote their limited resources to correcting problems rather than paying fines.

Mr. President, this provision will also help improve and enhance the relationship between small businesses and Government agencies.

In listening to small businessmen and women in Wisconsin, one of the most troubling complaints that is raised with respect to Government regulation is the feeling that Government agencies too often take a confrontational or adversarial approach in dealing with the business.

Whether or not this feeling is justified in every instance, in many instances, or in only a few, it is honestly felt and reveals a problem that needs fixing.

In one instance, the owner of a small contracting company that does construction on older houses contacted my office expressing concern that certain OSHA regulations being applied to his business were probably originally created for larger construction companies dealing with different types of structures and should be modified for companies engaged in his kind of business.

He cited requirements that he prepare a safety program for every job he does—even though the homes on which he works are much the same—as being inappropriate and time-consuming, and he outlined various other concerns.

After my office contacted the agency and asked its views on his suggestions, OSHA showed up at his work site to conduct a surprise inspection.

Mr. President, a small business ought to be able to raise concerns about an agency's regulations without fear of triggering an enforcement action.

When the relationship between those who oversee and enforce regulations and those who must observe them deteriorates in this manner, it only hinders compliance.

By requiring agencies to establish procedures to waive penalties under certain circumstances, the bill can help shape the regulatory structure in a way that will begin to change the attitude of regulators to encourage cooperation rather than confrontation.

The provisions establishing a Small Business and Agriculture ombudsman to review agency enforcement activities will also help in changing agency attitudes.

I took a slightly different approach in my own legislation, by explicitly prohibiting agency personnel practices that reward employees based on the number of violations they can find or the fines they can levy.

I included this provision in response to comments made to my office by small business people who have reported that agency personnel have felt compelled to find something wrong, even if it is small, in order to justify their visit to the firm.

Again, though the provision in my own legislation differs from the bill before us, the language in S. 942 is headed in the right direction, and I commend the chairman for his leadership in advocating the kinds of structural changes that I believe will help change the relationship between regulators and small business.

Mr. President, the current system is not acceptable; the need for reform is clear and imperative.

And though the larger regulatory reform legislation has bogged down, I very much hope a compromise can be worked out and a meaningful reform package can be enacted into law.

But, even if a compromise on the larger regulatory reform measure can be hammered out, it is likely to reflect a process-oriented approach that may provide large corporate interests with avenues for relief, but does little to address the day-to-day problems facing small business.

Nor does such legislation address the very real feeling of small businesses that Government regulators too often act as adversaries rather than to provide guidance in helping firms to comply with the law.

By contrast, the provisions outlined in this measure both provide some practical regulatory relief and can improve the relationship between businesses and agencies.

Mr. President, I again congratulate the senior Senator from Missouri for his leadership on this measure, and I urge my colleagues to support the bill.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, I am proud to support the Small Business Regulatory Fairness Act as a cosponsor.

Before I was elected to the Senate in 1992, I spent more than 40 years in the private sector as a farmer and a businessman. I know firsthand how hard it is to run a small business successfully, and how much harder it has become due to burdensome Government regulations.

It is only fair that we recognize the limited resources of small businesses, and the need to provide the small business community with greater access to the regulatory process. This bill contains important provisions that encourage comment from small business on proposed regulations; promote easier compliance with regulatory requirements; provide that regulations be explained in a way that they can be understood by small businessmen, not just by bureaucrats; and offer improved protection for small business from punitive or capricious actions by regulators.

It is encouraging that this effort to provide greater consideration for small business in the regulatory process is a bipartisan effort. Many of the provisions in this bill are based on recommendations from last year's White House Conference on Small Business. The staging of this conference is a noteworthy exception to the hostility that the Clinton administration has otherwise shown to small business.

Hillary Clinton built her health care plan around an employer mandate that would have devastated small business. And the President vetoed increased deductibility for health insurance purchased by the self-employed. Also, President Clinton's vocal support for a higher minimum wage demonstrates his indifference to the precarious conditions that are the norm for most small businesses.

Mr. President, I think it is ironic that President Clinton would like to take credit for creating more than 8 million jobs over the past 3 years, when he has done so much to cripple the largest producer of new jobs, small business.

I hope that we can pass the Small Business Regulatory Fairness Act as the first of several bills that would provide much needed relief for small business. In particular, product liability reform and broader regulatory reform are desperately needed. Also, I believe that we should not ignore small business when we take up health care reform. We should include the deductibility provisions for the self-employed, as well as provisions like medical savings accounts that would make health care more affordable for small businessmen and their employees.

I commend the Senator from Missouri for his work on behalf of the small business community. The provisions of his bill add some badly needed common sense to the regulatory process. I urge my colleagues to support it.

Mr. BAUCUS. Mr. President, I rise in very strong support of the Small Business Regulatory Enforcement Fairness Act. This bill is regulatory reform in the very best sense. It will make a practical difference in the daily lives of men and women who operate small businesses and create jobs in Montana and all across the country. It will do so without undermining the environmental and health and safety laws that protect our families and our communities.

Mr. President, we need to cut back the Federal bureaucracy. I do not think there is anybody who disagrees with that. There is too much redtape. People know that. They tell Congress that. They are correct. Already the administration has eliminated some 16,000 pages of Federal rules and redtape. Think of that. The administration has already eliminated 16,000 pages. It is a good start but we can do more.

Moreover, some Federal regulations just do not make sense like the rule that required loggers in northwest Montana to buy steel toed boots even though they work on slippery frozen slopes where those kinds of boots can actually create a hazard, or the rule that would have banned the use of common bear sprays that hikers need to protect themselves.

Rules like these drive Montanans crazy, with good reason.

We got those rules withdrawn. But we need a more comprehensive solution, so we do not have to react to every stupid rule that comes along. And, in large measure, this bill provides it.

Three aspects of the bill are particularly important.

The first is making is simpler for business to comply with the law.

We need strong health and safety laws. And we need them enforced. But, when it comes to small businesses, regulators need to start with an attitude of cooperation rather than confrontation.

Montana small businesses want to comply with the law. After all, they live in the community. They want it to be clean and safe.

But, in too many cases, the laws and regulations are written in such gobbledy-gook that average folks cannot figure out what they are supposed to do.

This bill helps. For example, it requires agencies to issue guidebooks, written in plain English, explaining what steps a small business must take to comply with new rules.

And it requires agencies to give decent answers to small businesses that have specific questions about how a new rule applies to them.

Now, these requirements may be bad news for lawyers, but they are good news for small businesses.

The second is strengthening the Regulatory Flexibility Act.

Reg flex, as it is called, is designed to make sure that as they write new rules, the bureaucrats pay specific attention to how small businesses and towns will be affected. Unfortunately, this requirement has been ignored to often.

So the bill allows a small business to go to court to require an agency to comply with the law.

During last year's debate on regulatory reform, I was concerned about creating dozens of new opportunities for lawsuits, especially from large corporations, that would clog the courts and bring things to a halt.

But I think the provision in this bill makes good sense. It will not have that same defect. It is focused on small business. And it just assures that agencies have taken a reasonable look at the impact their rules will have on small businesses.

The third is the Nickles-Reid amendment. This provision requires agencies to submit major new rules to Congress for review before they become effective.

This review will inject an important check into the system. We in Congress can be a backstop for common sense. We can help sort out the good rules from the bad.

If an agency goes haywire, like OSHA did with its logging rule, Congress can reject the rule. But if an agency is doing a good job, protecting public health and safety, things will stay right on track.

All told, Mr. President, this is a solid bill. It will cut redtape and make the bureaucracy more responsive to the concerns of small businesses.

Moreover, it is a bipartisan bill. It is a model of how we should be legislating around here.

I compliment the chairman of the Small Business Committee, Senator BOND, and the ranking member, Senator BUMPERS, for their hard work drafting this bill, developing a consensus, and bringing the bill to the floor.

I am proud to cosponsor it and hope it will pass with overwhelming support.

Mr. GRAMS. Mr. President, as a former small businessman, I understand the need for regulatory relief and flexibility for small businesses.

Recent estimates indicate that regulations cost employees more than $5,000, with much of the cost wrapped into an unbelievable 1.9 billion hours filling out forms, each year.

In addition to killing jobs, the cost of this red tape is passed directly to consumers through higher prices on goods and services. The workers are tired of Washington bureaucrats eating up their wage increases.

Over the last 3 years I have met with hundreds of workers who have detailed the tremendous burdens of Government rules and regulations.

I also met with many job providers at last year's White House Conference on Small Business. Delegates from every State came together to discuss the problems that job providers face and to suggest ways in which Congress could help.

The bill before us today is a direct result of their efforts. Although it addresses just a few of their suggestions, I am here to lend my support to this first step in providing small business with some real regulatory relief.

In 1980, Congress passed the Regulatory Flexibility Act. This bill required that Federal agencies consider the impact of proposed regulations on job. Unfortunately, that law didn't give job providers much of an enforcement mechanism.

This bill will change that.

At the suggestion of the White House Conference, this legislation will reduce the impact of Federal regulations on job providers by authorizing judicial review of the Regulatory Flexibility Act. A court could set aside a rule, or order an agency to take corrective action if it finds an action was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

The bill will also create an atmosphere of cooperation between job providers and regulatory agencies, by giving job providers the opportunity to participate in the rulemaking process and by allowing agencies to wave penalties for first-time rule infractions.

This bill allows job providers to conduct their work on a level playing field by providing an opportunity to correct arbitrary enforcement actions and require Federal agencies to be less punitive and more solution oriented.

Most importantly, the Small Business Regulatory Enforcement Fairness Act will require Federal agencies to examine the need for regulations and weigh them against the Nation's need for job creation.

In closing, Mr. President, regulatory reform is absolutely essential if job providers and workers are going to grow and continue to create the jobs that propel the economy and promote prosperity.

I encourage my colleagues to support this bill. It is a first step in changing Federal agencies policies that kill jobs, and a first step toward removing the shackles of unnecessary Government rules and regulation from American workers.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 6 minutes and 20 seconds.

Mr. BOND. Six minutes.

The PRESIDING OFFICER. Six minutes, twenty-four seconds, and twenty-four minutes on the other side.

Mr. BOND. I yield the Senator from Georgia 3 minutes.

Mr. COVERDELL. I thank my distinguished colleague from Missouri.

I rise in support of his extended efforts to reduce and relieve American business of the enormous regulatory burdens that we have put on the sector of our economy that generates the vast majority of the new jobs.

We just held a field hearing of the Small Business Committee in Georgia, and this quote was most alarming. One businessman came before the committee, and he said:

> The Federal Government of the United States of America has become the No. 1 enemy of small business.

It was astounding to hear the presentations of these business people as they pointed time and time again to the onerous burdens that are being put on them and their inability to match them. Sixty percent of America's businesses have four employees or less. How in the world can they possibly keep up with the staggering requirements coming year after year on these small businesses? The result is they do not hire another employee.

The Lord's prayer has 66 words; the Gettysburg Address 286 words. There are 1,322 words in the Declaration of Independence, Mr. President. But Government regulations on the sale of cabbage has a total of 26,911 words—on the sale of cabbage. According to the Georgia NFIB, there are 168,000 businesses in Georgia, and 53 percent have four or less employees.

I wish to reiterate again and again, there is absolutely no way for these very small businesses to match the enormous regulatory burden that has built up over the last 20 years. This is where we are creating new jobs. We have to take steps, as this bill does, to make it more possible for small businesses to expand and to hire new employees.

The greatest thing we can do for that person standing in line trying to find a new job is to make a healthier climate for small business in America.

I yield back whatever time is remaining to the chairman.

Mr. BOND. Mr. President, I might say to my colleague from Georgia that we have been graciously offered additional time from the minority side. If the Senator has additional comments, we would be happy to yield, speaking on behalf of the minority, 3 minutes.

Mr. COVERDELL. I thank the Senator. I appreciate the extension of the time from the minority. I do have a few more things to say about the hearing that was held in Georgia.

The Georgia Public Policy Foundation conducted a survey on behalf of my own small business advisory task force and found the following: The estimated cost of regulation as a percentage of sales was approximately 1.5 percent; 24 percent of these businesses have been involved in regulation-related lawsuits. That means that one in four companies, one in four small businesses in our State has had to be involved in a lawsuit, a lawsuit and all the expenses associated with that, over regulation; 53 percent of the respondents indicated—and this is the most important fact—53 percent, over half, responded that they would hire additional employees in the last 3 years if it had not been for the costs of regulation.

So, once again, as I said a moment ago, regulation itself and the extent of it and the size of it and scope of it is causing people to not get hired because the money is going to manage the regulations and not to pay the salary of a person who is looking for a job.

Prof. Gerald Gay, chairman of the department of finance at Georgia State University, strongly endorsed the concept of strengthening the Regulatory Flexibility Act, which is what we are doing today, specifically calling for judicial review, which is what we are doing today.

He went on to note that regulations are of concern to large and small businesses. The difference is that small business cannot absorb the excessive regulatory compliance costs that larger businesses can. This puts them at a competitive disadvantage. As I said, it keeps them from hiring another employee, and keeps them from starting a business in the first place.

Professor Gay, in his testimony, had an interesting quote from one of our early Presidents and writers of the Declaration of Independence, Thomas Jefferson. I have often used this quote:

> A wise and frugal government which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and which shall not take from the mouth of labor the bread it has earned.

This is the sum of good government. It is that very salient point that American Government has forgotten in the last 20 or 30 years. We are denying the people the ability to be entrepreneurial, we are denying people the opportunity to focus on their work, and we have turned the Government from being a good partner into being a bully boss. This legislation remembers that the Government is supposed to be a partner first.

I yield.

Mr. BOND. Mr. President, I ask unanimous consent that the Senator from Tennessee be granted 4 minutes from the minority side on the bill.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I rise today to speak in strong support of S. 942, the Small Business Regulatory Enforcement Fairness Act. First, I want to commend the distinguished managers of this legislation, Senator BOND and Senator BUMPERS, for their tireless, bipartisan efforts to bring this legislation to the floor of the Senate. Today, I am proud to join them and my colleagues on the Small Business Committee in providing regulatory relief for our Nation's job creation engine—small business.

Mr. President, the high cost of Federal regulations is restricting economic growth in this country. Regulations are really hidden taxes; they drive up the cost of doing business. As this chart shows, the cost of regulations has risen rapidly over the last 10 years. Today, regulatory costs exceed $600 billion a year, a 30-percent increase over a decade ago. That's $600 billion in lost job creation, lost productivity, and lost economic growth. By the year 2000, regulatory costs are expected to continue growing.

However, this chart does not show that regulatory burdens fall disproportionately on small business. Recent research by the SBA found that small businesses bear over 60 percent of total business regulatory costs. Specifically, the average annual cost of regulatory, paperwork, and tax compliance for small business is $5,000 per employee while the cost for large businesses is only $3,400 per employee. This is no way to treat our Nation's No. 1 job creators who employ more than half of our entire work force.

Mr. President, let me briefly illustrate this problem in more personal terms. Last year, Chairman BOND joined me in Memphis for a Small Business Committee field hearing where we listened directly to the regulatory problems of small business owners. Ron Coleman, an auto parts manufacturer in Memphis, told us about the unique regulatory burdens that he faces. He said "Government regulation is the single most time-consuming aspect of my business. Small businesses must deal with the same rules and regulations as large businesses, only we are unable to call the human resource director, the vice president of governmental affairs, the corporate legal department, or the OSHA coordinator for help." The legislation before us today will help hard-working entrepreneurs like Ron.

S. 942 includes many provisions that will reform the regulatory process, but I want to highlight the enforcement reforms in particular. One of the stated purposes of this bill is "to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented."

Senator SHELBY and I have worked very hard over the last year to enact a small business regulatory bill of rights to change the confrontational nature of regulatory enforcement. We believe that small businesses should be able to participate in voluntary compliance audit and compliance assistance programs that protect them from excessive fines and penalties. We also believe that agencies should factor ability to pay into their penalty assessments so that small firms are not driven out of business by an excessive fine. Section 202 begins to address these concerns, but it can be strengthened. I thank Senators BOND and BUMPERS for working with me and Senator SHELBY on this section. I look forward to working with both of you in further hearings on this issue.

Mr. President, I would like to close today with this thought. For years, business owners and their employees on the front lines have been delivering the same clear and concise message to Congress: the Federal Government is strangling us with regulations, compliance, burdens, and aggressive enforcement, and we need relief. If Congress passes the bill before us today and the President signs it into law, we at last can reply to them with an equally clear message: we have heard you, and we are taking action. I strongly urge my colleagues to support this legislation that will foster a new era of entrepreneurial growth in America.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I want to take a minute to say how much we appreciate the contributions of the Senator from Tennessee. He organized a very productive field hearing for us. It was most informative. He has been an active participant in the work of the Small Business Committee, and we certainly appreciate his efforts. I thank him for his remarks today as well as his contributions in making this a better bill.

Mr. President, we have no other business on this side and not much time. If the ranking member agrees, I think we might proceed to a voice vote on the adoption of the substitute amendment or such comments as the Senator from Arkansas might have.

Mr. BUMPERS. Mr. President, I just want to close my part of the program by complimenting my very able and long-time assistant, John Ball, who has been with the Small Business Committee as both staff director and director for the ranking member now for many, many years. He has performed yeoman service on this.

I also hasten to say that the work of Keith Cole and Louis Taylor has been truly outstanding. Between these three people, and Senator BOND and myself, but especially the staff members, we think we have crafted a pretty good bill. I want to pay my special thanks publicly to these staffers who have labored very hard to make this possible.

I am prepared to go forward with final passage.

The PRESIDING OFFICER (Mr. FRIST). The question is on agreeing to the substitute amendment, as amended.

The amendment (No. 3534), as amended, was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BOND. Mr. President, I ask that this measure be set aside pursuant to the previous agreement.

The PRESIDING OFFICER. The bill is set aside.

Mr. BOND. Mr. President, pursuant to a previous agreement between the leaders, the vote will be set aside until Tuesday.

Mr. President, I ask unanimous consent that Senator MURKOWSKI be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I join with my ranking member in complimenting the staff. John Ball I have worked with for several years. We are very pleased with the leadership of Louis Taylor on the Small Business Committee and Keith Cole who has had previous experience on the other side in Congress, and we are delighted that he has come to be with us on the Senate side.

These three staffers have had a very interesting several weeks. They have had an opportunity to meet more people in this administration. We have had the support from the elected officials in the Federal Government for regulatory reform, but we have certainly had a tremendous amount of interest and attention and full-time, around-the-clock work for our staff members dealing with the members of the agencies who will be affected.

I can say to all of our friends in small businesses and small entities around the country that it is quite apparent that this measure will have an impact on the way that agencies deal with small entities and small businesses.

I believe that we have, with the help of many useful comments from the agencies themselves, crafted a workable but significant change in the culture of the Federal agencies in regard to small entities and small businesses.

Mr. BUMPERS. Mr. President, I have nothing further to add. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:.

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Lautenberg amendment No. 3482 (to amendment No. 3466), to provide funding for programs necessary to maintain essential environmental protection.

Hatch amendment No. 3499 (to amendment No. 3466), to provide funds to the District of Columbia Metropolitan Police Department.

Boxer/Murray amendment No. 3508 (to amendment No. 3466), to permit the District of Columbia to use local funds for certain activities.

Gorton amendment No. 3496 (to amendment No. 3466), to designate the "Jonathan M. Wainwright Memorial VA Medical Center", located in Walla Walla, Washington.

Simon amendment No. 3510 (to amendment No. 3466), to revise the authority relating to employment requirements for recipients of scholarships or fellowships from the National Security Education Trust Fund.

Simon amendment No. 3511 (to amendment No. 3466), to provide funding to carry out title VI of the National Literary Act of 1991, title VI of the Library Services and Construction Act, and section 109 of the Domestic Volunteer Service Act of 1973.

Coats amendment No. 3513 (to amendment No. 3466), to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions.

Bond (for Pressler) amendment No. 3514 (to amendment No. 3466), to provide funding for a Radar Satellite project at NASA.

Bond amendment No. 3515 (to amendment No. 3466), to clarify rent setting requirements of law regarding housing assisted under section 236 of the National Housing Act to limit rents charged moderate income families to that charged for comparable, nonassisted housing, and clarify permissible uses of rental income is such projects, in excess of operating costs and debt service.

Bond amendment No. 3516 (to amendment No. 3466), to increase in amount available under the HUD Drug Elimination Grant Program for drug elimination activities in and around federally-assisted low-income housing developments by $30 million, to be derived from carry-over HOPE program balances.

Bond amendment No. 3517 (to amendment No. 3466), to establish a special fund dedicated to enable the Department of Housing and Urban Development to meet crucial milestones in restructuring its administrative organization and more effectively address housing and community development needs of States and local units of government and to clarify and reaffirm provisions of current law with respect to the disbursement of HOME and CDBG funds allocated to the State of New York.

Lautenberg amendment No. 3518 (to amendment No. 3466), relating to labor-management relations.

Santorum amendment No. 3484 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of Federal disaster assistance.

Santorum amendment No. 3485 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of Federal disaster assistance.

Santorum amendment No. 3486 (to amendment No. 3466), to require that disaster relief provided under this Act be funded through amounts previously made available to the Federal Emergency Management Agency, to be reimbursed through regular annual appropriations Acts.

Santorum amendment No. 3487 (to amendment No. 3466), to reduce all Title I discretionary spending by the appropriate percentage (.367%) to offset Federal disaster assistance.

Santorum amendment No. 3488 (to amendment No. 3466), to reduce all Title I "Salary and Expense" and "Administrative Expense" accounts by the appropriate percentage (3.5%) to offset Federal disaster assistance.

Gramm amendment No. 3519 (to amendment No. 3466), to make the availability of obligations and expenditures contingent upon the enactment of a subsequent act incorporating an agreement between the President and Congress relative to Federal expenditures.

Wellstone amendment No. 3520 (to amendment No. 3466), to urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advance-appropriated funding for FY 1997.

Bond (for McCain) amendment No. 3521 (to amendment No. 3466), to require that disaster funds made available to certain agencies be allocated in accordance with the established prioritization processes of the agencies.

Bond (for McCain) amendment No. 3522 (to amendment No. 3466), to require the Secretary of Veterans Affairs to develop a plan for the allocation of health care resources of the Department of Veterans Affairs.

Warner amendment No. 3523 (to amendment No. 3466), to prohibit the District of Columbia from enforcing any rule or ordinance that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

Murkowski/Stevens amendment No. 3524 (to amendment No. 3466), to reconcile seafood inspection requirements for agricultural commodity programs with those in use for general public consumers.

Murkowski amendment No. 3525 (to amendment No. 3466), to provide for the approval of an exchange of lands within Admiralty Island National Monument.

Warner (for Thurmond) amendment No. 3526 (to amendment No. 3466), to delay the exercise of authority to enter into multiyear procurement contracts for C-17 aircraft.

Burns amendment No. 3528 (to amendment No. 3466), to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act.

Burns amendment No. 3529 (to amendment No. 3466), to provide for Impact Aid school construction funding.

Burns amendment No. 3530 (to amendment No. 3466), to establish a Commission on restructuring the circuits of the United States Courts of Appeals.

Coats (for Dole/Lieberman) amendment No. 3531 (to amendment No. 3466), to provide for low-income scholarships in the District of Columbia.

Coverdell amendment No. 3532 (to amendment No. 3466), to provide funds for employment-related activities of the 1996 Paralympic Games.

Bond/Mikulski amendment No. 3533 (to amendment No. 3482), to increase appropriations for EPA water infrastructure financing, Superfund toxic waste site cleanups, operating programs, and to increase funding for the Corporation for National and Community Service (AmeriCorps).

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 3532 TO AMENDMENT NO. 3466

Mr. COVERDELL. Mr. President, I call up my amendment numbered 3532.

The PRESIDING OFFICER. The amendment is now before the Senate.

Mr. COVERDELL. Mr. President, it is my understanding that this amendment has been cleared on both sides.

Mr. President, I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 3532) was agreed to.

Mr. COVERDELL. Mr. President, I thank the chairman of the Appropriations Committee, the senior Senator from Oregon, and the ranking member, the new Senator from Oregon, for their cooperation on this important amendment.

Let me say that many people do not realize that immediately following the 1996 Olympics will occur the World Paralympics for which the amendment is addressed.

I deeply appreciate the cooperation and assistance.

Mr. HATFIELD. I thank the Senator.

Mr. COVERDELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I have a unanimous-consent request that has been agreed to on both sides that I would like to propound at this time.

I ask unanimous consent that it be in order for me to send an amendment to the desk at this time; further, that it not count as one of the managers' amendments under the consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3536 TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 3536 to amendment No. 3466.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 577 of the pending amendment, strike lines 14 through the period on line 23.

Mr. HATFIELD. Mr. President, my amendment strikes a portion of this bill related to Oregon's request for a welfare waiver. I am striking this language because the Secretary of Health and Human Services has now assured me that the administration will complete its commitment to my State.

I should like to read the letter to the Senate that I have just received from Secretary Shalala.

Mr. President, I offer this amendment on behalf of my colleague, Senator WYDEN, as well, because he has been deeply involved and interested and concerned about this issue as well.

The letter is addressed to me as chairman of the Appropriations Committee.

DEAR MR. CHAIRMAN: I am pleased to inform you that an agreement has been reached between the Department of Health and Human Services officials and the State of Oregon on the key issues that would allow the State to implement the Oregon Option welfare reform demonstration for AFDC, JOBS, and related HHS programs, including issues pertaining to federal funding. The uniqueness of Oregon's proposal in the context of the Administration's Memorandum of Understanding with the State warrants a special approach, to be applied only in Oregon, to carrying out this demonstration. You have my commitment that I officially will grant the waiver as soon as HHS staff and State staff can finalize the details of an agreement.

Oregon and HHS staff together have crafted an agreement that demonstrates a solid partnership for testing new approaches to welfare reform. This agreement focuses on achieving important outcome-based benchmarks for helping families move from welfare to work and reducing child poverty.

DONNA SHALALA.

Mr. President, let me just give a brief background to this amendment and the process leading up to it.

I wish to also amend her letter that I have just read on a verbal understanding that we had this morning, and that is relating to the timing of this waiver in the language "as soon as HHS and State staff can finalize the details of an agreement." She committed herself this morning to me that this would not take longer than 2 weeks. And the Governor of our State, in conversation with him this morning as well, indicated that this would be a satisfactory time period.

This action delivers the final and most critical piece of what we call the Oregon Option. Oregon's situation is unique. There is not another State in the Union that has achieved this particular status.

In September 1994, 40 members of Federal agencies, most based in Washington, DC, visited Oregon to talk about doing business differently. In December 1994, nine Cabinet members including the Vice President of the United States signed a memorandum of understanding with Oregon's Governor in a coast-to-coast satellite televised ceremony.

At this point, Mr. President, I ask unanimous consent to insert in the RECORD a copy of the memorandum of understanding reached between my State and the Federal Government.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF UNDERSTANDING REGARDING "THE OREGON OPTION"

I. PURPOSE

The purpose of this Memorandum of Understanding is to encourage and facilitate cooperation among Federal, State and local entities to redesign and test an outcomes oriented approach to intergovernmental service delivery. This special partnership and long-range commitment will serve as demonstration of principles and practices which may serve as a model for improvements nationwide.

II. BACKGROUND

In July 1994, Oregon proposed a multi-year demonstration with the Federal Government to redesign intergovernmental service delivery, structured and operated to achieve measurable results that will improve the lives of Oregonians.

Oregon is uniquely suited for an experimental demonstration to develop an outcomes oriented approach to intergovernmental services. The State and many local governments have begun using an outcomes model for establishing long-range vision, setting public priorities, allocating resources, designing services, and measuring results. The Oregon Legislature has endorsed the Oregon "Benchmarks." Further, many nonprofit organizations, businesses, and civic groups in Oregon are aligned to a benchmark process with State, county and local jurisdictions.

III. PRINCIPLES TO GUIDE COOPERATION

The following principles should guide the parties cooperation in this undertaking:

A re-designed system would be:

Structured, managed, and evaluated on the basis of results (i.e., progress in achieving benchmarks).

Oriented to customer needs and satisfaction, especially through integration of services.

Biased toward prevention rather than remediation of problems.

Simplified and integrated as much as possible, delegating responsibilities for service, design, delivery, and results to front-line, local-level providers, whether they are local agencies or local offices of state agencies.

IV. RESPONSIBILITIES OF THE PARTIES

The parties to this memorandum will work together as partners to (1) identify benchmarks, strategies, and measures that provide a framework for improved intergovernmental service delivery and (2) undertake efforts to identify and eliminate barriers to achieving program results.

V. AUTHORITIES

The principles and responsibilities covered in this memorandum are intended to improve the coordinated delivery of intergovernmental programs. This memorandum does not commit any of the parties to a particular level of resources; nor is it intended to create any right or benefit or diminish any existing right or benefit, substantive or procedural, enforceable at law by a party against the United States, State of Oregon, any state or federal agency, any state or federal official, any party of this agreement, or any person. While significant changes to the intergovernmental service delivery system are anticipated as result of this effort, this is not a legally binding or enforceable agreement. Nothing in this memorandum alters the responsibilities or statutory authorities of the Federal agencies, or State or local governments.

SIGNATURES OF MEMORANDUM OF UNDERSTANDING REGARDING "THE OREGON OPTION"

Vice President Al Gore.

Secretary Labor HHS Donna E. Shalala.

Secretary of Housing Henry G. Cisneros.

Director, Office of National Drug Control Policy Lee P. Brown.

Secretary of Labor Robert B. Reich.

Secretary of Education Richard W. Riley.

Attorney General Janet Reno.

Secretary of Agriculture Mike Espy.

Secretary of Commerce Ronald H. Brown.

Dir. of the White House Office of Management and Budget Alice M. Rivlin.

Asst. to President for Domestic Policy Carol H. Pasco.

Oregon

Governor, Barbara Roberts.

Senate President, John Kitzhaber.

Mayor PDX, Vera Katz.

Commission, Salem, Randall Franke.

Mayor of Corvallis, Charles Vars.

Mayor, City of Gresham, Gussie McRobert.

Mayor of Ashland, Katherine Golden.

Mayor of Independence, Marion Rossie.

Commissioner LaGrande, John Howard.

Commissioner Lane, Steve Cornacchia.

Multnomah County, Beverly Stein.

Mr. HATFIELD. With the understanding that we had the blessings of all levels of Government, the Oregon Legislature passed a comprehensive welfare reform bill that became the basis for the Oregon option welfare reform waiver request. Oregon's JOBS

Plus Program gives parents the opportunity to find substantive work with above-minimum wage pay and includes employer involvement. Employees earn a livable wage while learning valuable work skills.

Oregon's attempt to reform welfare is designed to allow people the opportunity to work, thereby taking them off the welfare rolls. Through innovative program planning, Oregon has seen a decline in its welfare casework the last 2 years while facing increases in population. And I wish to repeat this. Oregon has had a decline with this experimental program in its welfare caseload the past 2 years while facing increases in population. With this waiver, we will be able to move further into that program of reform.

On July 3, 1995, 9 months ago, Oregon submitted its waiver request to the Department of Health and Human Services and Department of Agriculture. We then fell into the abyss. With Congressional welfare reform appearing possible, including changes that would allow Oregon to implement most of the options without waivers, action slowed down on all sides. I became very concerned that the rhetoric and the reality were incongruent. I inserted language in this omnibus appropriations bill to force the administration to act on our request one way or the other. This is not the way I like to do business, Mr. President, but I had no other recourse. I am very pleased that today the administration has delivered on their promises. The idea behind the Oregon option is that outcomes and results govern the expenditure of funds, not direction from Washington. Today, the administration, and in particular Secretary Shalala, has sent a clear and unequivocal message of a commitment to results.

I thank the administration for allowing us to go forward. Their commitment is well placed. The Vice President referred to the Oregon option in December 1994, as quoted in the Oregonian, "This is all about going from redtape to results." The Vice President's senior policy adviser was quoted in the August 6, 1995 Washington Post as saying,

> The Oregon option is probably the largest system of performance-based government in the United States that is actually up and running. We see it as a possible model for the future of Federal-State relations.

While I cannot guarantee that the approach Oregon wants to take on welfare reform will be successful because we do not live in a world of guarantees, we have seen positive strides with our programs thus far. We have a great track record of delivering on our promises. Our Governor, John Kitzhaber, and the head of our welfare department, Steve Minnich, deserve the gratitude of all Oregonians for the effort they have expended to make these programs work.

I should like to say parenthetically that our Governor was the president of the State senate, and he is a medical doctor. During his time as president of the State senate, he was the one who brought the parties together and crafted the Oregon Health Reform Act, and this is the record of a very dedicated public servant and one who has quietly and with great effectiveness brought about that change in our own health programs in Oregon, at least as far as we could go. And now he has undertaken the welfare program for reform. I am honored to be his messenger to the cause that he represents here in Washington.

My home State of Oregon has a pioneering spirit. We face obstacles armed with creative solutions and the perseverance to see them to conclusion. Each day Oregon proves itself willing to take on hard issues such as health and welfare reform, programs which serve as models for the rest of the country. Mr. President, today I am reminded of the words of Herbert Hoover. He said once, "Words without actions are the assassins of idealism." The Secretary's action certainly maintains my idealism that innovative welfare reform is possible.

I am very pleased to again note that my new colleague, recently elected from my State, and a man who has brought great distinction to our State by his service in the House of Representatives and pursuing programs of this type throughout his political career, has now joined me as a full-fledged partner and I thank him for his continued effort and interest in this matter.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I first want to extend my appreciation to Senator HATFIELD. The chairman of the committee has done yeoman work on this and on so many issues for our State and for our country. He has honored me with the chance to work with him on the Oregon option in both the House and the Senate. I want him to know how much I appreciate his help and his counsel. I think it is clear that the administration looks to him for leadership on these issues and to a great extent it is because of Senator HATFIELD that the administration consistently comes to us for the opportunity to test these issues. I want the Senator to know how grateful I am to be able to work with him and in particular, to support his amendment today.

I think Senator HATFIELD has outlined quite well that the welfare system in America today does not work for anyone. It certainly does not work for taxpayers. In so many instances they watch as their tax dollars are frittered away. And I know that it does not work for many of those who are in the system. I have talked to them, and many of them have said they would very much like to break out of the system, but they get caught in a Catch-22. They may have a child at home and would like to work, but if they start working they lose their child care. So, to a great extent, the welfare system in America today does not work for much of anybody.

What I think Senator HATFIELD has outlined is that Oregon, with our unique Oregon option, a plan that is being tried literally nowhere in the country, is offering the Nation the chance to break out of the encrusted shell of the old welfare system. We are saying, in effect, that we would like to bust loose, like we did with the Oregon health plan, and focus most specifically on results.

Senator HATFIELD has made so many of the important points that I would like to just touch on one or two others that I believe have great implications for the national debate about the delivery of services in our country, and particularly our human services. We know that many of our colleagues are now part of the debate that suggests either you ought to run everything from Washington, DC, that Washington, DC has the answers, or you should just give it back to the States and see what happens.

The Oregon option is a plan developed with the leadership of our Governor, John Kitzhaber, who has done outstanding work in the human services area, and with the help of the administration. The Oregon option offers an alternative approach that falls in between the two extremes of either running it all from Washington, DC, and saying Washington, DC, has the answers, or simply turning it over to the States and seeing what happens.

Oregon, in effect, with the Oregon option, is saying that if we are allowed to be free of some of the Federal shackles and some of the Federal red tape, we will guarantee we will focus on real accountability with respect to services. We will make sure that the focus is getting people off welfare into gainful employment in the private sector, and we will focus on results, we will focus on accountability.

I suggest to the Senate that the Oregon option does show real promise of getting to a creative third path between those who say "run it all from Washington" and those who just say "turn it all over to the States and we will see what happens." Yes, let us give the States more freedom and more authority, but let us also require accountability. That is what the Oregon option is going to do.

I think it is worth focusing for a moment on how this is actually going to produce change in the system. In the future, with the Oregon option, a welfare office is going to be evaluated not by whether all of the boxes in every application get checked, but by how many individuals actually move into good, nonsubsidized jobs and whether we are reducing the number of children who live in poverty.

Right now, probably the best way to describe the system is that if you have somebody who is on welfare and at home, the system just goes forward. You do not have to adjust any benefits. You do not process any paperwork. There is no job training to account for, no assets that might accumulate. The system just goes on and on and on. Under the Oregon plan, those individuals who are running welfare services, are going to know the focus is on making sure there are results, making sure that you actually see people move into the private sector. This is what reform ought to be all about.

There are a number of specific features about the Oregon plan that I think make great sense for welfare reform generally. Under the Oregon option, the State is going to invest in what is known as transitional child care and preventive child care. As a Member of the other body, I saw repeatedly that there were individuals, particularly women who head households, who would be able to get off welfare. Sometimes they would get off a couple of times. They would be in the private sector, they would be making headway, then their child care would fall apart, and they would slide back onto public assistance.

The Oregon option, with its innovative approach toward child care is going to help prevent that in the future. The Oregon option allows welfare recipients to keep certain assets that can expedite the transition from welfare to work and make sure people do not fall back on welfare.

Finally, the focus with respect to the State's role is on real work situations, not these make-work kind of arrangements, but real employment opportunities where welfare recipients get trained on-site, by business people who have actual needs in the job markets in our State.

A lot of us see the welfare system as something that can be a ladder to a fresh start. It is not supposed to be a feather mattress. It is supposed to be a ladder. I am excited about the chance to change lives for the better in our State, excited about the fact that the Oregon option is going to allow taxpayer dollars to be used in a more effective way.

I want to commend both the administration and Secretary Shalala. I have had a chance to work with her on the Oregon option and the Oregon health plan. We think this is our one-two punch in reforming services that affect thousands of families. Secretary Shalala deserves great credit for that.

Finally, our Governor, as Senator HATFIELD has noted, is consistently out in front in trying to look at these issues. I think, when you write the history of health reform, and I know the President is particularly interested in this issue, the country is going to look at what Oregon has done in health care and the way Oregon has made tough choices and the way Oregon has focused on prevention and focused on medical effectiveness and focused on ways to build a new partnership with providers. Because of Dr. Kitzhaber's work, the Oregon health plan is going to make a difference in health reform across this country. It is going to be something that the rest of the Nation is going to look to. Now, with the Oregon option we have a chance, through welfare reform, to complement the work that has been done on the health care side.

So I urge the adoption of the Hatfield amendment. As you can tell, we are passionate, on a bipartisan basis, about this important cause. It is going to change lives across our State. I think it is going to make a difference across our Nation, and I am pleased and honored to be here with Senator HATFIELD to support his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I know of no other comments to be made at this time.

Mr. President, what is the parliamentary situation?

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3536) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. WYDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. I thank the Chair, and I thank my colleague for his very strong assistance on this.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 3496

Mr. GORTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is now before the Senate.

Mr. GORTON. Mr. President, in Walla Walla, WA, there is a general medical and surgical facility for the Veterans' Administration. That facility serves a wide range of veterans over a very considerable area.

The people of Walla Walla are proud of the facility. The various veterans organizations in the area have asked us to rename it in honor of Gen. Jonathan M. Wainwright. As you know, Mr. President, General Wainwright was a distinguished American military leader, having commanded American troops in the Philippines and Corregidor after the departure of General MacArthur. He was imprisoned for 4 years, released, and ultimately observed the surrender of the Japanese on the U.S.S. *Missouri* on V–J Day. He won the Congressional Medal of Honor. General Wainwright was born in Fort Walla Walla, while his family was there with the First Cavalry.

The people of Walla Walla are going to erect a statue in his honor, and they wish to rename the facility in honor of General Wainwright.

A bill introduced by the Congressman from the district, Mr. NETHERCUTT, passed the House of Representatives last year. It seems to be buried so deeply in the Veterans' Committee that it is not going to get out certainly in time for the Memorial Day ceremony by which time we hope to have caused this renaming to take place.

This is not a cleared amendment but, Mr. President, I think it should be noncontroversial. Senator MURRAY and I very much urge our colleagues to agree with us, to adopt it as a rider to this bill since it has already passed the House.

With those remarks, I think I need no more time of this body speaking about this amendment, about Walla Walla, or about General Wainwright. So I will yield the floor, but I am constrained at this point to ask for the yeas and nays on the amendment with the hope that will bring the whole subject to the attention of those who have objected to it to this point and that it will soon be cleared.

So, Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Thank you, Mr. President. I yield the floor.

Mr. HATFIELD. Mr. President, I do have a group of amendments that have been cleared on both sides. I will make a unanimous-consent request.

AMENDMENT NOS. 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, AND 3546 TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I now send to the desk a number of amendments that have been cleared on both sides of the aisle. I ask unanimous consent that they be considered en bloc, agreed to en bloc, and that the motions to reconsider be laid upon the table. I withhold.

Mr. President, my unanimous-consent request has been formally modified, but that has already been taken care of. I renew my unanimous-consent request.

The PRESIDING OFFICER (Mr. NICKLES). Without objection, the question is on agreeing to the amendments en bloc. The amendments (Nos. 3537, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, and 3546) were agreed to, as follows:

AMENDMENT NO. 3537

Insert the following at the appropriate place under Title III of the Committee amendment:

"SEC. . Any funds heretofore appropriated and made available in Public Law 102–104 and Public Law 102–377 to carry out the provisions for the project for navigation, St. Louis Harbor, Missouri and Illinois; may be utilized by the Secretary of the Army in carrying out the Upper Mississippi and Illinois Waterway System Navigation Study, Iowa, Illinois, Missouri, Wisconsin, Minnesota, in Fiscal Year 1996 or until expended.

Mr. BOND. Mr. President, I offer this amendment on behalf of myself, and Senators HARKIN, SIMON, GRASSLEY, and MOSELEY-BRAUN.

The purpose of the amendment is to allow surplus funds previously earmarked to be reprogrammed to the Upper Mississippi/Illinois Waterway Navigation Feasibility Study.

The navigation study in fiscal year 1996 is underfunded and, consequently, will be unable to meet the 6-year study deadline unless more funding is provided. This shortfall has been recognized by Secretary Lancaster, who has persisted in reprogramming discretionary money to help make up the shortfall. This amendment provides the Secretary the authority to reprogram an additional sum of money currently earmarked for the St. Louis Harbor study that the corps will not be able to spend this year.

Even with this potential transfer, we understand they remain $1.8 million underfunded which we will have to make up in fiscal year 1997.

The amendment does not increase the overall cost of the 6-year $43 million study to update the 50-year-old locks and dams on the Illinois Waterway and Upper Mississippi River.

Mr. President, this study is a priority item. Conference report language in the energy and water appropriations bill for fiscal year 1996 was included directing the corps to:

> Expedite work on the study and ensure that the Division Engineer's public notice on the feasibility report is issued no later than December of 1999 . . . because of the need for a timely review of future navigation needs on the upper Mississippi River and Illinois Waterway.

According to the corps in 1992, tows at Upper Mississippi locals 22–25 were delayed a total of 87,000 hours. As river traffic grows over 4 percent per year, the corps estimates that delays at locals 22–25 would be in excess of a day early in the 21st century.

The president of Farmland Industries told us recently that they have 18 trains running round the clock to try to meet foreign demand. Even today, there is 12 million tons of grain on the ground in Iowa that cannot find a ride to markets abroad—what will it be like when freedom-to-farm takes effect and export demand continues to grow? The longer it takes to upgrade the 50-year-old system, the harder it will be for U.S. grain to continue to find a home in the world market at competitive prices.

The bottom line is that this is a trade, competitiveness, and jobs issue. Our farmers need this. This is one of our principal competitive advantages and the action taken now will be the basis of our competitive position 5, 10, and 20 years from now. If we have grain piling up now, what will it be like in 10 years? Who believes that we can remain a reliable exporter of grain if we let our system deteriorate at the same time the Department of Agriculture is projecting a record $60 billion in agricultural exports and a record $30 billion trade surplus?

Mr. President, Senators who are concerned about competitiveness, promoting trade opportunities, protecting jobs, and growing the economy should be on board this effort. We know the corps is on board and we need to get the Office of Management and Budget on board. This is not a priority at OMB and it should be. Trying to capture the growing Asian market is not pork—it's the economy, stupid.

It is critical that the administration follow the Secretary for Civil Work's lead in pursuing this study. It is a project of national significance that deserves priority attention. It is necessary that the administration make a request for fiscal year 1997 appropriations which accurately reflects the funding necessary to keep this study on schedule. If this study can wait, we are telling farmers that exports can wait. They can't.

Other nations are aggressively emulating our inland waterway system—Brazil, China, and Germany, to name a few. The question is whether we will forsake that advantage to the detriment of our young farmers and nation's balance of trade. This is our chief artery to the world market. Some foreign competitors can beat us on price until our grain hits our inland waterway system—which is the cheapest way to ship a ton of grain in the world.

I want to thank the chairman and ranking member of the subcommittee and full committee for accommodating us on this issue. In the coming months and years, the urgency for action will increase to address the lack of capacity on this critical corridor. This will be a priority issue, not just for carriers but for shippers who are farmers. Senators will hear from farmers and farm groups on this issue. This amendment is to promote and permit exports and job growth and I appreciate the support of the Senate.

AMENDMENT NO. 3538

(Purpose: This Amendment adds $1,000,000 to the Adolescent Family Life program for total funding of $7,698,000)

On page 546, line 21 of the pending amendment, increase the rescission amount by $1,000,000.

On page 572, line 16 of the pending amendment, strike "$129,499,000" and insert in lieu thereof "$130,499,000".

Mr. SPECTER. Mr. President, as we try to steer toward a growing economy and a balanced budget, there has been a growing consensus that all our goals must rest on a restored ethic of personal responsibility. There is an alarming teenage birthrate in the United States. The teen birthrate in the United States is double the rate in other industrialized societies such as Australia and the United Kingdom. Over 72 percent of teenage births in 1993 were to unwed mothers; 12,000 children were born to mothers under the age of 15. It is worth pausing to reflect on the enormous significance of these statistics regarding out-of-wedlock births. Adolescent pregnancy threatens the health of both the young mother and child. Teenage mothers are more likely to lack adequate prenatal care and to give birth to a low-birthweight baby.

We can reduce unintended teenage pregnancies by encouraging abstinence and personal responsibility. If you want to reduce the number of abortions performed in the United States, teaching children to say "no" to peer pressure is a good starting place. The Adolescent Family Life Program, known as the title XX program, is a worthwhile program which focuses on the issues of abstinence, adolescent sexuality, adoption alternatives, pregnancy, and parenting. The Adolescent Family Life Program had broad bipartisan support when it was originally enacted in 1981 and when it was reauthorized in 1984. Congress appropriated $6,698,000 for this program in fiscal year 1995; my amendment would increase its funding to $7,698,000 in fiscal year 1996.

AMENDMENT NO. 3539

On Page 590, after the word "for" on line 19, strike all up to the word "payment" on line 23.

On Page 590, after the word "education" on line 25, strike all up to the period on page 591, line 3.

AMENDMENT NO. 3540

(Purpose: To provide for a waiver of the enrollment composition rule under Medicaid for Chartered Health Plan of the District of Columbia)

At the end of title III, on page 771 after line 17, add the following new section:

SEC. . The Secretary of Health and Human Services shall grant a waiver of the requirements set forth in section 1903(m)(2)(A)(ii) of the Social Security Act to D.C. Chartered Health Plan, Inc. of the District of Columbia: *Provided*, That such waiver shall be deemed to have been in place for all contract periods from October 1, 1991 through the current contract period or October 1, 1999, whichever shall be later.

AMENDMENT NO. 3541

At the appropriate place insert the following:

SEC. . Of the funds appropriated by Public Law 104–37 or otherwise made available to the Food Safety and Inspection Service for Fiscal Year 1996, not less than $363,000,000 shall be available for salaries and benefits of in-plant personnel: *Provided*, That this limitation shall not apply if the Secretary of Agriculture certifies to the House and Senate

Committees on Appropriations that a lesser amount will be adequate to fully meet inplant inspection requirements for the fiscal year.

Mr. COCHRAN. Mr. President, the amendment I offer with my colleague from Arkansas will ensure that funds appropriated to the Food Safety and Inspection Service for fiscal year 1996 are used to cover in-plant inspector salaries and benefits requirements before being obligated for other purposes. The reason for this amendment is simple. The Food Safety and Inspection Service has chosen to purchase computers over paying the salaries of inspectors who ensure the safety of our Nation's meat and poultry supply.

Mr. President, this agency requested $594 million for fiscal year 1996, a 13-percent increase over the fiscal year 1995 appropriation. With a total allocation for discretionary spending below a freeze at fiscal year 1995 enacted levels, this subcommittee could not grant the requested increase. We appropriated $544 million to the agency. The President signed the fiscal year 1996 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act on October 21, 1995. Apparently, the Food Safety and Inspection Service did not alter its spending plans for the year to live within the amount appropriated to it. Now, here we are, about half way through the fiscal year, with a request for a supplemental appropriation of $9.5 million for the Food Safety and Inspection Service, which includes $3.2 million for inspector positions, $3.5 million for training for the new hazard analysis and critical control point [or HACCP], inspection program, and $2.8 million for the animal production food safety initiative. This supplemental request from the President is offset in budget authority by a proposed rescission in funds appropriated to the Cooperative State Research, Education, and Extension Service buildings and facilities account, but not in outlays, as required by congressional budget rules. In investigating why the Agency faces a shortfall, we are told that the Agency decided to commit the $8.4 million it had requested for the Field Automation and Information Management initiative, of which between $4 and $5 million remain. FSIS chose computers over inspectors. When asked if inspector positions would be protected if the Agency ran short of funds at the end of the fiscal year, the answer was "no." Rather than commit this money to an identified shortfall in inspector funding, it has come to us for more money.

Mr. President, this amendment will ensure that above all, there are adequate numbers of inspectors in the plants for the remainder of the fiscal year to ensure that the meat people put on their tables is safe and wholesome. At the same time, it will ensure that processing plants do not shut down, thereby increasing the cost of meat in the groceries, and reducing prices that farmers receive for their animals because they can't get them to market.

We agree with the Department that the modernization of the current inspection program is essential, and endorsed it in the Senate report accompanying the fiscal year 1996 Agriculture Appropriations Act. Where we disagree is that the current inspection system should suffer at the expense of expediting implementation of the new system or other Agency initiatives. It is essential that we maintain the existing system while efforts are underway to implement the new system. In fact, I believe that the No. 2 priority of the Food Safety and Inspection Service should be training to implement the new HACCP rule. Once the new inspection system is in place, then is the time to dismantle the current system.

I hope that my colleagues will join me in supporting this amendment to ensure that adequate funds are available to keep meat and poultry inspectors on the job.

AMENDMENT NO. 3542

On page 769, line 24, delete the word "Of" and insert "Notwithstanding any other provisions of law, of".

On page 770, line 4, after the word "available", insert the words "for operating expenses".

AMENDMENT NO. 3543

(Purpose: To amend the Federal Food, Drug, and Cosmetic Act to authorize the export of new drugs)

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATCH. Mr. President, yesterday morning I had the honor of addressing the National Medical Device Coalition, an association of far-thinking medical device manufacturing executives who have come to Washington to press for meaningful Food and Drug Administration reform.

In their visits with Senators and Representatives this week, NMDC members will be offering the most compelling case I know for FDA reform, and, specifically, reform of medical device regulation.

Indeed, they urge that reform of the medical device regulatory process should be a top priority of this Congress, and I couldn't agree more.

As the NMDC points out, there are severe problems facing the medical device industry in our country—problems which impede the ability of manufacturers to maintain our world class competitive edge and continue to produce products which have so many public health benefits.

I think that Wayne K. Barlow, president of the NMDC summed it up the best in his March 11 address to the American Institute for Medical and Biological Engineering. Mr. Barlow, who happens to also be president of Wescor, Inc., a small medical device manufacturer in Logan, UT, said:

> The U.S. Medical Device industry is severely challenged. Its survival beyond the 20th century has been case in doubt. The innovative fervor that once characterized our industry is evaporating. We are seeing an alarming exodus of companies, technologies, and jobs to other countries. Do not doubt that we are in a life-or-death struggle nor that its outcome will determine whether our industry has a future in this country.

Mr. Barlow went on to say:

> Powerful forces are reshaping health care delivery and the associated markets for health care products in America. The three major components are (1) dynamic restructuring of global markets, (2) Federal regulatory policies, and (3) the U.S. product liability climate. These forces in combination have debilitated the industry. In consequence, America is being pulled down toward second-rate status in medical technology.

I think that the NMDC has done us a valuable service in their concerted emphasis this week to educate the Congress on issues associated with medical devices.

As they point out, this diverse industry is comprised largely of small businesses, which manufacture a wide range of products all of which contribute positively to our U.S. trade balance.

A regulatory climate which threatens the health of these small businesses, threatens the health of our economy as well.

But it also threatens public health, because declining incentives for innovation force production overseas. And when that innovative edge moves offshore, Americans will be deprived of the latest medical products, products which could improve or even save lives.

One of the top priorities of the NMDC, eliminating FDA's involvement in granting permission to export medical products, is also a top priority of mine, and is the subject of the amendment Senators GREGG, KASSEBAUM, KENNEDY, and I are offering here today.

Let me turn to a specific discussion of the amendment, which is a substitute for the FDA Export Reform and Enhancement Act (S. 593) approved unanimously by the Labor Committee last July.

I want to commend all of my colleagues who have worked on the FDA export issue in this Congress.

In the House, Congressman FRED UPTON has exhibited a great deal of leadership on this issue. The chairman of the Commerce Committee, Representative THOMAS BLILEY, and the ranking member, Representative JOHN DINGELL, must be credited for working closely together to fashion the House language on export contained in the continuing resolution under discussion today.

In this Chamber, I must recognize all of the original cosponsors of the Senate bill, S. 593: Senators GREGG, KASSEBAUM, ABRAHAM, FRIST, and COATS.

My good friend, Senator KENNEDY, was instrumental in fashioning the compromise language that was unanimously adopted by the Labor Committee in July and in the amendment we now consider.

In the interest of moving forward our important goal of increasing the export of medical products, I ask all of my colleagues to support this amendment.

I think that the amendment we offer today is a vast improvement over current law. It undoubtedly will allow a more free export of American medical products abroad.

However, I must also recognize that our original bill, and the bill approved by the House of Representatives, provides even greater opportunities for such exports, without the intrusive hand of the FDA in first approving those exports. I am hopeful we can work during the conference to get a compromise which will move toward that free-trade concept while still ensuring protection of the public health.

I was chairman of the Labor Committee in 1986 and worked very hard to get the provision in current law which relaxed our restrictive trade policies regarding pharmaceutical products not approved by the FDA.

At that time, the law did not go as far as I would have liked, but we did make some important strides such as permitting the export of drugs not approved by the FDA to 21 specified countries.

Section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act already contains extremely important principles, and sufficient safeguards, in the area of exports:

> A food, drug, device, or cosmetic intended for export shall not be deemed to be adulterated or misbranded under this Act if it—
>
> (A) accords to the specifications of the foreign purchaser,
>
> (B) is not in conflict with the laws of the country to which it is intended for export,
>
> (C) is labeled on the outside of the shipping package that is intended for export, and
>
> (D) is not sold or offered for sale in domestic commerce.

A very good argument can be made that this provision alone should constitute our national policy.

It is important to understand that this is essentially the policy of every country in the world, except for the United States.

While I think that it should be the primary responsibility of the government of each nation to protect its own citizens, I am also a realist and know that many believe that additional requirements must be imposed on our domestic manufacturers to ensure public health abroad.

I do not question that well-intentioned motivation. At the same time, I would point out that no other country in the world imposes such requirements.

As I have suggested previously, we should all take note of the perspective of Dr. John Petricciani, an official of the Massachusetts biotechnology firm, Genetics Institute, Inc.

Prior to joining the private sector, Dr. Petricciani spent over 20 years in the Public Health Service, including serving as Director of the FDA Center for Biologics, head of the World Health Organization's biologicals unit and Deputy Director of the Public Health Service National AIDS Program Office. As Dr. Petricciani has stated:

> The real issue here is one of benefit and risk. Do the benefits to foreign countries in the current law outweigh the risks imposed on the U.S. in terms of draining jobs and capital investment in research, development, and manufacturing? As has been pointed out by others, one of the results of that drain is the earlier availability of products in Europe and elsewhere than in the U.S. If we were discussing electronics or automobiles, I would not be as concerned because the American people are not being placed at a meaningful disadvantage by such delays.
>
> However, the issue here is medical products that can make a very big difference in the health of the American people. The current law is resulting in new products being introduced first in foreign countries where U.S. firms are forced to manufacture them. I believe that we are paying far too high a price in terms of delayed availability of new products in the U.S. for the theoretical benefit being provided to developing countries.
>
> I would also like to point out that if a U.S. company really wanted to export a product that would be acceptable in the U.S., all they would have to do is manufacture it outside the U.S. and export it to a developing country.

Now is the time to revise and reform the current export restrictions—both for public health and international trade considerations.

The question is not whether we should change current law, but how we should change the current law.

As I said earlier, I prefer the House language. But I am also a realist and recognize that to include a provision under unanimous consent today there will be some matters that will not be resolved to my satisfaction.

I would like to review briefly the history of the development of this legislation in the 104th Congress.

First, the companion bills, S.593/H.R. 1300 were introduced last March.

The theory behind this legislation was simple and direct.

Essentially, S. 593 and H.R. 1300 would harmonize the U.S. policy with the policy adopted by every major trading nation in the world.

This would allow U.S. producers to sell their products freely to World Trade Organization-member countries so long as such products were not violative of the laws of the importing country. This is a good law and good policy and is the rule by which the rest of the world lives by.

Because of concerns that such unfettered free trade might possibly subject citizens in Third World countries to dangerous U.S. exports, a compromise was reached in the Labor Committee last July. The compromise would allow shipment of drugs to any country in the world if they were already approved by one of a list of some 20-odd countries deemed to have sophisticated drug approval and regulatory systems.

The purpose of this so-called bank shot was to decrease the possibility that some small Third World country might somehow unwisely allow, or be somehow coerced to allow, dangerous products into its borders.

In parallel with this bank shot, the Labor Committee compromise contemplated the creation of a so-called tier II list of countries with regulatory systems found adequate to protect the health and safety of their citizens. Drugs and devices could be shipped directly to those countries even in the absence of an approval of a Tier I country with a sophisticated drug approval system.

Subsequent to the markup, the GAO was requested to provide technical assistance to help the Senate formulate tier II country criteria as well as technical assistance in helping the Senate to select an initial list of tier II countries.

Understandably, and perhaps, unavoidably, the creation of these criteria and the initial list has presented contentious issues. Neither the GAO nor FDA are anxious to get involved in the middle of such an inherently complex issue.

I believe there is agreement among sponsors of our amendment today that we will examine this issue in more detail in conference. I feel very strongly that we must allow opportunities for export beyond the tier I realm. That is the future of exports for our country.

Where the GAO and FDA fear to tread, the Congress must, and should, march in.

In the end, I think it is the responsibility of each government to design laws to protect its own citizens so I have philosophical concerns about a system that would preclude a U.S. company to ship a product to another country—even a third world country—when that country has decided to allow the use of that product.

I know that some, including our colleague, Senator SIMON, have, for good and legitimate reasons, raised concerns about the ability of small developing nations like Botswana to make these crucial regulatory decisions. I just question whether our Food and Drug Administration is as well-positioned as the public health authorities of another country, Botswana included, as to what products are suitable for its citizens.

I am even more skeptical of the wisdom of not providing a tier II mechanism to provide, in the absence of a tier I country approval, direct shipment to countries like Russia, China, India, Brazil, and Argentina.

Why should this Congress presume to forbid American manufacturers the opportunity to sell products in these countries after these governments have independently found that such products are legal to make and use? Can we not rely upon the Chinese and Russian governments to act in the best interests of its own citizens?

I don't think that FDA approval, or the approval of a select list of tier I countries, should be a necessary condition for other countries to decide to approve, or for that matter disapprove, the use of a certain medical product. Accordingly, I believe that, American manufacturers should be given the same opportunity to compete with manufacturers of products approved for use in tier II, but not tier I, countries. Deciding which medical products to allow into the stream of commerce is an important power for each sovereign nation to exercise.

In closing, I want to commend our colleagues in the House for developing a proposal which represents an improvement over the original version of S. 593/H.R. 1300. Frankly, I believe that the imminent hazard provisions of the House-passed bill grants sufficient authority to the Secretary of Health and Human Services to halt shipments of dangerous projects. As a practical matter, I don't think that the imminent hazard provisions of this new Senate amendment act much differently.

We have an opportunity in the 104th Congress to enact FDA export legislation. This legislation can advance the public health of the United States and internationally. This legislation can benefit employees and potential employees of American medical products manufacturers.

It is estimated by experts that each $1 billion in exports results in the creation of 20,000 new jobs for Americans. We in Congress have a unique opportunity and special responsibility to expand our trading markets for biomedical products.

This legislation is consistent with advancing the public health and with our international trade policy. I commend Senators GREGG, KASSEBAUM, and KENNEDY in moving this amendment and I look forward to working with my colleagues to see if we can resolve this issue in the conference committee.

Mr. KENNEDY. Mr. President, this amendment represents a great deal of effective work by Senator GREGG, Senator KASSEBAUM, and Senator HATCH, and I commend them for their efforts. The provisions are similar to those in the bill unanimously approved by the Senate Labor Committee last year.

This amendment will reform the export policy of the FDA and enhance the competitive position of U.S. manufacturers of drugs and medical devices in the international market. At the same time, it will protect consumers in the Third World from unapproved, unsafe and ineffective products that might be exported from the United States but that their governments lack the expertise to evaluate.

This amendment represents an appropriate balance between the needs of U.S.-based industries and the need to provide adequate safeguards for the distribution of U.S. medical products in other countries. Multinational pharmaceutical manufactures also recognize that this amendment will ease the major regulatory problems that have been a barrier to locating production facilities in the United States.

For many years, the United States was one of the few countries in the world with a well-developed procedure for approving drugs and medical devices. The FDA is still the gold standard throughout the world, but a number of other industrialized countries have now adopted sophisticated systems for safeguarding their citizens.

In recent decades, foreign markets have become increasingly important to U.S. manufacturers, and foreign competition has become increasingly strong. The United States still leads the world in biotechnology, in medical device development, and in drug development—but we cannot be complacent about maintaining our leadership.

The increasing internationalization of the production and distribution of medical products has been accompanied by a welcome improvement in international efforts to coordinate standards of ethical conduct and to monitor the use of these products in countries around the world. Nonetheless, serious abuses have occurred, and continue to occur.

This legislation recognizes these trends and responds to changing conditions in several ways. First, it recognizes countries whose approval methods have reached international standards of excellence. Exports of products that have not been approved in the United States to countries with such programs have been permitted since 1986. This bill streamlines that process.

In addition, the bill allows manufacturers to export products to any other country in the world, provided that the recipient country wants the product, and provided that the product has been approved by any of the countries specified in the legislation as having excellent drug approval processes. For established, responsible pharmaceutical companies, this requirement is not a burden. They routinely seek approval of a new drug in one of the countries named in the bill, before any broader exports are contemplated. But this requirement will assure that irresponsible companies do not try to use the label "Made in the U.S.A" to peddle unsafe drugs or medical devices to other nations.

Many of the worst abuses by drug companies have come in deceptive promotions in which approved drugs are promoted for inappropriate uses and without necessary safety warnings. To protect consumers in other countries, the legislation also requires that U.S. drugs marketed in these countries must be labeled in accordance with the requirements of the country that approved the safety of the products. Promotional activities must be consistent with indications and contra-indications on the label.

The bill also authorizes the Secretary of HHS to immediately suspend the export of any American-made drug that poses an imminent hazard to public health in an importing country.

American manufacturers must be free to compete effectively in world markets. But America also has a responsibility to assure that the label "Made in America" will not be used to promote unsafe or ineffective products. This bill strikes an appropriate balance between these two important goals.

Unfortunately, the companion provision in the House bill includes none of these safeguards to protect foreign consumers. Instead, it allows U.S. manufacturers to export any product, no matter how unsafe or ineffective, anywhere in the world. This kind of carte blanch is clearly unacceptable. It does not serve the commercial interests of responsible manufacturers. It makes a mockery of the quality standard that his always been associated with products labeled "Made in the U.S.A." And it will endanger innocent foreign consumers, including Americans traveling or living abroad, who rely on that label.

I urge the Senate to adopt this amendment, and to insist on those safeguards in whatever bill is finally sent to the President.

Mr. GREGG. Mr. President, I would like to thank Senators HATCH, KASSEBAUM, and KENNEDY for their great assistance in the development of this amendment which will reform the laws governing the export of pharmaceutical products and medical devices. It is imperative that this Congress take action immediately to change the inappropriately restrictive laws that grossly limit the export of medical products that can be legally marketed in other countries but are not yet approved by the U.S. Federal Food and Drug Administration [FDA]. On August 2, 1995 the Senate Labor and Human Resources Committee unanimously reported S. 593, the FDA Export Reform and Enhancement Act of 1995. This bill made improvements in the area of free trade while retaining some important public health protections.

Prior to 1986, medical products, including drugs, biologicals, animal drugs, and medical devices generally could not be exported unless they were approved by the FDA. With the passage of the export legislation authored by Senator HATCH in 1986, this inappropriate and paternalistic policy was somewhat corrected. The 1986 amendments allowed drug manufacturers to ship their products to a codified list of 21 specific countries. It is my understanding that there was no prohibition included in the law that would prevent the expansion of that list, yet in the 10 years this law has been in effect, no attempt has ever been made to modernize this limited list.

On July 13, 1995, I held a hearing before the Aging Subcommittee of the Labor and Human Resources Committee on the issue of whether additional changes in the export laws are needed. There we determined that it is critical that we eliminate unnecessary restrictions which serve to encourage American pharmaceutical and medical devices companies to maintain research, production and investment to conduct clinical research in foreign countries; build factories overseas; and send high paying high-tech jobs to foreign competitive markets. Our current FDA export regimen is causing us to relinquish our intellectual leadership in the health care field. Improvement to the export policy in this country will also free up limited resources at the FDA, better enabling the agency to focus on the mission of timely, efficient approval of new products that meet the needs of American patients in conjunction with comprehensive FDA reform.

In this hearing, we listened to both drug and medical device manufacturers testify as to how the U.S. laws—unparalleled anywhere in the world—are negatively impacting their business, investments, and the patient population they serve in the United States. For example, Steve Ferguson, chief operating officer of the Cook Group, Inc., testified that our consideration of the FDA as the "gold standard" is "generally a joke that you hear throughout the world, the standard is that, FDA approved just means that it is outdated. You are already on to the second or third generations over there, unless you are in the business, it is hard to understand that."

We also heard from Mr. Michael Collins, chief operating officer of Medtronic, who stated—

> Every week that the current policy continues to be implemented, more American jobs are lost through the relocation of manufacturing overseas and the loss of market share to foreign competitors.

Mr. Mark Knudson, a managing partner of Medical Innovation Partners, a venture capital firm, testified that: "5 or 10 years ago the pace of innovation and the intensity of regulation were not as mismatched as they are today * * *. We can no longer consider a medical investment opportunity which does not have a European strategy * * * the capital required to reach market is so much greater in the United States today."

I am concerned that if we don't change these laws soon that we will have sent so many of these high-technology businesses overseas, the trend will be irreversible. The domestic drug and device industries are two of the too few sectors of the economy in which the United States is the acknowledged world leader and the U.S. producers have a favorable balance of trade, but the negative turn in these statistics is frightening. The Labor Committee reported out a bill 16 to 0 that began to address this problem. That substitute version of S. 593, worked out between Senators KASSEBAUM, HATCH, KENNEDY, and myself, was clearly a positive expansion of current law.

The bill we are including as a manager's amendment today represents a further iteration of that legislation in an attempt to address issues that remained in the committee-passed bill. This bill allows export of human drugs, animal drugs, biologics or medical devices not approved by the FDA. U.S. products, under this bill, could be exported to any country in the world if a product was approved by at least one country from a list of countries we were able to agree have appropriately sophisticated regulatory systems. These countries consist of the 21 that have this status under current law: Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom, with the additions of Israel, South Africa, the body of the European Union, and member countries in the European Economic Area—countries in the European Union and the European Free Trade Association.

As under current law, the exported products must be permitted in the importing country and must comply with all of the relevant laws imposed by that country. Moreover, the following safeguards must be satisfied and a FDA-unapproved product may be exported only if the product is made in conformity of good manufacturing practices; the product is not adulterated; the product is labeled and advertised in accordance with the requirements of the approving country; the product is in accordance with the specifications of the foreign purchaser; and, the product is labeled for export and not sold or reimported into the United States.

Along with free export to the above countries with sophisticated regulatory systems, we have included a provision which ensures this list will not be static, a major problem now. The Secretary, manufacturers, countries, and individuals will have the opportunity to expand the list of countries with sign-off authority on products produced in the United States that have market potential outside of this country. It is our strong intent that this provision will be used to keep the list dynamic.

In addition, we have expanded the provisions in current law for tropical diseases to include other diseases that are not prevalent in the United States. We have done this as a compromise. I personally believe all countries should have complete autonomy over their trade and what products they allow to be marketed to their citizens. However, some of my colleagues disagree, feeling we should play watch-dog over the rest of the world's markets. So, as a middle ground, we have agreed that American companies should have the freedom to explore the development of therapies and cures which address diseases that may be common among the populations of other countries, even though the disease is not often seen in the U.S. There is no good reason why paternalistic United States regulatory policies should relegate citizens of other countries to poor health, particularly when our regulatory regime is so behind-the-times that the need to pass this bill is universally acknowledged. Any countries not designated by either provision can receive exports of products not approved by FDA if the product is approved by at least one country with regulatory sophistication.

During the course of our hearing, a concern was raised by Senator SIMON that altering the export laws under the original terms of S. 593 might result in the dumping of unsafe products into Third World countries. Dr. John Petricciani, vice president for regulatory affairs with Genetics Institute, a Boston biotechnology firm, and former Director of the FDA's Center for Biologics, and head of the World Health Organization's Biologicals Unit, with 20 years in the Commissioned Corps of the U.S. Public Health Service as Deputy Director of the National AIDS Program Office, responded to Senator SIMON in a letter that is included in the hearing record. I would like to include a portion of his letter for the RECORD here as well:

> The real issue here is one of benefit and risk. Do the benefits to foreign countries in the current law outweigh the risks imposed on the U.S. in terms of draining jobs and capital investment in research and development and manufacturing? As has been pointed out by others, one of the results of that drain is the earlier availability of products in Europe and elsewhere than in the U.S. If we were discussing electronics or automobiles, I would not be as concerned because the American people are not being placed at a meaningful disadvantage by such delays.
>
> However, the issue here is medical products that can make a very big difference in the health of the American people. The current law is resulting in new products being introduced first in foreign countries, where U.S. firms are forced to manufacture them. I believe that we are paying far too high a price in terms of delayed availability of new products in the U.S. for the theoretical benefit being provided to developing countries.
>
> I would also like to point out that if a U.S. company really wanted to export a product that would be unacceptable in the U.S., all they would have to do is manufacture it outside the U.S. and export it to a developing country.

American jobs are being sent abroad because of current laws which restrict the export of drug and medical technology not approved in the United States. These laws not only waste scarce Food and Drug Administration resources—they ignore the sovereignty of our trading partners around the world. Today's world marketplace demands that these barriers to U.S. global competitiveness be reformed.

A 1995 survey of U.S. medical device inventors and manufacturers by the Wilkerson Group showed that more than 90 percent of the firms surveyed planned to market new products overseas first. Ninety-eight percent of medical device companies in the U.S. are small businesses—employing fewer than 500 employees. These companies need to generate sales quickly in order to make appropriate returns to their startup investors, finance their manufacturing operations, and be able to afford the approval process in the United States which costs them a great deal in both time and money.

Although the 1986 Drug Export Act represented a good step forward, it has led to the development of a patchwork quilt of bureaucracy that has forced U.S. manufacturers to establish and maintain facilities outside the United States. At the same time, the law imposes time-consuming requirements on FDA, whose resources should be reprioritized to the review of new, lifesaving medicines and technologies for American patients. Offshore movement often begins with the relocation of clinical trials, closely followed by R&D, which is most efficient when done in conjunction with the medical professionals involved in the trials.

Within the device industry, 50 percent of established companies and 87 percent of startup ventures are moving their clinical trials to foreign countries. This means American patients not only are not receiving access to the most cutting-edge innovative medical products, but also are several generations behind in what products have been approved and are in common use. Clinical trials are also critical to the success of products developed by pharmaceutical companies, who generally expend millions of dollars on this phase of drug development.

In a time of unprecedented harmony in worldwide trade, as reflected by recent passage of GATT, our laws relating to the export of foods, drugs, medical devices, and cosmetics should reflect that comity as well. The rate of growth in the favorable balance of trade that the medical device industry in this country has historically seen is slowing dramatically. The average annual rate of growth in this industry was 26 percent in 1988–1992; it dropped to 11 percent in 1992–1994.

In addition, the increased competition from foreign competitors—as well as American firms who have moved part or all of their operations overseas, and are now foreign competitors as well—is being evidenced in patent activity. The United States has consistently held close to three-quarters of the medical device patents granted in the United States, but foreign growth in this industry means that foreign-owned companies now hold thousands of U.S. patents, not just hundreds.

The paternalistic approach evidenced in our current law is no longer compatible with today's world marketplace. In my view the original version of S. 593, which was introduced by Senator HATCH and co-sponsored by Senators KASSEBAUM, ABRAHAM, FRIST and COATS as well as myself, was a good approach. This would have allowed free export to any World Trade Organization [WTO] member nation, and export to non-WTO members with 30 days notice to the Secretary of HHS, who had the authority to stop exports destined to be imminent hazards to the public health of citizens overseas. Similar efforts were led by Representative FRED UPTON in the House; he introduced the companion bill H.R. 1300 with 24 cosponsors last summer.

However, in the spirit of bipartisanship, Senators HATCH, KASSEBAUM, and I, undertook an effort to try to work with Senator KENNEDY to create a revised bill. The version of this bill being considered here today embodies the resultant compromise. While I believe this legislation is still more restrictive than it should be, there is a real value to moving a good bill rather than gaining nothing. This export bill is good trade policy and is consistent with advancing the public health.

AMENDMENT NO. 3544

(Purpose: To provide for welfare reform in the State of Texas)

On page 577 line 14 of the committee substitute, insert:

"SEC. 213 If the Secretary fails to approve the application for waivers related to the Achieving Change for Texans, a comprehensive reform of the Texas Aid To Families With Dependent Children program designed to encourage work instead of welfare, a request under section 1115(a) of the Social Security Act submitted by the Texas department of Human Services on September 30, 1995, by the date of enactment of this Act, notwithstanding the Secretary's authority to approve the applications under such section, the application shall be deemed approved."

AMENDMENT NO. 3545

(Purpose: To remove regulatory impediments to community development)

Section 223B of the amendment is amended to read as follows:

"SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed effective the date of enactment of Public Law 104–19. The Secretary is authorized to demolish the structures identified in such section. The Secretary is also authorized to compensate those local governments which, due to this provision, expended local revenues demolishing the developments identified in such provision.".

AMENDMENT NO. 3546

To the amendment numbered 3466: On page 406, line 8, strike "$567,152,000" and insert in lieu thereof "$567,753,000".

Mr. HATFIELD. Mr. President, I further ask unanimous consent that any statements relating to the amendments be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask for action on the adoption of the amendments en bloc.

The PRESIDING OFFICER. They have already been agreed to.

Mr. HATFIELD. I thank the Chair.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business. In making the request, I have spoken with the chairman of the Appropriations Committee. If someone comes to the floor with business on this piece of legislation, if they will simply signal me, I will relinquish the floor, because I think that should take precedence. If no one is on the floor to do business on the appropriations bill, I seek unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I wanted to come to the floor and speak about two pieces of legislation, one which I introduced last week and one which I will introduce next week, simply to alert my colleagues about what I intend to do with them.

Before I do, let me suggest that I think it is time for us to ask the President and the majority leaders and minority leaders of the House and the Senate to restart the budget negotiations and work to try to reach another budget agreement.

As I was coming over here this morning, I was thinking about a young man from Jamestown, ND. I was thinking of this issue of the budget, and of trying and failing. We went through all of this last year. In fact, I was one of the two Senate Democratic negotiators, along with Senator EXON. We spent day after day in S–207, at the White House, in the Oval Office, in the Cabinet room. Those of us involved in the negotiations know we did not reach a conclusion. We did not settle on a plan to balance the budget in 7 years, but we should, we can, and we ought to.

I was thinking about the young man from Jamestown, ND, in this context as I came over this morning. He is a young man who attended a wonderful little grade school in Jamestown, and he dreamed of being an astronaut. He grew up to be a strapping, happy young man named Rick Hieb.

He joined the program to become an astronaut, went to NASA, became an astronaut, and flew up in the space shuttle. I recall seeing Rick in Jamestown not only before he went up in the space shuttle, but also on television, as I sat on my living room couch, watching him and two of his fellow astronauts, who had flown in this mission with him.

The mission was that they were to grab, I believe it was, an Intel satellite, a 10,000-pound satellite that had malfunctioned. They were to grab this satellite in outer space and hold it with an arm they had constructed. They were going to repair this satellite—it had never been done before—traveling 16,000 miles an hour in weightlessness while trying to grab a 10,000-pound satellite.

Rick and his two colleagues went out. Something stuck on the apparatus, and they failed to grab the satellite. Do you know what the headlines were that night? The headlines were that "NASA Failed." "The Astronauts Failed." "The Mission Failed."

The next day, still orbiting in space, they tried again. They spent a couple of hours walking in space, trying to manipulate and maneuver to grab that satellite, and they failed again. And the second day the newspapers said, "NASA Mission Fails." "Astronauts Fail."

Then they spent some time trying to figure out how they could fix this problem, and they spent a day doing that. The next day, they went back out for a third time, and that is when many of us watched them on live television, I think, for about 4 hours, as they orbited around the Earth working this mechanism to grab the Intel satellite and fix the satellite. And they did it.

What they did was something that they had never before rehearsed, they had never planned and they had never done before. But they went out a third time and risked failure because they wanted to succeed.

Rick came to my office sometime later. I asked how tough it was to try to do something in space that they had never even practiced. He said, "The shame would have been not to try." There is no shame in trying and failing. The shame is in failing to try, and they went out and failed twice and the world heard that they had failed. The third time they went out and did something no one expected they could do, and they succeeded.

It is not just astronauts in space with the courage and bravery of Rick Hieb and his colleagues who ought to understand the message that the shame is if you fail to try.

Last year, we did not get a budget agreement. The fact is, we ought not quit, we ought to try again. Now is the time for us to try to reach a budget agreement.

We have a circumstance in which the majority leader is running for President. The President is running for reelection. We have a very unique political circumstance in this country. It will probably make it a little difficult to deal with the budget issue. But that does not mean we should not continue to try. It is time to restart the budget negotiations, and it is time for us to succeed in developing a plan for a balanced budget in the interest of this country.

Mr. President, let me ask unanimous consent to proceed for as much time as I consume in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was speaking about the negotiations to try to reach some kind of a balanced budget plan. I know there has been a lot of windmilling of the arms and gnashing of the teeth and wringing of the hands. There has been a lot of huffing and puffing on both sides of the aisle about the budget deficit and about who is at fault for not reaching a plan of some type to deal with the budget deficit. But the plain fact is, both sides, it seems to me, have something to contribute.

I have said on the floor that the Republicans, I think, need to be commended. The Republicans have said to us, this is something we must do. They have continued to apply pressure that we reach some kind of a solution. That, I think, serves this country's interests. The Democrats also serve this country's interests by saying, yes, let us do that, but let us do it the right way. Just doing it, if you do it the wrong way, can be terribly destructive to this country.

The choices on spending, which is what we are really talking about when we balance the budget, are critically important. Some came to the floor of the Senate and said, "We have a deal for you. Let us cut Star Schools by 40 percent and let us increase spending on star wars by 100 percent."

I do not know what air they breathe, but that does not seem like very clear thinking to me. So the method by which we balance the budget is critically important. How many people do you want to kick out of the Head Start Program? That is a program that really works and helps children. How many kids do you want to tell, "You no longer have an entitlement to have a hot lunch at school. You come from a poor family, but we decide you have no longer an entitlement to have a hot lunch at school in the middle of the day." How many people want to tell poor children that in this country? Some do, because that has been the proposal.

My point is, we should balance the budget, but we should do it with the right priorities. But, most of all, I think it is time for the President and the Members of the Congress to understand now is the time to try again. If we simply take the lower of the figures on spending cuts offered during these negotiations, the lower of the figures from either party, it adds up to over $700 billion in spending cuts and adds up to the kind of spending cuts that will reach a balanced budget in the year 2002.

So, it is not a case of not having the will to get there. It is a case of not agreeing to the menu of the spending cuts. It is time to try again. It is time for the President and Members of Congress to sit down, restart the negotiations, and solve this problem.

As I said, before I relinquish the floor, we have a very unique circumstance facing us. We have a majority leader here in the Senate running for President. We have a President down at the other end of Pennsylvania Avenue who wants to keep his job. A lot of what is going to go on this year, I assume, will have a substantial amount of political overtones.

But there ought not be, it seems to me, a political judgment in this country that says balancing the budget is not important. It is important. It is the right thing to do, and it ought to be done the right way. I think the President and leaders of Congress have an obligation to restart these negotiations, restart them now, and continue budget negotiations until we finalize a plan and agree to a plan to reach a balanced budget. The American people deserve that and this country deserves that.

THE TRADE DEFICIT AND JOBS IN OUR COUNTRY

Mr. DORGAN. Mr. President, I want to just speak briefly about two issues. One is a jobs issue and the other is a crime issue. Both, I think, are important to this country. I introduced a bill on one subject last week, and I am going to introduce a bill on the other next week. I just talked about the budget deficit. That has been coming down some in recent years. It is still too high, but it has been coming down.

Nobody talks about the trade deficit. The trade deficit has been going up. Last year was a record. The fact is the trade deficit goes up because we are exporting manufacturing jobs out of this country. It means fewer jobs and fewer opportunities and less income for too many of the American people who need a good job with good income.

How do we deal with the jobs issue? I do not have all the answers. I know we have to deal with the trade deficit. Nobody here talks about it. The trade deficit is going to be repaid ultimately with a lower standard of living in this country. So we have to deal with that.

One thing we ought to do, just for starters, relates to a bill I introduced in the Senate last week. It is very simple. The bill simply says, let us stop providing tax loopholes or tax incentives for those people who move their plants and their jobs overseas. I bet there are not many people here who know that is what goes on in this country.

We have in our Tax Code in this country a provision that says, if you have a manufacturing plant in America, and you have 100 jobs or 1,000 jobs or 10,000 jobs in America, we will give you a deal, you close up that plant, fire those workers, move them overseas, and you get a tax break. You get a tax break.

You get two plants sitting side by side across the street from each other, and they make the same product, hire the same number of workers, and one of them closes up and moves overseas and the other one stays here. Guess what the difference is? Our Tax Code says the one that moved overseas, you do not have to pay taxes to this country even though you manufacture the same product and ship it back to sell in Pittsburgh or Denver or Fargo. You do not have to pay taxes. The company in a State pays taxes out of its income, but you do not pay taxes out of your income because, as long as you move the company overseas, you can keep the income over there tax free until you are repatriated back. Most do not repatriate back, so they get a fat, juicy tax incentive for moving their plants overseas and closing their plants in this country.

It does not take smelling salts to get people clear-headed enough to understand that this is a fundamentally goofy provision in our tax law. If you cannot start with the first step in deciding that we are going to stop providing incentives for people to ship their jobs out of America and move their jobs overseas, then we do not have a ghost of a chance of solving our problem in this country with fewer jobs that pay well.

Why do I say that? People say there are more jobs in our country. Yes, there are more jobs. The fact is, there are also more people in our country, and the more jobs we are getting are not the kind of jobs that pay well. Too often they are service industry jobs that do not pay very well. Guess what kind of jobs are leaving? The manufacturing jobs that used to pay well with good benefits. What we need to do is shut the loophole that says move your jobs overseas and we will pay you to do it. Shut it and shut it immediately.

The piece of legislation I introduced last week, which I hope to have a number of votes on in the Congress, some hearings on, is very simple. There are two provisions in it. One says, shut the insidious loophole that says we will pay you if you move your jobs overseas. Just shut it down. End it. Just be done with it.

Second, you take the money from that, a little over $2 billion, and you use it to provide tax credits for those who create new net jobs in our country. Those who create new jobs, more jobs now than they did over the previous couple-year base of their employment, they get a 25-percent tax credit on their payroll taxes, 25-percent tax credit for 2 years for the new jobs they create.

Let us use the savings by closing the loophole that exists to move jobs overseas and use those savings to provide an incentive to create jobs over here.

What could be more sensible than that? It is very simple: Yes or no, do we want to close the loophole that exists to send jobs overseas? Of course we do. We ought to. I had a vote here on the Senate last year and 52 Members voted to keep the loophole open. I will give them a chance to redeem themselves a couple of times this year. Should we close the loophole? Of course we should. Should we provide incentive to keep jobs in this country? Of course we should.

This is a very simple proposition. This does not go into a big school to learn. This is not advanced math. You give people an incentive for moving their jobs, they will move them; provide people incentive to create jobs, you will have more jobs here.

Mr. President, S. 1597 is a piece of legislation—and I hope my colleagues will become acquainted with it because we will vote on it a number of times this year. I hope that enough colleagues will understand their constituents have an interest in it and will approve this. I would like to see one Member of the Senate go to one town meeting in one community in this country and stand up, and in the first sentence of the town meeting say, "By the way, I have a new idea. My idea is this: We should put in our Tax Code a little incentive that will reward companies who shut down their plants in America and move their jobs overseas." I think they would get booed out of the room before they get to the second sentence. That is what our Tax Code does. I am determined that we will shut that perverse, insidious incentive down, and we will do it soon.

That relates to the issue of jobs. Will that fix our jobs problem? No, but it will help. At least doctors understand to save the patient the first thing you do is stop the bleeding. That is what this bill is about.

CRIME

Mr. DORGAN. Now, the issue of crime. People want good jobs in our country. They also want to feel safe, and ours is a country with a serious crime challenge. I have a crime clock which shows the problem we have. One murder every 23 minutes; one forcible rape every 5 minutes; one robbery every 51 seconds; one aggravated assault every 28 seconds. We have 23,000 murders in America every year, and 110,000 rapes.

This is a country with a serious crime problem. I have said on the floor many times, and I want to repeat it, that it does not take Dick Tracy to understand who is going to commit the next violent crime. It is someone who committed a previous violent crime, and, in most cases, someone who has been in prison and who has been released early.

Earlier this week, I mentioned two recent cases, both of them in the Washington, DC, area. But I could stand up here and tell 3,400 similar stories, because 3,400 people have been murdered by people who should have been in prison and unable to murder anybody, but they were let out early. They were told that, since they behaved in prison, they would be let out early.

Here are two of these cases. One involves a young woman named Bettina Pruckmayr from Washington, DC, a young attorney, 26 years old, just starting her career here in Washington, DC. She was allegedly abducted by a 38-year-old man named Leo Gonzales Wright on the evening of December 16. Mr. Wright abducted her and forced her to drive to an ATM machine. He has been linked to this crime through a bank security photo. He stabbed Bettina Pruckmayr, 38 times—7 times in the back, 3 times in the neck, and elsewhere in the body with sufficient force to break her bones. He killed her brutally.

Who is Leo Gonzales Wright, this man who allegedly killed Bettina Pruckmayr? This young attorney was killed by someone who should not have been able to kill an innocent person. He should have been in jail. He is a man who previously committed robbery, previously committed rape, previously committed murder, previously committed armed robbery. Despite rape, robbery, and murder, this man, at age 38, was walking around the streets of Washington, DC. In fact, after he was released early from prison, the police picked him up for selling drugs. But he was not put back in prison.

It does not take Sherlock Holmes to figure out who will commit the next crime. It is someone who should have been in prison, like this alleged killer—who had murdered before, robbed before, raped before—but who is walking the streets because someone in the criminal justice system said, "We want to let you out of prison early"—and did. The result is a 26-year-old young attorney named Bettina is dead. It should not have happened.

The second case involves a 13-year-old boy named Jonathan Hall, from Fairfax County, VA. I do not know much about Jonathan Hall except what I have heard on the news. Jonathan Hall was a young boy who was stabbed 58 times and thrown in a pond for dead. When they found him, they found grass and dirt between his fingers because he apparently, with 58 stab wounds, had tried to pull himself out of the pond. He was not dead when he was thrown into the pond, but he died.

The alleged killer of Jonathan is a fellow names James "Buck" Murray. James "Buck" Murray was sent to prison for murdering a cab driver a number of years ago. While he was in prison he was put on work release and he kidnapped a woman. Then, he murdered a fellow inmate. That is two murders and a kidnaping. And guess what? A few months ago he was walking the streets of Virginia, a free person, because the criminal justice system apparently felt it was OK that he could get out early. And now a 13-year-old boy is dead because a person who should have been in prison was walking the streets.

There are 3,400 other murder stories just like these. I have had some arguments with the folks in my State about the criminal justice system's approach to letting people out early. Here are the early release policies of some States, which I bet most people do not know. I will not go through and name all of the States. Here is a State near the top of the alphabet that says to a violent criminal, every year you serve in prison you get 540 days off for good time. In other words, for every year you serve, you get out almost 2 years early. Serve 10 years—people say it is a big deal that we now say to violent criminals you have to serve 85 percent of their sentences. They get sentenced 10 years, they serve 85 percent of that time, and a violent criminal is out early. The average violent offender is now sentenced to a 20-year term and serves less than half of that sentence. The average person serving time in prison for murder in America serves only 7 years.

The States say, "If you are good in prison, we will let you out early." Then, people like Bettina and Jonathan and others get murdered because we decided we cannot afford to keep violent people in prison where they belong— 180 days a year, good time credits for every year you serve, half a year off. Here is 180 days, 120 days, 365 days, 400 days, 547 days. These are the number of days of good time that the States give to these people. "If you are good in prison, no matter how violent you are, we let you out early." This has to stop. This sort of thing cannot continue in our country.

If we, as a country cannot assure the safety of innocent people by deciding that those who commit violent acts, those who commit murder, will go to prison and stay there until the end of their sentence, if we cannot assure people we will keep these folks off the street, then we, in my judgment, have not done our job. Most of this has to do with State government. In fact, all of this does.

Nobody is let out of the Federal system early. There is no automatic good time credit for being good in the Federal system. The last crime bill eliminated that because of my provision that said that we are going to get rid of good time. I want the States to do the same thing. If you are a violent criminal, no good time for good behavior. You are going to be sent to prison to be kept off the streets.

I am introducing legislation next week called the SAFER Act, the Stop Allowing Felons Early Release Act. I want to distinguish between the felons in prison who are violent versus those who are not. I want prisoners who committed violent crimes to know that when they go in prison, they are going to stay in prison until the end of their term. My bill provides an incentive through the Federal truth in sentencing grant program to eliminate parole and good time credits for violent offenders.

We have an amount of money under the truth in sentencing grant program for prison construction, and for other purposes, that is allocated to eligible States. I would reduce these grants by 25 percent for the States that have not decided to end early release for violent criminals. For those States who have decided they will end early release for violent criminals, they will participate fully in this grant program and receive an incentive payment.

If a State decides it does not want to do that, that it wants to keep moving violent prisoners back to the streets, then they will lose a portion of this incentive grant program.

My legislation is simple. It will not force the States to do anything, but it will say to them, with the amount of money that we are using here in the Congress, in the crime bill, we want to at least try to provide incentive to those States that do the right thing. The right thing is to start deciding all across this country, especially in the State criminal justice systems, that violent people sent to prison will stay in prison.

It is probably hard to know how some of these families feel, especially when they discover their loved one has been killed by somebody who should not have been in a position to kill anybody. My mother was killed in a manslaughter incident. It was not the kind of incident I have described with Jonathan Hall and Bettina Pruckmayr, but I understand getting a telephone call about having a loved one involved in this kind of a crime, having a loved one lose her life in a violent crime. I can only imagine how families feel when they hear that their daughter or their mother or their son has been killed, and then they discover that the perpetrator was someone who has murdered two other people and spent a fraction of the time they should have spent in jail, but who, because the State let them out early, was in their neighborhood threatening their lives and their children's lives.

This country has to do better than that. This country has to decide there are some criminals who, by their acts of violence, demonstrate that they deserve no good time, no early release. The American people deserve to have those people sentenced and put away in a prison cell until the end of their term.

I hope very much that, as we discuss a crime bill this year and continue to work through the questions that confront the American people about jobs and crime and health care and education, and the range of issues that people care about and want us to do something about, we will take a look at this issue. Do we not have an obligation, when we have a person who has committed a murder, a kidnapping, another murder, to decide that this person does not deserve to be on our streets? Do we not have that responsibility? If the State governments do not exercise that responsibility, do we not have the right to try to provide some incentive and initiative there? I think we do.

This issue of devolution that we are talking about now in the Congress is that the Federal Government cannot do anything right, so we should send it all back to the State and local governments. These cases I am talking about are all State cases. Nobody is getting out of the Federal prisons early to do this. We have determinate sentencing, and there is no good time because I saw to it.

In the State judicial systems, you can earn up to 2 years off of your sentence for every year served. All you have to do is be good. Half of our prison population in America are nonviolent prisoners. Half of them are convicted of violent crimes. I want us as a country to distinguish between the two. I want prison cells open and available for those who have committed violent acts. Jonathan Hall should not be dead today, nor should Bettina Pruckmayr, nor should 3,400 other Americans killed by people let out early, who should have still been in prison. I hope we will discuss this at some great length this year as we discuss the crime bill.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LUGAR). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to address the Senate as in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa.

DRUG POLICY, DRUG TRENDS

Mr. GRASSLEY. Mr. President, recent information from a wide variety of sources make two things very clear about the issue of drug policy, drug trends and the problems it causes, and that is that teenage drug use is on the rise, a disturbingly fast rise, and also that the American public remains very concerned about the need for counterdrug policies that are effective.

We know from virtually every survey, every reporting mechanism on drug use that adolescent use is on a rocket ride into the upper atmosphere. We know from hospital data that emergency room admissions are on the increase and that many of these involve young people. Late last year, we had firm confirmation of just how bad things are and where they are headed.

The administration released the latest high school survey. These data make it abundantly clear that not only is use of drugs going up, but youthful attitude toward the dangers of drug use are changing and changing for the worst. The best spin that the administration could put on the data was somehow, "Well, it's not as bad as it was in 1979."

Just what sort of a comment does that say? It notes that since 1992, the proportion of 10th graders using illicit drugs in the prior 12 months had risen by almost 75 percent. Marijuana use among 8th graders—those would be people as young as 13 years of age—has risen by 2½ times. Prevalence among 10th graders has doubled.

These figures are bad enough, but what is worse is that they come after decades of decline. If we had a chart, that chart would show from these very same surveys, because they have been annual over a long period of time, that from 1979 down through 1992, there was a dramatic drop in the number of teenagers experimenting with drugs.

Since 1992, as this recent report clearly states, something is wrong, and there is a dramatic rise in that downward trend of the years from 1979 to 1982.

But that is not all, Mr. President. The DAWN survey of emergency room admissions is up. The PRIDE survey, echoing the problems in our schools, shows that use is up. The household survey shows that use is up. So, clearly, something is wrong. But we can take heart: Things are not as bad as they were in 1979.

What these figures mean is that we are storing up trouble for the next decade. We are in the process today of creating a new wave of drug abuse and addiction that is going to create problems for tomorrow.

This trend, as I said, comes after years of decline in adolescent use and the creation of an understanding during that period of time among the young about the dangers of drug use that helped to insulate them from ever starting to experiment with drugs.

Over the last 4 years, with this trend going up, that attitude that drugs are dangerous among young people is changing. So I think it is legitimate to ask and look at reasons why it is changing.

One of the principal reasons is that we have lost a coherent public message that drug use is dangerous and wrong. One of the main reasons for this is the disappearing act performed by the President on the whole drug question. Simply put, the bully pulpit stands empty. There is no message and no moral authority.

That, hopefully, is changing with the appointment of the new drug czar. Hopefully that is changing with the President 10 days ago in Baltimore holding a nationwide meeting by satellite to young people on the dangers of drugs and the President's concern about it.

The President in his speech mentioned the problems that his family had with drugs, I guess a brother it was.

Hopefully, it is turning around just because the President feels comfortable talking about the problem. It seemed to me that for this whole first term of office, the President must not have talked about it because he did not feel comfortable talking about it.

But whether it is the President of the United States, whether it is the music stars that the younger generation looks to that are parading the legitimacy of drug use or movie stars, the movie industry not playing it down, or whether it is just a plain lack that we do not have on television anymore the ads that the industry used to put on that drug use was bad, the public service announcements that drug use was bad, whatever it is, it all adds up to this dramatic increase in the use of drugs, most important, the dangerous experimentation by young people and the fact that that portends danger 10 years down the road for other problems that come from enhancement of drug use, the crime and everything that goes with it.

So there is no message out there, and the people who used to have the moral authority to give that message are no longer giving it.

Daily, more Americans die from the consequences of drug use, more are maimed in drug-related violence than have died in many of our overseas ventures. Certainly, more lives are at risk than have been lost to date in Bosnia. Yet, what do we see? We see a commitment of manpower, resources and treasure bound for far-flung fields in dubious enterprises of peacekeeping, and meanwhile we have a major problem right here at home calling for action and leadership.

We send peacekeeping missions to Bosnia, but where is our antidrug mission in Detroit? Where are the prime time news events to sell a policy on drugs, that drugs are dangerous? As I have said, the President had this wonderful assembly in Baltimore to bring attention to it. He has appointed an outstanding person as drug czar. But until these things happen—where was the media attention from past action by our political leadership on the drug problem?

If you do not think there is a problem of leadership on the drug question, try to find a word in the newspapers at that time about the resignation of Dr. Brown when he resigned late last year. Try to find mention of recent Gallup polls on public opinion about drugs. Try to find honorable mention of the surveys, the other surveys that I mentioned in my comments this afternoon.

If you go back to this period of time when the political leadership of America during the 1980's was saying, "Just say no to drugs," when our TV tubes were filled with stories and public service announcements about the dangers of drugs, when our respected leaders in entertainment were saying drugs are bad—Mr. President, I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. When we had Bill Bennett resign as drug czar during this period of time, it was front-page news. When Dr. Brown left 2 or 3 months ago, you may remember the story was buried someplace on page 12 in one of the newspapers I read. Dr. Brown's resignation there, the story of it was buried along with news about drugs or the public's concern.

That fact of how the media treat this very serious problem, versus how serious the public at the grassroots really feel it is, tells us something about the present state of our drug policy and how the media think. Since they do not care about the drug issue, since the media do not care about the drug issue, it ceases to be news. Never mind the public attitude or what these surveys show, just somehow it does not happen to be news.

It is clear, however, Mr. President, that the public is very, very concerned about this issue. A poll earlier this year showed that over 80 percent of the public saw stopping the flow of illegal drugs to the United States as their primary foreign policy concern. Just in the last few weeks, the Gallup poll organization released information on the public's attitude about drugs.

This poll makes it clear that, unlike with the administration or the press, the drug issue has not fallen off the public's agenda. According to this poll by Gallup, 94 percent—I want to repeat that—94 percent of the American public say the drug abuse problem is either a crisis or a serious problem. They rate drugs second only to crime, which often is linked to drugs as their main concern.

Indeed, according to the poll, Americans rate the drug problem as more serious than the problems of health care, welfare reform, or even the budget deficit. Since you would be hard pressed to find this concern reflected in our media, press, radio, and TV, I think we ought to state that again. The public rates the drug problem as more serious than health care, welfare, and the deficit. So I hope our national media leaders are going to take that to heart. Of course, I hope our policy leaders pay attention.

Congress is listening, probably because we are closer to the grassroots. We have a responsibility in the process of representative government to keep our ear to the grassroots. I think most do. And following up on that, Senator DOLE and Speaker GINGRICH declared a new initiative on drugs. This is in keeping with the past congressional efforts to make the drug issue a very serious policy concern. We created the drug czar's office to coordinate policy in the middle of the last decade. We gave the administration a variety of tools to improve our international efforts.

We have supported coherent programs when they have been explained and defended. Just this week, we gave $3.9 million, in this appropriations bill that we are on, to the Office of Drug Policy so our drug czar can have more equipment to do his work. We have acted in the past to encourage direction and purpose, and it is clear that we need to do this more often. So that is why the task force launched by our majority leader and the Speaker of the House will help us to do that. I happened to be named cochair of that task force. I also have the position of Chairman of the Senate Caucus on International Narcotics Control.

In both of these efforts, every member of the task force and the caucus—we pledge to do everything we can to put this issue back on the right track, meaning that it is as important a policy concern for us in the Congress as it is for the 94 percent of the people at the grassroots who say it is a major concern, more so than balancing the budget or welfare reform or health care reform. I believe my colleagues will do that.

But there is no task force, there is no caucus, no law that we can pass that is the answer to this problem by itself or even a serious commitment by the administration to this—albeit that is very, very important as an answer. Hopefully, the new appointee as czar highlights that, and he will do that. I feel that he will. We also, though, need a more sweeping, renewed effort to get the word out to a new generation of young people about the harm and wrongs of using drugs.

But our efforts cannot stop or start with just Government action. It is going to take a public commitment to the effort. We have to see communities and families reengaged on the issue. We need parents talking to children. We need a strong, clear message coming from our cultural elite, from the media, and from our community leaders. It is a message that we must continually renew. It is not a sometime thing, Mr. President.

If we do not do this on a concerted basis, we put the next generation at risk. Most importantly, as political leaders, as just part of the element of our total society to accomplish this goal, we have ignored our responsibilities, but so have the other elements of society.

When mothers sell their sons for drugs, when our own military bases are not free of drug trafficking, we have a problem that touches home. While only one American has died in Bosnia, many Americans die from drug use and have their lives ruined by drugs every day. We have a clear interest in doing something meaningful on this issue. It strikes home. The public understands it. The American people support meaningful action. This is a problem that we cannot afford to ignore. It is an issue that can only grow worse if we do not act. That is why the initiative to establish a serious drug policy is critical for the future.

So, I call not just upon my colleagues to work to renew our effort or to renew Congress' leadership on an issue so essential to the health and welfare of the Nation's young, but I call upon all of society to respond accordingly.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with consideration of the bill.

AMENDMENT NO. 3547 TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. HOLLINGS, Mr. PELL, Mr. DASCHLE and Mr. KERRY, proposes an amendment numbered 3547 to No. 3466.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

The appropriation for the Arms Control and Disarmament Agency in Public Law 103–317 (108 STAT. 1768) is amended by deleting after "until expended" the following: "only for activities related to the implementation of the Chemical Weapons Convention" : *Provided*, That amounts made available shall not be used to undertake new programs or to increase employment above levels on board at the time of enactment of this Act.

Mr. HOLLINGS. Mr. President, we have been working with the other side of the aisle to see if there was some way to get additional operating resources for the Arms Control and Disarmament Agency or "ACDA" as it is called. ACDA's appropriation in this bill has been reduced to $35,700,000, down from its current level of $50,378,000, and far below the President's request of $75,300,000.

This amendment frees up approximately $2,700,000 in prior year appropriations that are earmarked in the fiscal year 1995 Commerce, Justice, and State Appropriations Act for the Chemical Weapons Convention. It allows these resources to be used instead for ACDA salaries and expenses. The amendment stipulates that these funds not be used to increase ACDA's staff. However, given the current funding situation that I have outlined, adding staff does not appear to be a viable option for this agency.

Mr. President, we have tried to find an acceptable offset or list of offsets to provide ACDA with more than the $2,700,000 in this amendment. I know that was the wish of our distinguished minority leader, Senator DASCHLE, and Senator PELL, our former Foreign Relations Committee chairman. I believe that was the hope of the chairman of our committee, Senator HATFIELD. However, this has not proven to be possible and this amendment represents the best we can do at this time.

I urge adoption of the amendment.

Mr. HATFIELD. Mr. President, this amendment has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3547) was agreed to.

Mr. HATFIELD. I move to reconsider the vote, and I move to lay it on the table.

The motion to lay on the table was agreed to.

BONNEVILLE POWER ADMINISTRATION REFINANCING

Mr. HATFIELD. Mr. President, I would like to speak briefly on section 3303 of the bill we are now considering. Section 3303, on Bonneville Power Administration refinancing, is bipartisan legislation which would resolve permanently past interest rate subsidy criticisms regarding the Federal Columbia River Power System [FCRPS] investments in a manner that benefits Federal taxpayers while minimizing the impact of the Bonneville Power Administration's [Bonneville] power and transmission rates.

Section 3303 is substantially equivalent to legislation transmitted to the Congress by the administration on September 15, 1994. Senator MURRAY and I introduced the administration's proposal as S. 92 on January 4, 1995. The Senate Committee on Energy and Natural Resources reported S. 92 on July 11, 1995. This legislation has already passed the Senate and the House as part of H.R. 2491, the 7-Year Balanced Budget Reconciliation Act of 1995. The administration continues to support this legislation and I urge the Senate to adopt it again.

This legislation is important to my region of the country because it will enhance the long-term electric rate stability of the Bonneville Power Administration and thereby better position Bonneville to retain market share and thereby be better able to fund all of its responsibilities, including the fish and wildlife duties under the Northwest Power Act and the repayment obligations to the U.S. Treasury. In exchange for providing enhanced certainty to Bonneville in terms of its Treasury repayment responsibilities, the U.S. Treasury would realize additional returns from Bonneville ratepayers and the Federal budget deficit would be reduced by about $89 million over the current 7-year budget window. In short, section 3303 would provide long-term rate stability benefits for Northwest ratepayers and increased revenues for the U.S. Treasury. The Congress should again pass this legislation and forward it to the President for final enactment.

Mr. President, Bonneville is at a crossroads. As a power marketer of abundant inexpensive hydroelectric power from the Columbia River and other river systems in the Pacific Northwest, Bonneville was for many years unhampered by serious competitive pressure. Free for the most part from the constraints that normally attend close competition, Bonneville was able to use its economical resource mix to achieve revenues that enabled it to pursue the ambitious mandates of the Pacific Northwest Power Planning and Conservation Act of 1980, commonly referred to as the Northwest Power Act. Whatever their views of Bonneville's mandated programs, Bonneville's customers stayed because Bonneville was by a substantial margin the low-cost provider, with a reliable and stable bulk electric power system unequaled in the world. Indeed, low cost Federal hydroelectric power was the key assumption underpinning the Northwest Power Act.

That assumption must now yield to a new reality. The costs of Bonneville's required fish mitigation efforts under the Endangered Species Act and the Northwest Power Act, and Bonneville's resource acquisitions, primarily nuclear energy and electric power conservation, have driven Bonneville's price upward. At the same time, other factors have aligned to drive down the costs of alternative sources of electric power. New technology in the form of highly efficient combined cycle gas turbines, declining gas prices caused by open competition and the discovery and exploitation of huge gas deposits in Canada, and the presence of surplus gas generation in California have combined to lure long-term Bonneville customers away from Bonneville and Federal hydroelectric power.

First and foremost Bonneville is a business enterprise. It must meet the competition, and maintain a customer base sufficient to fund its statutory responsibilities and to protect the billions of dollars invested in the FCRPS by Federal taxpayers. To meet these responsibilities, Bonneville has cut and continues to cut costs dramatically through huge program deferrals, program elimination and staff reductions. These severe cuts are essential to maintain an adequately low product price. Nonetheless, the Congress has realized that these measures may not be enough. To maintain a long-term customer base, Bonneville must be rate stable, meaning it must be able to assure its customers that they are insulated from important risks of cost escalation.

For many years, several administrations have threatened to change fundamentally the terms upon which Bonneville satisfies its obligation to return the taxpayers' investment in the FCRPS. These proposals had varying facets but in general would have increased substantially the returns to the Treasury. The annual threats, elicited in Bonneville's customers a grave concern that steeply increased returns to the Treasury would ultimately be visited on them. Section 3303 will eliminate this risk. Yet at the same time it will exact from ratepayers a fair price for eliminating the uncertainty. Analogizing to a common transaction relating to mortgages or other financial contracts, the bill would have Bonneville and its ratepayers pay a charge to refinance the contract to obtain other favorable terms. At the same time, the bill acknowledges the new reality of the market-place and seeks to strengthen Bonneville so that it is positioned in the long-run to recoup the Federal investment in full.

The purpose of section 3303 is to assure power purchasers that Bonneville will not be forced to raise its wholesale electric rates to noncompetitive levels in order to satisfy possible future changes in law or practice relating to the requirements under which Bonneville presently repays the Federal capital investment funded by appropriations in the FCRPS. In exchange for providing enhanced certainty in the terms of Bonneville's repayment responsibilities, the U.S. Treasury would realize additional returns from Bonneville ratepayers because enactment of the bill would increase Bonneville's payments in respect of the affected investments by a net present value of $100 million.

Section 3303 would accomplish this by providing for reconstitution of the outstanding repayment obligations of Bonneville for the appropriated capital investments in the FCRPS. Section 3303 would reset Bonneville's repayment obligation on all outstanding appropriated Federal investments in the FCRPS, as of October 1, 1996. The interest rates to repay the FCRPS investments would thus increase from their relatively low imbedded levels, which average approximately 3.4 percent, to current Treasury interest rates. Treasury interest rates at the time of the resetting of the principal amount of the investments are expected to be substantially higher than the historically imbedded rates.

The total principal amount outstanding on the appropriated investment repayment responsibility, now approximately $6.7 billion, would be reset to equal the sum of the net present value of the payments Bonneville would be expected to make under current practice, plus an increment of $100 million. The present value would be determined using then current Treasury rates. The bill would lead Bonneville to recover for return to the Treasury an additional $100 million in net present value over that which would be returned under existing repayment conditions. This supplement to the present value of Bonneville's repayment obligation will cause a noticeable but tolerable increase in the costs to be recovered in Bonneville's rates. As I indicated previously, it would also result in favorable budget scoring effects.

Section 3303 would provide necessary certainty to Bonneville customers, by requiring that Bonneville offer certain contract terms in all future and existing contracts for the sale of electric power and the provision of transmission services. These contract terms would be intended to discourage a future Congress from amending law in a manner that would exact further returns with respect to an investment once the investment is repaid, or from taking returns on the investment in addition to the principal and interest provided under the section 3303.

Mr. President, in summary I emphasize that section 3303 is bipartisan legislation which passed the Congress in the 1995 reconciliation bill and continues to be supported by the administration. The proposal would satisfactorily resolve a longstanding disagreement in a manner that is fair and provides certainty to both Pacific Northwest electric ratepayers and Federal taxpayers.

Section 3303 would also enhance the long-term rate stability of the Bonneville Power Administration, better position Bonneville to retain market share, and thereby improve Bonneville's ability to fund all of its responsibilities, including the fish and wildlife duties and Treasury repayment. I urge the Senate to again pass this legislation.

Mr. President, I ask unanimous consent that the section-by-section analysis that has been prepared to accompany section 3303 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD; as follows:

SECTION 3303 BONNEVILLE POWER ADMINISTRATION SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally-owned transmission facilities. Among other obligations, BPA establishes rates to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed at the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. The purpose of Section 3303 is to resolve permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Section 3303 on the outstanding appropriated investments in the FCRPS. The interest rates applicable to the reset principal amounts are based on the U.S. Treasury's borrowing costs in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1996, coincident with the beginning of BPA's next rate period.

While Section 3303 increases BPA's repayment obligations, and consequently will increase the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since Section 3303 will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $89 million over the current budget window.

SUBSECTION (A) DEFINITIONS

This subsection contains definitions that apply to this Section 3303.

Paragraph (1) is self-explanatory.

Paragraph (2) clarifies the repayment obligations to be affected under Section 3303 by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services; and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

Paragraph (3) defines new capital investments as those capital investments that are placed in service after September 30, 1996.

Paragraph (4) defines those capital investments whose principal amounts are reset by Section 3303. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1996, provided that the related project, facility, or separable unit or feature was placed in service before October 1, 1996. Thus, the capital investments whose principal amounts are reset by Section 3303 do not include capital investments placed in service after September 30, 1996. The term "capital investments" is defined in subsection (a)(2).

Paragraph (5) defines "repayment date" as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

Paragraph (6) defines the term "Treasury rate." The term Treasury rate is used to establish both the discount rates for determining the present value of the old capital investments (subsection (b)(1)) and the interest rates that will apply to the new principal amounts of the old capital investments (subsection (c)). The term Treasury rate is also used under subsection (g) in determining the interest rates that apply to new capital investments, as that term is defined.

In the case of each old capital investment, Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment. Thus, the interest rates and discount rates for old capital investments reflect the Treasury yield curve proximate to October 1, 1996. Likewise, in the case of each new capital investment, the Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields during the month preceding the beginning of the fiscal year in which the related facilities are placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year in which the related facilities are placed in service and the repayment date for the new capital investment. Thus, the interest rates for new capital investments reflect the Treasury yield curve proximate to the beginning of the fiscal year in which the facilities the new capital investment concerns are placed in service.

The term Treasury rate is not to be confused with other interest rates that Section 3303 directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating interest during construction of new capital investments (subsection (f)) and the interest rates for determining the interest that would have been paid in the absence of Section 3303 on old capital investments that are placed in service after the date of enactment of Section 3303 but prior to October 1, 1996 (subsection (b)(3)(B)(ii)). These latter interest rates reflect rate methodologies very similar to those specified by the term Treasury rate, but apply to different features of Section 3303.

It is expected that the Secretary of the Treasury will use an interest rate formulation that the Secretary uses to determine rates for federal lending and borrowing programs generally.

SUBSECTION (b) NEW PRINCIPAL AMOUNTS

Subsection (b) establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the Administrator would have paid to the U.S. Treasury absent this Section 3303 and (b) adding to the principal of each investment a *pro rata* portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1996, the actual calculation of the reset principal will not occur until after October 1, 1996, because the discount rate will not be determined, and BPA's final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term "old capital investment," the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1997; for Federal irrigation investments required by law to be recovered by the Administrator from the sale of electric power, transmission or other services; or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

The discount rate used to determine the present value is the Treasury rate for the old capital investment and is identical to the interest rate that applies to the new principal amounts of the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1996) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes of making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1994, but before October 1, 1996, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1995. These ideas are captured in the definition of the term "old payment amounts."

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of Section 3303. (For old capital investments that are placed in service after September 30, 1994, the interest rates to be used in determining the old payment amounts will be a rate determined by the Secretary of the Treasury proximate to the beginning of the fiscal year in which the related project or facility, or the separable unit or feature of a project or facility, was placed in service. Subsection (b)(3)(B)(ii) provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of a given interest payment on a capital investment, the discount period for the payment is between October 1, 1996, and the date the interest payment would have been made.

The *pro rata* allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of Section 3303 to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Subsection (b)(2) provides that with the approval of the Secretary of the Treasury based solely on consistency with Section 3303, the Administrator shall determine the new principal amounts under subsection (b) and the assignment of interest rates to the new principal amounts under subsection (c). The Administrator will calculate the new principal amount of each old capital investment in accord with subsection (b) on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the Treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under subsection (b)(2)(B), the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury so that the Secretary can approve that the calculation of each new principal amount is consistent with this section and that the assignment of the interest rate to each new principal amount is consistent with subsection (c).

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data on the new principal amounts and the interest rates are provided by the Administrator. It is expected that the approval by the Secretary will not require substantial time.

SUBSECTION (C) INTEREST RATES FOR NEW PRINCIPAL AMOUNTS

Subsection (c) provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury under subsection (a)(6)(A). The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the repayment date for the investment.

SUBSECTION (d) REPAYMENT DATES

Subsection (d), in conjunction with the term "repayment date" as that term is defined in subsection (a)(5), provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date used in making the present value calculations in subsection (b). Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Subsection (d) confirms that the Administrator retains this obligation notwithstanding the enactment of Section 3303.

SUBSECTION (e) PREPAYMENT LIMITATIONS

Subsection (e) places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1996 through September 30, 2001, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

SUBSECTION (f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

Subsection (f) establishes in statute a key element of the repayment practices relating to new capital investments. Subsection (f) provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury taking into consideration the prevailing market yields on outstanding obligations of the United States with periods to maturity of approximately one year. These ideas are included in the definition of the term "one-year rate."

This method of calculating interest during construction equates to common construction financing practice. In this practice, construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, subsection (f) provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator's obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

SUBSECTION (g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS

Subsection (g) establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, subsection (g) provides that the interest rate assigned to capital investments made in a project, facility, or separable unit or feature of a project or facility, provided it is placed in service after September 30, 1996, is a rate that more accurately reflects the repayment period for the capital investment and interest rates at the time the related facility is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in subsection (a)(6)(B). Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

SUBSECTION (h) CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY

Subsection (h) provides that the Administrator shall continue to receive certain credits to annual cash transfers by the Administrator to the U.S. Treasury. The credits are related to annual payments by the Administrator under a settlement of certain claims against the United States by the Confederated Tribes of the Colville Reservation, which claims relate to the construction and operation of the Grand Coulee Dam. The credits, together, with a lump-sum payment by the United States to the Tribes, represent an equitable allocation of the costs of the settlement between BPA ratepayers and federal taxpayers.

The credits provided under this subsection (h) shall be applied against interest or other payments to be made by the Administrator to the U.S. Treasury. The payments to the U.S. Treasury available for crediting include, without limitation, interest and principal payments associated with capital investments as reset under this Section 3303, on bonds issued by BPA to the U.S. Treasury, and in connection with FCRPS investment that are placed in service after September 30, 1996.

Subsection (h) also provides that it will apply "notwithstanding any other law." This clause assures that subsection (h) amends section 6 of the Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act, P.L. 103-436 (the "Settlement Act"). Subsection (h) amends section 6 of the Settlement Act solely by reshaping over time the credits otherwise available to BPA under the Settlement Act.

BPA's obligation to make payments to the Tribes under the Settlement Agreement authorized in the Settlement Act would not in anyway change with the enactment of subsection (h). Likewise, BPA's payments to the Tribes under the Settlement Agreement authorized in the Settlement Act, would in no manner be conditioned on or subject to the availability or application of the credits.

The new schedule of credits provided in subsection (h) would also not affect the present value of the ratepayers' or taxpayers' respective shares of the costs of the Settlement Agreement. It does, however, enable the impacts of the refinancing on BPA's rates to be ameliorated in the near term.

SUBSECTION (i) CONTRACT PROVISIONS

Subsection (i) is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of subsection (i) requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other than the interest payments or principal repayments authorized by Section 3303. Paragraph (1) of subsection (i) also provides assurance to ratepayers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of subsection (i) limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of subsection (i) requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of subsection (i) also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to subsection (c) of Section 3303.

Paragraph (3) of subsection (i) is intended to assure BPA ratepayers that the contract provisions described in paragraphs (1) and (2) of subsection (i) are not indirectly circumvented by requiring BPA ratepayers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by subsection (i). Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is "not otherwise provided for." Paragraph 3 of subsection (i) of Section 3303 assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by subsection (i) of Section 3303, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of subsection (i) establishes that the contract protections required by subsection (i) of Section 3303 do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of subsection (i) makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other costs or allocate costs and benefits. This Section 3303, including the contract provisions under subsection (i), does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

SUBSECTION (j) SAVINGS PROVISIONS

Paragraph (1) of this section assures that the principal and interest payments by the Administrator as established in this Section 3303 shall be paid only from the Administrator's net proceeds.

Paragraph (2) confirms that the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period, except as limited by subsection (e) of Section 3303.

Mr. BOND. Mr. President, I would like to bring one item of concern to the attention of the chairman of the Appropriations Committee. Specifically, I am concerned about a provision contained in the House-passed version of this bill which would prohibit expenditure of any funds to expand our Embassy in Vietnam or open new facilities beyond those that were in place on July 11, 1995, unless the President makes a number of certifications relating to the efforts to account for soldiers missing in action from the Vietnam war.

Mr. President, this is an unnecessary provision which will do nothing to support our Government's active, successful, on-going efforts to resolve remaining MIA cases.

The Senate has not had the opportunity to speak on this particular provision. The Senate last fall did, however, consider a proposal to slow efforts to move forward on relations with Vietnam, and we rejected it by an overwhelming margin. That vote certainly indicates that the majority of the Senate supports moving forward in our relationship with Vietnam.

I urge the chairman to recognize that there is strong opposition to this provision in the Senate, and reject it in the House-Senate conference.

Mr. HATFIELD. Mr. President, I am aware of the concerns of the Senator from Missouri. I am further aware that those concerns are shared by a large number of our colleagues, and I will make an effort in conference to maintain the Senate position on this issue.

Mr. BOND. Mr. President, I thank the chairman and I assure him I will be a vocal supporter of that position in conference.

Mr. KERREY. Mr. President, I join the Senator from Missouri in expressing opposition to the provision contained in the House bill which will restrict our ability to move forward in Vietnam. I believe both the Senate and the President have clearly expressed their opposition to this provision in the past.

The inclusion of this provision in the fiscal year 1996 Commerce-State-Justice conference report was cited by the President as one of the reasons for his veto of that legislation. Furthermore the President has indicated that he intends to veto the Foreign Relations Authorization Act in part because of the inclusion of this provision that will limit his ability to further normalize relations with Vietnam. Specifically, he warns this provision "could threaten the progress that has been made on POW/MIA issues * * *"

I strongly opposed this restriction last fall, and I will oppose it just as strongly in this conference.

Mr. KERRY. Mr. President, I would like to address this issue as well. The Senate has voted more than once on the question of how best to promote the full accounting of Americans missing in action in Vietnam and on the issue of moving forward in our relations with Vietnam. In each case, this body has voted to take reciprocal steps toward Vietnam as a means of achieving both these objectives. The provision contained in the House bill, if included in the conference report, would be contrary to the Senate's clear record and for that reason it should be rejected by the conferees.

That is not the only reason it should be rejected, however. Working with Vietnam, we have established an unprecedented process for resolving outstanding POW/MIA cases. American and Vietnamese teams are working together to conduct field exercises and to pursue other leads. Even as we speak, a high-level Presidential delegation is in Hanoi consulting with Vietnamese government officials on the progress of this effort. The legislation contained in the House bill could jeopardize this ongoing work and set back the progress we are making.

I think we should recognize this provision for what it is—a thinly veiled attempt to undermine the administration's decision to normalize relations with Vietnam. The majority of Members in this body has indicated they support normalization. We should not allow the House to put us on record otherwise.

Mr. McCAIN. Mr. President, I am very pleased that the Committee has seen fit to strike the provision of the House-passed omnibus appropriations bill which restricts the United States diplomatic presence in Vietnam. I would like to join my colleagues in opposition to the House provision.

The committee first dealt with this issue in response to a House amendment to the CJS bill which passed without a recorded vote. That amendment, as my colleagues may remember, prohibited funds for expanding diplomatic relations with Vietnam. When the conference report was approved by the Senate on December 7, 1995, it allowed for funding, but conditioned funding on a Presidential certification involving missing servicemen.

The President listed the Vietnam provision as one of his reasons for vetoing the CFS bill. In his estimation, the restriction "unduly restricts his ability to pursue national interests in Vietnam." Nevertheless, the House has decided to revisit the issue. It has included language in its Omnibus appropriation bill virtually identical to the language which solicited to veto on CFS and just 2 days ago the threat of another on the State Department reorganization bill.

I couldn't agree with the President more in this regard. He has made a decision to normalize relations with Vietnam—a decision certainly consistent with this constitutional authority, and he should not be constrained in carrying it out. I commend the Senate committee for acting in a manner which will allow United States-Vietnam relations to move forward.

I am still hopeful that we can put this issue behind us. The Senate, after all, has demonstrated time and again its lack of support for any restrictions on our relations with Vietnam. It has done so once again by striking the House Vietnam language in the bill before us. I encourage the Senate conferees to honor the very clear sentiment of the Senate and to hold firm.

Mr. HATFIELD. Mr. President, I thank all senators for their comments. I look forward to working with my colleagues on the committee to try to resolve this issue in a way that meets their concerns.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I also ask unanimous consent to speak as if in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN ENERGY DEPARTMENT IN SEARCH OF AN ENERGY MISSION

Mr. GRAMS. Mr. President, a great many businesses, nonprofit organizations, and even Government agencies have created their own mission statements.

Far from simply being slogans, mission statements can serve as a guiding force, setting out specific goals, principles, and objectives.

When I was elected to the Senate, I drafted a mission statement for my office which outlines the priorities of the Minnesotans I was sent here to represent, and offers a yardstick we can use to measure how well we are meeting their needs.

It works—a mission statement brings the mission into focus.

But what happens when a massive Federal agency, entrusted with billions of taxpayer dollars, is forced to operate without a definable mission? How can it remain accountable to the taxpayers when its mission is constantly shifting and evolving?

Without a well-defined mission to contain it, a bureaucracy can grow in one of two ways. It can spread as quickly as fire on a lake of gasoline, rapidly consuming every inch of available space. Or it might expand slowly, like water dripping into a bucket, gradually growing in volume until it finally spills over its borders.

Either way, the results can be disastrous.

Metaphors aside, if you need a concrete example that illustrates the kind of bureaucracy I'm describing, you need look no further than the Department of Energy.

Mr. President, let me take you back to 1977. Jimmy Carter was President, and the Nation was still grappling with the energy crisis which had paralyzed it earlier in the decade. With the OPEC oil embargo and the gas lines it created still vivid memories, 1977 was the year in which Congress took what it thought was a preemptive strike against future energy emergencies by establishing a Cabinet-level Department of Energy.

When he submitted legislation to Congress proposing a national energy agency, President Carter said:

> Nowhere is the need for reorganization and consolidation greater than in energy policy. All but two of the Executive Branch's Cabinet departments now have some responsibilities for energy policy—but no agency, anywhere in the Federal Government, has the broad authority needed to deal with our energy problems in a comprehensive way.

At the same time, however, some were questioning the need for yet another layer of Federal bureaucracy. In May of that year, Nobel Prize-winning economist Milton Friedman likened a national energy agency to a Trojan horse. "[I]t enthrones a bureaucracy that would have a self-interest in expanding in size and power," he wrote, "and would have the means to do so—both directly, through exercising price control and other powers, and indirectly, through propagandizing the public and the Congress for still broader powers."

Fast forward to 1996. Decades of fiscal mismanagement in Washington have sapped America's Treasury and left a $5 trillion debt on the Nation's credit card.

Middle-class taxpayers have been called on repeatedly to bail out the Government through ever-higher taxes. Now they are frustrated, and they are demanding relief, and they are demanding that the Nation begin prioritizing its precious resources by balancing the Federal budget. In 1996, the Department of Energy is marking its nineteenth anniversary, but at an annual cost to the taxpayers of more than $15 billion, there is little to celebrate.

DOE has become a black hole for taxpayer dollars, a bureaucracy without equal, an energy agency without a clear or focused energy mission. Milton Friedman was right—the Trojan horse has arrived.

The question is, what went wrong? For one thing, the problems DOE was created to protect us against never materialized. Oil supplies eventually rose, while oil prices dropped. The need for a national energy agency became less apparent. Still, DOE has continued to grow, as bureaucrats seek to justify its existence by branching out into areas only marginally related to national energy policy. Our national energy agency has cost the taxpayers hundreds of billions of dollars in its ongoing quest for an energy mission.

The General Accounting Office published a troubling report last August entitled "Department of Energy: A Framework for Restructuring DOE and Its Missions," which noted that DOE has been in transition almost from the time of its creation. In discussing DOE's changing missions and priorities, the GAO reported:

> For its first 3 years, DOE's programs emphasized research and initiatives to cope with a global energy crisis that disrupted U.S. and world markets and economies. By the mid-1980's, accelerating nuclear weapons production and expanding space-based defense research dominated DOE's budget resources.
>
> Since the late 1980's, DOE's budget has reflected a growing emphasis on solving a half-century's environmental and safety problems caused by the nuclear weapons and research activities of DOE and its predecessors.

To appreciate how far DOE has strayed from its original energy mandate, one must first understand that 85 percent of its budget today is spent on activities that have no direct relation to energy resources.

Let me say that again. Eighty-five percent of the budget of DOE today is spent on activities that have no direct relationship to energy resources.

An examination of where those nonenergy dollars are being directed is perhaps the best way to illustrate the enormous gap between the stated missions of DOE, and the results those missions have generated.

The bulk of DOE's nonenergy funds goes toward the cleanup of radioactive waste from nuclear weapons facilities and for overseeing storage of the Nation's nuclear waste. Unfortunately, the waste problem—which wasn't one of DOE's missions in 1977 but has since become one of its primary responsibilities—has also become its primary failure.

There are 26 nuclear power plants nationwide, including the Prairie Island facility in my home State of Minnesota, which will run out of storage space for their spent nuclear fuel beginning as early as 1998. That's the very year in which DOE is required by law to start accepting nuclear waste at an interim storage facility. DOE has known about the 1998 deadline for 14 years, since passage of the Nuclear Waste Policy Act. The Senate Energy Committee this week reaffirmed its intention to hold DOE to its legal obligation. And yet years of backpedaling, false starts, and feet-dragging by DOE have thrown that deadline in doubt.

Despite repeated warnings from Congress that the deadline is fast approaching, no temporary site has been selected and a permanent storage facility is no more than a pipe dream at this point.

Those 26 nuclear plants are left with the distasteful choice of either building more temporary storage or closing down and depriving millions of electric customers of cost-effective fuel.

Electric utility customers are paying the price for DOE's delay. Through a surcharge on their monthly energy bills, they have already contributed $11 billion of their hard-earned dollars to a nuclear waste trust fund established to finance creation of a permanent storage facility. DOE has raided the trust fund of $5 billion, with little to show for it.

I would suggest, Mr. President, that the failure of DOE to move forward with this most basic mission—over 14 years, at a cost to the taxpayers of $11 billion—should itself raise serious questions about DOE's ability to carry out any of its missions.

DOE is also responsible for national energy research, which includes the development of alternative sources of energy such as solar, wind, synthetic fuels, and clean coal.

DOE research has cost the American taxpayers more than $70 billion since 1977, but we have little to show for this tremendous investment. That $70 billion has bought plenty of pork, but few meaningful scientific breakthroughs.

In testimony last year before the House Subcommittee on Energy and Water Development, Jerry Taylor of the Cato Institute said,

> Energy R&D spending has cost the American taxpayer plenty without any real reform. . . . Virtually all economists who have looked at those programs agree that Federal energy R&D investments have proven to be a spectacular failure.

Another of DOE's missions has been to promote energy conservation in the aftermath of the OPEC oil embargo.

But unlike the days of the oil crisis, when the Federal Government predicted that supplies of fossil fuels would be depleted by the year 2000, U.S. oil reserves are 50 percent higher today than they were in the early 1970's. Coal and natural gas reserves have increased substantially. Energy prices are actually lower.

For most Americans, the energy crunch is just a vague memory—keeping a multimillion-dollar agency around just in case, at a time when we face a $5 trillion public debt, is hardly prudent Government management.

And what of DOE's mission to ensure affordable power, and access to it by consumers? Unfortunately, DOE has been ineffective in carrying out both of those functions.

The Department's ultimate goal of guiding the Nation toward independence from foreign energy sources has obviously never been achieved. Let me explain why.

DOE itself projects that crude oil production in the United States—which is already in decline—will continue to drop over the next decade. By the year 2005, the United States will be 68 percent dependent on imported oil, and natural gas imports are expected to increase as well.

Mr. President, 68 percent of our energy needs will come from outside of the United States. Back during the oil embargo it was only about 33 percent. You can see what problems we ran into when there was a squeeze on the oil from abroad at that time. By the year 2005, more than double that, 68 percent, will come from outside our borders. We will become hostage to the world's energy. That is hardly energy independence. DOE has clearly strayed from its original missions.

At a time when Federal spending priorities are being re-examined, and agencies which are overgrown, obsolete, duplicative, or irrelevant—four counts on which DOE must plead guilty—are being dragged into the light, the Department of Energy demands scrutiny by Congress.

Mr. President, I believe there are three basic reasons DOE has been unable to achieve even its most basic missions:

First, DOE is too big. It takes 20,000 Federal bureaucrats to manage it and another 150,000 contract workers to carry out its far-reaching agenda.

Second, DOE is too expensive. It has an annual budget of $15.4 billion. Even in the absence of another energy crisis like that which led to its creation, DOE's budget has grown 235 percent since 1977.

And third, DOE has no real mission. By virtue of its massive size and annual cost, it has become inefficient and nearly impossible to manage. Due in part to its constant attempts at justifying its own existence, DOE has fallen victim to its own sprawling, tangled agenda.

DOE's long-documented management problems were highlighted in last summer's report by the GAO. As part of an ongoing management review of DOE, the GAO surveyed 37 experts on DOE, including former DOE Secretaries, President Carter, and representatives of the private, academic, and public sectors. GAO wanted to know whether DOE was meeting its mission goals, and whether those missions were still appropriate functions of the Federal Government in the post-cold war, budget-conscious 1990's.

Victor Rezendes of the GAO summed up their findings during a congressional hearing last year:

> DOE suffers from significant management problems, ranging from poor environmental management . . . to major internal inefficiencies. . . . Thus, this agency is ripe for change.

Although the GAO offered no recommendations as to DOE's future, not one of the experts surveyed thought that DOE should remain as it is today. And they raised many questions:

Why is the Nation's energy agency maintaining nuclear weapons stockpiles and managing the cleanup of weapons production facilities?

Why is the Nation's energy agency involved in nonenergy related research?

Why is DOE undertaking such activities as science education and industrial competitiveness?

As the GAO concluded in its report:

> It is not clear if the Department and its missions are still needed in their present form or could be implemented more effectively elsewhere in the public or private sectors.

Unlike the muddled missions offered up by the Department of Energy, the mission of my Senate office is concise and focused, and is precisely summed up in our mission statement. This is how it begins:

> As the Senator and staff of the State of Minnesota, we pledge to lead the fight to reaffirm Congress' oversight responsibilities. By doing so, we will evaluate programs to ensure the wisest use of taxpayer dollars and focus on future streamlining and downsizing of Federal Government.

Mr. President, that is the mission I was sent here to carry out by the taxpayers of Minnesota—taxpayers who are no longer willing to foot the bill for a bloated and cumbersome agency which is unable to meet its obligations and has outlived its usefulness.

The Department of Energy needs the immediate attention of Congress. It's time we put this Trojan horse out to pasture.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. KYL. Mr. President, I would like to speak for a moment about the bill which is before us, the omnibus appropriations bill, which started out $1.8 billion over the spending levels that we considered just a few months ago in the balanced budget we sent to the President on November 17 and which he vetoed on December 6.

The previous versions of the Commerce, State, Justice, VA-HUD, Labor-HHS, and Education bills, all of which are part of the omnibus appropriations bill that we are considering now, were all within the limits of the budget at that time needed to get into balance by the year 2002. In other words, all three of those appropriations bills satisfied our requirement to meet each year for the next 7 years the objective of those years, the goal which, at the end of 7 years, would have us achieve a balanced budget.

During the consideration of this omnibus appropriations bill, in addition to the $1.8 billion that had started out above that level, we have added $2.4 billion as part of an amendment that was primarily for the purpose of more educational spending. That was not paid for by legitimate offsets, in my view, but rather by one-time asset sales which were already included as offsets in our balanced budget passed on November 17. In other words, in effect, we are trying to count savings twice.

I am on the Energy and Natural Resources Committee. The provisions of the offset were all developed by our committee as a means of achieving some savings for the next fiscal year or the year after that, depending upon when they took effect. They were asset sales, some of which would not realize benefits until 2 years hence.

But three of those particular asset sales were used as the offsets for this $2.4 billion increase in expenditure. There are a couple things wrong with it.

First, we have already used that money to achieve our balanced budget. So, in effect, it is a double counting.

Second, it is a one-time sale of an asset that we will never have again to use. The sales are a good idea, by the way, but these are ongoing authorizations for activities, educational expenditures, that will occur each year. To pay for them the first year out of an asset sale and leave undecided how we are going to pay for them in the future, in particular when it is in the context of a plan to try to balance the budget over 7 years, is not fiscally responsible.

Ongoing expenses, expenses that we know will occur each year, should be paid for out of an ongoing revenue source that we identify can meet those expenses each of those years.

If you have a one-time expense, then it makes sense to pay for it with a one-time sale. So, using asset sales to finance these ongoing job training and education programs, I think, is not good fiscal policy.

So, on one hand, we do not have legitimate offsets. On the other hand, we are adding another $2.4 billion on top of the $1.8 billion. In addition to that, we are considering right now an amendment that would add another $400 million-plus for a variety of programs, including the so-called volunteer AmeriCorps project.

AmeriCorps is a program that the GAO says is costing the taxpayer $26,654 per volunteer. Let me repeat that, Mr. President. President Clinton has sold this program to the American people on the basis we should have more volunteers to do worthy projects in our society. I wholeheartedly agree with that. We have a lot of volunteers, from grade school kids, high school kids, to people working in the community, working for charities, working for governmental programs, all kinds of volunteer programs.

They do this free of charge. But it costs the U.S. taxpayer $26,654 per AmeriCorps volunteer, according to the General Accounting Office. We are going to be increasing that program by, I have forgotten the amount of money, but it is over $100 million. The total cost of the amendment that is before us currently is over $400 million. We have other pending amendments that would also increase the cost of the bill. In addition to that, in addition to all of these things, the bill includes another $4.8 billion in so-called contingency appropriations, which represents more spending on several of the administration's pet projects.

It is true that this additional spending is conditioned on the President and Congress reaching a broader budget agreement, but the fact of the matter is, such an agreement would not represent the tight, fiscally responsible budget requirements that we passed on November 17, but rather is beginning to rely, in my opinion, on the same kind of smoke and mirrors characterized by previous budget agreements.

How many times have we voted—either the House or the Senate—on agreements in the past that were going to result in a balanced budget? I can remember my colleagues, in 1990, coming to me in support of the Bush administration agreement that was reached at Andrews Air Force Base, saying, "You have to do this for President Bush." And I said, "I don't think this is going to result in a balanced budget. I don't like the tax-increase aspect of it." "Oh, yes, it guarantees we're going to have a balanced budget."

I remember the President's Chief of Staff and his budget officers all visiting with me about that subject—guaranteed to happen. Of course, it did not happen. It did not happen on any of the previous occasions, and it has not happened on the one subsequent occasion either.

The fact of the matter is, we get to a political point in these negotiations where we leave the fiscally responsible way of doing it, which is what we crafted and what we passed on November 17 and what the President vetoed on December 6. It becomes so hard to make that stick that we finally begin to compromise, and we reach an agreement which, in our heart of hearts, we realize will never really result in a balanced budget. It will make sense for a year or two, but it never gets us to the end. In 7 years who cares? That is somebody else's problem.

Under the Clinton proposal, which we are largely meeting here, if we spend this $4.8 billion-plus, the other billions, it adds up to almost $8 billion more. What we are getting is a commitment to make most of the discretionary savings in the last 2 years. And 95 percent of the discretionary savings in the President's proposal would have to be achieved in the last 2 years.

Mr. President, you and I both know that is an impossibility. We are having a hard enough time doing about one-tenth of it in the first year. That is about how much we would be trying to do here in the last years. It is not even one-seventh over 7 years. Even the Republican proposal puts more of it in the last 2 years than I think most of us would like.

The years 2001 and 2002, the sixth and seventh years, are after Bill Clinton will have left the Presidency, even if he is reelected to a second term. It is beyond the time when many of us would still be serving in the Congress. "A problem deferred is a problem solved" is the slogan of many. It is not the way to ensure a balanced budget.

Frankly, I am about to come to the conclusion that if we adopt this omnibus appropriations bill, we will be pretending to have achieved a balanced budget in 7 years. The President will pat himself on the back, we will pat ourselves on the back, and in 7 years we will look back on this and say, "Well, we didn't quite get it done then, did we?" It did not work out that way.

I am simply trying to make the point right now that is the way it will turn out. It may not be the popular thing to say, Mr. President, but I think that is the way it is going to turn out. So I am at this point not inclined to vote for this legislation.

The problem is that in making the compromise this first year, having the lack of courage to do what is right even in this first year, we will never have the courage to do what is right in those last couple of years when it will be much more difficult, the choices will be much harder to make, because there will be a lot more special interests who will be heard at that time or claim that they are being heard.

I believe this bill moves in the wrong direction. I think virtually all the amendments that added money move in the wrong direction. My own view is we should vote down these amendments that add more money to the program. The House of Representatives barely passed a bill which is much more narrow. In conference I do not think we can expect the House to accept any of the add-ons that we have done.

Yet, the President says he will veto a bill that does not include these add-ons or at least many of them. So it seems to me that we are still at the impasse that we were at shortly after Christmastime, Mr. President, and that is simply a philosophical difference between the President who wants to spend about $8 billion more than the Congress wants to spend.

We moved a long way in his direction during these budget negotiations. But I am not sure we can ever both satisfy him and also meet the requirement of a balanced budget. It may technically meet the balanced budget, but in reality, politically, we know we will never get there. I do not think that is being honest with the American people. So, as it stands right now, I am disinclined to vote for this appropriations package, especially if more of these amendments are adopted.

I guess my own prediction is that either we will have a responsible bill, which the President will inevitably veto, or further down the road we will not have a responsible bill in terms of achieving a balanced budget in the year 2002.

Mr. President, at this point, I ask unanimous consent to speak for no more than 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THREAT OF MISSILE ATTACK ON THE UNITED STATES AND OUR ALLIES

Mr. KYL. Mr. President, the second subject I address today deals with the subject of defense and specifically the threat of missile attack on the United States or our allies or our troops deployed abroad.

Today, the Washington Times carried a story reporting on testimony that was given yesterday to the House National Security Committee, the equivalent to the Senate Committee on Armed Services. Yesterday, the former CIA Director, James Woolsey, according to this story, told a House committee that the recent intelligence estimate on the missile threat to the United States was flawed and it should not be used as the basis for defense policy.

James Woolsey is an extraordinarily qualified source to speak to this. He served as the CIA Director for 2 years under President Clinton, and missile defense proliferation of weapons of mass destruction were one of his primary interests while serving in that capacity.

What Mr. Woolsey said, according to this news report, is that the conclusions of this recent National Intelligence Estimate, called the NIE, that says that no long-range missiles could threaten the 48 contiguous United States for at least 15 years, would be a faulty basis upon which to base U.S. policy. He urged that the United States set up a special team of outside experts to explore just how we should develop ballistic missiles and defenses to ballistic missiles in response to this threat.

He said—and I am quoting from the article:

> I would bet that we would be shocked at what they could show us about available capabilities in ballistic missiles.

He also is reported to have said that if the President extrapolated a general conclusion from the very limited threat assessment of the NIE, "I believe that this was a serious error."

That is precisely what happened. Based on this NIE, which a lot of experts have now said appear to have been politically driven—at least is not based upon the best intelligence data, or is skewed in its conclusion because of the assumptions behind it based on that document—the administration has drastically revised the spending priorities of the Congress and has said simply that it is not going to spend money that we have appropriated pursuant to a defense authorization to develop two antiballistic missile systems on the schedule that we dictated.

We are not talking here even about a national missile system to protect the continental United States, but rather the theater systems called THAAD and the so-called Navy Upper-Tier Program. In both cases, the administration, through Secretary Perry, has said they are going to delay that spending. I submit that is an unconstitutional action on the part of the administration when the Congress has specifically authorized and appropriated the money pursuant to a schedule which requires expenditures to meet certain goals at certain points in time.

The administration based that decision on faulty intelligence estimates. Why do we say faulty? Not only is CIA Director James Woolsey saying they are faulty, but previous administration spokesmen have disagreed with the assessment. You have to look at it carefully to see what they are saying. What the assessment may be saying is that no country is going to begin from scratch and totally indigenously develop an intercontinental ballistic missile system that could threaten the 48 contiguous States in less than 15 years. That may be true, but it is largely irrelevant because virtually no state today is attempting to indigenously develop a weapon.

They are not starting today. Iran, Iraq, North Korea, Syria, China, Russia, other countries in the world have used systems developed by others—except for the country of Russia—and have built on those systems by acquiring components from, I am sad to say, Western countries, including the United States. We know Saddam Hussein was within 18 months of having a nuclear weapon, or close, based on components he purchased from Germany, Italy, France, the United States, and others. He had the missiles which he had acquired from Russia, so-called Scuds. He had them modified to carry a payload, a longer range than the original Scud. That is how the countries do it.

So if you say no country is starting from scratch today, using a strictly indigenously developed program is going to have an intercontinental missile hit the 48 contiguous States may be right, but it is irrelevant. You should not change American defense policy based on that. The 48 contiguous States are not really the relevant factor. You have Alaska and Hawaii, both of which are going to be within range of missiles from North Korea in the relatively not-too-distant future.

How soon? Well, taking the testimony of Admiral Studeman, the Acting Director of the CIA in between Jim Woolsey and now John Deutch. Last April, he testified that his analysis indicated that the Taepo Dong I or Taepo Dong II—the missiles that North Korea is developing—were 3 to 5 years away, maybe less. John Deutch himself testified on August 11, 1994, that the Taepo Dong II may be able to strike U.S. military by the end of the decade. By U.S. territory, we mean including Hawaii or Alaska. We are talking now 4 years from now.

These statements, obviously, were based upon the U.S. intelligence community's 1995 missile threat assessment. I leave the point at this: Our intelligence community has said that these countries using components purchased elsewhere will have missiles that can reach U.S. territory, not necessarily the contiguous 48 States, in the not-too-distant future—3, 4, 5 years—meaning we have to get moving on a missile defense system.

None of the administration's actions will achieve that objective. That is why the Congress has said we should get moving with these programs. We focused on the theater threats initially because some of those theater threats could be deployed in such a way as to deal with the threats that are probably most timely, rather than the large intercontinental ballistic missile threat against the continental United States.

Navy upper-tier is a program which is deployed using existing missiles and existing radar on Navy Aegis cruisers by deploying the cruisers in the appropriate places in the Pacific, and in that vicinity of the world, we would be able to help defend against a North Korean missile threat, but not unless we get moving with the program as the Congress has directed. That is why the administration's holdup on that program, based upon a faulty intelligence estimate, is so dangerous, both to the United States, our people, our forces deployed abroad in places like South Korea and Japan, for example, and also to our allies who might want to depend on our help.

Mr. President, I ask unanimous consent an article from the Washington

Times dated March 15, 1996, be made a part of the RECORD at the conclusion of the remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KYL. Mr. President, I think the Congress must be much more assertive in making certain we have basic policy on correct intelligence estimates, that the country proceed with the development of an adequate ballistic missile defense program, and that the administration abide by the law passed by the Congress and signed into law by the President of the United States—that it cannot ignore the law.

Statements based on the U.S. intelligence community's 1995 missile threat assessment concluded:

First, the proliferation of ballistic missiles is significant and growing, both in terms of numbers of missiles and in terms of the technical capabilities of those missiles;

Second, the trends in missile proliferation is toward longer range and more sophisticated ballistic missiles;

Third, a determined country can acquire an ICBM in the future, and with little warning, by means other than indigenous development; and,

Fourth, the North Koreans may deploy an ICBM capable of reaching the continental United States within 5 years.

The new CIA letter was apparently based on the most recent national intelligence estimate [NIE] for 1996 which concludes that, while several countries continue to seek longer range missiles, the North Korean ICBM system is now reassessed as having a "very low" probability of being operational by the year 2000. In addition, the NIE assumes it is extremely unlikely any nation with ICBMs will be willing to sell them. Finally, the NIE states that U.S. warning capabilities are sufficient to provide notice many years in advance of indigenous development of ICBM's.

You might wonder, as I did, what exactly has changed since the 1995 assessment? What has changed is, not the facts, but the interpretation of the data. Either the intelligence community has adopted a new methodology to determine the extent of a threat, or outside—maybe even political—influences are at play. In either case, I intend to pursue this matter through the Senate Intelligence Committee.

To conclude my first point, I believe that its failure to support a viable, sustainable, and sensible ballistic missile defense program will be recorded as one of the major mistakes of the Clinton administration national security strategy. A second major error is the failure to maintain a strong, coherent, nonproliferation policy.

I conclude on one other item, Mr. President. Within the last 3 weeks, Majority Leader BOB DOLE and other Members of this body sent a letter to the President complaining about this very matter and indicating to him that if the administration did not proceed with the development of these two missile systems as directed by the Congress and as signed into law, that the Congress would have to take whatever means it could to ensure that the law be complied with.

There are now mechanisms for forcing compliance with that law under consideration by people in this body. I suspect that we will have to take those actions very soon if the administration does not change its position. I hope that people from the administration will consider this offer to try to cooperate so that we do not have to take action that they will find unpalatable.

I ask unanimous consent to have printed in the RECORD the letter to the Secretary of Defense from Majority Leader BOB DOLE and other Members of the Senate on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, March 5, 1996.

Hon. WILLIAM J. PERRY,
Secretary, Department of Defense, Washington, DC.

DEAR MR. SECRETARY: We are deeply troubled by your plans to disregard provisions of law related to ballistic missile defense contained in the Fiscal Year 1996 Department of Defense authorization bill. We find this course of action indefensible before the law and the American people.

On numerous occasions over the past year, members of the Republican majority have communicated their strong support for ballistic missile defense—most recently in letters sent to you on November 7, 1995 and December 22, 1995. In these letters, we emphasized our deep commitment to providing future funding for these programs identified in sections 216 and 234 of Public Law 104-106, the Fiscal Year 1996 defense authorization bill which the President signed into law on February 10, 1996. In particular, we called your attention to the Space and Missile Tracking System, the Theater High Altitude Area Defense (THAAD) program, and the Navy Upper Tier program. Therefore, we were dismayed by your February 16 press conference, in which you announced your intention to disregard key provisions of Public Law 104-106 by failing to provide funding sufficient to comply with this law.

With each passing day, new facts emerge which highlight the escalating proliferation threat. Your announcement of a decreased ballistic missile defense effort can only serve to strengthen the determination of nations with interests inimical to our own to continue to pursue these weapons of mass destruction and delivery systems which endanger American lives and interests. Conversely, eliminating our vulnerability in this area can only significantly reduce the incentive of rogue nations to pursue nuclear, chemical and biological weapons, as well as ballistic missile delivery systems.

The funding level you announced on the 16th of February is insufficient for the THAAD and Navy Upper Tier programs, respectively. We will authorize and appropriate funding in the Fiscal Year 1997 defense bills for these programs—which we believe complement, but cannot replace each other—at the levels necessary to achieve operational capability by the dates now specified in law. While we hope to accommodate as much of your FY '97 budget request as possible, please understand that we will not hesitate to alter the budget request as necessary to bring it into compliance with section 234 of Public Law 104-106.

Sincerely,

John Warner; Richard Shelby; Ted Stevens; Kay Bailey Hutchinson; Jesse Helms; Spencer Abraham; Conrad Burns; Rick Santorum; Bob Smith; Mike DeWine; Paul Coverdell; Connie Mack; Don Nickles.

Jon Kyl; Thad Cochran; Jim Inhofe; Larry E. Craig; Chuck Grassley; John McCain; Rod Grams; John Ashcroft; Mitch McConnell; Orrin Hatch; Al Simpson; Trent Lott.

EXHIBIT 1

[From the Washington Times, Mar. 15, 1996]

REPORT ON MISSILE THREAT TO U.S. TOO OPTIMISTIC, WOOLSEY CHARGES

(By Bill Gertz)

Former CIA Director R. James Woolsey told Congress yesterday that a recent intelligence estimate on the missile threat to the United States was flawed and should not be used as a basis for defense policies.

Appearing before the House National Security Committee, Mr. Woolsey challenged the conclusions of a recent national intelligence estimate (NIE) that said no long-range missiles will threaten the 48 contiguous United States for at least 15 years.

Limiting the estimate's focus on the missile threat to the 48 states "can lead to a badly distorted and minimized perception of very serious threats we face from ballistic missiles now and in the very near future—threats to our friends, our allies, our overseas bases and military forces—and some of the 50 states," he said.

Broad conclusions drawn by policy-makers from the estimate could be "quite wrong," he said, noting that North Korean intermediate-range missiles could threaten Alaska and Hawaii with "nuclear blackmail" in "well under 15 years."

To make policy judgments on missile defense needs from the limited analysis is "akin to saying that, because we believe that for the next number of years local criminals will not be able to blow up police headquarters in the District of Columbia, there is no serious threat to the safety and security of our police," Mr. Woolsey said.

The estimate, based on public testimony and statements about it, also is flawed because it underestimates the danger of long-range missiles or technology being acquired internationally by rogue states, or the possibility that friendly states with missiles could turn hostile, he said.

A CIA spokesman could not be reached for comment.

Mr. Woolsey called for setting up a special team of outside experts to explore how to develop ballistic missiles. "I would bet that we would be shocked at what they could show us about available capabilities in ballistic missiles," he said.

Rep. Floyd D. Spence, South Carolina Republican and committee chairman, said that to say the United States is secure from foreign missile threats over the next 15 years is "dangerously irresponsible" because of the global turmoil.

Mr. Spence has asked the General Accounting Office to investigate whether the 1995 NIE on the missile threat was "politicized" to fit Clinton administration opposition to missile defenses.

The first statements about the NIE were made public by Senate Democrats during debate on the fiscal 1996 defense authorization bill, which President Clinton vetoed in December because he opposed its provisions requiring deployment of a national missile defense.

Mr. Clinton said at the time of the veto that U.S. intelligence did not foresee a missile threat to the United States within the next decade.

Mr. Woolsey said that, if the president extrapolated a general conclusion from the very limited threat assessed by the NIE, "I believe that this was a serious error."

In separate testimony, Richard Perle, assistant defense secretary during the Reagan administration, criticized the Clinton administration's effort to expand the Anti-Ballistic Missile (ABM) Treaty to cover short-range anti-missile defenses.

"To diminish our capacity to deal with these threats in the mistaken belief that it is more important to preserve the ABM treaty unchanged is utter nonsense," Mr. Perle said. "Those who urge this course are hopelessly mired in the tar pits of the Cold War."

Mr. KYL. Mr. President, I have several unanimous consent requests on behalf of the majority leader. Mr. President, all of these requests have been cleared by the Democratic side.

MORNING BUSINESS

Mr. KYL. Mr. President, I ask unanimous consent there be a period for the transaction of morning business, with Senators permitted to speak up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 14, 1996, the Federal debt stood at $5,035,165,720,616.33.

On a per capita basis, every man, woman, and child in America owes $19,111.91 as his or her share of that debt.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 11:40 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

At 12:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROBERTS, Mr. EMERSON, Mr. GUNDERSON, Mr. EWING, Mr. BARRETT of Nebraska, Mr. ALLARD, Mr. BOEHNER, Mr. POMBO, Mr. DE LA GARZA, Mr. ROSE, Mr. STENHOLM, Mr. VOLKMER, Mr. JOHNSON of South Dakota, and Mr. CONDIT as the managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, insists upon its amendments, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. HYDE, Mr. MCCOLLUM, Mr. SCHIFF, Mr. BUYER, Mr. BARR of Georgia, Mr. CONYERS, Mr. SCHUMER, and Mr. BERMAN as the managers of the conference on the part of the House.

MEASURES REFERRED

The Committee on Energy and Natural Resources was discharged from further consideration of the following measure which was referred to the Committee on Environment and Public Works:

S. 1412. A bill to designate a portion of the Red River in Louisiana as the "J. Bennett Johnston Waterway," and for other purposes.

The Committee on Environment and Public Works was discharged from further consideration of the following measure which was referred to the Committee on the Judiciary:

H.R. 419. An act for the relief of Benchmark Rail Group, Inc.

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time by unanimous consent and placed on the calendar:

S. 1618. A bill to provide uniform standards for the award of punitive damages for volunteer services.

REPORT OF COMMITTEES

The following report of committee was submitted on March 14, 1996:

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 487: A bill to amend the Indian Gaming Regulatory Act, and for other purposes (Rept. No. 104–241).

The following report of committees were submitted on March 15, 1996:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1467. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes (Rept. No. 104–242).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1619. A bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mrs. BOXER):

S. 1620. A bill to amend the Water Resources Development Act of 1986 to provide for the construction, operation, and maintenance of dredged material disposal facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GREGG:

S. 1621. A bill to amend the Silvio O. Conte Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 1622. A bill to amend the independent counsel statute to permit appointees of an independent counsel to receive travel reimbursements for successive 6-month peroids after 1 year of service; to the Committee on the Judiciary.

By Mr. WARNER:

S. 1623. A bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1619. A bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes; to the Committee on the Judiciary.

THE MUSIC LICENSING REFORM ACT OF 1996

Mr. HATCH. Mr. President, today I am introducing the Music Licensing Reform Act of 1996: First, to clarify the "home-style" exemption provided by the Copyright Act for the public performance of nondramatic musical works; second, to regularize the commercial relations between the performing rights societies, which license such public performances, and their licensees, who are the proprietors of eating, drinking, and retail establishments, and third, to improve in general the oversight of the licensing practices of the two largest performing rights societies, the American Society of Composers, Authors, and Publishers [ASCAP] and Broadcast Music, Inc. [BMI].

Music licensing has been a matter of discussion for many years. There are strongly held views among all of those involved. I am committed to trying to resolve this matter, and this bill is a good-faith effort to do so. It is my hope that it can serve as a basis for further discussion.

Commercial establishments, such as restaurants, bars, and retail stores, make money off of the public performance of musical works, whether it be from live performances, from sound recordings, or from radio and television. Commercial establishments play music or turn on radio and TV in order to make the eating, drinking, or shopping experience more pleasant. The ubiquity of these kinds of entertainment itself proves that businesses believe that it increases patronage.

Recognizing that commercial establishments make money off of the creative output of songwriters, the Copyright Act of 1976 provided songwriters with the exclusive right of public performance, so that creators might share in the added value that their product creates. In doing so, the Copyright Act carries out the philosophy of the copyright clause of the Constitution, which sees economic reward as an important incentive to artistic creation.

Mr. President, the Constitution was right. In 1993, the core copyright industries contributed approximately $238.6 billion to the U.S. economy, or 3.74 percent of the total GDP. These same core copyright industries contribute more to the U.S. economy and employ more people than any single manufacturing sector, and the growth rate of these industries continues to outpace the growth of the economy as a whole by a 2-to-1 ratio.

With domestic sales topping $10 billion each year and annual foreign sales totaling over $12 billion, the music industry by itself accounts for a huge percentage of the American economy, and its popularity abroad provides a healthy component of the U.S. balance of trade. It is really not an exaggeration to say that American music dominates the globe. In fact, it is estimated that U.S. recorded music accounts for some 60 percent of the world market. Indeed, the United States is second to none in musical creativity. The prosperity of the music industry and the creative output of American composers and songwriters must be encouraged.

At the same time, Mr. President, the Copyright Act recognizes that obtaining and paying for a license to play music should not be overly burdensome. Some of the burden of obtaining such a license is lessened by the performing rights societies, such as ASCAP, BMI, and SESAC. It would be intolerable for a restaurant, bar or store to monitor all the music that it performs and then search out the individual songwriter, composer, or publisher who owns the copyright in the music. Instead, a proprietor can go to the performing rights societies and purchase a blanket license and not worry about what music it plays, since ASCAP, BMI, and SESAC account for virtually all of the music that is normally played in the United States.

EXEMPTION FOR SMALL COMMERCIAL ESTABLISHMENTS

The average cost to restaurants and retail establishments of a blanket license from ASCAP for all public performances, whether by radio and TV or live, is $575 per year. BMI charges on the average less than $300 per year for eating and drinking establishments for public performance by radio and TV, and its retail establishment license for these performances ranges from $60 to $480 per year. These are not large sums of money, but they still could be burdensome for some small commercial establishments. So the Copyright Act also provides for an exemption, freeing some proprietors from any obligation to compensate songwriters for the use of their music. This exemption is found in section 110(5) of the Copyright Act and it effectively applies to establishments that turn on radio and TV for their customers' enjoyment. It is known as the "homestyle" exemption, because it exempts "the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes." Congress felt—and rightly so—that small commercial establishments that turned on ordinary radio and TV sets would have a de minimis impact on the incentive to create that music licensing fees encourage.

Unfortunately, a certain ambiguity was introduced into the exemption by the language of the House and conference reports of the Copyright Act of 1976, and this ambiguity has been exacerbated by the courts. Although the language of 110(5) only mentions sophistication of equipment, the courts have also considered such factors as the size of the establishment, and ability to pay for a license.

Mr. President, the time has come to clarify the exemption regarding nondramatic musical works so that proprietors and performing rights societies can determine more precisely whether an establishment is exempt or not without having to engage in costly litigation.

My bill does this by exempting "small commercial establishment[s]." This change simply recognizes the existing state of the law. In effect, the courts have looked at a host of relevant factors in order to decide whether an establishment should have the benefit of the exemption. This new bill directs the Register of Copyrights to define "small commercial establishment" by regulation, and provides guidance by listing the factors that the courts have considered, as well as other factors that are relevant to the determination.

The register is not confined to these factors, however. In our rapidly changing technological environment, the expertise of the Copyright Office should not be hampered. The sound and video equipment that are common today may be obsolete in the not too distant future. The Copyright Office, unlike Congress, will be able to respond to these changes in the years ahead more quickly, with greater expertise, and with far less cost by engaging in other rulemaking proceedings. If Congress legislates specific equipment and area requirements, as some have suggested, it will have to revisit this issue time and time again.

Changing the language of 110(5) from "homestyle" equipment to the more general "small commercial establishment" may result in slightly expanding the exemption. The Copyright Office, therefore, must take care that it does not unduly upset the balance between the creative incentive on the one hand and concern for the burden on small businesses on the other.

Furthermore, the Copyright Office must bear in mind our international obligations, especially the Berne Convention. We cannot very well insist that our musical works be protected outside the United States if we cut too deeply into the protection that musical works enjoy within our borders.

Both the Register of Copyrights and the Commissioner of Patents and Trademarks have written to me that another bill dealing with the exemption, S. 1137, introduced by Senators THOMAS and BROWN, would violate the U.S. obligations under the Berne Convention. The bill that I am introducing today prevents this from happening by specifically prohibiting the Copyright Office from expanding the scope of the exemption beyond that permitted under the international treaty obligations of the United States.

COMMERCIAL RELATIONS BETWEEN PROPRIETORS AND PERFORMING RIGHTS SOCIETIES

Mr. President, this legislation addresses two areas of concern in the commercial relations between the proprietors of eating, drinking, and retail establishments who must acquire a license publicly to perform musical works and the performing rights societies who grant such licenses as agents for composers, songwriters, and publishers.

First, in response to complaints from proprietors that the performing rights societies do not readily disclose information about their licensing fees and in response to complaints from the performing rights societies that proprietors do not readily disclose factual information about their establishments that is essential in charging them the appropriate fee, this bill directs the Register of Copyrights to promulgate regulations to establish a code of conduct, applicable to both sides, to govern their licensing negotiations and practices.

The Copyright Office is in a much better position than Congress is to study the business practices that prevail in order to identify improvements that would make these practices fairer and more efficient. The Copyright Office is also in a better position to modify these regulations as times change.

Second, my legislation directs the Copyright Office to promulgate regulations to ensure that a performing rights society provides reasonable access to its repertoire of songs and other musical compositions. The principle behind this part of the bill is easy to understand: If a person is going to be asked to pay a performing rights society in order to perform a work publicly, the payor should be able easily to verify whether the work is included in the society's repertoire. A buyer, after all, doesn't want to pay for goods that the seller has no right to sell.

Complications arise, however, in determining what is reasonable access. Both ASCAP and BMI, for example, have already made their repertoires available on line. Is this sufficient to meet the needs of their licensees or is some more conventional means also called for? Since the copyright owners of musical compositions can cancel their agency contracts with the performing rights societies, how up-to-date must the repertoire be? What happens when a song has two authors, each of which is represented by a different society?

Finally, what information needs to be supplied? Since almost all licenses are blanket licenses, giving the licensee the right to play all music in a society's repertoire, how important is detailed information on individual compositions? (Indeed, most persons engaged in the business of publicly performing copyrighted music routinely buy blanket licenses from ASCAP, BMI, and SESAC, thereby assuring that virtually all copyrighted music is covered.) It would be unwise to burden the performing rights societies with expensive obligations to provide information that is really not necessary.

Clearly, Mr. President, this problem needs the investigative tools and fine-tuning that Congress is ill-equipped to provide. That is why the Register of Copyrights needs to examine the problem and provide clear and up-to-date regulations, after input from the relevant parties.

GENERAL OVERSIGHT OF THE LICENSING PRACTICES OF ASCAP AND BMI

As I have already pointed out, Mr. President, a blanket license purchased from ASCAP and BMI will give the licensee the right publicly to perform virtually all the most popular music in the United States. For proprietors of eating, drinking, and retail establishments who play radio and TV for their customers, this is the easiest and most cost-effective way to go. This logic also applies to radio and TV broadcasters, who publicly perform countless musical works during their program days.

There are, however, other businesses for whom the blanket license is not as attractive. Religious broadcasters, for example, may play music for a few, select programs, while the rest of their programming is devoted to talk. For these and other broadcasters similarly situated, a per program license seems more attractive.

Now, a per program license is available from ASCAP and BMI; in fact, the antitrust consent decree under which ASCAP and BMI operate requires that they offer a per program license. The religious broadcasters, however, are dissatisfied with the price of the license, which, in some instances, costs more than a blanket license. ASCAP argues, however, that the administrative costs of the per program license are higher because it has to monitor the broadcasters to make sure that its music is used only for licensed programs.

The religious broadcasters would have Congress determine a pricing formula for the per program license and put it in the Copyright Act, as currently provided in S. 1137. But arriving at a formula requires a study of the pricing mechanisms and an inquiry into all the factors that go into them. Again, this is something that Congress is ill-equipped to do. Moreover, it would simply spark demands by other music licensees to do the same for them.

Fortunately, a forum for dealing with this issue already exists in the Rate Court of the U.S. District Court for the Southern District of New York. The Rate Court was set up pursuant to an antitrust consent decree that both ASCAP and BMI are party to, stemming from law suits against these performing rights societies that were brought many years ago.

Indeed, the religious broadcasters are currently arguing the per program license pricing issue before the Rate Court in a suit brought against ASCAP. A decision is expected this year. A previous case involving ASCAP and the TV broadcasters over the same issue resulted in a decision favorable to the broadcasters. The religious broadcasters, therefore, have a reasonable expectation that their complaint will be decided in their favor and in the near future.

Mr. President, I question the wisdom of having Congress establish a pricing formula for per program licenses for radio broadcasters.

What Congress should be doing is looking at the overall structure and efficient functioning of the consent decree to make sure that it is working and that it is accessible to those, such as the religious broadcasters, who do not have the resources to engage in expensive, protracted litigation. This is precisely what the bill that I am introducing today proposes to do. It directs the Copyright Office to study the administration of the consent decree so that adjudication under the consent decree may be less time-consuming and more cost-effective, especially for parties with fewer resources. It may very well be, for example, that a system of local or regional arbitration may be more efficient and not too burdensome for the performing rights societies. The Judiciary Committee will consider very seriously the findings and recommendations of the Copyright Office.

Although I disagree with S. 1137, I want to thank my distinguished colleague from Colorado, Senator HANK BROWN, for his indefatigable attention to music licensing issues. Senator BROWN spent several hours trying to work out a compromise that would be acceptable to the proprietors and religious broadcasters on the one hand and to the performing rights societies and the hundreds of composers and songwriters that they represent on the other. I also want to thank my distinguished colleague from South Carolina, Senator STROM THURMOND, who brought the concerns of the religious broadcasters to my attention.

I urge them and all others interested in this issue to support the compromise legislation that I have introduced today, the Music Licensing Reform Act of 1996.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Music Licensing Reform Act of 1996".

SEC. 2. EXEMPTION OF COPYRIGHT INFRINGEMENT FOR PERFORMANCE OF NONDRAMATIC MUSICAL WORKS IN SMALL COMMERCIAL ESTABLISHMENTS.

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in the matter preceding paragraph (1) by inserting "(a)" before "Notwithstanding";

(2) by amending paragraph (5) to read as follows:

"(5)(A) communication of a transmission embodying a performance or display of a work (except a nondramatic musical work) by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

“(i) a direct charge is made to see or hear the transmission; or

“(ii) the transmission thus received is further transmitted to the public; or

“(B) communication of a transmission embodying a performance or display of a nondramatic musical work by the public reception of the transmission on the premises of a small commercial establishment, unless—

“(i) a direct charge is made to see or hear the transmission; or

“(ii) the transmission thus received is further transmitted to the public;”; and

(3) by adding at the end thereof the following new subsection:

“(b)(1) For purposes of subsection (a)(5)(B), the Register of Copyrights shall define the term ‘small commercial establishment’ by regulation, which shall include specific, verifiable criteria. Such criteria may relate to—

“(A) the area of the establishment, including whether the establishment is of sufficient size to justify, as a practical matter, a subscription to a commercial background music service;

“(B) the kind, number, and location of equipment used;

“(C) the gross revenue of the establishment;

“(D) the number of employees; and

“(E) other relevant factors.

“(2) The definition of small commercial establishment shall not result in an exemption to the right of public performance or to the right of public display the scope of which exceeds that permitted under the international treaty obligations of the United States.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 1 of title 17, United States Code, is amended—

(1) in section 111(a)(2) by striking out “section 110” and inserting in lieu thereof “section 110(a)”;

(2) in section 112(d) by striking out “section 110(8)” each place such term appears and inserting in each such place “section 110(a)(8)”; and

(3) in section 118(d)(3) by striking out “section 110” and inserting in lieu thereof “section 110(a)”.

SEC. 3. NEGOTIATIONS AND LICENSING BETWEEN PROPRIETORS AND PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—The provisions of title 17, United States Code, are amended by adding after chapter 11 the following new chapter:

“CHAPTER 12—NEGOTIATIONS AND LICENSING BETWEEN PROPRIETORS AND PERFORMING RIGHTS SOCIETIES

“Sec.
“1201. Definitions.
“1202. Code of conduct.
“1203. Access to repertoire.

“§ 1201. Definitions

“For purposes of this chapter, the term—

“(1) ‘performing rights society’ means an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.; and

“(2) ‘proprietor’—

“(A) means the owner of a retail establishment, restaurant, inn, bar, tavern, or any other similar place of business in which—

“(i) the public may assemble; and

“(ii) nondramatic musical works may be publicly performed; and

“(B) shall not include any owner or operator of—

“(i) a radio or television station licensed by the Federal Communications Commission;

“(ii) a cable system or satellite carrier;

“(iii) a cable or satellite carrier service or programmer;

“(iv) a commercial subscription music service; or

“(v) any other transmission service.

“§ 1202. Code of conduct

“(a) IN GENERAL.—The Register of Copyrights shall promulgate regulations to establish a code of conduct for the licensing negotiations and practices between a proprietor and a performing rights society. Such regulations shall include reasonable disclosure requirements for proprietors and performing rights societies and the content and form of licensing agreements.

“(b) GENERAL ENFORCEMENT.—(1) A proprietor or performing rights society may file a civil action in any United States district court of appropriate jurisdiction to enforce the code of conduct established under this section.

“(2) For purposes of an action filed under this subsection—

“(A) all parties shall be deemed to have exhausted all administrative remedies; and

“(B) the court shall conduct a trial de novo without an agency record.

“(c) ENFORCEMENT IN ACTIONS INVOLVING LICENSING AGREEMENTS.—(1) This subsection applies to any civil action filed under this section to enforce the code of conduct in which a proprietor and a performing rights society have a licensing agreement.

“(2) If a proprietor violates a provision of the code of conduct, the court shall assess a civil fine against the proprietor, payable to the performing rights society, equal to the cost of the applicable annual license fee.

“(3) If a performing rights society violates a provision of the code of conduct, the court shall order the society to grant a license to the proprietor for the nondramatic public performance of musical works in the repertoire of the society at no fee for a period of 1 year beginning on the date on which judgment is entered.

“§ 1203. Access to repertoire

“(a) IN GENERAL.—(1) The Register of Copyrights shall promulgate regulations to ensure that a performing rights society shall provide reasonable access to its repertoire so that a person engaged in the public performance of a nondramatic musical work may determine with reasonable certainty whether the public performance of a particular work may be licensed by a particular licensor.

“(2) Reasonable access to repertoire under this section shall not include access to works rarely publicly performed.

“(b) ENFORCEMENT.—(1) A proprietor or performing rights society may file a civil action in any United States district court of appropriate jurisdiction to enforce the regulations promulgated under this section.

“(2) For purposes of an action filed under this section—

“(A) all parties shall be deemed to have exhausted all administrative remedies; and

“(B) the court shall conduct a trial de novo without an agency record.

“(c) RESTRICTIONS ON PERFORMING RIGHTS SOCIETY NOT IN COMPLIANCE WITH REGULATIONS.—(1) A performing rights society may not—

“(A) file, be a party, or pay the costs of any party in any civil action alleging the infringement of the copyright in a work described under paragraph (2); or

“(B) charge a fee under any per programming period license for a work described under paragraph (2).

“(2) A work referred to under paragraph (1) is any work in such performing rights society's repertoire that is not identified and documented as required by the regulations promulgated under this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 11 the following:

“12. Negotiations and licensing between proprietors and performing rights societies .... 1201”.

SEC. 4. REPORT ON CONSENT DECREE.

(a) IN GENERAL.—No later than 1 year after the date of the enactment of this Act, the Register of Copyrights shall submit a report to the Senate Committee on the Judiciary and the House of Representatives Committee on the Judiciary on the administration by the United States District Court for the Southern District of New York of the consent decree of March 14, 1950, in *United States* v. *American Society of Composers, Authors, and Publishers*, 1950 Trade Cas. ¶62,595 (S.D.N.Y. 1950) and the consent decree of December 29, 1966, in *United States* v. *Broadcast Music, Inc.*, 1966 Trade Cas. ¶71,941 (S.D.N.Y. 1966).

(b) CONTENTS.—The report under this section shall include—

(1) any recommendation for improvements so that adjudication under the consent decree may be less time-consuming and more cost-effective, especially for parties with fewer resources; and

(2) a determination whether a system of local or regional arbitration should be implemented.

SEC. 5. STATE COPYRIGHT LICENSING LAWS PREEMPTED.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

“(g)(1) Any law, statute, or regulation of any State or local government which requires a performing rights society to license copyrighted musical compositions to a proprietor in a particular manner not required by this title, or to conduct such society's business in any manner not applicable to all businesses as a general manner, shall be deemed to be preempted by subsection (a) and of no force or effect.

“(2) For purposes of this subsection, the terms ‘proprietor’ and ‘performing rights society’ have the same meanings as such terms are defined under section 1201.”.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to relieve any performing rights society of any obligation under any consent decree or other court order governing the operation of such society, as such decree or order—

(1) is in effect on the date of the enactment of this Act;

(2) may be amended after such date; or

(3) may be issued or agreed to after such date.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 90 days after the date of the enactment of this Act.

By Mr. LAUTENBERG (for himself and Mrs. BOXER):

S. 1620. A bill to amend the Water Resources Development Act of 1986 to provide for the construction, operation, and maintenance of dredged material disposal facilities, and for other purposes; to the Committee on Environment and Public Works.

THE ENVIRONMENTAL DREDGE DISPOSAL ACT OF 1996

Mr. LAUTENBERG. Mr. President, today I am joined by Senator BOXER in introducing the Environmental Dredge Disposal Act of 1996, a bill to establish a fair cost-sharing formula for the disposal of dredged material.

Mr. President, under existing law, the Federal Government helps assume the cost of the disposal or dumping at sea of dredged material associated with operation and maintenance of Federal channels. However, the Federal Government does not provide similar assistance for other methods of disposal, even when these other methods are more beneficial for the environment. This inconsistency makes no sense, and threatens the economic viability of large and small ports throughout the country.

My bill proposes to eliminate this inconsistency, and would ensure that the Federal cost-sharing formula related to disposal of dredged material applies regardless of where the dredged material is disposed. More technically, the bill amends the Water Resources Development Act of 1986 to make upland, aquatic, and confined aquatic dredged material disposal facilities associated with the construction, operation, and maintenance of a Federal navigation project for a harbor or inland harbor a general navigation feature of a project for the purpose of cost sharing. The bill includes safeguards to ensure that no single port receives a competitive advantage as a result of this bill.

Mr. President, in 1824, Congress assigned responsibility for improving navigation in the still-young Nation's waterways to the Federal Government. Federal maintenance of a channel system has always been important for interstate and foreign commerce, and for national security. That remains true today. Approximately 95 percent of the Nation's import-export cargo travels on ships through American ports.

Mr. President, dredging the channels of our Nation's ports, particularly the major load centers, or hubs, is not a discretionary item. It is essential. Similarly, it is essential that dredged materials be disposed of.

Unfortunately, many ports are experiencing serious problems with respect to disposal. These problems have plagued Federal channels and Federal facilities, such as military marine terminals, as well as local and private terminals. Ports that face immediate and near-term disposal problems include Boston, New Jersey-New York, Baltimore, Houston, and Oakland. Many more ports will face disposal problems in the next century.

Some ports, including New York Harbor, lack adequate disposal facilities, which has created great difficulty in obtaining Corps of Engineers and State dredging permits. The disposal capacity of many other ports is nearly full. This problem is likely to affect many more ports in the years ahead.

For many ports with inadequate disposal facilities, disposing dredged materials in the ocean is not a viable option, because of sediments that do not meet ocean disposal standards. Other methods of disposal will have to be pursued. Yet the costs associated with these alternatives often are high. Given the national interests at stake, the Federal Government needs to share in the costs of all viable alternatives.

Unfortunately, current law prevents such cost sharing in the case of facilities located on land. There is no real justification for this limitation. And without some modification of this law, many ports may well face a serious disposal crisis in the near future.

Mr. President, let me take a moment to comment on the environmental implications of this matter. Many ports are located in estuaries and coastal areas that represent significant natural resources. I recognize that some might believe that the protection and enhancement of those resources is inconsistent with the operation of a busy port. However, that is not true. In the New York metropolitan region and the bay area of northern California, for example, both ports and natural resources coexist, and provide important economic benefits. In my view, Federal policy should seek to promote both port commerce and environmental resources. This bill would help, by making possible the construction of confined disposal facilities that would support development in an environmentally constructive manner.

Mr. President, if commerce is to progress in this Nation, if import-export trade is to increase, if our Nation is to benefit from international trade agreements, our infrastructure must be prepared to make the transportation of goods efficient and cost effective. As Transportation Secretary Federico Peña has acknowledged, the port dredging problem is a national transportation problem. Secretary Peña organized the Interagency Working Group on the Dredging Process to determine how to improve Federal performance in several areas, including interagency coordination, the regulatory process, and disposal issues. The final report to the Secretary said:

> Over the past two decades, a number of factors have complicated the development, operation and maintenance of the nation's harbors, particularly in the area of dredged material management. These factors include increases in the demands of commerce, rapid evolution of shipping practices. . . . Increasing environmental awareness and mounting environmental problems affecting coastal areas and ocean waters, heavy population shifts to coastal areas and a general increase in non-Federal responsibilities in the development and management of navigation projects. As a result, dredged material management has often become a contentious problem at all stages of harbor development and operation. . . . Left unattended, these problems could cause a crisis.

The report specifically discussed the problem of an inconsistent dredged material management policy, which would be addressed by this legislation.

I would note, Mr. President, that this legislation is supported by the American Association of Port Authorities, which represents more than 85 ports in 30 States.

Mr. President, I look forward to working with my colleagues and the corps to move this legislation forward.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD along with a letter signed by a number of organizations to Chairmen CHAFEE and SHUSTER expressing their support for equitable Federal cost sharing in the disposal of dredged material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Dredge Disposal Act of 1996".

SEC. 2. DREDGED MATERIAL DISPOSAL FACILITIES.

Section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211) is amended by adding at the end the following:

"(f) DREDGED MATERIAL DISPOSAL FACILITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this subsection, the provision of upland, aquatic, and confined aquatic dredged material disposal facilities associated with the construction, operation, and maintenance of all Federal navigation projects for harbors and inland harbors (including diking and applying dredged material to beneficial use and other improvements necessary for the proper disposal of dredged material) shall be considered to be a general navigation feature of a project for the purpose of cost sharing under this section.

"(2) LIMITATIONS ON FEDERAL SHARE OF PROJECT COSTS.—

"(A) FUNDS NOT REQUIRED FOR OPERATION AND MAINTENANCE.—No funds comprising the Federal share of the costs associated with the construction of a dredged material disposal facility for the operation and maintenance of a Federal navigation project for a harbor or inland harbor in accordance with paragraph (1) that are eligible to be paid with sums appropriated out of the Harbor Maintenance Trust Fund under paragraph (3) shall be expended for construction until the Secretary, in the Secretary's discretion, determines that the funds are not required to cover eligible operation and maintenance costs assigned to commercial navigation.

"(B) MAXIMUM FEDERAL SHARE FOR OPERATION AND MAINTENANCE.—The Federal share of the costs of activities described in paragraph (3) for a project shall not exceed $25,000,000 for any fiscal year.

"(3) OPERATION AND MAINTENANCE COSTS.—For the purposes of section 210, eligible operation and maintenance costs shall include (in addition to eligible operation and maintenance costs assigned to commercial navigation)—

"(A) the Federal share of the costs of constructing dredged material disposal facilities associated with the operation and maintenance of all Federal navigation projects for harbors and inland harbors;

"(B) the costs of operating and maintaining dredged material disposal facilities associated with the construction, operation, and maintenance of all Federal navigation projects for harbors and inland harbors;

"(C) the Federal share of the costs of environmental dredging and disposal facilities for contaminated sediments that are in, or that affect the maintenance of, Federal navigation channels and the mitigation of environmental impacts resulting from Federal dredging activities; and

"(D) the Federal share of the costs of dredging, management, and disposal of inplace contaminated sediments and other environmental remediation in critical port and harbor areas to facilitate maritime commerce and navigation.

"(4) PREFERENCE.—In undertaking activities described in paragraph (3)(D), the Secretary shall give preference to port areas with respect to which, and in accordance with the extent that, annual payments of harbor maintenance fees exceed Federal expenditures for projects in the port area that are eligible for reimbursement out of the Harbor Maintenance Trust Fund.

"(5) APPLICABILITY.—This subsection applies to the provision of a dredged material disposal facility with respect to which, and to the extent that—

"(A) a contract for construction (or for construction of a usable portion of such a facility); or

"(B) a contract for construction of an associated navigation project (or usable portion of such a project);

has not been awarded on or before the date of enactment of this subsection.

"(6) AMENDMENT OF EXISTING AGREEMENTS.—

"(A) IN GENERAL.—Unless otherwise requested by the non-Federal interest within 30 days after the date of enactment of this subsection, each cooperative agreement entered into between the Secretary and a non-Federal interest under this section shall be amended, effective as of the date of enactment of this subsection, to conform to this subsection, including provisions relating to the Federal share of project costs for dredged material disposal facilities.

"(B) APPLICATION OF AMENDMENT.—An amendment to a cooperative agreement required by subparagraph (A) shall be applied prospectively.

"(7) EFFECT ON NON-FEDERAL COSTS OF OTHER DREDGED MATERIAL DISPOSAL FACILITIES.—Nothing in this subsection shall increase, or result in the increase of, the non-Federal share of the costs of any dredged material disposal facility required by the authorization for a project.".

FEBRUARY 26, 1996.

Re action on a water resources development act.

Hon. JOHN CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

Hon. BUD SHUSTER,
Chairman, House Transportation and Infrastructure Committee, Rayburn House Office Building, Washington, DC.

DEAR GENTLEMEN: Our nation's deep-draft commercial navigation system is essential to U.S. trade, economic development and national security objectives. It is critical that Congress enact a Water Resources Development Act (WRDA) in 1996 to ensure the continued capital investment in our ports and waterways which is essential to the safe and efficient movement of cargo in international and domestic trade.

Over 95% of U.S. international trade moves through U.S. ports, and trade volumes are expected to triple by the year 2010. Shippers increasingly rely on larger vessels and just in time delivery of goods while, at the same time, there is public concern for the safe transit of these vessels. U.S. navigation channels must be improved and maintained to meet these demands.

More than 90 percent of our ports require regular maintenance dredging. These ports are diverse—they include our largest container ports, as well as other ports that principally handle such products as petroleum, steel, automobiles and fruit. Because many U.S. export commodities—grain, coal, and forest products, to name a few—face tough competition around the world, even marginal transportation cost increases affect their marketability and consequently, the nation's balance of trade. It is clear that dredging, whether to maintain existing depths or to deepen channels to meet the demand of the next generation of ocean carriers, is as essential to our nation's commerce as maintaining and improving our highways and railroads.

However, for the first time since the passage of the Water Resources Development Act of 1986, Congress failed to enact a biennial water resource bill in 1994, and did not live up to its commitment to the federal/port partnership. If a navigation project is economically justified and supported financially by the local project sponsor throughout the arduous planning process, the sponsor must be able to rely on dependable water resource authorization legislation and annual appropriations levels.

In addition to project authorization, one important provision that should be included in any WRDA bill would clarify that the cost of dredged material disposal facilities should be cost-shared at the same rate as other navigation project elements. The Senate Environment and Public Works Committee has already approved a WRDA bill, S. 640. The Committee Report on S. 640 noted that: "With respect to the construction of dredged material disposal facilities, it is apparent that cost-sharing inconsistencies do exist. Federal and non-Federal cost-sharing responsibilities for dredged material disposal vary from project to project, region to region, and port to port depending on when the project was authorized. In addition, current cost-sharing policies favor open water disposal * * * [T]he Committee urges the Administration to report possible solutions to the Congress for consideration."

The Report of the Federal Interagency Working Group on the Dredging Process also recommended this clarification of federal cost sharing for disposal in order to level the playing field in selection of disposal alternatives and to facilitate the implementation of important navigation projects and appropriate disposal options. As the federal government mandates more restrictive environmental regulation of dredged material disposal, it is appropriate that the federal government, where it does not do so already, share the costs to assure compliance with those environmental mandates and to provide for sufficient and safe disposal capacity.

The undersigned organizations urge you to make water infrastructure a top priority for your Committees this year. Congress must enact a Water Resources Development Act in 1996 and continue the vital investment in our national water resources and navigation infrastructure. Thank you.

Sincerely,

American Association of Port Authorities, American Institute of Merchant Shipping, American Maritime Congress, American Petroleum Institute, American Pilots Association, American President Lines, Inc., American Waterways Operators, Inc., Bay Area Planning Coalition, Crowley Maritime Corp., Dredging Contractors of America, Intermodal Conference of the American Trucking Associations, International Longshoremen's Association, International Longshoremen's and Warehousemen's Union, International Council of Cruise Lines, Lake Carriers Association, Maersk Line, Inc., Maritime Institute for Research and Industrial Development, Matson Navigation Company, Inc., National Association of Waterfront Employers, National Waterways Conference, Pacific Northwest Waterways Association, Propeller Club of the United States, Sea-Land Service, Inc., Transportation Institute.

Mrs. BOXER. Today I am joining with Senator FRANK R. LAUTENBERG in introducing legislation that will not only bring balance in the economic burden sharing between our Nation's ports and the Federal Government but also will provide real improvements to our marine environments. Or, as one local editorial headline called it: "Turning mush to marsh."

I am talking about providing real economic incentives to make upland disposal of dredged material feasible for our ports. In many cases, this disposal can be used to restore wetlands, particularly for the San Francisco Bay Delta system.

The San Francisco Bay-Delta Estuary is the largest and most significant estuary along the entire west coast of the Americas. Estuaries are one of the most productive types of ecosystems in the world. At the same time, they are one of the most degraded by human activities. Habitat losses, huge fresh water diversions, and pollution—more than 60 percent of the entire runoff from the entire State of California drains into the estuary—have significantly altered the ecosystem. Bay filling has vastly depleted this habitat resource.

The bay area is also the center of a $5.4 billion-a-year economic engine providing 100,000 jobs relating to its role as a center of international maritime commerce.

Concern over environmental degradation resulted in "mudlock" between our ports and the environmental community. Sensing the need to establish rational, affordable, and environmentally responsible dredging policies, in 1990 the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the San Francisco Bay Regional Water Quality Control Board, the Bay Conservation and Development

Commission joined with navigation and fishing interests, the environmental community, and the public at-large to establish a comprehensive long-term management strategy for bay area dredged material.

One of their successes was the establishment of the Sonoma baylands demonstration project, a congressional authorized dredged disposal site cost-shared between the Federal Government and local agencies. This former tidal wetlands was drained for agricultural use during the last century. The 325-acre site has helped restore needed wetlands in the region and reverse their decline. In addition, it provides habitat for two endangered species—the California clapper rail and the salt marsh harvest mouse.

But that was a one-time congressional demonstration project. We need to correct the underlying law that leaves local agencies with the full cost burden of establishing an upland site for disposal of dredge spoil.

Every year an average of 6 million cubic yards of sediments must be dredged from shipping channels and related navigation facilities throughout the bay area, which is the home of the ports of Oakland, Richmond, San Francisco, and Redwood City. The San Francisco Bay Conservation and Development Commission has concluded that in-bay disposal sites cannot accommodate future dredging and disposal needs.

The bay area's maritime industry is expected to need to dispose of about 300 million cubic yards of sediment over the next 50 years. Due to the growth of Pacific rim countries, export cargo moving through the west coast ports has doubled in the last 2 years. The entire maintenance dredging and channel deepening program provides the critical link for Pacific rim and world trade which contributes directly to our regional, State, and national economies.

In 1994, the Federal Government permitted an ocean disposal site nearly 60 miles off shore and included costly ocean floor monitoring procedures. Annual disposal capacity is limited at this site. Even if seemingly a viable option, in some instances weather and wave conditions impede access of the barges to this offshore site and increases the cost. Dredge material, some of which could be used to restore wetlands, is lost.

The creation of vital wetlands through the beneficial use of dredged material has proven to be highly popular in California.

Several bay area sites, both publicly and privately owned, studied in the course of the long term management strategy show clear development potential for both beneficial use and confined disposal. However, the process by which the Federal Government and local agencies share the costs and other responsibilities of dredging and disposal projects creates many barriers to completion, because it does not reflect real environmental and economic realities.

The Federal Government does not participate at all in upland disposal, while ocean disposal is cost shared by the Federal and State or local agencies. This inconsistency is prejudicial to those ports which have run out of aquatic disposal options and are forced to use upland disposal without any Federal financial assistance.

The availability of dredged disposal capacity is a growing concern in many areas of the country. We need consistent Federal-local sponsor cost sharing across all dredged material disposal methods. Uplands disposal that promotes environmental restoration should be given priority consideration.

That is why this bill is important. It would make the provision of upland, aquatic and confined aquatic, dredge material disposal facilities associated with the construction, operation, and maintenance of Federal navigation projects as a general navigation feature for the purpose of cost sharing.

A consistent Federal policy that provides for cost-sharing upland disposal facilities is a "win-win" for the environment and the economy of California. I urge my colleagues to support this legislation and demonstrate that we can save the environment and boost our local, regional, and national economies at the same time.

By Mr. HATCH:

S. 1622. A bill to amend the independent counsel statute to permit appointees of an independent counsel to receive travel reimbursements for successive 6-month periods after 1 year of service; to the Committee on the Judiciary.

AMENDMENTS TO THE INDEPENDENT COUNSEL REAUTHORIZATION ACT

Mr. HATCH. Mr. President, I rise to introduce an amendment to the Independent Counsel Reauthorization Act of 1994. My legislation would provide travel expense reimbursements to appointees of the Office of Independent Counsel for successive 6-month periods after 1 year of service.

This legislation is necessary because the Independent Counsel Reauthorization Act precludes attorneys and other staff fired by an independent counsel from receiving reimbursements for travel expenses they incur after they have worked for an independent counsel investigation for 18 months. Currently, the act authorizes only one 6-month extension for travel reimbursement purposes after 1 year of service.

As a result, employees of the Independent Counsel may be forced to resign as they approach their 18-month anniversaries in order to avoid incurring the additional expense of living away from home for an extended period of time. These employees must then be replaced with new personnel having less knowledge and experience, thereby causing harm and delay to the Independent Counsel's investigation.

The reimbursement limitation will begin to have full effect in the next 2 months, which is a critical time for the Independent Counsel's investigation. As the decision of the eighth circuit on March 15, 1996, reinstating the indictments against Gov. Jim Guy Tucker makes clear, the Independent Counsel's work has been effective in bringing to light public corruption at the highest levels. The trial of United States versus McDougal started on March 4, 1996. Seven employees, including four attorneys, will have reached their 18-month anniversaries by the end of the trial.

Mr. President, Congress included the 18 month limitation to control spending and fiscal irresponsibility. But we did not anticipate an investigation such as this one, in which many individuals have been temporarily relocated to a remote office. The Independent Counsel's ability to complete the investigation in a timely manner may be seriously hindered, and costs may actually increase, if we do not pass this legislation.

My legislation will remedy this problem by permitting Independent Counsel employees to receive travel reimbursements for successive 6-month periods after their first year of service, provided that such payment is certified at the beginning of each 6-month period as being in the public interest to carry out the purposes of the 1994 act. While some of us may have reservations about the constitutionality of an Independent Counsel or the current matters being investigated, we should all agree that if we are going to have an Independent Counsel, it must be given the necessary resources to do a thorough, complete job.

By Mr. WARNER:

S. 1623. A bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

THE TRAVEL AND TOURISM PROMOTION ACT OF 1996

• Mr. WARNER. Mr. President, many of us do not focus on the impact that the travel and tourism industry has on our economy. Tourism means jobs in all of our States and tax revenue for our Federal, State, and local treasuries.

Whether it be our hotels, airlines, restaurants, campgrounds, amusement parks, or historically significant sights, tourism works for America.

The U.S. travel and tourism industry is the second leading provider of jobs in this Nation and the third largest retail industry giving the United States a $21.6 billion trade surplus.

Just last year, visitors from abroad brought approximately $80 billion to our economy which is one-fifth of the total $400 billion provided to the economy by the travel and tourism industry. It should be an economic powerhouse.

However, our lead is slipping. For the past several years the U.S. share of the international travel market has declined. Last year, 2 million fewer foreign visitors came to the United States, representing a 19-percent decline. This translated into 177,000 fewer travel-related jobs.

Mr. President, we must reverse this decline. We need to attract more international tourists and enhance the travel experience for both domestic and international travelers. The United States must remain the destination of choice for world travelers.

I am therefore introducing legislation today to create a public-private partnership between the travel and tourism industry and the Federal Government to aggressively market the promotion of international travel to the United States.

With the elimination of the U.S. Travel and Tourism Administration, the United States will become the only major developed nation without a Federal tourism office. We need a national strategy to maintain and increase our share of the global travel market. Other nations pour money into marketing attempting to lure tourists to their shores, and they are doing it at our expense. This legislation will provide the tools with which the United States can compete with any nation.

We can counter these foreign promotion dollars with a combination of technical assistance from the Federal Government and financial assistance from the private sector. This legislation will create a true public-private partnership between the travel and tourism industry and the public sector to effectively promote international travel to the United States. It supplants the big-government, top-down bureaucracy which was eliminated with the U.S. Travel and Tourism Administration.

The bill establishes a Federal charter for a National Tourism Board and a National Tourism Organization, which will act as a not-for-profit corporation. Members of the National Tourism Board will be appointed by the President with the input of the travel and tourism industry to advise the President and Congress on policies to improve the competitiveness of the U.S. travel and tourism industry in the global marketplace.

The National Tourism Organization will be charged with implementing the tourism promotion strategy proposed by the National Tourism Board. The president of the National Tourism Organization will also serve as a member of the Trade Promotion Coordinating Committee, which is the agency that develops our U.S. export trade promotion and financing programs, thereby further promoting the economic importance of the travel and tourism industry.

A primary task of the National Tourism Organization will be the establishment of a travel-tourism data bank to collect international market data for dissemination to the travel and tourism industry and to promote tourism to the United States at international trade shows.

No later than 1 year upon enactment of this legislation, the officers of the organization will meet to make recommendations for the long-term financing of the organization. However, no Federal funding is associated with this legislation. This is an industry-funded and industry-directed initiative.

Travel industry leaders from around the Nation enthusiastically endorsed the plan embodied in this bill when it was introduced at the just-completed White House conference on travel and tourism. In addition, this bill has the support of the White House, the House leadership, and 189 House Members.

Together, through the collective talent of both the board and the organization, as well as the technical assistance provided by the Federal Government through its staff and data collection, it is my hope that America will once again launch itself into the international tourism market as the destination of choice—bringing more jobs as well as revenue to our States and local communities.●

ADDITIONAL COSPONSORS

S. 942

At the request of Mr. THOMPSON, his name was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of S. 942, supra.

S. 1610

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. THOMAS, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Delaware [Mr. ROTH], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress regarding proposed missile tests by the People's Republic of China.

SENATE RESOLUTION 215

At the request of Mr. LAUTENBERG, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Resolution 215, a resolution to designate June 19, 1996, as "National Baseball Day."

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Washington [Mrs. MURRAY], the Senator from North Dakota [Mr. CONRAD], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

AMENDMENT NO. 3526

At the request of Mr. THURMOND, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of amendment No. 3526 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

AMENDMENTS SUBMITTED

THE SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1996

BOND (AND OTHERS) AMENDMENT NO. 3534

Mr. BOND (for himself, Mr. BUMPERS, Mr. BAUCUS, Mr. FEINGOLD, Mr. MURKOWSKI, Ms. MOSELEY-BRAUN, and Mr. THOMPSON) proposed an amendment to the bill (S. 942) to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of

federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of the Regulatory Flexibility Act have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by the Regulatory Flexibility Act.

SEC. 3. PURPOSES.

The purposes of this act are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of the Regulatory Flexibility Act;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

SEC. 4. EFFECTIVE DATE.

This Act shall become effective on the date 90 days after enactment, except that the amendments made by title four of this Act shall not apply to interpretive rules for which a notice of proposed rulemaking was published prior to the date of enactment.

TITLE I—REGULATORY COMPLIANCE SIMPLIFICATION

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code; and

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code.

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with association of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources if information, the small entity compliance guides and all other available information on statutory and regulatory requirement affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—Any agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 103. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency, it shall be the practice of the agency to answer inquiries by small entities concerning information on and advice about compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

SEC. 104. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 to small business concerns; and

"(S) developing programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.".

SEC. 105. MANUFACTURING TECHNOLOGY CENTERS AND PROGRAMS ESTABLISHED UNDER SECTION 507 OF THE CLEAN AIR ACT AMENDMENT OF 1990.

(a) GENERAL.—The Manufacturing Technology Centers and other similar extension centers administered by the National Institute of Standards and Technology of the Department of Commerce shall, as appropriate, provide the assistance regarding regulatory requirements, develop and distribute information and guides and develop the programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to the same extent as provided for in Section 104 of this Act with respect to Small Business Development Centers.

(b) SECTION 507 PROGRAMS.—Nothing in the Act in any way limits the authority and operation of the small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990.

SEC. 106. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both federal and state regulations where regulations within an agency's area of interest at the federal and state levels impact small businesses. Where regulations vary among the states, separate guides may be created for separate states in cooperation with state agencies.

TITLE II—REGULATORY ENFORCEMENT REFORMS

SEC. 201. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITION.—For purposes of this section, the term—

"(1) "Board" means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) "Ombudsman" means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C. App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings, and recommendations of the Boards to the Administration and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under paragraph (C) and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members appointed by the Administration, who are owners or operators of small entities, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate.

"(4) Members of the Board shall serve for terms of three years or less.

"(5) The Administration shall select a chair from among the members of the Board who shall serve for not more than 2 years as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 202. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

"(1) requiring the small entity to correct the violation within a reasonable correction period;

"(2) limiting the applicability to violations discovered by the small entity through participation in a compliance assistance or audit program operated or supported by the agency or a state;

"(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

"(4) excluding violations involving willful or criminal conduct;

"(5) excluding violations that pose serious health, safety or environmental threats; and

"(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to Congress no later than 2 years from the effective date on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

TITLE III—EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504 of title 5, United States Code, is amended—

(1) in subsection (b), by striking "$75" in subparagraph (b)(1) and inserting "$125"; and

(2) in subsection (a) by adding the following new paragraph:

"(4) In an adversary adjudication brought by an agency, an adjudicative officer of the agency shall award attorneys fees and other expenses to a party or a small entity, as defined in Section 601, if the decision of the adjudicative officer is disproportionately less favorable to the agency than an express demand by the agency, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorneys fees unjust. For purposes of this paragraph, an "express demand" shall not include a recitation by the agency of the maximum statutory penalty (A) in the administrative complaint, or (B) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this paragraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended—

(1) in paragraph (d), by striking "$75" in subparagraph (2)(A) and inserting "$125"; and

(2) in paragraph (d)(1) by adding the following new subparagraph:

"(D) In a civil action brought by the United States, a court shall award attorneys fees and other expenses to a party or a small entity, as defined in Section 601 of title 5 United States Code, if the judgment finally obtained by the United States is disproportionately less favorable to the United States than an express demand by the United States, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorneys fees unjust. For purposes of this subparagraph, an "express demand" shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this subparagraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.".

TITLE IV—REGULATORY FLEXIBILITY ACT AMENDMENTS

SEC. 401. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603(a) of title 5, United States Code, is amended—

(1) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretive rule involving the internal revenue laws of the United States"; and

(2) by inserting at the end of the subsection, the following new sentence:

"In the case of an interpretive rule involving the internal revenue laws of the United States, this chapter applies to interpretive rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretive rules impose on small entities a collection of information requirement, as defined in the Paperwork Reduction Act of 1995.".

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or is otherwise required to publish an initial regulatory flexibility analysis, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact of small business was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 402. JUDICIAL REVIEW.

Section 611 to title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this chapter, except the requirements of sections 602, 603, 609 and 612.

"(2) Each court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review any claims of noncompliance with this chapter, except the requirements of sections 602, 603, 609 and 612.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to a petition for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, a petition for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the one year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) If the court determines, on the basis of the rulemaking record, that the final agency action under this chapter was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court shall order the agency to take corrective action consistent with this chapter, which may include—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities, unless the court finds good cause for continuing the enforcement of the rule pending the completion of the corrective action.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Except as otherwise required by this chapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct a rule making.

"(d) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(e) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law."

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual and legal reasons for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 404. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.—Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities", by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following new subsection:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) Prior to publication of a final regulatory flexibility analysis that a covered agency is required by this chapter to conduct—

"(1) an agency shall reconvene the review panel established under paragraph (b)(3), or if no initial regulatory flexibility analysis was published, undertake the actions described in paragraphs (b) (1) through (3);

"(2) the panel shall review any material the agency has prepared in connection with this chapter, including any draft rule, collect the advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsection 604(a), paragraphs (3), (4) and (5);

"(3) not later than 15 days after the date a covered agency convenes a review panel pursuant to paragraph (1), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 604(a), paragraphs (3), (4) and (5), provided that such report shall be made public as part of the rulemaking record; and

"(4) where appropriate, the agency shall modify the final rule, the final regulatory flexibility analysis or the decision on whether a final regulatory flexibility analysis is required.

"(d) An agency may in its discretion apply subsections (b) and (c) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(e) For purposes of this section, the term covered agency means the Environmental Protection Agency and the Occupational Health and Safety Administration of the Department of Labor.

"(f) the Chief Counsel for Advocacy, in consultation with the individuals identified in paragraph (b)(2) and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of paragraphs (b)(3), (b)(4), and (b)(5), and subsection (c) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) in developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration; or in developing a final rule, the extent to which the covered agency took into consideration the comments filed by the individuals identified in paragraph (b)(2);

"(2) special circumstances requiring prompt issuance of the rule; and

"(3) whether the requirements of subsections (b) or (c) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

"(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

NICKLES (AND OTHERS) AMENDMENT NO. 3535

Mr. NICKLES (for himself, Mr. REID, Mrs. HUTCHISON, and Mr. DOLE) proposed an amendment to the bill S. 942, supra; as follows:

At the end of the bill, add the following new title:

TITLE V—CONGRESSIONAL REVIEW

SEC. 501. SHORT TITLE.

This title may be cited as the "Congressional Review Act of 1996".

SEC. 502. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 503. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96–354;

(iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104–4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 504(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 504 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 504 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 504.

(b) TERMINATION OF DISAPPROVED RULEMAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 504.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws; or

(C) necessary for national security.

(3) WAIVER NOT TO AFFECT CONGRESSIONAL DISAPPROVALS.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 504 or the effect of a joint resolution of disapproval under this section.

(d) TREATMENT OF RULES ISSUED AT END OF CONGRESS.—

(1) ADDITIONAL OPPORTUNITY FOR REVIEW.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 504 shall apply to such rule in the succeeding Congress.

(2) TREATMENT UNDER SECTION 504.—

(A) In applying section 504 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) TREATMENT OF RULES ISSUED BEFORE THIS TITLE.—

(1) OPPORTUNITY FOR CONGRESSIONAL REVIEW.—The provisions of section 504 shall apply to any significant rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on March 1, 1996, through the date on which this title takes effect.

(2) TREATMENT UNDER SECTION 504.—In applying section 504 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 504.

(f) NULLIFICATION OF RULES DISAPPROVED BY CONGRESS.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 504 shall be treated as though such rule had never taken effect.

(g) NO INFERENCE TO BE DRAWN WHERE RULES NOT DISAPPROVED.—If the Congress does not enact a joint resolution of disapproval under section 504, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 504. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term "joint resolution" means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 503(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.". (The blank spaces being appropriately filled in.)

(b) REFERRAL.—

(1) IN GENERAL.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) SUBMISSION DATE.—For purposes of this subsection the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 503(a)(1); or

(B) the rule is published in the Federal Register.

(c) DISCHARGE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) TREATMENT IF OTHER HOUSE HAS ACTED.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) NONREFERRAL.—The resolution of the other House shall not be referred to a committee.

(2) FINAL PASSAGE.—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) CONSTITUTIONAL AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 505. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) IN GENERAL.—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 504, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 503(a).

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 506. DEFINITIONS.

For purposes of this title—

(1) FEDERAL AGENCY.—The term "Federal agency" means any "agency" as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) SIGNIFICANT RULE.—The term "significant rule"—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of $100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866; and

(B) shall not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by such Act.

(3) FINAL RULE.—The term "final rule" means any final rule or interim final rule. As used in this paragraph, "rule" has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 507. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 508. APPLICABILITY; SEVERABILITY.

(a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 509. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 510. EXEMPTION FOR HUNTING AND FISHING.

Nothing in this title shall apply to rules that establish, modify, open, close, or conduct a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

SEC. 511. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

THE 1996 BALANCED BUDGET DOWN PAYMENT ACT, II

HATFIELD (AND WYDEN) AMENDMENT NO. 3536

Mr. HATFIELD (for himself and Mr. WYDEN) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

On page 577 of the pending amendment, strike lines 14 through the period on line 23.

BOND (AND HARKIN) AMENDMENT NO. 3537

Mr. HATFIELD (for Mr. BOND, for himself, Mr. SIMON, Mr. GRASSLEY, Ms. MOSELEY-BRAUN, and Mr. HARKIN) proposed an amendment to amendment No. 3466 proposed by him to the bill H.R. 3019, supra; as follows:

Insert the following at the appropriate place under Title III of the Committee amendment:

"SEC. . Any funds heretofore appropriated and made available in Public Law 102–104 and Public Law 102–377 to carry out the provisions for the project for navigation, St. Louis Harbor, Missouri and Illinois; may be utilized by the Secretary of the Army in carrying out the Upper Mississippi and Illinois Waterway System Navigation Study, Iowa, Illinois, Missouri, Wisconsin, Minnesota, in Fiscal Year 1996 or until expended."

SPECTER AMENDMENTS NOS. 3538–3539

Mr. HATFIELD (for Mr. SPECTER) proposed two amendments to amendment No. 3466 proposed by him to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3538

On page 546, line 21 of the pending amendment, increase the rescission amount by $1,000,000.

On page 572, line 16 of the pending amendment, strike "$129,499,000" and insert in lieu thereof "$130,499,000".

AMENDMENT NO. 3539

On page 590, after the word "for" on line 19, strike all up to the word "payment" on line 23.

On page 590, after the word "education" on line 25, strike all up to the period on page 591, line 3.

JEFFORDS AMENDMENT NO. 3540

Mr. HATFIELD (for Mr. JEFFORDS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of title III, on page 771 after line 17, add the following new section:

SEC. . The Secretary of Health and Human Services shall grant a waiver of the requirements set forth in section 1903(m)(2)(A)(ii) of the Social Security Act to D.C. Chartered Health Plan, Inc. of the District of Columbia: *Provided*, That such waiver shall be deemed to have been in place for all contract periods from October 1, 1991 through the current contract period or October 1, 1999, whichever shall be later.

COCHRAN (AND BUMPERS) AMENDMENT NO. 3541

Mr. HATFIELD (for Mr. COCHRAN, for himself and Mr. BUMPERS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place insert the following:

Sec. . Of the funds appropriated by Public Law 104-37 or otherwise made available to the Food Safety and Inspection Service for Fiscal Year 1996, not less than $363,000,000 shall be available for salaries and benefits of in-plant personnel: *Provided*, That this limitation shall not apply if the Secretary of Agriculture certifies to the House and Senate Committees on Appropriations that a lesser amount will be adequate to fully meet in-plant inspection requirements for the fiscal year.

LAUTENBERG AMENDMENT NO. 3542

Mr. HATFIELD (for Mr. LAUTENBERG) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 769, line 24, delete the word "Of" and insert "Notwithstanding any other provision of law, of"

On page 770, line 4, after the word "available", insert the words "for operating expenses".

GREGG (AND OTHERS) AMENDMENT NO. 3543

Mr. HATFIELD (for Mr. GREGG, for himself, Mr. KENNEDY, Mr. HATCH, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE —FOOD AND DRUG EXPORT REFORM

SEC. 01. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "FDA Export Reform and Enhancement Act of 1996".

(b) REFERENCE.—Wherever in this title (other than in section 04) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act. (21 U.S.C. 321 et seq.)

SEC. 02. EXPORT OF DRUGS AND DEVICES.

(a) EXPORT AND IMPORTS.—Section 801 (21 U.S.C. 381) is amended—

(1) In subsection (d), by adding at the end thereof the following new paragraphs:

"(3) No component, part, or accessory of a drug, biological product, or device, including a drug in bulk inform, shall be excluded from importation into the United States under subsection (a) if—

"(A) the importer affirms at the time of initial importation that such component, part, or accessory is intended to be incorporated by the initial owner or consignee into a drug, biological product, or device that will be exported by such owner or consignee from the United States in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act;

"(B) the initial owner or consignee responsible for such imported articles maintains records that identify the use of such imported articles and upon request of the Secretary submits a report that provides an accounting of the exportation or the disposition of the imported articles, including portions that have been destroyed, and the manner in which such person complied with the requirements of this paragraph; and

"(C) any imported component, part or accessory not so incorporated is destroyed or exported by the owner or consignee."

"(4) The importation into the United States of blood, blood components, source plasma, and source leukocytes, is not permitted pursuant to paragraph (3) unless the importation complies with section 351(a) of the Public Health Service Act. The importation of tissue is not permitted pursuant to paragraph (3) unless the importation complies with section 361 of the Public Health Service Act.";

"(2) in subsection (e)(1), by striking the second sentence;

"(3) in subsection (e)(2)—

"(A) by striking "the Secretary" and inserting "either (i) the Secretary"; and

"(B) by inserting before the period at the end thereof the following: "or (ii) the device is eligible for export under section 802"; and

"(4) in subsection (e), by adding at the end thereof the following new paragraph:;

"(3) A new animal drug that requires approval under section 512 shall not be exported pursuant to paragraph (1) if such drug has been banned in the United States.".

"(b) EXPORT OF CERTAIN UNAPPROVED DRUGS AND DEVICES.—Section 802 (21 U.S.C. 382) is amended to read as follows:

"EXPORTS OF CERTAIN UNAPPROVED PRODUCTS

"SEC. 802. (a) A drug (including a biological product) intended for human use or a device for human use—

"(1) which, in the case of a drug—

"(A)(i) requires approval by the Secretary under section 505 before such drug may be introduced or delivered for introduction into interstate commerce; or

"(ii) requires licensing by the Secretary under section 351 of the Public Health Service Act or by the Secretary of Agriculture under the Act of March 4, 1913 (known as the Virus-Serum Toxin Act) before it may be introduced or delivered for introduction into interstate commerce; and

"(B) does not have such approval or license, is not exempt from such sections or Act, and is introduced or delivered for introduction into interstate commerce; or

"(2) which, in the case of a device—

"(A) does not comply with an applicable requirement under section 514 or 515;

"(B) under section 520(g) is exempt from either such section; or

"(C) is a banned device under section 516,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug or device is authorized under subsection (b), (c), (d), or (e), or under section 801(e)(2). If a drug (including a biological product) or device described in paragraphs (1) and (2) may be exported under subsection (b) and if an application for such drug or device under section 505 or 514 or section 351 of the Public Health Service Act was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug will be exported of such disapproval.

"(b)(1) Except as otherwise provided in this section, a drug (including a biological product) or device may be exported to any country, if the drug or device complies with the laws of that country and has valid marketing authorization by the appropriate approval authority—

"(A) in Australia, Canada, Israel, Japan, New Zealand, Switzerland, or South Africa; or

"(B) in the European Union or a country in the European Economic Area (the countries in the European Union and the European Free Trade Association) if the drug or device is marketed in that country or the drug or device is authorized for general marketing in the European Economic Area.

"(2) The Secretary may designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1). The Secretary shall not delegate the authority granted under this paragraph.

"(3) An appropriate country official, manufacturer, or exporter may request the Secretary to designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) by submitting documentation to the Secretary in support of such designation. Any person other than a country requesting such designation shall include along with the request a letter from the country indicating the desire of such country to be designated.

"(4) The Secretary shall designate a country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) of the Secretary finds that the valid marketing authorization system in such country or countries is equivalent to the systems in the countries described in subparagraphs (A) and (B) of paragraph (1).

"(c) A drug or device intended for investigational use in any country described in subsection (b) may be exported in accordance with the laws of that country and shall be exempt from regulation under section 505(i) or 520(g).

"(d) A drug or device intended for formulation, filling, packaging, labeling, or further processing in anticipation of market authorization in any country described in paragraph (1)(A) or (B) of subsection (b) may be exported to those countries for use in accordance with the laws of that country.

"(e)(1) A drug (including a biological product) or device which is to be used in the prevention or treatment of a tropical disease or other disease not prevalent in the United States and which does not otherwise qualify for export under this section may, upon approval of an application submitted under paragraph (2), be exported if—

"(A) the Secretary finds, based on credible scientific evidence, including clinical investigations, that the drug or device is safe and effective in the country to which the drug or device is to be exported in the prevention or treatment of a tropical disease or other disease not prevalent in the United States in such country.

"(B) the drug or device is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and is not adulterated under subsection (a)(1), (a)(2)(A), (a)(3), (c), or (d) of section 501;

"(C) the outside of the shipping package is labeled with the following statement: 'This drug or device may be sold or offered for sale only in the following countries: _____', the blank space being filled with a list of the countries to which export of the drug or device is authorized under this subsection;

"(D) the drug or device is not the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the manufacture of the drug or device in the United States for export to a country is contrary to the public health and safety of the United States; and

"(E) the requirements of subparagraphs (A) through (D) of section 801(e)(1) have been met.

"(2) Any person may apply to have a drug or device exported under paragraph (1). The application shall—

"(A) describe the drug or device to be exported;

"(B) list each country to which the drug or device is to be exported;

"(C) contain a certification by the applicant that the drug or device will not be exported to a country for which the Secretary cannot make a finding described in paragraph (1)(A);

"(D) identify the establishments in which the drug or device is manufactured; and

"(E) demonstrate to the Secretary that the drug or device meets the requirements of paragraph (1).

"(3) The holder of an approved application for the export of a drug or device under this subsection shall report to the Secretary—

"(A) the receipt of any information indicating that the drug or device is being or may have been exported from a country for which the Secretary made a finding under paragraph (1)(A) to a country for which the Secretary cannot make such a finding; and

"(B) the receipt of any information indicating any adverse reactions to such drug.

"(4)(A) If the Secretary determines that—

"(i) a drug or device for which an application is approved under paragraph (2) does not continue to meet the requirements of paragraph (1);

"(ii) the holder of such application has not made the report required by paragraph (3); or

"(iii) the manufacture of such drug or device in the United States for export is contrary to the public health and safety of the United States and an application for the export of such drug or device has been approved under paragraph (2).

then before taking action against the holder of an application for which a determination was made under clause (i), (ii), or (iii), the Secretary shall notify the holder in writing of the determination and provide the holder 30 days to take such action as may be required to prevent the Secretary from taking action against the holder under this subparagraph. If the Secretary takes action against such holder because of such a determination, the Secretary shall provide the holder a written statement specifying the reasons for such determination and provide the holder, on request, an opportunity for an informal hearing with respect to such determination.

"(B) If at any time the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that—

"(i) the holder of an approved application under paragraph (2) is exporting a drug or device from the United States to an importer;

"(ii) such importer is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A); and

"(iii) such export presents an imminent hazard to the public health in such country,

the Secretary shall immediately prohibit the export of the drug or device to such importer, provide the person exporting the drug or device from the United States prompt notice of the determination, and afford such person an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(C) If the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that the holder of an approved application under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), and that the export of the drug or device presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug or device to such country, give the holder prompt notice of the determination, and afford the holder an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(D) If the Secretary receives credible evidence that the holder of an application approved under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall give the holder 60 days to provide information to the Secretary respecting such evidence and shall provide the holder an opportunity for an informal hearing on such evidence. Upon the expiration of such 60 days, the Secretary shall prohibit the export of such drug or device to such country if the Secretary determines the holder is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A).

"(E) If the Secretary receives credible evidence that an importer is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall notify the holder of the application authorizing the export of such drug or device of such evidence and shall require the holder to investigate the export by such importer and to report to the Secretary within 14 days of the receipt of such notice the findings of the holder. If the Secretary determines that the importer has exported a drug or device to such a country, the Secretary shall prohibit such holder from exporting such drug or device to the importer unless the Secretary determines that the export by the importer was unintentional.

"(f) A drug or device may not be exported under this section if—

"(1) the drug or device is not manufactured, processed, packaged, and held in conformity with current good manufacturing practice or is adulterated under paragraph (1), (2)(A), or (3) of section 501(a) or subsection (c) or (d) of section 501;

"(2) the requirements of subparagraphs (A) through (d) of section 801(e)(1) have not been met;

"(3)(A) the drug or device is the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the possibility of reimportation of the exported drug or device would present an imminent hazard to the public health and safety of the United States and the only means of limiting the hazard is to prohibit the export of the drug or device;

"(B) the drug or device presents an imminent hazard to the public health of the country to which the drug or device would be exported; or

"(4) the drug or device is not lableld or promoted—

"(A) in accordance with the requirements and conditions for use in—

"(i) the country in which the drug or device received a valid marketing authorization under subsection (b)(2); and

"(ii) the country to which the drug or device would be exported; and

"(B) in the language of the country or designated by the country to which the drug or device would be exported.

"In making a finding under paragraph (37)(B), the Secretary shall, to the maximum extent possible, consult with the appropriate public health official in the affected country.

"(g) The exporter of a drug or device exported under this section shall provide a simple notification to the Secretary when the exporter first begins to export such drug or device to a country and shall maintain records of all products exported pursuant to this section.

"(h) For purposes of this section—

"(1) a reference to the Secretary shall in the case of a biological product which is required to be licensed under the Act of March 4, 1913 (37 Stat. (832–833) (commonly known as the Virus-Serum Toxin Act) be considered to be a reference to the Secretary of Agriculture, and

"(2) the term "drug" includes drugs for human use as well as biological under section 351 of the Public Health Service Act or the Act of March 4, 1913 (37 Stat. 832–833) (commonly known as the Virus-Serum Toxin Act)."

SEC. 03. PROHIBITED ACT.

Section 301 (21 U.S.C. 331) is amended—

(1) by redesignating the second subsection (u) as subsection (v); and

(2) by adding at the end thereof the following new subsection:

"(w)(1) The failure to maintain records as required by section 801(d)(3), the making of a knowing false statement in any record or report required or requested under section 801(d)(3), the release into interstate commerce of any article imported into the United States under section 801(d)(3) or any finished product made from such article (except for export in accordance with subsection 801(e) or section 802 of the Act or section 351(h) of the Public Health Service Act), or the failure to export or destroy any component, part or accessory not incorporated into a drug, biological product or device that will be exported in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act."

SEC. 04. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

"(h) A partially processed biological product which—

"(1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

"(2) is not intended for sale in the United States; and

"(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on the export of the product under this Act or the Federal Food, Drug, and cosmetic Act (21 U.S.C. 321 et seq.) if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and meets the requirements in section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)).".

GRAMM (AND HUTCHISON) AMENDMENTS NOS. 3544–3545

Mr. HATFIELD (for Mr. GRAMM, for himself, and Mrs. HUTCHISON) proposed two amendments to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

AMENDMENT NO. 3544

On page 577, line 14 of the committee substitute, insert:

"SEC. 213. If the Secretary fails to approve the application for waivers related to the Achieving Change for Texans, a comprehensive reform of the Texas Aid To Families With Dependent Children program designed to encourage work instead of welfare, a request under section 1115(a) of the Social Security Act submitted by the Texas Department of Human Services on September 30, 1995, by the date of enactment of this Act, notwithstanding the Secretary's authority to approve the applications under such section, the applications shall be deemed approved."

AMENDMENT NO. 3545

Section 223B of the amendment is amended to read as follows:

"SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed effective the date of enactment of Public Law 104–19. The Secretary is authorized to demolish the structures identified in such section. The Secretary is also authorized to compensate those local governments which, due to this provision, expended local revenues demolishing the developments identified in such provision.".

GORTON AMENDMENT NO. 3546

Mr. HATFIELD (for Mr. GORTON) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

To the amendment numbered 3466: On page 406, line 8, strike "$567,152,000" and insert in lieu thereof "$567,753,000".

HATFIELD (AND OTHERS) AMENDMENT NO. 3547

Mr. HATFIELD (for himself, Mr. HOLLINGS, Mr. PELL, Mr. DASCHLE, and Mr. KERRY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place, insert the following:

The appropriation for the Arms Control and Disarmament Agency in Public Law 103–317 (108 STAT. 1768) is amended by deleting after "until expended" the following: "only for activities related to the implementation of the Chemical Weapons Convention": *Provided*, That amounts made available shall not be used to undertake new programs or to increase employment above levels on board at the time of enactment of this Act.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, March 28 at 9:30 a.m. in the Russell Caucus Room (SR–325) in Washington, DC.

The purpose of this hearing is to receive testimony on the issue of competitive change in the electric power industry. It will focus on what State public utility commissions are doing to make electric utilities more competitive. Although an oversight hearing, witnesses are asked to provide comment on S. 1526 as it relates to this issue.

Those who wish to testify or to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by committee invitation. For further information, please contact Shawn Taylor or Howard Useem at (202) 224–6567.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Friday, March 15, 1996, at 9:30 a.m. in room 430 of the Dirksen Senate Office Building. The committee will hold a hearing regarding S. 581, the National Right-to-Work Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet at 9:30 a.m. on Friday, March 15, 1996, to receive testimony on tactical aviation issues in review of the defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. KYL. Mr. President, I ask unanimous consent that the Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10 a.m. on Friday, March 15, in open session, to receive testimony on emerging battlefield concepts for the 21st century and the implications of these concepts for technology investment decisions in the defense authorization request for fiscal year 1997 and the future.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO GEORGE WHITTINGTON

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a civic leader, decorated veteran, adventurer, and extraordinary Kentuckian. George P. Whittington, who passed away January 27, was all of these things, and more.

Mr. Whittington, born October 5, 1913, served his country in both World War II and the Korean war. A graduate of the New Mexico Military Institute, Whittington was awarded the Silver Star, Bronze Star, and Purple Heart for service in both the Army and the Marine Corps. During the D-day invasion on June 6, 1944, Whittington commanded Company B of the Fifth Ranger Battalion which landed on Omaha Beach. According to an account of the attack, Whittington led a detachment that punched through obstacles on the beach, scaled a 100-foot cliff and then crawled under machinegun fire to destroy an enemy position. For his leadership, Mr. Whittington was awarded the Distinguished Service Cross.

After the war, Whittington earned a bachelor's degree in journalism from the University of Missouri. He then returned to active duty to serve as a major and battalion commander in the Army during the Korean war. After military service, Whittington returned to Kentucky where he served for more than 25 years on the Henderson City-County Air Board and was a member of the Henderson Community College Foundation board. During the 1970's and 1980's Whittington owned a 1,000-acre cattle ranch in Costa Rica. He also hunted big game in Africa and was an avid private pilot.

Walt Dear, president of the Gleaner-Journal Publishing Co., said

Whittington "was an absolute original. George Whittington was the kind of guy you meet once in a lifetime. He was definitely interesting—a great conversationalist and a great reader."

Survivors include his wife of 40 years, Agnes; two daughters, Janet and Elizabeth Whittington; two sons, Charles and Richard Whittington; and two grandsons. I would ask that my colleagues join me in honoring this heroic and extraordinary Kentuckian.•

CENTENNIAL OF THE JEWISH WAR VETERANS OF THE U.S.A.

• Mr. LIEBERMAN. Mr. President, today, March 15, 1996, marks the 100th anniversary of the founding of the oldest veterans organization in this country—the Jewish War Veterans of the U.S.A. Most people think that the American Legion is the oldest veterans group but, in fact, it is not.

On March 15, 1896, 63 Jewish Civil War veterans gathered in New York City to form the Hebrew Union Veterans as a response to allegations that Jews in 19th century America were not inclined "to stand by the flag as soldiers." From this group of 63 has developed the current organization of over 100,000 members.

The Jewish War Veterans of the U.S.A. is proud of the history of its individual members in all of America's wars and conflicts. It is also proud of its own history as an organization. All of us share in that pride, for it is well-earned. JWV led the effort to end the pogroms against Eastern European Jews at the beginning of this century. They led the national boycott of German goods in the 1930's. And they have supported the state of Israel since its birth in 1948. Moreover, the JWV actively supported the civil rights movement of the 1960's and was the only veterans group to support the 1963 march on Washington. It also was the first group to call for the withdrawal of United States military forces from Vietnam in 1971.

The JWV's 100-year history has kept it in the forefront of groups which support America's military personnel and our veterans. It has supported educational, veterans, and community projects and has done so regardless of religion, race, or gender.

America is proud of all its veterans. Today, we should stop and pay tribute to this outstanding veterans organization. America congratulates the Jewish War Veterans of the U.S.A. on its centennial anniversary.•

TELECOMMUNICATIONS ACT

• Mr. PRESSLER. Mr. President, on February 8, the President signed into law the Telecommunications Act of 1996. This act has been my highest legislative priority for the 104th Congress. I am very pleased with the great strides we are making in deregulating and fostering competition in this critical field. But our work is not over. I ask to have printed in the RECORD the article I wrote for Roll Call detailing what lies ahead for telecommunications reform.

The article follows:

[From Roll Call, Mar. 11, 1996]

TELECOM REFORM: IT AIN'T OVER 'TIL IT'S OVER

(By Senator Larry Pressler)

Historic. Massive. Landmark. Sweeping. Adjectives such as these were often used by journalists and lobbyists alike to describe the recently passed Telecommunications Act of 1996. So often, in fact, I think that some began to wonder if we had placed them in the bill's formal title.

The truth is such adjectives got a lot of ink because they captured the scope and direction of the bill. As well they should. Congress had been so long about the business of updating the nation's antiquated communications laws that, when we were finally able to get a bill moving, it had no choice but to be "historic, massive, and sweeping" if we were to have any chance of keeping up with the pace of technological development.

Passage of the Telecommunications Act of 1996 was my highest legislative priority in the first session of the 104th Congress. On Feb. 8, that priority became law.

Thanks to my bill, the communications industry will see an explosion in new investment and development. Who are the winners? The consumers. There will be more services and new products at lower costs. All of this economic activity will mean new jobs.

Competition is the key for this development. My bill unlocked the regulatory handcuffs restricting the communications industry—now, competition will bring everything from lower costs and new products to better education opportunities to the public.

But we are not done. Passage of the act does not mean Congress can now wait another 62 years before looking at telecommunications issues again.

On the contrary, we must regard telecommunications reform as a work in progress. Although our legislative calendar may be somewhat attenuated this election year, the list of telecommunications priorities facing the second session of the 104th Congress is as impressive as it is imperative.

Among the priorities for the Commerce Committee this year are ensuring that the Federal Communications Commission carries out Congress's intent when it sets the rules to implement the Telecommunications Act; determining federal use and allocation of the full spectrum; and re-examining the rule barring foreign investment in US telecommunications firms.

TELECOMMUNICATIONS ACT OVERSIGHT

First and foremost, Congress needs to make sure that what the American consumer won on the legislative battlefield isn't lost on the regulatory drawing board. In other words, we need to make sure that the FCC carries out the intent of Congress as it implements the tenets of the Telecommunications Act.

This is no small task. Nor is it frivolous. There were many hard-fought battles by various segments of the industry during the drafting of the Telecommunications Act. Now that the scene shifts from the legislative to the regulatory venue, the temptation to refight lost battles beckons many an interest group.

Congress must be vigilant and hold fast against the possibility of regulatory revisionism as the FCC proceeds with its rule-making processes.

The battle flags already are flying. For instance, the FCC, in initiating a rule-making intended to accelerate the ability of Regional Bell Operating Companies (RBOCs) to offer long-distance service outside their monopoly operating areas, is proposing to require the RBOCs to set up separate subsidiaries to provide such services.

As I pointed out in a recent letter to FCC Chairman Reed Hundt, this is totally contrary to provisions in the Telecommunications Act that specifically exempt the RBOCs from having to provide out-of-region, long-distance services under a separate subsidiary.

In another potential regulatory overreach, the FCC is considering requiring broadcasters to increase the amount of air time dedicated to public interest programming, as well as possibly requiring more children's programming. Such government-mandated content control would be enforced through the station license renewal process.

The issue here is not whether more children's and public interest programming is desirable, but whether these goals should be mandated by the FCC as part of the broadcast license renewal process.

In fact, Congress was quite clear about its intentions in the license renewal provisions of the Telecommunications Act. The act requires license simplification, not license complication. The FCC's direction in carrying out this provision seems to be headed in the direction of re-regulation instead of deregulation. It is the latter approach Congress clearly intended.

As to the issue of program content, I think the best public policy is to keep the government's involvement to a minimum and let the industry and the public determine the content of programming. I support providing parents with the necessary technological weapons, such as the "V-chip," to help them control what their children see on television. Of course, the ultimate "V-chip" already exists on every television set in America—the on/off switch.

Currently, a plethora of flexible, quickly evolving, and market-driven parental blocking technologies are available. Some are already incorporated into many televisions and VCR's. Other are sold as separate add-on devices. We must be mindful that government does not dry up the market for such devices by mandating one technology over all others.

FCC REFORM

Another major focus for the committee this year will be to examine the overall performance and needs of the FCC as it carries out its duties. We will look closely at the agency's repeated requests for additional money to implement the Telecommunications Act.

As I have told Chairman Hundt, I am concerned about the FCC's alarms over possible budget shortfalls and calls for more personnel and other resources to carry out its mission.

The FCC has requested a budget of approximately $224 million for fiscal 1996, supporting some 2,300 employees. This is roughly two-thirds more than the FCC's budget in 1993 ($134 million) and includes an additional 600 employees over the 1993 staffing level (1,700).

In fact, since 1992, FCC expenditures have risen at a compounded average annual rate of 15.2 percent, compared with an average of 10.4 percent for the communications industry itself.

Should the growth of a federal agency outstrip the very industry it regulates by a margin of three to two? No. Particularly in an era of federal budget austerity in which the watchwords for most other federal agencies are "smaller but smarter" government.

Clearly, Congress will have to look closely at the FCC during this second session and see what efficiencies can be realized in its operations.

OVERVIEW OF FEDERAL SPECTRUM POLICIES

Another major task facing Congress this year is a thorough examination of federal policies regarding the use and allocation of the electromagnetic spectrum. The electromagnetic spectrum, generally defined as the range of electromagnetic frequencies between three kilohertz and 300 gigahertz, is one of the nation's most valuable resources.

I believe the federal government has a responsibility to ensure that the efficient management of this resource provides adequately for the national defense, the protection of the taxpayer, and the continued maintenance of America's technological leadership.

The full committee on Commerce, Science, and Transportation is planning to hold hearings on this complex subject, beginning in March.

During these hearings, we will examine the government's management and allocation of the entire spectrum, not just that small portion of it used for radio and television broadcasting. This includes supporting: civilian emergency services; scientific and satellite uses; merchant marine emergency and navigation uses; aviation uses; truck and railroad uses; cellular phone and personal communications services; military and intelligence uses; and specialized data-transmission uses, such as telemedicine services.

Much of the focus of this spectrum review naturally will gravitate toward the issue of digital television and how portions of the finite spectrum should be allocated to broadcasters for the development of digital transmission.

I have long been a supporter of protecting the taxpayers in allocations of the spectrum by the FCC. In fact, I proposed an auction earlier in the year as part of the budget reconciliation process.

While I believe the Telecommunications Act of 1996 was clear in that it did not mandate any giveaway of the digital spectrum, it is important that Congress revisit this issue this year and establish a clear national policy on spectrum assignments to the private sector.

OTHER ISSUES

There are a number of other telecommunications issues that will occupy the committee's attention this year, including a look at whether current rules restricting foreign investment in US broadcasting are good for the nation.

It may well be that we should allow more foreign investment in US broadcasting, provided US broadcasters have the same investment rights overseas. This could open more foreign markets to US telecommunications products and services. The committee may hold hearings this year on this issue.

The committee also will consider reforming the Communications Satellite Act of 1962. When that act was passed, no one thought private companies would launch and operate satellites. Today, we have private companies competing with the international government-owned satellite systems, INTELSAT and INMARSAT. We need to reevaluate how competition should operate in the international satellite market.

The Telecommunications Act of 1996 was a major legislative step forward in modernizing America's ancient telecommunications laws. But we cannot rest on our legislative laurels if Congress is to provide a regulatory infrastructure that helps, rather than hinders, America's telecommunications industry. Our work has just begun.•

TRIBUTE TO THE CREW OF SPECIAL AIR MISSION 3311 TO HAITI IN SEPTEMBER 1994

• Mr. NUNN. Mr. President, I would like to recognize the outstanding service of the crew of Special Air Mission 3311, which transported former President Jimmy Carter, retired U.S. Army Gen. Colin Powell, and myself to and from Haiti in September 1994. This mission was a last chance attempt to achieve a peaceful return to power of Haiti's democratically elected government. Although the successful outcome of the United States negotiating effort is well known, I want to reflect for a moment on the bravery and high level of professionalism exhibited by the air crew that gave our mission of peace the opportunity it needed to succeed.

Recently, I had the opportunity to speak with one of the members of this aircrew and I recalled the extraordinarily difficult conditions under which the aircrew members were forced to operate. On the evening of September 16, 1994, this aircrew was given less than 8 hours to prepare for a 6 a.m. departure for the following day in which neither the destination, nor the passengers of the flight, were known. Only 3 hours before the flight's scheduled departure did the aircrew learn of its orders to transport General Powell from Andrews Air Force Base to Robins Air Force Base in Georgia, where they would pick up former President Carter and myself, and continue its flight to Port-au-Prince, Haiti. Intelligence sources at that time indicated that the runway at the Port-au-Prince airport was unusable. There were large amounts of debris littering the runway, including nails and 8-foot-high metal containers. Only minutes prior to the landing, as much debris as possible was moved to the sides of the runway. Miraculously, and with no margin for error, the crew was able to land the aircraft with only 20 feet of wing-tip clearance. However, the crew's ordeal did not end at that point in the mission.

On September 18, the aircraft returned for our mission's departure from Haiti. Delays in our negotiations resulted in the crew having to wait for more than ten hours in the plane for the return of our delegation. The crew members endured heat in excess of 120 degrees while maintaining the aircraft's readiness for an instant departure with minimal support facilities. The crew had to function under the additional stress of knowing that the negotiations were not proceeding very well. When our negotiating team arrived at the aircraft for departure, the crew had no knowledge concerning the final outcome of our discussions or the current status of a United States invasion force that was enroute from Pope Air Force Base to Haiti. Only after a successful takeoff under these tense conditions did the crew learn that the negotiations had concluded successfully.

Mr. President, the courage, dedication, and professionalism of the aircrew of Special Air Mission 3311 to Haiti represent the finest qualities of the men and women serving in our Nation's Armed Forces. For their dedication, each member of the aircrew was awarded the Air Medal. In addition, this extraordinary unit received the 21st Air Force Aircrew Excellence Award for the third quarter 1994 and was nominated for the Lt. Gen. William H. Tunner Award for Outstanding Air Mobility Command Aircrew. They made a major contribution to our mission to Haiti. Today, I want to pay tribute to the excellent job that they performed and I ask that a list of the names of those outstanding individuals who served in Special Air Mission 3311 be printed in the RECORD.

The list follows:

THE CREW OF SPECIAL AIR MISSION 3311

Major Loail M. Sims, Jr.
Lieutenant Colonel William F. Dea
Captain Peter M. Lenio
Major David B. Ingersoll
Captain Steven A. Burgess
Master Sergeant Mark L. Buchner
Staff Sergeant Kenneth K. McNamara
Master Sergeant David A. Nelson
Staff Sergeant Kimberly M. Herd
Master Sergeant Brian D. Smith
Master Sergeant Karen G. Kron
Staff Sergeant Sheila L. Bradley
Staff Sergeant Darryl O. Walizer
Staff Sergeant Lennard C. Edwards
Master Sergeant John M. Piva
Staff Sergeant John C. Bergquist
Staff Sergeant John Bresnahan
Technical Sergeant Victor N. Gobe'r
Technical Sergeant Roy L. Tatum.•

CBO ANALYSIS OF UNFUNDED MANDATES

• Mr. MURKOWSKI. Mr. President, pursuant to Public Law 104-4, I am submitting for the information of the Senate a CBO analysis of unfunded mandates of bills reported by the Senate Energy and Natural Resources Committee currently on the Senate Calendar. As further information is available, it will also be provided to the Senate.

The analysis follows:

BILLS THAT DO NOT CONTAIN MANDATES

S. 115 Colonial National Historical Park Amendments.

S. 127 Women's Rights National Historical Park Amendments.

S. 134 Franklin D. Roosevelt Family Lands.

S. 188 Great Falls Preservation and Redevelopment Act.

S. 197 Carl Garner Federal Lands Cleanup Day.

S. 223 Sterling Forest Protection Act of 1995.

S. 225 FERC Voluntary Licensing of Hydroelectric Projects on Fresh Waters in the State of Hawaii.

S. 283 A bill to extend the deadlines under the Federal Power Act for two hydroelectric projects in Pennsylvania.

S. 333 Department of Energy Risk Management Act of 1995.

S. 342 Cache La Poudre River National Water Heritage Area Act of 1995.

S. 357 Na Hoa Pili Kaloko-Honokohau Reestablishment Act of 1995.

S. 359 Extension of construction deadline for certain hydroelectric projects located in the State of West Virginia.

S. 378 Columbia Basin Land Exchange.

S. 392 Dayton Aviation Heritage Commission.

S. 421 Extension of construction deadline for a hydroelectric project located in the State of Kentucky.

S. 461 Extension of construction deadline for a hydroelectric project located in the State of Washington.

S. 468 A bill to extend the deadline under the Federal Power Act for the construction of a hydroelectric project in Ohio.

S. 509 A bill to allow the town of Grand Lake, Colorado to maintain permanently a cemetery in the Rocky Mountain National Park.

S. 522 Limited exemption to licensing provisions for facilities associated with the El Vado Hydroelectric Project, New Mexico.

S. 538 Extension of construction deadline for a hydroelectric project located in the State of Oregon.

S. 543 A bill to extend the deadline under the Federal Power Act for the construction of a hydroelectric project in Oregon.

S. 547 A bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act.

S. 549 Extension of construction deadline for certain hydroelectric projects located in the State of Arkansas.

S. 551 Idaho National Monument Boundary Revision Act of 1995. .

S. 552 Hydroelectric Facility in Montana.

S. 595 Extension of a hydroelectric project located in the State of West Virginia.

S. 601 Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

S. 610 Corinth, Mississippi, Battlefield Act of 1995.

S. 611 Extension of time limitation for a FERC related hydroelectric issue.

S. 719 Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1995.

S. 737 Federal Power Act Amendments of 1995.

S. 755 USEC Privatization Act.

S. 801 A bill to extend the deadline under the Federal Power Act for construction of two hydroelectric projects in North Carolina.

S. 1012 Construction time of FERC licensed hydro projects.

S. 1196 Cuprum Townsite Relief Act of 1995.

S. 1371 Snowbasin Land Exchange Act of 1995.

H.J. Res. 50 A joint resolution to designate the visitor center at the Channel Islands National Park, California, as the "Robert J. Lagomarsino Visitor Center".

H.R. 101 An act to transfer land to the Taos Pueblo Indians of New Mexico.

H.R. 440 An act to provide for the conveyance of lands in Butte County, California.

H.R. 529 Targhee National Forest Land Exchange.

H.R. 562 Walnut Canyon National Monument Boundary Modification Act of 1995.

H.R. 629 An act to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado.

H.R. 694 Minor Boundary Adjustments and Miscellaneous Park Amendments Act of 1995.

H.R. 1266 Greens Creek Land Exchange Act of 1995.

H.R. 1296 A bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

H.R. 2437 A bill to provide for the exchange of certain lands in Gilpin County, Colorado.

BILLS THAT REQUIRE FURTHER REVIEW

S. 92 Bonneville Power Administration Appropriations Refinancing Act .

S. 363 Rio Puerco Watershed Act of 1995.

S. 444 An act to amend the Alaska Native Claims Settlement Act to authorize purchase of common stock of Cook Inlet region.

S. 587 An act to amend the National Trails System Act to designate the Old Spanish Trail for inclusion in the National Trails System.

S. 852 Public Rangelands Management Act of 1995.

S. 884 Utah Public Lands Management Act of 1995.

S. 907 A bill to amend the National Forest Ski Area Permit Act of 1986.

S. 1459 A bill to provide for uniform management of livestock grazing on federal land.

H.R. 536 An act to prohibit the use of highway 209 within the Delware Water Gap National Recreation Area by certain commercial vehicles.

CONGRESSIONAL BUDGET OFFICE, INTERGOVERNMENTAL MANDATE STATEMENT FOR BILLS ON THE SENATE CALENDAR AS OF JANUARY 23, 1996

ENERGY AND NATURAL RESOURCES

BILLS THAT DO NOT CONTAIN MANDATES

S. 115 Colonial National Historical Park Amendments.

S. 127 Women's Rights National Historical Park Amendments.

S. 134 Franklin D. Roosevelt Family Lands.

S. 188 Great Falls Preservation and Redevelopment Act.

S. 197 Carl Garner Federal Lands Cleanup Day.

S. 223 Sterling Forest Protection Act of 1995.

S. 225 FERC Voluntary Licensing of Hydroelectric Projects on Fresh Waters in the State of Hawaii.

S. 283 A bill to extend the deadlines under the Federal Power Act for two hydroelectric projects in Pennsylvania.

S. 333 Department of Energy Risk Management Act of 1995.

S. 342 Cache La Poudre River National Water Heritage Area Act of 1995.

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H.R. 2437 A bill to provide for the exchange of certain lands in Gilpin County, Colorado.

BILLS THAT CONTAIN MANDATES, BUT AGGREGATE NET COSTS ARE BELOW $50 MILLION

None.

BILLS THAT REQUIRE FURTHER REVIEW

S. 92 Bonneville Power Administration Appropriations Refinancing Act.•

SALUTE TO GOV. DON SUNDQUIST ON HIS 60TH BIRTHDAY

• Mr. FRIST. Mr. President, in this increasingly hectic world, we often don't take the time to recognize the people who make such a difference in our communities and in our lives. But today, on the occasion of Tennessee Governor Don Sundquist's 60th birthday, I would like to pause and recognize his lifelong service to the people of the great State of Tennessee.

Fifteen years ago, he announced that he was running against Bob Clement for the Seventh District Congressional seat. Though many people said it was a waste of his time to run against one of the biggest political families in Tennessee, he was determined and his message was strong. When election day rolled around, he had defied the odds and had won. For more than 10 years he kept his word with his constituents in Congress, and consistently fought against tax increases and fought to reduce the size and scope of the Federal Government.

In 1994, he brought that message and the commitment to the entire State. That election year, he and I crossed paths many, many times. As two Republican candidates seeking statewide offices in the biggest year so far for Republicans in Tennessee, we were constantly running into each other on the campaign trail as we discussed our visions for Tennessee. During these times, I was always impressed with his graciousness and composure under fire. His vision led him to the Governor's office, and mine led me to the U.S. Senate.

Since that historic day when he was elected Governor, he has continued to practice what he preached for so many years—getting government out of the people's business and putting people back into the business of government. Public input is vital to him in drafting his major legislative proposals, and it shows when he invites members of the private sector to review his legislative initiatives and solicits their advice on how bills will impact Tennessee communities, businesses, and citizens. He also consults with citizens, business leaders, and State employees to find ways for State government to save money and abolish waste. The bottom line is that he welcomes innovation and he's not afraid to lead.

I want to join with the Governor's family and friends today in wishing him a happy birthday and let him know that his efforts and his commitment to the people of Tennessee have not gone unrecognized. Governor Sundquist, I wish you the very best, and I thank you for your dedication and service to our great State. Happy birthday.•

TRIBUTE TO THE SOUTHEAST OUTLOOK

• Mr. McCONNELL. Mr. President, I rise today to congratulate the members of Southeast Christian Church on the success of their first newspaper, the Southeast Outlook. The Outlook was created because the church's newsletter could no longer communicate sufficiently to the 10,000 members of Southeast Christian.

The first issue of the paper was published September 1, 1995, and averages about 20 to 28 pages a week. The Outlook lets people who are part of the congregation get to know each other—which is not easy in a church that is, as an elder of the church put it, "larger than most towns in Kentucky." The paper focuses on church events, ministries, and members of the congregation, as well as issues of State, local, and national interest.

The Outlook has profiled everyone from its elders to the chief custodian to a church member who turned to God after a suicide attempt. Church members can also keep informed about the congregation's wall-to-wall activities. Publisher and editor Ninie O'Hara has said, "Now that we have a product, our phone rings off the hook. We have 10,000 people at Southeast, and they're all out in the world doing things."

O'Hara has been a newspaper publisher and editor in Kentucky since 1979. Steve Lowery, who hired O'Hara for her first job in journalism, said of her, "She is in my opinion the best writer that we had at our company and one of the best writers in the State of Kentucky." O'Hara turned down a better paying job from the Lexington Herald-Leader to take the job at Southeast last summer.

O'Hara said of the Outlook:

> [The paper] lets the outside world look into Southeast Christian Church and see hey, these people . . . have the same pressures and stresses as us. But they're dealing with it differently because of the presence of God. If they like what they see . . . maybe they'll come and join us.

Mr. President, I ask you and my colleagues to join me in paying tribute to the congregation of Southeast Christian Church and congratulating them on the success of their newspaper.•

CHANGE OF REFERRAL—S. 1412

Mr. KYL. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of S. 1412 regarding the Red River Waterway and the J. Bennett Johnston Waterway, and be referred to the Committee on Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF REFERRAL—H.R. 419

Mr. KYL. Mr. President, I ask unanimous consent that H.R. 419 be discharged from the Committee on Environment and Public Works and be referred to the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BI-STATE DEVELOPMENT AGENCY

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 78, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 78) to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Ms. MOSELEY-BRAUN. Mr. President, the joint resolution before us today confers additional authority upon the Bi-State Development Agency, a compact created by the States of Illinois and Missouri. The Bi-State Agency operates a mass transit system in the St. Louis metropolitan area, which includes Belleville and other areas of southwestern Illinois.

In 1950, Congress approved a joint request from the State of Illinois and Missouri to create this Bi-State authority to operate an interstate bus system. The Bi-State Development Agency has expanded, and now operates a successful light rail system, known as the MetroLink.

The original compact, however, that was approved by Congress in 1950, did not empower the Bi-State Development Agency to appoint or employ a security force, or to enact rules and regulations governing fare evasion and other misconduct on the light rail system. As a result, MetroLink passengers currently pay fares through a barrier-free, self-service, proof-of-payment system. this system, while successful, needs an enforcement policy and mechanism to ensure compliance.

The States of Illinois and Missouri have acted to confer such authority upon the Bi-State Development Agency. As you know, Mr. President, the Constitution requires that we then approve this request, and that is exactly the purpose of the joint resolution before us today. The House of Representatives approved this joint resolution yesterday without objection.

Because these two States have asked us, and because local, State, and Federal officials from these States support this joint resolution, I would urge all of my colleagues to vote in favor of its passage.

Mr. KYL. Mr. President, I ask unanimous consent that the joint resolution be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 78) was deemed read the third time and passed.

The preamble was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

Mr. KYL. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

Mr. KYL. Mr. President, I now withdraw the motion.

COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

Mr. KYL. Mr. President, I now ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 956, the product liability bill.

THE PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

THE PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 14, 1996.)

CLOTURE MOTION

Mr. KYL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 956, the Product Liability Fairness Act:

Slade Gorton, Trent Lott, Strom Thurmond, Rod Grams, Jim Jeffords, Bob Smith, Dan Coats, Judd Gregg, Jay Rockefeller, Craig Thomas, Don Nickles, Conrad Burns, Phil Gramm, John McCain, Larry Pressler, Pete V. Domenici.

Mr. KYL. Mr. President, I ask unanimous consent that the cloture vote on the conference report occur on Tuesday, March 19, at a time to be determined by the two leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, MARCH 18, 1996

Mr. KYL. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday, March 18; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 12 p.m., with Senators permitted to speak for up to 5 minutes each, and further that at 12 noon the Senate resume consideration of H.R. 3019, the omnibus appropriations bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. KYL. Mr. President, for the information of all Senators, the Senate will debate amendments that are in order under the unanimous-consent agreement in place with respect to the omnibus appropriations bill on Monday. There will be no rollcall votes on Monday. Any votes ordered in relation to that bill will occur on Tuesday, March 19, at 2:15 p.m. Senators with amendments in order to the omnibus appropriations bill should be prepared to offer those amendments on Monday in that there will be very limited time for debate on Tuesday.

Senators are also reminded that at some point on Tuesday, the Senate will also be voting on passage of the Small Business Regulatory Enforcement Fairness Act as well as a cloture vote on the motion to proceed to the Whitewater Committee resolution.

In addition, Senators should be aware that a rollcall vote will occur on Tuesday on the motion to invoke cloture on the conference report to accompany H.R. 956, the product liability bill, unless a consent agreement can be reached otherwise.

ADJOURNMENT UNTIL 11 A.M. MONDAY, MARCH 18, 1996

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:13 p.m., adjourned until Monday, March 18, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 15, 1996:

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS. (REAPPOINTMENT)

LAURENCE H. MEYER, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF 14 YEARS FROM FEBRUARY 1, 1988, VICE JOHN P. LAWARE, RESIGNED.

ALICE M. RIVLIN, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1996, VICE ALAN S. BLINDER, RESIGNED.

ALICE M. RIVLIN, OF PENNSYLVANIA, TO BE A VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS, VICE ALAN S. BLINDER, RESIGNED.

HOUSE OF REPRESENTATIVES—*Monday, March 18, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. MYERS of Indiana].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 18, 1996.

I hereby designate the Honorable JOHN T. MYERS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we, O gracious God, make wise use of the gifts and abilities that You have given us. May our words edify and instruct, may our motivations promote justice and understanding, may our thoughts inspire us to be honest with ourselves, may our friendships encourage and stimulate, and may our deeds testify to the unity we have from You. Bless us, O God, and may Your benediction never depart from us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore lead the House in the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 15, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, March 15, 1996 at 10:15 a.m.: that the Senate passed without amendment H.J. Res. 163.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 18, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the House of Representatives, the Clerk received the following message from the Secretary of the Senate on Monday, March 18, 1996 at 10:50 a.m.: that the Senate passed without amendment H.J. Res. 78.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled joint resolution on Friday, March 15, 1996:

H.J. Res. 163, making further continuing appropriations for the fiscal year 1996, and for other purposes.

CBO UNFUNDED MANDATE REPORT ON H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 15, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: The Committee on the Judiciary has received further costs estimates from the Congressional Budget Office relating to intergovernmental and private sector mandates cost estimates for the "Immigration in the National Interest Act of 1995" (H.R. 2202). I am placing this letter in the Congressional Record so that all members may have the benefit of this information.

Sincerely,

HENRY J. HYDE,
Chairman.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 13, 1996.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed intergovernmental and private sector mandates cost estimates for H.R. 2202, the Immigration in the National Interest Act of 1995. CBO provided a federal cost estimate for this bill on March 4, 1996.

This bill would impose both intergovernmental and private sector mandates, as defined in Public Law 104-4.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: H.R. 2202.

2. Bill title: Immigration in the National Interest Act of 1995.

3. Bill status: As ordered reported by the House Committee on the Judiciary on October 24, 1995.

4. Bill purpose: H.R. 2202 would make many changes and additions to federal laws relating to immigration. A number of provisions in the bill, particularly those in titles V and VI, could have a significant impact on state and local governments. Provisions in these two titles would restrict the number of legal entrants to the United States in the future and limit the eligibility of many aliens for public benefits. Title VI would also authorize state and local governments to implement measures to minimize or recoup costs associated with providing certain benefits to legal and non-legal aliens. Other titles contain provisions that would affect the hiring procedures of some state, local, and tribal governments and preempt state and local privacy rules relating to non-legal aliens who use public services.

5. Intergovernmental mandates contained in the bill: H.R. 2202 would require that state and local governments:

Deny eligibility in most state and local means-tested benefit programs to non-legal aliens, including those "permanently residing under color of law" (PRUCOL). (PRUCOLs are aliens whose status is usually transitional or involves an indefinite stay of deportation);

Deny non-legal aliens and PRUCOLs the right to receive grants, enter into contracts or loan agreements, or receive or renew professional or commercial licenses;

Distribute means-tested benefits only through individuals who, on the basis of their immigration status, are themselves eligible for the program;

Request reimbursement from a sponsor if notified that a sponsored alien has received benefits from a state or local means-tested program; and

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in `this typeface` indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Impose no restrictions on the exchange of information between state or local governmental entities or officials and the Immigration and Naturalization Service (INS) regarding the immigration status of individuals.

In addition, H.R. 2202 would require state, local, and tribal government personnel offices in at least five states to confirm, through a toll-free telephone number (or other electronic media), the identity, social security number, and work eligibility of all employees within 3 days of hiring. The bill would also require that state and tribal agencies distributing unemployment benefits assure that recipients have proper employment authorization.

6. Estimated direct costs to State, local, and tribal governments: (a) Is the $50 million annual threshold exceeded? No.

(b) Total direct costs of mandates: CBO estimates that the mandates in this bill would impose direct costs on state and local governments totaling less than $20 million annually. The direct costs of the mandates in H.R. 2202 result primarily from a provision in the bill that places restrictions on the distribution of means-tested benefits. This provision would increase the costs associated with administering these programs. The bill's other mandates, as explained at the end of the following section, would have little or no direct impact on the budgets of state, local, or tribal governments.

(c) Estimate of necessary budget authority: Not applicable.

7. Basis of estimate: For the purposes of preparing this estimate, CBO contacted state and local governments and public interest groups representing these governments. We included in our survey the seven states most significantly affected by immigration in an effort to assess the impact of this legislation on those states in particular. We also contacted local governments with large immigrant populations as well as other state governments to understand the administrative challenges they would face if this legislation is enacted. CBO used federal public welfare caseload data and state and local estimates of per case administrative costs to project the direct costs of the mandate. We assume that H.R. 2202 would be enacted by August 1, 1996.

Mandate with significant costs—distribution requirements

H.R. 2202 would impose administrative costs on state and local agencies responsible for public welfare programs that benefit children. The bill would require that benefits be distributed through a person who meets the eligibility requirements for the same benefits on the basis of his/her immigration status. This requirement appears to target parents or guardians who are not lawfully in this country themselves but who have dependent children who are citizens or who otherwise qualify for benefits. In such cases, state or local agencies responsible for providing benefits would have to establish alternate delivery mechanisms to ensure that eligible children receive the benefits.

This provision would primarily affect Aid to Families with Dependent Children (AFDC) and Food Stamps, means-tested federal programs that are administered at the state and local levels. In both, state and local governments share administrative costs equally with the federal government. However, Public Law 104-4 defines requirements affecting these entitlement programs as mandates only if the states and localities "lack authority to amend their financial or programmatic responsibilities" for the programs. Thus, mandate costs encompass only the additional administrative expenditures in states lacking the flexibility to alter the structure of their programs to offset the additional costs of the requirement.

To determine the potential cost of this requirement, CBO examined analogous cases in programs when a guardian or parent is unfit to receive benefits. When these circumstances arise, agencies channel the benefits through a person or organization, referred to as a representative payee, who agrees to take on the responsibility of delivering the benefits to the recipient. State and local agencies can spend up to several hundred dollars per case to find a representative payee and often must pay an ongoing fee to such a person. In determining the potential cost of compliance with this mandate, CBO estimated that annual costs would average less than $250 per case for the approximately 140,000 cases affected by the requirement. State and local governments would bear half of these costs. Because AFDC and the Food Stamp program are usually administered by the same state or local agency, CBO assumed that only one representative payee per case would be necessary to cover both programs. On this basis, CBO estimates that the mandates in this bill would impose direct costs on state and local governments totaling less than $20 million annually.

Mandates with insignificant costs

Most of the mandates in H.R. 2202 would not result in measurable budgetary impacts on state, local, and tribal governments. In some cases—eligibility restrictions based on legal status—the bill's requirements simply restate current law for many of the jurisdictions with large alien populations and thus result in little costs or savings. In others—sponsor reimbursements and unemployment benefit screening—broadly drafted language would allow states and localities discretion as to how much effort they spend on certain requirements. A few provisions would result in minor administrative costs for some state and local governments—employee verification and preemption of laws restricting the flow of information to and from the INS—but even in aggregate, CBO estimates these amounts would be insignificant.

8. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: None.

9. Other impacts on State, local and tribal governments: H.R. 2202 contains many additional provisions affecting public benefits to aliens that, while not mandates, could have significant impacts on the budgets of state and local governments. On balance, CBO expects that these provisions would result in an overall net savings to state and local governments.

Means-tested Federal programs

H.R. 2202 would result in significant savings to state and local governments by reducing the number of illegal aliens receiving means-tested benefits through federal programs, including Medicaid, AFDC, and Supplemental Security Income (SSI). These federal programs are administered by state or local governments and have matching requirements for participation. Thus, reductions in caseloads would reduce state and local, as well as federal, outlays in these programs. CBO estimates that the savings to state and local governments would exceed $750 million over the next five years.

H.R. 2202 would lower alien caseloads in means-tested federal programs primarily by placing stricter eligibility requirements on future legal entrants. The bill would lengthen the time sponsored aliens must wait before they can go on AFDC or SSI, and, most notably, apply such a waiting period to the Medicaid program. H.R. 2202 would also deny means-tested benefits to PRUCOLs. The remaining savings would come from restrictions on the number of legal entrants, particularly refugees who often rely on welfare upon their arrival in this country. Illegal aliens are currently ineligible for most federal assistance programs and would remain so under the proposed law.

Means-tested State and local programs

It is likely that some aliens displaced from federal assistance programs would turn to assistance programs funded by state and local governments, thereby increasing the costs of these programs. While several provisions in the bill could mitigate these costs—strengthening affidavits of support by sponsors, allowing the recovery of costs from sponsors, and authorizing agencies to "deem" or consider a sponsor's income when determining alien eligibility for programs—CBO expects that such tools would be used only in limited circumstances in the near future. At some point, state and, particularly, local governments become the providers of last resort, and as such, we anticipate that they would face added financial pressures on their public assistance programs that would at least partially offset the savings they realize from the federal programs.

Emergency medical services

H.R. 2202 would offer state and local governments full reimbursement for the costs of providing emergency medical services to non-legal aliens and PRUCOLs on the condition that they first verify the identity and immigration status of such individuals with the INS. Existing law requires that state and local governments provide these services and, under current matching requirements, pay approximately half of the costs. While no reliable totals are available of the amounts currently spent to provide the services, areas with large alien populations claim that this requirement results in a substantial drain on their budgets. For example, California, with almost half the country's illegal alien population, estimates it spends over $350 million each year on these federally mandated services. Full federal reimbursement of emergency medical costs would result in significant savings to state and local governments.

Practical issues surrounding the verification requirement, however, call into question the ability of states and localities to collect the additional funds. Emergency patients often show up with no insurance and little other identification; therefore, if the INS drafted stringent rules for verification, we expect that few providers could qualify for full reimbursement. On the other hand, if the INS required only minimal identification, state and local governments could realize significant savings.

10. Previous CBO estimate: CBO provided a preliminary analysis of mandate costs to state and local governments as part of the federal cost estimate dated March 4, 1996. The initial conclusions presented in that estimate have not changed.

11. Estimate prepared by: Leo Lex and Karen McVey.

12. Estimate approved by: Robert A. Sunshine for Paul N. Van de Water, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COSTS OF PRIVATE SECTOR MANDATES

1. Bill number: H.R. 2202.

2. Bill title: Immigration in the National Interest Act of 1995.

3. Bill status: As ordered reported by the House Committee on Judiciary on October 24, 1995.

4. Bill purpose: H.R. 2202 would make many changes and additions to federal laws relating to immigration.

5. Private sector mandates contained in the bill: The bill would impose new requirements on the private sector in several titles. Generally speaking, the private sector mandates in H.R. 2202 lie in four areas: (1) provisions that affect aliens within the borders of the United States, (2) provisions that affect individuals who sponsor aliens and execute affidavits of support, (3) provisions that affect the transportation industry, and (4) provisions that affect employers of aliens. In addition, a few provisions would reduce existing mandates on employers and offset marginally some of the costs imposed by new mandates.

6. Estimated direct cost to the private sector: Assuming H.R. 2202 were enacted this summer, CBO estimates that the direct costs of private sector mandates identified in this bill would be minimal through 1999. However, the direct costs associated with new private sector mandates would exceed $100 million in 2000, $300 million in 2001, and $600 million in 2002. The lion's share of those costs would be imposed on sponsors of aliens who execute affidavits of support; such costs are now borne by the federal government and state and local governments for the provision of benefits under public assistance programs.

Title III—Inspection, apprehension, detention, adjudication, and removal of inadmissible and deportable aliens

Title III (new section 241) of the bill would impose new mandates on the transportation industry, in particular, those carriers arriving in the U.S. from overseas. Agents that transport stowaways to the U.S., even unknowingly, would be responsible for removing them and for the costs associated with their removal. In addition, carriers of stowaways would be responsible for any personal care required by illegal aliens because of a mental or physical condition.

This mandate is not expected to impose large costs on the transportation industry. Over the last two years, only about 2000 stowaways have been detained in total.

Title VI—Restrictions on benefits for aliens

Title VI would impose new requirements on citizens and permanent residents who execute affidavits of support for legal immigrants. At present, immigrants who are expected to become public charges must obtain a financial sponsor who signs an affidavit of support. A portion of the sponsor's income is then "deemed" to the immigrant for use in the means-test for several federal welfare programs. Affidavits of support, however, are not legally binding documents. H.R. 2202 would make affidavits of support legally binding, expand the responsibilities of financial sponsors, and place an enforceable duty on sponsors to reimburse the federal government or states for benefits provided in certain circumstances.

Supporting aliens to prevent them from becoming public charges would impose considerable cost on sponsors, who are included in the private sector under the Unfunded Mandates Reform Act of 1995. Assuming this bill were enacted this summer, sponsors of immigrants would face over $20 million in additional costs in 1998. Costs would grow quickly, however. Over the period from 1998 to 2002, assuming that affidavits of support would be enforced, the costs to sponsors would exceed $100 million annually and would total $1 billion during the first five years that the mandate is effective.

Title VIII—Miscellaneous provisions

Title VIII would impose new private sector mandates on employers who hire temporary non-immigrant workers. Under section 806, if an employer within a certain period following or preceding the laying-off of American workers files an application for an H-1B non-immigrant worker, that employer would be required to pay a wage to the non-immigrant that is at least 110 percent of the average of the last wage earned by all such laid-off workers. The costs associated with that mandate are dependent on how often H-1B workers are used to replace laid-off workers. In addition, section 806 contains provisions that would reduce mandates imposed on employers that are classified as non-H-1B dependent employers that would offset somewhat the costs of new mandates in that section.

Although no specific information exists on the extent of this practice, available data suggests that the new mandate to pay 110 percent of the average wage would not be particularly costly. About 65,000 H-1B visas are awarded each year. H-1B workers can stay in the U.S. for three years (or six years if awarded a one-time extension). Therefore, at most 390,000 H-1B workers are in the country at any one time, although the total number is probably less than that. The exact number is difficult to determine for several reasons:

Canadians are not required to obtain H-1B visas to become non-immigrant workers (although they do require approval from the federal government) and are thus not counted.

Some H-1B workers return home for temporary visits and must therefore obtain an additional H-1B visa. This means that on average, there is more than one H-1B visa issued per each non-Canadian non-immigrant worker.

No record is kept of when H-1B workers leave the United States.

According to a survey conducted in 1992 by the Immigration and Naturalization Service, close to 70 percent of H-1B workers are professionals—mainly health professionals, engineers, and computer scientists. Data from the Department of Labor in 1994 suggests an even greater concentration in the health professions.

Because the occupations of most H-1B workers are not subject to widespread layoffs, and given the total number of H-1B workers probably extant in the United States, CBO concludes that the total cost of this mandate would not be substantial.

Other provisions

Several other provisions in H.R. 2202 would impose new mandates on citizens and aliens but would result in little or no monetary cost. For example, Title IV would require aliens to provide additional information to the Attorney General or the Immigration and Naturalization Service. Title VI contains a new mandate that sponsors would be required to notify the federal government and states of any change of address.

7. Previous CBO estimate: CBO provided a preliminary analysis of mandate costs to the private sector as part of the federal cost estimate dated March 4, 1996. The initial conclusions presented in that estimate have not changed.

8. Estimate prepared by: Dan Mont and Matt Eyles.

9. Estimate approved by: Joseph R. Antos, Assistant Director for Health and Human Resources.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the Chair declares the House adjourned until tomorrow, Tuesday, March 19, 1996, at 12:30 p.m. for morning hour debates.

There was no objection.

Accordingly (at 2 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until Tuesday, March 19, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2254. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department of the Navy intends to renew the lease of *Manitowoc* to the Taipei Economic and Cultural Representative, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on National Security.

2255. A letter from the Acting President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Republic of Korea, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

2256. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–222, "Clean Hands Before Receiving a License or Permit Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2257. A letter from the Director, Defense Security Assistance Agency, transmitting informing Congress of the delivery of articles, services and training to Laos, as directed by Presidential Determination 93–45, pursuant to Public Law 102–391, section 575A(c) (106 Stat. 1684); jointly, to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Texas: Committee on the Judiciary. H.R. 2937. A bill for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993; with amendments (Rept. 104–484). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. House Joint Resolution 129. Resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact (Rept. 104–485). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on Mar. 15, 1996]

H.R. 2130. The Committee on Banking and Financial Services discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself and Mr. THOMAS, Mr. BILIRAKIS, Mr. BLILEY, Mr. HASTERT, Mr. ZIMMER, Mr. DICKEY, Mr. LAZIO of New York, Mr. WELLER, and Mr. CASTLE):

H.R. 3103. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Economic and Educational Opportunities, Commerce, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH:

H.R. 3104. A bill to amend the Internal Revenue Code of 1986 to provide special rules relating to veteran's reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994; to the Committee on Ways and Means.

By Mr. WOLF:

H.R. 3105. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to exempt certain state and local redevelopment boards or commissions, and fresh start users of facilities purchased from those boards or commissions, from the liability under that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WYNN:

H.R. 3106. A bill to improve rail transportation safety, and for other purposes; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 324: Ms. NORTON, Mr. MCDERMOTT, and Mr. FRAZER.

H.R. 835: Mr. PAYNE of New Jersey and Mr. HASTINGS of Florida.

H.R. 1619: Mr. FORD.

H.R. 2270: Mr. SCHIFF.

H.R. 2286: Mr. COOLEY, Mr. BREWSTER, and Mr. ROHRABACHER.

H.R. 2665: Ms. PRYCE.

H.R. 2856: Mr. ABERCROMBIE.

H. Con. Res. 151: Mr. JACKSON, Mr. TEJEDA, and Mr. BISHOP.

SENATE—*Monday, March 18, 1996*

The Senate met at 11 a.m. and was called to order by the Honorable CHUCK GRASSLEY, a Senator from the State of Iowa.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, we are irresistibly drawn into Your presence by the magnetism of Your love. You know all about us and offer forgiveness. You know our needs and grant us Your strength. You know our responsibilities and assure us of Your intervening help. You know the decisions that we must make this week and remind us that if we will seek Your guidance You will show us the way. Jog our memories about Your faithfulness in the past so that we may trust You with our present concerns.

As we begin this new week, give us a renewed vision of our high calling to serve You in government. May all that we do be done for Your glory. Lift us to the sublime level of excellence that is achieved only when we seek to please You above all else. May our work be an expression of our worship of You. Therefore, we will attempt great things for You and know that we will receive great power from You. In our Lord's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 18, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK GRASSLEY, a Senator from the State of Iowa, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. BROWN). The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, for the information of our colleagues, today there will be a period for morning business until the hour of 12 noon, with Senators permitted to speak for up to 5 minutes each.

Following morning business, the Senate will resume consideration of H.R. 3019, which is the omnibus appropriations bill. No rollcall votes will occur during today's session of the Senate. Senators are expected, however, to debate their amendments today, with any requested rollcall votes on those amendments to begin at 2:15 p.m. on Tuesday. Senators should expect a lengthy series of rollcall votes beginning at 2:15, and the Senate will complete action on the omnibus appropriations bill on Tuesday.

Also during tomorrow's session, the Senate will vote on passage of S. 942, the Small Business Regulatory Enforcement Fairness Act, a cloture vote on the motion to proceed to the Whitewater Committee resolution, as well as a cloture vote on the product liability conference report.

So we need to complete our debate on the amendments to the omnibus appropriations bill today, and then we will have a series of recorded votes on Tuesday beginning at 2:15.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for a period not to exceed the hour of 12 noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I see the distinguished acting Republican leader on the floor. I ask unanimous consent I be allowed to proceed for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANNING ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, I have some photographs here that have become all too familiar to the Senate. This is a photograph of a young boy, a victim of a landmine. You can see from the photograph, he has one badly injured leg, another leg that has been torn off, and an arm that is also missing. These are similar to photographs I have on my Web page in my office on the Internet. Thousands of people turn to that Web page, and what they see there are these photographs of landmine victims.

Here is one that they turn to, this young woman. I have had somebody tell me that as the picture comes down on the computer screen, the page ends at the bottom of her long skirt. Then they click on further and the picture continues down and they realize she has only one leg. This woman is from Laos. She lost her leg from a landmine.

Mr. President, these photographs are not unusual. Each one represents a tragedy, of course, not only for the person involved, but also but for his or her family. These are only two victims. There are hundreds of thousands of victims of antipersonnel landmines alive today, and of course as many more who died. They are the victims of these tiny, hidden explosives that litter whole countries. They are scattered like seed. They are a blight on our planet, and they must be stopped. This mine I am holding in my hand cost $2 or $3, and is made almost entirely of plastic to make it harder to detect.

These are not weapons that know the difference between a combatant or civilian. They are, as somebody else said, the only weapon where the unsuspecting victim pulls the trigger.

A little over a year ago, President Clinton, in a courageous speech at the United Nations, declared the goal of ridding the world of antipersonnel landmines. With 100 million of these weapons in over 60 countries waiting to explode, they have become the world's most devastating cause of indiscriminate, mass suffering.

Every 22 minutes, the State Department estimates someone somewhere, usually an innocent civilian, is killed or maimed from stepping on a landmine.

NATO forces have suffered 42 landmine casualties since they arrived in Bosnia in December, including 7 deaths. There were three casualties just last Friday, all soldiers of our European allies. Landmines are, by far, the worst threat to our troops there, but also to the people of Bosnia who will be clearing these landmines, an arm and a leg at a time, for decades to come.

The entire 184-member U.N. General Assembly adopted the goal announced by the President. But since President Clinton's announcement, a debate has ensued over how to reach the goal of eliminating antipersonnel mines.

The Pentagon, which says it shares the goal, pushed a strategy to promote the use of so-called smart mines. Mr. President, technology has an answer for many things, but this is not one of them. Antipersonnel landmines are by nature indiscriminate.

There is nothing smart about a landmine that cannot tell the difference between a soldier and a 5-year-old child. These mines are scattered from the air by the tens of thousands, and the same areas can be reseeded many times during a conflict. They legitimize the use of landmines despite their indiscriminate effect.

I am very pleased that Pentagon officials are now questioning the distinction between smart and dumb mines. Again, landmines are by nature indiscriminate. That is what makes them so insidious. I also want to commend our U.N. Ambassador, Madeleine Albright, and her Deputy Karl Inderfurth, who have urged a stronger policy against antipersonnel mines.

A growing coalition, from our soldiers in Bosnia to retired Army generals to officials in the Pentagon to the Pope and the American Red Cross, are urging that we renounce these weapons as we have nerve gas and other indiscriminate killers.

On February 12, my amendment to impose a moratorium on U.S. use of antipersonnel mines was signed into law by President Clinton. That amendment had broad bipartisan support with over two-thirds of the U.S. Senate of both parties voting for it. It represents a clear shift in U.S. policy. But it is already being eclipsed by events elsewhere.

In the past 2 months, Canada and the Netherlands have unilaterally banned their use of antipersonnel mines, and they have joined 22 other countries that have called for an immediate international ban. Many of these countries have been among the largest contributors to U.N. peacekeeping forces, and they have seen the havoc wreaked by landmines. Several, like Belgium and Austria, are destroying their stockpiles of these weapons.

Mr. President, yesterday's New York Times ran a front page story entitled "Pentagon Weighs Ending Opposition to a Ban on Mines." It reports that the Chairman of the Joint Chiefs of Staff, General Shalikashvili, has ordered a review of the landmine issue. I want to applaud General Shalikashvili for this. There is nothing harder than challenging the conventional wisdom, and when others have said something cannot be done, to ask why not and to look for a way to do it.

I want to reiterate what I have said before. There is a tremendous opportunity here for U.S. leadership. We should listen to our Armed Forces veterans, many of whom say antipersonnel mines made their job more dangerous, not safer, and who remember their buddies being blown up by their own minefields.

Over 7,400 of the Americans killed in Vietnam, 20 percent in the Persian Gulf, and 26 percent in Somalia died from landmines. We have more to gain if the use of landmines is a war crime.

We should think of the devastation these weapons are causing around the world. Regardless of what some here may think, the world does look to the United States for leadership. We are the most powerful democracy ever known in history, by far the most powerful nation on Earth. We can exert great moral and political leadership when we want to lead as a country. The President can lead. There are few people more persuasive when he is convinced of something. I have seen him in meetings with world leaders, and I know how effective he can be. With the support of the Secretary of Defense and the Chairman of the Joint Chiefs, the President could bring enormous pressure to bear on world leaders to follow our example.

It is not just the example of the Leahy amendment, but the leadership to press ahead for a ban on antipersonnel landmines worldwide.

Mr. President, this is not a Democrat or Republican issue. It is not a matter of civilians versus the military. It is an opportunity for the United States to end this millennium as the leader of a global effort to ban a weapon that Civil War General Sherman called "a violation of civilized warfare."

Mr. President, I commend the Congress for first adopting the moratorium that I proposed, the moratorium on the export of landmines from this country.

I commend the President for supporting my efforts in introducing a resolution in the United Nations to call for the eventual elimination of antipersonnel landmines.

I also commend the U.S. Senate, Republicans and Democrats, conservatives, liberals, moderates joining together to vote for a moratorium on the use of landmines by the United States. Each one of these steps, Mr. President, has given hope and encouragement to other countries. Each one of these steps has reinforced our leadership.

Years ago when I first started on this quest, it seemed a lonely one. So many times Tim Rieser and I would visit other countries, and here on Capitol Hill and to the United Nations, to speak to world leaders and U.N. ambassadors about landmines. At first, we heard only a few encouraging words. But then the International Red Cross, for the first time since the 1920's when it condemned chemical weapons, called for a ban on antipersonnel mines. Then the Pope, and the leaders of so many other nations, especially those who had sent peacekeepers overseas, humanitarian organizations like the American Red Cross, religious organizations, veterans organizations—they are all speaking out against the use of these weapons.

Mr. President, the only way to stop the use of antipersonnel landmines is to stop the use of antipersonnel landmines. When 100 million of these killers are hidden in the ground in over 60 countries, we have to say "enough is enough." Another 2 million are being added each year.

The only way we will stop this is to ban their use, and to turn our attention to the immense job of clearing the mines that have turned so many parts of the world into death traps.

This is an issue whose time has come. I commend those at the Pentagon, the White House, and here in the Congress, in both parties, who have supported this effort so far. Let us go one step further, and make this for all time U.S. policy, to ban their use; and then go to our allies around the world, and to other countries, and say, join with us in what is both a security and a moral imperative.

Mr. President, I ask unanimous consent that the article from yesterday's New York times and an Associated Press article related to the subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 17, 1996]

PENTAGON WEIGHS ENDING OPPOSITION TO A BAN ON MINES

POLICY REVIEW ORDERED—THREAT TO U.S. FORCE IN BOSNIA BRINGS RECONSIDERATION OF MOVES AGAINST WEAPON

(By Raymond Bonner)

WASHINGTON, March 16.—With the daily threat of land mines to American soldiers in Bosnia having brought the issue home, Gen. John Shalikashvili, the Chairman of the Joint Chiefs of Staff, has ordered a review of the military's longstanding opposition to banning the use of land mines, which kill or maim more than 20,000 people a year, primarily civilians.

In asking for the review last week during a meeting with the chiefs of the military services, General Shalikashvili said he was "inclined to eliminate all anti-personnel land mines," a senior pentagon official said.

The Pentagon was prompted to review its policy in part by a strong bipartisan antimine sentiment in Congress, led by Senator Patrick J. Leahy, Democrat of Vermont, as well as by a growing international campaign to ban antipersonnel mines, Pentagon officials said.

These separate Congressional and international campaigns against mines gained new momentum after American soldiers began arriving in December in Bosnia, where an estimated three million land mines have been planted. Three American soldiers have since been wounded by the weapons.

Nearly a dozen countries have banned the use of land mines. Senator Leahy and other advocates of a ban argue that if the United States renounced their manufacture, sale and use, many other countries would follow. While they concede that there would still be outlaw states, they counter that an international ban backed by sanctions would result in a substantial overall reduction in the use of land mines.

Pentagon officials say General Shalikashvili acted after he and Defense Secretary William J. Perry received a confidential letter from the American representative to the United Nations, Madeleine K. Albright, who has just returned from a trip to Angola. That country has many young men and children whose limbs were ripped off in landmine explosions.

Ms. Albright wrote that a new policy on land mines was urgently needed, because the Administration's current policy would not achieve their elimination "within our lifetimes." She sent copies to other senior Administration officials; parts of the letter were read to The New York Times by a supporter of the ban who had received a copy.

Two years ago in a speech at the United Nations, President Clinton called for the "eventual elimination" of land mines. Under current policy, the Administration supports an amendment to the 1980 Convention on Conventional Weapons that would allow the use of only "smart" mines, which deactivate or destroy themselves after a few weeks or months.

The United States was barred by Congress in 1993 from exporting land mines for three years. Another law prohibits the United States from using land mines for one year in 1999.

There are an estimated 100 million land mines planted in 62 countries, and an official with the Arms Control and Disarmament Agency said last week that the number is increasing by two million a year. The State Department has said 600 people a month are killed or wounded by mines; the American Red Cross has estimated that it is twice that many.

This week, the Dutch Government renounced the use of land mines, joining Canada, Mexico, Belgium, Austria, Norway and five other countries; France recently prohibited the production and export of land mines. Twenty-four countries have called for an international ban, according to the latest tally by Human Rights Watch, the New York-based human rights organization, which has been a leader in an international campaign for a ban.

Last fall, the International Committee of the Red Cross opened a campaign to ban antipersonnel land mines. It was a highly unusual step for the Swiss organization, which is not an advocacy organization and only once before has called for a weapons ban—of chemical weapons, back in the 1920's.

"We've simply seen too much," said Urs Boegli, director of the Red Cross's land mine campaign, explaining why the organization had acted.

More than any other single organization, the Red Cross works in conflicts around the world, he said. He added that the Red Cross had begun its ban campaign only after having fought unsuccessfully to strengthen the 1980 conventional weapons treaty to restrict their use.

China and Russia, which each have stockpiles of more than 100 million mines, have been the major countries blocking an amendment to the convention that would allow all but "smart" mines.

In the Pentagon, the Office of Special Operations and Low-Intensity Conflict has pushed for a complete ban on all antipersonnel mines—"smart" and "dumb"—except in limited situations, such as along the border between North and South Korea.

Land mines should be put in the category of chemical weapons, said Timothy Connolly, principal Deputy Assistant Secretary of Defense for special operations. Even though they have military utility, chemical weapons have been banned because of their devastating consequences, to soldiers and civilians.

"Some day, and that day has to be sooner rather than later, we are going to reach that same conclusion about antipersonnel land mines," Mr. Connolly, who was an Army captain during the Persian Gulf War, said during an interview this week.

Mr. Connolly's office rejects the "smart" mine compromise.

The basis of the American support for such a compromise is that it is possible to develop a mine that will self-destruct or self-deactivate with 99.7 percent certainty, according to Robert Sherman, director of advanced projects of the Arms Control and Disarmanent Agency and a negotiator in talks on amending the conventional weapons pact.

But Mr. Connolly said, "There is no evidence in the United States that we are capable of building a device capable of working 100 percent or nearly 100 percent of the time."

Until this recent review, Mr. Connolly's voice had been a lonely one in the Pentagon.

Pentagon officials predicted that the Army and Marine Corps would fight the hardest to be allowed to keep at least some land mines, Pentagon officials said. Military doctrine calls for land mines to reduce the number of soldiers needed in certain situations, to canalize the enemy and to protect vital installations, like power stations.

In the closed-door meeting last week when Gen. Shalikashvili ordered the review, the chiefs of the Army and Marine Corps said they needed land mines to police the border between North and South Korea, a Pentagon Official said.

"The U.S. Army's position is that we use land mines responsibly," said an Army general who spoke on condition of anonymity.

Senator Leahy believes, however, that with American troops in Bosnia, if President Clinton renounced the use of land mines, "he would get very substantial support in the military." Mr. Leahy, who has led a four-year effort in Congress to ban land mines, said he was constantly hearing from servicemen, from sergeants to generals, who urge him on.

Recently, he received an E-mail message from an Air Force master sergeant, Dale A. Lamell, on duty in Bosnia, who wrote: "I would like to salute you for your efforts to eliminate the international use of land mines. Bosnia should serve as an example to the rest of the world."

Requesting anonymity, a senior military officer at the Pentagon also said this week that there was considerably more support among officers for getting rid of land mines than emerges publicly.

Freed from the constraints of being in uniform, several prominent retired generals have agreed to sign an open letter to the President calling for an international ban on the production and use of antipersonnel land mines, said Robert Muller, director of the Vietnam Veterans of America Foundation, which began soliciting signers three weeks ago. Among them are Gen. Frederick R. Woerner, a former commander of the United States Southern Command in Panama, and Lieut. Gen. Harold Moore, a former commander of the Seventh Infantry Division and author of "We Were Soldiers Once . . . and Young."

"I very much oppose antipersonnel land mines because they are indeed indiscriminate in their killing and maiming," Gen. H. Norman Schwarzkopf wrote this month in a letter to Frank J. Fahrenkopf Jr., who was chairman of the Republican National Committee during the Reagan Presidency and who had written to the general asking him to join the campaign to ban antipersonnel mines.

Though he said he wanted to think a bit longer before deciding whether to sign the letter to the President, General Schwarzkopf said his wish to see land mines "forever eliminated from warfare" was based on his personal experiences of "having seen hundreds of my own troops killed or maimed by them," as well as being "keenly aware of the devastating effects" of land mines on civilians.

[From the Associated Press, Mar. 17, 1996]

SENATOR PRAISES PENTAGON FOR RECONSIDERING LANDMINE USE

(By Sally Buzbee)

WASHINGTON.—A Senator long opposed to U.S. use of land mines said Sunday he's delighted the Pentagon will reevaluate its position that the deadly, hidden weapons are needed for troop safety.

"There are certain weapons you just don't use," said Sen. Patrick Leahy, D-VT.

A Pentagon spokesman confirmed Sunday that a review of the military's longstanding policy on anti-personnel land mines was under review.

"It's been an ongoing issue here," said Pentagon spokesman Major Steve Manuel. "We're still in the process of examining it."

Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, ordered the review last week, The New York Times reported Sunday.

A senior Pentagon official told the newspaper that Shalikashvili was "inclined to eliminate all anti-personnel land mines."

Worldwide, the use of land mines targeted at people, not tanks, has escalated in the last 15 years, They now kill or injure 26,000 people each year, the State Department estimates.

Most victims are civilians in war-torn countries like Angola, Cambodia, Vietnam and El Salvador, but land mines also pose risks to U.S. troops participating in the Bosnian peacekeeping mission.

U.N. Secretary-General Boutros Boutros-Ghali and the International Red Cross have urged a worldwide ban on land mines. And Canada, Austria, Norway, Holland, Belgium, Mexico, the Netherlands and five other countries already have renounced their use.

But until now, U.S. military officials have insisted they needed the option of using land mines to protect the lives of American soldiers. They also have argued that the United States should not give up a weapon if other nations won't.

Despite Pentagon objections, Leahy pushed through Congress a one-year ban on the military's use of anti-personnel land mines, except along borders and in demilitarized zones. The ban would begin sometime within three years, and President Clinton signed it into law.

"The rest of the world wants the United States to lead on this," Leahy said in an interview Sunday. "If the most powerful nation in the world can't do away with land mines, how can we ever persuade other countries to?"

Shalikashvili ordered the review of Pentagon policy after he and Defense Secretary William J. Perry received a confidential letter from the U.S. ambassador to the United Nations, Madeleine K. Albright, the Times said.

Albright, who had just returned from Angola, urged that the current policy on land mines be changed, the Times said. Parts of the letter were read to the newspaper by an unidentified official who received a copy.

Leahy argues that many military officials, both retired and active-duty, also privately support a permanent ban on land mines.

"This is not a Republican-Democratic, liberal-conservative or civilian versus military issue," Leahy said.

The Pentagon estimates Bosnia has 3 million land mines and Croatia another 3 million. Some are sophisticated; others crude or homemade. NATO officials say no more than 30 percent have been mapped.

Mr. LEAHY. Mr. President, I see nobody else seeking the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I do not see anybody seeking recognition, so I ask unanimous consent that I be allowed to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR TERRORISM

Mr. LEAHY. Mr. President, the General Accounting Office has released a report which describes the appalling state of Russia's nuclear waste storage facilities. It described how a GAO investigator was able to enter one facility without identifying himself, and there was only one guard present, who was unarmed. There are other descriptions of incredibly lax security that even the most inept thief could easily penetrate undetected. It is almost an open invitation.

The implications of this are staggering. A grapefruit-sized ball of uranium, which would weigh about 30 pounds, could obliterate the lower half of the city of New York. A lot more uranium than that is already unaccounted for. We do not know whether it is in the hands of terrorists, or where it is. All we know is that it is missing.

We have already witnessed several instances of nuclear smuggling, in some cases enough uranium to cause incalculable damage. The fact that these attempts were thwarted should not give anyone a lot of confidence about the future because many, if not most, crimes go unsolved.

Mr. President, I mention this today both because of the timeliness of the GAO report, but also because we spend countless hours, sometimes days and months, here holding hearings on arcane topics and debating sometimes relatively meaningless resolutions, unless it is meaningful for someone's campaign, or voting repeatedly on issues that pale in importance to the dangers of nuclear terrorism. We make speeches about it. I am making one now. But when it comes to providing the money and other resources to seriously address this threat, the Congress oftentimes shirks its responsibility.

One good example is in the foreign aid budget. Some Members of Congress were eager to take credit for sharply cutting funds for foreign aid last year over the objection of myself and a minority of other Senators. To his credit, Senator McCONNELL, the chairman of the Foreign Operations Subcommittee, supported funds to combat international crime, as did I. But the budget was cut anyway. In fact, some of those funds could have been used to help safeguard nuclear material in countries of the former Soviet Union. It would be hard to think of an example where foreign aid is more in the interest of the security of the American people.

I want to single out Senator NUNN and Senator LUGAR, who have led the effort in Congress to get funds appropriated to safeguard nuclear weapons in the former Soviet Union. Senator NUNN made the point in today's issue of Defense News, when he said "there is skepticism about spending any money in Russia. Nunn-Lugar funds are often described as foreign aid, in quotes, as if some type of charitable giving was going on * * * We are talking about dismantling warheads and missiles aimed at us * * * things we spent trillions of dollars trying to arm ourselves against."

We are about to begin the fiscal year 1997 budget process. I hope that the Congress does not make the same mistake twice. I hope Members of Congress will read this GAO report on nuclear proliferation. Unlike some Government reports that you can read to help fall asleep at night, this one will keep you awake. Cutting these programs is the ultimate example of penny-wise, pound-foolish. I am already hearing rumors that foreign aid may be slashed again this year. If that happens, some of those who vote that way should ask themselves what responsibility they bear.

There is no way to guarantee the safety and security of fissile material, but there is a lot more that we and others can and should do to combat the threat of nuclear terrorism. It is going to cost a lot of money. Budgets are already stretched, but can anyone here say that we can afford to watch this problem get worse? This is about the security of every American, and of future generations.

So I urge the Department of Defense, the Department of State, the Department of Energy, and other agencies with responsibility for nuclear safety to develop an effective program to combat this threat. Tell us what needs to be done, and come to Congress with a request for adequate funding for it.

I wish there were better security controls in the former Soviet Union, but there are not. That is the reality, and it is a reality that a lot of thieves, a lot of would-be terrorists know even better than we do.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. THOMAS. I ask unanimous consent that I be given 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. I thank the Chair.

CHINA-TAIWAN RELATIONS

Mr. THOMAS. Mr. President, I wanted to comment just a moment on an effort we made last week and intend to make again tomorrow relating to the affairs in the Taiwan Strait. All of us know that there has been now for some time a series of threats, a series of missiles, a series of live-ammunition military maneuvers by the People's Republic designed, we believe and I believe, to intimidate the Taiwanese election that comes up this week. Certainly, our country and the world, indeed, has a great interest in what happens in this area, partly because of our efforts to improve our relationship with the People's Republic of China—a relationship that will be increasingly important as time goes by, increasingly important to the Pacific rim and to the Asian area, increasingly important in the area of trade; 1.2 billion people with an economy growing at 10 percent—partly because of our concern for Taiwan and the development there of a democracy, this election of the President, the first free election that has been held, one of the first areas of success of democracy in an Asian country; partly because of the agreements that we have made with Taiwan and China through the years, three communiques and the Taiwan Act that spells out where we are, spells out the fact that we have supported the one-China policy and continue to support the one-China policy, spells out the fact that basic to that agreement is the agreement that it be pursued in a peaceful way, and that it not be involved in the military action.

So I think it is appropriate that we do have a statement from this Senate. We have put together a resolution. We put it together last week. It has sponsorship by the chairman of the Foreign Relations Committee as well as the ranking member, and is sponsored by the leader, BOB DOLE. However, we were not able to bring it up by unanimous consent last week. We have now talked to those who were concerned about it, and hopefully we will be able to bring it up tomorrow and get it passed.

The resolution basically, of course, deplores the notion and the activities of the Peoples Republic in these military actions, the idea that they have fired off missiles very close to Taiwan, close to both the ports of Taiwan, and now are involved in live-ammunition activities there.

We have asked in the resolution for the People's Republic as well as Taiwan to come together to discuss these issues in a peaceful way. We also recognize our obligation, if there is military action against Taiwan by the People's Republic, that we will assist in helping them prepare for themselves to have the equipment to defend themselves.

Hopefully, these activities are simply efforts to intimidate. I believe they are. I believe they are simply an expression of the concern that the People's Republic has had, and I hope that they will discontinue that kind of activity. I further hope the Taiwanese will go out of their way not to create the kind of tension that we have had.

So, Mr. President, we intend to bring again, tomorrow, a resolution that will put the Senate on record in that regard.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BOYS AND GIRLS CLUBS OF AMERICA 1995 CONGRESSIONAL BREAKFAST

Mr. THURMOND. Mr. President, this week in March is a traditionally busy one here in Washington as tens of thousands of children of all ages arrive in the Nation's Capital. They come to the District of Columbia from all over the United States during their spring break vacation to learn about our Government and our history, both of which are unparalleled.

Over the past 4 or 5 days, I doubt that there is one Member of this Chamber who has not met several groups of his or her young constituents, boys and girls who have stopped by for Gallery passes, a photo, or just to say "hello." I also doubt that there is one Senator who was not pleased to meet with these children as each of us recognizes that the youth of today represent the future of our country. That recognition clearly guides us as we work to ensure that the United States remains a nation of opportunity and freedom.

While what we do here in the Senate helps our children, there are other organizations out there who dedicate all of their efforts to making the lives of our youngest citizens better. One such group is the Boys and Girls Clubs of America. From coast to coast and from north to south, there are boys and girls clubs in thousands of communities of every imaginable size. The service this organization provides range from recreational activities to counseling, but most importantly, they provide a place for our young people to go and be involved in constructive activities.

Each year, the Boys and Girls Clubs of America hosts a congressional breakfast, and as the Capitol is filled with children this week, I thought this would be an ideal time to share the thoughts and comments of those who spoke at this year's event. Their comments will give those who read them an insight into this organization and the significant work they do.

I ask unanimous consent that the remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

1995 CONGRESSIONAL BREAKFAST

SENATOR THURMOND

Representative Steny Hoyer, Mr. George Grune, the Chairman of the Board, Mr. Robbie Callaway, the Senior Vice President, Melvin Laird, Arnold Burns, one of the outstanding lawyers of this nation, Judge Freeh, all of the distinguished guests, and ladies and gentlemen, I'm very honored to be here on this occasion. Now, as a Senator, there are a lot of events you are asked to attend. I'm always pleased to attend this breakfast. It's the twelfth year.

I'm a strong believer in the Boys & Girls Clubs of America. There's no more important resource than our children. Boys & Girls Clubs of America work to help protect and promote that resource. This is an organization that is making a difference in the lives of tens of thousands of at risk teens. It provides parks and recreational activities, a safe haven from the mean streets, teaches kids the importance of work and responsibility, works to get kids into school, into jobs, off welfare roles, out of public housing and away from the temptations of a life of crime.

The Boys & Girls Clubs of America is an organization on the move, serving more children each year. Thirteen years ago, they served approximately one million kids. This year, they are serving more than 2.2 million boys and girls. More than 1,700 clubs are in the United States. Last year, they averaged an opening of one new club every three days. This is a group that seeks continued growth. By the year 2001, the Boys & Girls Clubs of America aims to have 1,000 new clubs, 1 million new members, over 3 million kids involved in productive activities.

The Boys & Girls Clubs of America is one of the most effective organizations in the nation for supporting our children. It is an organization worthy of the support of everyone in this room. As members of Congress, we are in the position to help the Boys & Girls Clubs and our children. We can support legislation that is beneficial to the Boys & Girls Clubs. One example is the current crime bill. The Boys & Girls Clubs of America is seeking 100 million dollars out of the crime bill over the next five years. The Board of Directors of the Boys & Girls Clubs will match that 100 million from the crime bill. That is 200 million dollars pumped directly into the future of our nation's children.

By attending this breakfast, each of you is demonstrating your support for a worthwhile cause. I urge you to continue to help the Boys & Girls Clubs of America. You can do nothing more worthy. We are proud of the Boys & Girls Clubs of America and we're going to keep on working to make it bigger and stronger every year. Good luck, God bless you and God bless the Boys & Girls Clubs of America and God bless our country.

CONGRESSMAN STENY HOYER

One problem with the Strom and Steny show is that I have to follow Strom Thurmond. Thurmond and Hoyer, that sounds like a good name for a firm at some point in time. Strom's show has been running a lot longer than mine, as you know, but I'm always amazed at the energy, his commitment and the verve that he brings to life and the endeavors which he undertakes. And Senator, I want you to know what an honor and privilege it is to co-chair this breakfast on a continuing basis with you. George Grune, your leadership is critically important. General Burns, you've seen General Burns up here, he looks a lot like Colin Powell. I asked him if he was running for President. He's got those four stars on his lapel, here. I'm sure it's got to have something to do with that. He is outranked, of course, at his table by Secretary Laird and the Secretary is keeping him in line, luckily, so they'll be peaceful. Pete Silas, thank you for all you've done and your leadership. We look forward to working with you on a continuing basis. My friend, Robbie Callaway. I think we ought to give Robbie Callaway a big round of applause for the outstanding leadership he brings to this effort on a regular basis. Ken Gordon is here today, too.

Six or seven of the top law enforcement officials in our nation are here. We have Louis Freeh and a group of his distinguished colleagues. They're the ones who lock up and help convict those who break the laws in our country, to keep our communities and streets and schools safe. That's their job. We ask them to do that. They're people that sometimes themselves risk their life and limb to do so. They're here this morning and I reflect on why and what message that brings us. They're here because unless parents and Boys & Girls Clubs leaders and other youth leaders all over this country do their job, they know they can't lock up enough people. God bless them and you ladies and gentlemen of the Boys & Girls Club, God bless you. Senator Thurmond is correct because you do God's work.

This is the first line of defense. This is the first line in a battle we all must wage if we are to stop the crime and the violence and the drugs from taking over our streets, our children. And that, ladies and gentlemen is what it's all about.

I am very, very proud to be here with two people who symbolize what is the first line and the best line and ultimately the line that will get us to where we need to be—two parents who all America, and indeed all the world applaud just a few days ago.

Lou Gehrig had the kind of character that all the world would admire. Let us thank God that his record was equaled and surpassed by another individual who had the character of which we can all be proud and say, "He was worthy of Lou Gehrig". But, why was it so? It was so because Vi and Cal Ripken Sr. Gave him the leadership and the charcter and the understanding that gave him the will and the strength of character to persevere in the face of pain, the face of frustration, the face of being tired. We all get tired. Cal Ripken Jr. rose and he said, effective, "My Dad and Mom said go to work every day and do the best you can." Is there a more powerful, potent message to be given to young people than that message? God bless Vi and Cal Ripken, Sr. We're proud of you and proud of what you've done. By the way, they're from Maryland.

I know if you'll allow me four more minutes, I will close with this. I hope all of you have read the books left for you. There is a young woman sitting at my table who is typical of all of the young people we come here today to honor. She's a success story. Not just the kind of success story we read about every day, but also a success story of the Boys & Girls Clubs of America. She's from Dallas. She's a young woman. She's an African American woman and a true success story. Read here quote. She says, "I am proud to tell my story. One of struggle and hardship, but also one of triumph and achievement." LaWanda Jones, that's what it's all about because, there are a lot of people who don't have a Vi and Cal to lift them up, to nurture them, to protect them, to give them the kind of internal mechanism and compass that they need to succeed.

And so, as Todd Green said, one word came to mind when he thinks of Boys & Girls Clubs, and that's "family . . . family". All of us are extended family for an awful lot of young people who need the kind of nurturing and caring and courage given by Cal and Vi to Cal, Jr. Each of you in this room is a part of that caring family of America that ultimately will be the difference. Not the government, it won't happen in government. Government can help. I am one who believes that government needs to a partner. I'm one who believes that we need to marshall our resources in the form of, yes, paying taxes and applying those to good efforts. But, in the final analysis, we will not solve the problems of making sure America's future is secure and the security of our young people is assured if it's not through our families and through us, individually, caring for our young people. That's what Boys & Girls Clubs of America do. Brooke Kersey said, "In good times and bad times, the Boys & Girls Clubs have been my life line." You do God's work. I am proud to be a part of all of you. Thank you.

"CAPTAIN" ARNOLD I. BURNS

Good morning. Thank you very much for our kind invitation. I'm delighted to be here with the distinguished members of the law enforcement community mentioned by Congressman Hoyer.

I've come today to make some important arrests. I've come to arrest crime and I've come to arrest violence, to arrest the drug epidemic, to arrest teenage pregnancies, to arrest alcoholism, to arrest youth gangs. One thing responsible people in the law enforcement business have come to know, and know very well, and Steny made this point, and that is that law enforcement alone cannot solve our societal problems. We have come to believe it and to espouse the old adage that an ounce of prevention is worth a pound of cure. We know that in order to make our streets safer and more secure, we must work with organizations such as Boys & Girls Clubs of America.

We need more programs for the young people of this nation of ours—programs like the tried and proven initiatives that have earned Boys & Girls Clubs the reputation as the positive place for kids. These programs help young people to resist the peer and other pressures that lead to substance abuse, to say "no" to drugs, "no" to alcohol, to say "no" to teenage premature sex and to say "no" to gangs.

We need more Boys & Girls Clubs which keep kids coming back day after day and year after year under professional, adult supervision to learn how to get up in the morning, to show up on time for an interview, to find employment, to develop good work habits and to become a reliable and important part of the work force. Boys & Girls Clubs of America programs literally save hundreds of thousands of kids from harm and destruction each year. It is these programs that keep kids from harm and destruction each year. It is these programs that keep kids out of our courtrooms and out of jail. It is these programs that prepare kids to become productive and participating citizens in the mainstream of our society. It is these programs which make our kids producers of tax dollars and not consumers of tax dollars as wards of the State or as welfare participants. Boys & Girls Clubs of America saves billions of dollars, multi-billions of dollars of our tax dollars, because the cost of prevention pales beside the cost of cure, particularly as the cure rehabilitation so rarely works.

So, my department, today, is issuing an APB—an all points bulletin—to the 1680 boys & girls clubs facilities across our nation—reach out—reach out for more kids. Ten years ago, boys & girls clubs served 1,000,000 kids. Today, over 2,220,000 kids. Tomorrow—within the next few years—3,000,000 kids. No alibis.

We in law enforcement will continue to investigate, apprehend, prosecute, convict and incarcerate those who slip through the prevention net. We would like—no, we need, no, we must have your help—your continued top flight work, to cut potential miscreants off at the pass and bypass the criminal justice process entirely by opting for good and productive citizenship early. I close by congratulating our "Youth of the Year" finalists: Jason Reese, Russell Roberson, Fernando Pantoja, Michael Smith and Michael Lampkins. Each of them personifies the success boys and girls clubs can achieve in providing youngsters with a real alternative to life on the streets.

We will continue our work, you continue yours—ours must be a partnership, a collaboration. Together, we can make America a better place for all.

TRIBUTE TO DR. ROBERT E. HENDERSON

Mr. THURMOND. Mr. President, I rise today to recognize Dr. Robert E. Henderson, of Columbia, SC, for his dedicated service as the president of the South Carolina Research Authority.

Throughout his life, Dr. Henderson has worked to make his community, State, and Nation better places in many different ways, not the least of which was through his stint in the Army during World War II. During that time, he fought our enemies as an infantryman, rising to the rank of staff sergeant and being awarded a Purple Heart. Nearly 50 years later, he continued to work for the defense of the Nation when he was appointed to the prestigious Defense Science Board and the Defense Manufacturing Board.

Dr. Henderson's most significant contributions to my State came through his work as the president of the South Carolina Research Authority, a position from which he recently retired. Under his direction, the authority has helped the Palmetto State to become a force in high-technology research and development, industry, and education. Thanks to the efforts of Dr. Henderson and the SCRA, billions of dollars have been added to our State's economy and South Carolina has become a favored place for companies to do business. Appropriately, Dr. Henderson's good work has been recognized many times and he has even been awarded South Carolina's highest award, the Order of the Palmetto.

Mr. President, Robert Henderson has had an important impact on South Carolina and we are grateful for all his efforts on behalf of our State. I wish him good health and much happiness in the years to come.

TRIBUTE TO COY A. SHORT UPON WINNING THE SAM NUNN AWARD

Mr. THURMOND. Mr. President, the United States gained its freedom from our colonial masters in a bloody and hard fought war for independence. By the end of our 8-year struggle with the Crown, the young United States possessed the Continental Army, the force that ultimately defeated the English, but in 1776, it was ordinary men who grabbed weapons and first fired on the redcoats at Lexington. With that "shot heard 'round the World," not only was a blow for freedom struck, but the tradition of the citizen-soldier was hatched, one that remains alive and strong in our Nation today in the form of the National Guard.

In cities and towns throughout the United States, one will find armories where men and women, much like their Minuteman forefathers, drill and prepare to meet the missions with which they are tasked. While much about the Guard has changed since the 1700's, muskets have been replaced by M-16A2 rifles and the horse cavalry has been replaced by the M1A2 main battle tank, one thing has remained constant, that those who serve in the Guard are willing to serve selflessly as they come to the aid of their community and work for the defense of the United States.

In recent years, perhaps one of the biggest backers of the National Guard here in the Senate has been my good friend, and predecessor as chairman of the Armed Services Committee, Senator SAM NUNN of Georgia. Over the years, Senator NUNN has established a well-deserved reputation for being one of the most well-versed Members of the Senate in matters related to defense and national security. Without question, his opinion is valued and respected by Senators on both sides of the aisle, by senior officers in each of the services, by Presidents, and by the people of the United States. He has stood as an advocate for a strong defense, including what he believes should be a well-trained, well-equipped, and well-supported National Guard.

In recognition of Senator NUNN's support of the military and his belief in the National Guard, the National Guard Association of Georgia established the Sam Nunn Award which it presents each year to a person who they believe has demonstrated "solid and continuous support for the role, function, mission and purpose of the National Guard in meeting its international, national, state, and local mission." I am very proud to have been the recipient of the award for 1995, and I am pleased to have this opportunity to congratulate my friend, Mr. Coy Short of Atlanta, on being awarded this recognition by the National Guard Association of Georgia this year.

I have had the pleasure of knowing Coy for a number of years, over which time he has consistently demonstrated not only his patriotism, but his support for those who serve in all branches of the service, in both the Active Forces, the Reserves, and the Guard. He is a person who has taken a leadership role in community-military relations, lending his leadership to a number of committees designed to serve those who serve, including the Governor's Military Advisory Council; the USO Council of Georgia; and the Atlanta Chamber of Commerce's Greater Atlanta Military Affairs Council. His efforts on behalf of those in uniform have been recognized numerous times over the years by the Army, the National Guard, and by defense-related and community-spirited groups in the following manners:

The 94th Airlift Wing Man of the Year Award; National Committee for Employer Support of the Guard and Reserve Award for Outstanding Public Service; Oglethorpe Distinguished Services Medal for Outstanding Support of the Georgia National Guard, and National Distinguished Service Award, Association of the United States Army.

Also the Phoenix Award by the Atlanta Chamber of Commerce, for providing leadership to the Greater Atlanta Military Affairs Council; Award from the National Guard Bureau for outstanding support of the Army National Guard; and Army Commendation Medal for public service on behalf of Forces Command.

Coy Short not only works hard on behalf of Atlanta's military community, he is one of the city's biggest boosters. As a member of the Peach Bowl's executive committee, he helps to make one of college football's most popular events a success, and through his position as the Deputy Regional Commissioner for the Social Security Administration's Atlanta region, Coy's professional efforts have benefited tens of thousands of Georgians. Not surprisingly, he has been recognized by the Social Security Administration for his work, including being awarded the Commissioner's Citation, the highest recognition that can be given by that agency.

At this very moment, there are National Guard soldiers and airmen who are selflessly serving in dangerous assignments throughout the world, and if given the opportunity, I am certain that they would want to express their appreciation to Coy Short for all he has done to support them. I join these brave men and women who are serving in the defense of our Nation, along with the National Guard Association of Georgia, in saluting a man who sets the highest standard for civic mindedness and support for the Nation's military forces. His efforts make Atlanta a better place to live and the United States a safer and more secure Nation.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt recently surpassed $5 trillion.

As of the close of business Friday, March 15, the Federal debt—down to the penny—stood at exactly $5,045,003,375,350.97 or $19,077.15 on a per capita basis for every man, woman, and child in America.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BALANCED BUDGET DOWNPAYMENT ACT, II

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to H.R. 3019. The clerk will report the bill.

The bill clerk read as follows:

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Lautenberg amendment No. 3482 (to amendment No. 3466), to provide funding for programs necessary to maintain essential environmental protection.

Hatch amendment No. 3499 (to amendment No. 3466), to provide funds to the District of Columbia Metropolitan Police Department.

Boxer/Murray amendment No. 3508 (to amendment No. 3466), to permit the District of Columbia to use local funds for certain activities.

Gorton amendment No. 3496 (to amendment No. 3466), to designate the "Jonathan M. Wainwright Memorial VA Medical Center", located in Walla Walla, Washington.

Simon amendment No. 3510 (to amendment No. 3466), to revise the authority relating to employment requirements for recipients of scholarships or fellowships from the National Security Education Trust Fund.

Simon amendment No. 3511 (to amendment No. 3466), to provide funding to carry out title VI of the National Literary Act of 1991, title VI of the Library Services and Construction Act, and section 109 of the Domestic Volunteer Service Act of 1973.

Coats amendment No. 3513 (to amendment No. 3466), to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions.

Bond (for Pressler) amendment No. 3514 (to amendment No. 3466), to provide funding for a Radar Satellite project at NASA.

Bond amendment No. 3515 (to amendment No. 3466), to clarify rent setting requirements of law regarding housing assisted under section 236 of the National Housing Act to limit rents charged moderate income families to that charged for comparable, non-assisted housing, and clarify permissible uses of rental income is such projects, in excess of operating costs and debt service.

Bond amendment No. 3516 (to amendment No. 3466), to increase in amount available under the HUD Drug Elimination Grant Program for drug elimination activities in and around federally-assisted low-income housing developments by $30 million, to be derived from carry-over HOPE program balances.

Bond amendment No. 3517 (to amendment No. 3466), to establish a special fund dedicated to enable the Department of Housing and Urban Development to meet crucial milestones in restructuring its administrative organization and more effectively address housing and community development needs of States and local units of government and to clarify and reaffirm provisions of current law with respect to the disbursement of HOME and CDBG funds allocated to the State of New York.

Lautenberg amendment No. 3518 (to amendment No. 3466), relating to labor-management relations.

Santorum amendment No. 3484 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance.

Santorum amendment No. 3485 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance.

Santorum amendment No. 3486 (to amendment No. 3466), to require that disaster relief provided under this Act be funded through amounts previously made available to the Federal Emergency Management Agency, to be reimbursed through regular annual appropriations Acts.

Santorum amendment No. 3487 (to amendment No. 3466), to reduce all Title I discretionary spending by the appropriate percentage (.367%) to offset federal disaster assistance.

Santorum amendment No. 3488 (to amendment No. 3466), to reduce all Title I 'Salary and Expense' and 'Administrative Expense' accounts by the appropriate percentage (3.5%) to offset federal disaster assistance.

Gramm amendment No. 3519 (to amendment No. 3466), to make the availability of obligations and expenditures contingent upon the enactment of a subsequent act incorporating an agreement between the President and Congress relative to Federal expenditures.

Wellstone amendment No. 3520 (to amendment No. 3466), to urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advance-appropriated funding for FY 1997.

Bond (for McCain) amendment No. 3521 (to amendment No. 3466), to require that disaster funds made available to certain agencies be allocated in accordance with the established prioritization processes of the agencies.

Bond (for McCain) amendment No. 3522 (to amendment No. 3466), to require the Secretary of Veterans Affairs to develop a plan for the allocation of health care resources of the Department of Veterans Affairs.

Warner amendment No. 3523 (to amendment No. 3466), to prohibit the District of Columbia from enforcing any rule or ordinance that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

Murkowski/Stevens amendment No. 3524 (to amendment No. 3466), to reconcile seafood inspection requirements for agricultural commodity programs with those in use for general public consumers.

Murkowski amendment No. 3525 (to amendment No. 3466), to provide for the approval of an exchange of lands within Admiralty Island National Monument.

Warner (for Thurmond) amendment No. 3526 (to amendment No. 3466), to delay the exercise of authority to enter into multiyear procurement contracts for C–17 aircraft.

Burns amendment No. 3528 (to amendment No. 3466), to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act.

Burns amendment No. 3529 (to amendment No. 3466), to provide for Impact Aid school construction funding.

Burns amendment No. 3530 (to amendment No. 3466), to establish a Commission on restructuring the circuits of the United States Courts of Appeals.

Coats (for Dole/Lieberman) amendment No. 3531 (to amendment No. 3466), to provide for low-income scholarships in the District of Columbia.

Bond/Mikulski amendment No. 3533 (to amendment No. 3482), to increase appropriations for EPA water infrastructure financing, Superfund toxic waste site cleanups, operating programs, and to increase funding for the Corporation for National and Community Service (AmeriCorps).

AMENDMENT NO. 3530

Mr. BURNS. Mr. President, I call up amendment No. 3530 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Without objection, it is so ordered. The amendment is now before the Senate.

AMENDMENT NO. 3548 TO AMENDMENT NO. 3530

(Purpose: To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes)

Mr. BURNS. Mr. President, I send to the desk a second-degree amendment to amendment No. 3530 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BURNS], proposes an amendment numbered 3548 to amendment No. 3530.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BURNS. Mr. President, I offer this amendment on behalf of the people of Montana. This issue was reported—in other words, dealing with the ninth judicial district—this issue was reported out of the Judiciary Committee with an 11 to 7 vote, with strong bipartisan support, and a conference report that was overwhelmingly recommending its passage.

It has often been said that one would wonder, why is there such a movement to reform habeas corpus when the very idea of habeas corpus is as American as apple pie and hot dogs? Americans have always been sensitive to the rights of the accused. It has been a hallmark as long as this United States has been a union. But in our court of appeals, Mr. President, we happen to be situated, in the State of Montana, in the largest judicial district. It is the ninth: Montana, Idaho, Washington, Oregon, California, Nevada, Arizona, Hawaii, and Alaska.

Our proposal, under this proposal to split the ninth circuit, would leave California, Hawaii, Guam, and the northern Mariana Islands with a mission of a 15-judge unit. Alaska, Arizona, Idaho, Montana, Nevada, Oregon, and Washington would form the new 12th circuit of 13 judges. The caseload would be split, and 60 percent of the present-day caseload would still be represented in California and Hawaii, and 40 percent of the present-day caseload would be in the newly formed twelfth. The reasons are very, very compelling for those States that would remain in the 9th district, after the newly formed 12th went into full operation, to remain there.

In this amendment is also a section that allows a national study of our courts of appeals. I think that study should move on. It was recommended by the Senator from California, and I see her on the floor. It made good sense whenever the suggestion was made, and it still makes good sense today. But I think we already have studies. We have studies on the shelf, and yet, after we got the studies, nothing was done to address the problems.

Let us take a look at this circuit. The ninth circuit is big, too big. It includes nine States, 1.4 million square miles, 45 million people. By comparison, the sixth judicial district serves less than 29 million people, and every other circuit serves less than 24 million people.

The Census Bureau is telling us that by the year 2010 the population in the ninth, if it remains in its present size, will be more than 63 million people because of the demographics and the movement of people. That is a 40-percent increase in just 15 years.

Judge O'Scannlain, of the ninth judicial district, testified, and I quote:

> In light of the demographic trends in our country, it is clear that the population of the States in the ninth circuit, and thus the caseload of the Federal judiciary sitting in those States, will continue to increase at a rate significantly ahead of most other regions in the country.

The number of judges stands at 28. The fifth judicial district has 17 judges; the first has 6 and the seventh and eighth each have 11. The average of the circuits, other than the ninth, is 12.6 judges. I do not know what they do with the other four-tenths of 1 percent. The ninth recently unanimously made a request from that district requesting an additional 10 more judges. So the prospect of even a larger ninth will be upon us in just a very near future.

If you can imagine having 38 active judges, in addition to 12 senior status judges, on one court, that should give all of us pause. If we do not deal with this issue now, we will only be putting it off into the future. In other words, let us get started.

Having said that, this is the situation that is existing in the district itself today. No. 1 is delay. The ninth is the second slowest of all the circuits. The chief judge himself on the circuit commented in his written testimony, "It takes about 4 months longer to complete an appeal in our court as compared to the national median time." Mr. President, 315 days is the national median time from the filing of appeal to the final conclusion. In the ninth, it is 429 days.

Other methods have been used and they come up with similar results. What does it do? Delay; the bigness leads to inconsistency, unpredictability, and I think what is more important, the lack of collegiality.

The formation of the 3-judge panel, and with 28 of them there on the court, gives us 3,276 different combinations whenever you go up before the ninth district court of appeals. It is difficult for litigants to predict outcomes. The sheer size of the caseloads makes it increasingly difficult for judges to keep abreast of the decisions to avoid conflicting decisions.

We will be hearing the argument there are new devices, new computer systems, where they have a ready library of information to where they be consistent with other decisions. Mr. President, that just has not been the case. They cannot even use what all other districts use. That is en banc. In other words, all the judges in that district getting together, listening to a case, trying to come to some consensus in the consistency of the law. The ninth does not even use that. Mr. President, 28 judges do not use that procedure to resolve intracircuit conflicts. Instead, they use a limited en banc procedure, forming 11-member panels—10 drawn from the list of judges plus the chief judge. The method permits as few as 6 of the sitting judges to dictate the outcome of a case contrary to a judgment of 22 others, solely depending on the luck of the draw.

In summary, there was a judge in the eleventh circuit that noted what happens and the many ill effects you have in business courts. First, the dynamics of a jumbo court are such that as the court grows larger, the productivity of individual judges declines. Second, the clarity and the stability of the circuit law suffers, creating incentives to litigate that do not exist in jurisdictions with smaller courts. Finally, jumbo courts create and maintain a legal environment that is inhospitable to individual rights. Individuals find it more difficult to conform their conduct to increasingly indeterminate circuit law and suffer higher litigation costs to vindicate a few remaining clear rights to which they may claim. In other words, we go right back and we say it is too big.

The conclusion is that it is inevitable that this is going to happen. A study of 23 years ago called for it then. I think they called for it and also the split of the fifth circuit at that time. The fifth circuit did what it was told to do or was recommended to do and it has been very, very successful. This is a balanced approach and allows the wheels to start turning where we can serve our people in the judiciary a lot better and more efficiently, with more consistency. It is the right thing to do. After all, we provide the services for our citizens. The infrastructure has to be there in order to get it done.

The fifth circuit split was very, very successful. I think when we look at the evidence, the evidence of what is happening in all the other circuits, the first circuit only has 6 judges, a total population of 13 million people; in the ninth circuit, 28 judges, population 49 million people, over 1.4 million square miles. It is hard to serve an area that big.

I urge my colleagues to pass this amendment. We need to do it for the justice of the people who live and reside and do business in the ninth judicial district. I yield the floor and I reserve the balance of my time.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the amendment and also to raise a point of order. Prior to making the point of order, however, I point out that as a member of the Judiciary Committee, I do not believe this measure passed by an overwhelming majority. It really passed only on the basis of partisan lines with one exception on our side of the aisle.

Essentially, this was the subject of much discussion before the Judiciary Committee, Mr. President. As you, yourself, know, there was no hearing on the bill to split the ninth circuit that is encompassed in this second-degree amendment. No public hearing on this proposal was held before the Judiciary Committee.

Essentially, what this proposal does is take the States of Alaska, Washington, Oregon, Idaho, Montana, Nevada, and Arizona, split them from the ninth circuit, and set up their own circuit. This would leave the States of California and Hawaii, along with the territories of Guam and the northern Marianas, in their own circuit. Never before in history has there been a circuit comprised of fewer than three States.

If Congress votes to divide the ninth circuit despite the overwhelming opposition of its bench and bar, Congress will be making, I believe, an irreversible decision that will have far-reaching and long-term implications for all circuits. Congress will be endorsing the view that a political division with no real data to support it is an acceptable way to determine circuit composition. I say it is not an acceptable way to determine what a circuit court of the United States should be.

The fifth circuit has been held to be some kind of a model. This was split in 1980, following the 1973 findings of the Hruska Commission. It is my understanding that the fifth circuit has one of the poorest records with respect to delays today.

The problems of caseload growth are nationwide problems that cannot be resolved by zeroing in on one circuit and wantonly, haphazardly, chopping it up.

I believe that there ought to be a study of the structural aspects of all of the circuits. There ought to be a study of the structural alternatives available to the circuit courts of appeal. Qualified members of a commission should make recommendations to the Congress on circuit structure and alignment, whether and how any realignment should occur.

If you recall, the Hruska Commission, a long time ago, recommended a split of the State of California. I think, in view of the new techniques that have been put into play by the ninth circuit in the past 23 years, this recommendation is perhaps out of date. The ninth circuit has made requests for new judges. These requests have not been honored in terms of presenting the circuit with an adequate number of judges to do the job.

The State bars oppose a ninth circuit split. That is also what makes this a very dangerous proposal. The eleventh circuit split from the fifth only after all of the judges and bar associations essentially agreed with the proposal to create a new circuit.

This is the opposite case. The bar associations of Arizona, of Nevada, of Montana, of California, and of Hawaii have all expressed their opposition to splitting the circuit, as did Idaho, the last time this split came up. I ask unanimous consent that those resolutions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. The ninth circuit judicial conference has opposed the split. The Judicial Council, the governing body of the ninth circuit, unanimously opposes a split. The Federal Bar Association has opposed this split.

I ask unanimous consent, also, that their statements be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mrs. FEINSTEIN. As the distinguished Chair knows, the board of governors of the Arizona bar has issued a resolution against the recent Burns proposal, stating the following:

> The proposal cuts Arizona off from California, the State with which it shares the greatest legal and economic ties.

This bill would create a two-State circuit, with one tiny State dwarfed by a large State. California would have 94 percent of the new ninth circuit's caseload.

It is also a very costly proposal. I find it just ironic that the committee would vote to spend so much for no demonstrated gain, when this Congress is so concerned—and I believe commendably concerned—with reducing the costs of the judiciary.

Splitting the ninth circuit would require duplicative offices of clerk of the court, circuit executive, staff attorneys, settlement attorneys, courtrooms, libraries, and mail and computer facilities.

The estimated additional costs of a new or rehabilitated courthouse for a proposed headquarters in Phoenix range from $23 to $59.5 million. Both GSA and CBO have allocated startup costs at an additional $3 million.

GSA and CBO have estimated annual costs of duplicative staff positions at $1 million, and an additional $2 million for the cost of leasing space for the headquarters until permanent quarters could be made available.

So we have duplicative staff to the tune of $1 million, and additional lease costs—unnecessary—of $2 million.

If the twelfth circuit, as proposed in this second-degree amendment, were to be created, substantial expenses already incurred by the taxpayers also would be wasted. Congress has authorized, and GSA has already completed, an extensive post-earthquake restoration of the current ninth circuit headquarters building in San Francisco, at a cost of over $100 million. The GSA has also completed the build-out of the court of appeals courthouse in Pasadena. I am told that 35 percent of the $100 million was essentially spent on quarters for the ninth circuit.

I do not believe that this effort to split the ninth circuit really represents a genuine effort to deal with the problems of the U.S. court system.

I believe, really, it is an example of judicial gerrymandering because some decisions made by that court were not to the liking of certain people. I am aware of the fact that the Senator from Montana, in his press release of May 25, states:

> We are seeing an increase in legal actions against economic activities in States like Montana, such as timbering, mining, and water development. This threatens local economic stability, but as bad as this economic backlog is, I am particularly disturbed by the delays experienced by families of victims.

The press release of the Senator from Montana also says:

> State Senator Ethel Harding, of Polson, knew firsthand the pain of this kind of delay, whose daughter was murdered by Duncan Meccans 20 years ago, but Meccans was put to death only 2 weeks ago. The appeal ended up in the ninth circuit three times over the 20-year period, and part of the delay can be attributed to the heavy caseload and inefficient system of the ninth circuit.

Senator BURNS' press releases illustrate the fact that, clearly, this effort to split the ninth circuit is politically motivated—because a habeas decision of the ninth circuit was not agreed with, for example. I respectfully submit to my distinguished colleague from Montana that there is habeas reform pending. I happen to support that reform. I submit to this body that that is the appropriate way to deal with habeas reform—not to gerrymander the circuit, but to pass a reform law that changes habeas corpus.

Another issue that was brought out in Senator BURNS' press release was the Montana sheriff's appeal of background checks under the Brady law. This was cited as further evidence of the need to split Montana and other northwest States from the circuit. I go into this not to measure the good or the bad of the decision relating to background checks, but simply to say that I believe this is the heart of the reason for the split. It is being done precipitously, without study, at great cost, and I believe for the wrong reasons. It, therefore, sets a precedent for these kinds of political maneuverings.

Let us take a look at the ninth circuit. The ninth circuit does a good job. In the 23 years following the Hruska Commission report, the ninth circuit has become a national leader in experimentation in judicial administration. It is producing good results. The average time, from oral argument submission to disposition, is 1.9 months, or half a month less than the national average. In fact, the ninth circuit is the second most efficient circuit in deciding cases once they are submitted to judges.

The ninth circuit terminates over 8,500 cases a year, almost two-fifths more than the number it terminated 7 years ago.

Since 1992, the number of cases pending before the ninth circuit has decreased annually.

It is also the first Federal court circuit to automate its docket with computerized issue tracking systems that are far more sophisticated than anything available in 1973. These systems keep ninth circuit panels apprised of other panel decisions, helping them avoid intra-circuit conflicts.

So the ninth circuit has pioneered a number of different technological and structural improvements. Additionally, it has used a limited en banc procedure, which has also proved effective in resolving potential intra-circuit conflicts. All active judges participate in the decision as to whether a case will go en banc. The Court's rules allow for rehearing by the full court at the request of either judges or litigants. So either a judge or a litigant can request a hearing by the full court.

It should be noted that the limited en banc procedure is called upon very infrequently. There are only about 12 to 13 limited en banc decisions per year out of a total of about 4,000 written decisions.

[Exhibit 1]

STATE BAR OF NEVADA

RESOLUTION

Whereas, The State Bar of Nevada, through the years, has consistently supported the maintenance of the Ninth Circuit as presently constituted; and

Whereas, a question of dividing the circuit may well reoccur during the present session of Congress or in the discussions before the Judicial Conference;

Now, therefore, the Board of Governors of the State Bar of Nevada *Resolves* that the Ninth Circuit is well constituted as is, promotes judicial economy, and as constituted, promotes the interests of justice, and no alteration should be made nor should the Ninth Judicial Circuit be divided.

Dated: This 9th day of March, 1995.

STATE BAR OF MONTANA

RESOLUTION 4

Whereas, Montana is one of nine states and two territories of the United States Court of Appeals for the Ninth Circuit; and

Whereas, the United States Court of Appeals for the Ninth Circuit has provided significant guidance to all circuit courts regarding issues of collegiality, maintaining precedent and effectively accomplishing and administrating the business of the circuit courts; and

Whereas, the United States Court of Appeals for the Ninth Circuit has been a leader in implementing Gender Equity and recognizing the need to address Racial and Ethnicity concerns to improve the involvement of all citizens in the administration of justice; and

Whereas, the United States Court of Appeals for the Ninth Circuit has provided innovative leadership in the involvement of lawyers in all functions and committees of the circuit; and

Whereas, the United States Court of Appeals for the Ninth Circuit has instituted long range planning to project the needs of the circuit into the upcoming century; and

Whereas, Montana has therefore reaped significant benefit from being a part of the Ninth Circuit; and

Whereas, the Congress has once again undertaken consideration of a bill to divide the circuit and to create a new Twelfth Circuit which would divide out the northern tier states into a new separate smaller circuit; and

Whereas, a divided circuit would remove the numerous benefits which Montana enjoys as a part of the United States Court of Appeals for the Ninth Circuit with very little, if any, gains; and

Whereas, a divided circuit would result in additional one time construction and division costs and increased annual administrative expenses thereby straining the already inadequate budget of the Judiciary, resulting in fewer funds for the direct administration of justice and for Civil Justice panel lawyers and other essential components of the administration of justice; and

Whereas, a division of the Ninth Circuit would not address or resolve the principal problem of circuits which serve rapidly growing regions, that is, the crisis of volumes of filings with inadequate judicial resources to resolve them; and

Whereas, a division of the circuit would remove the present opportunity to obtain the appointment of a practicing Montana lawyer to current vacancies on the Ninth Circuit and would significantly reduce the opportunity to appoint practicing Montana lawyers to the Twelfth Circuit in the future.

Now, therefore, be it *Resolved* that the State Bar of Montana Opposes Passage of the Ninth Circuit Court of Appeals Reorganization Act of 1995. Senate Bill 853.

Dated this   day of June, 1995.

THE STATE BAR OF CALIFORNIA,
San Francisco, CA, February 26, 1996.

Re Opposition to H.R. 2935 and Substitute Bill S. 956, Ninth Circuit Court of Appeals Reorganization Act of 1995.

Hon. BILL BAKER,
House of Representatives, Longworth Office Building, Washington, DC.

DEAR REPRESENTATIVE BAKER: The Board of Governors of the State Bar of California urges you to oppose H.R. 2935 and substitute bill S. 956, which would split the Ninth Circuit Court of Appeals, leaving California, Hawaii and the Pacific territories in a new Ninth Circuit and placing the remaining seven states (Alaska, Arizona, Montana, Nevada, Oregon, Utah and Washington) into a new Twelfth Circuit.

H.R. 2935 was introduced on February 5, 1996. Substitute bill S. 956 was reported out of the Senate Judiciary Committee on December 21, 1995. We urge you to oppose both of these bills.

The case for splitting the circuit has not been made. The Ninth Circuit is the largest circuit; however, size alone does not argue for its division. In fact, we believe the size of the Ninth Circuit gives its residents certain advantages. It is an advantage to all states bordering the West Coast to have a single federal court of appeals. This single circuit provides uniform and predictable case law applicable to the region and crucial to Pacific Rim trade, which is of growing importance to California and other Western states.

Splitting the region into two circuits is likely to increase inter-circuit conflict, forum shopping and races to the courthouse. The size of the Ninth Circuit also provides greater flexibility in responding to caseload growth and greater diversity of judicial backgrounds as a result of judges drawn from a larger area.

The issue of caseload growth is common to courts of appeals nationwide. However, repeated division of circuits in response to growth is not likely to be the answer to this problem and will likely create a proliferation of balkanized circuits. Splitting the Ninth Circuit, ostensibly because of its caseload, before considering how to respond to growing filings nationwide, will complicate rather than advance solutions to caseload growth.

In an era where shrinking financial resources dictate cost-saving measures, a Ninth Circuit split would increase costs by requiring a new circuit office, more court clerks and attorneys, as well as additional courtrooms and libraries. Absent a compelling argument for a split, and a clear and comprehensive study on the most efficient method to effectuate this division, the proposals are both premature and imprudent.

The Board of Governors respectfully urges you to oppose H.R. 2935 and substitute bill S. 956.

Very truly yours,
JAMES E. TOWERY,
President.

STATE BAR OF ARIZONA

RESOLUTION OF THE BOARD OF GOVERNORS,
OCTOBER 20, 1995

This Board, in repeated resolutions, has expressed its opposition to the various proposals to divide the Ninth Circuit Court of Appeals and its support for maintaining the Circuit as it is. A new proposal has now been raised as to which the view of the Bar is desired. This new proposal would divide the Circuit by creating a Ninth Circuit of California, Hawaii and the Pacific Islands and a Twelfth Circuit consisting of Alaska, Washington, Oregon, Idaho, Montana, Nevada and Arizona. Such a plan would be extremely unfortunate for Arizona and wastefully unwise as a matter of judicial administration. The considerations which concern us follow:

1. The proposal cuts Arizona off from California, the state with which it shares the greatest legal and economic ties. On the one hand, as we have previously declared, Arizona does not wish to be in a circuit dominated by California; but at the same time, it needs to be in a circuit with California. Our law is commonly guided by California law. The proposed division puts a premium on racing for choice of forum so that California and Arizona parties to a disputed business transaction will each have an incentive to sue first to keep the matter in "their" circuit; and yet this may be a matter which, without fostering a race to the courthouse, might never be litigated at all.

2. The headquarters of the proposed Twelfth Circuit would presumably be in Seattle. This would materially increase costs and inconvenience for Arizona attorneys and litigants. Airfare between Arizona and either Portland or Seattle is such that this proposal will cost Arizonans at least two or three times as much in every case. Flights to the Northwest take twice as long as to San Francisco and are less than half as frequent, giving Arizona endless burdens with so remote a court.

3. Politically the disadvantages to Arizona are substantial. With the present Ninth Circuit, non-California senators outnumber California senators 14 to 2, and non-California judges also outnumber California judges. In the newly proposed Twelfth Circuit, Arizona and Nevada would be outnumbered in the Senate 10 to 4, which means that the judgeships and courthouses will go to the Northwest.

4. The dollar waste is regrettable. The Ninth Circuit presently has a major court building to serve the Circuit in Pasadena and is in the final stages of completion of a $100 million post earthquake renovation of the present Circuit headquarters in San Francisco, a headquarters for the entire Circuit. Not only will much of the San Francisco space be wasted under this proposal, but something of the kind will have to be duplicated in the proposed Twelfth Circuit. There will also need to be duplication of offices of Clerk, Circuit Executive, computer center, mailroom and other support offices.

In the light of all these factors, the Board of Governors of the State Bar of Arizona strongly recommends against the proposal for a new Arizona-to-Alaska Twelfth Circuit.

MICHAEL KIMERER,
President.

HAWAII STATE BAR ASSOCIATION,
Honolulu, HI, August 21, 1995.

Re Division of Ninth Circuit Court of Appeals (S. 956).

Hon. DANIEL K. INOUYE,
U.S. Senate, 109 Hart Senate Office Building, Washington, DC.

DEAR SENATOR INOUYE: The Hawaii State Bar Association Board of Directors last week voted unanimously to oppose proposed legislation to divide the Ninth Circuit Court of Appeals.

Similar legislation proposed in 1989, 1991, and earlier this year was also opposed by the Hawaii State Bar Association. See 10/30/91 letter from Wolff to Inouye, *Exhibit A.*

A position paper prepared by the Office of the Circuit Executive dated 6/22/95 sets forth the arguments against dividing the Ninth Circuit. *See* Exhibit B. The Hawaii State Bar Association is in agreement with those arguments and would like to reiterate its concern over inconsistent law that would inevitably occur as a result of a division in the Ninth Circuit. As explained in Peter Wolff's 10/30/91 letter to you, a different rule of law might apply to a maritime case depending on whether the departure or destination point was Seattle or Los Angeles.

We hope that you will vote and lobby against the passage of Senate Bill 956. If we can be of any assistance to you in this matter, please do not hesitate to contact me at 547-6119.

Sincerely,
SIDNEY K. AYABE,
President.

THE FEDERAL BAR ASSOCIATION

RESOLUTION 95–

SUPPORT FOR THE POSITION OF THE NINTH CIRCUIT COURT OF APPEALS CONCERNING THE SPLIT OF THE NINTH CIRCUIT

Whereas, Congress has before it Senate Bill No. 956, which is designed simply to split the Ninth Circuit Court of Appeals by creating a new Twelfth Circuit comprised of the District Courts for the States of Montana, Idaho, Washington, Oregon and Alaska; and

Whereas, the Ninth Circuit Judges are overwhelmingly against the division of the circuit and the Ninth Circuit Judicial Council, the governing body for all of the courts in the Ninth Circuit, recently voted unanimously against any legislation which would divide the Ninth Circuit;

Now, therefore, be it *Resolved,* that the Federal Bar Association states it support for the position of the United States Court of Appeals for the Ninth Circuit, as expressed by Chief Judge J. Clifford Wallace of the Ninth Circuit given before the Senate Judiciary Committee on September 13, 1995, and in the Position Paper of the Office of the Circuit Executive for the United States Court for the Ninth Circuit dated June 30, 1995;

Be it further *Resolved* that the President of the Federal Bar Association is authorized and directed to communicate copies of this resolution to Senator Orrin Hatch and the Senate Judiciary Committee, and Senator Dianne Feinstein forthwith.

IDAHO STATE BAR,
February 7, 1990.

Re Idaho State Bar Resolution S2–1

Hon. JAMES R. BROWNING,
Ninth Circuit Court of Appeals, San Francisco, CA.

DEAR JUDGE BROWNING: This is in response to your inquiry concerning the Idaho State Bar's position on the proposal to split the 9th Circuit Court of Appeals.

Perhaps uniquely, the Idaho State Bar is limited in its ability to take political positions. Idaho Bar Commission Rule 906 requires that we engage in a plebiscite of our members before considering resolutions for changes of law or policy. The resolution process is conducted each November.

Resolution S2–1, considered last fall, was entitled "Bifurcation of 9th Circuit Court of Appeals," and was circulated at the request of both of our U.S. Senators. A copy of the resolution is included with this letter.

The resolution failed by a vote of 978 to 2373.

Please feel free to contact me if you have any questions.

Sincerely,
WILLIAM A. MCCURDY,
President, Idaho State Bar.

[Exhibit 2]

GOVERNOR PETE WILSON,
December 6, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I have been following with interest the current debate over whether to split the Ninth Circuit, and wish to register my strong opposition to any split before an objective study is concluded as to whether a split before an objective study is concluded as to whether a split will properly address the concerns that have been raised concerning the size of the circuit.

As you know, I have been on record in opposition to previous bills to split the circuit on the grounds that they were a form of gerrymandering which sought to cordon off some judges and keep others.

Admittedly, the Ninth Circuit handles more cases than any other circuit. However, the median time for it to decide appeals (14.8 months as of December 1994) is only slightly higher than that for the Sixth, Seventh, and D.C. Circuits and less than the Eleventh Circuit (14.8 months), and in fairness, the destruction of the San Francisco courthouse in the Loma Prieta earthquake is partly responsible for the backlog.

Splitting the circuit, without adding more judge, will not necessarily expedite the processing of the Ninth Circuit's cases and may generate a number of inconsistent rulings along the West Coast in areas such as admiralty, environmental law, and commercial law, since the West Coast would be split, under the pending proposal, into two circuits (i.e., California in one, and Washington and Oregon in the other). Indeed, splitting the Ninth Circuit could add an additional burden on the Supreme Court, which ultimately must resolve conflicts between circuits. I recognize that some concerns have been raised over intra-circuit conflicts, but there is a mechanism for resolving them—the en banc hearing. See Fed.R.App.Pro. 35.

Ultimately, the real issue raised in the debate over splitting the Ninth Circuit appears to be one of judicial gerrymandering, which seeks to cordon off some judges in one circuit and keep others in another. If this is the issue, I submit that the proper means to address this is through the appointment of new judges who do not inspire judicial gerrymandering because they share our judicial philosophy that judges should not make policy judgments but interpret the law, based on the purpose of the statute as expressed in its language, and who respect the role of the states in our federal system.

An objective study can focus on the concerns raised about the Ninth Circuit and determine whether a split is the answer. For instance, reform of our habeas corpus procedures and reforms which curb frivolous inmate litigation may do more to address a growing caseload than splitting the circuit.

In any event, I would urge that a study be commissioned to carefully examine the concerns raised about the Ninth Circuit and determine whether the concerns are legitimate and whether a change in the circuit's boundaries is the best method of addressing them. I would be pleased to contribute one or more representatives to assist with such a study.

Sincerely,

PETE WILSON.

U.S. COURT OF APPEALS,
NINTH CIRCUIT,
Reno, NV, December 18, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I am pleased that you are going to carry your opposition to S. 956 to the floor of the Senate. You will be speaking for more than the interests of the citizens of your state. This important issue affects all of the people of our nation and their united belief that there must be one federal law applicable to each of us.

As you know, I was a Republican member of the United States House of Representatives from a district in southern California for a period of 12 years, commencing in 1967. I served continuously on the House Judiciary Committee. In addition, I was a member of the Hruska Commission in 1972–73. I left Congress voluntarily in 1979. In 1984, I was appointed by President Reagan to the United States Court of Appeals for the Ninth Circuit. I am now an active judge on that Court.

The foregoing record of public service gives me, I believe, special insights into the management of cases within the existing Ninth Circuit. My understanding of the role of circuit courts in our system of federal justice has changed over the years from that which I held when the Hruska Commission issued its final report in 1973. At that time, I endorsed the recommendations of the Commission calling for a division of the Fifth and Ninth Circuits. I have grown wiser in the succeeding 22 years.

The Hruska Commission was created to deal with the problem of the Fifth Circuit. In recommending the division of the old Fifth Circuit into a new Fifth Circuit and a new Eleventh Circuit, we were responding to the united views of federal judges and bar associations in the respective states, and not insignificantly, the views of the late Senator Eastland, the then Chairman of the Senate Judiciary Committee. The recommended changes in the Fifth Circuit were ultimately implemented, but those respecting the Ninth Circuit were, wisely I think, not.

You have recommended a new Commission to be appointed to review and update the findings of the old Hruska Commission. I endorse this recommendation. Although I strongly oppose the division of the Ninth Circuit, I believe the Senate is entitled to review facts, and modern case management techniques, now employed within the Ninth Circuit. Moreover, the continued balkanization of our circuits must be confronted and the case for fewer, larger, circuits, must be studied. I wish you well in this undertaking.

The proponents of a new Twelfth Circuit have evidently abandoned their often made arguments that the new circuit would be needed to save excessive travel costs. No circuit stretching from Tucson, Arizona, to Prudhoe Bay in Alaska will support this argument.

The majority report also contains the misleading statement that the recommended division of the Ninth Circuit is not in response to ideological differences between judges from California and judges elsewhere in the circuit. I strongly disagree that such a motive does not in fact underlie the proposal for the change. Such a regionalization of the circuits in accordance with state interests is wrong. There is *one* federal law. It is enacted by the Congress, signed by the President, and is to be respected in every state in the union. The law in Montana and Washington is the same law as exists in Maine and Vermont. It is the mission of the Supreme Court to maintain one consistent federal law. I do hope that you will challenge the supporters of the revision to explain the reasons justifying their proposal.

Respectfully,

CHARLES E. WIGGINS,
Circuit Judge.

Mrs. FEINSTEIN. Mr. President, let me speak for just a moment on the subject of the pertinence of this amendment at this time. This amendment filed by the distinguished Senator from Montana is really not a relevant amendment, to which, if the subject of the amendment were known, there would clearly have been objection. The amendment carries an appropriation for the Judiciary, which has been funded for the entire fiscal year through a previous continuing resolution. That is the vehicle for this kind of appropriation. It is not relevant to this bill before us.

So, Mr. President, on behalf of Senator REID and myself, I raise this point of order.

Mr. REID. Mr. President, will the Senator withhold for just a moment so that we can consult?

Mrs. FEINSTEIN. I would be happy to withhold for a moment.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I raise this point of order that amendment No. 3530 is not relevant to the Hatfield substitute or to the House bill.

The PRESIDING OFFICER. The point of order is well taken.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I would like to speak on the underlying amendment that has been offered by my friend from Montana.

Mr. President, first of all, in reviewing the amendment, it appears to me that the amendment is backward. What I mean by that is that the amendment by my friend from Montana calls not only for the division of the ninth circuit but it also calls for a commission to study the restructuring of the circuit.

I have spoken to the Presiding Officer of this body, I have spoken to the Senator from Montana, I have spoken to the Senator from California, who is in the Chamber, and lots of other people about this circuit and whether or not it should be split. I think this is a very good question. We should give some serious consideration to it. But it would seem to me that the best way for this body to do that would be to have a commission, one that is composed of prominent people appointed by the judiciary. The Chief Justice of the U.S. Supreme Court, I think, should be in on the appointment of people to serve on this prestigious commission, and the President of the United States. Of course, we should have legislative input into this commission.

I think, also, the commission should have adequate staff so that they can report back to us in a short period of time. It seems to me, if we would empower this commission to go forward with the appropriate resources to look into the structuring of the circuits, that we, by next year at this time, would have all of the information at our disposal to make an appropriate decision.

The Hruska commission that was impaneled some 23 years ago came up with some ideas that were based on some good that they have done. They decided that the fifth circuit and the ninth circuit should be split. I say to my friend, the junior Senator from Montana, that the split of the fifth circuit subsequently took place. The split of the ninth circuit has not taken place. But I say to my friend from Montana that, if you are going to follow the 23-year-old Hruska commission and its findings, you certainly will not split the ninth circuit the way they have done it in this bill, because what the Hruska commission said is that you would, in effect, cut the ninth circuit in half and have one-half in northern California and one half in southern

California and the rest of the circuit would be split up in a number of different ways.

So I say to my friend from Montana and to everyone within the sound of my voice that I think the amendment is backward. I think we should have a commission to study the restructuring of the circuits, and once that is done, come back here and determine if, in fact, there should be changes in the ninth circuit and all of the rest of the circuits in the country, because, if you go ahead and divide the ninth circuit and create a twelfth circuit, you have already taken away the ability we have to realign some of the other circuits.

Mr. President, if you look at this long, very narrow twelfth circuit, you have the chief judge, the headquarters of the court, sitting in Phoenix, AZ. I do not know how far away from Montana, I do not know how far away from Alaska, but it is away from major population centers in that circuit. Seattle and Portland are examples. I cannot imagine, with most of the cases coming from Oregon and Washington, why it would be fair for them to have to travel to Phoenix.

In addition to that, Mr. President, in November 1994, after there was this revolution that took place with the elections in the House and, to a lesser degree, in the Senate, we were told that we were going to start saving money, that we would not be wasteful in the things that we spent money on. If there was ever a waste of money, it would be what we are trying to do here—upward of $60 million in one-time spending to create this new circuit and, of course, spend lots more money on a yearly basis because you would have two circuits whereas in the past you have one circuit.

So, Mr. President, I really believe that I should ask my friend, with whom I serve on the Appropriations Committee and for whom I have the greatest respect, to review the offering of this amendment.

The Chair has ruled that this amendment is not germane, and it really is not. I appreciate the ruling of the Chair because we entered into a unanimous-consent agreement that there would be only relevant amendments. Mr. President, if, in fact, the Chair had ruled any other way, this place would be chaotic. There simply would be no end to floor procedures. There would never be another unanimous-consent agreement reached.

I, for example, wrote a letter to our staff here on my side of the floor several months ago saying if anything comes up regarding the splitting of the ninth circuit that I be notified. The reason I mention that, of course, is that this amendment was offered late at night, and, for whatever reason, the procedure was that this is not relevant. I am glad the Chair has ruled accordingly.

I think it is appropriate, though, Mr. President, that we talk about the ninth circuit and whether or not this should be split. To divide the ninth circuit would create two geographically and demographically unequal units. What I mean by that is, splitting this circuit is not going to solve the problem. Splitting the circuit is not going to solve the problems that I know my friend from Montana—and, believe me, many of my constituents in Nevada—is concerned about. Creating two circuits from one without increasing judicial resources would not address the fundamental problems of expanding caseloads and delays. We know from dividing the fifth circuit in 1980 that it has resulted in no long-term benefits in expediting case processing.

I, also—back to the commission aspect of it—again stress that I would be very happy to have this commission that we created on a bipartisan basis have a short time-line as to when to report back to us. The Hruska Commission reported back in 1973. In 1980, the fifth circuit was split. But, as I have mentioned, there have been no long-term benefits in expediting case processing. That does not mean the split was not important and was not necessary, but if we are going to look at splitting the circuits to expedite case processing, that will not do it, especially when you consider the ninth circuit judges are the fastest in the Nation in disposing of cases once a panel receives the cases.

Also, understand that, if you look at the western coast of the United States, you have the long, long State of California. But also on that coast you have Oregon and Washington, two extremely important States as far as maritime and admiralty law. One reason we have had peace and quiet in the admiralty and maritime law in the western part of the United States is because there has been one voice that has spoken about that most important part of our commerce. If the split took place, we would have one circuit ruling and deciding cases in Washington and Oregon; you would have another circuit deciding cases based in California, that great Western United States. The maritime law of that part of the country would be bifurcated. That is not the way it should be.

It would increase the potential for inconsistent law relating to admiralty, commercial trade, and the utility laws on the western seaboard. Establishing a circuit consisting of just two States would defeat the federalizing function of the multistate circuit. That is the central purpose of the American Federal appellate process.

Senator FEINSTEIN talked, Mr. President, about the cost to construct a new twelfth circuit with its headquarters. As I have indicated, the estimate, among others, with the GAO is $60 million—approximately $59.5 million—plus $2 to $3 million in annual costs duplicating existing administrative functions.

An additional headquarters would result in waste of taxpayer dollars spent on the recently completed $100 million earthquake rehabilitation in San Francisco.

Mr. President, prior to coming back here, I was a trial lawyer, and I have appeared in that beautiful ninth circuit where I have argued cases. It is a beautiful, beautiful building, and the earthquake damaged that. One reason the ninth circuit does not have a better record of moving cases is because they had no building in which to work. The earthquake damaged the building so that the Ninth Circuit Court of Appeals could not work in it. So the money that was spent rehabilitating that facility, $100 million, in effect would be wasted.

Mr. President, it is also important, I think, for me to say something—it is unnecessary, but in this age of political correctness, perhaps I should mention it. I have a son who just graduated from Stanford Law School last June. We are very proud of him. He is one of my four boys. He works as a clerk in the ninth circuit. So if I have any prejudice because of my son, I acknowledge that here in this Chamber, but I was against this split long before my son went to work in whatever—sometime this past summer—for one of the judges of the ninth circuit.

That beautiful ninth circuit court building was restored, and I am happy it was restored. But let us not have any waste of it at this stage.

The official bar organizations of Arizona, California, Hawaii, Idaho, even Montana, and Nevada, and the Federal bar associations have all adopted resolutions opposing any split. I think it is important we have input of the bar relative to this split. But I can say to my friend from Montana that if, in fact, we have a commission and the study comes out that there should be a restructuring, I would weigh that much more heavily than I weigh the opinion of the bar from the State of Nevada because the bar from the State of Nevada, even though I have great respect for them, are traditionalists and would not have the benefit of the study of what I feel would be this bipartisan Commission composed of people appointed by the Chief Justice, people appointed by the President, and people appointed from the legislative branch.

The ninth circuit judges, I repeat, are the fastest in the Nation in disposing of cases once the panel receives the cases. That is pretty good. The ninth circuit I think—I have certainly not asked them individually, but I think they would welcome an independent, congressionally mandated study of Federal appellate courts to update Congress certainly before it makes any far-reaching structural changes. The Ninth

Circuit Court of Appeals has functioned successfully in its present configuration for more than 100 years. The sponsors, including my friend from Montana and also my friend, the senior Senator from the State of Washington, who is one of the prime movers of this legislation, have cited a number of reasons for this legislation. One is the unmanageable caseload, a decrease in consistency of decisions due to size, inability to appreciate the interests of the Northwest, and, lastly, a decline in the performance of the circuit.

First of all, let us talk about caseload. The ninth circuit has managed efficiently a caseload that is comparable on a per-judge basis and far exceeds in total that of other circuits. Also, as far as caseload, the ninth circuit has maintained a high degree of consistency in its case law. Also, the ninth circuit has functioned well to avoid regionalism by federalizing the application of national law over a wide geographic area, and, Mr. President, they have demonstrated a high level of performance in managing the caseload.

I also say that the ninth circuit is a court that our U.S. Supreme Court looks to for guidance, for lack of a better word, if the Supreme Court looks anyplace for guidance. If there is a conflict in the ninth circuit and one in the tenth circuit, heavy reliance is placed upon precedents developed out of the ninth circuit. I think that answers one of the criticisms that my friend from Montana has raised.

I think the proposals to divide the circuit have numerous drawbacks, including the substantial cost of setting up, as I have already outlined, the duplicative administrative structures and a new circuit headquarters. I do not think I can talk too much here about the fact that we are supposed to be balancing the budget, so how can we, in good conscience, spend $60 million with this legislation and still call for a study where we are going to have to do some more restructuring. It just does not make a lot of sense.

I would also say that the loss of advantage of size really does not answer the question. We have strong opposition of the majority of the lawyers and judges in the circuit to which we have to give some credence. This is the ninth circuit. We cannot say we are going to ignore the lawyers and judges. We are talking about one of our branches of government, a separate but equal branch of government. With the potential for inconsistent law relating to admiralty, commercial trade, and utility law along the western seaboard, including Alaska and Hawaii, which I have not talked about, and the territories, it is important that we speak with one voice in that regard.

An opportunity for litigants to forum shop certainly would come about as a result of this split. The potential for increased inner-circuit conflicts would place an additional burden on the U.S. Supreme Court to resolve these conflicts that are now handled internally within the circuit.

We need hearings on this. I am willing to forego hearings. I know that the Judiciary Committee, of which neither sponsor of this legislation, and certainly not the junior Senator from Montana, is a member, has spent, as I understand it—I know it is true—the full Judiciary Committee had a single half-day hearing on this legislation that is now before the Senate. So I think that we really need to spend a little more time on this.

I am convinced that the Commission could do a good job with all the many things that we have to do, especially this being a Presidential election year. And I know how my friend from Montana and others feel about it. I repeat for the third time here today that we would be willing to put a short time limit on how long it would take for them to come back with their work. We would make sure during that short time period that they have adequate resources to study it well.

The proposed legislation very simply would not solve the problems of caseload growth and would increase the ninth circuit caseload burden. Here is why I say that. Throughout the United States, in all the circuits, the caseload has increased dramatically in proportion to the number of judges. Some of these figures are really startling. So the key problem to be addressed is the number of judges to handle the caseload rather than configuration of circuits.

It is interesting here; this Senator from Nevada, a Democrat, and my friend, the Senator from California, who has just spoken, a Democrat, have always supported the Republicans in the changing of habeas corpus. Every time I have had a chance to vote here since I have been in the Senate I have supported streamlining and expediting the habeas corpus procedures in this country.

That is something that would allow the ninth circuit and every other circuit to move on with its cases. I think it is absolutely wrong for a person—it does not matter how you feel about the death sentence. If you believe in the rule of law, it is absolutely wrong that someone be sentenced to death when it takes an average of 16 or 17 years from the time that sentence is imposed until the time the execution takes place, if, in fact, it ever takes place. If we want to talk about expediting the cases that the ninth circuit and other circuits hear, that is how we can do it. Let us move the habeas legislation that would streamline what the Federal courts hear.

There are other things we could do. Forty percent of the cases in the Federal District in Nevada are cases that are initiated by prisoners. The majority leader, Senator DOLE, and I, and others have joined in legislation that has passed this body, saying let us do away with that. If somebody has a good case, a prisoner, let him file it. But not as to whether or not it should be chunky peanut butter or smooth peanut butter, how many times can you change your underwear, whether it is real sponge cake or not sponge cake. These are ridiculous things that really turn my stomach, and that is what is taking the time of our Federal judiciary, hearing these ridiculous nonsense cases. It is not the size of the circuits, it is what they are forced to hear because we, as a legislative body, have not acted responsibly.

I repeat, the key problem to be addressed is the number of judges to handle the caseload rather than the configuration of the circuits. From 1978 to 1995 the number of appeals filed in the Ninth Circuit Court of Appeals increased by 179 percent. The number of judges increased 22 percent. In spite of this, in spite of this, plus the earthquake that completely disrupted its operations, the Ninth Circuit Court of Appeals should receive an award, rather than being criticized for not doing their work well. Remember, the Ninth Circuit Court of Appeals moves its cases. There is no one faster in the entire circuit system in disposing of cases once the panel receives the cases.

In spite of this, in spite of the 22-percent increase in judges to cover the 180 percent increase in caseload, and the courthouse being damaged and ruined, almost—it took $100 million to fix it up—they still managed to keep up with their work. They actually are determining more cases in the last 3 out of 4 years than were filed. They are not dropping behind, they are gaining. This is a remarkable record.

The presumption that increasing the number of circuits would solve the problem of expanding Federal court caseloads is the underlying fallacy of my friend's amendment. I say the cases are resolved by judges, men and women wearing those robes, not by circuits, this artificial tenth or twelfth, because increasing the number of circuits without increasing the number of judges would only exacerbate the problem. What we are being asked to do here is not only not increase the number of judges, but build an entire new court complex, and of course we would have a new circuit with all of its administrative personnel, which we have already established would cost at least $3 million extra a year. This would have no effect on caseload growth and there is no reason to believe it would be different in the proposed twelfth circuit than in the ninth circuit.

In its review of circuit size, the American Bar Association Appellate Practice Committee—and we have to go to the American Bar Association or some group of lawyers. Remember, we are dealing with courts here. We cannot go to the American Medical Association or certified public accountants or the Stock Car Racers of America. We have to go to attorneys, no matter how people feel about attorneys. What the ABA has said is, "We have found no compelling reasons why circuit courts of various sizes, ranging from a few judges to 50, cannot effectively meet the caseload challenge."

Indeed, for every argument in favor of smaller circuits there is an equally compelling argument for larger circuits. That is why I say, Mr. President, we are not doing this the right way. That is why it is important that we step back from this and let experts look at it, not we Senators who have preconceived ideas. Let us have the Chief Justice of the U.S. Supreme Court appoint some prominent people to take a look at this, and the President, and we as legislators should have our input. Equal numbers, so the judicial does not have too many on it, the executive does not have too many, nor do we—equally distributed between the legislative, judicial, and executive branches of the Government. I repeat, give them adequate staff, other resources, and have them report back to us in a reasonable period of time. That way, then we can make decisions as to whether it is going to be important to have more circuits, or have more judges, or have both.

I believe that the administration of justice in any society, especially in ours, is based upon the certainty of punishment, if we are talking about the criminal justice system. The problem we have in our system, of course, is that we do not have certainty of punishment. I think a study of the circuit system in our country, with that in mind, would go a long ways to satisfying some of the questions that I have.

I think it is important that we spread across this record the fact that the proposed legislation would be costly and it would be wasteful, for the reasons I have already outlined. The GSA [General Services Administration] has virtually completed an earthquake rehabilitation of this historic building in San Francisco at a cost of over $100 million. That renovation was designed to accommodate the administrative personnel of the ninth circuit as it presently exists, to meet its needs for the foreseeable future. If we did not do that, we would waste what we have already done.

We have some advantages from the size of the ninth circuit. The consequences are not all negative. That is why I think this panel, this commission we should appoint, will be instructive. The size of the ninth circuit, some say, is an asset that is to improve decisionmaking and judicial administration both within the circuit and throughout the Federal judiciary. There are some legal scholars who feel rather than splitting circuits we should be joining some of them; that there are built-in efficiencies. As my friend from Montana, in his statement, talked about one circuit—and I apologize, I do not know to which he was referring, but there were six appellate judges, as I recall the statement—maybe we should join that with another circuit. I do not know. But, certainly, is it not worth looking at?

A single court of appeals serving a large geographic region, the ninth circuit, has promoted uniformity and consistency in the law and has facilitated trade and commerce by contributing to stability and orderly process.

I again talk about admiralty and commerce under that entire western Pacific United States, which includes, as I have mentioned, Hawaii and the area out through there. We have one voice speaking about what the law should be. That has been very important. The court of appeals is strengthened and enriched, and the inevitable tendency to be parochial is done away with. This is because of the variety and diversity of the background of its judges drawn from the nine States comprising the circuit.

I had a conversation with a very close friend of mine who was home this weekend, somebody for whom I have the greatest respect. He was complaining about a decision that had been reached within the past couple of weeks, dealing with assisted suicide. He was complaining about that, about, "This judge did this."

I proceeded to remind my friend that it was an 11-member panel that decided the case, 11 judges out of the ninth circuit. They heard this case en banc. The decision by the majority was by 8 of the 11. The decision was written by that one man just because he happened to have drawn the assignment to write it, but seven of the other judges joined with him. So, in the ninth circuit more than any other circuit, there is not a tendency of one judge to dominate that circuit. There is not a tendency of two or three or four judges to dominate that circuit.

The ninth circuit is a leader in developing innovative solutions to caseload and management challenges, and they have done this in many different ways. It served as a laboratory for experimentation in many other areas, including computerized docketing and case tracking systems, decentralized budgeting, improving tribal court relations, flexible judicial reassignments and effective and limited en banc procedures, which is—really, what they have done with en banc procedure in that case is really historic in nature.

No one complains about 11 of these appellate judges sitting down and hearing these cases. They do it expeditiously. We have had improved Federal-State judicial relations. They have been far advanced with alternative dispute resolution and use of appellate commissioners.

If I were going to vote today, I would vote against splitting the circuit, but I am not going to be voting today, Mr. President. I am going to be, hopefully, reviewing what has taken place on the floor.

I see standing today my friend from Arizona, who is a fellow attorney. I have great respect for his legal talents and abilities. He was a prominent and very refined lawyer before he came here. I am willing to sit down and talk with him and anyone else as to what is the right way to go in coming up with this division. But let us not make it here on a Monday afternoon or by an amendment offered late at night.

I think there is a better way to do this. I do not in any way criticize or think that my friend from Montana did anything improper or wrong. If I felt that, I would say that to him personally. I do not feel that is the way it is. I just feel that on multiple appropriations bills—five bills lumped into one—it is not the way to do it. I think what we should do, I repeat for the fourth time, is have a commission, a fair commission with a reasonably short period of time to report back.

Mr. President, while we are still talking about the ninth circuit, it has a high degree of consistency in its case law. It would be improper for a circuit court of appeals to favor regional interests. This is a court of the land.

Also, an objective, updated study is needed before undertaking piecemeal realignments of the circuit. We had the Hruska study, which took place 23 years ago, and it was very important that we did that. The effects of growth on the entire Federal appellate system needs to be reviewed. It can be done in a relatively short period of time with computerization and all the other modern methods we have at our disposal to get statistics.

Yet, in the last two decades, no hearing has been held on that subject, nor has any commission conducted a study to determine how the Federal appellate system will continue to manage the continuing, growing influx of cases. It is not only that the ninth circuit is growing, the whole United States is growing. So we need to look at all of them.

I repeat to my friends who feel this is the appropriate way to go—stop and look at this. What this amendment does is call for a split of the ninth circuit, creating the twelfth circuit, and, at the same time, it calls for a commission to study restructuring. It is the wrong way to do it. We have already, in effect, let the cow out of the barn, because it makes it almost impossible to go back and pull out some of the resources, the assets of the twelfth and ninth circuits to help realign part of the other circuits if, in fact, that is necessary.

If you look, Mr. President, at the alignment of the court system, you will find that the way my friend from Montana has proposed this in his amendment, we have a very strange-looking circuit. I do not know how far it is from the tip of Washington to the tip of Arizona, but I would say it has to be 1,000 miles or more, because I know the State of Nevada is 600 miles long or more. So it is probably, I would say, 1,200 miles.

If we are going to talk about realignment, we might want to see if it is appropriate that the tenth circuit remain the way it is. I think if we follow the findings of the Hruska Commission, or at least take that as a starting point, we might want to cut California right in two, if, in fact, there is a cut necessary. If you did that, I think there would be a significantly different division than my friend has here.

Also, there are some long-time tendencies, practices, and procedures of which we have to be aware, and I think people need to study this. For example, we do not have a law school. Nevada does not have a law school. I do not know if there is another State in the Union that does not have a law school, but we do not have a law school. The vast majority of our lawyers are educated in California. I might say just offhand, I oppose the taxpayers of Nevada spending a lot of money on a law school. It comes up in every legislative session. I think we have enough law schools, and Nevada has plenty of lawyers. They are not having difficulty finding a place to go to school.

I say that it is going to take a little education in Nevada—and I think this commission is the way to go—to have lawyers, judges find some rationale for splitting Nevada off from California. What the U.S. Senate decides in a debate of a few hours is not going to satisfy the court and bar in the State of Nevada.

I think this commission that I have recommended, that was originally the idea of my friend from California, Senator FEINSTEIN, is an appropriate way to go. I respectfully submit, Mr. President, that it is not the right way to go to split the circuit and then come back and say, "Let's do a restructuring study." An objective, updated study is needed before undertaking piecemeal realignment of the courts.

Some say that the Hruska Commission is outdated and the time has long since passed when its findings are of any merit. I do not know that to be the case, although there are some who feel that is the case. Arthur Hellman, who testified at our hearing, who is a professor and served as deputy executive director of the Hruska Commission 23 years ago, wrote in 1995:

> Although the Hruska Commission recommended in 1973 that the ninth circuit be divided, that recommendation has been made obsolete by intervening events.

This is not some disinterested professor who was asked to look at it; this was the executive director of the commission.

A former Congressman, a member of the ninth circuit, Judge Wiggins, who was a member of the Hruska Commission and a former Member of the House of Representatives on the Judiciary Committee, one of the people who was responsible for the Hruska Commission going forward, has expressed in a recent letter his opposition to a circuit division and supported the idea of an up-to-date new study. That is not unreasonable.

Our lurching off into this is not the right way to go. Senator, now Governor, Pete Wilson conveyed similar sentiments in a recent letter to Senator HATCH. He said, among other things:

> I would urge that a study be commissioned to carefully examine the concerns raised about the ninth circuit and determine whether those concerns are legitimate and whether a change in the circuit's boundaries is the best method of addressing it.

That is from Pete Wilson, a veteran legislator and certainly now a veteran administrator.

I ask unanimous consent, Mr. President, to have the letter from Governor Pete Wilson printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GOVERNOR PETE WILSON,
December 6, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR ORRIN: I have been following with interest the current debate over whether to split the Ninth Circuit, and wish to register my strong opposition to any split before an objective study is concluded as to whether a split will properly address the concerns that have been raised concerning the size of the circuit.

As you know, I have been on record in opposition to previous bills to split the circuit on the grounds that they were a form of gerrymandering which sought to cordon off some judges and keep others.

Admittedly, the Ninth Circuit handles more cases than any other circuit. However, the median time for it to decide appeals (14.3 months as of December 1994) is only slightly higher than that for the Sixth, Seventh, and D.C. Circuits and less than the Eleventh Circuit (14.8 months), and in fairness, the destruction of the San Francisco courthouse in the Loma Prieta earthquake is party responsible for the backlog.

Splitting the circuit, without adding more judges, will not necessarily expedite the processing of the Ninth Circuit's cases and may generate a number of inconsistent rulings along the West Coast in areas such as admiralty, environmental law, and commercial law, since the West Coast would be split, under the pending proposal, into two circuits (i.e., California in one, and Washington and Oregon in the other). Indeed, splitting the Ninth Circuit could add an additional burden on the Supreme Court, which ultimately must resolve conflicts between circuits. I recognize that some concerns have been raised over intra-circuit conflicts, but there is a mechanism for resolving them—the en banc hearing. See Fed.R.App.Pro. 35.

Ultimately, the real issue raised in the debate over splitting the Ninth Circuit appears to be one of judicial gerrymandering, which seeks to cordon off some judges in one circuit and keep others in another. If this is the issue, I submit that the proper means to address this is through the appointment of new judges who do not inspire judicial gerrymandering because they share our judicial philosophy that judges should not make policy judgments but interpret the law, based on the purpose of the statute as expressed in its language, and who respect the role of the states in our federal system.

An objective study can focus on the concerns raised about the Ninth Circuit and determine whether a split is the answer. For instance, reform of our habeas corpus procedures and reforms which curb frivolous inmate litigation may do more to address a growing caseload than splitting the circuit.

In any event, I would urge that a study be commissioned to carefully examine the concerns raised about the Ninth Circuit and determine whether the concerns are legitimate and whether a change in the circuit's boundaries is the best method of addressing them. I would be pleased to contribute one or more representatives to assist with such a study.

Sincerely,

PETE WILSON.

Mr. REID. Mr. President, I have indicated that Arthur Hellman, former deputy executive director of the Hruska Commission, is opposed to the split. I also ask unanimous consent to have printed in the RECORD a letter written to Senator FEINSTEIN, dated December 5, 1995, from Prof. Arthur Hellman, at the University of Pittsburgh School of Law, in opposition.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF PITTSBURGH
SCHOOL OF LAW,
Pittsburgh, PA, December 5, 1995.

Re S. 956.

Hon. DIANE FEINSTEIN,
U.S. Senator, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: You have asked whether dividing the Ninth Circuit today would interfere with Congress's ability to pursue more comprehensive appellate reform in the future. Plainly, it would.

The Ninth Circuit's problems are problems that are shared, in varying degrees and in differing manifestations, by all of the circuits. As the American Bar Association's Standing Committee on Federal Judicial Improvements emphasized in a 1989 report, "the problems of the federal courts of appeals . . . are problems of an entire system, which cannot be solved by examining each component of the system in isolation."

In 1990, the Federal Courts Study Committee, which included among its members Senators Heflin and Grassley, concluded that the Federal appellate courts were already in a "crisis of volume." It anticipated that "within as few as five years the nation could have to decide whether or not to abandon the present circuit structure in favor of an alternative structure that might better organize the more numerous appellate judges needed to grapple with a swollen caseload." The Committee's report presented several "structural alternatives," but it did not endorse any of them; instead, it called for "further inquiry and discussion."

> Dividing the Ninth Circuit today would significantly interfere with Congress's ability to pursue the reconsideration that the Study Committee urged. This is so for three reasons.
>
> First, if a Twelfth Circuit is established—whatever its configuration—the effect will be create new structural arrangements and institutionalize new modes of doing business. These will soon take on a life of their own, reinforcing the status quo and making comprehensive reform more difficult.
>
> Second, dividing the Ninth Circuit would set Congress on a course that prefers circuit splitting to other, perhaps more fruitful, measures for meeting the "crisis" of appellate overload. Indeed, even today, the division of the Fifth Circuit is being cited as a precedent for dividing the Ninth, notwithstanding the many and significant differences between the two situations.
>
> Finally, to divide the Ninth Circuit now would be to lose the full benefit of a vital experiment in judicial administration. As noted above, the Federal Courts Study Committee presented several models of appellate reorganization, but it did not endorse any of them. That is quite understandable. None of the models is very attractive; all have serious drawbacks.
>
> Over the last decade, the Ninth Circuit has undertaken a remarkable range of innovations in an effort to determine whether a large circuit can be made to work effectively. Nothing could be more useful to Congress as it considers systemic reform than to have the concrete empirical information that the Ninth Circuit's experimentation will provide.
>
> Of course, it would be wrong to conduct an experiment if the "subjects"—here, the judges, lawyers, and citizens of the Ninth Circuit—were being hurt. But the evidence is overwhelming that they are not. For example, bar associations in five Ninth Circuit states have spoken out on S. 956. All have expressed opposition to the split. Other evidence is presented in Chief Judge Wallace's statement at the September hearing.
>
> More than five years have passed since the Federal Courts Study Committee issued its strong warning. Rather than divide one circuit ad hoc, Congress should proceed systematically by creating a new, focused commission to examine the problems of the "entire [appellate] system" and make recommendations that will serve the country for the long run.
>
> Sincerely,
>
> ARTHUR D. HELLMAN,
> *Professor of Law.*

Mr. REID. Mr. President, also, I think we should look at how the press feels about this split throughout the Western part of the United States.

I think it is fair to say that most all of the press is opposed to the split. I say this, not based upon the newspapers being all of a liberal persuasion, because I think that, for example, if you take the Arizona Republic, I think it has been accused of a lot of things, but certainly it does not have a liberal bias. They wrote in an editorial on November 10, 1995, among other things:

> The bill can best be described as a case of unwarranted political meddling in the Federal judiciary . . . The bill is a wolf in sheep's clothing. What it's really about is a perceived liberal bias that comes from domination of the district by—guess who?—California. The agenda of the bill's backers is less geared toward the efficient administration of justice than it is to isolate California.

It goes on to state what a bad idea it is to split this.

Mr. KYL. Would my friend yield for one quick question or comment on my behalf in relation to what the Senator just said?

Mr. REID. Mr. President, prior to doing that, I ask for the regular order. Mr. President, I ask for the regular order.

The PRESIDING OFFICER (Mr. CRAIG). The regular order is amendment 3533 to amendment 3482, which is the first-degree amendment to 3466.

Mr. REID. Parliamentary inquiry. The regular order having been called, it is my understanding that the ability to appeal the rule of the Chair on germaneness is now not possible; relevancy is not possible.

The PRESIDING OFFICER. Intervening business having taken place, the right of appeal has been lost.

Mr. REID. Thank you, Mr. President. I would be happy to yield to my friend from Arizona, without losing my right to the floor, for purposes of a question.

Mr. KYL. I appreciate my colleague yielding. I want to make it clear, since you were quoting from my hometown newspaper editorializing against the bill, it was not the bill that is before us today.

Mr. REID. I appreciate that, I say to my friend from Arizona. I did not know that.

Mr. KYL. That was the original bill as introduced that they were writing about, not the amendment of the Senator from Montana.

Mr. REID. I thank my friend very much.

Mr. President, we have editorials, as corrected, from the Arizona Republic, from the San Francisco Chronicle, the Seattle Times, the Los Angeles Times—and not a western newspaper, of course—the New York Times.

I yield the floor, Mr. President.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to comment on some of the things that have been said so far. I say to the Senator from California, Senator FEINSTEIN, and the Senator from Nevada, who has just been speaking about their presentation, this is a rather complex issue. I certainly would begin by noting this is a matter on which reasonable people can differ.

In this case I do differ, but certainly the arguments they have made are legitimate points to debate. I would like to get on with that prospect right now. The Senator from Montana has revised the original version of the bill as introduced, as I just pointed out to the Senator from Nevada, and has presented what I think now represents a division of the ninth circuit of appeals that would make a lot more sense than proposals that had earlier been made.

As the Senator from Montana knows, there have been numerous hearings and numerous substitutions as to how to divide the circuit, hearings being conducted almost every 5 years, 1984, 1990, 1995, not to mention the hearing of the Hruska Commission back in 1993. I am sure the Senator from California winced a little bit when the Senator from Nevada said that Hruska recommended dividing the State of California into two parts.

In any event, to the first point. The Senator from Nevada said that this would be a rather odd looking circuit, stretching from the tip of Alaska to the southern boundary of Arizona. I would note that that is exactly what the north and south boundaries of the ninth circuit today are. It stretches from the northern tip of Alaska to the southern boundary of Arizona.

This new circuit would be precisely the same. What it would not have is the extreme western part of the trust territories, the States of California and Hawaii. The States of Arizona and Alaska, those would be made part of the new twelfth circuit. The remainder of the ninth would remain the same, but be part of the new twelfth circuit.

So it does not seem to me that represents some strange division, but rather a commonsense way of dividing the circuit in order to operate more efficiently. What we are talking about is a caseload which would be split roughly 60 to 40, with the States of California, Hawaii, and the Trust Territories.

Mr. President, to show you how much the State of California dominates the ninth circuit today, it dominates it by virtue of the fact that it has by far and away the largest amount of the caseload and the largest population. The ninth circuit itself represents by far and away the largest circuit in the country. It spans nine States and two territories, covering 1.4 million square miles, serving the population of 45 million people. The next circuit in size by way of illustration is the sixth circuit, serving fewer than 29 million people. Every other circuit serves fewer than 24 million.

Mr. President, the Census Bureau estimates by the year 2010 the population of the ninth circuit will be more than 63 million, a 40-percent increase. That is in just 15 years. Everyone who studies the issue understands that sooner or later that the size of the ninth circuit will have to be dealt with.

As long ago as 1993 the Hruska Commission was suggesting a division of the circuit. In the ninth circuit there are 28 judgeships there today, and 13 active senior judges. The court has asked for 10 additional judgeships, which would make 38 —excuse me—I think there are about 10 senior circuit judges right now. So in addition to the 28 existing, and 13 senior judges, the court has asked for an additional 10, which would put it close to the 50 mark in terms of the number of judges that would be deciding cases when those additional 10 are granted.

As a result of the large number of judges in the circuit, there are divisions within the circuit unlike other circuits. It is impossible for all of the judges to know what each of the judges is deciding. It is also impossible for the court to sit en banc, as the Senator from Nevada noted.

I will state from the beginning, that I think that the ninth circuit has done a good job and the presiding judges of the ninth circuit have done a good job under very difficult circumstances in managing the caseload of the circuit. They have tried to institute efficiencies which have enabled it to do its job notwithstanding the huge amount of area and population under its jurisdiction and the large number of cases coming to it as a result. So my discussion of the court's handling of its caseload is in no way meant to be a criticism, Mr. President. If anything I would take my hat off to the presiding judges, who have done a good job under the circumstances. But facts are facts.

This is a circuit that has never been able to have an en banc hearing because the number of judges are simply too great. You do not have all 26 judges or 28 judges sitting down at the same time to hear a decision or an argument based on a decision of the 3-judge panel, which is what the courts ordinarily sit on.

As a result of the ninth circuit, you end up with 11-judge en banc hearings, unique among all of the other circuits. What that means is essentially by a luck of the draw, your decision is reviewed not by the entire circuit but by 11 judges in the circuit. I will come back to that point in just a moment.

One of the questions about the splitting of the circuit is whether it would make much of a difference. I think that depends on what you define the problem as. A part of the problem is the large caseload.

The Senator from Nevada makes the point that until we add more judges, we will not know whether that problem has been resolved. But that is not the only problem, Mr. President. As a matter of fact, size itself is just part of the problem. As I noted, adding more judges might help to resolve more cases, but it does not do anything about the problems that are cropping up in this large circuit as a result of judges not being able to keep track of what each other are doing and what the various 3-judge panels are doing. This has created opportunities for intracircuit conflicts. It has also meant there are more per curiam decisions. Judges usually write opinions. And an average is more than a fourth of the cases result in opinions being written. In the ninth circuit, it is down to about 19 percent of the cases that actually have opinions written.

So with that low number of cases in which opinions are written, it is difficult for the judges to keep up with the decisions that have been made by the other three-judge panels, and it is not always the case they can clearly follow or clearly determine the circuit's precedent has been followed when cases are simply decided without the benefit of an opinion.

This is also rather maddening for the litigants and for the lawyers. It is, I am sure, understandable that if litigants spend thousands of dollars to take a case to the circuit and say, "You win in the lower court and take it on appeal to the ninth circuit," and they reverse without opinion—all they say is, "The case is reversed." You do not know why they reversed the case. It is more than maddening because you ordinarily have to make decisions based on what the law is. If the court has not told you why it reversed, then you are not going to know what you have to do in the conduct of your business or other affairs to comport with what the law theoretically is. It is difficult when you do not have an opinion telling you what you should be doing. That is one of the problems that lawyers have told me has caused them to be unclear about advice that they give their clients with respect to the question of whether or not to appeal in a case.

This is very difficult for clients because you may lose a case at the lower level and wonder whether you should expend the time, energy and money to take the case to the circuit court. If it is unclear what the law is going to be, it is kind of a crap shoot, to use the phrase that a lawyer in Arizona used with me. He said, "With so many judges, it is a crap shoot as to what kind of a panel you get." In a circuit that has six judges, as mentioned earlier, you have a pretty good idea of who will be sitting on your panel or what its likely composition will be. If you have a number of possibilities, as exists in this particular circuit, you have no idea what the composition of the court is going to be. There are 3,276 possible combinations of panels on this court—3,276. It is impossible for a litigant to have any idea who the judges will be and, therefore, what to expect. Given the broad range of ideology within this particular circuit, therefore, a lawyer hardly knows how to advise his clients.

Assume you have a decision from a three-judge panel. The question is, do you try to take it en banc? But you have no idea who the 11 en banc will be and whether it will be a fair reflection of the circuit. Since there are not as many written decisions as there are in other circuits, you also find it more difficult to follow the precedence of the court. It is more difficult for lawyers to advise their clients on whether to take an appeal or not in the ninth circuit than it is in most of the other circuits.

Much has been made, Mr. President, of the length of time that it takes for a case to get to hearing, and the ninth circuit is the worst or second worst, depending on how you count in this regard. There has been a statistic cited, and I think cited by both the Senator from Nevada and the Senator from California, that suggests, actually this court is fairly quick. That is the time from the time the judges get the case to the time their decision is published. That is the only area of the nine areas in which this circuit does particularly well.

There is a reason for that: They do not write as many opinions. It is fairly easy once you decide the case to notify the litigants of the decision if you do not have to write an opinion expressing your view. I suspect that is the reason why that particular statistic is one in which the ninth circuit looks good. Otherwise, the ninth circuit is the slowest from filing of the last brief to the hearing or submission of a case. It takes about 4 months longer to complete an appeal compared to the national median time. It is over 14.3 months, as I understand.

In the other indicia of speed, the court does not fare well compared to the other circuits. That is something that more judges would do something about. You have to wonder how many judges in number you get to for the court still to function adequately. At the hearing we held a few months ago on the subject, judges from the nine-county circuit were asked that question, and they acknowledged there was a point at which, obviously, the court would have too many judges. It would be too big and have to be split. There was disagreement, as you might imagine, on exactly what the appropriate number is.

I mentioned the fact that there is inconsistency between the panels, which results from the fact that there are so many different possible combinations in the ninth circuit. That is the thing that worries the attorneys for the litigants so much.

I also think it is instructive, Mr. President, to determine how the Supreme Court has dealt with the opinions from the lower circuits, from the circuit courts in the lower courts. It may be some evidence of a court that is overburdened that it is reversed frequently, and in this regard it is interesting that the ninth circuit has one of highest reversible rates of any of the circuits. For example, last year in the cases that the U.S. Supreme Court decided in the term ending June 29, 1995, according to the Court's records, 82 percent of the ninth circuit cases heard by the Court were reversed—82 percent. That is not a very good standard of success, I suggest, Mr. President.

Now, lest people jump to the conclusion that this means that the ninth circuit cannot get it right 82 percent of the time, let me hasten to note that this is of the cases that the Court takes. By definition, the cases that the U.S. Supreme Court takes on review are the more difficult, the more controversial cases. So we should not believe that being wrong 82 percent of the time represents the full caseload of the court. That is not the case. We are talking about the number of cases that the court has been reversed in by the U.S. Supreme Court, of those cases taken by the Supreme Court. Again, by definition, those are going to be the more difficult cases. Still, being reversed 82 percent of the time is not a particularly good record.

I suggest that an article recently appearing in the Wall Street Journal may indicate a reason why this is so. It may be that some members of some of the courts do not have the high regard for precedent that we would like to see in our circuit court judges. It may also be, as I noted, that this court simply is particularly burdened.

Just a few day ago, last Friday, March 15, the Wall Street Journal carried an article I found fascinating but also very troubling. The headline of the story is, "Bench Pressure: Federal Appeals Judge Embraces Liberalism in Conservative Times," and a subheading, "Ninth Circuit's Reinhardt Discovers New Rights That Appeal to the Left."

The story, written by Paul Barrett of the Wall Street Journal, discusses a most recent ruling in which Judge Reinhardt was the author of a lengthy opinion, according to the Wall Street Journal, announcing that the terminally ill now have a right to die with the help of a doctor. According to the Wall Street Journal, "The mammoth 109-page ruling struck down a Washington State ban on assisted suicide—the first such action by a Federal appeals court."

They quote the author of the opinion, Judge Stephen Reinhardt, as saying, "I think this may be my best ever." The article goes on to discuss the record and career of this very bright, very intellectual and, according to the article, very liberal lawyer-judge, who the article says is widely respected by friend and foe as a crafty advocate for his left-leaning views.

Mr. President, I do not know Judge Reinhardt or the degree to which his views may inform his decisions, but one indication that the ninth circuit might be overruled as often as it is could be reflected in the reported comments of Judge Reinhardt about the current U.S. Supreme Court, and suggests that there is perhaps not enough respect for the precedent coming from the U.S. Supreme Court. Remember, Mr. President, that the judges on the circuit courts are supposed to be not making new law but simply applying the precedents of the U.S. Supreme Court.

According to this article, after discussing the fact that Judge Reinhardt has been somewhat criticized by some of his opinions, he says it has happened many times that he has been reversed by the Supreme Court, and then is quoted as saying, "There's nothing I can do if that court is run by reactionaries." "There's nothing I can do if that court"—meaning the U.S. Supreme Court—"is run by reactionaries."

Mr. President, I hope that Judge Reinhardt was kidding if he is suggesting that the U.S. Supreme Court is run by a bunch of reactionaries because those who have defended the current composition of the ninth circuit have correctly said that the circuit courts should not reflect the attitude of just their own area. That is not really how circuit judges should be selected because, after all, they are not supposed to declare the law just for their area; they are supposed to be declaring the law of the United States as enunciated by the precedence of the U.S. Supreme Court, the Constitution of the United States, and the laws of the United States. Those are not defined by any kind of regionalism. So they correctly note that the judges are supposed to be declaring the law, informed by those three sources.

Yet, here is a judge who at least is quoted in the Wall Street Journal last Friday as apparently referring to the current members of the U.S. Supreme Court as "a bunch of reactionaries." As I said, I hope he was kidding. It is probably not a very judicious thing for him to have said, and I hope that, in retrospect, he will reflect upon that and perhaps pronounce himself chagrined that that perhaps off-the-cuff comment found its way into print. I hope that will be his reaction.

But, as I said, it might illustrate why this circuit has been reversed as many times as it has been. There are stories, which I cannot confirm, that many of the opinions from this particular judge in this particular court are in some sense red-flagged for their review. The high percentage of cases reversed from the ninth circuit may suggest that that is true, and we may have a suggestion of why that is so.

Now, that does not suggest that the answer to this is the split in the circuit. I do not make that claim here. But I do find it interesting that the opinion written by Judge Reinhardt in this particular matter, this right-to-die case, was written for an en banc panel which was hardly representative of the court as a whole—which illustrates the problem with an en banc hearing of less than the entire membership of the court—unique to the Ninth Circuit Court of Appeals and only the case because the court is too big to have all of the judges sitting by themselves.

The calculations have been done here, and what we find is that in this particular decision, the limited en banc panel was comprised of six Democratic appointees and five Republican appointees. The ninth circuit has 15 Republican appointees and 9 Democrat appointees. So the limited en banc panel in the right-to-die case had 5 of the 15 Republican appointees and 6 of the 9 Democratic appointees.

Now, Mr. President, I am not suggesting that being appointed by a Democrat or a Republican President will dictate how you decide a case either. But I do suggest that of all of the indicators of how a case might be decided—the State from which a judge comes, the age of the judge, the sex of the judge, the race of the judge, the color of hair of the judge, or whatever criteria you may want to look at—the party of the President appointing the judge probably has more to do with the decisions of that judge, day in and day out, than any other single factor.

Therefore, it is not irrelevant to look, in this particular case, at the political composition of the panel. Again, I am not suggesting that that is what caused the decision in this case. But it is a most controversial decision, the first of its kind ever, and, I suspect, the kind of case the Supreme Court will want to take a look at.

My point in all of this, Mr. President, is that a court that gets so big that you cannot even have an en banc hearing of all of the judges, which can result in a skewed composition of en banc panels, can result in skewed decisions, can result in overruling in many, many cases. That is what we have found with respect to the Ninth Circuit Court of Appeals. So it is not just the fact that we have not given them the 10 additional judges they want that creates a problem with a court of this size.

Let me dispel some of the other notions that have crept into this debate so far. One is that this is going to be costly. I find it interesting that a Congress that frequently spends money like it is going out of style is suddenly concerned about cost. But let us put that in perspective. Justice, of course, should be one of the highest priorities of this Congress. I, for one, Mr. President, do not want to skimp when it comes to providing for justice. I have voted against a lot of appropriations bills since I have been in the Congress, but I cannot recall a bill that I voted against that funded the judiciary. I believe strongly in enforcing the laws of our country and ensuring the judiciary has what it needs.

The cost of this particular bill, according to the General Accounting Office, for the construction of the new offices that would be necessary, is $18 million—$18.1 million to be precise. That is just 0.68 percent, which is less than 1 percent, slightly over half of 1 percent of the annual budget of the judiciary last year, about $2.5 billion.

Next year, we are looking at $3.1 billion. So in the year it will occur, it will be much less than 1 percent of the budget. There would be a small start-up cost of about $3 million, but that would be a one-time-only cost.

It has been noted that the chambers in San Francisco and Pasadena have recently been renovated and that they could accommodate more judges. The fact is that judges of the ninth circuit today sit in, have chambers in, and argue cases throughout the circuit—in Phoenix, in San Francisco, in Pasadena, in Portland, in Seattle. That is the way it is done today. I think it would be nice if the judges moved to the site of the headquarters of the circuit and sat there and had their chambers there, but they fly around the country today. That is why you only have 5 chambers in San Francisco, even though it is the headquarters of the circuit with 28 sitting judges, with 10 more requested. In addition, there are eight offices in Pasadena, the other place of primary headquarters of the circuit.

So you have a situation that could accommodate additional judges as they are appointed, and, certainly, at least half of the 10 judges that have been requested would have to be assigned to California. Apparently the headquarters there could accommodate those judges.

It is also noted that the bar associations of most of the States, and the Federal Bar Association itself, oppose the split of the circuit. That is not surprising, although I note that in my State of Arizona, there is very definitely a split. The so-called organized bar, the political organization, has written a letter in opposition. Of the lawyers and judges I have talked to, I find a real split, depending upon their point of view. I do not want to suggest that we should, however, simply follow the advice of the lawyers and the States on this. While I have not taken a poll of all of the lawyers in Arizona—for my sake anyway—I do not think that would be the determining factor, in my view. I understand the point others have made that bar associations may oppose it. I do not find that to be a persuasive reason to not support the amendment of the Senator from Montana.

Another question is that Phoenix is kind of out of the way. Those of us in Phoenix do not really think that. In any event, it is about $38 or $39 to fly from Las Vegas, NV, to Phoenix, the home of my colleague from Nevada. It is pretty cheap on at least three or four of the airlines to get to Phoenix. It does not take very long at all. The point here, I think, is missed, and that is that cases are argued throughout the circuit. That would remain the case whether the circuit is split or not.

It is also the case that the law would remain the same. I think the Senator from Nevada made a good point in noting that his own State did not have a law school and that many of the lawyers there are educated in California. It is important that the law remain the same. It should be noted here that when the fifth circuit was divided into the fifth and eleventh circuits, they made the decision, correctly, to keep the law of the previous circuit. That has been done. Our hearing indicated, and people who testified at our hearing indicated, that it worked very well. Of course, that is the way it would be done here, as well. We would not have to dictate that result. The judges on the circuit themselves would correctly make the decision as a result, even though the court would be split into two parts. The law that had been built up from the ninth circuit would, of course, continue to be the law governing the new twelfth circuit as well. That should not be a factor.

Mr. President, there are several other things I think we can say about this. But let me simply conclude with this point. This is not judicial gerrymandering, because the amendment of the Senator from Montana would result in a division that just about evenly divides the judges on the court, and they could go wherever they wanted to between the ninth circuit and the twelfth circuit. If you go by their State of origin, presumably half would go to California and the other half would remain or would go to the twelfth circuit in the States from which they come.

So you would have a division geographically that is almost identical to the division that you had today. And, by the way, for those who are interested, the division politically would be almost identical as well. So both circuits would end up with just as many Republicans and Democrats and percentage as the court today has. And, in any event, as I said, this is not an effort to put all of the conservatives in one court and all of the liberals in another. I think that is illustrated by the fact that perhaps at least from public accounts one of the most conservative leaders on the ninth circuit and one of the most liberal leaders on the ninth circuit would both remain in California under the divisions imposed here.

So there is not an effort at judicial gerrymandering. It is an effort to do finally what countless studies have suggested; that is, sooner or later this circuit is going to have to be divided—going back well over 20 years. I suppose we could have another study, and I am sure it would be informative. But I question whether the Senate and the House would act on the study—at least would any time soon. And, therefore, at least this legislation is an attempt to get the ball rolling and make something happen so we do not continue to have the circumstance we have today.

A study, by the way, is also I think prone to the same kind of thing that has occurred in the past where you have people doing the studying themselves. I would suggest that, if there is going to be a study, it should not be done by the very people who are involved; that is to say, the judges on the ninth circuit. There is a certain incestuousness that develops over time and a desire to do it the way we have been doing it, and liking the way it is done. It seems to me, if there is going to be a fresh look at this, it ought to be done by people who can with some expertise view the situation from some distance as well as relying upon the expertise of those who are on the inside.

I think also that it should be composed of people who are not just the judges by also litigants, members of the bar who practice before the circuit, and perhaps people who have other expertise to bring to bear.

But in the end, as the Constitution requires, it is the U.S. Congress that has the responsibility here to decide on the composition of the so-called lower courts. So it is our responsibility to make this decision, Mr. President.

I simply want to conclude by complimenting the Senator from Washington, Senator GORTON, and also the Senator from Montana, Senator BURNS, for bringing this matter to the attention of the Congress, and for getting the bill through the Judiciary Committee. I urge our colleagues to review the report of the committee. It is a good report, a good description of the issue I think, and they can all benefit by reading that report and then determine whether additional study is necessary, or whether it is time to take action now.

I hope that in the comments that I have made I have made two or three things clear. No. 1, that I am not criticizing the court or its administration. As I said about four times, it has done admirably well under the circumstances. The circumstances are what bring the difficulty. I am suggesting that adding more judges is not just the answer to this problem. So we should not think that simply funding more judges will solve the problem here.

The problem here is the point at which any circuit becomes too large to function in the way intended. Virtually everybody who has talked about this—opponents and proponents alike—agree that there is a point beyond which the court is too large. Many have determined that that point has now been reached. Others think it is around the corner a bit. But in any event, we all understand that that is a problem which this Congress has to address. So whether it is done by this legislation, or whether it is done by a committee, clearly one of the probable recommendations has to be a division.

And the third and final point is that of all of the ways that have been considered to divide the court—dividing

California in the middle, cutting off Arizona and sending it to the tenth circuit, allowing Nevada, California, Hawaii, and the trust territories, and perhaps others to constitute another circuit—a lot of different iterations have been proposed. The only one that has made sense to the people with whom I have discussed the issue in Arizona—judges, lawyers, and litigants—is the proposal that the Senator from Montana has presented to us today. And it is, therefore, that proposal and only that proposal which I am willing to support, and urge my colleagues, therefore, to consider that proposal as really the only viable alternative to the situation that we have today.

AMENDMENT NO. 3533

Mr. BOND. Mr. President I would like to take a moment to outline what the increases for EPA are in the Bond-Mikulski amendment which we will be voting on tomorrow. The amendment is a complete substitute for the pending Lautenberg amendment.

First, the amendment takes the $162 million of EPA addbacks included in title IV of the bill, removes their contingency status, and finds offsets for them. These four provisions are:

[In millions of dollars]

Safe drinking water State revolving fund	50
Clean Water State revolving fund	50
EPA buildings and facilities	50
Program & Management	12

Second, the amendment then provides another $325 million for EPA in the following manner, also fully offset:

[In millions of dollars]

Safe Drinking water State revolving fund	125
Clean water State revolving fund	75
Superfund	50
Operating programs	75

Thus the total new noncontingent funding for EPA is $487 million—all now fully offset. The amendment attempts to continue our ongoing efforts to force the EPA to set priorities and to spend their resources in areas of greatest need. In particular—the unfunded mandates that the State revolving funds are designed to address.

In the Bond-Mikulski amendment, of the additional $487 million, the two State revolving funds receive $300 million; Superfund is given $50 million; program management $87 million, and building and facilities the remaining $50 million.

I believe this is a fair compromise and should be supported.

Mr. HATFIELD. Mr. President, we are in the process of trying to clear some other amendments which we have—11 amendments that we had clearance at one time, or agreement—and other intervening actions have now made it impossible to adopt those amendments at this moment.

Mr. President, I also indicate that we were here 3 hours today waiting for amendments, as we were most of Friday. I am very grateful to the Senators who have just completed the colloquy on this ninth circuit subject for at least bringing up one of our amendments. Very frankly, I have more important business pending in my office than I have waiting for Senators to appear on the floor and offer their amendments.

I have to also say, again in the context as chairman of the Appropriations Committee, that we are expected to create miracles around here by completing this omnibus package, going to conference with the House of Representatives, getting that resolved, and getting the conference reports adopted before midnight Friday this week. I am not a miracle person. I cannot commit miracles. Others in history have. But I am not such a person.

Also I note that the Senator from Arizona, the Senator from Idaho, and myself as western Senators—and the Senator from Nevada—four western Senators find it increasingly difficult due to the plane schedules to get out to the West and back. And we all would like a 3-day workweek in order to do that. But we are here to do business. And I would be highly tempted to do a bedcheck vote right now of how many Senators are in town to do business.

So I think it is imposing upon our time, and it is imposing upon the time of the requirements with the conference of the House. Therefore, it is an imposition on the House as well for us to then say everybody comes back to Washington and they will come running in here with their amendments on Tuesday, and they have to all be acted upon by a certain time on Tuesday. I can see it now. They will come to Senator BYRD and myself where they do not have time to debate their amendments, or get them acted upon, and they will say, "Include my amendment in the managers' package."

I am going to look with great reservation on such requests because that is not again the procedure by which we should enact some of these very important amendments or dispose of them.

I stood here before with such pleas to my colleagues. Maybe I could get a going away present and have them all come immediately and we will complete this bill this afternoon because this is my last year to stand here and manage an appropriations bill. But having been gentle in my remarks in so urging our colleagues, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

AMENDMENTS NOS. 3499, 3510, 3518, 3529, 3549, AND 3550, EN BLOC, TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I have a group of amendments that have been cleared that I now send to the desk. I ask unanimous consent that they be considered en bloc, agreed to en bloc, and the motions to reconsider be laid upon the table.

I emphasize, Mr. President, that these are six amendments that have been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments (Nos. 3499, 3510, 3518, 3529, 3549, and 3550) were agreed to.

The texts of amendments Nos. 3549 and 3550 are as follows:

AMENDMENT NO. 3549

On page 754, before the heading on line 5, insert:

SEC. . (a) In addition to the amounts made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $50,000,000 is hereby made available to continue the activities of the semiconductor manufacturing consortium known as Sematech;

(b) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Army", $7,000,000 are rescinded;

(c) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Navy", $12,500,000 are rescinded;

(d) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Air Force", $16,000,000 are rescinded;

(e) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $14,500,000 are rescinded; and

(f) Of the funds rescinded under subsection (e) of this provision, none of the reduction shall be applied to the Ballistic Missile Defense Organization.

AMENDMENT NO. 3550

(Purpose: To provide for the transfer of funds for carrying out training and activities relating to the detection and clearance of landmines for humanitarian purposes)

Insert at the appropriate place:

SEC. . Of the funds appropriated in Title II of Public Law 104–61, under the heading "Overseas Humanitarian, Disaster, and Civic Aid", for training and activities related to the clearing of landmines for humanitarian purposes, up to $15,000,000 may be transferred to "Operations and Maintenance, Defense Wide", to be available for the payment of travel, transportation and subsistence expenses of Department of Defense personnel incurred in carrying out humanitarian assistance activities related to the detection and clearance of landmines.

AMENDMENT NO. 3496

Mrs. MURRAY. Mr. President, I rise as a cosponsor of the amendment to change the name of the Walla Walla Veterans Medical Center in Walla Walla, WA, to the Jonathan M. Wainwright Memorial VA Center.

General Wainwright was born at Fort Walla Walla and was a member of the 1st Cavalry after graduating from West Point. He served in France during World War I and was awarded the Congressional Medal of Honor in 1945 by

President Truman for his service in World War II. He spent nearly 4 years in a prisoner of war camp in the Philippines and was known as the Hero of Bataan and Corregidor. General Wainwright was a true war hero and won the praise and respect of all Americans.

Mr. President, the people of Walla Walla, WA, want this name change to honor a war veteran and local hero. In May, they are dedicating a statue in his honor and would like to dedicate the name change of the hospital at the same time. The entire Washington State congressional delegation supports this change. And all of the veterans service organizations in Washington State support the change.

I urge my colleagues to support changing the name of the Walla Walla Veterans Medical Center to the Jonathan M. Wainwright Memorial VA Medical Center, and to allow this war hero the recognition he so rightly deserves.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. Mr. President, I rise to speak in regard to the matter under consideration, the appropriations bill, that this body is considering, and I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ASHCROFT. The situation we debate today concerning our inability as an institution to control spending is not a situation about allocating spending or the responsibility to pay for spending from one group in our society or culture to another. We are not talking about whether the rich should pay for the spending or the poor should pay for the spending. All too frequently, we find ourselves talking about the displacement of the costs which we incur from our current culture to the culture of the future, to the next generation.

We literally, in so many cases, find ourselves debating about the expenditure of the earnings of the next generation, because when we go into debt, we break our responsibility to pay for that which we consume. When we go into debt, we really ask the next generation to pick up the tab.

No family in America finds its children encumbered by the debts of their parents. That is against the rules in our society. No parent, no matter how irresponsible the parent is, can cause an enforceable obligation to fall upon the children. We just say that is inappropriate. However, when it comes to us collectively as a group of individuals, we can spend as recklessly, apparently, as we like and cause the greatest of debts to fall upon the next generation.

I find that to be unwise and counterproductive, because it means that instead of leaving them with assets, we are leaving the children with debts. That is very bad for the future of the country. I find it to be immoral to spend the money and resources of the next generation without the consent of the next generation.

We have tried over and over again as a body here in the U.S. Senate to deal with this problem of recurring debt. We had the Gramm-Rudman-Hollings Act, the Gramm-Rudman Act II, then we had the budget deals of 1990 and 1993. We have not been able to get one Senate to bind the next Senate successfully with discipline.

As a matter of fact, this past year we had a substantial debate about whether or not we should have a balanced budget amendment. The occupier of the chair and I firmly agree we need a balanced budget amendment to the Constitution to bind, not only ourselves, but future Senates to the discipline of paying for that which we consume.

Unfortunately, there are enough Members of this body who resist that, saying that we should not bind future Senates, that we should not bind future Congresses to live with the discipline of paying for that which is consumed. Equally unfortunate, as a matter of fact more unfortunately, is the willingness of those same people to bind future generations to debt.

So what we have is a Congress unwilling to bind itself to discipline but which finds itself more than willing to bind the next generation in debt. It is a kind of bondage which will restrain the next generation substantially in the way it consumes its resources and the way it allocates what spending it ought to have the right to allocate. The next generation will end up allocating that spending to the payment of our debts.

It appears from this debate that we are not even able to successfully bind this Senate to the limits it set for itself. Every year the Senate passes a budget resolution to cap our spending. We passed a budget reconciliation act, the so-called Balanced Budget Reconciliation Act of 1995.

That act would have saved enough money by slowing the increase of spending in Government to have enabled us to reach a balanced budget by the year 2002, if the President had not vetoed it. We all know what happened. President Clinton, after alleging compellingly and consistently his desire for a balanced budget, had the opportunity, the first opportunity in a quarter century to sign one, and he vetoed it.

As introduced, the omnibus appropriations bill might have allowed us to achieve the first-year target for reducing the deficit set up by the Balanced Budget Act of 1995, but it did not achieve that by reducing the rate of Federal spending as we had intended.

Instead, this pending bill, it is my understanding, increases the rate of spending by displacing some of the overall savings which we had hoped to achieve over the next 7 years under the Balanced Budget Act. That means we will no longer be able to count on these funds which were gathered from outyears, stolen, or taken from outyears, to help balance the budget over the next 7 years.

This malady, or this pathology, this consistent way of doing business is not a stranger to the Congress, which has always been gathering to itself spending, deferring from itself savings, and displacing from itself the payment of its responsibility.

If that were not bad enough, look at what is happening now. I think it is time that we need to stand firm. It is time to prioritize programs, and it is time to make tough choices, protect at least our deficit target if not the target for slowing spending. We are somehow experiencing in this body a collapse of will. We cannot allow that to happen.

Each time we add more spending to this bill, we push ourselves further away from achieving a balanced budget that we had hoped to achieve under the Balanced Budget Act. We are throwing away the savings from slower spending which we had worked so hard to achieve and we cast votes to achieve last year.

We should not be spending more of the taxpayers' money that is included in this bill. We should be spending less. Are the spending limits really so onerous, are they so draconian, are these limits so oppressive when this bill includes a couple hundred thousand dollars for the expenses of the Commission for the Preservation of America's Heritage Abroad? Are these spending limits that we need to impose really onerous in this bill when they provide for hundreds of thousands of dollars for the purchase of passenger cars for the International Trade Administration bureaucrats abroad at $30,000 per vehicle designation, as though that is an exercise in fiscal restraint?

During the first session of this Congress, in the deliberations concerning the adoption of a balanced budget amendment to the Constitution, we frequently heard that there was no need for us to amend the Constitution. Why amend the Constitution when we, as reasonable individuals sent here by voters who want a balanced budget, when we can exercise the restraint, it was said, in order to balance the budget, in order to provide a stable fiscal therapy for the next generation instead of a malady for the next generation?

Let us just do the right thing. We do not have to have a balanced budget amendment to the Constitution, we were told; there is authority for the U.S. Congress to do what is right and to be able to live within our means and that we should do so immediately.

Frankly, it is not such authority that this Congress lacks. We do have the authority. The truth of the matter is that we lack the discipline. We have not had the will, we have not had the courage. I see it eroding as we amend this bill over and over to add spending, and we do it from savings from the years in which we would need to exercise restraint in order to balance the budget by the year 2002.

Money was and is the source of Government's basic power. The tale of history bears out this truth undeniably. The Magna Carta prescribed that the king could not impose taxes except through the consent of the Great Council. Charles I was executed because he tried to govern without seeking the consent of Parliament in spending public money. Let us not forget that the American Revolution itself was rooted in the relationship between taxation and representation. Very frankly, the taxes we are spending now are the taxes of the next generation, and they are not represented in this Chamber.

Congress today does not have to vote to raise more revenue in order to spend more money. Unfortunately, our legislature takes the debtor's path of spend and beg, spend and plead, spend and borrow, and borrow against the future of the young people of America. Our current system of government lets the Government spend on credit and sign the next generation's name to the dotted line. When their credit card becomes due, it is the American people who are confronted with the dilemma. They can either send more money to Washington to pay the bill or default on the debt incurred in their name.

When the American people expressed the belief that Government is out of control, as they did in the November election of 1994, they indeed were correct. For too long we have been out of control. This body has assembled to satisfy the appetites of narrow interests at the public's expense. Protracted deficit spending empowers the central Government with the means to undermine our basic liberties. The American people are understandably fed up with the Congress that spends the yet unearned wages of the next generation.

Mr. President, deficit spending is not only a threat to our own prosperity here and now, but it undermines and threatens substantially our children's future. It is the method by which Washington's imperial elite has circumvented the public, the law, and the Constitution. Deficit spending allows beltway barons to run this country without regard for the people.

Whether it is pork projects or political payoffs, the Washington elite know how to play the game. The playing of the game must end. We must develop the will, the intensity, and the capacity to enact a balanced budget.

Mr. President, as a freshman Senator, I may have not yet mastered the rules of the Senate budget process to the same extent as many of my learned colleagues, but as a former Governor who balanced budgets on a regular basis without raising taxes, I have more experience than most in this Chamber at achieving a balanced budget.

Something is wrong with the system when an amendment which increases spending by $3.1 billion can be brought forward for a vote while an amendment proposed by the junior Senator from Minnesota, Senator GRAMS, to put the savings that we achieve into a deficit lockbox instead of spending it on other programs, is deemed to be a violation of the Budget Act. It is time for us to have our House in order. It is time for us to have an order which allows us to be orderly in this House.

A good friend of mine says something which is undeniably true: Your system is perfectly designed to give you what you are getting. It may not be what you are wanting or intending, but the system is giving you what you are getting, and it is perfectly designed to do it or you would not be getting that result.

What have we been getting? Instead of discipline, we have been getting debt; instead of a restrained Government, we have been getting an intrusive Government. These are not outcomes that are lauded by anyone. We all know that these are outcomes which threaten not only our own existence, but they threaten the next generation's ability free people. If we do not like the outcome, if we do not like what we are getting from the system, it is time to change the system.

I think it is time for us to consider the kind of remedy which has been brought forward by the Senator from Minnesota and the Senator from Arizona, together, in the lockbox provision. If we do not like what we are getting—debt—and we need and want discipline, we should change our structure in favor of discipline, rather than a structure which favors debt and is prejudiced toward debt, being institutionalized and solidified over and over again.

Mr. President, I thank you for allowing me the opportunity to speak. I want to say that because I believe this omnibus appropriations bill which is now before the Senate will impair our ability to reach a balanced budget in the year 2002, I intend to vote against it. I intend to vote against it because I want to vote in favor of the next generation and their capacity to allocate their own resources. I want to vote in favor of discipline and against debt. I want us to have not only the ability to put our House in order, I would like to have us enjoy the structure which would require us to keep our House in order.

I hope that other Members of this body will similarly review the evidence as I have and come to a similar conclusion; a conclusion that it is not time for us to additionally burden the next generation, but to exercise the kind of restraint and discipline which will provide for them investment and opportunity, rather than debt.

I thank the Chair.

COMMENDING JEAN SCHRAG LAUVER

Mr. CHAFEE. Mr. President, today I come to the floor in what you might call a bittersweet mood, and that is to announce to my colleagues the retirement of one of our most trusted Senate advisers, Ms. Jean Lauver, who has served on the Environment and Public Works Committee for over 21 years.

Together with Senator BAUCUS, the ranking Democrat, and the entire membership of the committee, I send a resolution to the desk to express the gratitude of the committee and of the Senate to Jean Lauver for her years of service to the U.S. Senate, and will later ask for its immediate consideration.

Mr. President, Jean was born on a farm in Sioux Falls, SD, and graduated from Goshen College in Indiana and later received a master's degree in education from George Washington University. After serving as a school teacher in Puerto Rico, Jean joined the Environment Committee staff in 1974. Jean has been with us ever since.

Anyone who knows her also knows that she is the undisputed expert in the Senate on Federal highway issues. Jean and the committee have been through scores of pieces of legislation over the past many years. There have been some great successes: The Surface Transportation Act of 1987, the so-called ISTEA bill of 1991, just to name two. There have been scores of tough battles, as well, on transportation safety issues, demonstration projects, and billboards on our highways and byways. Over the years, I have no doubt Jean has seen it all.

Yet, after all the hearings and all the bills, the meetings in room 468 Dirksen and S-211 of the Capitol, what we will all remember most about Jean is her unflappable professionalism, her extraordinary knowledge and memory, and her dedication to doing a good job for Republicans and for Democrats alike.

Without question, Jean is one of the most extraordinary staffers that I have had the pleasure to work with. So it is with great admiration that we wish Jean and her husband, Hesston, and their son, Jason, all the best in their future endeavors. I might add that Jean and her family are off to a new challenge, and that is owning and operating a bed and breakfast in Goshen, IN. If Jean's service to the Senate is any indication, you can be sure that the Prairie Manner B&B in Goshen will be top notch. I am tempted to give a telephone number of the new B&B, but that might be considered advertisement. For anybody that is interested, I have her telephone number for the B&B they are establishing called the Prairie Manner in Goshen, IN.

I know all Senators join with me in wishing Jean good luck and thanking her for her dedicated service to the Senate and this Nation of ours. Jean, we say thank you.

I urge the adoption of the resolution, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 232) to commend Jean Schrag Lauver for her long, dedicated, and exemplary service to the United States Senate Committee on Environment and Public Works.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

The resolution (S. Res. 232) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 232

Whereas Jean Lauver has expertly served the Committee on Environment and Public Works over the past twenty-one years, both as a majority and minority professional staff person;

Whereas Jean Lauver has helped shape federal infrastructure policy for over two decades;

Whereas Jean Lauver has at all times discharged the duties and responsibilities of her office with unparalleled efficiency, diligence and patience;

Whereas her dedication, good humor, low key style and ability to get along with others are a model for all of us in the Senate; and

Whereas Jean Lauver's exceptional service has earned her the respect and affection of Republican and Democratic Senators and their staffs alike: Now, therefore, be it

Resolved, That the United States Senate—expresses its appreciation to Jean Schrag Lauver and commends her for twenty-one years of outstanding service to the Senate and the country.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with consideration of the bill.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending question is amendment No. 3533.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the pending amendment in order to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3551 TO AMENDMENT NO. 3466

(Purpose: To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes)

Mr. HATFIELD. Mr. President, I send to the desk an amendment on behalf of Senator BURNS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. BURNS, proposes an amendment numbered 3551 to amendment No. 3466.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

TITLE IX—RESTRUCTURING OF THE CIRCUITS OF THE UNITED STATES COURTS OF APPEALS

Subtitle A—Ninth Circuit Court of Appeals Reorganization

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1996".

SEC. 902. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out "thirteen" and inserting in lieu thereof "fourteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... California, Hawaii, Guam, Northern Mariana Islands.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth .... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.".

SEC. 903. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... 15";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... 13".

SEC. 904. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... Portland, Seattle, Phoenix.".

SEC. 905. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF THE COURT.

(a) CIRCUIT JUDGES.—(1) Subject to paragraph (2), each circuit judge in regular active service of the former ninth circuit whose official duty station on March 1, 1996—

(A) was in California, Hawaii, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit; and

(B) was in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

(2)(A) No more than 2 circuit judges in each of the new ninth circuit and the twelfth circuit as assigned under paragraph (1), may elect to be assigned to a circuit other than the circuit so assigned.

(B) An election under this paragraph—

(i) may be only for assignment to the new ninth circuit or the twelfth circuit; and

(ii) shall be made on the basis of seniority.

(C)(i) If the elections of circuit judges under subparagraph (A) result in a greater number of judges for a circuit than is provided under the amendments made under section 903, the number of vacancies described under clause (ii) in the office of circuit judge for such circuit shall not be filled.

(ii) The number of vacancies referred to under clause (i) are the number of vacancies that—

(I) first occur after the date on which such elections become effective; and

(II) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(D) The judicial council of the former ninth circuit shall administer this paragraph.

(3) If no election is made by a circuit judge under paragraph (2), and as a result of assignments under paragraph (1) the number of judges assigned to a circuit is not in conformity with the amendments made under section 903, such conformity shall be achieved by not filling the number of vacancies in the office of circuit judge for such circuit that—

(A) first occur after the effective date of this subtitle; and

(B) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(b) CLERK OF THE COURT.—The Clerk of the Court for the Twelfth Circuit United States Court of Appeals shall be located in Phoenix, Arizona.

SEC. 906. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this subtitle may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 907. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 905 of this subtitle; or

(2) who elects to be assigned under section 906 of this subtitle;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 908. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this subtitle, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this subtitle had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this subtitle been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this subtitle, or submitted before the effective date of this subtitle and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this subtitle had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this subtitle had not been enacted.

SEC. 909. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this subtitle;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 902(2) of this subtitle; and

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 902(3) of this subtitle.

SEC. 910. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this subtitle may take such administrative action as may be required to carry out this subtitle. Such court shall cease to exist for administrative purposes on July 1, 1998.

SEC. 911. APPROPRIATIONS.

Of the $2,433,141,000 appropriated under the subheading "SALARIES AND EXPENSES" under the heading "COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES" under the heading "TITLE III—THE JUDICIARY" of this Act, $3,000,000 shall remain available until expended for the Twelfth Circuit Court of Appeals.

SEC. 912. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 60 days after the date of the enactment of this subtitle.

Mr. REID. Mr. President, parliamentary inquiry.

Mr. BURNS. Mr. President, I ask unanimous consent——

Mr. REID. Parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Montana yield for a parliamentary inquiry?

AMENDMENT NO. 3552 TO AMENDMENT NO. 3551

(Purpose: To establish a Commission on restructuring the circuits of the United States Courts of Appeals)

Mr. BURNS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3552 to amendment No. 3551.

Mr. BURNS. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will read the amendment.

The assistant legislative clerk continued with the reading of the amendment.

Mr. REID. Mr. President, I join with my friend from Montana and ask the formal reading be dispensed with.

The PRESIDING OFFICER. The only request in order is to discontinue the reading of the amendment.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

Subtitle B—Commission on Restructuring the Circuits of the United States Courts of Appeals

SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) Establishment.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the "Heflin Commission" (hereinafter referred to as the "Commission").

(b) Functions.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

SEC. 922. MEMBERSHIP.

(a) Composition.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) Chair.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) Meetings.—The Commission shall meet at the call of the Chairman.

SEC. 923. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC 924. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for the services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay of the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC 925. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report.

SEC 926. REPORT.

No later than 2 years after the date of the enactment of this subtitle, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC 927. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, beginning in fiscal year 1997, such sums as necessary to carry out the purposes of this subtitle.

Mr. BURNS. Mr. President, we have already debated the merits of the second-degree amendment, which establishes the commission to study the reorganization or the probable reorganization of the courts of appeals across this Nation. But the real emphasis should be placed upon the first-degree amendment, which actually has something to do with the restructuring of the ninth judicial circuit. We have already debated the issue. Those who are opposed to the issue made their points, and made them very well. But I think the most compelling reasons why we should do this is that it is just a big, big circuit.

Under this proposal—that is, the first degree—to split the ninth circuit, California, Hawaii, Guam, and the Northern Mariana Islands would form one 15-judge unit. That would be the ninth circuit. Alaska, Arizona, Idaho, Montana, Nevada, Oregon, and Washington would form the new twelfth circuit of 13 judges. The caseload would be split, and the heavy end of it would still be with the California, Hawaii, or the old ninth. They would still, under today's procedures, have 60 percent of the caseload, while 40 percent would go into the new twelfth circuit.

The reasons are as compelling for those States that would remain in the ninth after the newly formed twelfth went into full operation.

The circuit is just too big—9 States, 1.4 million square miles, 45 million people. It is, by far, the largest circuit of all of the 11. By comparison, the sixth serves less than 29 million people, and every other circuit serves less than 24 million people. So, basically, this is the right thing to do.

The commission, too, should move forward and get their work done, as far as the rest of the country. We have had studies and we have had recommendations, and now it is time to start the wheels in motion.

Mr. President, we have already debated this. I have already made the points. I think they are very convincing on why we should do it.

I yield the floor.

Mr. REID. Mr. President, I make a point of order that the first-degree amendment is not relevant and should not be in order in the unanimous-consent agreement that is now on the Senate's calendar.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BURNS. Mr. President, I appeal the ruling of the Chair and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the vote will be put off until tomorrow.

Mr. REID. Mr. President, we have debated this issue at some length and because of a parliamentary situation that occurred earlier, the vote was not taken.

Mr. President, we are on very dangerous ground procedurally here. I say to my colleagues, the reason we enter into unanimous-consent agreements—we, the minority—is so that we can proceed with business in the Senate. Virtually everything that is done in the U.S. Senate is done by a unanimous-consent agreement.

This very important legislation that we are going to complete tomorrow, with its many amendments, is going to be completed by virtue of the fact that a unanimous-consent agreement was arrived at between the minority and majority.

Always in unanimous-consent agreements—I should say with rare exception—there are amendments that are saved. The Senator from Minnesota, or the Senator from Montana, or the Senator from Rhode Island, or the Senator from Nevada may feel that it is a complicated issue, and we might want to reserve an amendment. In order to get the unanimous-consent agreement adopted, we save what is called a relevant amendment. That says it all—a relevant amendment.

The Parliamentarian of the U.S. Senate has ruled in this instance that the amendment offered by my friend from Montana is not relevant. Therefore, it would set an extremely dangerous precedent if the Senate would overrule the Parliamentarian of the Senate. The Parliamentarian has a tremendous obligation to be fair and impartial and to rule by virtue of the Senate precedence and traditions in the Senate. I believe the Parliamentarian has clearly ruled in the right manner in this instance.

Now, the reason I lay this foundation is that, if tomorrow, by virtue of partisan vote, the Parliamentarian is overruled, we would never, ever—the minority would never enter into another unanimous-consent request. Why? Because we would be put on notice that any unanimous-consent agreement would not be subject to relevancy. Why would we enter into an agreement to that effect? Any amendment, no matter what the subject, could be brought and be in order. I think that is wrong.

I advise my colleagues, both in the majority and in the minority—especially the majority party—that they should vote to sustain the Parliamentarian. Why? Because if we do not, it is going to be a long time before there is another unanimous-consent agreement adopted because we could not enter into one. How could we? It would mean that no matter what we agreed to, it could be changed by a simple majority. That is not the way it should be. We lose our rights under the Senate to protect ourselves with a filibuster, where it would take 60 votes, or in a number of other parliamentary points that we reserve to ourselves when there is not a unanimous-consent agreement that is pending.

This amendment offered by my friend from Montana, which has been ruled not relevant, would clearly be one of those measures. Here is a matter that has had part of a day in a hearing, and we have had no studies of the very complicated circuit since 1973. When that Hruska Commission reported, they said the State of California should be cut in the middle. This amendment maintains the State of California as an isle unto itself. Everyone else that lives in the Western United States, except the State of Hawaii, is thrown into the so-called twelfth circuit. California is left alone. That is wrong.

So what I say, Mr. President, is that the majority is the majority, and we well understand that. They have three more Senators than we have. By virtue of that, we enter into unanimous-consent requests and agreements all the time, recognizing that you will be fair and impartial as it relates to relevancy, because, otherwise, there would be no reason when a unanimous-consent agreement is entered into, as we have here.

On H.R. 3019, the matter now before the Senate, we have here a number of Senators who have reserved relevant amendments. That is what it says, "relevant." If it is not relevant, it has to fall. It would certainly be wrong and set a very, very bad precedent, not only in this Senate, but in future Senates, if somebody could come in and say, sure, it is not relevant, but we are the majority and we will do whatever we want.

It is wrong, by any connotation, to have the majority in effect ride roughshod over the rules of this Senate.

Mr. President, I am part of the Senate leadership, and we meet every Tuesday prior to our party conferences. We talk about what is going to go on in the coming week, the best that we can. I know one of the subjects of discussion tomorrow will be the terribly damaging precedent that would be set if this relevancy point of order is overruled. I think it will make for a very, very long congressional session, because the Senate would not be what it is supposed to be.

It would mean that unanimous-consent requests, where the issue of relevancy comes out, would mean absolutely nothing. Instead of having, as we have in the calendar here, Senator SIMON having a relevant amendment, we would just say "Senator Simon amendment." You know that we would never get any unanimous-consent request if Senator MCCAIN has two relevant amendments, if it just said, "Senator McCain amendment." We know when we enter into unanimous-consent requests that we can expect there to be relevancy. And, if it is not relevant, the Parliamentarian, the bipartisan person who has to be in this body, will rule that it is not relevant. It is not only a protection for the minority. It is also a protection for the majority.

I would guarantee with all of the amendments here that to allow this unanimous-consent request to be offered—it would not have been approved if some of the Democrats on this—WELLSTONE, SIMON, LAUTENBERG—just said, "We want to offer these amendments," the unanimous-consent request would never be approved. But that is where we would be if this point of order is not upheld.

I suggest and recommend respectfully that this should be something discussed in some detail rather than it being something that would be a victory for a short period of time. It would be a terrible defeat for the procedures in this body.

The merits of the amendment we discussed at great length today. There has been discussion that has gone on for some period of time—a matter of hours a day. The debate started around 3 o'clock. Here it is now approaching 6 o'clock, and most of the debate this afternoon has been related to this amendment.

So I think it is quite clear that to sustain the point of order is in the best interest of the Senate. To overrule the point of order is not in the best interests of the Senate nor this country because with this election year approaching—not approaching, it is here—it is difficult enough to get work done. It is difficult enough to get unanimous-consent requests agreed to. I can tell you this does not mean there will not be one agreed to someday or during the next 8 months. But they will be few and far between. Because why would anyone want to enter into a unanimous-consent request when it can be changed at the whim of any Senator?

As I indicated, Mr. President, we have talked about the merits of whether or not the ninth circuit should be split. And there are arguments for and against why the amendment should be split. To show how this amendment is headed in the wrong direction, what this underlying legislation does is split the ninth circuit without a hearing, without any commission, and then in the same breath says we are going to go ahead and split the ninth circuit but we are also going to order a commission that costs $3 million to study restructuring the courts. This really seems somewhat unusual especially when the Federal Government has just spent $100 million refurbishing and restructuring the ninth circuit court building because of the earthquake that occurred there. They did it keeping in mind the fact that the ninth circuit administrative offices would be there.

We have another problem, of course—that this legislatively gerrymandered new twelfth circuit starts in Alaska and goes to the coast of Mexico with the headquarters being in Phoenix, AZ, even though the major cities in the area, of course, are Portland and Seattle.

I respectfully say that appealing the point of order violates the spirit of what we are trying to do here. By no stretch of the imagination can you consider this relevant. And by no stretch of the Parliamentarian's imagination could he rule it irrelevant. He has ruled it not relevant, not once today but twice today. And now to even think that the majority could come back and overrule the Parliamentarian would leave a very bad taste in the mouths of many people.

I do not know how my colleague from California feels. But I think she would agree with me there would never be for the remainder of this year another unanimous-consent request that would be agreed to.

We need to study the circuit courts. Let us do so with hearings and legislation—not through some kind of tricky parliamentary maneuver on an appropriations bill.

I again state that the procedure before this body is the fact that we are here today by virtue of a unanimous-consent request that allows us to go forward with very important legislation. What is that legislation? To fund five appropriations bills so we will not have to have another Government shutdown. But it is clear to me that this should not pass. It is not relevant. But if it does, it is just another basis to cloud up this legislation. No wonder the American people are wondering. "What are you people doing back there? You spend $60 million in creating a new court because you do not like California? Do you think California is too liberal, that California does not rule right?" This court is not California's court. It is as much Nevada's court as it is California's. The Ninth Circuit Court of Appeals is not California's. The headquarters of the ninth circuit is in San Francisco. Most of the judges have been appointed by Republican Presidents.

The problem is not the size of the ninth circuit. The problem is we as legislators have not done enough to give the courts tools to move cases.

As I talked about earlier today, in the Federal District of Nevada 40 percent of the cases are filed by prisoners. Why do we not do something here to stop that nonsense? Is it important that we have Federal judges deciding whether they should have chunky or smooth peanut butter? The answer is no. But we as legislators have not been willing to step forward and eliminate that. We do not want to stop prisoners from being able to file lawsuits. We just want them to be able to file lawsuits in a temperate, reasonable manner. We need to do something to speed up the criminal appeals process. That would help free a lot of the court's time. But what do the Federal circuit courts hear? They hear endless appeals from criminals, especially those who have been convicted of murder—appeal after appeal after appeal. That is not the fault of the court because it sits in San Francisco. They are obligated by law just as the other courts that sit in Denver and wherever else they sit throughout the United States—the various circuits.

I ask the Senate to confirm and affirm what the Parliamentarian has done in this instance; that is, rule that this is not relevant. And in so doing it will speed up the work of this Senate and this Congress. To overrule the Parliamentarian would bring about chaos in this body. People can say, "Well, you know, the Senators from California and Nevada they just feel this way. It is not important. We can overrule them. It does not set a dangerous precedent." It sets a horrible precedent.

I repeat. We simply will not be able to get anything done. Look how hard it was to get this unanimous-consent agreement agreed to initially. It took days. It took lots of different pieces to get this unanimous-consent agreement.

No. 9: "Ordered that during the consideration of H.R. 3019, an act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, the following amendments be the only remaining first-degree amendments, and that they be subject to the relevant second-degree amendments." Here we go, listing all of the amendments, time that the floor staff, the staff of the Senator from Oregon, and the staff of the Senator from West Virginia worked to arrive at this—25 or 30 different amendments were agreed to, all having to be relevant unless mentioned otherwise. So I say, it is important that the position of the Parliamentarian of the Senate, where he said this amendment was not relevant, be upheld. To do otherwise would be to state that unanimous-consent agreements will no longer be part of the Senate's business.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise in support of the concerns of the Senator from Nevada and to reiterate those concerns. Obviously, this is an issue which is of predominant interest to my State, a State of 32 million people. In effect, it creates a very unbalanced situation. We have tried to make some of those arguments in the Chamber.

Even more importantly than that, I think it will destroy, certainly for the rest of this session, what has been a measure of consensus on which this body essentially predicates its movement.

Let me tell you why I believe that. As Senator REID pointed out, the notation in the Executive Calendar is that, for everybody who submitted an amendment on the basis that it is relevant to the bill before it—we take their word for it. We take their word for it, that they are not trying to play a trick, they are not trying to put something that is not relevant before this body.

In fact, there is a legitimate vehicle for this bill. Senator BURNS' position prevailed in the Judiciary Committee. There is a bill which was passed out of the Judiciary Committee which is the proper vehicle on which to discuss this. So I think the claim that to get action we have to breach what is the word of a Member—a Member who has agreed that an amendment is going to be relevant—is a bad claim. To proceed with that amendment when it is found by the Chair on two occasions not to be relevant sets a dangerous precedent. To persist with that amendment is something that in toto destroys the opportunity for consensus in this body.

I would say there would be no reason for anyone on this side, after being treated in this manner, to agree to a unanimous-consent agreement for the remainder of this session. We would be very foolish to do so, because clearly the precedent is being set that the rights of the minority are being abrogated right here and now, that it does not really matter what the finding of the Chair is with respect to relevancy, we are going to be overturned.

I find this very difficult, particularly when there is a legitimate vehicle on which to discuss this issue. The Senator from Montana knows that. Every member of the Judiciary Committee knows that. The issue was discussed in committee. A bill was passed out of the committee. The chairman of the committee and the majority leader of the Senate can certainly schedule that bill on this floor. That is, then, an appropriate vehicle on which to debate this.

So I am very puzzled as to why this has to be done in a precipitous manner, at a time when most of the Members are not here, cannot hear the arguments, and the results of which are going to cast a precedent on the legal system of this Nation which is very large indeed, and shatter consensus making for this body—the kind of honesty, the kind of commitment that is necessary to achieve a unanimous-consent agreement.

There is no incentive, certainly, for me to ever agree to a unanimous-consent agreement for the rest of this session if something as important to the State of California as this is going to be dealt with in this manner. Both Senator REID and I have met with Senator BURNS. We have indicated our agreement to proceed with a study. We have indicated that we would shorten the time of the study from the 2 years proposed.

I have an amendment for a study which is somewhat broader than Senator BURNS' amendment. We have agreed to cut the time in half. We have reached out in trying to solve this in the tradition of the Senate, which I always thought involved a certain conviviality. But now to find out that there is just simply going to be a partisan vote, with no chance to debate it when all the Members are here, I think is a big mistake.

We have tried earlier, Mr. President, to indicate the deficiencies of the amendment. We have argued about its cost. This is cost that does not have to be incurred. A building was rehabilitated in San Francisco with 35 percent more space provided and $100 million spent in earthquake recovery funds to accommodate expansion and new judges for the ninth circuit; $23 to $59 million will need to be spent for new courthouse expansion and construction the Burns bill would require. I indicated earlier that at least $3 million of that is entirely duplicative. It is a duplication. At a time when we are scrambling for every dollar, we are going to duplicate staff for a political proposal.

I pointed out that this is an unfair division. California, Hawaii, Guam, and the Northern Marianas would have 62 percent of the caseload, and Alaska, Arizona, Nevada, Washington, Oregon, Idaho, and Montana would have only 38 percent of the caseload. The way the allocation of the judges is structured in this, it is an unfair, unbalanced allocation of judges. California, Guam, and the Marianas would not get 62 percent of the judges to handle 62 percent of the caseload. They would get a greatly reduced amount.

It is clearly a political proposal. To ram it through on an irrelevant amendment sticks in the craw. So it is unfair at best. It is a disproportionate allocation of cases and of judges.

Third, there has never been a hearing on this proposal. This proposal would restructure—with no public hearing—the largest circuit in the Nation that hears about 8,000 cases a year. There was a hearing on a former proposal by Senator GORTON. We understood that proposal. Then suddenly a new proposal was made in the Judiciary Committee, and there was no public hearing.

Fourth, we have argued that there is a need for a study. The last comprehensive study was done in 1973, by the Hruska Commission. This was before the ninth circuit instituted many changes in its methodology for doing business and speeding up caseload. I believe, if you really dispassionately look at the facts, you will see that the ninth circuit is processing cases just as fast as the dominant majority of other circuits, certainly faster than the fifth circuit that was split in 1980 based on the Hruska Commission's recommendations.

So, we say take 2 years, have 12 members appointed in a dispassionate way by three different entities, and fund it with $500,000, to look at all the circuits, look at the workload across this Nation, and make some decision.

I would like, if I might, to read from the minority report that was filed by Senator KENNEDY and myself in the Judiciary Committee on a couple of points. One of these points that I would like to make is the impact of having one State predominate in the proposed new ninth circuit.

> The majority acknowledged that California will undoubtedly predominate in the new ninth circuit. But the majority also insisted that this situation is not without precedent in the court of appeals. The fact is that California would predominate in the new Ninth Circuit Court of Appeals to a degree that is without precedent or parallel. According to the majority's own figures on the other circuits dominated by one State, New York contributes 87 percent of the caseload of the second circuit; Texas contributes only 69 percent of the fifth circuit's caseload. In the proposed new ninth circuit, however, 94 percent of the caseload would come from California.

That is an inordinate amount. It has never been done before in the history of this Nation. I would like to read one other section: "To divide circuits in order to accommodate regional interests"—which is clearly what we are doing here. Let us not pretend. Every press release indicates that this is the reason for the split—regional interests, economic interests, criminal justice interests, the fact that a group of people do not like some decisions. I think that is true for everybody, for every appellate court decision that is made, there are some people who do not like the decision.

Former Chief Justice Warren Burger, rejected such a premise for dividing circuits as completely unacceptable, in testimony about an earlier version of this legislation. Chief Justice Burger stated:

> I find it is a very offensive statement to be made, that a U.S. judge, having taken the oath of office, is going to be biased because of the economic conditions of his own jurisdiction.

Judge Charles Wiggins, Reagan appointee and former Republican Member of Congress, recently wrote a letter criticizing the political motivations behind the current proposal:

> The majority report . . . contains the misleading statement that the recommended division of the ninth circuit is not in response to ideological differences between judges from California and judges from elsewhere in the circuit. I strongly disagree that such a motive does not, in fact, underlie the proposal for the change. Such a regionalization of the circuits in accordance with State interests is wrong. There is one Federal law. It is enacted by the Congress, signed by the President, and is to be respected in every State in the Union. The law in Montana and Washington is the same law as exists in Maine and Vermont. It is the mission of the Supreme Court to maintain one consistent Federal law. I do hope that you will challenge the supporters of the revision to explain the reasons justifying their proposal.

So, we know that with no public hearing on this proposal, we have an unprecedented, unparalleled proposal to split a court, giving the big weight to one State in that court, over 90 percent, and to do a split in a way that the judges are not fairly allocated. California, Hawaii, Guam, and the Northern Marianas Islands, with 62 percent of the caseload, will have far below the number of judges required to handle that, and seven States with 38 percent of the caseload would have a better allocation of judges.

This is a very serious proposal and it is being done in a way that is of very deep concern to this Senator: In an amendment found twice to be unrelated to the legislation contemplated by this body at that time—in a way that most certainly is going to create a problem in terms of the people of this side ever agreeing to a unanimous consent-request again.

So, Mr. President and Members of the Senate, I hope there would be due consideration given to these arguments. I think this is a very serious situation indeed, and I am hopeful that cooler heads will prevail.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my colleague from Nevada for his indulgence while a make a brief statement.

CLINTON POLICY FAILURE IN HAITI

Mr. MCCAIN. Mr. President, today at Fort Polk, President Clinton welcomed our troops back from Haiti, and commended them for a job well done. It was appropriate for the President to do so. As they always do, U.S. forces exhibited a high degree of professionalism and courage in the performance of their mission.

However, it is quite another matter to suggest that the restoration of the Aristide regime was a worthwhile mission for U.S. forces to undertake in the first place. The Clinton administration has made Haiti a test case for their foreign policy. But what its Haiti policy has clearly revealed is that the administration's foreign policy is based on international social work, not on defending United States' interests.

Dozens of political and extra-judicial killings occurred after Aristide was returned to power, and are continuing under the Preval regime. There is credible information available to the President from the Federal Bureau of Investigation and the Department of State that indicates the involvement of officials in the Aristide and Preval governments in the planning, execution, and coverup of some of these murders.

Last year, an amendment authored by Senator DOLE passed Congress, requiring the President to certify the Haitian Government's progress in investigating political murders before the United States provided Haiti with anymore aid. But President Clinton could not certify that Haiti was investigating political murders allegedly committed by members of the Haitian Government for a very simple reason—the Haitian Government has steadfastly declined to undertake such investigations.

Since he could not certify, President Clinton used his authority to waive the Dole conditions, saying—disingenuously, I believe—that the waiver was "necessary to assure the safe and timely withdrawal of United States forces from Haiti."

Earlier this month, at least seven more Haitian citizens were killed apparently by members of the United States-hand picked, United States-trained, and United States-equipped Haiti national police. The victims were shot at point blank range. Witnesses report that they saw policemen do the killings. Mr. President, 24 hours after the shootings, the bodies had not been picked up, and no member of the Haiti judicial system had made an official report. The UN/OAS Mission has opened an inquiry into the killings, but not any member or agency of the Government of Haiti.

It is a sad commentary on the administration's policy that after the United States has spent $2 billion, and the men and women of the U.S. Armed Forces endured hardship and danger, the government they were sent to restore and protect has participated in death squads, and done so with impunity.

As a final act of gratitude, President Aristide recognized the government of the man who recently ordered the murder of American citizens—Fidel Castro.

The Clinton administration's policy in Haiti is a failure. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3551

Mr. REID. Mr. President, I would like to discuss, again, the ruling of the Chair. The Parliamentarian has ruled that an amendment is not relevant. A unanimous-consent request was entered allowing the calendar item to go forward, as set forth on page 3 of Monday's Calendar of Business.

A number of relevant amendments were allowed to be offered under the confines of the unanimous-consent request. Every Senator here agreed to this. Every Senator said only relevant amendments could be offered.

It seems rather unusual now that in spite of a unanimous-consent agreement—that does not mean 99 percent of the Senators, that does not mean 99 Senators, that means every Senator agreed to this unanimous-consent request—it seems rather unusual now we have some Senators who say that the referee, the Parliamentarian, ruled that this amendment is not relevant, "But I'm going to do it my way anyway. I really didn't mean it when I agreed to that unanimous-consent request."

For this body to rule otherwise—that is, to overrule the Parliamentarian—would be putting not only the Senate but certainly the Chair in a very, very awkward position, because it is clear that this amendment is not in order.

Mr. President, if the Parliamentarian is overruled, it would be like playing a basketball game and you have Dennis Rodman as one of the players and you do not have a referee. Or you decide before any game, "Let's just not have any referees. Let's just have a free-for-all." That is, in effect, what this will wind up doing. That is why we will never ever have another unanimous-consent agreement this year.

I think the Senators, especially the majority, really have to look at what precedent this sets. Every Senator has agreed that amendments can only be offered that are relevant. The referee, the Parliamentarian, through the Chair, has said an amendment is not relevant. To think now that we could come back as a body and overrule the referee does not seem very fair to me, or I think to most everyone it does not seem fair. I think it is going to be real hard to get work done around here.

Mr. President, I do not know, but I would think that the chairman of the Appropriations Committee, the distinguished senior Senator from Oregon—although I do not know—I have to think he would vote to sustain the Parliamentarian. For the chairman to vote otherwise would put this bill certainly at jeopardy and the precedents of this body.

I almost guarantee, although I have not talked to him, that the ranking member of the Appropriations Committee, the senior Senator from West Virginia, would vote to sustain the Chair. I think those of us who have not been in this body very long should follow these two great Senators.

There have been a number of statements made in the debate today, but let me speak now as a Senator from Nevada. Nevada wants no part of this split. We share a border that is 1,000 miles with the State of California—a 1,000-mile border. We do not want to stop having legal intercourse with the State of California. That would be wrong.

Mr. President, if, in fact, there is a commission like the Senator from California has talked about establishing that would come back and give reasons for why we should split off from the State of California in this circuit, I would be very strongly inclined to go along with that, but right now we have nothing.

As we have established clearly in the debate today, more circuits does not mean we are going to handle more cases. Quite frankly, it means just the opposite.

I think, if we have a fair study of the circuits, I do not know what can happen. We may want to combine circuits. We might wind up, instead of having 12 circuits, having 14 circuits, or instead of having 12 circuits, we might wind up having 8 circuits. I do not know. But let us have a good study by people appointed by the Chief Justice of the U.S. Supreme Court, by the President, by the legislative body, having adequate staff so that they can work on this matter.

The majority party, the Chair included, I have heard on a number of occasions make statements about how important it is to balance this budget. The Presiding Officer today may feel more strongly about other things, but as far as I am concerned, having worked and served with the Presiding Officer, I do not know of a thing the Chair feels more strongly about than balancing the budget, because I heard remarks made on a continuing, repetitive basis from this floor about how important it is to get this Nation's financial house in order.

Using that as a foundation for what is important in this body, how can we justify without a hearing, without a commission made up of academics or judges or the private sector, how can we justify spending up to $60 million creating this new circuit with added expenses of millions of dollars every year? You cannot justify that. This must be laughable to the American public.

If the jury were the American public and we presented this to them, they would return a verdict very quickly saying, "Well, I'm not sure there should be a split, but let's at least study the issue before that decision is made."

To spend $60 million after we have already spent $100 million just renovating a building so that we can take care of this large ninth circuit does not make a lot of sense. So instead of spending $100 million, we are going to spend $160 million, plus the yearly increase in cost. It does not make sense to the American public. It certainly does not make sense to this Senator.

My staff handed me something earlier today that says: "Further Information Relating to the Issue of Splitting the Ninth Circuit." I have not had a chance to read all this, but neither has anyone else in this body. We have had no hearings. There has been no commission set up to determine if we are doing the right thing, but there has been a lot said as to why we are doing the wrong thing: editorials, academics, judges. Just from this piece of paper that I have here, there are some things that I think we should be aware of in this body.

The American Bar Association Appellate Practice Committee, Subcommittee To Study the Circuit Size. I read an excerpt from that today saying that they thought it was a bad idea.

Thomas Baker wrote in the Arizona, I assume this is the Law Review 22 Ariz. S.L.J. 917 (1990) "On Redrawing Circuit Boundaries—Why the Proposal To Divide the United States Court of Appeals for the Ninth Circuit Is Not Such a Good Idea." It is something of which we should be aware.

Carl Tobias, Emory Law School Law Review, 1995. His is entitled "The Impoverished Idea of Circuit Splitting."

The Honorable Clifford J. Wallace, who for many years was the chief judge of the ninth circuit and now is retired, wrote an article saying: "The Ninth Circuit Should Not Be Split."

There are a number of other references in this piece of paper indicating why the circuit should not be split.

But let us determine that from a basis rather than the seat of our pants in the Senate. We should do it with congressional hearings, but if you do not want to go the congressional hearing route, I am willing to go along with the suggestion of the Senator from California that we have a commission, because splitting the ninth circuit is a piecemeal approach, it is not the answer to a nationwide problem. We need to look at all the circuits. The 1996 legislation should not be based on a report that is 23 years old.

I would not even feel as upset if this amendment had followed the Hruska report that is 23 years old. They do not even do that. The Hruska report said you should split the State of California in two. They did not do that. They lumped California all together. As the Senator from California pointed out, there has never been anything done like that before.

Creating a new circuit is a costly proposition. The bench and bar oppose the ninth circuit split. Regionalism and ideology should play no part in the boundaries of circuits. The division of the fifth circuit provides no precedent for dividing the ninth circuit. The Hruska report shows that a large circuit can operate effectively, as the ninth circuit has done. The ninth circuit is doing a very good job.

But even on the merits, Mr. President, even if we are totally wrong and my friend from the State of Montana is totally right—that we are all wrong, assuming that for the purposes of this argument—we must sustain the point of order. The Parliamentarian has ruled this amendment is not germane—I am sorry, not relevant. So we should uphold the Chair. It is the only way we are going to have order in this body. To have this Senate overrule the ruling of the Chair would set a precedent that we would learn to regret. We would come to regret it.

So I hope that we will follow the recommendation, as I am confident will be of the chairman of the Appropriations Committee and the ranking member of the Appropriations Committee, and vote to uphold the ruling of the Chair and have this matter declared, once and for all, not relevant.

Mr. BRYAN. Mr. President, today I rise in strong opposition to the second-degree amendment introduced by the junior Senator from Montana to his original amendment to split the Ninth Circuit Court of Appeals, while also calling for a restructuring study of all the U.S. circuit courts of appeal.

I commend the Chair's ruling on the two points of order brought by both Senator FEINSTEIN and Senator REID earlier today to hold the Burns amendment irrelevant to this omnibus appropriations bill.

This amendment is the fourth attempt to break up the ninth circuit since 1983. These same drums have been beaten before—the circuit is too big—the cases are not decided in a timely manner.

But this is, I fear, only a smokescreen for the real reason splitting the ninth circuit is proposed from time to time.

Many simply do not like the decisions rendered by the circuit.

Surely not all of the decisions in the ninth circuit, or for that matter, in any circuit come down the way all of us would like. I have even cosponsored legislation to reverse some ninth circuit decisions.

But I do not believe differences over the decisions rendered by the ninth circuit are adequate grounds to split the circuit.

What kind of precedent would Congress then be setting? Would a circuit court of appeals face possible reconfiguration, whenever Congress does not like the decisions being rendered? Does this Congress really want to support what is essentially judicial gerrymandering? I think not.

The ninth circuit serves nine western States, and has been one circuit for over 100 years. Whenever the issue of splitting the circuit is put to a vote of the judges and lawyers in the circuit, the vote is overwhelming to retain the circuit as it is currently.

Who better than those judges whose decisions are appealed to, and those lawyers who represent clients whose cases are heard by the ninth circuit to determine whether the circuit is working or not? It has been my experience that judges and lawyers have never been shy about stating an opinion when they think something needs to be changed.

The last study of the Federal circuit courts of appeal was the 1973 Hruska Commission. A fellow Nevadan, the Honorable Charles Wiggins, a ninth circuit court judge, served as a member of that Commission.

Judge Wiggins, a former Republican Congressman, originally supported a split of the ninth circuit. In his recent letter to Senator FEINSTEIN, however, he stated:

> My understanding of the role of the circuit courts in our system of federal justice has changed over the years from that which I held when the Hruska Commission issued its final report in 1973. At that time, I endorsed the recommendations of the Commission calling for a division of the 5th and 9th Circuits. I have grown wiser in the succeeding 22 years.

We should heed Judge Wiggins experience—act wisely and not split the ninth circuit.

The last time a circuit court of appeals was split was 1980, when the fifth circuit was divided. And it should be noted that the judges of the fifth circuit unanimously requested the split —a situation we do not have with the ninth circuit.

Judge Wiggins recently wrote me,

> Circuit division is not the answer. It has not proved effective in reducing delays. The former 5th Circuit ranked sixth in case processing times just prior to its division into the 5th and 11th Circuits. Since the division, the new 5th Circuit is still ranked sixth or seventh, while the new 11th circuit now ranks 12th, the slowest of all the circuits. The 9th circuit Court of Appeals judges are the fastest in the nation in disposing of cases once the panel receives the case.

The ninth circuit has taken administrative steps to manage its caseload through innovative ways that other circuits use as models. The ninth circuit disposes of cases in 1.9 months from oral argument to rendering a decision.

This is 2 weeks less than the national average. This currently makes the ninth circuit the second most efficient circuit. It is obvious the circuit has recognized court management areas that needed improving, and has successfully addressed them.

I find it particularly ironic in this current political atmosphere with extremely tight Federal budget restraints that a proposal is being made to create a new circuit court. As my colleagues before me have discussed, it is estimated to cost $60 million to construct another Federal court house, and set up another circuit court. An additional $2 to $3 million is estimated to be needed to provide for the transition period. And thereafter, we would face the continuing costs of operating an additional circuit court. This makes no sense.

I reiterate my opposition to the proposal to split the ninth circuit. This circuit has worked well for the nine western States it serves, and will continue to do so into the future.

For those who believe the ninth circuit must be split, let the proposed commission to review all the U.S. circuit courts go forward. When the information necessary to determine whether any circuits need their geographical jurisdiction changed is available, we can then debate this issue intelligently.

But let us not split the ninth circuit prematurely. To implement the ninth circuit split at the same time as a commission is gathering the information to make that decision simply would make no sense.

This issue is simply too important to debate without all necessary information. I would hope my colleagues would join me tomorrow in voting to uphold the Chair's rulings on the irrelevancy of the Burns amendment.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENTS NOS. 3484, 3485, 3486, AND 3487

Mr. SANTORUM. Mr. President, I rise to discuss an issue that I spoke about at great length last week. I want to speak very briefly about the amendments that I have put forward that are pending concerning the disaster relief portion of this bill and the emergency spending declaration that was attached to those spending provisions.

I really want to focus on just sort of the broad outline of what I am trying to accomplish in these amendments. There are really three subjects that the amendments deal with. The first subject really is the immediate subject, which is, are we going to offset the money that we spent here in the Senate bill with other spending reductions in the bill so we do not add to the deficit this year? That is the first issue.

The second issue is, do we get a bill out of conference that does not add to the deficit?

Third, what do we do long term to deal with the issue of disaster relief?

Let me address all three of those, if I can, and discuss the amendments that I have to take those subjects on. First, the Senate bill. We had an amendment by the Senator from Texas and me. Senator GRAMM and I put forward an amendment to offset the spending with an across-the-board cut in all the nondefense discretionary appropriations accounts. We had 45 votes on that, which I consider is a pretty good showing, but not good enough.

We are continuing to look. I have three amendments filed, and, in fact, am working on a fourth with the Appropriations Committee and the leadership, to try to come up with a way where we can pass a bill here in the U.S. Senate that does not add to the deficit this year.

So I am hopeful that in the end, whether we do it with the amendments that I have pending or whether we can come up with a modification to one of those amendments to accomplish a deficit-neutral bill in this bill that we are working on, I am confident that we can make that happen. That is No. 1.

No. 2 is the issue in conference. In the Senate, as I said before, I am hopeful we can get a bill that comes out of here that does not add to the deficit. The House has already put forward a bill that does not—that does not—increase the deficit. So I have a sense-of-the-Senate resolution which would instruct the conferees to hold firm and come out with a bill that is within the budget caps that we set in the budget resolution last year, so we do not add additional red ink in this round of trying to finish the appropriations process for the rest of this year. So we have something that clearly states the Senate is on record that we should pay for the disaster relief funds in this bill.

Third—and this gets to, I think, a very important issue, and I am hopeful we can get very broad support for this—is another sense-of-the-Senate that the Congress and the relevant committees examine how we deal with disaster relief. How we deal with disaster relief now is—actually, we do not. We appropriate a few hundred million dollars, very little money relative to the amount of disasters that we have in this country, that are eligible for Federal relief. We appropriate a few hundred million dollars a year to FEMA and then, as the disasters come along, as they certainly do—whether they are earthquakes in California or whether they are fires in Texas or whether they are floods in Pennsylvania or hurricanes in South Carolina, we have them—we have a Federal role to play in helping the people who have been hurt, whether it is physically or whether it is their property or with the public roads or bridges, infrastructure.

There is a Federal role to play in assisting an area, a community, that has been hit. So the question is, how do we pay for it? How do we budget for it? And what we do right now is we do not budget for it, and we pay for it by putting it on the next generation's credit card, so to speak. The difference with the next generation's credit card is that unlike most credit cards we have to pay after 30 days—we get charged interest, but eventually we pay it back—this credit card, we never pay it back, we just keep paying interest on it forever, and the future generations pay forever and ever and ever.

So what we ask is, look at a long-term solution. How can we, within the budget, allocate resources as disasters come up, to make sure we can be fiscally responsible, and at the same time provide the needed assistance for disasters as they occur across this country? That is the last leg or last subject area that I am trying to address with these amendments that I have on the floor.

I am hopeful we can get support for all three subjects, fixing the Senate bill, getting a bill out of conference and to the President's desk that does not add to the deficit, and No. 3, coming up with a suggestion to the Congress that the relevant committees do some good work and determine how we can begin to pay for disasters within the budget.

Senator GRAMM and I mentioned last week when we were debating his amendment that over the past 7 years, we have added $100 billion to the deficit—$100 billion to the deficit—in disaster declarations. They have been things from very serious, as I said before—floods, earthquakes, hurricanes, tornadoes, et cetera—to things such as declaring an emergency because we had a 6-percent rate of unemployment and we wanted to pay extended unemployment compensation benefits.

There really is a very loose standard of what is an emergency. In fact, there is no standard of what an emergency is. It is whatever the President declares, whatever the Congress declares. I think we need to do a little better than that. I think we have to have some guidelines and we have to have some procedures by which we are going to declare emergencies and which would cause us to increase the deficit. That is an appropriate standard.

That is something, frankly, we should have done when we put together the emergency provisions in the 1990 Budget Act in the first place, but we did not. Those who argued for some sort of parameters to define an emergency hearkened back then that we were going to see everything that was politically popular for the moment declared an emergency and thrown on the deficit. I think their fears have been brought to fruition. We have, as I said before, $100 billion of such spending.

I want to make it very clear that we have an obligation here to provide emergency disaster relief for communities in States that are hit. I am for that. I want to make sure that we can do that and we do it properly, but I think we have to make sure we do it within the confines of trying to get to a much more responsible fiscal policy here in Washington, to a balanced budget, to a better America and, again, avoiding this knee-jerk reaction we have had in this town for a long, long time, that if we have a problem, and we do not want to take money from some area of the budget that may have your name attached to a program, or whatever the case may be, and put it to where the emergency is, that instead we just add it to the deficit.

I think that is irresponsible behavior, and it is certainly not in keeping with the changes that have occurred since the 1994 election. We focused so much of our time and energy on trying to balance this budget, but when an emergency comes along that we frankly should have budgeted for but did not budget for, we are the first to run, even now, and talk about, well, we have just got to put it on the deficit. I think it is talking out of both sides of your mouth and is not what we should be doing here, or what the public expects us to be doing.

We are talking $1.2 billion out of $1.6 trillion that we will spend this year. Somewhere around we can find some money in a lot of areas of Government to put where it should go, which is to pay for this emergency. The three things I am hoping to accomplish tomorrow, whether we can do it, and I hope we can, by agreement or consent on both sides of the aisle, is something frankly that both Democrats and Republicans should be for: Fiscal responsibility, a long-term solution, and more of a structure to funding emergencies and standing up for the Senate not to be fiscally irresponsible and adding to the deficit in this appropriations process.

I yield the floor.

AMENDMENT NO. 3551

Mrs. FEINSTEIN. Mr. President, not to belabor the point, but earlier I made the point about the duplicative costs of the ninth circuit split proposal, the inordinate costs of the proposal, the unnecessary costs of the proposal, the unfair division that the Burns bill presents.

I would like to just clarify what I said. What I said was that California, Hawaii, Guam, and Northern Marianas have currently 62 percent of the caseload; Alaska, Arizona, Nevada, Washington, Oregon, Idaho, and Montana have 38 percent. In the Burns proposal, the group of States with 62 percent of the cases get 15 judges, and the States with only 38 percent of the caseload get 13 judges. The States with 62 percent of the cases end up getting proportionately fewer judges relative to caseload. According to ninth circuit statistics for 1995, the proposed new twelfth circuit would have only 765 filings per three-judge panel, whereas the ninth circuit would have 1,065 filings per three-judge panel. How this huge caseload is going to be handled with a disproportionately low number of judges should cause some concern because this will still remain a very large circuit. It will be unable to function due to a heavy backlog of cases.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE ARGENTINE REPUBLIC CONCERNING THE PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Argentine Republic has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Argentina under appropriate conditions and controls reflecting a strong common commitment to nuclear non-proliferation goals.

The proposed new agreement will replace an existing U.S.-Argentina agreement for peaceful nuclear cooperation that entered into force on July 25, 1969, and by its terms would expire on July 25, 1999. The United States suspended cooperation with Argentina under the 1969 agreement in the late 1970s because Argentina did not satisfy a provision of section 128 of the Atomic Energy Act (added by the NNPA) that required full-scope International Atomic Energy Agency (IAEA) safeguards in nonnuclear weapon states such as Argentina as a condition for continued significant U.S. nuclear exports.

On December 13, 1991, Argentina, together with Brazil, the Argentine-Brazilian Agency for Accounting and Control of Nuclear Materials (ABACC) and the IAEA signed a quadrilateral agreement calling for the application of full-scope IAEA safeguards in Argentina and Brazil. This safeguards agreement was brought into force in March 1994. Resumption of cooperation would be possible under the 1969 U.S.-Argentina agreement for cooperation. However, both the United States and Argentina believe it is preferable to launch a new era of cooperation with a new agreement that reflect among other things:

—An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the parties in the area of peaceful nuclear cooperation:

—Reciprocity in the application of the terms and conditions of cooperation between the parties; and

—Additional international non-proliferation commitments entered into by the parties since 1969.

Over the past several years Argentina has made a definitive break with earlier ambivalent nuclear policies and has embraced wholeheartedly a series of important steps demonstrating its firm commitment to the exclusively peaceful uses of nuclear energy. In addition to its full-scope safeguards agreement with the IAEA, Argentina has made the following major non-proliferation commitments:

—It brought the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) into force for itself on January 18, 1994;

—It became a full member of the Nuclear Suppliers Group in April 1994; and

—It acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on February 10, 1995.

Once Argentina's commitment to full-scope IAEA safeguards was clear, and in anticipation of the additional steps subsequently taken by Argentina to adopt responsible policies on nuclear non-proliferation, the United States entered into negotiations with Argentina on a new agreement for peaceful nuclear cooperation and reached ad referendum agreement on a text on September 3, 1992. Further steps to conclude the agreement were interrupted, however, by delays (not all of them attributable to Argentina) in bringing the full-scope IAEA safeguards agreement into force, and by steps, recently completed, to resolve issues relating to Argentina's eligibility under section 129 of the U.S. Atomic Energy Act to receive U.S. nuclear exports. As the agreement text initialed with Argentina in 1992 continues to satisfy current U.S. legal and policy requirements, no revision has been necessary.

The proposed new agreement with Argentina permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

From the U.S. perspective the proposed new agreement improves on the 1969 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguards; perpetuity of safeguards; a ban on "peaceful" nuclear explosives; a right to require the return of exported nuclear items in certain circumstances; a guarantee of adequate physical protection; and a consent right to enrichment of nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 18, 1996*.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2150. A communication from the Assistant Administrator of the U.S. Environmental Protection Agency, transmitting, pursuant to law, the report of a final rule under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

ADDITIONAL COSPONSORS

S. 258

At the request of Mr. PRYOR, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 553

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 553, a bill to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 814

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1423

At the request of Mr. GREGG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Oklahoma [Mr. INHOFFE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to provide for the extension of certain expiring provisions.

S. 1610

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

SENATE RESOLUTION 224

At the request of Mr. D'AMATO, the names of the Senator from Nebraska [Mr. EXON], the Senator from Nebraska [Mr. KERREY], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Resolution 224, a resolution to designate September 23, 1996, as "National Baseball Heritage Day."

AMENDMENT NO. 3528

At the request of Mr. BAUCUS his name was added as a cosponsor of amendment No. 3528 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to made a further downpayment toward a balanced budget, and for other purposes

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. WARNER, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. BOND, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, and Mrs. BOXER):

S. Res. 232. A resolution to commend Jean Schrag Lauver for her long, dedicated, and exemplary service to the United States Senate Committee on Environment and Public Works; considered and agreed to.

SENATE RESOLUTION 232—RELATIVE TO JEAN LAUVER

Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. WARNER, Mr. SMITH, Mr. FAIRCLOTH, Mr. KEMPTHORNE, Mr. INHOFE, Mr. THOMAS, Mr. MCCONNELL, Mr. BOND, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 232

Whereas Jean Lauver has expertly served the Committee on Environment and Public Works over the past twenty-one years, both as a majority and minority professional staff person;

Whereas Jean Lauver has helped shape federal infrastructure policy for over two decades;

Whereas Jean Lauver has at all times discharged the duties and responsibilities of her office with unparalleled efficiency, diligence and patience;

Whereas her dedication, good humor, low key style and ability to get along with others are a model for all of us in the Senate;

Whereas Jean Lauver's exceptional service has earned her the respect and affection of Republican and Democratic Senators and their staffs alike: Now, therefore, be it

Resolved, That the United States Senate—expresses its appreciation to Jean Schrag Lauver and commends her for twenty-one years of outstanding service to the Senate and the country.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

BURNS AMENDMENT NO. 3548

Mr. BURNS proposed an amendment to amendment No. 3530 proposed by him to amendment No. 3466 proposed by Mr. HATFIELD to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

In lieu of the pending matter, insert the following:

TITLE IX—RESTRUCTURING OF THE CIRCUITS OF THE UNITED STATES COURTS OF APPEALS

Subtitle A—Ninth Circuit Court of Appeals Reorganization

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1996".

SEC. 902. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out "thirteen" and inserting in lieu thereof "fourteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... California, Hawaii, Guam, Northern Mariana Islands.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth .... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.".

SEC. 903. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... 15";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... 13".

SEC. 904. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... Portland, Seattle, Phoenix.".

SEC. 905. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF THE COURT.

(a) CIRCUIT JUDGES.—(1) Subject to paragraph (2), each circuit judge in regular active service of the former ninth circuit whose official duty station on March 1, 1996—

(A) was in California, Hawaii, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit; and

(B) was in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

(2)(A) No more than 2 circuit judges in each of the new ninth circuit and the twelfth circuit as assigned under paragraph (1), may elect to be assigned to a circuit other than the circuit so assigned.

(B) An election under this paragraph—

(i) may be only for assignment to the new ninth circuit or the twelfth circuit; and

(ii) shall be made on the basis of seniority.

(C)(i) If the elections of circuit judges under subparagraph (A) result in a greater number of judges for a circuit than is provided under the amendments made under section 903, the number of vacancies described under clause (ii) in the office of circuit judge for such circuit shall not be filled.

(ii) The number of vacancies referred to under clause (i) are the number of vacancies that—

(I) first occur after the date on which such elections become effective; and

(II) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(D) The judicial council of the former ninth circuit shall administer this paragraph.

(3) If no election is made by a circuit judge under paragraph (2), and as a result of assignments under paragraph (1) the number of judges assigned to a circuit is not in conformity with the amendments made under section 903, such conformity shall be achieved by not filling the number of vacancies in the office of circuit judge for such circuit that—

(A) first occur after the effective date of this subtitle; and

(B) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(b) CLERK OF THE COURT.—The Clerk of the Court for the Twelfth Circuit United States Court of Appeals shall be located in Phoenix, Arizona.

SEC. 906. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this subtitle may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 907. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 905 of this subtitle; or

(2) who elects to be assigned under section 906 of this subtitle;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 908. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this subtitle, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this subtitle had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this subtitle been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this subtitle, or submitted before the effective date of this subtitle and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this subtitle had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this subtitle had not been enacted.

SEC. 909. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this subtitle;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 902(2) of this subtitle; and

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 902(3) of this subtitle.

SEC. 910. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this subtitle may take such administrative action as may be required to carry out this subtitle. Such court shall cease to exist for administrative purposes on July 1, 1998.

SEC. 911. APPROPRIATIONS.

Of the $2,433,141,000 appropriated under the subheading "SALARIES AND EXPENSES" under the heading "COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES" under the heading "TITLE III—THE JUDICIARY" of this Act, $3,000,000 shall remain available until expended for the Twelfth Circuit Court of Appeals.

SEC. 912. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 60 days after the date of the enactment of this subtitle.

Subtitle B—Commission on Restructuring the Circuits of the United States Courts of Appeals

SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the "Heflin Commission" (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

SEC. 922. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 923. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 924. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 925. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report.

SEC. 926. REPORT.

No later than 2 years after the date of the enactment of this subtitle, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, beginning in fiscal year 1997, such sums as necessary to carry out the purposes of this subtitle.

HUTCHISON AMENDMENT NO. 3549

Mr. HATFIELD (for Mrs. HUTCHISON) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 754, before the heading on line 5, insert:

SEC. . (a) In addition to the amounts made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $50,000,000 is hereby made available to continue the activities of the semiconductor manufacturing consortium known as Sematech;

(b) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Army", $7,000,000 are rescinded;

(c) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Navy", $12,500,000 are rescinded;

(d) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Air Force", $16,000,000 are rescinded;

(e) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $14,500,000 are rescinded; and

(f) Of the funds rescinded under subsection (e) of this provision, none of the reduction shall be applied to the Ballistic Missile Defense Organization.

LEAHY AMENDMENT NO. 3550

Mr. HATFIELD (for Mr. LEAHY) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

Insert at the appropriate place:

SEC. . Of the funds appropriated in Title II of Public Law 104–61, under the heading "Overseas Humanitarian, Disaster, and Civic Aid", for training and activities related to the clearing of landmines for humanitarian purposes, up to $15,000,000 may be transferred to "Operations and Maintenance, Defense Wide", to be available for the payment of travel, transportation and subsistence expenses of Department of Defense personnel incurred in carrying out humanitarian assistance activities related to the detection and clearance of landmines.

BURNS AMENDMENT NO. 3551

Mr. HATFIELD (for Mr. BURNS) proposed an amendment to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the appropriate place, insert:

TITLE IX—RESTRUCTURING OF THE CIRCUITS OF THE UNITED STATES COURTS OF APPEALS

Subtitle A—Ninth Circuit Court of Appeals Reorganization

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1996".

SEC. 902. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out "thirteen" and inserting in lieu thereof "fourteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... California, Hawaii, Guam, Northern Mariana Islands.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth .... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.".

SEC. 903. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... 15";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... 13".

SEC. 904. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... Portland, Seattle, Phoenix.".

SEC. 905. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF THE COURT.

(a) CIRCUIT JUDGES.—(1) Subject to paragraph (2), each circuit judge in regular active service of the former ninth circuit whose official duty station on March 1, 1996—

(A) was in California, Hawaii, Guam, or the Northern Mariana Islands is assigned as a circuit judge of the new ninth circuit; and

(B) was in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington is assigned as a circuit judge of the twelfth circuit.

(2)(A) No more than 2 circuit judges in each of the new ninth circuit and the twelfth circuit as assigned under paragraph (1), may elect to be assigned to a circuit other than the circuit so assigned.

(B) An election under this paragraph—

(i) may be only for assignment to the new ninth circuit or the twelfth circuit; and

(ii) shall be made on the basis of seniority.

(C)(i) If the elections of circuit judges under subparagraph (A) result in a greater number of judges for a circuit than is provided under the amendments made under section 903, the number of vacancies described under clause (ii) in the office of circuit judge for such circuit shall not be filled.

(ii) The number of vacancies referred to under clause (i) are the number of vacancies that—

(I) first occur after the date on which such elections become effective; and

(II) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(D) The judicial council of the former ninth circuit shall administer this paragraph.

(3) If no election is made by a circuit judge under paragraph (2), and as a result of assignments under paragraph (1) the number of judges assigned to a circuit is not in conformity with the amendments made under section 903, such conformity shall be achieved by not filling the number of vacancies in the office of circuit judge for such circuit that—

(A) first occur after the effective date of this subtitle; and

(B) are necessary for the number of judges in such circuit to conform with the amendments made under section 903.

(b) CLERK OF THE COURT.—The Clerk of the Court for the Twelfth Circuit United States Court of Appeals shall be located in Phoenix, Arizona.

SEC. 906. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this subtitle may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 907. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 905 of this subtitle; or

(2) who elects to be assigned under section 906 of this subtitle;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 908. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this subtitle, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this subtitle had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this subtitle been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this subtitle, or submitted before the effective date of this subtitle and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this subtitle had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this subtitle had not been enacted.

SEC. 909. DEFINITIONS.

For purposes of this subtitle, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this subtitle;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 902(2) of this subtitle; and

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 902(3) of this subtitle.

SEC. 910. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this subtitle may take such administrative action as may be required to carry out this subtitle. Such court shall cease to exist for administrative purposes on July 1, 1998.

SEC. 911. APPROPRIATIONS.

Of the $2,433,141,000 appropriated under the subheading "SALARIES AND EXPENSES" under the heading "COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES" under the heading "TITLE III—THE JUDICIARY" of this Act, $3,000,000 shall remain available until expended for the Twelfth Circuit Court of Appeals.

SEC. 912. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 60 days after the date of the enactment of this subtitle.

BURNS AMENDMENT NO. 3552

Mr. BURNS proposed an amendment to amendment No. 3551 proposed by him to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

At the end of the amendment add the following:

Subtitle B—Commission Restructuring the Circuits of the United States Courts of Appeals

SEC. 921. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on restructuring for the circuits of the United States Courts of Appeals which shall be known as the "Heflin Commission" (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the restructuring of the circuits of the United States Courts of Appeals; and

(2) report to the President and the Congress on its findings.

SEC. 922. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of twelve members appointed as follows:

(1) Three members appointed by the President of the United States.

(2) Three members appointed by the President pro tempore of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but three may conduct hearings.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 923. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 924. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 925. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its final report.

SEC. 926. REPORT.

No later than 2 years after the date of enactment of this subtitle, the Commission shall submit a report to the President and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 927. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, beginning in fiscal year 1997, such sums as necessary to carry out the purposes of this subtitle.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, March 20, 1996, at 9:30 a.m., to hold an oversight hearing on the Congressional Research Service.

For further information concerning this hearing, please contact Ed Edens of the committee staff on 224–6678.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire June 30, 1996, on Thursday, March 21, 1996, has been canceled.

A new date and time for the hearing will be announced.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the Global Proliferation of Weapons of Mass Destruction, part II.

This hearing will take place on Wednesday, March 27, 1996, in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel S. Gelber of the subcommittee staff at 224–9157.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, March 18, 1996, to review U.S. postal reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CBO ANALYSIS OF UNFUNDED MANDATES

• Mr. MURKOWSKI. Mr. President, pursuant to Public Law 104-4, I am submitting for the information of the Senate a CBO analysis of unfunded mandates of bills reported by the Senate Energy and Natural Resources Committee currently on the Senate Calendar. As further information is available, it will also be provided to the Senate. The analysis follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 15, 1996.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In previous correspondence dated February 8, 1996, regarding The Unfunded Mandates Reform Act of 1995 (Public law 104-4), the Congressional Budget Office (CBO) included two lists of the legislation on the calendar as of January 23, 1996. The lists assessed intergovernmental mandates and private-sector mandates for legislation under your committee's jurisdiction. The bills were grouped into three categories: those that do not contain mandates as defined in Public Law 104-4; those that contain mandates but the direct costs are below the relevant thresholds; and legislation that needed further review to make a determination concerning mandates. CBO has completed its analysis of those bills on the lists requiring further review.

CBO finds that the following bills would impose no new private-sector mandates as defined in Public Law 104-4:

S. 92, Bonneville Power Administration Appropriations Refinancing Act.

S. 363, Rio Puerco Watershed Act of 1995.

S. 444, An act to amend the Alaska Native Claims Settlement Act to authorize purchase of common stock of Cook Inlet region.

S. 587, An act to amend the National Trails System Act to designate the Old Spanish Trail for inclusion in the National Trails System.

S. 852, Public Rangelands Management Act of 1995.

S. 884, Utah Public Lands Management Act of 1995.

S. 907, A bill to amend the National Forest Ski Area Permit Act of 1986.

S. 1459, A bill to provide for uniform management of livestock grazing on federal land.

H.R. 536, An act to prohibit the use of Highway 209 within the Delaware Water Gap National Recreation Area by certain commercial vehicles.

CBO also finds that the following bill would impose no new intergovernmental mandates, as defined in Public law 104-4:

S. 92, Bonneville Power Administration Appropriations Refinancing Act.

If you wish further details on this analysis, we will be pleased to provide them. The CBO contacts are Patrice Gordon (226-2940) for private-sector mandates and Marjorie Miller (225-3220) for intergovernmental mandates.

Sincerely,

JUNE E. O'NEILL,
Director.•

REVISITING A DANGEROUS PLACE

• Mr. MOYNIHAN. Mr. President, I had the pleasure of attending the American Jewish Congress' Profiles in Courage Awards Dinner last Saturday night in New York City at which former Israeli President Chaim Herzog delivered a most memorable address.

I first met Chaim Herzog some 21 years ago when then-President Ford appointed me the Permanent Representative of the United States to the United Nations. He was the Israeli Ambassador to that body where a Soviet-led coalition wielded enormous power and used it in an assault against the democracies of the world. In that regard, I cite an editorial in the New Republic which recently said of the United Nations, "During the Cold War, the U.N. became a chamber of hypocrisy and proxy aggression."

Proxy aggression in particular directed against the State of Israel, which became a metaphor for democracy under virtual siege at the United Nations.

Those who failed to destroy Israel on the field of battle joined those who wished to discredit all Western, democratic governments in an unprecedented, sustained attack on the very right of a U.N. member state to exist within the family of nations.

The efforts in the 1970's to delegitimize Israel came in many forms, none more insidious than the campaign to declare Zionism a form of racism.

With the collapse of the Soviet Union, both the Zionism resolution and the rejectionist Arab Front lost their major source of support.

On June 19, 1991, the Senate Foreign Relations Committee held a coffee-hour for then-President-elect Yeltsin of the Russian Soviet Federative Socialist Republic. In the receiving line, one of the members of the Russian delegation asked if I remembered him. "I was stationed at the United Nations when you were the U.S. Representative. You did not think anyone was listening, did you? But we heard you." He was, in fact, Andrei Kozyrev.

The very last vote that the Soviet Union cast in the General Assembly was the vote on December 16, 1991, to repeal Resolution 3379. And the same Andrei Kozyrev who served the Soviet Union at the United Nations in 1975, was, in his capacity as Foreign Minister of Russia, one of the two witnesses to the historic Oslo Accords, signed on the South Lawn of the White House on September 13, 1993.

The same Andrei Kozyrev who monitored Leonard Garment's remarks before the Third Committee joined Warren Christopher in witnessing Yasser Arafat's signature to a paper that three decades of Soviet foreign policy sought to prevent.

The Soviet Union has gone to its richly deserved place in the dustbin of history which it once promised would be the burial place of democratic society.

The Soviet Union may be gone. But events during the past few weeks must remind us all that Israel remains very much a metaphor for democracy in the twilight struggle between the forces of totalitarianism and the values of freedom.

The bombs that rocked London and the terrorist violence that shattered the peace of Jerusalem and Tel Aviv were attacks on all democracies. While the immediate victims of the recent bombings in Israel may have been Israeli citizens of the Jewish, Moslem, and Christian faiths and visitors and pilgrims from other nations, those responsible for these actions are simply at war with all civilized societies.

There can be no place in the family of nations for the murderous cowards who send others on suicide missions to slaughter civilians in the name of any cause. President Clinton has taken important measures to help protect the people of Israel from a continuation of these atrocities.

President Herzog spoke Saturday night of the appropriate response to these terrorist atrocities. His message concerning the future of the peace process is an important one and I ask that his remarks be printed in the RECORD.

The remarks follow:

ADDRESS BY PRESIDENT CHAIM HERZOG TO THE AMERICAN JEWISH CONGRESS ON THE OCCASION OF THE PRESENTATION OF THE PROFILES IN COURAGE AWARDS

Mr. Chairman: I am most grateful to you for your kind words, and, indeed, to the American Jewish Congress for having made this memorable award to me in such distinguished company as former comrades-in-arms, Senator Daniel Patrick Moynihan and Leonard Garment.

As I stand here in this building I recall the years in which I represented Israel—years in which we were treated by so many as a pariah state, years in which the theater of the absurd which was the United Nations at that time devoted so much time, energy and resources to condemning the small State of Israel while ignoring the evils that befell the world on all sides. At that time, we were outnumbered by the automatic majority comprised of an alliance of hatred based on the Soviet bloc, the Arab bloc and the so-called Non-Aligned group. If ever there was a misnomer, it was this, because nobody was more aligned in those days than the so-called Non-Aligned. They were aligned in hatred of Western democracy, they were aligned in support of Communist hegemony, they were aligned in the common lofty purpose of maligning Israel with a view to leading to its delegitimization.

The battle began in October 1975 in the Third Committee, the so-called Human Rights Committee, with a violent attack against Israel and Zionism. The three great bulwarks of democracy and freedom—Cuba, Somalia and Benin—had submitted to the UN Third Committee, the Human Rights Committee, an amendment proposing an addition to the existing resolution attacking racism and apartheid. What they wanted to add was an attack on Zionism, equating it with racism. This move was particularly grave because it was the first attack in the United Nations on an "ism." Nobody had ever attempted to attack Communism, Socialism or capitalism before. But now our national liberation movement was becoming the center of attack. In that debate, Leonard Garment, the U.S. representative on the committee, attacked the resolution with the dramatic words, "This is an obscene act."

On Friday evening, October 17th, the debate concluded in the Third Committee, and it met to vote on it. In my remarks, I thanked the delegations who had stood by our side, and said that we would never forget those who voted to attack our religion and our faith. I shouted out the last words, "We shall never forget."

The resolution passed with a majority, and our enemies seemed to be on the verge of a victory war dance. I saw Pat Moynihan, the blood rushing to his head, livid, standing up. He straightened his tie, pulled down and buttoned his jacket, and crossed the floor to me. I rose to greet him and held out my hand. He took it, pulled me to him and embraced me in front of the entire hall. I shall never forget that gut reaction of his, which spoke more than anything else. It was not planned, it was not part of policy—that was just Pat Moyniham behaving instinctively. I was very moved. He whispered to me what we could do to our enemies.

I was perplexed and could not understand the absence of any meaningful Jewish reaction to the vote at the time, and when I addressed the Conference of Presidents of Major American Jewish Organizations, I pulled no punches. As soon as my remarks at the meeting were published, the reaction amongst American Jewry was something that had to be seen to be believed. Paul Johnson, the brilliant editor of "The New Statesman," wrote an outstanding article which concluded with his views that "The melancholy truth, I fear, is that the candles of civilization are burning low."

In the General Assembly, I delivered the speech defending Israel, and indeed the Jewish people, and at the conclusion of my remarks I took the resolution in my hands and tore it up in front of the Assembly. The effect of the debate and the resolution on Jews all over the world was electrifying. The fight had done more for Zionism than thousands of speeches by Zionist leaders. It had clearly touched a nerve.

Nothing can demonstrate more vividly the change which has occurred than the attitude to Israel in the United Nations today. The resolution was rescinded by an overwhelming majority in 1992. Our delegation is no longer the whipping boy of the United Nations, and enjoys open and cordial relations with many Arab delegations. The Soviet Union has disappeared, and with it the hostility that it bred in the Assembly. Perhaps few events can demonstrate the unbelievable success of Israel in its efforts to achieve peace and break down the barriers of hatred than the attitude towards Israel in the General Assembly today.

I have come from Israel, which has been through some very difficult experiences in the past months. Like many other countries in the area, we are at war with Islamic Fundamentalism. It is a bitter struggle, fuelled by deep hatred and an approach by the Islamic Fundamentalists which entertains no compromise.

The new type of terror which is being used by our enemies is not easy to cope with, because here you have individuals who have been promised that they go straight to heaven and benefit from the priorities given to holy martyrs on their arrival, if they blow themselves up. This is a very difficult problem to deal with, and it is not always easy to detect the individual bent on creating havoc and chaos by detonating himself. It has been difficult to apply emergency legislation, but every one of these would-be suicide bombers now knows that an attack by them will involve very severe official action against their families, who will not have had the good fortune to reach heaven with them.

I do not have to recall to you the scenes of horror and devastation which filled the television screens of the world and which you doubtless saw, but we can be proud of the fact that the Opposition rallied behind the Government on the occasion of these disasters, and of the leadership given by Prime Minister Peres in these difficult and almost impossible times.

We have been through very difficult periods in the past when we had ranged against us the entire Palestinian people. We are experiencing a very difficult period now. But there is a difference: some 70% of the Palestinian people, represented by the PLO and led by a leader who was elected by secret ballot, has withdrawn from the circle of terror and has ceased to use terror in the struggle against Israel. It has been active in coordination with Israel against the terrorists of the Hamas and the Islamic Jihad, although we have maintained, and continue to maintain, that its action has not been as determined and as effective on occasions as we would wish. But one thing is clear: 70% of the Palestinian people have withdrawn from the circle of terror which endangered us over the years and they no longer partake in such activities.

We have to remember that the forces in conflict with us are also in conflict with the government of Jordan; are engaged in a life-and-death struggle in Algeria; and in Egypt, where President Mubarak has been successfully curbing their activities. The terrorists who have unleashed this recent violence have the same goal as their predecessors during the past fifty years: the destruction of Israel. They understand that their ambition will never succeed if the peace process succeeds and the Palestinians compromise. Those of us who react to trauma by despairing that the peace process will succeed are handing the terrorists a victory.

The arrangements under the Oslo Agreements have been moving along fairly satisfactorily. The Palestinian elections gave a convincing majority to those favoring the peace process, but we face the danger of terrorism instigated by a comparatively small minority. This is complicated by the new and very serious phenomenon of suicide bombing. We have demanded from the Palestinians to honor their commitments under the Oslo Agreements, and above all, to join us in fighting this new terrorism organized by the Hamas and the Islamic Jihad. There is daily cooperation, there are joint patrols everywhere, but because of the complexities of Arab society we have not been convinced that the Palestinian Authority has been doing its utmost to combat the wave of terrorism. I emphasize that it has done a great deal, and a large number of what could have been tragic events were prevented: but it is just not enough. The closure of the territories and the creation of a dividing wall between Israel and the Palestinians is having a very serious economic effect on the Palestinian population. They will thus have to reach painful decisions for they are entirely dependent on Israel for their economic existence.

The phenomenal success of Israel's economy has placed Israel in a dominant position, from an economic point of view, in the area. Israel's annual gross national product is going on 90 billion dollars and is more than the gross national product of Egypt, Jordan, Syria and the Palestinians together. The closure of Israel to labor from the Arab sector will deprive the Palestinian Authority of an income of some $700 million, but these facts do not influence the Fundamentalist activities of the Hamas and the Islamic Jihad who would create chaos throughout the area. The battle is going on in each and every one of the countries against the Fundamentalists, but so long as Iran is the home of terrorism and the finance center of the terrorist activities in the area, we have to adapt ourselves to a long struggle in many countries around us.

Let us remember that Israel has been at war with Arab terrorists throughout its history, and the terrorists who have unleashed this present violence have the same goal as their predecessors during the past hundred years—the destruction of Israel.

We have always moved forward and pursued our national interest in the face of violence and horror. Most Israelis understand that Palestinian self-rule with security guarantees for Israel is in our interest. This is no time to throw up our hands and declare that the peace process is finished. That would be an admission of defeat unlike any in our history.

We did not back down in 1929, when hundreds of innocent Jews were slaughtered by Arabs in Hebron. We did not back down in 1947, when the UN resolution to partition Palestine promoted mass murder and the ransacking of Jewish neighborhoods in Aleppo, Syria, in Aden, Jerusalem, Haifa and Jaffa. We buried our dead, rolled up our sleeves and created a Jewish state.

We did not back down in 1948, as Arab armies blocked the roads to Jerusalem and cut off food and weapons from its inhabitants. I was in that city in a building when a bomb destroyed it and nearly killed my wife. After I carried her out of the charred ruins and rushed her to hospital, it never occurred to us to surrender to those who wanted to destroy us. That spirit was nearly universal in our small population—one percent of which was killed in the War of Independence; it animated most Israelis and our supporters around the world in the decades—and wars—ahead.

We certainly did not back down under Labor, Likud and national unity governments when hundreds of Israeli men, women and children were killed by all manner of terrorist. We fought against terror while emphasizing our commitment to peace. Israel and the Jewish people need much more of that spirit now.

In recent years, the sense of permanent siege that has defined our national experience has begun to lift. But after so many decades of being a pariah state, at times it is hard for many to see that each and every Arab is no longer an enemy. And that is precisely what Hamas wants. As their popularity wanes in the West Bank and Gaza, their only hope is to generate violent conflict by returning to the days when to Israelis, all Arabs were indistinguishable from one another.

That is why Hamas has created a new breed of desperate fanatic with sophisticated explosives and the will to die. We must not let them win, and that means not only stopping murder, but also insisting that peace with legitimate Palestinian partners remains our national goal.

The effect of the recent terrorist attacks in Israel has been dramatic, leading to the joint initiative of President Clinton and Prime Minister Shimon Peres, together with King Hussein and President Mubarak, to convene a summit conference at Sharm el-Sheikh to set up a united international front against the danger of terrorism. We can only be gratified that finally the nations of the world seem to be awakening to the inherent danger of the Terrorist International threatening the free world. We can only hope and trust that the resolutions reached at the summit conference will be strictly adhered to, and what is most important of all, that the organizational aspects of the international struggle against terrorism will be implemented.

As I stand here in this building, I cannot but recall the dramatic debate which took place here in July 1976 after the unforgettable rescue by the Israel Defense Forces of the Jews hijacked to Entebbe, Uganda, in an Air France plane. In the course of my remarks in the debate in the Security Council in this very building, I said: "It has fallen to the lot of my small country, embattled as we are, facing the problems which we do, to demonstrate to the world that there is an alternative to surrender to terrorism and blackmail.

"It has fallen to our lot to prove to the world that this scourge of international terror can be dealt with. It is now for the nations of the world, regardless of political differences which may divide them, to unite against this common enemy which recognizes no authority, knows no borders, respects no sovereignty, ignores all basic human decencies, and places no limits on human bestiality.

". . . We are proud not only because we have saved the lives of over 100 innocent people—men, women and children—but because of the significance of our act for the cause of human freedom.

"We call on this body to declare war on international terror, to outlaw it and eradicate it wherever it may be. We call on this body, and above all we call on the Member States and countries of the world, to unite in a common effort to place these criminals outside the pale of human society, and with them to place any country which cooperates in any way in their nefarious activities."

Mr. Peres has done what an Israeli Prime Minister should do by making it crystal clear that Israel will take stern and—if necessary—unilateral measures to thwart these killers. And he has told Arafat that the Palestinian Authority must prove that it is a real partner by dismantling the terrorist infrastructure in the West Bank and Gaza, once and for all.

If Arafat does demonstrate the capacity to stop the fanatics, Israel should not take the coward's way out by capitulating to the rejectionists: it should do everything possible to make sure that the Palestinian Authority fulfills its obligations under the Oslo Agreements. It must insist that our security comes first, even as we continue to mourn our dead. That is the brave as well as the sensible thing to do.

There is a debate in Israeli society about the advantages or disadvantages of the peace process. When evaluating the possibilities, one has to remember that we are now becoming more and more an integral part of the Middle East. We have relations with many Arab countries; trade with the Arab world is booming; joint projects are being set up on all sides; tens of thousands of Arab tourists are pouring in from Jordan and now from Egypt too; our hospitals are flooded with Arab patients from all over the Middle East. A new form of life is developing which these terrorist organizations see as a great danger to them.

When evaluating our reaction to the current events, we must recall that the alternative to moving along the path of the peace process would cause 70% of the Palestinian population which had ceased to use terror as a weapon to return to a tragic and dangerous situation. It would mean a return to the 'intifada,' with the terrible consequences of such an ongoing struggle. It would mean, according to some, a return to the alleyways and backyards of Gaza, with all that that implies. The enemy says openly that its purpose is to destroy the peace process, hence nothing could be more counter-productive to our cause than giving in to the terrorists and stopping the process.

I emphasize, of course, that we have to insist that our Palestinian interlocutors honor all the obligations which they have taken on themselves, otherwise they know full well that we hold all the strong cards.

My friends, only five years have passed since the Gulf War, during which Iraq attacked senselessly with Scud missiles the civilian population of Israel. At that time, the grand alliance organized by President Bush reacted and soundly beat the Iraqi army. But at that time Israel could not convince the alliance that it had a place in it. It is an indication of the long distance we have covered since then and the revolution which has occurred in the Middle East, that this week the leaders of the Arab world and of the free world sat together with the Prime Minister of Israel, who was treated as a full and equal partner in this international struggle against terrorism. This was followed by President Clinton's third visit to Israel, in which a far-reaching agreement on a joint effort to combat terror has reached between the United States and Israel.

That is the measure of advance that has occurred in our area, and the degree to which Israel has become an ally of, among others, the leading Arab countries in the Middle East. That is the measure of advance and positive change which we have witnessed in the Middle East.

I am convinced that the international effort being made to coordinate the struggle against terrorism will ultimately bear fruit. In the meantime, Israel continues its impressive march along the road to regional peace and economic development, a road along which it is advancing in partnership with the leading Arab countries of the area.

Let us not forget the intricate path along which we have advanced; let us not forget the struggle conducted by many others before me who received the award being given tonight; let us not forget that many of our leaders of old would have given their right hands just to see the revolutionary change which has occurred to Israel in the Middle East. We in Israel have lived through very trying and difficult times, but we have always known that our cause is just. Our dedication to that cause is what will advance us to new goals and a new and promising era in the future.•

IMMIGRANTS AND JOBS

• Mr. ABRAHAM. I would like to alert my Senate colleagues to today's editorial by the Wall Street Journal on why the Congress should think twice before cutting legal immigration.

As currently written, the legal immigration reform measures, H.R. 2202 and S. 1394, would slash legal immigration by nearly half, largely through the elimination of whole categories of family-sponsored immigration by U.S. citizens. In my judgment, the drastic cuts in legal immigration contemplated in these bills would hurt U.S. economic growth, job creation; and competitiveness. The fact is that many immigrants contribute to our economic well-being by inventing new products, starting new entrepreneurial businesses, and creating jobs for Americans: A new study by immigration policy analyst Philip Peters found that one in four patents in this country is created by immigrants alone or by immigrants collaborating with U.S. born coinventors. Four of the immigrants surveyed in Mr. Peter's study started their own businesses, generating over 1,600 jobs here in America.

Mr. President, it is also important to point out that not all these talented immigrants and entrepreneurs came to America through the employment-based immigration system; some of them, like the Intel Corp.'s founder Andrew Grove, arrived through the refugee system. Others came through the family-sponsored system as minor children, adult children, and siblings. The bottom line is that restrictions on immigration categories not labeled as "economic" will end up hurting our economy and our competitiveness.

Both the academic literature and empirical evidence strongly suggest that legal immigrants make important positive contributions to American society. I would hope that my colleagues would keep this fact in mind as we debate the merits of the pending legal immigration reform bill. I ask that the Wall Street Journal article and the study by Mr. Peters be printed in the RECORD.

[From the Wall Street Journal, Mar. 18, 1996]

REVIEW & OUTLOOK

SCAN THE CONGRESS

First, require all laws that apply to the rest of the country also apply equally to the Congress.—Contract With America, September 27, 1994.

Wise words, and we hope they apply to the immigration bill being pushed on the House floor by Congressman Lamar Smith (R., Texas) and up for a vote as early as Tuesday night. By all means, set up a little office in the House gym and let Congresspeople be the first to line up for their retina scans.

Indeed, such an amendment was pondered by Colorado Democrat Pat Schroeder, bless her palpitating heart, though it didn't make the long list of amendments and resolutions available Friday. While the Republican Contract also called for a smaller government, Representative Smith's brainstorm would move toward requiring all citizens to get verification from a federal database before they are allowed to take a new job. Like the Senate version of the bill, it would also pilot a "voluntary" national ID system, although both sides, for the moment, seem to be backing away from the sinister biometric identifiers such as retina scans we heard about earlier.

The ID system is an ornament, of course, on the bill reducing legal immigration by nearly half, cutting family reunions and slashing the intake of refugees. It at least has the virtue of not hiding behind arguments about illegal immigration; it is purely a mean-spirited outburst against legal immigration. The horde of amendments and resolutions try to separate "good" immigrants—former H'Mong soldiers, for example, from "bad" immigrants—parents of citizens, for example. All of this is to be decided by a Congress that routinely deplores micro-management from inside the Beltway; proposals to vitiate the family unification principle for immigration come from the same lips that deplore the decline of family values.

The reality of the immigration contribution to American society comes clear in a study by Philip Peters of the Alexis de Tocqueville Institute. As a proxy for intellectual and economic contribution, Mr. Peters looked at recent U.S. patents. He found that one patent in four in this country is created by immigrants or immigrants working with U.S.-born engineers or investors. This is three times their presence in our population (8.7%), so presumably immigrants are out there doing more than their share to keep the U.S. competitive with Japan.

Nor of course did all the patenters in the Tocqueville study enter the country on skilled worker visas. Take Alexander Owczarz (O-zarz), a product development engineer who stopped counting after registering his 25th U.S. patent. Mr. Owczarz reckons that one recent patent alone generated 20 jobs at Semitool, the Kalispell, Montana, exporter where he works. Mr. Owczarz is a citizen now, but he entered this country on a tourist visa when he got sick of Communist Poland. Nineteen-nineties restrictionists would expel people like Mr. Owczarz when they overstay their visa.

Or how about refugees? Mr. Smith would cut them. Tocqueville found Ernesto E. Blanco, a professor at MIT who fled Havana in 1960 on a visa provided through a special accelerated program to rescue Cubans from Castro. Mr. Blanco has 13 patents, including a flexible arm that makes endoscopic surgery easier. There are more famous examples: Smith-Simpson-style legislation would bar the door to the future equivalents of Intel's Hungarian refugee, Andrew Grove. For that matter, another big job creator in Silicon Valley, Borland International, was founded by an illegal immigrant, Philippe Kahn.

In recent days we've seen growing recognition of these points. On the Senate side, Spencer Abraham was able to defeat the far more senior Alan Simpson, and split the Senate legislation into two bills, on legal and illegal immigration. On the House side Congressmen Dick Chrysler (R., Michigan), Sam Brownback (R., Kansas), Howard Berman (D., California) and Phil Crane (R., Illinois) were able to squeeze an unfriendly rules committee into letting them offer an amendment that would remove all Mr. Smith's cutbacks on legal, family-sponsored immigration. Steve Chabot, a freshman Republican, and John Conyers, a Democrat, are offering an amendment to strike the odious ID system.

For freshmen Republicans, this is an issue of heritage. Put bluntly, are they children of Ronald Reagan and the House Contract, or Pat Buchanan and his nativist campaign? Between Senator Simpson and Representative Smith, all of the noxious provisions are likely to come back with the conference committee report. The best hope is that the bills will fall on their own weight, like Hillary Clinton's health-care boondoggle, and that the issue can be taken up by another Congress where cooler heads prevail.

MADE IN THE USA: IMMIGRANTS, PATENTS, AND JOBS

EXECUTIVE SUMMARY

In an effort to quantify the contribution of immigrants to U.S. technological innovation, the Alexis de Tocqueville Institution performed a study of recent U.S. patents. Using a random selection of 1988 and 1994 patents, we found:

Based on the responses to our survey, about one patent in four (26.4%) is created by immigrants alone or by immigrants collaborating with U.S.-born co-inventors.

Based on our entire sample (i.e. counting nonresponses as nonimmigrant inventors), about one patent in five (19.2%) involves immigrants as sole or co-inventors. That's a conservative estimate with a 5% margin of error.

Immigrants account for about 8.7% of the U.S. population. Hence, the study shows immigrants to be more than twice as likely as the general population to generate patented innovations.

OVERVIEW: IMMIGRANTS CONTRIBUTE TWICE THEIR SHARE OF PATENTS

Scores of anecdotes have created a poetic image of immigrants who arrive as refugees, students, laborers or professionals and go on to create products, companies and even entire industries. But beyond the anecdotes, can the contributions of immigrants to America's industrial cutting edge be quantified?

The Alexis de Tocqueville Institution (AdTI) endeavored to do this by using a well known indicator of technological innovation—issuance of new patents—to measure immigrants' inventiveness and spirit of enterprise.

Examining 250 recently issued U.S. patents chosen at random, AdTI found that over 19% of the patents in our sample (48 patents) were issued to immigrants alone or to immigrants collaborating with U.S.-born co-inventors. This is over twice immigrants' proportion of the U.S. population—8.7%.[1]

The immigrant inventors identified in our study include researchers, executives, entrepreneurs and an MIT professor. Four started their own businesses, generating over 1,600 jobs. Their innovations include: A system that protects Americans troops inside a front-line combat vehicle from chemical, biological and nuclear contamination; 100 sensors used on the space shuttle, all produced by a company founded by an immigrant inventor, now employing 1500 people; components of GE electric power generators that are exported to Japan; a machine made by a Montana company that generated $10 million in sales last year, and is expected to generate $15 million in sales to both U.S. and export markets this year.

The economic contributions of immigrant inventors are worth considering at a time when Congress is debating legislation to reduce all categories of legal immigration, including specially skilled workers. American high-tech firms rely on skilled foreign workers to meet particular needs. For example, Microsoft software developers are about 95% U.S.-born, yet the company finds it "absolutely essential" to draw on the technical and cultural knowledge that foreign-born employees can bring, according to Microsoft Chairman Bill Gates. New restrictions on the entry of skilled foreign workers or their families "will really put pressure on us to do a major portion of our software development outside the United States," Gates says.[2] A U.S.-born inventor contacted in this study said immigrants are a "very valuable asset for American science and technology. . . . You need a constant influx of new ideas and new points of view."[3]

Our findings seem to justify concerns long expressed by foreign governments about the "brain drain"—the economic loss they suffer when highly skilled citizens emigrate to pursue careers overseas. For example, nearly 2,000 professional or semi-professional South African citizens emigrated in 1994. As a result, some South Africans are concerned that emigration means fewer jobs, a smaller tax base and zero return on the state's investment in educating physicians and other professionals. "For every emigrant—they are mostly highly qualified—at least ten local people lose their jobs," said Karen Theron of South Africa's Central Economics Advisory Services.[4]

IMMIGRANT INVENTORS' STORIES

As immigrant inventors were identified in the study, the author conducted interviews with many of them. They described their work and their motivations for coming to America, and offered some thoughts as to why the United States attracts inventive people and why they are productive in the U.S. work environment. Some of the information gathered in those interviews follows: The inventors' patent numbers are noted in parentheses.

Fred Kavli is Chairman of the Board and CEO of the Kavlico Corporation in Moore Park, California. Kavli immigrated from Norway in 1956 with a physics degree in hand, and founded the company on a shoestring two years later. "This was the land of opportunity—especially then," he told us. "There was no other country I could go to to do that."

Kavlico makes sensors, primarily for aeronautical controls and automotive pollution controls. One hundred Kavlico sensors operate on the space shuttle.

Kyong Park is Kavlico's Vice President for Research and Development. A physicist, he came to the U.S. from Korea in 1969 to pursue his education. Park joined Kavlico in 1977 and holds 24 patents.

With Kavli's assistance, Park was able to stay in the United States to pursue his career. He preferred to stay here because Korea was under a "corrupt" military government in the 1970's, where bribery was rife and "only people with connections had opportunity," he said. "Here, if you work hard you have opportunity. People from outside really appreciate this society and this culture."

According to Kavli, Kyong Park was "instrumental" in the pressure sensor development that brought Kavlico into the automotive pollution control market. This has helped to propel Kavlico's growth from $4 million in sales and 120 employees in 1977 to $150 million in sales and 1,500 employees today.

Park was reticent to be interviewed, explaining that he does not seek special recognition for his work. But he did describe an

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Footnotes at end of article.

experience at a recent company picnic. A colleague pointed to the 3,000 employees and family members and told Park, "See, all these people are making a living because of your hard work." "I never thought of it that way," Park said. "I felt good that I have helped not just my family, but many of those people too." (Kavli/Park joint patent 1988/4735098)

Ram Labhaya Malik of San Jose, California immigrated from India in 1971. An engineer, he is co-inventor of an air purification system now in use in the Army's Bradley Fighting Vehicle, a front-line troop carrier. The system protects personnel inside from nuclear, chemical and biological contamination. One of his co-inventors immigrated from the Netherlands, the other is U.S.-born. (1988/4793832)

Richard Baker is founder and president of Membrane Technologies of Menlo Park, California. A native of the United Kingdom, he came to the U.S. to pursue post-doctoral studies, was offered a job and immigrated in 1966. He holds a Ph.D. in chemistry and has 57 patents. His company employs 30 people. Membrane Technologies produces and sells air purification systems and conducts scientific research under government contract. (1944/5364629)

Aleksander Owczarz is a mechanical engineer at Semitool Inc., a Kalispell, Montana company that makes capital equipment for the semiconductor industry. Dissatisfied with the system in Poland ("It was not my cup of tea"), he emigrated in 1978 to seek new opportunity in the United States. He stopped counting his patents when his 25th was issued. His latest patent is for a precision cleaning machine for wafer boxes and wafer carriers. Over 20 Semitool employees work full-time manufacturing that machine. It is sold in the U.S., Europe and Asia; sales were $10 million in 1995 and are projected to grow to $15 million this year. "It's not just bright people" that lead to technological innovation, he said. "The combination of bright individuals and the right environment is what makes people productive here." (1944/5357991)

Ernest Blanco immigrated from Cuba in 1960 and teaches engineering at the Massachusetts Institute of Technology. He holds thirteen patents. In our sample, we found a design for a flexible arm for medical endoscopes (diagnostic and surgical devices) that he and a student created for Johnson & Johnson. Discussing the propensity of immigrants to work hard in scientific and technological research, he said, "It's the environment here and the way we immigrants think about the United States as a land where great inventions are being made. Immigrants feel the way to break the economic barrier is to invent something that will be of use to large numbers of Americans. We become worthy by using our brains." (1994/5348259)

Anatoly Galperin, an engineer, came to the U.S. as a refugee from Russia in 1989. He works for the Miller Edge company in Concordville, Pennsylvania. In Russia, he worked in telecommunications; here, his field is sensors, including the invention found in our sample: a safety feature ("sensing Edge") of mechanical doors sold throughout the U.S. and to some overseas customers. (1994/5299387)

Michael Pryor of Woodbridge, Connecticut immigrated from England in 1953 with a doctorate in metallurgy. He holds 130 U.S. patents, and become vice President for Metals Research at the Olin Corporation in 1973. He is now retired. At Olin, he calculated that the research department he directed produced a three-to-one monetary return. Its innovations include alloys, manufacturing processes, and the process used to produce the metal composites needed to mint quarters and dimes ever since the 90 percent silver-10 percent copper blend was discontinued. Pryor recruited both U.S.-born and immigrant scientists for his labs, and expressed particular admiration for Indian and Asian metallurgists. "I didn't hire immigrants because I wanted to," he said, "there were just not enough U.S. citizens graduating to fill up the ranks—there was too much competition from other labs and universities." (1988/4781050)

Angela Michaels of Elkhart, Indiana is a chemist who works for the Bayer Corporation. She immigrated from Italy in 1962. She holds six patents; all are in use in Bayer's products, including "dip and read" urinalysis strips for kidney disease detection. (1988/4717658)

Sung Kwon of Burnsville, Minnesota was among many investors drawn to the United States for educational opportunity. After completing his undergraduate work at the best university of Korea, he came to the University of Minnesota in 1965 to pursue the advanced engineering studies that was "not available in Korea." He is now employed at Thermo King Corporation (a Westinghouse division) and holds seven US patents. (1994/5288643)

Jacob Haller and his family immigrated to the United States from the former Yugoslavia in 1955. An engineer, he founded the Emconn Tool company of Wheeling, Illinois and holds six patents. Emconn makes equipment for the electrical connector industry; its customers are the major telecommunications companies. After building the company up to 20 employees, Haller sold the manufacturing operation and now works with one other employee developing new products. (1988/4718167)

David Lomas of Arlington Heights, Indiana is a chemical engineer with the UOP corporation. He came to the United States from England in 1973. He holds over 30 patents; the invention in our sample is a "catalytic cracking" process used in petroleum refining. (1988/4757039)

Mohamed Hashem, a chemist, is an Egyptian-born immigrant working for the Rhone-Poulenc corporation's unit in Cranbury, NJ. He holds about two dozen patents, several of which are in commercial use, principally polymers for paints and coatings. (1988/4760152)

Ian Crawford, an electrical engineer from Scotland, was offered a job in the U.S. while here on a sales trip in 1980. Dissatisfied with the opportunities before him in Scotland, he took the job, came to the United States and went on to found his own company. Analog Modules of Orlando, Florida now employs over 60 people in the design, development and manufacture of laser electronics. (1994/5311353)

Mitchell Budniak of Skokie, Illinois is an electrical engineer who holds six patents. He and his parents were taken from the native Poland to Germany during World War II where, he said, his parents "were basically slave labor." When the war ended, Budniak was eleven years old, and they came to the United States. His patents including a blood analysis unit and a computerized unit that monitors the vital signs of at-home patients and dispenses medication. (1988/4740080)

The late Stephen Slovenkai of Leominster, Massachusetts had a 30-year chemical engineering career, including a patent for a polymer fabrication method. In 1940 at age 14, he came to the United States from the former Czechoslovakia. His family settled in northeastern Pennsylvania, where his father worked as a coal miner and he graduated first in his high school class. He joined the U.S. Army and served in the postwar occupation forces in Italy. (1988/4730027)

Ranjit Gill of Schenectady, New York is an engineer who immigrated from India in 1970. The invention we encountered in our study is a cooling system that his employer, GE, has put to use in the world's largest electrical power generators, which are exported to Japan. (1994/5374866)

Dodd Wing Fong of Naperville, Illinois is a chemist who came to the United States from Hong Kong in 1962 to attend graduate school. He holds over 70 patents; the one encountered in our study is a polymer used in water purification. (1988/4731419)

SURVEY RESULTS

Sample size: 250.

Patents issued to immigrant inventors: 48.

Patents issued to U.S.-born inventors: 134.

No response: 68.

Patents issued to immigrants, as percentage of total sample (48/250): 19.2 percent.

Patents issued to immigrants, as percentage of respondents (48/180): 26.4 percent.

Foreign-born percentage of U.S. population: 8.7 percent.

HOW THIS STUDY WAS CONDUCTED

Sample. This study was performed by contacting inventors whose inventions resulted in U.S. patents issued in 1988 and 1994. To generate a random sample of 250 patents approved in 1988 and 1994, the Alexis de Tocqueville Institution created a random list of patent numbers from those years, and drew our sample from that list.[5] This process generated patents issued to both U.S. and foreign inventors. Excluding the patents issued to inventors living overseas, we were left with a sample of 122 1988 patents and 128 1994 patents. The years 1988 and 1994 were chosen to yield a sample including both very recent patents and patents that might have been used in commercial applications.

Canvassing. Using the home addresses in the patent applications, we attempted to reach these inventors by phone and/or letter. When we could not reach an inventor by mail or telephone, or through a representative such as a patent attorney, that patent was listed as "no response." The canvassing took place between January 15 and March 4, 1996.

Margin of error. This survey's margin of error is 4.9% at a 95% confidence level. That is, there is 95% likelihood that identical surveys will yield results within a range 4.9 percentage points higher or lower than the result found here (19.2%, or 48 immigrant inventors/250 patents). Because we effectively counted as non-immigrants those inventors who did not respond or could not be reached, our finding of 19.2% immigrant inventors is probably conservative.

FOOTNOTES

1. 1994 foreign-born population as a percentage of total U.S. population, based on the Census Bureau's Current Population Survey.

2. Bill Gates, "A World of Talent Out There," The Buffalo News, January 2, 1996, p. E7.

3. Author's interview with inventor Andrew Olah of Spencer, Ohio, February 13, 1996.

4. Johan Coetzee, "Emigration Costs Country 10,000 Jobs Yearly," Johannesburg BEELD, December 1, 1995, p. S2.

5. We generated the list using a Lotus spreadsheet, using the formula P=(RN)+L, where P is the patent number, R is a random number between 0 and 1, N is the number of patents issued in the year (1988 or 1994) and L is the lowest patent number issued in that year. Patent numbers are assigned consecutively and sequentially.●

PUBLIC RANGELANDS MANAGEMENT ACT OF 1995

• Mr. DOMENICI. Mr. President, when S. 1459, the Public Rangelands Management Act of 1995 comes before the Senate later this week, I intend to offer a substitute amendment that is the result of 6 months of bipartisan effort to reach consensus on this legislation. I ask that the text of the substitute be printed in the RECORD, so that all Senators will have the opportunity to review it prior to the debate on the Senate floor.

AMENDMENT NO.—

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Public Rangelands Management Act of 1995."

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments and repeals made by this Act shall become effective on the date of enactment.

(b) APPLICABLE REGULATIONS.—

(1) Except as provided in paragraph (2), grazing of domestic livestock on lands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, shall be administered in accordance with the applicable regulations in effect for each agency as of February 1, 1995, until such time as the Secretary of Agriculture and the Secretary of the Interior promulgate new regulations in accordance with this Act.

(2) Resource Advisory Councils established by the Secretary of the Interior after August 21, 1995, may continue to operate in accordance with their charters for a period not to extend beyond February 28, 1997, and shall be subject to the provisions of this Act.

(c) NEW REGULATIONS.—With respect to title I of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall provide, to the maximum extent practicable, for consistent and coordinated administration of livestock grazing and management of rangelands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, consistent with the laws governing the public lands and the National Forest System;

(2) the Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, coordinate the promulgation of new regulations and shall publish such regulations simultaneously.

TITLE I. MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A General Provisions

SEC. 101. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests;

(2) through the cooperative and concerted efforts of the Federal rangeland livestock industry, Federal and State land management agencies, and the general public, the Federal rangelands are in the best condition they have been in during this century, and their condition continues to improve;

(3) as a further consequence of those efforts, populations of wildlife are increasing and stabilizing across vast areas of the West;

(4) grazing preferences must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry;

(5) it is in the public interest to charge a fee for livestock grazing permits and leases on Federal land that is based on a formula that—

(A) reflects a fair return to the Federal Government and the true costs to the permittee or lessee; and

(B) promotes continuing cooperative stewardship efforts;

(6) opportunities exist for improving efficiency in the administration of the range programs on Federal land by—

(A) reducing planning and analysis costs and their associated paperwork, procedural, and clerical burdens; and

(B) refocusing efforts to the direct management of the resources themselves;

(7) in order to provide meaningful review and oversight of the management of the public rangelands and the grazing allotment on those rangelands, refinement of the reporting of costs of various components of the land management program is needed;

(8) greater local input into the management of the public rangelands is in the best interests of the United States;

(9) the western livestock industry that relies on Federal land plays an important role in preserving the social, economic, and cultural base of rural communities in the western States and further plays an integral role in the economies of the 16 contiguous western States with Federal rangelands;

(10) maintaining the economic viability of the western livestock industry is in the best interest of the United States in order to maintain open space and fish and wildlife habitat;

(11) since the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the amendment of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) by the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.), the Secretary of the Interior and the Secretary of Agriculture have been charged with coordinating land use inventory, planning and management programs on Bureau of Land Management and National Forest System lands with each other, other Federal departments and agencies, Indian tribes, and State and local governments within which the lands are located, but to date such coordination has not existed to the extent allowed by law; and

(12) it shall not be the policy of the United States to increase or reduce total livestock numbers on Federal land except as is necessary to provide for proper management of resources, based on local conditions, and as provided by existing law related to the management of Federal land and this title.

(b) REPEAL OF EARLIER FINDINGS.—Section 2(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(a)) is amended—

(1) by striking paragraphs (1), (2), (3), and (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(3) in paragraph (1) (as so redesignated), by adding "and" at the end; and

(4) in paragraph (2) (as so redesignated)

(A) by striking "harassment" and inserting "harassment"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 102. APPLICATION OF ACT.

(a) This Act applies to—

(1) the management of grazing on Federal land by the Secretary of the Interior under—

(A) the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.);

(B) the Act of August 28, 1937 (commonly known as the "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937") (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.);

(C) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(D) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(2) the management of grazing on Federal land by the Secretary of Agriculture under—

(A) the 12th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of the Act of June 4, 1897 (commonly known as the "Organic Administration Act of 1897") (30 Stat. 11, 35, chapter 2; 16 U.S.C. 551);

(B) the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 580l);

(C) the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.);

(D) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(E) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(F) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and

(3) management of grazing by the Secretary on behalf of the head of another department or agency under a memorandum of understanding.

(b) Nothing in this title shall authorize grazing in any unit of the National Park System, National Wildlife Refuge System, or on any other Federal lands where such use is prohibited by statute, nor supersedes or amends any limitation on the levels of use for grazing that may be specified in other Federal law, nor expands or enlarges any such prohibition or limitation.

(c) Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(d) Nothing in this title shall affect valid existing rights. Section 1323(a) and 1323(b) of Public Law 96-487 shall continue to apply to nonfederally owned lands.

SEC. 103. OBJECTIVE.

The objective of this title is to—

(1) promote healthy, sustained rangeland;

(2) provide direction for the administration of livestock grazing on Federal land;

(3) enhance productivity of Federal land by conservation of forage resources, reduction of soil erosion, and proper management of other resources such as control of noxious species invasion;

(4) provide stability to the livestock industry that utilizes the public rangeland;

(5) emphasize scientific monitoring of trends and condition to support sound rangeland management;

(6) maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality; and

(7) promote the consideration of wildlife populations and habitat, consistent with land use plans, principles of multiple-use, and other objectives stated in this section.

SEC. 104. DEFINITIONS.

IN GENERAL.—In this title:

(1) ACTIVE USE.—The term "active use" means the amount of authorized livestock grazing use made at any time.

(2) ACTUAL USE.—The term "actual use" means the number and kinds or classes of livestock, and the length of time that livestock graze on, an allotment.

(3) AFFECTED INTEREST.—The term "affected interest" means an individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on a specific allotment, for the purpose of receiving notice of and the opportunity for comment and informal consultation on proposed decisions of the Secretary affecting the allotment.

(4) ALLOTMENT.—The term "allotment" means an area of designated Federal land that includes management for grazing of livestock.

(5) ALLOTMENT MANAGEMENT PLAN.—The term "allotment management plan" has the same meaning as defined in section 103(k) of Pub. L. 94-579 (43 U.S.C. 1702(k)).

(6) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary to administer this title, the Acts cited in section 102, and regulations issued under this title and those Acts.

(7) BASE PROPERTY.—The term "base property" means—

(A) private land that has the capability of producing crops or forage that can be used to support authorized livestock for a specified period of the year; or

(B) water that is suitable for consumption by livestock and is available to and accessible by authorized livestock when the land is used for livestock grazing.

(8) CANCEL; CANCELLATION.—The terms "cancel" and "cancellation" refer to a permanent termination, in whole or in part, of—

(A) a grazing permit or lease and grazing preference; or

(B) other grazing authorization.

(9) CONSULTATION, COOPERATION, AND COORDINATION.—The term "consultation, cooperation, and coordination" means, for the purposes of this title and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), engagement in good faith efforts to reach consensus.

(10) COORDINATED RESOURCE MANAGEMENT.—The term "coordinated resource management"—

(A) means the planning and implementation of management activities in a specified geographic area that require the coordination and cooperation of the Bureau of Land Management or the Forest Service with affected State agencies, private land owners, and Federal land users; and

(B) may include, but is not limited to practices that provide for conservation, resource protection, resource enhancement or integrated management of multiple-use resources.

(11) FEDERAL LAND.—The term "Federal land"—

(A) means land outside the State of Alaska that is owned by the United States and administered by—

(i) the Secretary of the Interior, acting through the Director of the Bureau of Land Management; or

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service; but

(B) does not include—

(i) land held in trust for the benefit of Indians; or

(ii) the National Grasslands as defined in section 203.

(12) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of the Federal land—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock;

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock; or

(C) in a national forest under section 19 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 88, chapter 97; 16 U.S.C. 5801), for the purposes of grazing livestock.

(13) GRAZING PREFERENCE.—The term "grazing preference" means the number of animal unit months of livestock grazing on Federal land as adjudicated or appropriated and attached to base property owned or controlled by a permittee or lessee.

(14) LAND BASE PROPERTY.—The term "land base property" means base property described in paragraph (7)(A).

(15) LAND USE PLAN.—The term "land use plan" means—

(A) with respect to Federal land administered by the Bureau of Land Management, one of the following developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)—

(i) a resource management plan; or

(ii) a management framework plan that is in effect pending completion of a resource management plan; and

(B) with respect to Federal land administered by the Forest Service, a land and resource management plan developed in accordance with section 6 of the Forest and Rangeland Resources Planning Act of 1974 (16 U.S.C. 1604).

(16) LIVESTOCK CARRYING CAPACITY.—The term "livestock carrying capacity" means the maximum sustainable stocking rate that is possible without inducing long-term damage to vegetation or related resources.

(17) MONITORING.—The term "monitoring" means the orderly collection of data using scientifically-based techniques to determine trend and condition of rangeland resources. Data may include historical information, but must be sufficiently reliable to evaluate—

(A) effects of ecological changes and management actions; and

(B) effectiveness of actions in meeting management objectives.

(18) RANGE IMPROVEMENT.—The term "range improvement"—

(A) means an authorized activity or program on or relating to rangeland that is designed to—

(i) improve production of forage;

(ii) change vegetative composition;

(iii) control patterns of use;

(iv) provide water;

(v) stabilize soil and water conditions; or

(vi) provide habitat for livestock, wild horses and burros, and wildlife; and

(B) includes structures, treatment projects, and use of mechanical means to accomplish the goals described in subparagraph (A).

(19) RANGELAND STUDY.—The term "rangeland study" means a documented study or analysis of data obtained on actual use, utilization, climatic conditions, other special events, production trend, and resource condition and trend to determine whether management objectives are being met, that—

(A) relies on the examination of physical measurements of range attributes and not on cursory visual scanning of land, unless the condition to be assessed is patently obvious and requires no physical measurements;

(B) utilizes a scientifically based and verifiable methodology; and

(C) is accepted by an authorized officer.

(20) SECRETARY; SECRETARIES.—The terms "Secretary" or "Secretaries" mean—

(A) the Secretary of the Interior, in reference to livestock grazing on Federal land administered by the Director of the Bureau of Land Management; and

(B) the Secretary of Agriculture, in reference to livestock grazing on Federal land administered by the Chief of the Forest Service or the National Grasslands referred to in title II.

(21) SUBLEASE.—The term "sublease" means an agreement by a permittee or lessee that—

(A) allows a person other than the permittee or lessee to graze livestock on Federal land without controlling the base property supporting the grazing permit or lease; or

(B) allows grazing on Federal land by livestock not owned or controlled by the permittee or lessee.

(22) SUSPEND; SUSPENSION.—The terms "suspend" and "suspension" refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(23) UTILIZATION.—The term "utilization" means the percentage of a year's forage production consumed or destroyed by herbivores.

(24) WATER BASE PROPERTY.—The term "water base property" means base property described in paragraph (7)(B).

SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.

(a) STANDARDS AND GUIDELINES.—The Secretary shall establish standards and guidelines for addressing resource condition and trend on a State or regional level in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State. Standards and guidelines developed pursuant to this subsection shall be consistent with the objectives provided in section 103 and incorporated, by operation of law, into the applicable land use plan to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) COORDINATED RESOURCE MANAGEMENT.—The Secretary shall, where appropriate, authorize and encourage the use of coordinated resource management practices. Coordinated resource management practices shall be—

(1) scientifically based;

(2) consistent with goals and management objectives of the applicable land use plan;

(3) for the purposes of promoting good stewardship and conservation of multiple-use rangeland resources; and

(4) authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees in a specified geographic area. Notwithstanding the mandatory qualifications required to obtain a grazing permit or lease by this or any other act, such agreement may include other individuals, organizations, or Federal land users.

(c) COORDINATION OF FEDERAL AGENCIES.—Where coordinated resource management involves private land, State land, and Federal land managed by the Bureau of Land Management or the Forest Service, the Secretaries are hereby authorized and directed to enter into cooperative agreements to coordinate the associated activities of—

(1) the Bureau of Land Management;

(2) the Forest Service; and

(3) the Natural Resources Conservation Service.

(d) Rule of Construction.—Nothing in this title or any other law implies that a minimum national standard or guideline is necessary.

SEC. 106. LAND USE PLANS.

(a) Principle of Multiple Use and Sustained Yield.—An authorized officer shall manage livestock grazing on Federal land under the principles of multiple use and sustained yield and in accordance with applicable land use plans.

(b) Contents of Land Use Plan.—With respect to grazing administration, a land use plan shall—

(1) consider the impacts of all multiple uses, including livestock and wildlife grazing, on the environment and condition of public rangelands, and the contributions of these uses to the management, maintenance and improvement of such rangelands;

(2) establish available animal unit months for grazing use, related levels of allowable grazing use, resource condition goals, and management objectives for the Federal land covered by the plan; and

(3) set forth programs and general management practices needed to achieve the purposes of this title.

(c) Application of NEPA.—Land use plans and amendments thereto shall be developed in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) Conformance With Land Use Plan.—Livestock grazing activities, management actions and decisions approved by the authorized officer, including the issuance, renewal, or transfer of grazing permits or leases, shall not constitute major Federal actions requiring consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to that which is necessary to support the land use plan, and amendments thereto.

(e) Nothing in this section is intended to override the planning and public involvement processes of any other Federal law pertaining to Federal lands.

SEC. 107. REVIEW OF RESOURCE CONDITION.

(a) Upon the issuance, renewal, or transfer of a grazing permit or lease, and at least once every six (6) years, the Secretary shall review all available monitoring data for the affected allotment. If the Secretary's review indicates that the resource condition is not meeting management objectives, then the Secretary shall prepare a brief summary report which—

(1) evaluates the monitoring data;

(2) identifies the unsatisfactory resource conditions and the use or management activities contributing to such conditions; and

(3) makes recommendations for any modifications to management activities, or permit or lease terms and conditions necessary to meet management objectives.

(b) The Secretary shall make copies of the summary report available to the permittee or lessee, and affected interests, and shall allow for a 30-day comment period to coincide with the 30-day time period provided in section 155. At the end of such comment period, the Secretary shall review all comments, and as the Secretary deems necessary, modify management activities, and pursuant to section 134, the permit or lease terms and conditions.

(c) If the Secretary determines that available monitoring data are insufficient to make recommendations pursuant to subsection (a)(3), the Secretary shall establish a reasonable schedule to gather sufficient data pursuant to section 123. Insufficient monitoring data shall not be grounds for the Secretary to refuse to issue, renew or transfer a grazing permit or lease, or to terminate or modify the terms and conditions of an existing grazing permit or lease.

Subtitle B Qualifications and Grazing Preferences

SEC. 111. SPECIFYING GRAZING PREFERENCE.

(a) In General.—A grazing permit or lease shall specify—

(1) a historical grazing preference;

(2) active use, based on the amount of forage available for livestock grazing established in the land use plan;

(3) suspended use; and

(4) voluntary and temporary nonuse.

(b) Attachment of Grazing Preference.—A grazing preference identified in a grazing permit or lease shall attach to the base property supporting the grazing permit or lease.

(c) Attachment of Animal Unit Months.—The animal unit months of a grazing preference shall attach to—

(1) the acreage of land base property on a pro rata basis; or

(2) water base property on the basis of livestock forage production within the service area of the water.

Subtitle C Grazing Management

SEC. 121. ALLOTMENT MANAGEMENT PLANS.

If the Secretary elects to develop or revise an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved, the grazing advisory councils established pursuant to section 162, and any State or States having lands within the area to be covered by such allotment management plan. The Secretary shall provide for public participation in the development or revision of an allotment management plan as provided in section 155.

SEC. 122. RANGE IMPROVEMENTS.

(a) Range Improvement Cooperative Agreements.—

(1) In general.—The Secretary may enter into a cooperative agreement with a permittee or lessee for the construction, installation, modification, removal, or use of a permanent range improvement or development of a rangeland to achieve a management or resource condition objective.

(2) Cost-sharing.—A range improvement cooperative agreement shall specify how the costs of labor, or both, shall be shared between the United States and the other parties to the agreement.

(3) Title.—

(A) In general.—Subject to valid existing rights, title to an authorized structural range improvement under a range improvement cooperative agreement shall be shared by the cooperator(s) and the United States in proportion to the value of the contributions (funding, material, and labor) toward the initial cost of construction.

(B) Value of federal land.—For the purpose of subparagraph (A), only a contribution to the construction, installation, or modification of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(4) Nonstructural range improvements.—A range improvement cooperative agreement shall ensure that the respective parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) Incentives.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) Range Improvement Permits.—

(1) Application.—A permittee or lessee may apply for a range improvement permit to construct, install, modify, maintain, or use a range improvement that is needed to achieve management objectives within the permittee's or lessee's allotment.

(2) Funding.—A permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance of a range improvement covered by a range improvement permit.

(3) Authorized officer to issue.—A range improvement permit shall be issued at the discretion of the authorized officer.

(4) Title.—Title to an authorized permanent range improvement under a range improvement permit shall be in the name of the permittee or lessee.

(5) Control.—The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the permittee or lessee holding a range improvement permit.

(c) Assignment of Range Improvements.—An authorized officer shall not approve the transfer of a grazing preference, or approve use by the transferee of existing range improvements unless the transferee has agreed to compensate the transferor for the transferor's interest in the authorized permanent improvements within the allotment as of the date of the transfer.

SEC. 123. MONITORING AND INSPECTION.

(a) Monitoring.—Monitoring of resource condition and trend of Federal land on an allotment shall be performed by qualified persons approved by the Secretary, including but not limited to Federal, State, or local government personnel, consultants, and grazing permittees or lessees.

(b) Inspection.—Inspection of a grazing allotment shall be performed by qualified Federal, State or local agency personnel, or qualified consultants retained by the United States.

(c) Monitoring Criteria and Protocols.—Rangeland monitoring shall be conducted according to regional or State criteria and protocols that are scientifically based. Criteria and protocols shall be developed by the Secretary in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture or other appropriate State agencies, and academic institutions in each interested States.

(d) Oversight.—The authorized officer shall provide sufficient oversight to ensure that all monitoring is conducted in accordance with criteria and protocols established pursuant to subsection (c).

(e) Notice.—In conducting monitoring activities, the Secretary shall provide reasonable notice of such activities to permittees or lessees, including prior notice to the extent practicable of not less than 48 hours. Prior notice shall not be required for the purposes of inspections, if the authorized officer has substantial grounds to believe that a violation of this or any other act is occurring on the allotment.

SEC. 124. WATER RIGHTS.

(a) In General.—No water rights on Federal land shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing management other than in accordance with State law concerning the use and appropriation of water within the State.

(b) State Law.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water right ownership and appropriation.

(c) Authorized Use or Transport.—The Secretary cannot require permittees or lessees to transfer or relinquish all or a portion of their water right to another party, including but not limited to the United States, as a condition to granting a grazing permit or lease, range improvement cooperative agreement or range improvement permit.

(d) Rule of Construction.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

(e) Valid Existing Rights.—Nothing in this act shall affect valid existing water rights.

Subtitle D Authorized Grazing Use

SEC. 131. GRAZING PERMITS OR LEASES.

(a) Terms.—A grazing permit or lease shall be issued for a term of 12 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 12 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation, and a shorter term is determined to be necessary, based upon monitoring information, to achieve resource condition goals and management objectives.

(b) Renewal.—A permittee or lessee holding a grazing permit or lease shall be given first priority at the end of the term for renewal of the grazing permit or lease if—

(1) the land for which the grazing permit or lease is issued remains available for domestic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or lease.

SEC. 132. SUBLEASING.

(a) In General.—The Secretary shall only authorize subleasing of a Federal grazing permit or lease, in whole or in part—

(1) if the permittee or lessee is unable to make full grazing use due to ill health or death; or

(2) under a cooperative agreement with a grazing permittee or lessees (or group of grazing permittees or lessees), pursuant to section 105(b).

(b) Consideration.—

(1) Livestock owned by a spouse, child, or grandchild of a permittee or lessee shall be considered as owned by the permittee or lessee for the sole purposes of this title.

(2) Leasing or subleasing of base property, in whole or in part, shall not be considered as subleasing of a Federal grazing permit or lease: *Provided*, That the grazing preference associated with such base property is transferred to the person controlling the leased or subleased base property.

SEC. 133. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(a) In General.—A permittee or lessee shall own or control and be responsible for the management of the livestock that graze the Federal land under a grazing permit or lease.

(b) Marking or Tagging.—An authorized officer shall not impose any marking or tagging requirement in addition to the requirement under State law.

SEC. 134. TERMS AND CONDITIONS.

(a) In General.—

(1) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use (stated in animal unit months) in a grazing permit or lease.

(2) A grazing permit or lease shall be subject to such other reasonable terms or conditions as may be necessary to achieve the objectives of this title, and as contained in an approved allotment management plan.

(3) No term or condition of a grazing permit or lease shall be imposed pertaining to past practice or present willingness of an applicant, permittee or lessee to relinquish control of public access to Federal land across private land.

(4) A grazing permit or lease shall reflect such standards and guidelines developed pursuant to section 105 as are appropriate to the permit or lease.

(b) Modification.—Following careful and considered consultation, cooperation, and coordination with permittees and lessees, an authorized officer shall modify the terms and conditions of a grazing permit or lease if monitoring data show that the grazing use is not meeting the management objectives established in a land use plan or allotment management plan, and if modification of such terms and conditions is necessary to meet specific management objectives.

SEC. 135. FEES AND CHARGES.

(a) Grazing Fees.—The fee for each animal unit month in a grazing fee year to be determined by the Secretary shall be equal to the three-year average of the total gross value of production for beef cattle for the three years preceding the grazing fee year, multiplied by the 10-year average of the United States Treasury Securities 6-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) Definition of Animal Unit Month.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or lease.

(c) Livestock Not Counted.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

(d) Other Fees and Charges.—

(1) Crossing Permits, Transfers, and Billing Notices.—A service charge shall be assessed for each crossing permit, transfer of grazing preference and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) Amount of FLPMA Fees and Charges.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) Notice of Change.—Notice of a change in a service charge shall be published in the Federal Register.

(e) Criteria for ERS.—

(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as is currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary of the Interior and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 136. USE OF STATE SHARE OF GRAZING FEES.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(2) at the end of subsection (a), by striking ";" and inserting ": *Provided further*, that no such moneys shall be expended for litigation purposes;";

(3) in subsection (b), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(4) at the end of subsection (b), by striking "." and inserting ": *Provided further*, That no such moneys shall be expended for litigation purposes.".

Subtitle E Unauthorized Grazing Use

SEC. 141. NONMONETARY SETTLEMENT.

An authorized officer may approve a nonmonetary settlement of a case of a violation described in section 141 if the authorized officer determines that each of the following conditions is satisfied:

(1) No Fault.—Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

(2) Insignificance.—The forage use is insignificant.

(3) No Damage.—Federal land has not been damaged.

(4) Best Interests.—Nonmonetary settlement is in the best interests of the United States.

SEC. 142. IMPOUNDMENT AND SALE.

Any impoundment and sale of unauthorized livestock on Federal land shall be conducted in accordance with State law.

Subtitle F Procedure

SEC. 151. PROPOSED DECISIONS.

(a) Service on Applicants, Permittees, Lessees, and Lienholders.—The authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee, lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienholder) that is affected by—

(1) a proposed action on an application for a grazing permit or lease, or range improvement permit; or

(2) a proposed action relating to a term or condition of a grazing permit or lease, or a range improvement permit.

(b) Notification of Affected Interests.—The authorized officer shall send copies of a proposed decision to affected interests.

(c) CONTENTS.—A proposed decision described in subsection (a) shall—

(1) state reasons for the action, including reference to applicable law (including regulations); and

(2) be based upon, and supported by rangeland studies, where appropriate, and;

(3) state that any protest to the proposed decision must be filed not later than 30 days after service.

SEC. 152. PROTESTS.

An applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.

SEC. 153. FINAL DECISIONS.

(a) NO PROTEST.—In the absence of a timely filed protest, a proposed decision described in section 151(a) shall become the final decision of the authorized officer without further notice.

(b) RECONSIDERATION.—If a protest is timely filed, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case.

(c) SERVICE AND NOTIFICATION.—After reviewing the protest, the authorized officer shall serve a final decision on the parties to the proceeding, and notify affected interests of the final decision.

SEC. 154. APPEALS.

(a) IN GENERAL.—Any person whose interest is adversely affected by a final decision of an authorized officer, within the meaning of 52 U.S.C. 702, may appeal the decision within 30 days after the receipt of the decision, or within 60 days after the receipt of a proposed decision if further notice of a final decision is not required under this title, pursuant to applicable laws and regulations governing the administrative appeals process of the agency serving the decision. Being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.

(b) SUSPENSION PENDING APPEAL.—

(1) IN GENERAL.—An appeal of a final decision shall suspend the effect of the decision pending final action on the appeal unless the decision is made effective pending appeal under paragraph (2).

(2) EFFECTIVENESS PENDING APPEAL.—The authorized officer may place a final decision in full force and effect in an emergency to stop resource deterioration or economic distress, if the authorized officer has substantial grounds to believe that resource deterioration or economic distress is imminent. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

(c) In the case of an appeal under this section, the authorized officer shall, within 30 days of receipt, forward the appeal, all documents and information submitted by the applicant, permittee, lessee, or lienholder, and any pertinent information that would be useful in the rendering of a decision on such appeal, to the appropriate authority responsible for issuing the final decision on the appeal.

SEC. 155. PUBLIC PARTICIPATION AND CONSULTATION.

(a) GENERAL PUBLIC.—The Secretary shall provide for public participation, including a reasonable opportunity to comment, on—

(1) land use plans and amendments thereto; and,

(2) development of standards and guidelines to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) AFFECTED INTERESTS.—At least 30 days prior to the issuance of a final decision, the Secretary shall notify affected interests of such proposed decision, and provide a reasonable opportunity for comment and informal consultation regarding the proposed decision within such 30-day period, for—

(1) the designation or modification of allotment boundaries;

(2) the development, revision, or termination of allotment management plans;

(3) the increase or decrease of permitted use;

(4) the issuance, renewal, or transfer of grazing permits or leases;

(5) the modification of terms and conditions of permits or leases;

(6) reports evaluating monitoring data for a permit or lease; and

(7) the issuance of temporary non-renewable use permits.

Subtitle G Advisory Committees

SEC. 161. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Governors of the affected States, shall establish and operate joint Resource Advisory Councils on a State or regional level to provide advice on management issues for all lands administered by the Bureau of Land Management and the Forest Service within such State or regional area, except where the Secretaries determine that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretaries and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area; and on

(2) major management decisions while working within the broad management objectives established for the district or national forest.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Resource Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may, by majority vote of its members, request that the Secretaries respond directly to the Resource Advisory Council's concerns within 60 days after the Secretaries receive the request.

(2) EFFECT OF RESPONSE.—The response of the Secretaries to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—

(1) The Secretaries, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than nine members and not more than fifteen members.

(2) In appointing members to a Resource Advisory Council, the Secretaries shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretaries shall appoint at least one elected official of general purpose government serving the people of the area of each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(e) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretaries to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 162. GRAZING ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Governor of the affected State and with affected counties, shall appoint not fewer than five nor more than nine persons to serve on a Grazing Advisory Council for each district and each national forest within the 16 contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing. The Secretaries may establish joint Grazing Advisory Councils wherever practicable.

(b) DUTIES.—The duties of Grazing Advisory Councils established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands, including—

(1) range improvement objectives;

(2) the expenditure of range improvement or betterment funds under the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.) or the Taylor Grazing Act (43 U.S.C. 315 et seq.);

(3) developing and implementation of grazing management programs; and

(4) range management decisions and actions at the allotment level.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Grazing Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Grazing Advisory Council may, by unanimous vote of its members, request that the Secretary respond directly to the Grazing Advisory Council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—The members of a Grazing Advisory Council established pursuant to this section shall represent permittees, lessees, affected landowners, social and economic interests within the district or national forest, and elected State or county officers. All members shall have a demonstrated knowledge of grazing management and range improvement practices appropriate for the region, and shall be residents of a community within or adjacent to the district or national forest, or control a permit or lease within the same area. Members shall be appointed by the Secretary for a term of two years, and may be appointed for additional consecutive terms. The membership of Grazing Advisory Councils shall be equally divided between permittees or lessees, and other interests: *Provided*, That one elected State or county officer representing the people of an area within the district or national forest shall be appointed to create an odd number of members: *Provided further*, That permittees or lessees appointed as members of each Grazing Advisory Council shall be recommended to the Secretary by the permittees and lessees of the district or national forest through an election conducted under rules and regulations prescribed by the Secretary.

(e) Federal Advisory Committee Act.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Grazing Advisory Councils established pursuant to this section.

SEC. 163. GENERAL PROVISIONS.

(a) Definition of District.—For the purposes of this subtitle, the term "district" means—

(1) a grazing district administered under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b); or

(2) other lands within a State boundary which are eligible for grazing pursuant to section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315m).

(b) Termination of Service.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which appointed;

(B) fails or is unable to participate regularly in committee work; or

(C) has violated Federal law (including a regulations); or

(2) in the judgment of the Secretary, termination is in the public interest.

(c) Compensation and Reimbursement of Expenses.—A member of an advisory committee established under sections 161 and 162 shall not receive any compensation in connection with the performance of the member's duties as a member of the advisory committee, but shall be reimbursed for travel and per diem expenses only while on official business, as authorized by 5 U.S.C. 5703.

SEC. 164. CONFORMING AMENDMENT AND REPEAL.

(a) Amendment.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking "district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)" and inserting "Resource Advisory Councils and Grazing Advisory Councils established under section 161 and section 162 of the Public Rangelands Management Act of 1995".

(b) Repeal.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

Subtitle H Reports

SEC. 171. REPORTS.

(a) In General.—Not later than March 1, 1997, and annually thereafter, the Secretaries shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) Itemization.—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretaries shall indicate with specificity the costs associated with implementation of each such statute.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1995".

SEC. 202. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) Purpose.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012),".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) In General.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) Consultation.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local government entities, and other interested individuals and organizations in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) Grazing Activities.—In furtherance of the purposes of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) Regulations.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010). Such regulations shall facilitate the efficient administration of grazing and provide protection for the environment, wildlife, wildlife habitat, and Federal lands equivalent to that on the National Grasslands on the day prior to the date of enactment of this Act.

(e) Conforming Amendment to Bankhead-Jones Act.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety and welfare, but not to build industrial parks or commercial enterprises.".

(f) Hunting Fishing, and Recreational Activities.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) Valid Existing Rights.—

(1) In General.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96–487 shall continue to apply to nonfederal land and interests therein within the boundaries of the National Grasslands.

(2) Interim Use and Occupancy.—

(A) Until such time as regulations concerning the use and occupancy of the National Grasslands are promulgated pursuant to this title, the Secretary shall regulate the use and occupancy of such lands in accordance with regulations to such lands on May 25, 1995, to the extent practicable and consistent with the provisions of this Act.

(B) Any applications for National Grasslands use and occupancy authorizations submitted prior to the date of enactment of this Act, shall continue to be processed without interruption and without reinitiating any processing activity already completed or begun prior to such date.

SEC. 206. FEES AND CHARGES.

Fees and charges for grazing on the National Grasslands shall be determined in accordance with section 135, except that the Secretary may adjust the amount of a grazing fee to compensate for approved conservation practices expenditures.•

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS—MOTION TO PROCEED

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on Wednesday, March 20, at a time to be determined by the two leaders and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the product liability conference report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

CLOTURE MOTION

Mr. LOTT. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 956, the Product Liability Fairness Act:

Slade Gorton, Trent Lott, Hank Brown, Chuck Grassley, Craig Thomas, Larry E. Craig, Frank H. Murkowski, Nancy L. Kassebaum, Mark Hatfield, Larry Pressler, Bob Smith, Jon Kyl, John H. Chafee, Conrad Burns, Pete V. Domenici, John McCain.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Wednesday, March 20, unless invoked on Tuesday of this week.

ORDERS FOR TUESDAY, MARCH 19, 1996

Mr. LOTT. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Tuesday, March 19; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and that the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the omnibus appropriations bill, under the previous order. There will be 3 hours of debate on the abortion issue, to be followed by debate on the Murkowski amendment No. 3525.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will debate amendments relative to the abortion issue under the unanimous-consent agreement in place with respect to the omnibus appropriations bill on Tuesday morning. There will be no rollcall votes on Tuesday morning. However, a series of votes will occur beginning at 2:15 p.m. on amendments to the appropriations bill, a cloture vote relative to the Whitewater Special Committee, passage of the small business regulatory reform bill, and cloture on the product liability conference report.

ADJOURNMENT UNTIL 9 A.M., TOMORROW

Mr. LOTT. If there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Tuesday, March 19, 1996, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 18, 1996:

DEPARTMENT OF STATE

CHRISTOPHER ROBERT HILL, OF RHODE ISLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA.

DANE FARNSWORTH SMITH, JR., OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL.

GEORGE F. WARD, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAMIBIA.

SHARON P. WILKINSON, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BURKINA FASO.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

ALFRED THOMAS CLARK, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

MAHLON ATKINSON BARASH, OF VIRGINIA
DONALD ALLEN DRGA, OF TEXAS
RICHARD JAY GOLD, OF VIRGINIA

DEPARTMENT OF STATE

BARBARA S. AYCOCK, OF THE DISTRICT OF COLUMBIA
DANA M. WEANT, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHRISTINE ADAMCZYK, OF MICHIGAN
SYED A. ALI, OF FLORIDA
TODD HANSON AMANI, OF MARYLAND
R. DOUGLASS ARBUCKLE, OF FLORIDA
DAVID CHAPMANN ATTEBERRY, OF TEXAS
E. JED BARTON, OF NEVADA
BARBARA L. BELDING, OF CALIFORNIA
SCOTT H. BELLOWS, OF SOUTH CAROLINA
ALEKSANDRA ELIZABETH BRAGINSKI, OF THE DISTRICT OF COLUMBIA
ROBERT F. CUNNANE, OF WASHINGTON
THOMAS R. DELANEY, OF PENNSYLVANIA
THOMAS A. EGAN, OF WASHINGTON
BRANDEN W. ENROTH, OF DELAWARE
THEODORE VICTOR GEHR, OF OREGON
LAWRENCE HARDY II, OF WASHINGTON
LAURA ANNE KEARNS, OF GEORGIA
CAROL BRUCE KIRANBAY, OF VIRGINIA
CHARLES G. KNIGHT, OF VIRGINIA
CHARLES ERIC NORTH, OF MARYLAND
PATRICIA O'CONNOR, PH.D., OF FLORIDA
TIMOTHY WARD O'CONNOR, OF CALIFORNIA
BETH S. PAIGE, OF TEXAS
ANDREW WILLIAM PLITT, OF TEXAS
MARK M. POWDERMAKER, OF WASHINGTON
ALAN I. REED, OF WASHINGTON
WILLIAM EARL REYNOLDS, OF MONTANA
SCOTT M. TAYLOR, OF CALIFORNIA
JILL JACQUELINE THOMPSON, OF TEXAS

DEPARTMENT OF AGRICULTURE

MARGARET M. BAUER, OF VIRGINIA
MICHAEL L. CONLON, OF MICHIGAN
CATHERINE M. SLOOP, OF WASHINGTON
MARGARET E. THURSLAND, OF VIRGINIA
DENNIS B. VOBORIL, OF KANSAS
DAVID J. WILLIAMS, OF WEST VIRGINIA

DEPARTMENT OF STATE

KEVIN BLACKSTONE, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOANI M. DONG, OF CALIFORNIA
HOA V. HUYNH, OF OREGON
EMIKO M. PURDY, OF PENNSYLVANIA

DEPARTMENT OF STATE

JULIE DEIDRA ADAMS, OF MARYLAND
ANTOINETTE ROSE BOECKER, OF TEXAS
SCOTT DOUGLAS BOSWELL, OF NEW JERSEY
WILLIAM W. CHRISTOPHER, OF CALIFORNIA
JOHN CHARLES COE, OF FLORIDA
MARIKO DIETERICH, OF TEXAS
MARY DOETSCH, OF CALIFORNIA
PAMELA DUNHAM, OF OREGON
LARA SUZANNE FRIEDMAN, OF ARIZONA
PAUL F. FRITCH, JR., OF WYOMING
PETER G. HANCON, OF ILLINOIS
JOHN DAVID HAYNES, OF COLORADO
MICHAEL G. HEATH, OF CALIFORNIA
CAMILLE DIANE HILL, OF CALIFORNIA
ANDREW P. HOGENBOOM, OF NEW YORK
SHERRI ANN HOLLIDAY, OF KANSAS
RANDALL WARREN HOUSTON, OF CALIFORNIA
BRUCE K. HUDSPETH, OF VIRGINIA
LISA ANNE JOHNSON, OF VIRGINIA
MICHAEL ROBERT KELLER, OF FLORIDA
PATRICIA KATHLEEN KELLER, OF VIRGINIA
GEORGE P. KENT, OF VIRGINIA
PHILIP G. LAIDLAW, OF FLORIDA
SHERRIE L. MARAFINO, OF PENNSYLVANIA
RAYMOND D. MAXWELL, OF NORTH CAROLINA
KATHLEEN A. MORENSKI, OF VIRGINIA
ANDREW LEONARD MORRISON, OF ARKANSAS
JONATHAN EDWARD MUDGE, OF CALIFORNIA
TULINABO SALAMA MUSHINGI, OF VIRGINIA
DAVID REIMER, OF VIRGINIA
MADELINE QUINN SEIDENSTRICKER, OF FLORIDA
ELLEN BARBARA THORBURN, OF MICHIGAN
HALE COLBURN VAN KOUGHNETT, OF TEXAS
WENDY FLEMING WHEELER, OF WASHINGTON
WILLIAM RANDALL WISELL, OF VERMONT
DIANA ELIZABETH WOOD, OF WASHINGTON

UNITED STATES INFORMATION AGENCY

ANGELA DELPHINITA WILLIAMS, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF AGRICULTURE, COMMERCE, AND STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DANIEL K. ACTON, OF VIRGINIA
MEA ARNOLD, OF VIRGINIA
VAUGHN FREDERICK BISHOP, OF VIRGINIA
JOHN P. BOOHER, OF VIRGINIA
LEA ANN BOOHER, OF VIRGINIA
J. ALEX BOSTON, OF MARYLAND
BRETT J. BRENNEKE, OF ILLINOIS
JOHN G. BUCHANAN III, OF VIRGINIA
PAUL DAVID BURKHEAD, OF NORTH CAROLINA
RICHARD K. CHOATE, OF VIRGINIA
BART D. COBBS, OF ARKANSAS
MICHELE ONDAKO CONNELL, OF OHIO
CAROLYN CREATORE, OF DELAWARE
JULIE SADTLER DAVIS, OF GEORGIA
PAUL GRADY DEGLER, OF TEXAS
CECELIA DARLENE DYSON, OF VIRGINIA
CRAIG E. FARMER, OF VIRGINIA
ALEXANDER G. FELIU, OF VIRGINIA
JOHN H. FORT, OF VIRGINIA
ELLEN JACQUELINE GERMAIN, OF NEW YORK
GARY J. GLUECKERT, OF VIRGINIA
JACQUES LEROY GUDE, OF VIRGINIA
CERESA L. HANEY, OF VIRGINIA
TODD C. HOLMSTROM, OF MICHIGAN
WILLIAM M. HOWE, OF ALASKA
BRYAN DAVID HUNT, OF VIRGINIA
KIM DECOUX INVERGO, OF VIRGINIA
HENRY VICTOR JARDINE, OF VIRGINIA
AMER KAYANI, OF CALIFORNIA
LUCILLE L. KIRK, OF THE DISTRICT OF COLUMBIA
DAVID ALLAN KATZ, OF CALIFORNIA
JOSEPH R. KUZEL, OF VIRGINIA
MITCHELL G. LARSEN, OF ILLINOIS
RAYMOND R. LAU, OF VIRGINIA
MARY E. LENZE-ACTON, OF VIRGINIA
LOUIS F. LICHT III, OF MARYLAND
SHARON E. LITTLE, OF VIRGINIA
JAMES L. LOI, OF CONNECTICUT
GWEN LYLE, OF TEXAS
VALARIE LYNN, OF COLORADO
JACKSON A. MAC FARLANE, OF VIRGINIA
JOSEPH A. MALPELI, OF VIRGINIA
ILEANA M. MARTINEZ, OF PENNSYLVANIA
LUIS E. MATOS, OF VIRGINIA
MANUEL P. MICALLER, JR., OF CALIFORNIA
KATHERINE ELIZABETH MONAHAN, OF CALIFORNIA
CARRIE L. NEWTON, OF VIRGINIA
GEOFFREY PETER NYHART, OF FLORIDA
JOHN RAYMOND O'DONNELL, OF VIRGINIA
PAMELA I. PENFOLD, OF VIRGINIA
DANIEL W. PETERS, OF ILLINOIS
JULIA M. RAUNER-GUERRERO, OF VIRGINIA
JACQUELINE REID, OF VIRGINIA
HARVY PETER REINER, OF CALIFORNIA
MIGUEL ANGEL RODRIQUEZ, OF MARYLAND
JULIO RYAN ROYAL, OF VIRGINIA
STEPHEN D. SACK, OF VIRGINIA
KAREN MARIE SCHAEFER, OF VIRGINIA
JAMES STEVEN SCHNEIDER, OF VIRGINIA
LORI A. SHOEMAKER, OF TENNESSEE
ZORA VALERIE SHUCK, OF VIRGINIA
MICHELE MARIE SIDERS, OF THE DISTRICT OF COLUMBIA
ROBERT J. SWANEY, OF VIRGINIA
MARILYN J. TAYLOR, OF TEXAS
W. GARTH THORNBURN II, OF VIRGINIA
SHAWN KRISTEN THORNE, OF TEXAS
BRYN W. TIPPMAN, OF CALIFORNIA
MICHAEL CARL TRULSON, OF CALIFORNIA
JANE S. UPSHAW, OF VIRGINIA
GRAHAM WEBSTER, OF FLORIDA
KERESA M. WEBSTER, OF VIRGINIA
BRUCE C. WILSON, OF CALIFORNIA
ANDREA L. WINANS, OF VIRGINIA
KEVIN L. WINSTEAD, OF VIRGINIA
DAVID JONATHAN WOLFF, OF FLORIDA

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 19, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 20

9:00 a.m.

Conferees on H.R. 2854, to modify the operation of certain agricultural programs.
SR-332

9:30 a.m.

Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Department of Defense space programs and issues.
SD-562

Armed Services
Acquisition and Technology Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense plan, focusing on technology base programs.
SR-232A

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD-342

Labor and Human Resources
Business meeting, to mark up S. 1578, Individuals With Disabilities Education Act, H.R. 849, Age Discrimination in Employment Amendments, and proposed legislation authorizing funds for the Older Americans Act.
SD-430

Rules and Administration
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for the Congressional Research Service.
SR-301

10:00 a.m.

Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on the ballistic missile defense program.
SD-192

Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for foreign assistance programs.
SD-138

Armed Services
Personnel Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense and the future years defense plan, focusing on manpower, personnel, and compensation programs.
SR-222

Budget
To hold hearings on the President's fiscal year 1997 budget proposals.
SD-608

Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine foreign policy implications of a balanced budget.
SD-419

Veterans' Affairs
To resume hearings to examine the reform of health care priorities.
SR-418

2:00 p.m.

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1077, to authorize research, development, and demonstration of hydrogen as an energy carrier, S. 1153, to authorize research, development, and demonstration of hydrogen as an energy carrier, and a demonstration-commercialization project which produces hydrogen as an energy source produced from solid and complex waste for onsite use fuel cells, and H.R. 655, to authorize the hydrogen research, development, and demonstration programs of the Department of Energy.
SD-366

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine economic developments in the West Bank and Gaza.
SD-419

Judiciary
Business meeting, to resume markup of S. 269 and S. 1394, bills to reform the immigration system.
SH-216

MARCH 21

9:00 a.m.

Governmental Affairs
To hold hearings on proposed legislation to enforce the Tenth Amendment.
SD-342

Labor and Human Resources
Business meeting, to mark up S. 1477, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products.
SD-106

Conferees on H.R. 2854, to modify the operation of certain agricultural programs.
SR-332

9:30 a.m.

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for Army and Navy military construction programs.
SD-192

Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 305, to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, H.R. 1091, to improve the National Park System in the Commonwealth of Virginia, S. 1225, to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the upper Hudson River Valley, including the Lake George area, S. 1226, to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, and to establish an American Battlefield Protection Program, and S.J. Res. 42, designating the Civil War Center at Louisiana State University as the United States Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War.
SD-366

10:00 a.m.

Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands.
SR-222

Foreign Relations
To resume hearings on the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature and signed by the United States at Paris on January 13, 1993 (Treaty Doc. 103-21).
SD-419

Judiciary
Business meeting, to continue markup of S. 269 and S. 1394, bills to reform the immigration system.
SH-216

10:30 a.m.

Small Business
To hold hearings on HUB Zones: Revitalizing inner cities and rural America.
SR-428A

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2:00 p.m.
Armed Services
SeaPower Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Department of the Navy shipbuilding programs.
SR-222

Energy and Natural Resources
To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively.
SD-366

2:30 p.m.
Armed Services
Readiness Subcommittee
To hold hearings on the readiness of the Guard and Reserve to support the National Military Strategy.
SR-232A

MARCH 22

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD-342

10:00 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program.
SR-232A

Banking, Housing, and Urban Affairs
Hud Oversight and Structure Subcommittee
To hold hearings on the implementation of the 1992 Federal Housing Enterprises Safety and Soundness Act as it affects Fannie Mae and Freddie Mac.
SD-538

Judiciary
Business meeting, to continue markup of S. 269 and S. 1394, bills to reform the immigration system.
SH-216

Joint Economic
To hold hearings to examine the state of the economy, focusing on whether it is the healthiest economy in three decades.
SD-106

MARCH 25

2:00 p.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Ballistic Missile Defense programs and issues.
SR-222

MARCH 26

10:00 a.m.
Judiciary
To hold hearings on S. 1284, to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD-106

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the proposed budget request for fiscal year 1997 for the National Aeronautics and Space Administration (NASA), and to examine recent developments in the Space Station program.
SR-253

MARCH 27

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine Spectrum's use and management.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD-342

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Rules and Administration
To hold hearings to review certain issues with regard to the Government Printing Office.
SR-301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

MARCH 28

9:00 a.m.
Indian Affairs
To hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
To resume oversight hearings on issues relating to competitive change in the electric power industry.
SR-325

APRIL 15

10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J. Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD-226

APRIL 17

9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR-301

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 18

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine Spectrum's use and management.
SR-253

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR-485

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR-301

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

POSTPONEMENTS

MARCH 19

2:30 p.m.
Environment and Public Works
To hold hearings to examine comparative risk assessment.
SD-406

SENATE—*Tuesday, March 19, 1996*

The Senate met at 9 a.m., and was called to order by the Honorable TED STEVENS, a Senator from the State of Alaska.

The PRESIDING OFFICER. We will now have a prayer from Father Paul E. Lavin from St. Joseph's Church on Capitol Hill.

PRAYER

The guest Chaplain, the Reverend Paul E. Lavin, offered the following prayer:

Let us join millions of our fellow citizens and millions of others in faith communities around the world who today honor the memory of Joseph, spouse of Mary, Foster father and faithful guardian of Jesus. We listen to the words of Scripture which he surely found a support in his life, from the Book of Wisdom (10:10–11).

Wisdom, when the just man was in flight, guided him in direct ways,
Showed him the Kingdom of God and gave him the knowledge of holy things;
She prospered him in his labors and made abundant the fruit of his works.

Let us pray:

Good and gracious God, give the men and women of this Senate and give their staffs the inspiration to listen carefully to Your word here, in their homes, and in their own faith communities; support them when they experience doubts and fears; and embolden them to live their lives in response to Your word, and ultimately to be obedient to Your word, as was Joseph. Guide these Senators by Your wisdom, support them by Your power, and keep them faithful to all that is true, glory and praise to You forever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 19, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TED STEVENS, a Senator from the State of Alaska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. STEVENS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. LOTT. This morning the Senate will immediately resume consideration of H.R. 3019, the omnibus appropriations bill. Under a previous order, there will be a total of 3 hours of controlled debate on the Boxer amendment No. 3508 and the Coats amendment No. 3513, both amendments regarding the subject of abortion. Following the expiration or yielding back of that time, the Senate will resume consideration of the Murkowski amendment No. 3525 regarding Greens Creek.

The Senate will stand in recess between the hours of 12:30 p.m., and 2:15 p.m., in order to accommodate the respective party luncheons. When the Senate reconvenes at 2:15 p.m., there is expected to be a series of rollcall votes on or in relation to amendments and passage of the omnibus appropriations bill, H.R. 3019. Senators are also reminded that at some point during today's session the Senate will be voting on the motion to invoke cloture on the motion to proceed to Senate Resolution 227 regarding authority for the Special Committee To Investigate the Whitewater Matter; passage of S. 942, the small business regulatory reform bill, and possibly a vote on the motion to invoke cloture on the product liability conference report unless a unanimous consent can be reached to the contrary.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BALANCED BUDGET DOWNPAYMENT ACT, II

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate H.R. 3019, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Hatfield modified amendment No. 3466, in the nature of a substitute.

Lautenberg amendment No. 3482 (to amendment No. 3466), to provide funding for programs necessary to maintain essential environmental protection.

Boxer-Murray amendment No. 3508 (to amendment No. 3466), to permit the District of Columbia to use local funds for certain activities.

Gorton amendment No. 3496 (to amendment No. 3466), to designate the "Jonathan M. Wainwright Memorial VA Medical Center", located in Walla Walla, Washington.

Simon amendment No. 3511 (to amendment No. 3466), to provide funding to carry out title VI of the National Literary Act of 1991, title VI of the Library Services and Construction Act, and section 109 of the Domestic Volunteer Service Act of 1973.

Coats amendment No. 3513 (to amendment No. 3466), to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions.

Bond (for Pressler) amendment No. 3514 (to amendment No. 3466), to provide funding for a Radar Satellite project at NASA.

Bond amendment No. 3515 (to amendment No. 3466), to clarify rent setting requirements of law regarding housing assisted under section 236 of the National Housing Act to limit rents charged moderate income families to that charged for comparable, non-assisted housing, and clarify permissible uses of rental income is such projects, in excess of operating costs and debt service.

Bond amendment No. 3516 (to amendment No. 3466), to increase in amount available under the HUD Drug Elimination Grant Program for drug elimination activities in and around federally-assisted low-income housing developments by $30 million, to be derived from carry-over HOPE program balances.

Bond amendment No. 3517 (to amendment No. 3466), to establish a special fund dedicated to enable the Department of Housing and Urban Development to meet crucial milestones in restructuring its administrative organization and more effectively address housing and community development needs of States and local units of government and to clarify and reaffirm provisions of current law with respect to the disbursement of HOME and CDBG funds allocated to the State of New York.

Santorum amendment No. 3484 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of federal disaster assistance.

Santorum amendment No. 3485 (to amendment No. 3466), expressing the Sense of the Senate regarding the budget treatment of Federal disaster assistance.

Santorum amendment No. 3486 (to amendment No. 3466), to require that disaster relief provided under this Act be funded through amounts previously made available to the Federal Emergency Management Agency, to be reimbursed through regular annual appropriations Acts.

Santorum amendment No. 3487 (to amendment No. 3466), to reduce all title I discretionary spending by the appropriate percentage (.367%) to offset Federal disaster assistance.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Santorum amendment No. 3488 (to amendment No. 3466), to reduce all title I "Salary and Expense" and "Administrative Expense" accounts by the appropriate percentage (3.5%) to offset Federal disaster assistance.

Gramm amendment No. 3519 (to amendment No. 3466), to make the availability of obligations and expenditures contingent upon the enactment of a subsequent act incorporating an agreement between the President and Congress relative to Federal expenditures.

Wellstone amendment No. 3520 (to amendment No. 3466), to urge the President to release already-appropriated fiscal year 1996 emergency funding for home heating and other energy assistance, and to express the sense of the Senate on advance-appropriated funding for fiscal year 1997.

Bond (for McCain) amendment No. 3521 (to amendment No. 3466), to require that disaster funds made available to certain agencies be allocated in accordance with the established prioritization processes of the agencies.

Bond (for McCain) amendment No. 3522 (to amendment No. 3466), to require the Secretary of Veterans Affairs to develop a plan for the allocation of health care resources of the Department of Veterans Affairs.

Warner amendment No. 3523 (to amendment No. 3466), to prohibit the District of Columbia from enforcing any rule or ordinance that would terminate taxicab service reciprocity agreements with the States of Virginia and Maryland.

Murkowski-Stevens amendment No. 3524 (to amendment No. 3466), to reconcile seafood inspection requirements for agricultural commodity programs with those in use for general public consumers.

Murkowski amendment No. 3525 (to amendment No. 3466), to provide for the approval of an exchange of lands within Admiralty Island National Monument.

Warner (for Thurmond) amendment No. 3526 (to amendment No. 3466), to delay the exercise of authority to enter into multiyear procurement contracts for C–17 aircraft.

Burns amendment No. 3528 (to amendment No. 3466), to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act.

Coats (for Dole-Lieberman) amendment No. 3531 (to amendment No. 3466), to provide for low-income scholarships in the District of Columbia.

Bond-Mikulski amendment No. 3533 (to amendment No. 3482), to increase appropriations for EPA water infrastructure financing, Superfund toxic waste site cleanups, operating programs, and to increase funding for the Corporation for National and Community Service (AmeriCorps).

Hatfield (for Burns) amendment No. 3551 (to amendment No. 3466), to divide the ninth judicial circuit of the United States into two circuits.

Burns amendment No. 3552 (to amendment No. 3551), to establish a Commission on restructuring the circuits of the United States Courts of Appeals.

AMENDMENT NO. 3513

The ACTING PRESIDENT pro tempore. Under the time agreement on these amendments, there is 1 hour now allocated to the Senator from Indiana [Mr. COATS]. The amendment is now before the Senate.

Mr. COATS. Mr. President, thank you.

Last week, as we were looking at potential amendments for this legislation, the issue of the potential discrimination that might exist regarding payments from the Federal Government to medical hospitals and to individual residents in training, loans, and other Federal assistance that is available for these individuals and these institutions, was threatened by potential loss of accreditation to these institutions as a result of the Accrediting Council on Graduate Medical Education's change in their requirements for accreditation to mandate the training in abortion techniques.

Previously, this had been done on a voluntary basis. Many hospitals, for a number of reasons, whether they are religious reasons, moral reasons or just purely decisions on the basis of the board of directors or governors of these institutions, determined that they would not have a mandatory program of abortion training. Voluntary programs existed. Those who sought that training had access and could receive that training, but it was not mandated.

The change in regulations on the part of the Accrediting Council on Graduate Medical Education threatened to withdraw accreditation from many of these institutions unless they opted out under a so-called conscience or moral clause. It was my feeling and the feeling of many that this opt-out clause was not sufficient to address the concerns of a number of institutions, particularly nonreligious-based institutions. So I offered an amendment last week which was designed to clarify this.

That amendment essentially said that any State or local government that receives financial assistance should not subject any health care entity to discrimination on the basis that the entity refused to undergo training in the performance of induced abortions or to require or provide such training to perform such abortions or provide referrals for the training for such abortions.

We, in discussion with a number of other Senators, came across a possible misinterpretation of the exceptions to the section that basically said that nothing in this amendment that I am offering should in any way restrict or impede the accrediting council from making that accreditation. The concern was, if I state it correctly, that we would lose a valuable means of examining the various programs that existed in hospitals and resident training programs for determination of whether or not the Government should participate. It is legitimate that we have an accrediting process on which we can rely. What I was trying to do with my amendment was simply address the question of training for induced abortions.

We had exceptions to that which basically stated that nothing in this act should prohibit the accrediting agency or a Federal, State, or local government from establishing standards of medical competency applicable to those individuals who voluntarily elected to perform abortions or prevent any health care entity from voluntarily electing to be trained or arrange for training in the performance of or referrals for induced abortions.

We have had numerous discussions with the Senator from Maine relative to this language. Some negotiations over the weekend have resolved this. It preserves the entire impact of the Coats amendment and yet addresses and clarifies the concerns of the Senator from Maine. So I am pleased to announce this morning that we have reached agreement on this amendment. The amendment will be cosponsored by the Senator from Maine. We resolved the language differences. It also addresses an issue of second-degree, which would have prolonged the debate on this important broader bill, and so I am happy to report to my colleagues that we will be able to free up some time on that basis for discussion of the amendment that is offered by the Senator from California, Senator BOXER.

The Senator from Maine is present this morning, and I know she has some comments to make in this regard. Let me say this. The Senator from Tennessee, Senator FRIST, has been instrumental in helping us first understand the accrediting process and the importance of the accrediting process. As a medical doctor, he has some knowledge and personal experience with this issue and these questions that I cannot begin to bring to the debate. He and his staff have been immensely helpful in helping us to draft this legislation so we can accomplish what we intended to accomplish, but also retain the integrity of the accrediting process.

I am very happy to yield to him. I will yield whatever time the Senator from Tennessee desires in order to speak to this amendment.

The ACTING PRESIDENT pro tempore. The Chair did not hear the Senator seek to modify his amendment.

Mr. COATS. Mr. President, this is an appropriate time to ask unanimous consent to modify my amendment. I send that modification to the desk.

Mrs. BOXER. I object.

The ACTING PRESIDENT pro tempore. There are no yeas and nays ordered, so the Chair is corrected. Since there is a time agreement, it takes unanimous consent.

Mrs. BOXER. I object at this time.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COATS. Mr. President, I will discuss this modification with the Senator from California and, hopefully, we can resolve the question here. At the present time, I want to yield time to the Senator from Tennessee.

I will withhold the unanimous-consent request at this time so I can discuss it with the Senator from California.

I yield whatever time the Senator from Tennessee needs.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. FRIST. Mr. President, I commend the Senator from Indiana for his thoughtful approach to this important issue. My colleague has proposed an amendment that will protect medical residents, individual physicians, and medical training programs from abortion-related discrimination in the training and licensing of physicians. However, in our efforts to safeguard freedom of conscience, there are limits to what Congress should impose on private medical accrediting bodies. I believe this amendment stays within the confines of the governmental role and addresses the matter of discrimination in a way that is acceptable to all parties.

This amendment states that the Federal Government, and any State that receives Federal health financial assistance, may not discriminate against any medical resident, physician, or medical training program that refuses to perform or undergo training and induced abortions, or to provide training or referrals for training in induced abortions.

Discrimination is defined to include withholding legal status or failing to provide financial assistance, a service, or another benefit simply because an unwilling health entity is required by certain accreditation standards to engage in training in or the performance of induced abortions.

The primary concern that occurs when one addresses any accreditation issue is that quality of care will be sacrificed. As a physician, the care of patients is my highest priority, and this amendment specifically addresses this issue. It makes it clear that health entities would still have to go through the accreditation process, and that their policy with regard to providing or training in induced abortion would not affect their Government-provided financial assistance, benefits, services, or legal status.

The Government would work with the accrediting agency to deem schools accredited that—and I quote from the amendment—"would have been accredited but for the Agency's reliance upon a standard that requires an entity to perform an induced abortion, or require, provide, or refer for training in the performance of induced abortions or make arrangements for such training."

Mr. President, this amendment arose out of a controversy over accrediting standards for obstetrical and gynecological programs. The Accreditation Council for Graduate Medical Education, the ACGME, is a private body that establishes and enforces standards for the medical community. As a physician, I deeply respect and appreciate the ACGME, and I understand the fundamental need for quality medical standards and oversight.

Moreover, I feel strongly that the Federal Government should not dictate to the private sector how to run their programs. We must not usurp the private accreditation process. But, at the same time, Congress is responsible for the Federal funding that is tied to accreditation by the ACGME, and as public servants, we must ensure that there is no hint of discrimination associated with the use of public funds.

I am pleased, Mr. President, that we could work together to address the legitimate concerns of both sides in crafting this amendment. I join with the Senator from Indiana and the Senator from Maine in supporting this amendment, which will prevent discrimination with respect to abortion, but preserve the integrity of the accreditation process.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent that the time that is now running during any quorum call be equally divided between both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. COATS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for a period of 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING THE SPECIALTY EQUIPMENT MARKET ASSOCIATION TO STAGE AN EVENT ON THE CAPITOL GROUNDS

Mr. CAMPBELL. Mr. President, I want to speak briefly with regard Senate Concurrent Resolution 44, a resolution which I and several colleagues submitted last week, that would reauthorize the Specialty Equipment Market Association, in consultation with the Architect of the Capitol, to stage an event on the Capitol Grounds on May 15.

As a motor enthusiast, I believe it is important to recognize the contributions the motor sports industry has made to improve the quality, performance and, more importantly, the safety of most all motor vehicles on the road today. Certainly, the American public has demonstrated a continuing love affair with motor vehicles since their introduction over 100 years ago in this country, enjoying vehicles for transportation and recreational endeavors, ranging from racing to show competitions, and as the way of creating individual expression that has been extremely popular in the last 100 years.

In addition, research and development connected with motor sports competition and specialty applications has provided consumers with such lifesaving safety mechanisms, including seatbelts, airbags, and many other important innovations.

As a result, the motor sports industry has grown tremendously over the years, where today hundreds of thousands of amateur and professional participants enjoy motor sports competitions each and every year throughout the United States, attracting attendance in excess of 14 million people, making the motor sports industry one of the most widely attended of all U.S. sports. And equally important, as an economic engine, sales of motor vehicle performance and appearance enhancement parts and accessories annually exceeds $15 billion, and employ nearly 500,000 people.

Mr. President, Senate Concurrent Resolution 44 seeks to authorize the Specialty Equipment Market Association, in consultation with the Architect of the Capitol and the Capitol Police Board, to conduct an event to showcase innovative automotive technology and motor sports vehicles on the Grounds of the Capitol on May 15 of this year.

I hope my colleagues will share in the recognition of the motor sports industry and support Senate Concurrent Resolution 44.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3513, AS MODIFIED

Mr. COATS. Mr. President, earlier this morning I proposed a unanimous-consent request to modify the amendment which I had offered last week, on Thursday, to the legislation that the Senate is currently considering. We have had some discussion with the Senator from California and others regarding this. I believe we have resolved concerns relative to this modification, at least regarding offering the unanimous-consent request.

So I now repeat my unanimous-consent request to modify the pending amendment to H.R. 3019.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 3513), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an acceditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions. The government involved shall formulate such regulations or other mechanisms, or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) EXCEPTIONS.—This section shall not—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

Mr. COATS. Mr. President, let me just state, during our discussion last Thursday on this amendment, which I will describe in a moment, questions were raised by the Senator from Maine relative to some language and the interpretation of that language as it affected a portion of the bill providing for an exemption to the accreditation standards based on a conscience or moral clause relative to performing abortion.

We have discussed that question over the weekend and made some clarifications in that language, which is the purpose of the modification. The Senator from Maine spoke this morning and the Senator from Tennessee spoke, relative to the procedures of the Accrediting Council for Graduate Medical Education, its involvement in accrediting medical providers and medical training programs, and support for the Coats amendment to this particular bill.

Let me describe that very briefly. The problem that we had here is that, prior to 1996, the ACGME, which is the American Council on Graduate Medical Education, did not require hospitals or ob/gyn residency programs to perform induced abortions or train to perform induced abortions. That was done on a voluntary basis. Until 1996, hospitals were only required to train residents to manage medical and surgical complications of pregnancy, that is, those situations where treatment of life-threatening conditions to the mother or complications of a spontaneous abortion, miscarriage, or stillbirth, was part of the medical training.

At the same time, 43 States have had in place statutes, as well as the Federal Government, to protect individual residents in hospitals from having to perform on a mandatory basis, or having to train on a mandatory basis, for the performance of induced abortions or abortion on demand. These procedures generally apply regardless of the reason to refuse to perform an abortion.

Then in 1996, the Accrediting Council on Graduate Medical Education changed its standards, indicating that failure to provide training for induced abortions could lead to loss of accreditation for these hospitals and for these training programs.

The reason this is important is that a great deal of Federal funding is tied to this accreditation. The Medicare reimbursement is tied to accreditation, loan deferral provisions are tied to accreditation, and a number of other federally provided support for hospital providers and for training programs for ob/gyn and others are tied to the accreditation. So, if the accreditation is removed, these institutions could lose their Federal funds.

So the language that I offered in the bill that we offered to the Senate basically said that, one, we do not think it is right that the Federal Government could discriminate against hospitals or ob/gyn residents simply because they choose, on a voluntary basis, not to perform abortions or receive abortion training, for whatever reason. For some it would be religious reasons; for some it would be moral reasons; for some it could be practical reasons; for some hospitals it could be economic reasons. There are a whole range of reasons why a provider may choose not to engage in this mandatory practice.

But at the same time, we did not feel that it was proper for us to mandate to a private, although somewhat quasi-public, accrediting agency how they determine their accrediting standards. We do not want to prevent ACGME from changing its standards. It has every right, even though I do not agree with all of its requirements, to set its own standards.

Second, we do not want to prevent those who voluntarily elect to perform abortions from doing so. Nobody is prevented in this legislation from voluntarily receiving abortion training or from voluntarily offering that training in their hospital, nor do we prevent the Government from relying on those accreditation standards. I think you can make a case that the Government, by relying on a quasi-public entity for accreditation, may be too narrowly restricting in scope in terms of determination on Federal reimbursement, but we are not addressing that issue.

So this legislation does not prevent the Government from relying on the ACGME for accreditation. We do not prevent the Government from requiring training of those who voluntarily elect to perform abortions.

What we do do is attempt to protect the civil rights of those who feel that they do not want to participate in mandatory abortion training or performance of abortions. That is a civil right that I think deserves to be provided and is provided in this legislation.

It is a fundamental civil right, as a matter of conscience, as a matter of moral determination, as a matter of any other determination, as to whether or not this procedure, which is controversial to say the least, ought to be mandated and whether that is a proper procedure for those who then are forced to participate in programs in order to receive reimbursement from the Federal Government for various forms of support. We do not believe that it is.

There was some question about the so-called conscience and morals clause that was included in the accrediting standards, but we had testimony before our committee from a number of individuals who felt that that exception language was unnecessarily restrictive for those who felt, because they were a secular hospital or because they were residents in a training program at a secular hospital, that conscience-clause exception would not protect them from the loss of accreditation or protect their basic civil rights.

I have just some examples of that. The University of Texas Medical Branch at Galveston wrote to us essentially saying, and I quote:

> Those involved in resident education at the University of Texas Medical Branch made a decision in the mid 1970's not to teach elective abortion as part of our curriculum. This decision was based, originally, on concerns other than moral issues. We encountered two significant problems with our Pregnancy Interruption Clinic, or PIC as it was known at the time. First, the PIC was a money loser. Since there was no reimbursement for elective abortions from either State funds or Medicaid a great deal of expense of the PIC was underwritten by faculty professional income. Faculty income was used without regard to the moral concerns of individual faculty members who generated the income. A second problem was more significant and involved faculty, resident, and staff morale. Individuals morally opposed to performing elective abortions were not required to participate. This led to a perception, by trainees performing abortions, that they were carrying a heavier clinical load than trainees not performing abortions. As fewer and fewer residents choose to become involved in the PIC, this perceived maldistribution of work became a significant morale issue. Morale problems also spilled over to nursing and clerical personnel with strong feelings about the PIC. It is a gross understatement to say that elective abortion is intensely polarizing. Because of bad feelings engendered by a program that was a financial drain, the PIC was closed.

So here is a respected hospital, the University of Texas at Galveston, which basically said the moral, conscience reasons were not basically the reasons why this particular hospital chose not to participate in the program.

They followed that up with a letter, which I will quote again. They said:

> Because we are a secular institution, and a state supported university, we would have no recourse under the new ACGME "conscious clause," except to provide such instruction to our trainees. The ACGME "conscious clause," providing an opportunity to invoke a moral exemption to teaching elective abortion, is restricted to institutions with moral or religious prohibitions on abortion. It does nothing to protect the faculty at State-run universities.

I have a similar letter from Mt. Sinai Hospital:

> Your amendment is desperately needed to protect the rights of faculty; students and residents who have no desire to participate in abortion training but who do not work in religious or public hospitals.
>
> Since our institution would not, therefore, "qualify" as one with a moral or legal objection—

Therefore, the moral and conscience clause would not protect them.

Albany Medical Center in New York offers the same, and the list could go on and on.

So, essentially, what we are saying here is that the amendment that I am offering is clearly one which is designed to protect the basic civil rights of providers and medical students in training who elect, for whatever reason, whether it is a moral or conscience reason or whether it is an economic, social or other reason, not to perform abortions.

We do not believe that it is proper for the Federal Government to deny funds on the basis of lack of accreditation if that lack of accreditation is based on the decision of a provider or a program that they do not want to participate in a mandatory training procedure for induced abortions.

I am pleased we were able to work out language with the Senator from Maine, which addressed her concerns to make sure that we did not prohibit ACGME from accrediting or not accrediting, because there are other reasons why facilities might not deserve accreditation. Federal funds certainly should not flow to those hospitals and to those programs that do not meet up to basic medical standards that the Government requires for its reimbursement.

By the same token, we do not think that injecting a forced or mandatory induced abortion procedure on these institutions, for whatever reason, is appropriate. That is the basis of the amendment. The amendment has now been offered. It has the support of the Senator from Maine.

The Senator from Tennessee, Dr. FRIST, spoke this morning. He certainly knows more about these procedures and more about the medical concerns than this Senator from Indiana. He has looked this bill over very, very carefully and believes that the language incorporated in the Coats amendment is most appropriate, and he is supportive of that. I think that is a solid endorsement from someone who clearly understands the issue in great depth and understands the accrediting process, supports that process, but believes there ought to be this exemption.

Mr. President, I have not yet asked for the yeas and nays on this. My understanding is that the vote will be ordered, along with other votes, after 2 p.m. So I will now ask for the yeas and nays for this amendment.

The PRESIDING OFFICER (Mr. SMITH). Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. COATS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 15 minutes.

Mrs. BOXER. I wanted to clarify that. I know we lost some time here. So I have 15 minutes remaining to discuss both amendments, is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Thank you very much, Mr. President.

I want to explain why it was that it took the Senate extra time to get to this point of debating these amendments. The modified amendment came to the attention of my staff, in its final form, late last night. I was on a plane coming back from California, where I had a full schedule. When I returned at midnight, clearly, it was too late to contact my colleagues, and, therefore, I needed some time to really read the amendment and understand its implications, because the amendment, as modified, is of grave concern to me.

The longer I have to look at this amendment, the more concerned I am about it. I would like to explain to my colleagues why. Before I do that, I want to explain also that those in this community who support a woman's right to choose strongly oppose the Coats amendment. Those groups—who oppose this amendment are the Women's Legal Defense Fund, the National Abortion Federation; the American Association of University Women; the National Women's Law Center; Planned Parenthood, and the National Abortion Reproductive Rights Action League.

I think it is very, very clear why. It is because if you look at what could happen as a result of the Coats amendment, you quickly come to the conclusion, Mr. President, that theoretically —and we hope it would not happen— but it is possible under this amendment that every single medical school in this country could stop teaching their residents how to perform safe, legal abortions and still get Federal funding.

I really do feel that is the intent because I know there are those in this

Senate, and I have great respect for them, who would like to outlaw a woman's right to choose. They cannot do it up front, so they try to do it in every which way they can. This is just one more example like they said, if the woman is in the military she cannot get a safe abortion in a military hospital. This is the kind of theory that you see being practiced on the floor. I say to my friends, they have every right to do this. I respect their right to do it. But I strongly disagree.

Under current circumstances, for a medical school with an ob/gyn Residency training program to get Federal funds they must teach their residents how to perform safe, legal abortions unless the institution has a religious or moral objection, called a conscience clause. I fully support that conscience clause. I do not believe that any institution that has a religious or moral problem should have to teach their residents how to perform safe, legal abortions. However, under this modified amendment by Senator COATS, any institution can stop teaching abortion and still get the Federal funds even if they have no religious or moral objection.

For example, let us suppose the anti-choice community targets a particular hospital or medical school and day after day stands outside there protesting and demanding that they stop, and finally the institution throws up its hands and says, "You know, it isn't worth it. We will still get our Federal funds. We'll just stop teaching how to perform safe, legal abortions."

What does that mean? It seems to me that as long as abortion is legal in this country—and it is legal under Roe versus Wade, and it has been upheld to be legal by the Court—what we are doing here is very dangerous to women's lives, because if we do not have physicians who know how to perform these safe abortions, we are going to go back to the days of the back alley.

My friends, I have lived through those years, and no matter how many people think you can outlaw a woman's right to choose, in essence, even when abortions were illegal in this country, they happened. They happened in back alleys. They happened with hangers. Women bled to death and women died. We need doctors to know how to perform safe, legal abortions. It is very, very important.

What if a woman is raped? What if she is a victim of incest, and she is in an emergency circumstance, and they cannot find a doctor who knows how to do a safe, legal abortion? That is the ultimate result of this. That is why so many organizations who care about women, in my opinion, are opposing this amendment.

We need trained and competent people to take care of the women of this country. If they have a religious or moral problem, I strongly support their right not to have to learn how to perform such an abortion. But if they have no conscience problem, if the institution has no conscience problem, it is in the best interests of all of us that we have doctors who are trained, competently, to perform surgical abortions until there is another way for a woman to exercise her right to choose that is safe.

I ask the Chair, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes, 45 seconds remaining.

Mrs. BOXER. I ask that the President advise me when I have 5 minutes remaining. I will retain those 5 minutes.

AMENDMENT NO. 3508

Mrs. BOXER. Mr. President, I have an amendment that I ask for the yeas and nays on right now, if I might, dealing with the District of Columbia. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

(Mr. COATS assumed the chair.)

Mrs. BOXER. I want to thank my colleague for allowing me to have an up-or-down vote. It is quite simple. Mr. President, in this country called America, there are 3,049 counties and 19,100 cities. It seems to me extraordinary that in this bill that is before us, there is only one entity that is singled out and only one entity that is told that it cannot use its locally raised funds to help a poor woman obtain an abortion.

We already have strict control on the use of Federal funds. No Federal Medicaid funds may be used by any city, county, State or entity for abortion. But we have no stricture on what a local government can do, except in this bill where we tell Washington, DC, they cannot use their own property taxes to help such a poor woman, they cannot use fines they collected to help such a poor woman. I think it is a rather sad situation.

I know my colleagues will get up here and say, "We think we can tell Washington, DC, to do whatever we want it to do." If we want to do that with Federal funds, that certainly is an argument, but not with their own locally raised funds.

So, Mr. President, what I simply do by my amendment, by adding the word "Federal" my amendment clarifies a point. My amendment guarantees that Washington, DC, will be treated as every other city and every other county in this country. They may not use Federal funds—although, by the way, I object to that, but I know I do not have the votes to overturn that situation—but I am hoping that we can get the votes to stand up and say that local people can decide these matters on their own.

What always interests me in this Republican Congress is, we hear speech after speech about "Let the local people decide, let the States decide. Why should Big Brother come into cities and localities and States and decide for them?" Yet, when it comes to this issue, somehow this philosophy goes flying out the window and we are going to tell a local elected body how they should treat the poor women in their community.

Now, a woman's right to choose is the law of the land. But if she is destitute and she is in trouble, it is very hard for her to exercise that legal right. And if the locality of Washington, DC, wants to help her, I do not think we should stop them.

Thank you, very much. I reserve the remainder of my time.

Mrs. MURRAY. Mr. President, I rise in strong support of the amendment offered by my colleague from California, Senator BOXER. I am proud to be a cosponsor of this measure and I urge all of my colleagues to do the right thing and vote for our amendment.

Since 1980, Congress has prohibited the use of Federal funds appropriated to the District of Columbia for abortion services for low-income women, with the exception for cases of rape, incest, and life endangerment.

From 1988 to 1993 Congress also prohibited the District from using its own locally raised revenues to provide abortion services to its residents. I am pleased that for fiscal year 1994 and 1995 Congress voted to lift the unfair restriction on the use of locally raised revenues, and allow the District to decide how to spend its own locally raised moneys.

There is language in this bill that would coerce the District into returning to the pre-1994 restrictions. This bill is a step backward, and we shouldn't allow it to pass. Congress does not restrict the use of dollars raised by the State of Washington or by New York, Texas, California or any other State—because Congress does not appropriate those funds.

Why should our Nation's capital be the solitary exception? It shouldn't be the exception, Mr. President, and our amendment ensures the District of Columbia will have the same rights as every locality—every county and city—to determine how to spend locally-raised revenue.

I know why the District is being targeted in this way. And so does every woman, and so should every American. This is just another of the many attempts by some Members of Congress to chip away and take away a woman's right to choose.

It sure is ironic. That in this Congress, where the mantra has been "States know best" month after month, the majority party now wants to micro manage DC's financial decisions.

Mr. President, restricting the ability of the District to determine how it is going to spend its locally raised revenue is the "Congress knows best" approach at its worst. I find it so very hypocritical that virtually every debate over the past year has touted local flexibility and vilified Washington, DC's presence in policy making.

We should allow the District the same right as all other localities—to choose how to use their locally raised revenue. We should not single out our Nation's capital. We should pass the Boxer amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair informs the Senator the time will be charged to the Senator unless she asks unanimous consent that her remaining time be reserved.

Mrs. BOXER. I make a unanimous-consent request that my remaining time be reserved.

The PRESIDING OFFICER. The Senator has 6 minutes 6 seconds remaining, and that time will be reserved.

The quorum call will be charged to no one at this particular point.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I have sought recognition for a few moments this morning to speak in morning business for a period not to exceed 5 minutes. I ask unanimous consent that I may be permitted to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized to speak up to 5 minutes.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, before yielding the floor, I have been asked to take a limited leadership role here.

PROVIDING FOR THE EXCHANGE OF LANDS WITHIN ADMIRALTY ISLAND NATIONAL MONUMENT

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 213, H.R. 1266.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1266) to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MURKOWSKI. Mr. President, I rise to join with the senior Senator from Alaska to urge my colleagues to support H.R. 1266.

This bill ratifies a land exchange agreement in Alaska between the Forest Service and the Kennecott Greens Creek Mining Co. The agreement will help provide 300 jobs in Alaska, promote sound economic and environmentally responsible resource development, and further the interest of land consolidation on conservation systems in the Tongass National Forest.

Mr. President, this bill has bipartisan support. Chairman DON YOUNG was the author of the bill in the House and as a result of his efforts, the bill passed the House of Representatives with support from the ranking member of the Resource Committee. Chairman DON YOUNG deserves credit for his hard work on this bill.

In the Senate, the Greens Creek Land Exchange was reported out the Energy and Natural Resources Committee by unanimous consent. The bill is supported by the Forest Service and local environmental organizations.

Mr. President, let me explain the history of the Greens Creek Mine and this agreement. The Greens Creek Mine was located under the mining laws while the area was still part of the general National Forest area. As you may know, in 1980 the area became part of the Admiralty Island National Monument through the enactment of the Alaska National Interest Lands Conservation Act [ANILCA]. Because this mine had world-class potential, Congress made special provisions in the act to ensure that the mine could go forward.

I was pleased to participate in the opening ceremonies of the Greens Creek Mine. The mine provided high-paying jobs to Juneau residents and supported the local economy. Unfortunately, low metal prices caused the temporary closure of the mine in April 1993. Kennecott worked diligently to reorient its mining development plan to permit the mine to reopen. In fact, they recently announced plans to reopen the mine during the next several months.

Mr. President, this land exchange is the combination is a 10-year effort by Kennecott to deal with one of the problems created by the special management regime in ANILCA. Although that regime permitted the perfection and patenting of certain claims, it did not provide an adequate time for exploration of all the area of mineral potential surrounding the Greems Creek Mine.

Since Kennecott determined that it would be unable to fully explore all the areas of interest during the 5-year time period it was allowed to provide exploration under ANILCA, it has been searching for a way to explore these areas.

They have engaged in a multiyear negotiation with the Forest Service to develop a land exchange which would permit access to the area in a manner which is compatible with the monument designation provided by Congress in 1980.

In other words, the land exchange allows exploration under strict environmental regulations. The terms of the exchange require Kennecott to utilize its existing facilities to the maximum extend possible to ensure minimal changes to the existing footprint.

Additionally, the development of any areas once explored would be under the same management regime by which Kennecott developed the existing Greens Creek Mine.

This land exchange also provides other major benefits to the Government, the community, and the environment.

At the end of mining, Kennecott will revert its existing patented claims and any other claims which it holds on Admiralty Island to the Federal Government.

Kennecott will also fund the acquisition of over 1 million dollars' worth of inholdings in the Admiralty Island National Monument and other conservation system units in the Tongass.

Finally, the exchange improves the likelihood that 300 jobs will return to the Juneau area for many years to come.

Mr. President, the Greens Creek Land Exchange is good policy. I congratulate Kennecott and the Forest Service for negotiating a fair agreement and urge the President to sign the bill as soon as possible.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1266) was considered and passed.

Mr. SPECTER. Mr. President, I make the request of the clerk, who is asking me to do that on behalf of leadership, to discount any personalized knowledge as to the complexities which we have ruled upon.

I have been asked to further make this request for unanimous consent.

AMENDING THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Mr. SPECTER. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 1787, and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1787) to amend the Federal Food, Drug, and Cosmetic Act to repeal the Saccharin notice requirement.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

Again, I make a disclaimer, Mr. President, that I am making this statement at the request of the clerk in the absence of leadership where more detailed knowledge is present as to the specifics involved.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator's reservation is duly noted.

So the bill (H.R. 1787) was considered and passed.

Mr. SPECTER. I thank the Chair.

In the absence of any other Senator on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I understand the time is controlled. I yield myself 12 minutes from Senator BOXER.

The PRESIDING OFFICER. The Senator from California has 5 minutes remaining. Senator MURRAY has 7½, and Senator FEINSTEIN has 7½.

Mr. KENNEDY. I yield myself 3 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3508

Mr. KENNEDY. Mr. President, very briefly, there are two major proposals before the Senate this afternoon. One proposal prohibits the District of Columbia from using locally raised funds to provide abortions for its residents. It allows the Congress of the United States to undermine the constitutional rights of poor women and thus, their ability to receive an abortion.

We do not interfere with the disbursement of local funds in any of the States because it is inappropriate to dictate State and local policy in this area. It is equally inappropriate to impose the will of the Federal Government on the District of Columbia. This is the long arm of the Federal Government reaching in and dictating the health conditions for needy women in the District. Many of these women have determined that they must have an abortion but, because they are poor, they need assistance from the District of Columbia. District of Columbia elected officials should have the ability to allocate funds to women in these circumstances.

Second, I reject the belief that the Senate should determine medical residency training criteria as it pertains to issues regarding women. This is the first real attempt to superimpose Congress' view on obstetric and gynecological medical training. Today, we are saying we will not require that medical training institutions provide abortion training for ob/gyn residents. Tomorrow, we may be making policy and setting standards in another area of medical training. Congress should leave the practice of medicine to the doctors. In this case, a highly respected board is attempting to insure that we have the best-trained physicians in the world. We have already acceded to a conscience clause that protects religious and moral beliefs of institutions and residents. Those individuals and institutions will not be required to participate in certain medical procedures that violate their conscience or their religious training. But to go beyond that by passing a law that substitutes congressional and political opinion for medical decisionmaking is wrong. Congress should not interfere with current ACGME policy. It is an inappropriate use of our authority. It is bad policy and it is bad medicine. We should reject this proposal.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, I yield whatever time remains.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield myself 1 minute just to say to the Senator from Massachusetts how grateful I am that he expressed his views on the floor. This has been a very difficult morning because there was a modified amendment which, unfortunately, I could not get to analyze until this morning. And the Senator is right. We already have a conscience clause. Any institution who has a moral or religious objection to teaching abortion is covered under current law, and what this would say is that any institution, even if they did not have a moral or religious objection, would not have to teach residents how to perform safe, competent abortions so that our women are safe.

On the matter of Washington, DC, I wish to tell the Senator that there are 3,049 counties, 19,100 cities, and every one of them has the right to spend their locally raised funds as they wish. To pick out one entity and reach the long arm of the Federal Government into it is really unfair and goes against the supposed spirit of this Republican Congress. So I thank my friend very much.

The PRESIDING OFFICER. The Senator has used her 1 minute.

Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maine has 30 minutes allocated to her under the previous order.

AMENDMENT NO. 3513, AS MODIFIED

Ms. SNOWE. I will consume as much time as I require. I thank the Chair.

I rise today to join the distinguished Senator from Indiana in offering an amendment that I think will address many concerns. In fact, I am pleased to have the opportunity to clarify some of the misinformation that has been expressed regarding this compromise amendment.

No one can question whether or not it is appropriate to ensure quality care for women in America. No one can question that we need to maintain accreditation standards for medical institutions across this country. The fact remains that this amendment on which I worked in conjunction with the Senator from Indiana does not allow Federal funds to go to an unaccredited institution because they fail to provide for abortion training.

Nothing could be further from the truth. This amendment accomplishes two things. One, it does protect those institutions and those individuals who do not want to get involved in the performance or training of abortion when it is contrary to their beliefs. Second, and just as important, it preserves the quality of health care that will be provided to women because it protects the universally accepted standards—there is only one set of standards—of the Accreditation Council for Graduate Medical Education that provides for quality standards for ob-gyn programs. So this amendment would not only make sure that women have access to quality health care with the strictest of standards when it comes to quality and safety but it also will ensure that they have access to physicians who specialize in women's health care.

I do not think anybody would disagree with the fact—and I am prochoice on this matter, but I do not think anybody would disagree with the fact that an institution or an individual who does not want to perform an abortion should do so contrary to their beliefs. But at the same time we have to make sure we preserve the accreditation standards that are established by the Accreditation Council for Graduate Medical Education, that provides for the standards for more than 7,400 medical institutions in America.

We want to make sure we do not undo 50 State licensure boards with respect to overturning or overriding this one set of accreditation standards. That is what we were dealing with, and hence this compromise here today, because whether we like it or not—and certainly I do not like it—in the House of Representatives they have already passed legislation that would allow Federal funds to go to an unaccredited institution. That is a fact, and that is unacceptable. That is why I worked with the Senator from Indiana to ensure that would not happen.

Contrary to what has been said here today, 88 percent of medical institutions in this country do not provide abortion training even though it is implicitly required in the accreditation standards. So we are not broadening this issue to provide for an exodus from performing or participating in abortion training. Eighty-eight percent of the institutions currently do not provide it, even though there is a conscience clause.

So this legislation is saying we do not want what is going to happen in the House of Representatives with the accreditation standards being dismissed and abandoned. That is an issue and that is a reality. That is why I worked with the Senator from Indiana to ensure that we preserve the one set of standards in America that the Federal Government relies on for the purposes of Federal funding, that medical students rely on for the purposes of Federal funding, that physicians rely on in terms of judging standards, that patients and consumers and States rely on in terms of determining their licensing procedures.

So the choice was not to address the reality of what is taking place in the House or making sure, more importantly, that the Senate was on record in opposition to that kind of language and developing a compromise with the Senator from Indiana to ensure that we maintained the accreditation standards for all medical institutions to advance the quality health care for women and at the same time to allow training for abortion for those who want to participate in that training or for the institutions who want to provide it. Because that is the way it is done now. That is the status quo, and that is not changing.

I know consensus and compromise is not the norm anymore. I think it is important on this issue because abortion is a very divisive issue. No one can challenge me on where I stand on this issue. But I think it is also important to make sure that we preserve quality health care for women in America. I do not want to see these accreditation standards undone, and that is what the legislation that was originally pending would have done. The House language went much further than that. This is a compromise to preserve those standards. This is a compromise to ensure that it does not jeopardize the 273 ob-gyn programs that otherwise would have been affected if this compromise was not before us. That is the risk, and that is why I worked with the Senator from Indiana to ensure that would not happen.

It is inappropriate for this institution to be involved in the accreditation standards or curriculum, but that is not what we are dealing with here. It has already happened. I want to be able to go to conference to ensure that the House language is not adopted, and the best way to do that is to ensure we can pass language that everybody could agree on, that represents a consensus and does not jeopardize the kind of care that women in America deserve. That is what this compromise amendment is all about.

I urge adoption of this compromise amendment. To do otherwise is to risk getting the House language in the final analysis. That, indeed, would set a very dangerous precedent.

Mr. President, I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, I thank the Senator from Maine for her diligent work with us in clarifying language here and for her articulate statement of support and the reasons why she supports this particular amendment. I will not repeat those, but I think they clearly make the case.

I would like to respond, also, to the Senator from California, who indicated that one of the reasons why she opposes the Coats amendment is that we will not have medical personnel adequately trained to perform abortions if necessary.

I would like to state for the record that an ACGME member—the certifying body—ACGME member submitted testimony to the Senate Labor and Human Resources Committee that the D&C procedures that are taught to every ob-gyn and procedures used in cases of miscarriages and those of induced abortion require similar experience. Numerous ob-gyn's have indicated to us—and I have a pile of letters here from them, indicating so, and I will be happy to submit those for the RECORD—that an OB-GYN who is trained, as they must be trained, to perform D&C procedures in the case of spontaneous abortions, are more than adequately prepared, should the need arise, to perform an induced abortion. Again, I have an extensive set of letters from those who are trained in those procedures, indicating that is the case.

In short, a resident needs not to have performed an abortion on a live, unborn child, to have mastered the procedure to protect the health of the mother if necessary. Maternal health will not be improved by forcing ob-gyn's to perform abortions on live fetuses if an ob-gyn will not do an abortion in actual practice. But it is clear from the record that they will have sufficient training to do so if necessary.

Second, I would like to just once again, for my colleagues' benefit, indicate the support of Dr. BILL FRIST, the Senator from Tennessee, for this amendment, who has stated, "The Coats amendment will protect medical residents, individual physicians, and medical training programs from abortion-related discrimination in the training and licensing of physicians." "However," he goes on to say, "in our efforts to safeguard freedom of conscience, there are limits to what Congress can impose on private medical accrediting bodies. I believe this amendment stays within the confines of the governmental role and addresses the matter of discrimination in a way that is acceptable to all parties. The Congress is responsible," he goes on to say, "for the Federal funding that is tied to accreditation by the ACGME, and as public servants we must ensure that there is no hint of discrimination associated with the use of public funds, and that is exactly what this amendment does."

AMENDMENT NO. 3508

I would like to respond to the issue raised in the second amendment, the amendment offered by the Senator from California, relative to the use of funds for abortions in the District of Columbia. It is clear, as the Constitution so states, that article I, section 8, gives this Congress exclusive legislation over all cases whatsoever in the District of Columbia. It is stated in the Constitution clearly. It has been the basis on which we have operated, and it is a constitutional basis. In all matters relative to the District of Columbia, the responsibility for protection of those and implementation of those and establishment of those is established in the Constitution of the United States.

Public law 931–98, the home rule law, is consistent with this constitutional mandate, because it charges Congress with the responsibility for the appropriation of all funds for our Nation's Capital. The Congress, then, bears the ultimate constitutional and full responsibility for the District's abortion policies.

Second is the question of separating or mingling.

I ask the Senator from Maine if I could have an additional 2 minutes from her time?

Ms. SNOWE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Maine has 17 minutes remaining.

Ms. SNOWE. Yes, I yield the Senator 2 additional minutes.

Mr. COATS. Second, let me state this idea of separating Federal from District funds is nothing more than a bookkeeping exercise. Essentially, what would happen is that the so-called District funds would allow the local government to continue funding abortion on demand. I do not believe that is something this Congress endorses. I do not believe that is something that we should not deal with as we have dealt before. The separation of Federal funds from District funds is a distinction without a difference, given the constitutional mandate and the practice of this Congress to appropriate all funds for expenditure in the District. We all know that the District has one of the more permissive, if not one of the most permissive abortion funding policies in the country. It is essentially unrestricted abortion on demand. I do not believe that is what this Congress wants to authorize for the District of Columbia, and we have, on numerous instances, addressed this issue.

In the conference report that is before us on the omnibus funding bill, this was discussed at length. The language that is incorporated is language that has been agreed to by the conferees. It does allow the use of funds for abortions to protect the life of the mother or in cases of rape or incest. Members need to understand that. What we are not trying to do, what we are opposing, what I am opposing and others are opposing, is the use of those funds for unrestricted abortion, abortion on demand. That is the issue before us on the Boxer amendment, and I urge my colleagues to vote no on that and vote yes for the Coats amendment, which is a separate issue, and that is the discrimination issue relative to the use of Federal funds for hospitals that provide abortion.

I yield.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Mr. President, Senator FEINSTEIN offered me her time. I ask unanimous consent that I be allowed to use her time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I ask the President how much time Senator FEINSTEIN has.

The PRESIDING OFFICER. Senator FEINSTEIN has 7½ minutes.

Mrs. BOXER. And I believe I have a minute and some?

The PRESIDING OFFICER. The Senator from California has 1 minute 15 seconds.

Mrs. BOXER. Mr. President, will you let me know when I have 5 minutes remaining?

The PRESIDING OFFICER. Yes, the Chair will.

Mrs. BOXER. Thank you very much, Mr. President. I want to respond to Senator COATS' point on the D.C. issue when he says, "Look, we still allow them to use their own local funds for rape and incest but not for abortion on demand, not for unrestricted abortion." I want to make this point because over and over again in this debate by the anti-choice Senators, they use the terms abortion on demand and unrestricted abortion. They use the terms and ignore the holding of Roe versus Wade.

Anyone who has read Roe versus Wade knows the anti-choice Senators are not using the terms correctly. According to Roe, in the first 3 months of a woman's pregnancy, she has a right to choose. That is her legal right. The Supreme Court has decided it, and even in this more conservative Court, has reaffirmed it.

Clearly, a poor woman in Washington, DC, cannot get access to Medicaid funding, and the only option she would have, except for charity, would be Washington, DC's own locally raised funds, Mr. President. We do not stop any one of the 3,000-plus counties in this country from using their local funds if they wish, if they desire to help a poor woman. We do not tell the 19,100 cities that they cannot use their locally raised funds.

Washington, DC, does have property tax funds, and they have other funds that clearly are raised by them. If they feel it is a priority to help a woman in poverty in a desperate situation exercise her right to choose, I do not think the long arm of U.S. Senators ought to reach into that situation. That ought to be her own private personal decision and the decision of the locality to help her out.

So I hope that there will be support for the Boxer amendment.

AMENDMENT NO. 3513

As to the Coats amendment regarding Federal funding to medical schools, I want to reiterate what I think is a very important point.

The Senator from Indiana says, "There is not going to be any danger, no one is going to be put in danger by this. So what if every single teaching hospital and medical school says, 'We will not teach our residents how to do surgical abortion.'" He says, "Oh, they will have enough training in emergency areas, D&C's, and other ways."

I do not think the Senator from Indiana would get up here and say it is not necessary for residents to learn how to do a bypass if it was their heart. "Oh, you can just learn it from reading a book, you can look at a computer simulation." No one would ever suggest that.

I really have to say, with due respect, total respect for my colleague, that we are treating women in this circumstance quite differently than a person who had a heart condition, than a person who needed a kidney operation. We would never stand up here and say that doctors do not have to be trained in actually doing those procedures.

Mr. COATS. Will the Senator yield on that point?

Mrs. BOXER. I will yield on the Senator's time, because I am running out of time. I will yield on Senator SNOWE's time.

The PRESIDING OFFICER. The Senator asked to be notified when she had 5 minutes remaining. She has 5 minutes.

Mrs. BOXER. Why do I not yield to the Senator on Senator SNOWE's time?

Mr. COATS. If that is appropriate with the Senator from Maine.

Mrs. BOXER. I retain my 5 minutes.

Ms. SNOWE. I yield 2 minutes.

Mr. COATS. Mr. President, I just want to inform the Senator from California and our colleagues that what I stated was that on the basis of letters that we have received from a number of trained physicians in obstetrics and gynecology that the similarities between the procedure which they are trained for, which is a D&C procedure, and the procedures for performing an abortion are essentially the same and, therefore, they have the expertise necessary, as learned in those training procedures, should the occasion occur and an emergency occur to perform that abortion.

But to compare that with not having training for a bypass operation or kidney operation or anything else would not be an accurate comparison. There are enough similarities between the procedure they are trained for and the procedure the Senator from California is advocating they need to be trained for that is not a problem.

I ask unanimous consent to have printed in the RECORD, Mr. President, letters that I have received which so state that training is adequate.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
CATHOLIC PHYSICIANS' GUILDS,
Elm Grove, WI, March 23, 1995.

Re the amendment offered by Senator Coats to S. 555, Health Professions Education Consolidation and Reauthorization Act of 1995.

MEMBERS,
Senate Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing on behalf of the National Federation of Catholic Physicians' Guilds which is the Catholic medical association in the United States, representing physicians and physician's guilds from all over the U.S. I respectfully urge you to support Senator Coats' Amendment, specified in Sec. 407. Civil Rights for Health Care Providers.

Senator Coats' amendment is certainly accurate in finding the ACGME's revised regulations on Residency Training for Obstetrics and Gynecology a violation of the civil rights of individuals and institutions that are morally or conscientiously opposed to abortion. The revised regulations would require, under penalty of loss of accreditation, Catholic Ob-Gyn training programs, or any training program for that matter, to provide for training in the performance of induced abortion. As you probably know, Catholic moral teaching holds abortion to be a grave moral evil. What might not be as clear is the fact that not only may a Catholic not participate in the procurement of an abortion, they may also not cooperate in any way with the procurement of an abortion; not only may they not offer training in abortions, they may also not provide for the opportunity of training in abortions. Such cooperation would give the cooperator a share of the culpability. The ACGME's regulation would be coercion, an attempt, under severe penalty for failure to comply, to force the institution to participate in the performance of an activity which it, in conscience, considered evil. This would seem to be a clear violation of the civil rights of the individuals and institutions involved.

It is of significant note that the ACGME's regulation revision in this matter comes at a time when fewer and fewer Ob-Gyn physicians will do abortions. Ob-Gyn training programs that require abortion training are also declining in number. Physicians do not want to be involved in this procedure. Why they do not want to be involved is understandable. The medical profession has always held the moral belief that it's charge is the care of the life of the human being. The Obstetrician has always been the doctor who takes care of the mother and the baby until the baby is born and the Pediatrician can take over the baby's care. It is not in the professional ethos, in the soul of the physician, to take life. It is his or her charge to protect it! Abortion is a surgical procedure that intentionally takes the life of the baby and exposes the mother to a normally unnecessary operation. All of this violates the moral basis of the physician's code. The physician cannot be cast as a killer. He or she is a healer and an agent of the patient for healing. If the regulation mandate from the ACGME is an attempt to require physicians to perform a morally reprehensible act to serve a political charge, then the ACGME has stepped well beyond it's reason for existence.

The stated premise behind the ACGME's revision of the standards was to "address the need for enhanced education in the provision of primary and preventative health care for women by obstetrician-gynecologists". (ACGME Press Release, 16 Feb. 95) How does abortion training enhance the provision of primary and preventative health care for women? Primary health care involves the prevention of pathology. Pregnancy is not a disease that must be treated by termination. Primary health care provides medical care for the mother and the child she is carrying. Primary care cares for the well-being of mother and child. To talk of abortion as primary care is a distortion of the meaning of care. We cannot define killing as care. Does abortion training enhance preventative health care for women? What does it prevent? Exposure to sexually transmitted diseases? No. Pregnancy? It certainly doesn't prevent pregnancy. The woman is already pregnant (which means she is already carrying a very dependent human life whom the Ob-Gyn is normally committed to care for, too, working to ensure the baby's successful entrance into the world). What does it prevent, then? Responsibility for my actions? Maternal love? Enhanced education in the provision of primary and preventative health care for women could cover a lot of territory. The destruction of one of the most natural functions of the human person; the characterization of pregnancy as a pathological condition; the denial of professional responsibility to two patients when the pregnant woman comes to your clinic; the acceptance of a cooperative role with the woman in the ending of her child's life . . . these do not seem to fit into this educational objective.

It must be noted that all Ob-Gyn physicians are trained to do D&C's and to handle fetal demise. The training in the specific procedure of induced abortion, especially considering the great moral questions involved, probably has no place as a requirement in Ob-Gyn training. If the ACGME believes it is responsible for providing physicians to do abortions, it needs to find a way to do it other than mandating that training programs include this procedure in their curricula.

Thank you for reading through a somewhat lengthy letter. The issue really is significant. It deals with a controversial area; a procedure that is legal to perform, but morally questionable and lamented by most Americans as an indication that something has failed. Also at stake are the civil rights of those who morally and religiously object to induced abortion and who are now being told that they must, under penalty, provide for training in abortion procedures. There is, as Senator Coats points out, the effect of "running out of business" training programs that could not obey the ACGME mandate. And, there is the chilling advocacy of the notion that the doctor should be killer.

I ask you, on behalf of the many members of the NFCPG, and other medical professional men and women of conscience who cannot obey this regulation, to support Senator Coats' amendment and keep true choice available to us.

God bless you in your many varied and difficult duties.

Sincerely,

KEVIN J. MURRELL, M.D.,
President.

THE UNIVERSITY OF
TEXAS MEDICAL BRANCH AT GALVESTON,
Galveston, TX, March 23, 1995.

VINCENT VENTIMIGLIA,
Office of Senator Dan Coats,
U.S. Senate, Washington, DC.

DEAR MR. VENTIMIGLIA: I am a Professor of Obstetrics and Gynecology at the University of Texas Medical Branch at Galveston. It has come to my attention that Senator Coats, during upcoming hearings to reauthorize the Health Professions Education Act, will make efforts to protect the rights of Obstetrics and Gynecology training programs who choose not to teach techniques of abortion for contraception. For this I am deeply grateful.

The Commission which accredits training programs for residents in Obstetrics and Gynecology has made significant changes in requirements for accreditation. In the near future, "hands on" experience with elective abortion will be a required component of an approved residency training program. Although an individual trainee may invoke moral grounds to excuse himself from participating, no approved program, or program director, may excuse themselves.

Requirements for an accredited residency training are ultimately approved by the AMA's Committee on Graduate Medical Education (ACGME), and are listed in the Essentials of an Approved Residency. Under the current Essentials of an Approved Residency, an approved program is required to teach its trainees about management of abortion related complications, and provide some exposure to the technique of abortion. Currently a program may fulfill this requirement by providing instruction to residents in the care of women with spontaneous incomplete abortions or missed abortions. Requirements that become effective January 1 1996 specifically require training in the performance of elective abortion as a contraception technique.

Those involved in resident education at the University of Texas Medical Branch made a decision in the mid 1970's not to teach elective abortion as part of our curriculum. This decision was based, originally, on concerns other than moral issues. We encountered two significant problems with our "Pregnancy Interruption Clinic," or the PIC as it was known at the time. First, the PIC was a money loser. Since there was no reimbursement for elective abortions from either state funds or Medicaid a great deal of the expense of the PIC was underwritten by faculty professional income. Faculty income was used without regard to the moral concerns of individual faculty members who generated the income. A second problem was more significant and involved faculty, resident, and staff morale. Individuals morally opposed to performing elective abortions were not required to participate. This led to a perception, by trainees performing abortions, that they were carrying a heavier clinical load than trainees not performing abortions. As fewer and fewer residents chose to become involved in the PIC, this perceived maldistribution of work became a significant morale issue. Morale problems also spilled over to nursing and clerical personnel with strong feelings about the PIC. It is a gross understatement to say that elective abortion is intensely polarizing. Because of bad feelings engendered by a program that was a financial drain, the PIC was closed.

Regardless of our reasons, the failure to teach the technique of elective abortion has never been a factor in the approval of our program by an accrediting agency. When the changes to the Essentials of an Approved Residency become effective next January, I will never be forced to participate in the performance of abortion; but I am distressed that, to keep my current job, I would be forced to cooperate in an educational mission that espouses these objectives. To me, a "non-combatant" working to advance amoral objectives bears significant culpability. How could a pro-life physician ever become a Program Director if required to teach this curriculum? How could any Catholic hospital support such a training curriculum, even if its trainees went elsewhere to obtain the skills? Shouldn't program directors have freedom of choice to decide if a morally controversial area is included in their program? Where does a pro life medical student obtain training in an abortion free environment?

Aside from my personal problems there are larger issues. Due to a number of forces, there recently has been a de facto segregation of the abortionist from the mainstream of practitioners of Obstetrics and Gynecology. The abortionist has become a specialist apart from the rest of us—they are practitioners of a peculiar paraspecialty. Trainees completing a residency program in Obstetrics and Gynecology recognize that the professional community considers the abortionist to be a physician on the fringe of respectability. In addition to this marginalization by the professional community, marketplace forces make a new practitioner avoid abortions. Patients do not tend to seek obstetric services from physicians heavily identified with abortion. Young physicians who start doing abortions soon have a medical practice which only does abortions. Residents, hoping to practice the breadth of our specialty, structure their new practices accordingly. Changing the Essentials of an Approved Residency is a deliberate attempt by those wishing to disseminate abortion services to try to reintroduce abortion into the "everyday practice" of our specialty. Their claim that unique technical skills are involved in performing elective abortions, that are different from technical skills involved in treating spontaneous abortions, is ridiculous and a clear attempt to mislead. The changes in training requirements were not made to serve an educational agenda—only a political agenda.

This change in the Essentials is coercive. It will make my participation in furthering an amoral educational objective a condition of employment. I currently have the right not to teach that which is morally repugnant. I hope my right can be protected.

Sincerely,
EDWARD V. HANNIGAN, M.D.,
Frances Eastland Connally Professor.

CONGRESS OF THE UNITED STATES,
Washington, DC, August 2, 1995.

DEAR COLLEAGUE: There is one thing that can be said with certainty about the abortion training mandate of the Accreditation Council for Graduate Medical Education: it has nothing to do with ensuring that medical residents receiving training will be better equipped to provide appropriate health care to women and children. OB/Gyn residents already learn the techniques to handle pregnancy, miscarriages and complications from abortions and, in learning these, learn the medical techniques to handle those extremely rare situations in which an abortion is actually performed in response to a women's health emergency.

So, if the ACGME directive is not really about providing medically necessary training for medical residents, what is it about? Simply, to accomplish what 20 years of legalized abortion have failed to do: to make abortion a part of mainstream of medical care and force doctors and hospitals to do abortion as if a refusal on their part would constitute substandard medical practice. Can there be any doubt whatsoever that after they define abortion as a part of standard medical care for residents, they will move on to declare it standard care for every hospital? Can there be any doubt the directive that we would overturn is only the first step in a battle against every medical facility which would dare claim that abortion is not "health care," that it is no part of standard medical practice?

The way in which ACGME and their friends in the pro-abortion community are going about this is deeply disturbing. They are not merely forcing doctors and hospitals to adhere to a particular ideology, they are requiring them in the name of practicing good medicine—to actually kill defenseless, unborn human lives. It is not enough for them that medical residents are already learning the techniques that could be used in abortion, but learning these without using them to destroy live human beings. Abortion advocates are not satisfied unless these techniques are used to kill unless residents resistance in this killing is actually numbered.

This attempt to overturn the healing ethic that is the very lifeblood of medical residency programs and medicine itself must be rejected. I ask that all Members support the provision in the bill to overturn the ACGME's directive and to oppose any motion to strike it.

Sincerely,
TOM DELAY,
Majority Whip.
TOM A. COBURN, M.D.,
Member of Congress.

ST. JOHN HOSPITAL
AND MEDICAL CENTER,
Detroit, MI, March 27, 1995.

DAN COATS,
Russell Senate Office Building,
Washington, DC.

This is a letter of support for any legislation that would prevent a residency program from being forced to implement a special kind of training that would be against the ethical and moral teachings of the institution in which the residency program resides. Specifically, we decry the decision made by the ACGME to mandate induced abortion training in all residency programs. There are major flaws in the reasoning of the ACGME: (1) an assumption that somehow abortions are not being carried out because of lack of providers: there is certainly no evidence of this locally or nationwide; (2) failure of the ACGME to recognize the fact that training to perform an induced abortion is exactly the same training as to perform a uterine evacuation procedure in the context of a missed abortion; (3) assuming that OB/GYN residency graduates are not performing induced abortion because they don't know how to; clearly every graduating OB/GYN resident from any program in the United States has the capabilities of being able to perform induced abortions but chooses not to on the basis of conscience and possibly also for a concern for personal rather than because they don't know how to do it; (4) by coming out so strongly for induced abortion, the ACGME creates further polarization in the United States over a very inflammatory issue when further polarization is counterproductive, (5) failing to recognize the philosophical integrity of an institution by arbitrarily forcing health care providers or individuals to do something against their institutional ethics.

In conclusion, the directors of the St. John Hospital and Medical Center's OB/GYN residency program strongly support legislation preventing coercion of a residency program toward implementing an unnecessary training that is against any institution's ethical and moral philosophy and thereby only contributes to the further polarization of the abortion issue in the United States.

MICHAEL PRYSAK, Ph.D., M.D.,
Program Director
and Vice Chief of Obstetrics.

PROVIDENCE HOSPITAL AND
MEDICAL CENTERS,
Southfield, MI, March 29, 1995.

Hon. DAN COATS,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COATS: I urge the Senate Labor and Human Resources Committee to adopt the amendment you offered to S. 555, Health Professional Education Consolidation and Reauthorization. This amendment would neither limit abortion services currently available in this country, nor would it prevent physicians from seeking the training they might choose in order to perform abortions. This amendment would not interfere with a woman's legal right to choose an abortion. This amendment is about the right of institutions to refuse participation or cooperation in procedures which directly violate their ethical codes.

The reason that our organization, Providence Hospital and Medical Centers, supports this is because:

As a Catholic institution, we hold that direct abortion is a grave evil. It is therefore not an optional procedure for us, since we are bounded by Catholic ethical standards of health care. Since Catholic teaching classifies the direct killing of innocent human life to be among the gravest forms of evil, cooperating with the new ACGME OB/GYN residency guidelines by sending our OB/GYN medical residents to other facilities for training in induced abortions may not be a moral option for us.

There are over 45 OB/GYN residency programs in Catholic hospitals, about a third of all OB/GYN residency programs in the United States. We cannot afford losing these programs. Trying to coerce health care facilities who are morally opposed to direct abortions into cooperating with the new ACGME guidelines will not resolve the issue of the dwindling number of physicians being willing to perform abortions in the United States. It will only exacerbate the situation.

How would mandating abortion training enhance the provision of primary and preventative health care for women? Primary health care involves the prevention of a pathology. Pregnancy is not a disease to be treated by termination. Furthermore, all OB/GYN medical residents are currently trained to do D&C's, to handle fetal demise, and are trained in techniques such as early induction of labor when the pregnancy constitutes a serious life-threatening condition for the mother.

Thank you for considering adoption of this amendment.

Sincerely,
SISTER JANE BURGER, D.C.,
Vice President—Mission/Ethics Services.

CHRISTIAN MEDICAL & DENTAL SOCIETY,
Richardson, TX, February 15, 1995.

CHRISTIAN DOCTORS PROTEST ABORTION TRAINING MANDATE

DALLAS, TX.—The Christian Medical & Dental Society (CMDS) announced today that it is protesting a medical council's decision to mandate abortion training as politically induced, personally coercive and professionally unnecessary. The Council for Graduate Medical Education, which oversees physician training, announced yesterday that obstetrical residents must be taught how to do abortions.

Dr. David Stevens, executive director of the Dallas-based CMDS, said, "The Council is clearly out of touch with its constituency, the vast majority of whom oppose abortion on demand." He cited the results of an independent nationwide poll of obstetricians, conducted in 1994 by the PPS Medical Marketing Group in Fairfield, New Jersey, that revealed that over 59 percent of obstetricians disagreed with the statement that "every OB/GYN residency training program should be mandated to include elective abortion training."

Stevens says the Council's decision "is apparently induced by political pressure from pro-abortion groups who want to force their belief system on a medical community that has largely rejected abortion." Stevens said that "pro-abortion leaders are worried that few doctors are willing to perform abortions, based on personal convictions as well as the sheer repugnancy of the act itself."

Stevens said that despite the Council's technical allowances for moral or religious objections, the practical effect of the Council's ruling will be to pressure every resident and teaching hospital into performing abortions.

"Throwing in a little verbiage about 'moral or religious objections' does little to remove the intense pressure these residents will now face to perform abortions," Stevens explained. "The threat of failing to meet GME requirements will now be like a sword of Damocles hanging over their heads as well as over the heads of program administrators," Stevens noted.

"In everyday practice, when one resident attempts to opt out of the procedure, he or she can face intense pressure from colleagues who would be forced to take up the slack by performing more abortions," Stevens asserted. "The mandate will also effectively discourage those opposed to abortion on demand from entering the OB/GYN field."

CMDS chief operating officer Dr. Gene Rudd, an OB/GYN physician, explained that abortion training is unnecessary. "The skills required to perform first trimester abortions are acquired through learning dilation and curettage (D&C) and other procedures involving spontaneous abortions," Rudd noted. "Only the more controversial second and third trimester abortions require additional training.

"Does the Council's new policy mean," Rudd posited, "that all OB/GYN's who have not been trained to do abortions are inadequately prepared for professional practice? Of course not! There is absolutely no practical reason to force residents to learn to perform abortions if those residents do not intend to perform abortions in practice. Abortion training need not be considered an integral part of OB/GYN training, as evidenced by the fact that roughly a third of all residency programs in the U.S. do not even offer it."

To receive a free booklet on bioethical issues or for more information on the Christian Medical & Dental Society, contact CMDS at P.O. Box 830689, Richardson, TX 75083 or phone (214) 479-9173.

Mr. COATS. Mr. President, I will also just state, with what little time I have remaining, that the Coats amendment has the support of the AMA, the American Medical Association, the American College of Obstetricians and Gynecologists and the Accrediting Council for Graduate Medical Education. So the very organizations that are most directly involved in this have looked at the Coats amendment, and they have said it is a reasonable amendment and they not only do not oppose it, they support it.

So the very organizations that are held up as being the objectors to this are supporters of the Coats amendment, and I hope my colleagues will use that as a basis for their determination.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, on my own time, and I ask that I have 3 minutes remaining so that I can close on those 3 minutes.

Mr. President, let me say to my friend from Indiana, I just talked to the representative of the American College of Obstetricians and Gynecologists. They much prefer the existing policy. The reason they are on this particular amendment is because they feel this is far superior than the House language, but they prefer the current policy.

I will further say, just trying to exercise a little common sense—and, Mr. President, I feel many times we think these things are over our head—if your daughter found herself in a circumstance where she was raped, let us say, and, let us say she found out within a month that she was pregnant and she made the decision to end this pregnancy, she did not want to bear this rapist's child, and someone asked you, "Senator, I've got two doctors available to do this. One of them performed a D&C a few times and never did a surgical abortion and one has the experience," I do not think it takes a degree in science to know that if you want her to be safe, you want her to go to someone who had the actual experience of performing a surgical abortion.

So I simply do not buy into this argument that because someone performed a D&C and it is similar—it is not the same thing, by any stretch of the imagination.

The PRESIDING OFFICER. The Senator has 3 minutes.

Mrs. BOXER. I ask for another 30 seconds. What this amendment would do is basically say you do not have to teach your ob-gyn residents how to perform surgical abortion and you would still get Federal funds. That is why it is opposed by Planned Parenthood, National Women's Law Center, American Association of University Women, National Abortion Federation, Women's Legal Defense Fund and NARAL. I think it is very clear where this comes down. This takes a situation and makes it dangerous for women.

Is it better than the House language? Sure it is, but why should we go forward with something that is worse than the current policy and I think open up a grave risk to the women of this country?

I retain the remainder of my time.

Mrs. FEINSTEIN. Mr. President, I oppose the Coats-Snowe amendment to the continuing resolution, S. 1594.

This amendment does two things: It puts into law a prohibition on Federal and State governments from discriminating against institutions that refuse to provide training for abortion procedures; and, it undermines the long-respected accreditation system by allowing programs to opt out of meeting the required medical training standards set by the ACGME and still receive Federal funds as if these programs met those standards.

The Coats-Snowe amendment is unnecessary, it undermines the integrity of Federal and State medical educational and licensing standards, and it represents another step in the erosion of freedom of choice in this country.

UNNECESSARY

First of all, this amendment is unnecessary because its antidiscrimination section is redundant. Although earlier standards set by the Accreditation Council for Graduate Medical Education, the accrediting body for medical residency programs, did require abortion training in ob-gyn residency programs, ACGME revised those requirements in February 1995 to explicitly exempt ob-gyn residents or institutions with religious or moral objections to performing abortions.

The policy states: "No program or resident with a religious or moral objection will be required to provide training in, or to perform, induced abortions."

The revised standard does not require programs to make alternative arrangements for abortion training. The only obligations on programs that do not provide the training are to inform applicants to the residency program that they do not provide abortion training and to not impede their residents from obtaining the training elsewhere for those who wish to do so.

These requirements strike a balance between the program's desire not to be involved in abortion training and fairness to residents who desire to obtain such training.

So I fail to see any need for this amendment other than to inject Congress further into the abortion decision and into questions of medical curriculum.

UNDERMINES ACCREDITATION SYSTEM

This amendment, even with the compromise language, still undermines the system for evaluating the quality of medical training programs in this country. Under current law, medical training programs may only receive Federal funds if they are an accredited institution.

This amendment creates a loophole by allowing entities to not meet educational and training standards for ob-gyns set by ACGME, the independent accrediting body of medical experts.

Does anyone in this body think Congress is better equipped to determine the educational requirements for a medical specialty such as obstetrics and gynecology than the medical professionals who actually practice medicine?

The ACGME, a private-sector, professional entity, is the only graduate medical education accreditation organization in the United States, responsible for evaluating over 7,000 medical residency programs throughout the United States.

ACGME is sponsored by five of the leading medical organizations in the Nation: the American Medical Association, the American Hospital Association, the American Board of Medical Specialties, the Association of American Medical Colleges, and the Council of Medical Specialty Societies.

Accreditation by medical experts provides the only method the Federal Government has to assure that residency programs meet appropriate medical training standards. Congress should not undermine that system by supplanting political judgment in place of medical expertise.

FEDERAL INTRUSION INTO STATE LICENSING STANDARDS

Accreditation is relied upon not just by the Federal Government, but also by State governments, private funding sources, students and patients to ensure quality in medical training.

Even if the Federal Government is willing to abandon educational standards in medical training, which it should not be, it should certainly not prevent the States from maintaining standards.

All 50 States currently require an individual to participate in an ACGME accredited residency program to obtain a right to practice medicine. The Coats-Snowe amendment would prevents States from requiring that ob-gyn residency programs meet ACGME standards in abortion training for those they are licensing to practice medicine in their States. The alternative for States that wish to maintain ACGME training standards is the loss of Federal funds.

This is an unconscionable intrusion by the Federal Government into State licensing procedures.

The ACGME standards, which were unanimously approved by the sponsoring medical organizations, reflect the input of physicians, medical specialists, hospital administrators, clinicians, researchers, and educators who bring decades of medical judgment to their decisions.

The Federal Government has long recognized the specialized expertise that formulates the ACGME accreditation standards and we should not reject that expertise now simply because the issue is abortion.

EROSION OF CHOICE

This amendment is yet another effort to chip away at a woman's right to choose—a constitutionally protected right that the Supreme Court has clearly affirmed. This is one more in a series of steps Congress has taken to destroy that right:

The 104th Congress, in particular, has enacted an unprecedented number of laws threatening access to safe and legal abortion for many women:

Ending access to abortion for U.S. servicewomen overseas by barring abortions on military bases even if the woman used her own money. This is particularly harsh on servicewomen overseas where private facilities may be inadequate or abortion is illegal.

Prohibiting Federal employees from choosing health insurance plans with abortion coverage.

Maintaining the prohibition on Medicaid coverage for abortion for low-income women—except in cases of rape, incest, or life endangerment.

Denying access to abortion for women in Federal prisons.

Prohibiting the District of Columbia from using its own locally raised money to pay for Medicaid funded abortions.

Banning Federal funds for human embryo research.

Most significantly, Congress for the first time directly challenged Roe versus Wade by passing legislation that criminalizes a particular and rarely used abortion procedure and jails doctors who perform them.

All of these represent a steady march by the Federal Government into the abortion decision, and the weakening of a woman's constitutional right of personal privacy. The Coats amendment is yet another erosion of that right.

But it is an extremely important one. This is a direct attack on maintaining access to quality reproductive health care for women.

SHORTAGE OF DOCTORS

There is already a severe and escalating shortage in the number of physicians who are trained and willing to provide abortion services.

The total number of abortion providers in the country decreased by nearly 20 percent since 1982—from 2,908 to 2,380—in spite of a 10-percent increase in the population.

Eighty-four percent of the counties in the United States have no physicians who can perform abortions. States such as North and South Dakota have only one provider each.

Only 25 percent of obstetrician-gynecologists in the southern United States are trained to perform abortions. Only 16 percent of doctors in the Midwest are trained.

With the violence and harassment aimed at abortion providers increasing steadily in recent years, fewer doctors are willing to risk their lives or the safety of their families, to provide abortion services.

This amendment is a thinly veiled attack on freedom of choice. By making abortion unavailable, opponents of abortion will do what they cannot do legislatively—eliminate abortion as a safe and legal option for women in this country—one State, one doctor, one piece of legislation at a time. I strongly urge my colleagues to oppose this amendment.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I think it is always important that, when we are discussing legislation, we get a chance to read the legislation, in this case, the amendment that is before this body. The fact remains that this compromise amendment allows that anybody who wants to participate in training of abortions is allowed to do so. Nothing changes from the current circumstances. Any agency or institution that wants to provide the training of abortions to medical residents can do so. That is how the legislation reads. That is fact.

I regret the fact that there has been so much misinformation circulated about what this amendment does and does not do. This amendment avoids getting the U.S. Congress involved in setting accreditation standards, because that is exactly what is happening with the legislation that passed in the House of Representatives. The Senator from Indiana and I worked with the American College of Obstetrics and Gynecologists on this very language. Sure we prefer not to be here today discussing this issue, but that is not reality.

I am looking down the road. What I do not want to have happen is to have the U.S. Congress overturning the one set of accreditation standards that is predicated on quality care. If we do nothing, we run the very serious risk of having the U.S. Congress, because of the House language, overturn that one set of standards that everybody in America uses to determine the standards and the quality of care.

If you think that is a risk worth taking, then vote against this amendment. I do not happen to think so. This accreditation standard that we are talking about in this legislation is the accreditation standard that has been developed by the Accrediting Council for Graduate Medical Education. You might say, Who sits on this accreditation council? This is the one council that everybody looks to for setting the standards for medical institutions and residents in this country.

The organizations that sit on the council are: the American Medical Association, the American Hospital Association, the Association of American Medical Colleges, the American Board of Medical Specialties, the Council of Medical Specialties Societies. Then you have the residency review committee that reviews the ob-gyn programs that set the standards for the accreditation council, the American Board of Obstetricians and Gynecologists, the American College of Obstetricians and Gynecologists, and the Council on Medical Education of the American Medical Association.

These standards have been set with the conscience clause for medical residents since 1982. There has always been a conscience clause. That is what this legislation does. It allows for that. The accreditation council had to go a step further and establish a conscience clause for institutions because of a recent court case. That is a fact.

Not one institution in America—even when it was implicitly required in the accreditation council standards before their proposed change this year, they did not deny accreditation to one institution in America because they solely refused to provide abortion training. It was for a host of other issues.

So even when it was required, 88 percent of the institutions did not provide for abortion training. So this amendment basically preserves the status quo under the Accrediting Council for

Graduate Medical Education, the one set of standards that everybody uses from the Federal Government on down.

If we fail to support this amendment, I hesitate to think what message it is going to send to the conference committee on this issue. It is important that the Senate send a very strong message that we reject the intervention of Congress in establishing a different set of standards. That is what this is all about.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes 20 seconds.

Ms. SNOWE. I would like to quote part of a letter that was sent by Dr. James Todd, executive vice president of the American Medical Association, which he sent in March 1995 to Senator KASSEBAUM. I quote:

> The Accrediting Council for Graduate Medical Education standards were developed by professional medical educators in the field of obstetrics and gynecology. The standards were developed with great sensitivity to the differing moral and ethical views about abortion and after substantial consultation with medical societies, program directors, and obstetrics and gynecology and other individuals and organizations.

So that is the standard that is embodied in this compromise legislation. If individuals who are participating in medical training programs want to get training for abortion, they will be allowed to do so. If an institution wants to provide it, they will be allowed to do so, just like it is under current circumstances.

We, also, preserve the accreditation standards of the one group in America that sets those standards, rather than running the risk of what has been established in the House of Representatives that says that Federal funds can go to any institution in America that is unaccredited if those standards mention abortion. That is what the legislation says in the House of Representatives. That is what we are dealing with here. They would allow Federal funds to go to any institution that is unaccredited if those institutions use the accreditation standards, of which there is only one set in America, if they refer to abortion in whatever way.

That is what I do not want to have happen in this body. That is why I supported and worked on this compromise legislation. The fact is the House goes further. Every State has a licensing board. Every State looks to the Accrediting Council for Graduate Medical Education standards in order to determine the licensing. So, if we are saying it does not matter anymore, then they are going to have to go back, and every State will have their own set of standards for medical institutions, of which there are 7,400 in America.

So is that what we want to create? I do not think so. I think there is a time when you have to accept what is before you and work together in reaching a consensus, which is what the Senator from Indiana and I have done. I think that is what the American people want. We are never going to get unanimity on the issue of abortion. Far from it.

But I do think it is important that we work together in the best way that we can to ensure that we have legislation that will benefit, in this case, the women of America, because this is who will be most directly affected by this legislation, and to ensure that our medical institutions are dealing with one set of accreditation standards rather than 50 different sets because that is, in essence, what will happen if we reject this amendment. That is the risk that we are running. That is why I would urge adoption of the Coats-Snowe amendment.

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I will yield to the Senator from Arizona for a question.

Mr. McCAIN. I was going to call up an amendment of mine. I will be glad to wait until the Senator from California finishes.

Mrs. BOXER. I thank the Senator.

Mr. President, I am assuming we are debating the abortion amendment that is——

The PRESIDING OFFICER. That is correct.

Mrs. BOXER. Mr. President, I think the Senator from Maine makes a good point when she says we have to work together. That is what we did to get to where we are with the current policy. Current policy says that, if you are an ob-gyn resident with a religious or moral objection to learning to perform surgical abortion, or if you are an institution with a religious or moral objection to teaching abortion procedure, you do not have to learn it and you do not have to teach it.

I support that. I am pro-choice. I believe very much in Roe versus Wade and a woman having the right to choose to make this decision without Government interference. But I believe that if someone has a deep religious or moral objection, and they are a medical school or an ob-gyn resident, they should have the right to say, I really do not want to learn this. However, if there is no religious or moral objection, I believe that it is very important that these ob-gyn residents learn how to perform surgical abortion until there is another safe alternative. And what the Coats amendment does, regardless of the kind of spin we hear, is basically says to us that an institution that has no religious objection can just decide, because they bow to public pressure, we are not going to teach our residents how to perform surgical abortion, and we will get Federal funds anyway.

Now, just to stand up here and say, "I have a compromise" is not enough.

I ask unanimous consent that I be allowed to take Senator MURRAY's time. She has offered it to me.

The PRESIDING OFFICER. Is there objection?

Ms. SNOWE. Reserving the right to object. How much time is that?

The PRESIDING OFFICER. Senator MURRAY has 7½ minutes reserved.

Ms. SNOWE. How much time do I have remaining?

The PRESIDING OFFICER. Three minutes 30 seconds.

Mr. BUMPERS. Mr. President, was there some kind of an agreement about time?

Mrs. BOXER. Mr. President, if I may answer the question, I asked if I could take Senator MURRAY's time as it relates to the abortion issue. She has 7 minutes. I do not think I am going to use it all, but I need to make a couple of points.

Mr. BUMPERS. Mr. President, I have no objection. I was under the impression that we were going to recess at 12:30. I thought I would speak on the Murkowski Greens Creek amendment prior to the recess.

The PRESIDING OFFICER. The Senator is correct that we were to adjourn at 12:30.

Mr. BUMPERS. I do not understand the time. How much time is left on the Coats amendment?

The PRESIDING OFFICER. The Senator from Maine has 3 minutes 30 seconds. Senator BOXER used her time, and Senator MURRAY had reserved 7½ minutes.

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senator from Arkansas have 15 minutes to speak immediately following the hour of 12:40, and that we extend the time.

The PRESIDING OFFICER. That will require postponing the recess.

Mrs. BOXER. That is correct, until 12:55, so the Senator can have his 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. I say to my friend that we may not use all this time. I think it is important that when we stand on the floor of the Senate and talk about a compromise, we understand what we are compromising. A compromise was made on this issue previously. Institutions and ob-gyn residents already have a very generous and appropriate clause for a religious or moral objection. So not only individual doctors and residents in medical school, but also we, the institutions themselves, may exercise a conscious clause exemption.

So now to take that compromise and say we need to compromise because the House has some terrible language—Mr. President, I came here to fight for the issues that I think are right. I came here to fight for a woman's right to choose. I believe that there are some things you can compromise, and I was very pleased to support a religious conscience clause.

But if you take it further, theoretically, under the Coats amendment, every single medical school in this country could say that they were no longer going to teach residents how to perform surgical abortions, and they would still get their Federal funds.

Now, you can stand up here and read off everybody who belongs to the American College of Obstetricians and Gynecologists. The fact is that they prefer current policy. Yes, they are willing to go with the Coats amendment as a lesser of two evils, but why are we not fighting this, straightforwardly fighting this, and saying this is nonsense—saying it is nonsense that institutions who have no religious problem would still be able to not teach surgical abortion and get Federal funds?

On the issue of Washington, DC, they would be the only one of 19,000 cities to be told by the Federal Government what they can or cannot do with their local funds.

Mr. President, I see that the Senator from New Jersey has just come on the floor. We have precious few moments remaining. I would be very pleased if he is ready to yield to him the time I have remaining, if I might inquire how much that would be.

The PRESIDING OFFICER. There are 4 minutes 52 seconds of Senator MURRAY's time remaining.

Mrs. BOXER. I ask the Senator from New Jersey if he would like my remaining time?

Mr. LAUTENBERG. I would appreciate having some time from the distinguished Senator from California.

Mrs. BOXER. I yield the Senator from New Jersey the remainder of my time.

Mr. McCAIN. Will the Senator allow me 30 seconds to make a request to modify my pending amendment?

Mr. LAUTENBERG. I am happy to do it, and I ask unanimous consent that it does not come off the remaining time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3521, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent to modify my amendment No. 3521.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3521), as modified, is as follows:

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

AMENDMENT NO. 3513, AS MODIFIED

Mr. LAUTENBERG. Mr. President, the one thing that mystifies me about some of the actions that we take here is, why is it that a few want to control the thoughts for so many? It is an assault on one's human rights, one's civil rights. It is inappropriate to be introducing this kind of legislation that has to deal with things other than the funding issue, and to intrude on people's private lives.

To suggest that the way to deal appropriately with the sparseness of funds is to take away people's right to learn as part of a medical education, and that they might lose their Federal funding—not might, but will—it is outrageous. God was good to me yesterday. My oldest daughter delivered a beautiful baby boy, and I was in that hospital on the maternity ward, and I was looking around, and I thought, thank goodness, they have the facilities that they have to be able to bring new life into being. I thought about those poor women who, at the same time, who may be distressed by the fact that there was a conception. It was bizarre, but in the news today was a woman who was 10 years comatose, was raped by someone in the institution she was in, and she delivered a child. Is that not ridiculous that we would object to having someone learn the abortion technique, so that in the case of a request or a need, that it is unavailable?

I think this is mischievous, I think it is unfair, and I think that the American people ought to rise up and say: Listen, enough of that stuff. You do what you want to. If you do not believe that a woman ought to have choice in an unwanted pregnancy, then do not do it. But why should someone else lose their right to make that choice if they are in such a situation? It is outrageous. We have these sneak attacks constantly—do it one way, do it another way. You violate the principles that we operate under. Privacy—that is what the Supreme Court said. Why is it OK for some people to decide what is appropriate, private or not? The courts have made a decision.

So, I hope, Mr. President, that both bodies will reject this. I hope the Senate will decline to support this. The notion that the city of Washington should not be able to use its own funds as it sees fit, I think, is a disgrace. So I hope that we will reject this invasion of privacy, of decency, if you will. This issue is not about abortion, it is about Federal intrusion into a private decision.

With that, I yield the floor back to my colleague, if any time remains.

The PRESIDING OFFICER. The Senator from California has 28 seconds left.

Mrs. BOXER. Mr. President, the ACLU opposes this amendment, as does the Center for Reproductive Rights, Planned Parenthood, and on and on. I just hope my colleagues will stand up and say that we already compromised and gave a good conscience clause. That was a compromise. Let us not open this up wide and have women's lives put at risk. Say "no" to this Coats amendment and "yes" to the Boxer amendment. Let us protect the lives of women.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, to sum up on where we stand with respect to the Coats-Snowe amendment, first of all, I remind this body what we are dealing with here. This amendment modifies an underlying amendment, and that underlying amendment would allow Federal funds to go to an unaccredited institution. That is what I wanted to prevent. That is the issue. That is what we are modifying through this compromise amendment, so that does not happen. Who supports this amendment? I think that is important since we are naming groups.

The Accreditation Council for Graduate Medical Education, which is the entity that establishes the one set of standards in America for the medical institutions; the American College of Obstetricians and Gynecologists—it is very important because we are talking about ob-gyn programs, and the medical association is made up of the profession of physicians. That is who supports this amendment. They say it is acceptable. They saw what I saw. What were the choices? What we will be facing here potentially is a major risk and threat to women's health.

The House language, which gives Federal funds to unaccredited institutions, basically guts the accreditation standards for ob-gyn programs if those standards mention "abortion." Then we have the original—the underlying—amendment which we are now seeking to modify through this compromise amendment which would have also let funding go to unaccredited medical institutions.

Finally, you have the Coats-Snowe amendment—the compromise amendment—which says we will prevent Congress from engaging in the accreditation standards of medical institutions, will preserve those very important standards for health care in America, and at the same time we will also protect the accreditation standard when it comes to abortion. And that is what it has always been. Nothing has changed. It has always been that, if an individual, who is in a medical training program, does not want to get training for abortion, he or she does not have to. The same is true for institutions. They will be able to exempt the institution from providing that training if it is contrary to their belief. That is what it has always been. The accreditation council has never denied an institution accreditation based on the fact that they refused to provide abortion training. It was always for a host of other standard equality reasons.

I want to make sure that we preserve those reasons by preventing Congress from engaging in establishing, or overturning, accreditation standards which is our only guidepost for quality care for women in America.

That is the reality. I hope the Senate understands that because to do otherwise, if this amendment is rejected, is that we will face the language in the House which would basically gut and do away with accreditation for all medical institutions in America. That is not a choice nor a decision that we should have to make.

Thank you. I yield.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas has 15 minutes.

AMENDMENT NO. 3525

Mr. BUMPERS. Thank you, Mr. President.

Mr. President, I rise in support of the amendment by the junior Senator from Alaska [Mr. MURKOWSKI], which authorizes the Greens Creek Land Exchange. This amendment gives the Kennecott mining company 7,500 acres in the Admiralty Island Monument area of Alaska, in addition to the 340 acres they already own. They received the 340 acres they already own from the U.S. Government in the traditional way. They paid $2.50 an acre for it. For a while Kennecott had to shut down their silver, copper, and gold mine at the site because they were losing money. Now metal prices are higher and Kennecott has reopened the mine. I am glad they reopened the mine because it is good business for them.

But more than anything else, Kennecott has agreed to pay a 3-percent net smelter return royalty on everything they mine from the additional 7,500 acres they are receiving as long as metal prices are at least $120 a ton. If prices go below $120 a ton, their royalty will decline. I want to pay a little tribute to Kennecott. That is what I call good corporate citizenship.

They got the 340 acres for a song because of the 1872 mining law which continues to this day to be the biggest scam in America. And the U.S. Senate has consistently ratified that scam at the same time this body is willing to cut Head Start, student loans so kids can go to college, school lunches, Medicaid, 40 percent of which is used to keep elderly people in nursing homes, and another 40 percent for children. They are willing to cut all of that but not to address this scam.

As I say, I am happy to support the amendment of the Senator from Alaska. It is a good deal for them. It is a good deal for the taxpayers of America. That is what we ought to be doing around here. But that is not what we are doing.

Mr. President, when I took this issue on 7 years ago, 7 long years ago, the price of gold in this country was $300 an ounce. Every time I have attempted to stop the giveaway of Federal lands for $2.50 an acre, I got my brains beat out. Fortunately, I have been successful in gaining passage of a moratorium on the processing of new mining patent applications.

The small progress I have made has been glacial. The mining companies want the taxpayers of this country to deed them Federal lands that belong to all of us for $2.50 an acre, $5 max, mine the gold, silver, copper, platinum, and other minerals off of this land and then, oftentimes, leave an unmitigated environmental disaster for the taxpayers to clean up—and not pay one thin dime.

When I first took this issue on, gold was $300 an ounce. And the mining industry said, "Well, if you put a 3- or 4-percent royalty on us, we will go broke. We will have to shut down, and all of these poor miners will be out of a job." Today gold is $400 an ounce. And what do you think their argument is? "We will lose money. We will have to shut down and put all of those poor miners out of work." And like Pavlov's dog, Senators in the U.S. Senate grab it like a raw piece of meat and think that is the most wonderful thing they ever heard—"Keep all of these people working, if we will just not put a royalty on it."

We charge people 12.5 percent for every ounce of coal they take off Federal lands—12.5 percent. We make people who mine underground coal—a very expensive undertaking—pay 8 percent for every ounce of coal they mine. We make the natural gas companies and the oil companies pay 12.5 percent for every dollar's worth of oil and gas they take off Federal lands. And here is what we get for gold—zip. Here is what we get for silver—zip. And here is what we get for platinum—zip.

Do you know what platinum is selling for as of this moment? It is $413 an ounce. We have given billions and billions of dollars worth of platinum and palladium away in Montana in the process of doing it, and we will not get one thin dime out of it.

Just look at this chart: "Miners Get the Gold and the Taxpayers Get the Shaft." Here is Barrick Gold Co., the stock of which has climbed in accordance with the price of gold. About a year and a half ago Secretary Babbitt was required by law to give Barrick Resources 11 billion dollars' worth of gold. Do you know what the Secretary and the taxpayers of the United States got for that $11 billion? Yes, $9,000. Ask Senators who own land with gold or silver or platinum or palladium: How many of you are willing to give the gold companies that kind of a deal? You know the answer to that question.

Then just recently the Secretary was required by law to give a Danish company—Faxe Kalk—1 billion dollars' worth of travertine. Travertine converts into a powder which has very special uses. What do you think the taxpayers of the United States got for that $1 billion? Why, they got a whopping $700—enough to take your family out to dinner about five times.

Do you think I am making this up? If you think I am making it up, invite all Senators who think this is just such a wonderful thing to come to the floor and refute it.

In the past year, we gave Asarco, a copper and silver company, lands that have underneath them—who cares about the value of the surface? We just gave Asarco 3 billion dollars' worth of copper and silver. What did the taxpayers get for their $3 billion? Yes, $1,745. We are going to be required—we have not done it yet, but under the law, because of the 1872 law that Ulysses Grant signed when he was President, we are going to be required to give the Stillwater Mining Co. 44 billion dollars' worth of platinum and palladium. Mr. President, this is their figure, not mine. You want to go and find out where I got that figure? Look at their prospectus. And the taxpayers of this country in exchange for their $44 billion are going to get the whopping sum of $10,000.

We are trying to balance the budget. It makes a mockery of it. It makes an absolute mockery of it. You talk about corporate welfare. That is the reason I applaud the Kennecott Co. At least in the land exchange, the grant we are going to give Kennecott in the Murkowski bill, they had the decency to say, "We will give you a 3-percent net smelter return for all the copper we mine." That is still less than private property owners charge, but it is at least reasonable. If the taxpayers of this country were getting a severance tax or a net smelter return royalty over the next 7-year period when we are trying to balance the budget, it is a big piece of money.

When we look at some of the things we are doing to the environment, even after the add-back in the amendment we are going to vote on here in about 2 hours, even after we add that back into the environmental fund, EPA is still going to be cut significantly. Mr. President. When I came to the Senate, 65 percent of the streams and lakes of this country were not swimmable and not fishable. Today, in 1996, that figure has been reversed; 65 percent of the streams and lakes are fishable, are swimmable. And I do not care where you go. If you go to Main Street America—you pick the town—and you ask people: Do you think we are doing enough for the environment? Seventy percent of the people say, no. Do you want to reverse that figure to 35 percent of the streams and lakes not being fishable and swimmable from the point that 65 percent of them are? No. Nobody wants to turn the clock back on the environment.

The air we breathe, the water we drink goes to the very heart of our existence, and we are cutting the Environmental Protection Agency's budget. Too much regulation, they say. That may be true. Cut the regulations back, but do not cut back the quality of water and air.

Here is an opportunity to find an awful lot of money that we have been giving away since 1872, originally to encourage people to move west. You think about the rationale for the 1872 law—to encourage people to move west—124 years ago. What is the rationale now? Corporate greed. Political campaign contributions. That is it, pure and simple. People will not vote to impose a royalty on mining companies because they give away a lot of money around here. Until we straighten that out, this is not going to be straightened out.

Mr. President, I have made the same speech on this floor many times. The figures keep changing. The companies that are benefiting from it keep changing. I do not know how much longer I am going to be in the Senate, but I promise you one thing: The last day I serve here I will be standing right here, unless this is rectified, making the same speech.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m..

Thereupon, the Senate, at 12:48 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3533

Mr. KERRY. Mr. President, I will vote to support the Bond amendment to the underlying Lautenberg-Kerry amendment only because it provides some additional funding for environmental programs that are critical to improving the health and safety of all Americans and because it is the most that Democratic negotiators could wrest from the Republicans for these purposes. Regrettably, this Bond-Mikulski compromise eliminates any opportunity to pass the Lautenberg-Kerry amendment which contains almost double the funding for environmental protection, including water infrastructure funding for the State revolving loan fund and additional funds to cleanup of Boston Harbor.

However, I hope that the overwhelming support for the Bond-Mikulski compromise amendment will demonstrate to the House conferees that the vast majority of Senators want to support increased funding for critical environmental protection. I plan to work with the White House and the Senate and House conferees in the hope that we can provide even more support for the environment.

Let me first put in perspective the situation before us on funding for environmental programs. I was pleased to join Senator LAUTENBERG in offering the underlying amendment to the Hatfield substitute to H.R. 3019. Our amendment would add back nearly $900 million for environmental programs at four Federal agencies: the Environmental Protection Agency and the Departments of Energy, Agriculture, and Interior. The EPA would receive over $700 million—for clean water, Superfund and EPA enforcement and operations, environmental technology and climate change programs—with the remainder going to important conservation programs at the other agencies. This funding is critically needed to continue to protect the public's health and safety at a level that Americans have come to expect from their Government.

The conference report on the 1996 VA/HUD/independent agencies appropriations bill, from which the Environmental Protection Agency obtains its funding, was vetoed last December by President Clinton in part because it provided $1.6 billion less for environmental protection than the President's budget request of $7.4 billion—a 23-percent cut. The President, in budget negotiations with the Republicans, then proposed to compromise by restoring approximately $1 billion to the EPA budget. The Republicans rejected that proposal.

The amendment I offered with Senator LAUTENBERG and a number of other Senators would restore just over $700 million for the EPA including $365 million for the two State revolving loan funds for water infrastructure projects and an additional $75 million to share the costs facing the residents of the Boston area for a multi billion-dollar water and sewer treatment facility. This further compromise was also rejected by the Republicans.

Following that rejection, Senators MIKULSKI and LAUTENBERG negotiated with Republicans the deal reflected in the amendment before us today—the Bond-Mikulski amendment. While it provides far less environmental protection than the Lautenberg-Kerry amendment, it does restore critically needed resources to the EPA that neither the House bill nor the underlying Senate committee bill includes.

The Bond amendment restores $300 million for the State revolving funds for water projects and additional funding for Superfund and EPA operations. That is important and beneficial. However, I cannot fail to describe why I wish the Bond amendment went further.

While the Bond amendment restores funding for some activities at the Environmental Protection Agency, it eliminates critical funding for services and functions vital to protecting the environment in my State of Massachusetts and the rest of the Nation.

Relevant to the Democrat proposal, the Bond amendment reduces the additional funding for the EPA contained in the underlying amendment by almost half. It reduces funding for water infrastructure projects under the State revolving loan fund by $75 million and eliminates the additional $75 million for cleaning up Boston Harbor—high priorities for both me and for the President and other Members of the House and Senate.

In addition, the Bond-Mikulski amendment cuts $100 million from other crucial environmental protection activities within EPA such as the Environmental Technology Initiative, the climate change program and the operations and enforcement budgets—the environmental cops on the street.

Finally, the BOND amendment eliminates $170 million included in our amendment for other environmental enhancement and protection efforts, including funding for the Department of Energy's conservation and weatherization activities which would have insulated 12,000 homes, $72 million to help keep our national parks open and $20 million for conservation and research projects at the U.S. Department of Agriculture.

The Environmental Protection Agency and environmental protection activities it and other agencies operate have been subjected to far more than their fair share of cuts in the past year. For example, in the fiscal year 1995 rescission bill, the EPA budget was cut by $600 million to pay for disaster assistance. Now, for fiscal year 1996, we are asking the EPA to take another huge reduction in its budget. It is clear the Republicans are not imposing cuts on environmental protection activities just to reach a balanced budget. Their objective is far more sinister—to cripple environmental protection efforts because their friends who own or manage polluting industries don't want to go to the trouble or expense.

If we want a healthier environment for all Americans, we must provide adequate resources to accomplish this to those arms of our Government charged with that responsibility. What has happened to these activities during the past year is a tragedy. In the case of the EPA, first, there was a Government shutdown, then proposals for significant layoffs of thousands of employees, followed by another 3-week-long shutdown, followed by another short-term funding measure which only served to prolong the anxiety and uncertainty among EPA employees. EPA is facing a crisis where its best and brightest minds are seeking more secure employment outside public service. This directly affects the quality and effectiveness of our Government's efforts to ensure a clean, healthy environment to all our citizens. The only way to resolve this crisis is for Congress to make environmental protection a priority, not a punching bag.

This Congress is seeking to place more burdens on the EPA through new regulatory reform measures and new assistance for small businesses. I support a number of these measures. But if they are to be implemented properly, or at all, we must provide the requisite resources.

If we want clean water and air, if we want to clean up toxic waste dumps, if we want a healthy environment, we in the Congress have to support those activities.

The Bond amendment is the very least we should do. But it is more than anything for which we have been able to secure Republican support up to this point. So I support the Bond amendment and I still firmly support the goals of the Lautenberg-Kerry amendment to restore environmental protection and I will work to achieve the higher funding levels in the conference committee.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3533.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—81

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thompson
Warner
Wellstone
Wyden

NAYS—19

Ashcroft
Brown
Coats
Faircloth
Gramm
Grams
Gregg
Helms
Hutchison
Inhofe
Kyl
Lott
McCain
Murkowski
Nickles
Santorum
Smith
Thomas
Thurmond

So the amendment (No. 3533) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, there will be a number of votes. I ask unanimous consent that following the next vote—we have already had one vote—that all other votes in the sequence be limited to 10 minutes each.

Mr. BYRD. Mr. President, reserving the right to object, may I ask the distinguished majority leader, are we going to have a minute or so between each vote so an explanation can be made for the RECORD, at least, of what we are about to vote on?

Mr. DOLE. I would be pleased to accede to that request for a minute on each side to explain the vote.

Mr. BYRD. I thank the majority leader. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 3482

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3482, as amended.

The amendment (No. 3482) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3508

The PRESIDING OFFICER. There will now be 2 minutes, equally divided, on the Boxer amendment No. 3508.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I appreciate the suggestion of the Senator from West Virginia for 1 minute to explain both the pro and con of these amendments. I think when we run a whole bunch together, that is necessary.

I argued this morning in opposition to the Boxer amendment because it allows, essentially, unrestricted funding of abortion on demand in the District of Columbia. The amendment, I believe, violates the conference agreement and restricts the use of funds for abortion to protect the life of the mother and in cases of rape and incest. It also violates article I, section 8 of the Constitution, which gives the exclusive right of legislation for the District to the Congress. It is not possible to separate the funds appropriated by the Federal Government from the funds raised by the District of Columbia. I do not believe it should be the policy of this body to allow for, essentially, an unrestricted right to abortion in the District of Columbia.

I urge a "no" vote on the Boxer amendment.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Mr. President, I think it is important that we look at the current situation regarding the Federal Government telling localities what they can do. There are thousands of counties in this country, and there are thousands of cities, and not one of them is told by the Federal Government how to spend their own local funds.

If you support the Boxer amendment, you merely say that Washington, DC, will be treated the same way as every other entity in this Nation. It would still not allow Federal funds to be used, but it would permit Washington, DC, to make that decision on how to spend their own locally raised funds.

Thank you very much.

VOTE ON AMENDMENT NO. 3508

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3508.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Specter
Wellstone
Wyden

NAYS—55

Abraham
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne

Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

So the amendment (No. 3508) was rejected.

Mr. SANTORUM. Mr. President, I move to reconsider the vote and lay it on the table.

The motion to lay on the table was agreed to.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak for 1 minute for the purpose of withdrawing some amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3514, 3515, 3516, 3517, 3523, 3531, 3484, AND 3488 WITHDRAWN

Mr. SANTORUM. I ask unanimous consent that the following amendments be withdrawn: No. 3514, 3515, 3516, 3517, 3523, and 3531.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I also ask unanimous consent that my amendments Nos. 3484 and 3488 be withdrawn. The subject of my amendments has been taken care of within the managers' amendment. I want to thank the Senator from Oregon [Mr. HATFIELD] for his cooperation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FORD. Mr. President, may we have order, please. They are withdrawing amendments. We would like to hear which ones are withdrawn.

The PRESIDING OFFICER. The Senate will be in order.

The Chair has recognized the Senator from Illinois.

Mr. SIMON. Mr. President, I believe my amendment is next. If we can have it worked out with the managers, it will not be necessary for a rollcall. And I would offer a revised amendment.

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that the amendment of the Senator from Washington is the next order of business.

AMENDMENT NO. 3496

Mrs. MURRAY. Mr. President, I rise as a cosponsor of this amendment. Very simply, this amendment will change the name of the Walla Walla Veterans Medical Center in Walla Walla, WA to the Jonathan M. Wainwright Memorial VA Medical Center.

General Wainwright was born at Fort Walla Walla and was a member of the 1st cavalry after graduating from West Point. He served in France during World War I and was awarded the Congressional Medal of Honor in 1945 by President Truman for his service in World War II. He spent nearly 4 years in a prisoner of war camp in the Philippines and was known as the hero of Bataan and Corregidor. General Wainwright was a true war hero and won the praise and respect of all Americans.

Mr. President, the people of Walla Walla, WA want this name change to honor a war veteran and local hero. In May, they are dedicating a statue in his honor and would like to dedicate the name change of the hospital at the same time. The entire Washington State congressional delegation supports this change. And all of the veterans service organizations in Washington State support the change.

I urge my colleagues to support changing the name of the Walla Walla Veterans Medical Center to the Jonathan M. Wainwright Memorial VA Medical Center, and to allow this war hero the recognition he so rightly deserves.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 3496 WITHDRAWN

Mr. GORTON. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the Gorton Amendment No. 3496.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that the amendment be withdrawn. It also will be included in the managers' amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. Is the majority leader seeking recognition?

Mr. DOLE. Mr. President, as I understand the Senator from Illinois, his amendment has been cleared on both sides.

Mr. SIMON. My amendment has been agreed to by the managers on both sides.

Mr. DOLE. I was just informed maybe it had not been cleared on this side.

Mr. SIMON. I ask unanimous consent, Mr. President, that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under a prior unanimous-consent agreement, the Senator from Indiana is recognized for 1 minute.

AMENDMENT NO. 3513, AS MODIFIED

Mr. COATS. Mr. President, the amendment on which we are about to vote prevents the Government from discriminating against hospitals and ob-gyn residents who choose not to perform abortions. It protects those civil rights, but it also allows those who voluntarily choose to perform abortions to receive training in that procedure. The amendment is supported by Senator FRIST. The amendment is supported by Senator SNOWE. It is supported by the American Medical Association, the Accreditation Council for Graduate Medical Education, the American College of Obstetricians and Gynecologists. It goes to the rights of institutions and individuals to say that they do not believe it is in their best interests to receive mandatory training for abortion procedures. It is a civil rights issue. I hope our Members would vote for it.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 1 minute.

Mrs. BOXER. Thank you very much, Mr. President.

I hope my colleagues understand that under current law any medical school that has any conscience objection in teaching abortion does not have to teach abortion and they still get their Federal funds. What the Coats amendment would do is say that even if an institution has no conscience objection, it can stop teaching surgical abortion and continue to receive Federal funds.

The reason why many of us on this side particularly oppose this is that we think it is dangerous for women. We think that doctors will no longer know how to perform surgical abortions. We think it is very dangerous that a woman is put in a situation where a physician does not know how to perform a surgical abortion, say, if she is brought in in an emergency situation. That is why the American Association of University Women opposes this amendment, the National Women's Law Center, the Women's Legal Defense Fund, and the Center for Reproductive Law and Policy, among others.

I hope you will vote no. Current law has a conscience clause. We all support that. I hope we can defeat the amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 3513, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—63

Abraham
Ashcroft
Bennett
Biden
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—37

Akaka
Baucus
Bingaman
Boxer
Bradley
Bumpers
Byrd
Chafee
Daschle
Dodd
Exon
Feingold
Feinstein
Glenn
Harkin

Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin

Lieberman
Mikulski
Moseley-Braun
Murray
Pell
Pryor
Reid
Robb

Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

So the amendment (No. 3513), as modified, was agreed to.

Mr. COATS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will come to order.

AMENDMENT NO. 3511, AS MODIFIED

Mr. SIMON. Mr. President, this is the amendment we temporarily set aside. I have modified it in line with the request of the managers. It is now acceptable on both sides, and I offer the amendment.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 3511, as modified, to amendment No. 3466.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 582, line 14, strike "$1,257,134,000" and insert "$1,257,888,000".

On page 582, line 16, before the semicolon insert the following: ", and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991".

On page 582, line 16, strike "$1,254,215,000" and insert "$1,254,969,000".

On page 591, between lines 3 and 4, insert the following:

SEC. 305. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

On page 592, line 7, strike "$196,270,000" and insert "$201,294,000".

On page 592, line 7, before the period insert the following: ", of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973".

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment No. 3511, as modified.

The amendment (No. 3511), as modified, was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3519

Mr. GRAMM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAMM. Mr. President, this bill started with a $4.8 billion contingency fund which represented our effort to buy the President into a budget agreement where, if he would agree to a budget—any budget, not just a balanced budget—we would give him $4.8 billion.

But it seems since we started, we were overly eager to give the money away. We have already given the President about $3.3 billion by adding it right to spending, without even requiring a budget agreement. What I am saying here is, let us take this contingency appropriation out. If we have an agreement with the President, let us negotiate at that time. Let us not negotiate in advance. I thought we were trying to cut spending, not increase it. I do not understand how we balance the budget by giving the President $4.8 billion of additional spending. So I ask my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. May we have order?

The PRESIDING OFFICER. The Senate will be in order. We can move this process along a little faster if Senators will take their conversations to the Cloakroom.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, let me clarify the Gramm amendment, which is in the context of what the leadership has been doing in trying to negotiate with the White House. In fact, the leadership supports my effort to try to table or to kill or vote no on the Gramm amendment, and that is simply this.

The negotiators on our side said to the President there would be $10 billion that we would consider adding in nondefense discretionary spending if you agree to balance the budget through this process by the year 2002. That was our leaders, the Speaker of the House and Mr. DOLE, the majority leader of the Senate.

So, consequently, the administration came up with a request for this particular fiscal year for $8 billion of additional spending under the proposed agreement contingent upon getting that agreement.

We in the Appropriations Committee went over those requests. We cut it to $4 billion and we said, "But that $4 billion is contingent upon the leadership, who have been negotiating that long-term agreement finding an agreement."

So what we are trying to do is to help the leadership by providing the incentive, by providing the continuing leverage, and that is simply it. There is not a dollar of this that can be spent until the leadership has reached an agreement with the White House, and that is to assist the leadership to pursue this expeditiously.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3519. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 67, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—33

Abraham
Ashcroft
Brown
Burns
Coats
Coverdell
Craig
DeWine
Faircloth
Frist
Gramm

Grams
Grassley
Gregg
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain

McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—67

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
D'Amato
Daschle
Dodd
Dole
Domenici
Dorgan

Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin

Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Wellstone
Wyden

So the amendment (No. 3519) was rejected.

AMENDMENT NO. 3520

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3520.

The yeas and nays have not been requested.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I proposed this amendment with Senators SPECTER, SANTORUM, JEFFORDS, and HARKIN.

This amendment has two parts to it. It urges the Senate to maintain the Senate position going into the conference committee on the energy assistance program, which the House has attempted to eliminate. It urges the President to release emergency energy assistance money, which he already has under the LIHEAP program.

This is a sense-of-the-Senate amendment. It is extremely important, not just for cold-weather States, but also for some of the Southern States that have experienced cold weather this winter.

I yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am pleased to join with my colleague, Senator SANTORUM, and the distinguished Senator from Minnesota, Senator WELLSTONE, in supporting this amendment. The Low-Income Home Energy Assistance Program, known as LIHEAP, is vital for the poor, especially for the elderly. In many cases, they have to choose between eating or heating.

This amendment will be of substantial assistance in conference as we attempt to provide advanced funding for LIHEAP for next year. It is critical because of the way the appropriations process has worked when we have had continuing resolutions. Under the continuing resolutions, if there is not advanced funding for the program, we will not have the funds available and the States and local governments will not be able to do their planning. So I think this is a very important amendment.

Mr. KERRY. Mr. President, my Republican colleagues will come to this floor and vote for millions of dollars in corporate welfare, and then vote against providing $168 to assist a 73-year-old widow in New Bedford to pay her heating bill.

They'll vote to fund the Defense Department at a level above what the Defense Department has requested, and they'll turn around and vote against 143,000 families in Massachusetts.

All this sense of the Senate does, Mr. President, is ask the President to release about $300 million in emergency assistance LIHEAP funding to people who need it. It's been a long, cold winter in New England and across this country—a record amount of snow has fallen in my State—and it has been very, very cold. Too many people just can't pay their heating bills. We simply should do the right thing and release this money.

This year, those in Massachusetts who need help paying their heating bills are going to receive about $20 million less than they did last year. The release of emergency funds still won't bring us close to what was received last year, but it will help hard-working families struggling to make ends meet, seniors who are having the safety net stripped from beneath them in this Congress, and the disabled who deserve our help.

Mr. President, if my Republican colleagues can vote in unison for millions of unnecessary dollars for defense, I would like to hope they could do as much to release a few extra dollars already appropriated to help people financially survive the winter.

Mr. JEFFORDS. Mr. President, I rise today to offer with my colleague from Minnesota, Senator WELLSTONE, an amendment on the Low Income Home Energy Assistance Program [LIHEAP]. The amendment is a sense-of-the-Senate resolution with two parts.

The first calls upon the Senate to hold its position on advance appropriations for LIHEAP in fiscal year 1997 when we go to conference with the House. Advance appropriations allow States to plan properly for next winter and enable their programs to be fully operational by the time the cold weather begins.

The second part calls upon the President to use the LIHEAP emergency funds to meet the energy needs of America's low income citizens. If this bill passes, there will be no additional LIHEAP funds available for the rest of this year. Under existing law, the President has the authority to use emergency funds to help low income families pay their energy bills. He should do so.

I am very pleased that the chairman of the subcommittee was able to include $1 billion in advance appropriations for LIHEAP in this bill. The House bill does not include these funds and we must fight to keep them.

The recent temporary funding bills severely limited the rate at which States could draw down their LIHEAP allocations and caused serious disruptions in States' ability to provide assistance to low income families. If LIHEAP funds had not been appropriated in advance in the fiscal year 1995 Labor-HHS appropriations bill, the President would not have been able to release $578 million in energy assistance in December.

These funds enabled millions of low income households to keep their homes warm during the coldest winter months. Both the Senate fiscal year 1996 Labor-HHS appropriations bill and the administration's budget request for fiscal year 1996 included advance appropriations in fiscal year 1997 for LIHEAP.

Last week I joined with 16 of my colleagues in writing to Chairman HATFIELD asking that he include advance appropriations. I ask that a copy of this letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTHEAST MIDWEST
SENATE COALITION,
Washington, DC, March 6, 1996.

Hon. MARK HATFIELD,
Senate Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: Before March 15th, the Senate may consider an appropriations bill to provide funds needed through the remainder of FY1996. We are writing to urge you to include at least $1 billion in advance appropriations for the Low Income Home Energy Assistance Program (LIHEAP) for FY1997 in this bill. Advance appropriations allow states to plan properly for next winter and enable their programs to be fully operational by the time the cold weather begins.

The recent temporary funding bills severely limited the rate at which states could draw down their LIHEAP allocations and caused serious disruptions in states' ability to provide assistance to low income families. If LIHEAP funds had not been appropriated in advance in the FY1995 Labor/HHS Appropriations bill, the President would not have been able to release $578 million in energy assistance in December. These funds enabled millions of low income households to keep their homes warm during the coldest winter months. As you know, both the Senate FY1996 Labor/HHS Appropriations bill and the Administration's budget request for FY1996 included advance appropriations in FY1997 for LIHEAP.

We must ensure that state LIHEAP programs can operate effectively next winter. Advance appropriations are essential. We urge you to include at least $1 billion in advance appropriations funding for LIHEAP for FY1997. Thank you.

Sincerely,

James M. Jeffords, Co-Chairman. Daniel Patrick Moynihan, Co-Chairman. Herb Kohl, John Glenn, Olympia Snowe, John F. Kerry, Paul Wellstone, Chuck Grassley,——— ———, Carol Moseley-Braun, Bill Cohen, John H. Chaffee, Chris Dodd, Patrick Leahy, ——— ———, Rick Santorum, Bob Smith.

Mr. JEFFORDS. Mr. President, we must ensure that State LIHEAP programs can operate effectively next winter. Advance appropriations are essential in this regard.

The other part of this resolution deals with funding for the rest of this fiscal year.

With passage of this bill, LIHEAP funding for this year will only be $900 million—a 40-percent cut from last year. Let me say at this point that getting to the $900 million level has been quite a struggle.

There has been an effort by some Members of the other body to abolish the program. I have worked very hard to combat these efforts as have the Senator from Minnesota and the chairman and ranking member of the Labor/HHS subcommittee—the Senator from Pennsylvania and the Senator from Iowa.

While $900 million is not sufficient to meet the energy needs of America's low income families, these funds have made it possible for States to provide energy assistance to many low income residents.

The problem is that the money is all spent. Using the authority granted under the advance appropriations and the continuing resolutions we had previously passed, the President has already released $900 million so far this year, the amount this bill includes for LIHEAP. Almost all of these funds have gone out to the States and they have obligated the funds. There isn't any money left.

There is currently available to the President up to $300 million in emergency LIHEAP funding. A portion of these funds could be made available to those areas with the greatest need in order to meet the urgent home heating needs of families eligible for LIHEAP. No emergency funds have been used so far this fiscal year.

Mr. President, spring may officially start later this week, but for many parts of the country winter is not over. Last week we had lows in the twenties in Burlington, VT.

Checking today's USA Today we see that people can expect lows of 28 degrees in Grand Rapids, MI; 18 degrees in Eau Clair, WI; 13 degrees in Duluth, MN; and 15 degrees in Rapid City, SD. I might also remind my colleagues that 3 years ago, the so-called Storm of the Century occurred, not in January, not in February, but in March. We are not out of the woods yet.

How are low income families going to heat their homes? How are they going to pay their energy bills? How are they going to avoid having their heat shut off? Mr. President, there are no more LIHEAP funds available. Using the emergency funds is the only way to meet this need.

And what about this summer? Traditionally, 10 percent of LIHEAP funds are used for cooling assistance during the warm weather months, but this year there is no money left. How are States going to help low income senior citizens and persons with disabilities keeps their homes cool this summer?

This is not a trivial matter. High temperatures pose a serious health threat. Look at what happened last summer in Chicago. Hundreds of people died as a result of the extreme heat. There aren't any LIHEAP funds left, we are going to need emergency funds to meet this need.

Mr. President, because of reductions in LIHEAP funding, most States have had to reduce benefit levels and restrict eligibility. There has been a 24-percent reduction in the number of households served by LIHEAP. In seven States that figure is 40 percent.

I guess you can say Vermont has done well in this regard. Only 14 percent of the 25,000 households that received aid last year have not gotten heating assistance this year, but the benefit level has been reduced by almost half.

I call to my colleagues' attention an article that appeared in yesterday's Providence Journal. It says that local agencies that provide heating assistance expect the need for heating assistance to continue well beyond April 1 but they do not have the money to meet the need.

Mr. President, our amendment is simply a sense-of-the-Senate resolution calling upon the President to use the authority he already has to meet the energy needs of America's low income families. LIHEAP funds have been cut 40 percent from last year and there is no money left. We need to use the emergency funds.

Mr. President, I urge my colleagues to support this amendment. This winter is not over and we have to start thinking about next winter.

Mr. KOHL. Mr. President, I rise as a cosponsor of the sense-of-the-Senate resolution on the Low Income Home Energy Assistance Program [LIHEAP].

This resolution calls on the President to release additional LIHEAP funds this year, and recognizes that forward funding for next year is critical to the LIHEAP program.

Mr. President, according to the calender, Spring has almost arrived, but freezing weather is still expected for the Upper Midwest. There is still a very real need for LIHEAP assistance.

Mr. President, we came perilously close to disaster earlier this winter because of cuts to LIHEAP and the failure of the Congress to finalize spending for the year.

Thankfully, President Clinton was able to release emergency funding when extended and severe cold weather spells threatened to result in a crisis situation for thousands of people in my State of Wisconsin and throughout the Nation.

LIHEAP has traditionally received forward funding by the Appropriations Committee so that States will know what to expect and may plan for the next heating season.

Forward funding this year also served to prevent partisan budget fighting from holding up emergency help. Even though many important programs were held hostage during the Government shut-downs, forward funding allowed the President to release critical heating assistance when it was needed the most.

Despite the President's action, the LIHEAP program was still hit with $400 million in cuts from previous levels, which represented a 25-percent loss this winter.

LIHEAP has continued to receive severe cuts even though home heating represents a disproportionate cost for low income households. Recent reductions in the program has led to steep shortfalls for States and prevented many families from qualifying for assistance.

In Wisconsin, over 126,000 families depend upon the Low Income Home Energy Assistance Program. This year, Wisconsin families have been forced to confront an annual reduction of $100 due to LIHEAP cuts.

Given the funding shortfall this winter and the real prospect that severe weather conditions will likely drag on over the next month, it is important that remaining Federal assistance be allocated to the States. This resolution would call on the President to use his authority to do just that.

Low income families and elderly people struggle year in and year out with bitter cold weather and ever rising heating costs. For these families, the LIHEAP program has provided life-saving help when heating bills or needed furnace repairs become impossible.

We must preserve LIHEAP and allow those who still need help this year to receive emergency assistance. We should also affirm the Senate position and make sure that LIHEAP is prepared to meet energy assistance needs in the future through forward funding.

I urge my colleagues to support this sense-of-the-Senate resolution.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to add Senators DODD, MOYNIHAN, KERRY, and MOSELEY-BRAUN as additional cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM], is recognized.

Mr. GRAMM. Mr. President, I do not see anybody rising in opposition. If there is time, and if nobody wishes to speak in opposition to this amendment, I would like to speak in opposition.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. GRAMM. Mr. President, I think we have reached the point of being ridiculous here. We have added $5.6 billion to Government spending right here in this bill. We are now so eager to spend money that we are no longer spending it this year, we are spending it next year. We cannot wait until next year to spend money on a program. We have to do it right now.

What happened to the mandate of the 1994 elections? I am opposed to this amendment. I intend to vote against it, even if I am the only Member of the Senate that does. I am glad we have the yeas and nays. I hope it will be defeated.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3520.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 77, nays 23, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—77

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thurmond
Warner
Wellstone
Wyden

NAYS—23

Ashcroft
Brown
Cochran
Coverdell
Craig
Faircloth
Gorton
Gramm
Grams
Helms
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Shelby
Thomas
Thompson

So the amendment (No. 3520) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3524, AS MODIFIED

Mr. MURKOWSKI. I ask unanimous consent to send a modification of amendment No. 3524 to the desk.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, it is so ordered.

The amendment (No. 3524), as modified, is as follows:

On page , beginning with line , insert the following:

SEC. . SEAFOOD SAFETY.

(a) Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that—

(b) The Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainly that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

Mr. BUMPERS. The Senator from Alaska, [Mr. MURKOWSKI], has offered an amendment relating to the purchase of domestic fish or fish products by the Department of Agriculture and other Federal agencies. It is the understanding of the Senator that his amendment would impose no new requirement on the Federal Government to purchase these items?

Mr. MURKOWSKI. Yes, that is my understanding. Currently, Federal agencies are authorized to contract with suppliers of fish and fish products for various Federal feeding programs. Additionally, these products may be purchased by the Secretary of Agriculture under the commodity surplus reduction authorities of section 32 of the Agriculture Act of 1938. While these authorities for purchase will remain, my amendment will impose no requirement for purchase beyond the discretionary authorities of current law.

Mr. BUMPERS. Is it also the understanding of the Senator from Alaska that his amendment would not reduce the ability of Federal agencies to ensure the quality of fish and fish products purchased under these authorities?

Mr. MURKOWSKI. Yes, that is my understanding. All Federal agencies who enter into agreements for purchase of food commodities solicit bids which contain a number of contractual conditions relating to the quality of the items. Nothing in my amendment would restrict the criteria imposed by the Federal Government relating to the quality of the product. The only restriction imposed by my amendment would be to prohibit a contractual requirement that processing be subject to any federally mandated continuous inspection method beyond that imposed by the Food and Drug Administration.

Mr. BUMPERS. I understand current procedures for such purchases require an inspector of the National Marine Fisheries Service to be present at all times during processing. Would the Senator's amendment prohibit the presence of any Federal inspector during processing for these products in order to ensure contractual compliance related to quality standards?

Mr. MURKOWSKI. No. My amendment would only eliminate the requirement of their continuous present for any inspection purpose other than food safety and wholesomeness. All Federal agencies involved in the purchase of fish and fish products would retain all current authorities to inspect and impose quality standards they feel proper to protect the Federal investment in, and ultimate consumers of, these products.

I thank my colleagues on both sides for agreeing to the amendment. I think no further debate is necessary. I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3524), as modified, was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3521 AND 3522 WITHDRAWN

The PRESIDING OFFICER. The question now occurs on the McCain amendment No. 3521.

Mr. McCAIN. Mr. President, I ask unanimous consent to withdraw amendment No. 3521 and amendment No. 3522. They will be included in the managers' package.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 3525

The PRESIDING OFFICER. The question now is on agreeing to amendment No. 3525.

The amendment (No. 3525) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Could I inquire what the parliamentary situation is at this point?

The PRESIDING OFFICER. The question is now on agreeing to the Thurmond amendment No. 3526.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the Thurmond amendment so that we might consider some other amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question would now occur on the Burns amendment No. 3528.

Mr. LOTT. Mr. President, I would like to suggest the absence of a quorum at this point.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3528 WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent that the vote be vitiated on the Burns amendment to H.R. 3019, amendment No. 3528, and the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, let me, first of all, indicate to the Senate our progress. We have now completed all of our amendments, with the exception of a Thurmond amendment and then the matter relating to the pending appeal of the ruling of the Chair by Senator BURNS. Then I want to put in a quorum call for a few minutes for us to catch our breath and review things, because the only other item to be taken into consideration is the managers' package—the managers' package.

In this package are those accommodations we made to Senators who were not able to meet the deadline for filing amendments and for those which had been in the process of being cleared on either side with the authorizing committees.

Everyone's right is reserved in the managers' package, because anyone can move to strike or move to modify or second degree, whatever. So I want to make that process clear. We have copies now of the managers' package. I would like to make sure everyone has reviewed these, and I have made sure their own interests are protected.

So at this time, Mr. President, I would like to, with the two parties on the floor, dispose of the two remaining issues, the Burns appeal and the Thurmond amendment.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

APPEAL OF RULING OF THE CHAIR WITHDRAWN

Mr. BURNS. Mr. President, I ask unanimous consent to withdraw my appeal of the ruling of the Chair on my amendment No. 3551 yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 3526, AS MODIFIED

Mr. THURMOND. Mr. President, I ask unanimous consent that I be allowed to modify my amendment No. 3526. I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 754, line 4, before the period at the end, insert the following: ": *Provided further*, That the authority under this section may not be used to enter into a multiyear procurement contract until the earlier of (1) May 24, 1996 or (2) the day after the date of enactment of an Act that contains a provision authorizing the Department of Defense to enter into a multiyear contract for the C–17 aircraft program.

Mr. THURMOND. Mr. President, I understand this amendment now has been agreed to by both sides. There is no objection. We tried to work everything out in a satisfactory manner. I urge the adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3526, as modified.

The amendment (No. 3526), as modified, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I inquire of the Chair if I am correct on indicating, as I did, that all the amendments that were part of the unanimous consent agreement have been acted upon and disposed of in some manner?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, as I say, I am going to take this time to recite those amendments that are in the managers' package. Then I will ask for a quorum call to give time for people to come to the floor or to indicate an interest in either one of these. They are open to second degree or for striking:

One amendment by Senators CHAFEE and KEMPTHORNE on ESA funding; an amendment by Senator BURNS on a hydroelectric facility in Montana; an amendment by the Finance Committee on reimbursement of certain claims under the Medicaid Program; an amendment by Senator COHEN to repeal the requirement to discharge or retire members of the Armed Services who are HIV positive; an amendment by Senators DORGAN and CONRAD, additional funds for B–52's; an amendment by Senators BENNETT and HATCH, photographic technology; an amendment by Senators BREAUX and JOHNSTON on machine tools; an amendment by Senator BOND earmarking ER highway funds within those appropriated; an amendment by Senator DASCHLE which earmark CDBG funds within those appropriated; two amendments by Senator SANTORUM, two sense-of-the-Senate amendments regarding offsets for title II disaster assistance and language that makes adjustments to discretionary spending to offset disaster assistance; an amendment by Senator GORTON, a Walla Walla, WA, veterans medical center naming; an amendment by Senators DEWINE and MCCONNELL, provides $11.8 million for local governments for the development of criminal justice identification systems, offset from foreign operations Eximbank.

Let me say all of these amendments either have been offset or they do not have a major impact on the overall bill that we are recommending from the committee. But these are all part of the managers' package. I did not want anyone to be blindsided or have any thought of any right being diminished by the action of the committee.

Excuse me, Mr. President, there is a second page. Amendments, like mushrooms, tend to grow in the night:

An amendment by Senator MCCAIN on allocation of health care resources at VA; an amendment by Senator HATFIELD, Umpqua River basin from existing funds; an amendment by Senator MCCAIN on disaster funds allocated in accordance with established prioritization processes; a technical amendment making section changes; an amendment by Senator MURKOWSKI; Greens Creek, AK.

Mr. President, at the time when we move to act on these packaged amendments, I will also ask unanimous consent that the following statements and colloquies be placed in the RECORD: A statement by Senator HUTCHISON; a statement by Senator DEWINE; a colloquy by Senators STEVENS and CAMPBELL; a colloquy by Senators SPECTER and PELL; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators HOLLINGS, MCCAIN, and SPECTER; a colloquy by Senators MCCONNELL and LEAHY; and a colloquy by Senators HARKIN, JOHNSTON, and SPECTER.

I would also ask further that a statement by Senator MCCAIN be printed in the RECORD at the appropriate place following the Burns amendment adopted herein. That is a lot.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Let me ask the distinguished Senator if there is not also a Dole amendment on the IRS commission, which he did not list.

Mr. HATFIELD. I am told there is. Typographical error.

Mr. BUMPERS. Would the Senator add that to the unanimous-consent request?

Mr. HATFIELD. I have not asked yet unanimous consent, but we do have that included. That is on the second page.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to speak as in morning business for just a few minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, at the end of last week I came to the floor and talked about the Violence Against Women Act. I announced that we now set up an important hotline, and that every day on the floor of the Senate I wanted to just announce this number for families in our country. This is the National Domestic Violence Hotline, and the number is 1–800–799–SAFE. There is also a TTD number for the hearing-impaired, and that is 1–800–787–3224.

Mr. President, I talked about domestic violence last week. I will not take the time today. But I would like for the next couple of weeks to get about 30 seconds every day to announce this number.

Again, for those that are watching C-SPAN, the National Domestic Violence Hotline is 1–800–799–SAFE, and the TTD number for the hearing-impaired is 1–800–787–3224. If a woman feels she needs help because she is being beaten or her children are being beaten, she is being battered, this is the number to call. There are people who are skillful; there are people who understand this issue. Because of this hotline, there is help for women, there is help for children, there is help for families in this country.

Mr. President, I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET DOWNPAYMENT ACT, II

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3553 TO AMENDMENT NO. 3466

Mr. HATFIELD. Mr. President, I send to the desk the managers package, as I have outlined it and explained it.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Oregon [Mr. HATFIELD], for himself and Mr. BYRD, proposes an amendment numbered 3553 to Amendment No. 3466.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HATFIELD. Mr. President, again, let me call to the Senate's attention—as I have done now in the Republican caucus at lunch, and others in the Democratic Caucus, I think, had similar material—that we have put together, with the clearance of Senator BYRD on the Democratic side of the aisle, a managers package to accommodate those Members who were not present when a unanimous-consent agreement was entered into at 7:45 last Thursday night. The deadline was 8:05. So there were those who were negotiating at that time with other colleagues.

I have recited those amendments and we have indicated very clearly that people's rights to either modify, to change, second degree, or strike were certainly open.

We have waited now close to half an hour for anyone to appear to take advantage of that opportunity.

I ask unanimous consent that the statements and colloquies—I am just boxing those together—be placed in the RECORD. As I recited before, there is a statement by Senator HUTCHISON; a statement by Senator DEWINE; a colloquy by Senators HATFIELD and SPECTER; a colloquy by Senators STEVENS and CAMPBELL; a colloquy by Senators SPECTER and PELL; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators HOLLINGS, MCCAIN, and SPECTER; a colloquy by Senators MCCONNELL and LEAHY; a colloquy by HARKIN, JOHNSTON, and SPECTER; a colloquy by Senators SIMON and SPECTER; a colloquy by Senators MCCAIN and BURNS, which I ask be placed in the RECORD in the appropriate place following the Burns amendment that we will have adopted in this package.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEMATECH

Mrs. HUTCHISON. Mr. President, the purpose of my amendment is to restore the funding level for Sematech to the full amount authorized in the 1996 Defense authorization bill.

Mr. President, semiconductor manufacturing leadership is as critical to America's national defense and economic security today as it was in 1987 when Sematech was formed. Sematech has proven to be a model for government-industry cooperation. Unlike so many other programs, Sematech has produced all that it has promised it would and then took the unprecedented step of deciding to decline all future direct Federal funding.

It is indeed ironic that as this program come to an end, our competitors in Japan recently announced they are establishing a consortium modeled after Sematech. They have publicly admitted that the success of Sematech has resulted in America reclaiming world market share leadership in both chips and the equipment used to manufacture them and the Japanese now feel the need for their own Sematech.

We must never surrender our leadership or our resolve to be the technology leader of the world. In this the final year of funding, I believe we have an obligation to provide adequate funding to ensure Sematech is able to complete its mission and finish research project already underway that the industry and the Department of Defense are counting on.

CRIMINAL JUSTICE IDENTIFICATION SYSTEMS

Mr. DEWINE. Mr. President, my amendment provides $11.8 million for local governments for the development of criminal justice identification systems and their linking to FBI databases. Specifically, this amendment allows the FBI to grant funds to local communities, in consultation with the States, to upgrade their criminal identification systems. Through this funding, law enforcement agencies could develop their criminal histories, and DNA, fingerprint, and ballistics identification systems, and hook them up to the FBI national databases. It would also allow local law enforcement to contribute identification materials to the database in Washington. This proposal is strongly supported by the FBI and State and local law enforcement agencies and governments.

While the FBI's fingerprint and criminal histories systems are not yet complete, State and local governments need these funds now to take necessary steps to prepare their criminal records for connection to the national database.

This language was also passed by the Senate in June, 1995, as part of S. 735, the Senate's antiterrorism measure, and in October, 1995, as part of H.R. 2076, the Commerce, Justice, State and the Judiciary Appropriations.

I want to thank Senator MCCONNELL for his tremendous efforts in securing passage of this amendment. I also want to express my appreciation to Senator HATFIELD and Senator GREGG for accepting this amendment.

REGIONAL EDUCATIONAL LABORATORIES

Mr. HATFIELD. I am pleased to see that the Senate provided an increase of funding for education research in fiscal year 1996. There is not a more central and basic role for the Federal Government than to be funding research and development activities. Within that increase, have you provided for the regional educational laboratories?

Mr. SPECTER. We have provided $51 million for the regional educational laboratories in the education research item. We have 10 laboratories across the Nation. This funding will provide them each with a $1 million increase.

Mr. HATFIELD. Have you designated the purpose of these funds for the laboratories?

Mr. SPECTER. The laboratories, by law, are to have their research priorities and program of work determined totally by their regional educational governing boards. These boards are responsible to meet the education needs of their region. We are not giving a specific charge. We expect the laboratory boards to determine what is needed.

Mr. HATFIELD. Does this mean that the Department of Education can direct these funds in any way?

Mr. SPECTER. Senator HATFIELD, the answer is that these funds are intended for regional priorities only and only when the priority is determined by a laboratory's board, and is a priority within the general problem areas established in the law. None of these funds are to be used for any other purpose. This is what Congress intended when we reauthorized these laboratories. A key role of the Office of Educational Research and Improvement is to guarantee that this expectation is met, not only with the additional funds we provide this year, but for all the funds for the regional educational laboratories.

NATIONAL TEST FACILITY

Mr. CAMPBELL. Would the Senator from Alaska yield a few moments at this time to enter into a brief colloquy?

Mr. STEVENS. I would be happy to yield to the distinguished Senator from Colorado.

Mr. CAMPBELL. I thank the Senator. As the Senator may recall, the Senate report on the National Defense Authorization Act for Fiscal Year 1996 contained language concerning the $30,000,000 mandated cut from the Ballistic Missile Defense Organization [BMDO] program management and support program element. It is also my understanding that based on the additional management requirement, the Defense Appropriations Subcommittee directed that none of the program management and support account reduction be applied to the programs, activities, or functions of the Army Space and Strategic Defense Command. As a result of this report language, the National Test Facility [NTF] will take approximately a $4 million reduction in funding. As a result, there will be insufficient funds to do the much needed upgrade of the communications of the national test bed network. Also, a computer essential to the NTF's mission may not be able to support its operational requirements. I am advised that this facility is essential to the BMDO's mission, and therefore, cannot withstand any further reduction in funding.

I would like to ask the Honorable Chairman, Senator STEVENS, if he would work to include the National Test Facility as another program not be affected by the BMDO program management and support account reduction?

Mr. STEVENS. The Senator from Colorado raises important issues regarding the NTF and I can assure him I will work in the conference committee to address this issue. I also take this opportunity to thank the Senator from Colorado for his diligent efforts as the newest member of the Appropriations Committee.

INTERNATIONAL EDUCATION

Mr. SPECTER. Senator PELL, we are pleased to be able to provide support in the amount of $5 million in fiscal year 1996 for the International Education Program in title VI of the Goals 2000: Educate America Act. Since this sum is one-half of the originally authorized amount for this program we would appreciate any guidance that you, as the author of this legislation and the ranking minority member of both the Senate Foreign Relations Committee and the Education Subcommittee, might be able to provide on the use of these funds.

Mr. PELL. Thank you. First, I want to express to you my deep appreciation for the efforts you have made on behalf of this program, which provides critically important help in both civics and economic education to the emerging democracies in Eastern Europe and the former Soviet Union. Also I want to personally thank your staff member, Bettilou Taylor, for the amount of time and work she put forth in this area.

I very much appreciate the opportunity to provide guidance on how the funds for this program should be used. In a colloquy with then-Chairman Harkin in 1994, we agreed that the Department, given the limited funds, should award one grant in each area—one in civic education and one in economics education. I am pleased that the Department of Education complied with this request, and I believe it is a practice that should be continued.

Further, given the delay in reaching an agreement on a fiscal 1996 appropriations bill, I believe it advisable that the Department award continuation grants to the two organizations that received awards last year. These organizations, the National Council on Economic Education in New York and the Center for Civic Education in California, have had their grants for less than a year and should be given ample opportunity to implement fully the programs they have initiated over the past several months.

Mr. SPECTER. I thank the Senator for his kind words. Also, I believe he has offered good, solid advice, and would concur with him that the Department should award continuation grants for the two organizations in question.

FUNDING FOR LIBRARY LITERACY

Mr. SIMON. I am concerned that funds for library literacy have been eliminated in the committee report. This is a particularly important program that supports literacy projects in over 250 libraries across the country. I did note and do appreciate, however, that the committee increased funding for library services.

Mr. SPECTER. My colleague is correct. Libraries are important in promoting literacy and I want to make it clear that the committee intends that library literacy projects continue to receive support through the additional funds allocated for library services. I will work in Conference Committee with the House to ensure that the conference report reflects this intent.

Mr. SIMON. I thank my colleague. Though I obviously would feel more comfortable if funds were appropriated specifically for this purpose, I appreciate my colleague's efforts to accommodate my concerns regarding this important program.

MEDICARE-MEDICAID DATABANK

Mr. HOLLINGS. Mr. President, I rise for the purpose of engaging in a short colloquy with the distinguished Senator from Pennsylvania and the Senator from Arizona regarding the Medicare-Medicaid databank.

Mr. SPECTER. I am familiar with the issue and would be glad to discuss it with my friends from South Carolina and Arizona.

Mr. HOLLINGS. Well, I do not believe that this is controversial because it has been addressed in the past by the committee and by the Senate. Last year, the committee report included report language prohibiting the use of funds for the Medicare-Medicaid databank. This year, the House fiscal year 1996 Labor, Health and Human Services, Education, and Related Agencies Appropriations report again makes it clear that the House committee does not intend for funds to be used for this function, which could generate both needless paperwork and fines for businesses across America. I just want to make the record clear that the Senate continues to agree.

Mr. McCAIN. I share the concern of my friend from South Carolina and have supported this prohibition from the start. Implementing the databank clearly would burden business with costly reporting requirements. In fact, I have introduced a bill to eliminate this burdensome mandate and hope it could be passed by the end of the year.

Mr. SPECTER. I appreciate my colleagues raising this issue. I know that language similar to the fiscal year 1996 House report language was included in the Senate report last year, and certainly, the Senate committee continues to agree.

Mr. McCAIN. I thank my friend from Pennsylvania for his clarification.

Mr. HOLLINGS. I thank my colleagues and yield the floor

FOREIGN OPERATIONS

Mr. LEAHY. Mr. President, the chairman of the Foreign Operations Subcommittee, Senator MCCONNELL, and I have agreed to an amendment he is offering to rescind $25 million in funds appropriated in Public Law 104–107, the fiscal year 1996 Foreign Operations bill, for the Export-Import Bank. Those funds would then be eligible for transfer to the Commerce, Justice, State Subcommittee for programs under the jurisdiction of the Attorney General.

Senator McCONNELL and I have also agreed that if the $50 million emergency supplemental appropriation for anti-terrorism assistance for Israel that is contained in this omnibus appropriations bill is offset with Defense Department funds or military construction funds, the $25 million transfer to the Commerce, Justice, State Subcommittee may occur. However, if any of the Israel supplemental is offset with Foreign Operations funds, the transfer will not occur. This ensures that if the Israel supplemental is paid for with Foreign Operations funds, the Export-Import Bank money would remain in the Foreign Operations budget and would reduce the impact of that offset on Public Law 104–107.

Mr. McCONNELL. Mr. President, the Senator from Vermont, Senator LEAHY, has accurately stated our understanding.

Mr. JOHNSTON. Mr. President, I would like to commend the distinguished chairman, Senator SPECTER, and the distinguished ranking member of the Labor, Health and Human Services Subcommittee on Appropriations, Senator HARKIN, for their guidance and cooperative efforts in bringing this continuing resolution to the floor. There were extreme differences of opinion on a variety of subjects within this legislation, and both the chairman and ranking member deserve a great deal of credit for their efforts.

Mr. President, I rise today to bring attention to a program that is providing an indispensable service to Americans living underserved rural areas. The committee has provided funding above request levels for the Office of Rural Health Policy, and I applaud this decision. Rural telemedicine is a novel initiative in that it provides people in rural communities across the country access to physicians and instant diagnosis. This is a particularly essential program given the declining numbers of doctors who practice general medicine in our Nation's small communities. Telemedicine research has been ongoing, with specific efforts to determine the best and most efficient methods of delivering these services to America's citizens.

One of the excellent telemedicine research projects which would have been funded in 1995 was from Louisiana State University Medical Center in New Orleans. LSU went through the competitive process and was highly regarded on the merits, and I'm proud of their accomplishments, and the work that they are doing in southeast Louisiana.

Mr. President, a number of telemedicine projects were approved last year, but did not receive funding as a result of rescissions. The LSU Telemedicine projects was just such a program. In order that LSU Medical Center might continue its outstanding work, I would ask the distinguished chairman and ranking member, and hope that they agree, that consideration would be given to those programs that, after the required peer review, should have received funding from the fiscal year 1995 appropriation, but were not based simply on timing.

Mr. SPECTER. I thank my distinguished colleague from Louisiana for his comments, and for bringing this component of telemedicine research to the subcommittee's attention. The subcommittee adjusted the funding levels for the Office of Rural Health Policy because it felt that programs, such as telemedicine, offer promise for improving services to rural communities in the future. There is a need to evaluate how telemedicine projects currently underway or under consideration fit into the overall scheme of health care delivery in the areas being served. Therefore, I think it would be consistent for the Health Resources and Services Administration to consider previously approved projects when it obligates Rural Health funding.

Mr. HARKIN. Mr. Chairman, I concur with your remarks. It would be appropriate to continue these efforts to secure effective telemedicine services for rural communities and to use existing, approved projects where possible.

HCFA RESEARCH AND DEMONSTRATIONS

Mr. SIMON. Mr. Chairman, I want to bring to the attention of the Senate and the committee language included in the Senate Appropriations Committee Report accompanying H.R. 2127, the 1996 Labor, Health and Human Service, Education Appropriations bill. It is my understanding that unless specifically contradicted, all items in that committee report are incorporated, by reference, in the committee report accompanying the continuing resolution now being considered by the Senate.

Mr. SPECTER. That is correct.

Mr. SIMON. Accordingly, language included in the Senate committee report under the Health Care Financing Administration Research, Demonstrations, and Evaluations account that encourages HCFA to give "full and fair consideration" to a proposal from Northwestern Memorial for a "3-year project to develop a comprehensive health care information management system" is incorporated by reference in the report accompanying the continuing resolution now under consideration.

Mr. SPECTER. That is further correct. This is a project that warrants full and fair consideration by HCFA, which should adhere to the intentions of the Senate with regard to this important piece of report language.

Mr. SIMON. At a time when the Congress is proposing—and HCFA will be responsible for administering—significant reductions in Medicare and Medicaid costs, this proposal is particularly timely. Specifically, with the advent of managed care, and the resulting shift of patient care from inpatient acute care to ambulatory and other primary care settings, an integrated health care delivery system is essential. At present, information management systems to measure cost outcomes—and achieve cost savings—beyond the acute care setting are not commercially available. The information management system recommended in this report language would serve as a prototype for other health care delivery systems, and offers the promise of cutting health care costs while maintaining quality health care.

Mr. SPECTER. I share your interest in ensuring that HCFA has the information necessary to reduce the costs of health-related entitlements while maintaining quality care. I also agree that the information management system referenced in the committee report is precisely the kind of project that HCFA should be exploring to achieve these objectives.

Mr. SIMON. Thank you for your interest in this important project.

FLINT CREEK

Mr. McCAIN. Mr. President, I would like to clarify for purposes of the RECORD the amendment that we have just adopted.

First, the amendment gives the Federal Energy Regulatory Commission [FERC] the discretion of whether to transfer the license for the Flint Creek project. Second, in determining whether to transfer the license the commission must determine whether the waiver of fees is warranted, necessary, and in the public interest.

In making these determinations FERC will ensure that the current licensee receives no payment or consideration for the license transfer, that no entity other than a political subdivision of the State of Montana would accept the license if made available, and that a fee waiver is necessary in order to transfer the license.

Mr. President, the proponents of this amendment inform me that without a limited fee waiver, the Flint Creek project would be defunct, the dam removed and that, accordingly, the Federal Treasury, would receive no fee revenues whatsoever, leaving both the people of the area and the Federal Treasury worse off.

I trust that FERC will carefully examine the situation and exercise its discretion to ensure fairness to the parties in Montana, the Federal Treasury and all similarly situated projects. I ask my friend from Montana, is that a correct reading of the amendment?

Mr. BURNS. My friend has described the amendment correctly.

CDBG FUNDS

Mr. BOND. Mr. President, I support the amendment offered by the Senators from South Dakota to earmark $13 million from the CDBG program to enable the city of Watertown to replace a failed sewage treatment plant without burdening that city with unfair additional debt and devastating economic consequences. This grant will be matched by the city.

The city of Watertown participated in an innovative wastewater treatment project which failed. When that city undertook this demonstration, it was with the encouragement of EPA, and with the understanding that if the plant were to fail, that Federal grant funds would be provided to enable the city to meet its secondary treatment responsibilities.

Unfortunately, the plant has failed, and the authorization to make such grants by EPA also has expired, since Congress has directed that henceforth such assistance only be available in the form of formula-allocated capitalization of State revolving loan funds. It has been argued that we should override this statutory direction and make specific grants to certain communities. Throughout the consideration of this bill I have opposed such earmarks from the EPA State revolving loan account, and I remain opposed to the diversion of EPA funding for such site specific concerns.

Mr. President, despite my concern over such use of EPA revolving loan funds, I reluctantly have accepted the argument of the Senators from South Dakota that this city would be unfairly burdened with a massive additional cost of financing a replacement wastewater treatment plant, a cost that they were assured previously they would not have to pay. More importantly, this additional cost, necessitated by the failure of a technology recommended by the Federal Government, will have devastating economic consequences for this city.

As such, amelioration of these consequences is one which the HUD CDBG program was intended to address: that of creating or preserving employment in a community. While I also am generally opposed to such earmarks in the CDBG program, this is a program which has such purposes under its current authorization, and as such, is a more appropriate means of addressing the legitimate concerns of this community.

THE COMMITTEE FOR MINORITY VETERANS AND THE COMMITTEE ON WOMEN VETERANS

Mr. AKAKA. Mr. President, would the Senator from Missouri, the chairman of the VA, HUD, and Independent Agencies Subcommittee yield for a question?

Mr. BOND. I would be happy to yield for a question from the junior Senator from Hawaii.

Mr. AKAKA. Is it the intention of the committee to include the Committee for Minority Veterans and the Committee on Women Veterans under the restrictions placed on the travel budget of the Secretary of Veterans Affairs?

Mr. BOND. No, it was not.

Mr. AKAKA. Will the Committee for Minority Veterans and the Committee on Women Veterans be able to meet their responsibilities, including travel obligations, under the restrictions placed on the Secretary's travel?

Mr. BOND. Yes, they will. I believe that the ranking member of the Subcommittee, the Senator from Maryland, also supports this view.

Ms. MIKULSKI. That is correct. As a strong proponent of the Committee on Women Veterans and the Committee for Minority Veterans, I fully support their efforts and will make every effort to see that their activities are not adversely affected.

Mr. AKAKA. I am most grateful for the Senator from Maryland's past assistance in providing support and funding for the two centers.

As created by Congress, the centers were established to address the special needs of women and minority veterans overlooked under the Department's previous structure. Both centers and their respective Advisory Committees have made great strides in identifying and assisting minority and women veterans.

The Committee for Minority Veterans is required to meet at least twice a year and submit an annual report no later than July 1. The Committee on Women Veterans is scheduled to meet four times during a fiscal year and is expected to submit its next annual report in January 1997. The projected costs for the two committee to hold meetings, conduct public hearings, visit VA field facilities, and outreach to minority and women veterans are estimated to be over $120,000 for the remainder of the fiscal year. I am pleased that the provision in this bill will not adversely affect the activities of the Center for Minority Veterans and the Center on Women Veterans.

Mr. President, I thank the Senator from Missouri and the Senator from Maryland for their assistance on this matter.

DEVILS LAKE BASIN

Mr. CONRAD. I notice that the chairman and ranking member of the Appropriations Subcommittee on VA-HUD and Independent Agencies are on the floor and Senator DORGAN and I would like to engage them in a short colloquy.

As you know, two amendments to the omnibus appropriations bill were adopted on the floor on Monday providing much needed hazard mitigation and disaster relief for the people of the Devils Lake Basin in North Dakota. As Senator DORGAN and I stated on the floor prior to adoption of those amendments, Devils Lake reached a 120-year high water level last year, and the resulting flooding caused more than $35 million in damages. Based on the most recent National Weather Service forecast on March 1, we anticipate record high lake levels again this year. The amendments which were adopted will go a long way toward preventing another disastrous flood from occurring. We would like to know if additional assistance might be available to North Dakota through the Community and Development Block Grant Program.

Mr. DORGAN. We note that an additional $100 million dollars is provided for the Community Development Block Grant Program in the disaster supplemental portion, title II, of the pending bill. The State of North Dakota, working with the affected counties of Benson and Ramsey and the Devils Lake Sioux Tribe, have identified many homes that will require relocation or acquisition to prevent them from being damaged by floods later this year. A substantial portion of the anticipated $50 million in flood damage could be prevented if homes in the flood plain are acquired or moved prior to the flood. Senator CONRAD and I would like to inquire if CDBG block grant funds have been used for acquisition and relocation in the past.

Mr. BOND. It is my understanding that CDBG funds have been used for acquisition and relocation in the past and would be an allowable use of these funds under HUD guidelines for the CDBG program.

Ms. MIKULSKI. I concur with the chairman of the subcommittee on the use of CDBG funds for acquisition and relocation assistance. If Federal dollars can be saved by taking action before flooding occurs, I think we should do so.

Mr. CONRAD. I thank the chairman and ranking member for their comments. We have one additional question for the chairman and ranking member.

Mr. DORGAN. North Dakota has received a Presidentially declared disaster declaration for each of the past 3 years. H.R. 3019 provides disaster assistance for the Pacific Northwest and other recent natural disasters. Could the chairman provide me with his view as to whether the Devils Lake Basin would have eligibility for additional CDBG assistance under the "other recent disasters" provision in title II of H.R. 3019?

Mr. BOND. I believe the State of North Dakota would be eligible to receive CDBG funding under title II of this bill, provided the administration concurs with the congressional designation of the appropriation as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, and submission of an official budget request to this end.

Ms. MIKULSKI. I believe the chairman's interpretation of the provisions in the bill is correct.

Mr. CONRAD. I thank the chairman and ranking member of the subcommittee for clarifying the intent of Congress regarding the utilization of CDBG funds for flood mitigation efforts. I also want to thank the chairman and ranking member of the full committee for their help throughout this process.

Mr. DORGAN. I want to concur with the remarks of Senator CONRAD. They and their staffs have provided us with invaluable help in our efforts to seek assistance to prevent flooding in the Devils Lake Basin in North Dakota.

B-52 SUPPLEMENTAL FUNDING AMENDMENT

Mr. CONRAD. Mr. President, my distinguished colleague from North Dakota and I offered an amendment reprogramming $44.9 million from Air Force research and development, R&D, accounts to operations and maintenance, O&M, earmarked for retention of our entire fleet of B-52H aircraft in active status or a fully maintained attrition reserve.

Retention of these aircraft makes good sense. The B-52 is currently our only dual-capable aircraft, capable of responding anywhere in the world with advanced conventional precision guided munitions or in support of our nuclear deterrent. The B-52 is our most proven bomber, and as a result of consistent upgrades which are continuing, the B-52 is a thoroughly modern aircraft. Gen. Michael Low, former Commander of the Air Combat Command, has stated that the B-52's airframe is good until 2035. The B-52 is also cost effective, making it a good buy as we work to balance the budget.

As my colleagues may be aware, the Air Force has announced its intention to send up to 28 of these aircraft to the boneyard at Davis-Monthan. This is clearly unwise. In the context of great uncertainty over Russian ratification of START II, loss of the capability to reconstitute the current force structure in a relatively short period of time would likely decrease Russia's incentive for ratification. I know that my colleagues shared this concern when they voted to pass the fiscal year 1996 Defense Authorization Act, which included a provision prohibiting the retirement of any B-52's or any strategic systems, with fiscal year 1996 funds.

Recent events in the Taiwan Strait and frequent threatening Iraqi military maneuvers near Kuwait since the gulf war highlight the wisdom of this provision. In an era when we face the possibility of sudden massive aggression that leaves us little time to deploy reinforcements, the B-52's global reach is a valuable capability we ought not sacrifice.

As many of my distinguished colleagues are aware, the Botton-Up Review [BUR] found that 100 deployable conventional bombers are needed to win one major regional conflict [MRC] before swinging to another MRC. Because of the slow pace of conventional upgrades to the B-1 fleet and the continuing production of the B-52, however, we could only deploy 92 global range bombers if we had to go to war today. Sending dual-capable B-52's to the boneyard when we are unable to meet our requirements for even one MRC is unwise, if not dangerous.

Retention of these proven, cost effective, and highly capable bombers is clearly in our interest, and I believe that this amendment is the right way to do it. In light of the great budgetary pressure faced by the Air Force in this time of fiscal austerity, I am pleased that a portion of the Defense Department's unexpected inflation dividend was available for reprogramming. No other valuable Air Force program will be negatively affected by this amendment.

I urge my colleagues to support this amendment, and call on the Department of Defense to respect Congress's prerogative to determine the structure of our Armed Forces. In particular, I urge the Defense Department to postpone inactivation of any part of our B-52 force until Congress has completed all action on this year's defense budget, including the reprogramming package currently under development by the administration and supplemental appropriations legislation for fiscal year 1996.

I thank my distinguished colleagues for their careful consideration of this amendment, and yield the floor.

Mr. DORGAN. Mr. President, I rise to explain the amendment that I have offered with Senator CONRAD to ensure full funding for the B-52 bomber fleet. Let me outline what my amendment would do and then let my colleagues know why the Senate should pass it.

We have 94 B-52 bombers in active service in the Air Force today. Our experience in the Vietnam war and the Persian Gulf war shows that the B-52 has long been our workhorse bomber. But despite what the B-52 continues to do for our national defense, the Air Force is considering drawing down the B-52 fleet.

I am trying to prevent this from happening, and to keep B-52's up and flying. My amendment would provide the Air Force with the funding to operate and maintain 94 B-52 aircraft either in active status or in attrition reserve. A plane in active status, of course, is part of a combat coded squadron. A plane in attrition reserve is not in a separate squadron but is cycled through active squadrons, and is maintained in flyable condition.

In order to pay for full maintenance of the B-52 fleet, my amendment would transfer $44.9 million in Air Force research and development funds to Air Force operations and maintenance. The $44.9 million has already been appropriated in the defense appropriations bill. The money is available for transfer because the Defense Department's new estimates of inflation led the Department to conclude that it can accomplish its Air Force research and development with less money. In fact, the Defense Department proposed that this $44.9 million be rescinded as part of its supplemental appropriations and rescissions request.

I have run my amendment by the Congressional Budget Office, and CBO tells me two things that should cause my colleagues to support my amendment. First, CBO believes that the $44.9 million funding transfer will enable the Air Force to carry out my amendment's purpose of maintaining 94 B-52's. So this amendment is fully funded. Second, CBO has scored this amendment as saving $4 million in fiscal year 1996 and as deficit neutral over the 5 years 1996 to 2000. CBO projects that this amendment would actually save money in this fiscal year and be deficit neutral over the next 5 years.

Having described my amendment, let me briefly tell my colleagues why I think it is important that we retain our full, 94-plane B-52 fleet.

START II TREATY

The most important reason to keep 94 B-52's flying is that Russia has not yet ratified the START II Treaty. START II is the arms control treaty that requires both us and the Russians to cut our nuclear stockpiles. It makes no sense to retire strategic weapons systems when START II has not yet gone into effect. Disarmament should not be unilateral. Members of the Russian Duma will doubtless ask themselves why they should ratify START II if the United States is cutting its strategic bomber force anyway.

CONGRESSIONAL INTENT

Second, Congress has explicitly recognized the force of these START II considerations. We wrote a provision into law, section 1404 of the National Defense Authorization Act for Fiscal Year 1996, forbidding the retirement of any strategic weapon system this year. We did that because we knew that we should not cut our nuclear arsenal until Russia subjects itself to the limits in START II. That is why section 1404 explicitly prohibits retiring B-52 bombers or even preparing to retire them. My amendment simply backs up section 1404 with the funding the Air Force needs to maintain the full B-52 bomber fleet. I seek to enable the Air Force to carry out the intent of Congress.

CAPABILITIES OF B-52 FLEET

Third, I would remind my colleagues that B-52 bombers are long-range force projectors. With maximum fuel load, the B-52 can fly 10,000 miles without in-air refueling, which is over 33 percent further than the B-1 or B-2 bombers.

With in-air refueling, the B-52 literally has a worldwide range. The B-52 has been modified to carry up to 12 air-launched cruise missiles externally and 8 internally. Alternatively, it can carry up to 50,000 pounds of attack missiles and gravity bombs. A bomber of such range and payload is vital in order to project air power to areas where the United States lacks prepositioned equipment or bases capable of handling heavy bombers.

To take an example, Mr. President, right now we face a crisis in Southeast Asia, in the Taiwan Strait. China is firing live ammunition and testing dummy missiles in a way that is calculated to disrupt Taiwan's economy and rattle Taiwan's electorate. We have one carrier task force in the area; we are moving a second carrier task force from the Persian Gulf to Southeast Asia in order to keep the peace. Well, the B-52 has already kept the peace in the Persian Gulf. And it can keep the peace in Southeast Asia in one hop if need be. It makes no sense to retire B-52's at a moment when our 'ability to project force into every corner of the world is key to the peace of Southeast Asia.

BOMBER STUDY ONGOING

Last, my colleagues will recall that in February President Clinton ordered the Defense Department to study the future of our long-range bomber fleet. The Deep Attack Weapons Mix Study, which is headed by Under Secretary of Defense for Acquisition and Technology Paul Kaminski and Vice Chairman of the Joint Chiefs of Staff Gen. Joseph Ralston, will examine both the munitions and the bombers used to strike deep into enemy territory. That study includes a close look at the strategic bomber force structure. It seems to me that any retirement of B-52 bombers would prejudge the results of the Deep Attack Weapons Mix Study. I think my colleagues will agree that we should ensure that the Air Force can await the results of the study before retiring any B-52 bombers.

In conclusion, Mr. President, I am asking the Senate to approve an amendment that is paid for, that fulfills congressional intent, that maintains America's strategic forces, and that keeps a capable bomber in the air. I hope my colleagues will support this amendment.

Thank you, Mr. President. I yield the floor.

AMERICORPS

Mr. LEAHY. Mr. President, I support the mission of AmeriCorps. I believe that engaging Americans of all ages to help communities solve their own problems is a worthy goal.

One of the greatest threats facing our cities and towns today is the loss of a sense of community responsibility. AmeriCorps invites Americans to put something back into their communities—to reestablish the local ties that have been so important to this country.

I am very concerned about the provision in this omnibus appropriations bill which terminates AmeriCorps grants through Federal agencies. Right now, about half of AmeriCorps participants in my home State run through the USDA AmeriCorps Program. This includes the Vermont Anti-Hunger Corps and a rural development team. These projects have involved nonprofit groups, and a unique partnership of Federal, State, and local organizations. All of which have contributed to their success.

I want to clarify with the Chairman that this language would not preclude these local programs currently funded through Federal agencies to continue through national direct grants or through State commissions.

Mr. BOND. Yes, the Senator is correct. If local programs currently being funded through Federal agencies are doing a good job, then I would encourage them to either work with national groups to apply for funding or work with the commission in the State in which they reside. These local programs have the experience and expertise to compete very well for AmeriCorps grants. I expect the Corporation for National and Community Service and the State commissions to take this experience into consideration when reviewing new grantees. The bottom line is that we do not want Federal agencies capitalizing on funds that should be going directly to nonprofit organizations.

Mr. LEAHY. I thank the Chairman Senator BOND. I ask Senator MIKULSKI if this is also her understanding?

Ms. MIKULSKI. I share the concern of the Senator, about the termination of the grants to Federal agencies. Unfortunately, we lost the public relations war in defining how these Federal agency grants really work. These programs are not bloated bureaucracies, but a way for small local programs to benefit from the technical expertise of Federal agencies in designing programs to meet their own local needs. I would urge any local program currently being funded through a Federal agency to apply through the national direct grants or through their own State commissions.

Mr. LEAHY. I thank Chairman BOND and Senator MIKULSKI. I plan to work closely with these Vermont programs so that they can continue to providing services through AmeriCorps. And I appreciate all of the work the Senators have done to come to a bipartisan agreement on funding for AmeriCorps. I look forward to continue working with them on this important issue.

VETERANS HEALTH CARE

Mr. MCCAIN. Mr. President, we need to take immediate steps to implement a plan to better allocate health care funding among the Department's health care facilities so that veterans, no matter where they live or what circumstances they face, have equal access to quality health care.

The amendment that I propose here today with my distinguished colleague, Senator BOB GRAHAM of Florida, will, I hope, finally direct the Department of Veterans Affairs to do the right thing. That is, to eliminate funding disparities among VA health care facilities across the country.

Mr. President, inequity in veterans' access to health care is an issue that I originally brought to Secretary Jesse Brown's attention in March 1994. The Department of Veterans Affairs is currently using an archaic and unresponsive formula to allocate health care resources. The system must be updated to account for population shifts.

The veterans population in three States, including Arizona, is growing, at the same time that it is declining in other parts of the country. Unfortunately, health care allocations have not kept up with the changes. The impact of disparate funding has been very obvious to me during my visits to many VA medical centers throughout the country, and particularly in Arizona, and was confirmed by a formal survey of the Carl T. Hayden VA Medical Center in Phoenix, which was conducted by the Veterans of Foreign Wars [VFW] in April 1994.

The problem has been further verified by the General Accounting Office [GAO] in a report entitled "Veterans Health Care: Facilities' Resource Allocations Could Be More Equitable." The GAO found that the Department of Veterans Affairs continues to allocate funding based on past budgets rather than current needs, and has failed to implement the Resource Planning and Management system [RPM] developed 2 years ago to help remedy funding inequity.

Mr. President, the GAO cites VA data that the workload of some facilities increased by as much as 15 percent between 1993 and 1995, while the workload of others declined by as much as 8 percent. However, in the two budget cycles studied, the VA made only minimal changes in funding allocations. The maximum loss to a facility was 1 percent of its past budget and the average gain was also about 1 percent.

This inadequate response to demographic change over the past decade is very disturbing, and, I believe, wrong. To illustrate the problem, I would point out that the Carl T. Hayden VA Medical Center experienced the third highest workload growth based on 17 hospitals of similar size and mission, yet was only funded at less than half the RPM process.

Mr. President, the GAO informs me that rather than implementing the RPM process to remedy funding inequities in access to veterans health care, the VA has resorted to rationing health care or eliminating health care to certain veterans in areas of high demand.

The GAO says:

> Because of differences in facility rationing practices, veterans' access to care system wide is uneven. We found that higher income veterans received care at many facilities, while lower income veterans were turned away at other facilities. Differences in who was served occurred even within the same facility because of rationing.

The GAO also indicates that there is confusion among the Department's staff regarding the reasons for funding variations among the VA facilities and the purpose of the RPM system.

Mr. President, this problem must be addressed now. This amendment compels the VA to take expeditious action to remedy this serious problem and adequately address the changes in demand at VA facilities.

To conclude, I want to reiterate that I find it simply unconscionable that the VA could place the Carl T. Hayden VA Medical Center at the bottom of the funding ladder, when the three VA medical facilities in the State of Arizona must care for a growing number of veterans, and are inundated every year by winter visitors, which places an additional burden on the facilities.

I ask unanimous consent that the VFW survey and the GAO summary report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS OF
THE UNITED STATES,
Washington, DC, April 7, 1994.

JOHN T. FARRAR, M.D.,
Acting Under Secretary for Health (10), Veterans Health Administration, Department of Veterans Affairs, Washington, DC.

DEAR DR. FARRAR: A member of my staff, Robert F. O'Toole, Senior Field Representative, conducted a survey of the Phoenix, Arizona, Department of Veterans Affairs Medical Center, on March 14–15, 1994. During his time at the medical center, he was able to talk with many patients, family members and staff. This enabled him to gather information concerning the quality of care being provided and the most pressing problems facing the facility.

While those receiving treatment in the clinics and wards felt that the quality was good, they almost all commented on the long waits in the clinics and the understaffing throughout the medical center. In discussing their problem with various staff members, it was noted that nurses were under extreme stress. More than one was observed by Mr. O'Toole in tears when completing their tour. The nursing staff on evening shifts must rush continually through their duties in an attempt to cover all their patients needs due to the shortage in staffing in both support and technical personnel.

In attempting to determine the reason for this problem, it became apparent that the station was grossly underfunded. Which means that the staff must either take unwanted shortcuts or continue to work beyond the point expected of staffs at the other medical centers. While it is well understood that the Veterans Health Administration is underfunded throughout the system, it is clear from the comparisons that this facility has not received a fair distribution of the available resources resulting in the deplorable situation now facing the health care team.

Another problem in Phoenix that must be addressed is the serious space deficiency, especially in the clinical areas. The ambulatory care area was designed to handle 60,000 annual visits. In fiscal year 1993, the station provided 218,000 annual visits, almost four times the design level. Many physicians are required to conduct exams and provide treatment from temporary cubicles set up inside the waiting rooms. This bandaid approach has added to the already overcrowding.

The other problem that we feel should be pointed out is that of the staffing ceiling assigned to the Carl T. Hayden Veterans Medical Center. Currently, the medical center has a FTE of 1530 which is over the target staffing level. Based on available reports, the medical center would need an additional 61 registered nurses just to reach the average Resource Program Management (RPM) within their group. This facility operates with the lowest employee level in their group when comparing facility work loads, and 158th overall. To reach the average productivity level of the Veterans Health Administration medical centers, they would need an additional 348 full-time employees. While it is realized that this station will never be permitted to enjoy that level of staffing, it is felt that they, at the least, should have been given some consideration for their staffing problems during the latest White House ordered employee reductions.

To assist the medical center to meet their mandatory work load, and the great influx of winter residents, it is recommended that the $11.4 million which was reported to the Arizona congressional delegation to have been given Phoenix in addition to their FY 94 budget be provided. To enable the station to handle the ever increasing ambulatory work load, the Veterans Health Administration must approve the pending request for leased clinic space in northwest Phoenix and, the implementation plan for the use of the Williams Air Force Base hospital as a satellite outpatient clinic, along with the necessary funding to adequately operate the facility. In addition, VHA should approve and fund, at a minimum, the expansion of the medical centers clinical space onto the Indian School land which was acquired for that purpose.

Approval of the above recommendations would make it much easier for this medical center to meet the needs of the ever increasing veteran population in the Phoenix area. There is no indication that the increasing population trends will change prior to the year 2020. This hospital cannot be allowed to continue the downhill slide. The veterans of Arizona deserve a fair deal and the medical staff should be given the opportunity to provide top quality health care in a much less stressful setting.

I would appreciate receiving your comments on the Phoenix VA Medical Center at your earliest opportunity.

Sincerely,

FREDERICO JUARBE, Jr.,
Director, National Veterans Service.

U.S. GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION, AND HUMAN
SERVICES DIVISION,
Washington, DC, February 7, 1996.

Hon. JOHN MCCAIN,
U.S. Senate.

DEAR SENATOR MCCAIN: The Department of Veterans Affairs (VA) is faced with the challenge of equitably allocating more than $16 billion in health care appropriations across a nationwide network of hospitals, clinics, and nursing homes. The challenge is made greater by the shifting demographics of veterans. While nationally the veteran population is declining, veterans have migrated from northeastern and midwestern states to southeastern and southwestern states in the past decade, offsetting veteran deaths in these states.

VA has historically based its allocations to facilities primarily on their past funding levels—providing incremental increases to facilities' past budgets. In an effort to improve its planning, allocation, and management processes, VA made a considerable investment in implementing a new system, called the Resource Planning and Management (RPM) system, for use initially in fiscal year 1994. VA considers RPM to be a management decision process to use to formulate its budget, allocate most of its resources, and compare facility performance.[1] As the basis for resource allocation, RPM classifies each patient into a clinical care group, calculates average facility costs per patient, and forecasts future workload. VA envisioned that the system would improve VA's management of limited medical care resources, better define future resource requirements, and enable VA to explore opportunities to improve quality and efficiency in its health care system. This vision included improving the equity of its allocations by more closely linking resources with facility workloads and alleviating inconsistencies in veterans' access to care across the system.

Two recent events could have significant implications for VA's resource allocation system. First, VA is restructuring its organization to establish 22 veterans integrated service networks (VISN) that will replace four regional offices and assume the individual facilities' role as the basic budgetary and planning unit for health care delivery. The new structure will require some change in how resources are allocated.[2] Second, the Senate passed your proposed amendment to the VA appropriations bill that would require VA to develop a plan for the allocation of health care resources among its health care facilities to ensure that veterans have the same access to quality health care.[3]

Because of your interest in this issue, you asked us to review the equity of VA's resource allocation system, particularly as it related to the allocations made to the Carl T. Hayden Medical Center in Phoenix, Arizona. More specifically, you asked us to determine the following:

To what extent does VA's allocation system provide for an equitable distribution of resources among VA facilities?

What are the causes of any inequity in the distribution of resources, and what changes, if any, would help ensure that the system more equitably distributes resources?

In September 1995, we sent you our preliminary observations.[4] This report presents our final results.

To accomplish our objectives, we first needed to apply a definition of the term "equity." We based our evaluation of the equity of the system's distribution on VA's vision for RPM.[5] We considered the following two elements to be characteristics of an equitable system:

It provides comparable resources for comparable workload.

It provides resources so that veterans within the same priority categories have the same availability of care, to the extent practical, throughout the VA health care system.

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[1] Footnotes at end.

We then reviewed VA documents and analyzed RPM system data to determine the degree to which these two elements were present. We discussed potential reasons for any inequities in allocations with VA Headquarters, the Boston Development Center, the RPM Committee, and facility officials in several locations. To assess potential changes to address inequities, we discussed such changes with VA officials and reviewed VA documents on its original plans for RPM and minutes of several RPM committees and work groups. Further details of our scope and methodology are in appendix I. We performed our review between December 1994 and October 1995 in accordance with generally accepted government auditing standards.

RESULTS IN BRIEF

The resource allocation system gives VA the ability to identify potential inequities in resource distribution and to forecast workload changes. Data generated by the system show wide differences in operating costs among facilities that VA considers comparable, even after factors such as locality costs and patient mix differences are considered. VA's data also show some facilities' overall patient workloads increasing by as much as 15 percent between 1993 and 1995, and others' workloads declining by as much as 8 percent. However, in the two budget cycles in which RPM has been in effect, VA used it to make only minimal changes in facilities' funding levels—the maximum loss to any facility was about 1 percent of its past budget and the average gain was also about 1 percent. As such, VA's distribution of resources has remained almost exclusively related to incremental changes to the amount that each facility has received in the past.

To date, VA has chosen not to use the RPM system to help ensure resources are allocated more equitably. VA officials indicated that larger reallocations were not made during the first 2 years of RPM to allow facilities time to understand the process. VA officials also cited several other reasons that significantly larger reallocations among facilities could not be made. Although VA is taking some actions on these issues, it has not fully addressed concerns that (1) facilities cannot efficiently adjust to large budget changes, (2) VA needs a better understanding of the reasons for the variations, and (3) resources allocated to facilities outside the RPM process should also be considered in judging the equity of distributions. VA's reasons for not using RPM to even out differences in veteran access to care were less clear as there appeared to be confusion within VA about whether the resource allocation system was intended to achieve this goal.

FOOTNOTES

[1] VA in 1995 operated 172 hospitals, 375 ambulatory clinics, 133 nursing homes, and 39 domiciliaries. For resource allocation purposes, RPM combines certain health care facilities that are managerially associated. In total the RPM system develops allocations for 167 facilities.

[2] VA officials indicated that as part of this change, the resource planning and management processes it used would change and the system would be renamed. At the time of our review, the system was known as RPM.

[3] On September 26, 1995, the Senate adopted amendment number 2787 to the VA appropriations bill, which was in conference at the time of our review. If it becomes law, the provision would require the Secretary of VA to develop a plan for the allocation of health care resources to ensure that veterans having similar economic status, eligibility priority, and/or similar medical conditions have similar access to care regardless of the region in which the veterans reside. The plan will include, among other things, procedures to identify reasons for variations in operating costs among similar facilities.

[4] See VA's Medical Resource Allocation System (GAO/HEHS–95–252R, Sept. 12, 1995).

[5] This vision was described in the Secretary's statements to the Congress on RPM and in other VA publications.

Mr. GRAHAM. Mr. President, I am here to offer my enthusiastic support as an original cosponsor of Senator MCCAIN's amendment. Mr. President, as a nation, we have always been able to come together in times of crisis—especially in times of war.

Despite our sometimes vehement disagreements, we as citizens of this great country have always been able to put partisanship aside when our young men and women are called to fight for democracy. For this—we can all be very proud. But the strength of a nation is displayed not just during war, but also in its aftermath. When the battles have long since raged, and the memories of welcome home parades have faded, it is at this time when our Nation can proudly display its commitment to those who fought the battles to keep this country free—our Nation's veterans. Mr. President, please take note when I say "Our Nation's Veterans." They are not Florida's veterans or Arizona's veterans or New York's veterans. They are our veterans, and we as a nation have a collective responsibility to honor the commitment we made to them. When Members of this honorable body, including my esteemed colleague from Arizona, volunteered to do battle for America's freedom, no one asked what geographic region they came from. That question would have been so insignificant as to border on the absurd.

Sadly, after our veterans returned home, and it is our turn to honor our commitments to them—where they live matters a great deal. Mr. President, just last month, the General Accounting Office published a rather startling report.

Allow me to highlight a few of the report's findings.

The Department of Veterans Affairs has had a system in place for 3 years, known as RPM—Resource Planning and Management—designed to give veterans better access to health care regardless of where they live. While not perfect, the system as designed would go a long way toward equal treatment for veterans.

However, despite the time, money, and effort put into designing such a system—VA has chosen not to use it. Between 1993 and 1995, some VA facilities' patient workloads have skyrocketed by as much as 15 percent. At other facilities, patient workloads have decreased by 8 percent.

Despite this wide disparity in patient workload change, the VA has used its own resource allocation system to change any given facility's budget by the minuscule total of plus or minus 1 percent.

The decision to pay homage to bricks and mortar rather than to our Nation's veterans has its price—and our Nation's veterans pay it. GAO reports that patient workload increases above historical workload are funded at 17 cents on the dollar—so if a veteran moves from New York to Florida—he will get 83 percent less care solely because he moved. That is not right.

Surely, though, the VA must have compelling reasons for not acting on the RPM system. Surely, there must be terrible consequences should VA decide to forgo the status quo. Again, sadly—no. VA's justifications for inertia are weak—but here they are.

First, VA claims that facility managers will have difficulty in adjusting to the large budgetary changes that would come about should resource allocation become more equitable. Mr. President, isn't adjusting to budget fluctuations what makes for good management, and in this case good government? In a private sector system, the chief executive of the hospital makes budgetary decisions based on forecasting patient workload on an annual basis. Why should we demand any less from the VA? Further, any difficulties VA facility managers have in adjusting to budgetary changes pale in comparison to the difficulties our veterans face as a result of VA's inertia. This seems to me, Mr. President, as a perfect example of the tail wagging the dog.

Second, the second justification for failing to treat veterans equally is that VA doesn't understand why some facilities are able to make do with less funding while others require more resources for the same number of patients. VA reasons that until it understands why some facilities are more efficient than others, the agency won't implement a system that achieves fairness. Mr. President, it is a given that facilities which receive more than their share of resources will use all of these resources and facilities which receive less than their share will struggle and make do as best they can—rationing care along the way. But there are breaking points for even the most efficient facilities. And the consequences for these facilities fall squarely on our Nation's veterans and manifest themselves in concrete ways.

For instance, a veteran who would normally have to wait 2 weeks to see an orthopedic surgeon may have to wait 6 months to see one should he choose to retire to Florida and Arizona. Or, a veteran who used to get free prescription glasses up North is laughed out of the VA facility down South. Because of this disparity, some veterans are forced to move back home to get the care to which they are accustomed. Others simply give up in despair. Mr. President, we can help to rectify this inequity today. Right now. Our amendment would simply mandate that VA develop a plan for their fair allocation of resources to ensure that veterans having similar economic status, eligibility priority, and similar medical conditions have similar access to care regardless of where they live. And in the end, providing equal care to all our Nation's veterans is what the VA health care system is all about.

We as politicians can quibble over such terms as construction projects, resource allocation methodology, and patient workload, but one thing is certain: We all have a stake in honoring our collective commitment to our veterans—and they deserve no less.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, the managers' amendment to the omnibus appropriations bill for fiscal year 1996 includes a provision—added on behalf of myself and Senator KEMPTHORNE—to increase the appropriation for Endangered Species Act listing activities by the U.S. Fish and Wildlife Serivce from $750,001 to $2,000,001. The total amount available for the Fish and Wildlife Service's resource management activities is increased by $1,249,999 to accommodate this addition to the listing account. Senator KEMPTHRONE and I proposed this amendment in order to address concerns raised during debate last week on the Endangered Species Act listing moratorium.

Let us review the bidding.

On March 13, the Senate approved a second-degree amendment offered by Senator HUTCHISON and Senator KEMPTHORNE to Senator REID's underlying amendment to strike the moratorium on final listings under the Endangered Species Act. The Hutchison second-degree amendment imposes a moratorium on final decisions to list species as threatened or endangered and on final decisions to designate critical habitat. However, the Hutchison amendment allows the Fish and Wildlife Service to use funds appropriated under the omnibus bill to issue emergency listings, to propose species for listing, and to review and monitor species on the candidate list.

Mr. President, I oppose Senator HUTCHISON's second-degree amendment because I believe that a moratorium on adding species to the threatened and endangered list is wrong. Thus, I supported Senator REID's amendment to strike the provisions that would impose a moratorium on adding new species to the threatened and endangered lists. Make no mistake about it—I continue to oppose the provision in this bill that would impose a moratorium on final decisions by the Secretary of the Interior or the Secretary of Commerce to list a species or to designate critical habitat under the Endangered Species Act.

During the March 13 debate on the ESA moratorium, it was pointed out that the second-degree amendment offered by Senators HUTCHISON and KEMPTHORNE increased the authority of the Fish and Wildlife Service, as compared to that included in the underlying bill, but provided only $1 in new funding. This would have resulted in a difficult situation for the Fish and Wildlife Service as appropriations for listing activities would have been sorely inadequate to meet the needs and requirements of the law. In other words, it would have been nearly impossible for the Service to perform the tasks that are authorized under the Hutchison language—tasks such as decisions on emergency listings or responses to citizen petitions—without an increase in funding. The $1,249,999 that is added to the listing account under this amendment is intended to provide the U.S. Fish and Wildlife Service with funding necessary to perform emergency listings and other listing activities that are authorized under the Hutchison amendment.

Mr. President, it was a pleasure to work with Senator KEMPTHORNE and Senator HUTCHISON on this amendment. And, while I oppose the ESA listing moratorium, I believe that—working together to secure additional funding for listing activities—we have improved the prospects for orderly, effective research and conservation efforts by the Fish and Wildlife Service. It is my hope that we can continue to work together to enact responsible legislation to reauthorize the Endangered Species Act later this year.

I would like to thank Senators HATFIELD and GORTON and their Appropriations Committee staff for their assistance with this amendment. Also, I very much appreciate the willingness of Senator HATFIELD and of Senator BYRD to include this provision in the managers' amendment.

HIV-POSITIVE SERVICEMEMBERS

Mr. NUNN. Mr. President, the National Defense Authorization Act for fiscal year 1996, which was signed into law by the President on February 10, 1996, contains a provision which mandates the discharge of every member of the Armed Forces who is HIV positive within 6 months.

At the present time, the services have in place procedures for medically separating HIV-positive personnel who are physically disabled. Those who are not disabled are placed in a nondeployable status but continue to perform military duties.

This is similar to the status of others whose medical condition—such as cancer, heart disease, asthma, and diabetes—restrict deployability but not the capability to provide valuable military service.

The new procedure would require the Armed Forces to discharge, not later than August 31, 1996, those who are physically capable of performing their military duties and who are, today, providing valuable service to the Nation.

The new mandatory discharge policy rejects the judgment of the Armed Forces that HIV-positive service members should be treated no differently from others whose medical condition renders them nondeployable.

That judgment was made by the Joint Chiefs of Staff during the Reagan administration, and was recently reemphasized by Secretary of Defense, Bill Perry, and JCS Chairman, Gen. John Shalikashvili.

The new policy represents a sharp break with the traditional military practice of considering medical discharge on a case-by-case basis. In my judgment, the new policy is unnecessary, wasteful, unfair, and unwise.

The new policy is unnecessary because HIV-positive personnel represent a tiny fraction of our Armed Forces. Out of the 1.4 million members of the Armed Forces on active duty, only 1,150 are HIV positive. That is less than one-tenth of 1 percent.

Moreover, these HIV-positive servicemembers constitute only one-fifth percent of the 5,000 personnel in the military who are permanently nondeployable for medical reasons.

If we can usefully accommodate some 4,000 individuals who are nondeployable for reasons other than HIV, there is no reason why we should discharge the small additional fraction who are HIV positive.

The policy is wasteful because it will be throwing away the large investment the military has made in the training and experience of individuals who can still make a valuable contribution to the Armed Forces. Why throw away that investment at the peak of an individual's career?

Not only will the new policy waste our recruitment and training dollars, it will throw away invaluable experience.

Consider the case of the sergeant who has been married for 10 years, who has a child, and who is HIV positive. His service record is full of honors, including an award for automating a warehouse system that saved the Navy an estimated $2 million over a 2-year period.

He has 12 years of service and has been HIV positive for 5 years. There is reasonable likelihood that he could serve for many more years, with the potential to develop systems that will save millions more for the Navy.

This new policy will deprive him of his livelihood and deprive the taxpayers of the contributions that he can make to greater efficiency and savings.

The new policy is unfair because it will leave many servicemembers without employment for themselves and health care for their families. There is a sergeant with 13 years of service who is married, with three children. He is HIV positive, as is his wife and two of the three children.

Under the new policy, he is the only one of the family who will retain a right to DOD medical care. His family, including his HIV positive wife and two

HIV positive children, will be excluded from any DOD health care.

As a result of the bill, he will be discharged from service, lose his employment, loss his retirement potential, and lose his family's medical care.

This is an individual who is perfectly capable of performing military duties, yet we are going to throw away our investment in him and place him in dire financial straits—even though those who are non-deployable for reasons other than HIV will remain in service. That is unfair.

The new policy is unwise, because it could undermine the traditional doctrine of judicial deference to Congress in the realm of military personnel policy.

In a 1994 essay in the Wake Forest Law Review, I examined the Supreme Court's precedents and concluded that the Court's jurisprudence reflected "the highest degree of deference to the role of Congress and respect for the judgment of the Armed Forces in the delicate task of balancing the interests of national security and the rights of military personnel."

I also noted, however, that the Supreme Court emphasized that Congress is not free to disregard the Constitution when it acts in the area of military affairs. Consequently, it is essential that Congress act with care when it establishes procedures that would impose conditions on military service that would be constitutionally impermissible in civilian life.

In the case of the new HIV discharge policy, we have not acted with care. It is instructive to contrast the development of the new policy with the process followed in 1993 when the legislative and executive branch considered the policy on homosexuality in the Armed Forces.

In February 1993, Congress rejected an amendment that would have imposed a policy without any hearings of deliberation. Instead, we provided for a 6 month detailed review within the executive branch and Congress.

That period provided an opportunity for the Department of Defense and Congress to hold hearings, receive testimony from the members of the Armed Forces, legal and academic experts, and interested members of the public. The Senate Armed Services Committee alone complied a record of more than 1,000 pages in testimony.

The hearing process and DOD reviews in 1993 were followed by the development of a proposed DOD policy and specific legislation, including detailed legislative findings. The findings focused on clear expert testimony on the impact on unit cohesion, morale, discipline, and military effectiveness.

The civilian and military leadership of the Department of Defense supported the legislation; it was overwhelmingly approved after thorough debates in both the House and the Senate, was signed into law by the President, and has been defended by the Department of Justice in the face of several legal challenges.

Although there may be disagreement on the merits of the 1993 policy, the process ensured careful and thorough review by the legislative and executive branches of the relevant policy and constitutional issues. The process was designed to provide for careful and thorough review. The contrast to the development of the new HIV policy could not be more striking.

There has been no review within the executive branch. In fact, the military leadership views the policy as unnecessary and unfair.

The House did not develop a detailed legislative record, and the provision was not even included in the Senate-passed bill.

There is not a clearly articulated legislative basis for treating HIV-positive personnel in a manner that differs from the treatment of other nondeployables.

In the absence of careful legislative consideration, it could be difficult for the new policy to survive a constitutional challenge—particularly in terms of the weak arguments for the policy.

Supporters of the provision have relied primarily on three reasons to justify the provision.

First, they believe that the retention of HIV-positive personnel degrades unit readiness. There has been no showing, however, that the small fraction of nondeployable personnel who are HIV positive have a significantly greater impact in this regard than the large number of persons who are nondeployable for other reasons.

The second reason given for the policy is to establish deployment equity on the grounds that if a person is nondeployable, other servicemembers stand a greater risk of deployment. That concern might be appropriate if the numbers were significantly greater and if the HIV positive personnel were the only nondeployables. For example, if the number of HIV positive personnel in the Marine Corps were to become a significant percentage, then the HIV policy would have to be reconsidered together with the policies that retain servicemembers who are medically nondeployable for reasons such as cancer, diabetes, asthma, and heart disease.

This however, is not the case today. The numbers are tiny and the persons who are nondeployable for other reasons greatly outnumber those who are HIV positive.

The third rationale offered by supporters of the policy is that discharge is warranted because, it is asserted, persons who are HIV positive likely contracted the infection through sexual misconduct or drug abuse.

There are two problems with this argument. First, it ignores the well-established medical fact that HIV can and often is transmitted through actions that do not involve military misconduct, such as blood transfusions and heterosexual conduct.

Second, there are ample administrative and judicial procedures in the Armed Forces to discipline those who engage in misconduct involving sex and drugs. The record does not establish a military need to discharge all who are HIV positive in order to maintain good order and discipline.

The administration, believing the new provision to be unconstitutional, has determined that it will obey the law but not defend it in court.

As a result, the judiciary will be thrust into the midst of a constitutional debate on a controversial military personnel matter with a sparse legislative record and a severe split between Congress and the President.

It is an invitation to undermine the doctrine of deference, which has served so well and so long to ensure that the Armed Forces have the tools necessary to maintain good order and discipline without interference from the courts.

For that reason alone, the provision should be repealed.

This provision was not part of the Senate-passed authorization bill. I opposed this provision during the conference with the House of Representatives on the authorization bill and I spoke out against it on the floor of the Senate during debate on the conference report.

Today, I support the amendment that would repeal this provision.

Mrs. BOXER. Mr. President, despite my objections to the omnibus appropriations bill, I am pleased that it includes an amendment overturning the prohibition on military service by HIV-positive personnel. As my colleagues are aware, this grossly unfair prohibition was established in the fiscal year 1996 DOD authorization bill and will become effective this summer.

I opposed the fiscal year 1996 DOD authorization bill largely because of this provision. The day the Senate approved that provision, I vowed to mount an effort for repeal. I am pleased that today, the full Senate has joined in that fight.

The policy now in effect—developed in the Reagan and Bush administration—works well. The amendment contained in this bill reinstates the current policy, in which military personnel who test positive for the HIV virus are permitted to keep their jobs, so long as they are physically able.

Currently, HIV-positive personnel are treated in the same manner as other soldiers with chronic ailments such as diabetes and heart disease. Only about 20 percent of the roughly 6,000 worldwide nondeployable troops are HIV positive.

Dismissing all HIV-positive soldiers makes no sense. Why should the Pentagon fire military personnel who perform their duties well and exhibit no signs of illness? This would waste millions of tax dollars in unnecessary separation and retraining costs.

Backers of this provision argue that HIV-provision personnel degrade readiness because they are not eligible for worldwide deployment. This argument is absurd. Can anyone seriously contend that about 1,000 personnel—less than 0.1 percent of the active force—could have a meaningful impact on readiness?

Assistant Secretary of Defense Fred Pang clearly expressed the Department's position, writing,

> As long as these members can perform their required duties, we see no prudent reason to separate and replace them because of their antibody status. However, as with any Service member, if their condition affects their performance of duty, then the Department initiates separation action . . . the proposed provision would not improve military readiness or the personnel policies of the Department.

Lt. Gen. Theodore Stroup, Jr., Army Deputy Chief of Staff for Personnel has echoed these sentiments, writing,

> It is my personal opinion that HIV-infected soldiers who are physically fit for duty should be allowed to continue on active duty.

I ask unanimous consent that a column I wrote on this subject for the Los Angeles Times be printed at this point in the RECORD.

[From the Los Angeles Times, Feb. 6, 1996]

CONGRESS MISSES THE "MAGIC" SHOW

MILITARY: A BILL OUSTING THE HIV-POSITIVE HAS NOTHING TO DO WITH READINESS; IT'S SIMPLY DISCRIMINATION

(By Barbara Boxer)

Americans cheered last week as Earvin "Magic" Johnson triumphantly returned to the Los Angeles Lakers. In just 27 minutes, he scored 19 points and dispelled any remaining doubt about his ability to compete at the highest level.

To their credit, Magic's fans, coaches, teammates and even his NBA opponents welcomed him back with open arms. Imagine how absurd it would be if Congress, just as Magic demonstrated his Hall of Fame talent, passed a law requiring the NBA to fire all basketball players who have the HIV virus.

This past week, Congress did something just that absurd.

A little-noticed provision of the annual military spending bill requires the Pentagon to fire all soldiers, sailors and Marines who test positive for the HIV virus, even if they perform their duties as skillfully as Magic Johnson makes a no-look pass. The military strongly objected to this provision, but Congress did not care. The president has called the new policy unfair, but because it is part of a larger bill that includes urgently needed funding for our troops in Bosnia, he will sign it into law.

Under current policy, military personnel with the HIV virus are permitted to remain in the services as long as they are able to perform their duties. If their health deteriorates, the military initiates separation procedures and provides disability benefits and continued health insurance coverage for them and their dependents. So they can remain near health care providers, military personnel with HIV are placed on "worldwide nondeployable status," which means that they cannot be sent on overseas missions. Soldiers with other serious chronic illnesses, such as severe asthma, cancer and diabetes are also nondeployable. In fact, only about 20 percent of the more than 5,000 nondeployable personnel are infected with HIV.

The congressional authors of the new policy, led by Rep. Robert K. Dornan of Orange County, argue that nondeployable personnel degrade military readiness because they cannot be sent overseas. However, their true motive appears to be less lofty than protecting the readiness of our forces. The new policy irrationally singles out military personnel with HIV. If backers truly believe that nondeployable personnel harmed readiness, why wouldn't they seek to oust soldiers with diabetes and asthma? The only conceivable answer is that readiness is not their real motivation. Their motivation is discrimination, pure and simple.

Can anyone seriously contend that 1,059 HIV-positive soldiers—less than 0.1 percent of the total force—can meaningfully affect readiness? The Pentagon doesn't think so. Its top personnel policy expert, Assistant Defense Secretary Fred Pang, recently wrote that "as long as these members can perform their required duties, we see no prudent reason to separate and replace them . . . The proposed provision would not improve military readiness or the personnel policies of the department."

If Magic Johnson can run and leap with the best of them, why can't a military clerk file with the best of them, or a military driver drive with the best of them?

Perhaps the worst aspect of the new policy is its total rejection of the compassion and camaraderie for which the armed forces are rightfully praised. The United States of America does not kick its soldiers when they are down. We have a proud tradition of standing by those courageous enough to dedicate their careers to the defense of our nation. That tradition will end the day this new policy is enacted.

Military personnel discharged under the new policy will lose their jobs even if they exhibit no signs of illness. They will lose their right to disability benefits and their spouses and children will lose their health care coverage. This policy is worse than wrong, it is un-American.

The same day that President Clinton signs the bill that includes this new policy, a bipartisan group of senators will introduce legislation to repeal it. The president and our senior military leaders support repeal. Despite their strong support, the odds are unclear. But I am certain about one thing: Those who vote "no" should take a good look in the mirror.

DISASTER-RELATED FUNDS

Mr. McCAIN. Mr. President, my amendment will require that any disaster-related funds earmarked in this bill for specific projects by Federal agencies will be allocated according to the established, priority-based procedures of those agencies.

This amendment would ensure that funds disaster-related funding allocated by the Economic Development Administration, the U.S. Department of Agriculture, the Department of Housing and Urban Development, the Small Business Administration, and the National Park Service, will be awarded based on need—and not according to unauthorized earmarks.

This amendment will not reduce the funding in this bill, nor direct these agencies to give preferential priority to any particular project, State, or region of the country.

This proposal is entirely fair and equitable to all of the States and communities that we represent. It plays no favorites, and offers no advantages to individuals who may be well-intentioned in their desire to receive funding for a local project. This amendment will simply ensure that taxpayer funding made available under this appropriations bill will be spent according to recognized priorities, as opposed to congressionally mandated earmarks.

Let me discuss just one example of what I believe is an inappropriate expenditure of taxpayer dollars that was added to the legislation before us. Last week, an amendment was offered to this bill, and adopted without a recorded vote, that would provide a total of $13.8 million for an unauthorized flood control project.

That amendment directs the Economic Development Administration [EDA] to spend $10 million for flood control work at Devil's Lake Basin in North Dakota; it also directs the U.S. Fish and Wildlife Service to spend $3.8 million for related work at Devils Lake Basin. The approximately $14 million in new taxpayer dollars for this project was not requested by the agencies to be funded in this bill, nor was the project subjected to any competitive evaluation process by the EDA or HUD.

Mr. President, I don't think this is how the Senate should be doing business. And I definitely don't think this is how we should be spending taxpayer's dollars, at a time when we have scarce resources with which to address many serious disaster needs across the country.

I believe earmarking funds for a specific project is unfair, especially with respect to vital flood control programs. It clearly undermines the competitive-review process that ensures that the most urgent needs of distressed cities and townships all across America are properly addressed.

While I'm sure that this situation in North Dakota is worthy of attention, we have no way of knowing that it represents the most serious need for Federal emergency assistance.

As most of my colleagues are aware, the Economic Development Administration [EDA] provides grants for infrastructure programs and community projects in economically distressed areas. In doing so, the EDA is barraged with hundreds and hundreds more requests for Federal aid than they can possibly fulfill. In fact, Mr. President, the EDA has such a backlog on official funding requests that they stopped accepting additional applications almost a year ago.

The EDA makes its funding awards through its regional offices on a competitive, agency-review basis. Right now the EDA has almost 600 funding requests awaiting final decisions—600. These requests represent the pleas of communities across the United States for help from the Federal Government due to military base closures, job losses, natural disaster, and declining local economies. Nationally, the EDA has received over $320 million in community-based funding requests that local officials and residents are anxiously awaiting an answer on.

Clearly, the EDA has an extremely difficult task in deciding which projects to fund. They do so by considering factors such as an areas' per capita income; unemployment rate; the local poverty level; the loss of population in the community; and the general distress level of residents in the area. There will always be more disappointed applicants than there are winners in a competitive system, but at least the EDA is utilizing a set of economic criteria to ensure that the taxpayer dollars it administers are scrutinized, and flow to the projects which represent truly compelling needs.

Mr. President, we have before us a mammoth new appropriations bill which presents an inviting target for Members to evade this competitive system, and bypass its reasonable guidelines for the expenditure of taxpayer dollars. The earmark added to this bill effectively sweeps aside higher priority requests, and arbitrarily puts one unauthorized project at the head of the line. Instead of a community receiving flood control assistance because it's needs are urgent and meritorious, this one project will prevail over hundreds of others because it secured political support. Well intentioned support, I'm sure, but unfair nonetheless.

As I have said many times on this floor, Mr. President, during one of my many unsuccessful attempts to curb the Congress's seemingly unquenchable thirst for more spending, my criticisms about this specific project is about process. I in no way contend that the Devils Lake Basin flood control program is unnecessary. I fully recognize that the Senators from North Dakota are affirmatively responding to requests for assistance from some of their constituents.

What I do contend is that the Senate should not respond to such requests—requests that all 100 Members of this body receive on a daily basis—in a manner that circumvents a thorough, merit-based process, and substitutes quick-and-easy earmarks in yet another emergency spending bill.

While I am opposed to the Senate again condoning what I feel is an indefensible process, let me state that I have not offered this amendment out of any respect for endless bureaucratic analysis; I offer it because there are dire problems facing our communities and the taxpayers who support them, and it is wrong to subvert their efforts to play by the rules when they are in need of Federal disaster aid.

Again, I don't question the possible benefits of the Devil's Lake Basin project. I do question the wisdom in the Senate boosting it to the head of the line for funding from the Economic Development Administration, when there are 84 other project's among North Dakota's neighboring States that are also anxiously awaiting funding. Unlike Devil's Lake Basin, however, these communities are properly competing for funding from the EDA for their disaster needs.

I have been advised by the EDA, Mr. President, that they did not request funding for the Devil's Lake Basin project, nor have the project's sponsors officially filed a request for funds with the EDA's Denver Regional Office, which allocates funding to North Dakota and nine other Western and Midwestern States. Therefore, dozens of communities in States such as Colorado, Kansas, Missouri, South Dakota, Iowa, Wyoming, and Utah will continue to have their needs go unaddressed by EDA, while $10 million in new moneys they might have competed for will instead be diverted to a single project.

I am not talking about mere pennies, either. The total earmark for the Devils Lake Basin project in this bill is larger than the entire expected budget of the EDA's Denver Regional Office for fiscal year 1996. This one project will receive almost $13 million in Federal aid, while 84 communities in the above 9 States will have to compete with each other for the $11 million that the Denver office is anticipating for this year. Without a doubt, a number of these requests are emergency projects.

Regrettably, many communities who have developed meritorious proposals, and are willing to play by the rules by competing for scarce taxpayer dollars, will never get a dime from the EDA.

Obviously, Mr. President, every Senator in this body is interested in receiving Federal funds for infrastructure and disaster aid for their State. I'm certainly no exception. Arizona has over $6 million in requests pending with the EDA, some of which have been pending for several years. For Arizona to even have a chance at having one project funded, communities in my State must compete with 115 requests from seven other States in Region 7, which includes California, Idaho, Alaska, and Hawaii. These States currently have over $100 million in requests pending at the EDA. Most of these will be rejected due to the intense competition, yet Devils Lake Basin is guaranteed $10 million without having to face any competition.

The $3.8 million earmark for the Devils Lake Basin project in this bill from the Fish and Wildlife Service is similar in the respect that it was not officially requested by the agency, in its submission to the Appropriations Committee for inclusion in this bill. There are other earmarks in the bill, as well.

The amendment I am offering is very simple, and entirely fair to every Member of this body, and every State in our Nation. It simply says that funding provided in this bill to the EDA, the Fish and Wildlife Service, HUD, and other agencies will be awarded according to the established prioritization process of those agencies.

Mr. KENNEDY. Mr. President, I rise to express my deep concern about the title VIII of the pending appropriations bill, the so-called Prison Litigation Reform Act [PLRA].

Its proponents say that the PLRA is merely an attempt to reduce frivolous prisoner litigation over trivial matters. In reality, the PLRA is a far-reaching effort to strip Federal courts of the authority to remedy unconstitutional prison conditions. The PLRA is itself patently unconstitutional, and a dangerous legislative incursion into the work of the judicial branch.

In my view, the effort to enact this proposal as part of an omnibus appropriations bill is inappropriate. Although a version of the PLRA was introduced as a free-standing bill and referred to the Judiciary Committee, it was never the subject of a committee mark-up, and there is no Judiciary Committee report explaining the proposal. The PLRA was the subject of a single hearing in the Judiciary Committee, hardly the type of thorough review that a measure of this scope deserves.

At the hearing, Associate Attorney General John Schmidt expressed serious concerns about the feasibility and consequences of the PLRA. While Mr. Schmidt did not take issue with provisions in the PLRA that merely seek to curb frivolous prison litigation, he noted that other aspects of the proposal would radically and unwisely curtail the power of the Federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities.

I understand that my colleague from Illinois intends to include relevant excerpts of Mr. Schmidt's testimony in the RECORD, but I will just highlight several of the objections that he raised, all of which I share. Mr. Schmidt observed that:

> The effort to terminate all existing consent decrees "raise[s] serious constitutional problems" under doctrines reaffirmed by the Supreme Court as recently as this year;
>
> Provisions limiting the power of federal courts to issue relief in prison conditions cases would "create a very substantial impediment to the settlement of prison conditions suits—even if all interested parties are fully satisfied with the proposed resolution." "This would result in litigation that no one wants . . . and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner";

The proposal to terminate relief two years after issuance is misguided because, in those cases where the problems have not been remedied, the "Justice Department and other Plaintiffs would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruption of ongoing remedial efforts."

All of these problems remain in the legislative language before us today.

In addition, I call to the attention of my colleagues an assessment prepared by the Administrative Office of the United States Courts dated June 21, 1995. The Office found that the "potential annual resource costs of [the bill] could be more than $239 million and 2,096 positions, of which at least 280 would be judicial officers—Article III judges and/or magistrate judges." The bill appropriates no funds to the Federal judiciary to offset this enormous fiscal impact.

Finally, I note with great concern that the bill would set a dangerous precedent for stripping the Federal courts of the ability to safeguard the civil rights of powerless and disadvantaged groups.

I do not intend to offer an amendment to this bill, because it is clear that a majority of the Senate would not vote to strike the provision, and I do not believe the Senate is positioned to consider detailed improvements to the PLRA during debate on this omnibus appropriations bill. But the abbreviated nature of the legislative process should not suggest that the proposal is noncontroversial in Congress.

It is my hope that after the President vetoes this bill, as I expect he will, that the administration seek to negotiate changes in the PLRA that remedy the profound constitutional, fiscal, and practical problems outlined by Mr. Schmidt and other experts.

I ask unanimous consent that a copy of a letter sent by myself and four other Senators to the Attorney General on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 2, 1996.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MADAM ATTORNEY GENERAL: We write to express our concern about aspects of the Prison Litigation Reform Act (PLRA), which has passed Congress as title VIII of the Commerce, State, and Justice Departments Appropriations bill. President Clinton vetoed this appropriations bill on December 18, but it is our understanding that issues such as the PLRA may be the subject of negotiations between the Administration and members of the Appropriations Committees in the coming weeks.

We do not take issue with provisions in the PLRA that merely seek to curb frivolous prison litigation. But in other respects, the PLRA is far reaching legislation that would unwisely reduce the power of the federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities.

PLRA was considered as one of many issues on the appropriations bill. For this reason, PLRA passed on a voice vote following relatively brief debate. But the manner in which the bill passed the Senate should not suggest to you that the Senate considers the proposal to be entirely noncontroversial.

In particular, we share some of the concerns that Associate Attorney General John R. Schmidt raised in his testimony before the Senate Judiciary Committee on July 27, 1995. Mr. Schmidt noted that provisions limiting the power of federal courts to issue relief in prison conditions cases would "create a very substantial impediment to the settlement of prison conditions suits—even if all interested parties are fully satisifed with the proposed resolution." "This would result in litigation that no one wants . . . and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner."

Mr. Schmidt also pointed out that the proposal to terminate relief two years after issuance is troublesome because, in those cases where the problems have not been remedied, the "Justice Department and other Plaintiffs would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruption of ongoing remedial efforts."

These problems have not been remedied by the changes made to the proposal since Mr. Schmidt's testimony.

We also call to your attention an assessment prepared by the Administrative Office of the United States Courts dated June 21, 1995. The Office found that the "potential annual resource costs of [the bill] could be more than $239 million and 2,096 positions, of which at least 280 would be judicial officers (Article III judges and/or magistrate judges)." The bill appropriates no funds to the federal judiciary to offset this enormous fiscal impact.

We suggest that the Administration negotiate changes in the PLRA that remedy the serious fiscal and practical problems outlined by Mr. Schmidt and other experts.

Thank you for your attention to this important matter.

Sincerely,

FRED THOMPSON.
JIM JEFFORDS.
TED KENNEDY.
JOE BIDEN.
JEFF BINGAMAN.

Mr. SIMON. Mr. President, I join Senator KENNEDY in raising my strong concerns about the Prison Litigation Reform Act, a section of S. 1594. In attempting to curtail frivolous prisoner lawsuits, this legislation goes much too far, and instead may make it impossible for the Federal courts to remedy constitutional and statutory violations in prisons, jails, and juvenile detention facilities. No doubt there are prisoners who bring baseless suits that deserve to be thrown out of court. But unfortunately, in many instances there are legitimate claims that deserve to be addressed. History is replete with examples of egregious violations of prisoners' rights. These cases reveal abuses and inhumane treatment which cannot be justified no matter what the crime. In seeking to curtail frivolous lawsuits, we cannot deprive individuals of their basic civil rights. We must find the proper balance.

My colleague from Illinois, Associate U.S. Attorney General John Schmidt, testified before the Senate Judiciary Committee on July 27, 1995, and raised numerous concerns about this legislation. I have included a copy of his comments for my colleagues to review. I should also note that at the same hearing, former Attorney General Barr of the Bush administration, agreed with the assertion that there are constitutional problems with the bill as drafted which have not yet been addressed.

As outlined in Mr. Schmidt's testimony, the bill has so many problems that I cannot list them all here. So let me describe just a few. First, the bill severely limits the options available to States and courts in remedying legitimate complaints. For example, the bill makes it virtually impossible for States to enter into consent decrees even when the consent decree may well be in the State's best interest for both fiscal and policy reasons. Similarly, this legislation, by creating new and burdensome standards of review, would effectively prohibit courts from placing population caps on prisons. Prison overcrowding obviously creates a serious threat to the general public, as well as to prison staffs and the inmates themselves. We must not exacerbate this problem. Furthermore, the bill places undue burdens on States and courts by requiring that relief be terminated 2 years after issuance even in cases where the problems have not been remedied

I am very discouraged that this legislation was considered as one of many issues on an appropriations bill. Legislation with such far reaching implications certainly deserves to be thoroughly examined by the committee of jurisdiction and not passed as a rider to an appropriations bill. I urge the White House to carefully review these provisions and work with Congress to make the necessary changes to remedy the myriad of constitutional and practical problems found in this far-reaching legislation.

I ask unanimous consent that the relevant portions of Mr. Schmidt's testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF JOHN SCHMIDT

REFORMS RELATING TO PRISONER LITIGATION

The Department also supports improvements of the criminal justice system through the implementation of other reforms. Several pending bills under consideration by the Senate contain three sets of reforms that are intended to curb abuses or perceived excesses in prisoner litigation or prison conditions suits.

The first set of provisions appears in title II of H.R. 667 as passed by the House of Representatives, and in §103 of S. 3. These provisions strengthen the requirement of exhaustion of administrative remedies under the Civil Rights of Institutionalized Persons Act (CRIPA) for state prisoner suits, and adopt other safeguards against abusive prisoner litigation. We have endorsed these reforms in an earlier communication to Congress.[1] We also recommend that parallel provisions be adopted to required federal prisoners to exhaust administrative remedies prior to commencing litigation.

The second set of provisions appears in a new bill, S. 866, which we have not previously commented on. The provisions in this bill have some overlap with those in §103 of S. 3 and title II of H.R. 667, but also incorporate a number of new proposals. We support the objectives of S. 866 and many of the specific provisions in the bill. In some instances, we have recommendations for alternative formulations that could realize the bill's objectives more effectively.

The third set of provisions appears in S. 400, and in title III of H.R. 667 as passed by the House of Representatives, the "Stop Turning Out Prisoners" (STOP) proposal. The Violent Crime Control and Law Enforcement Act of 1994 enacted 18 U.S.C. 3626, which limits remedies in prison conditions litigation. The STOP proposal would amend this section to impose various additional conditions and restrictions. We support the basic objective of this legislation, including particularly the principle that judicial caps on prison populations must be used only as a last resort when no other remedy is available for a constitutional violation, although we have constitutional or policy concerns about a few of its specific provisions.

A. The Provisions in §103 of S. 3 and H.R. 667 title II

As noted above, we support the enactment of this set of provisions.

The Civil Rights of Institutionalized Person Act (42 U.S.C. §1997e) currently authorizes federal courts to suspend §1983 suits by prisoners for up to 180 days in order to require exhaustion of administrative remedies. Section 103(a)–(b), (e) of S. 3 strengthens the administrative exhaustion rules in this context—and brings it more into line with administrative exhaustion rules that apply in other contexts—by generally prohibiting prisoner §1983 suits until administrative remedies are exhausted.

As noted above, we recommend that this proposal also incorporate a rule requiring federal prisoners to exhaust administrative remedies prior to commencing litigation. A reform of this type is as desirable for federal prisoners as the corresponding strengthening of the exhaustion provision for state prisoners that now appears in section 103 of S. 3. We would be pleased to work with interested members of Congress in formulating such a provision.

Section 103(c) of S. 3 directs a court to dismiss a prisoner §1983 suit if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious. A rule of this type is desirable to minimize the burden on states of responding unnecessarily to prisoner suits that lack merit and are sometimes brought for purposes of harassment or recreation.

Section 103(d) of S. 3 deletes from the minimum standards for prison grievance systems in 42 U.S.C. 1997e(b)(2) the requirement of an advisory role for employees and inmates (at the most decentralized level as is reasonably possible) in the formulation, implementation, and operation of the system. This removes the condition that has been the greatest impediment in the past to the willingness of state and local jurisdictions to seek certification for their grievance systems.

Section 103(f) of S. 3 strengthens safeguards against and sanctions for false allegations of poverty by prisoners who seek to proceed in forma pauperis. Subsection (d) of 28 U.S.C. 1915 currently reads as follows: "The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious." Section 103(f)(1) of S. 3 amends that subsection to read as follows: "The court may request an attorney to represent any such person unable to employ counsel and shall at any time dismiss the case if the allegation of poverty is untrue, or if satisfied that the action fails to state a claim upon which relief may be granted or is frivolous or malicious even if partial filing fees have been imposed by the court."

Section 103(f)(2) of S. 3 adds a new subsection (f) to 28 U.S.C. 1915 which states that an affidavit of indigency by a prisoner shall include a statement of all assets the prisoner possesses. The new subsection further directs the court to make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. This is a reasonable precaution. The new subsection concludes by stating that the court "shall require full or partial payment of filing fees according to the prisoner's ability to pay." We would not understand this language as limiting the court's authority to require payment by the prisoner in installments, up to the full amount of filing fees and other applicable costs, where the prisoner lacks the means to make full payment at once.

B. S. 866

Section 2 in S. 866 amends the *in forma pauperis* statute, 28 U.S.C. 1915, in the following manner: (1) The authority to allow a suit without prepayment of fees—as opposed to costs—in subsection (a) is deleted. (2) A prisoner bringing a suit would have to submit a statement of his prison account balance for the preceding six months. (3) A prisoner would be liable in all cases to pay the full amount of a filing fee. An initial partial fee of 20% of the average monthly deposits to or average monthly balance in the prisoner's account would be required, and thereafter the prisoner would be required to make monthly payments of 20% of the preceding month's income credited to the account, with the agency having custody of the prisoner forwarding such payments whenever the amount in the account exceeds $10. However, a prisoner would not be barred from bringing any action because of inability to pay the initial partial fee. (4) If a judgment against a prisoner includes the payment of costs, the prisoner would be required to pay the full amount of costs ordered, in the same manner provided for the payment of filing fees by the amendments.

In essence, the point of these amendments is to ensure that prisoners will be fully liable for filing fees and costs in all cases, subject to the proviso that prisoners will not be barred from suing because of this liability if they are actually unable to pay. We support this reform in light of the frequency with which prisoners file frivolous and harassing suits, and the general absence of other disincentives to doing so.

However, the complicated standards and detailed numerical prescriptions in this section are not necessary to achieve this objective. It would be adequate to provide simply that prisoners are fully liable for fees and costs, that their applications must be accompanied by certified prison account information, and that funds from their accounts are to be forwarded periodically when the balance exceeds a specified amount (such as $10) until the liability is discharged. We would be pleased to work with the sponsors to refine this proposal.

In addition to these amendments relating to fees and costs, §2 of S. 866 strengthens 28 U.S.C. 1915(d) to provide that the court shall dismiss the case at any time if the allegation of poverty is untrue or if the action is frivolous or malicious or fails to state a claim. This is substantially the same as provisions included in §103 of S. 3 and title II of H.R. 667, which we support.

Section 3 of S. 866 essentially directs courts to review as promptly as possible suits by prisoners against governmental entities or their officers or employees, and to dismiss such suits if the complaint fails to state a claim or seeks monetary relief from an immune defendant. This is a desirable provision that could avoid some of the burden on states and local governments of responding to nonmeritorious prisoner suits.

Section 6 provides that a court may order revocation of good time credits for federal prisoners if (1) the court finds that the prisoner filed a malicious or harassing civil claim or testified falsely or otherwise knowingly presented false evidence or information to the court, or (2) the Attorney General determines that one of these circumstances has occurred and recommends revocation of good time credit to the court.

We support this reform in principle. Engaging in malicious and harassing litigation, and committing perjury or its equivalent, are common forms of misconduct by prisoners. Like other prisoner misconduct, this misconduct can appropriately be punished by denial of good time credits.

However, the procedures specified in section 6 are inconsistent with the normal approach to denial of good time credits under 18 U.S.C. 3624. Singling out one form of misconduct for discretionary judicial decisions concerning denial of good time credits—where all other decisions of this type are made by the Justice Department—would work against consistency in prison disciplinary policies, and would make it difficult or impossible to coordinate sanctions imposed for this type of misconduct with those imposed for other disciplinary violations by a prisoner.

We accordingly recommend that §6 of S. 866 be revised to provide that (1) a court may, and on motion of an adverse party shall, make a determination whether a circumstance specified in the section has occurred (i.e., a malicious or harassing claim or knowing falsehood), (2) the court's determination that such a circumstance occurred shall be forwarded to the Attorney General, and (3) on receipt of such a determination, the Attorney General shall have the authority to deny good time credits to the prisoner. We would be pleased to work with the sponsors to refine this proposal.

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[1] Letter of Assistant General Shalla F. Anthony to Honorable Henry J. Hyde concerning H.R. 3, at 17-19 (January 26, 1995).

Section 7 of S. 866 strengthens the requirement of exhaustion of administrative remedies under CRIPA in prisoner suits. It is substantially the same as part of §103 of S. 3, which we support.[2]

C. The STOP Provisions

As noted above, we support the basic objective of the STOP proposal, including particularly the principle that population caps must be only a "last resort" measure. Responses to unconstitutional prison conditions must be designed and implemented in the manner that is most consistent with public safety. Incarcerated criminals should not enjoy opportunities for early release, and the system's general capacity to provide adequate detention and correctional space should not be impaired, where any feasible means exist for avoiding such a result.

It is not necessary that prisons be comfortable or pleasant; the normal distresses and hardships of incarceration are the just consequences of the offenders' own conduct. However, it is necessary to recognize that there is nevertheless a need for effective safeguards against inhuman conditions in prisons and other facilities. The constitutional provision enforced most frequently in prison cases is the Eighth Amendment's prohibition of cruel and unusual punishment. Among the conditions that have been found to violate the Eighth Amendment are excessive violence, whether inflicted by guards or by inmates under the supervision of indifferent guards, preventable rape, deliberate indifference to serious medical needs, and lack of sanitation that jeopardizes health. Prison crowding may also be a contributing element in a constitutional violation. For example, when the number of inmates at a prison becomes so large that sick inmates cannot be treated by a physician in a timely manner, or when crowded conditions lead to a breakdown in security and contribute to violence against inmates, the crowding can be addressed as a contributing cause of a constitutional violation. *See generally Wilson* v. *Seiter*, 501 U.S. 294 (1991); *Rhodes* v. *Chapman*, 452 U.S. 337 (1981).

In considering reforms, it is essential to remember that inmates do suffer unconstitutional conditions of confinement, and ultimately must retain access to meaningful redress when such violations occur. While Congress may validly enact legislative directions and guidance concerning the nature and extent of prison conditions remedies. It must also take care to ensure that any measures adopted do not deprive prisoners of effective remedies for real constitutional wrongs.

With this much background, I will now turn to the specific provisions of the STOP legislation.

The STOP provisions of S. 400 and title III of H.R. 667—in proposed 18 U.S.C. 3626(a)—provide that prospective relief in prison conditions suits small extend no further than necessary to remove the conditions causing the deprivation of federal rights of individual plaintiffs, that such relief must be narrowly drawn and the least intrusive means of remedying the derivation, and that substantial weight must be given to any adverse impact on public safety or criminal justice system operations in determining intrusiveness. They further provide that relief reducing or limiting prison population is not allowed unless crowding is the primary cause of the deprivation of a federal right and no other relief will remedy that deprivation.

Proposed 18 U.S.C. 3626(b) in the STOP provisions provides that any prospective relief in a prison conditions action shall automatically terminate after two years (running from the time the federal right violation is found or enactment of the STOP legislation), and that such relief shall be immediately terminated if it was approved or granted in the absence of a judicial finding that prison conditions violated a federal right.

Proposed 18 U.S.C. 3626(c) in the STOP provisions requires prompt judicial decisions of motions to modify or terminate prospective relief in prison conditions suits, with automatic stays of such relief 30 days after a motion is filed under 18 U.S.C. 3626(b), and after 180 days in any other case.

Proposed 18 U.S.C. 3626(d) in the STOP provisions confers standing to oppose relief that reduces or limits prison population on any federal, state, of local official or unit of government whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to such relief, or who otherwise may be affected by such relief.

Proposed 18 U.S.C. 3626(e) in the STOP provisions prohibits the use of masters in prison conditions suits in federal court, except for use of magistrates to make proposed findings concerning complicated factual issues. Proposed 18 U.S.C. 3626(f) in the STOP provisions imposes certain limitations on awards of attorney's fees in prison conditions suits under federal civil rights laws.

Finally, the STOP provisions provide that the new version of 18 U.S.C. 3626 shall apply to all relief regardless of whether it was originally granted or approved before, on, or after its enactment.

The bills leave unresolved certain interpretive questions. While the revised section contains some references to deprivation of federal rights, several parts of the section are not explicitly limited in this manner, and might be understood as limiting relief based on state law claims in prison conditions suits in state courts. The intent of the proposal, however, is more plausibly limited to setting standards for relief which is based on claimed violations of federal rights or imposed by federal court orders. If so, this point should be made clearly in relation to all parts of the proposal.

A second interpretive question is whether the proposed revision of 18 U.S.C. 3626 affects prison conditions suits in both federal and state court, or just suits in federal court. In contrast to the current version of 18 U.S.C. 3626, the proposed revision—except for the new provision restricting the use of masters—is not, by its terms, limited to federal court proceedings. Hence, most parts of the revision appear to be intended to apply to both federal and state court suits, and would probably be so construed by the courts. To avoid extensive litigation over an issue that goes to the basic scope of the proposal, this question should be clearly resolved one way or the other by the text of the proposal.

The analysis of constitutional issues raised by this proposal must be mindful of certain fundamental principles. Congress possesses significant authority over the remedies available in the lower federal courts, subject to the limitations of Article III, and can eliminate the jurisdiction of those courts altogether. In the latter circumstance, state courts (and the U.S. Supreme Court on review) would remain available to provide any necessary constitutional remedies excluded from the jurisdiction of the inferior federal courts. Congress also has authority to impose requirements that govern state courts when they exercise concurrent jurisdiction over federal claims, see Fielder v. Casey, 487 U.S. 131, 141 (1988), but if Congress purports to bar both federal and state courts from issuing remedies necessary to redress colorable constitutional violations, such legislation may violate due process. See, e.g., Webster v. Dob, 486 U.S. 592, 603 (1988); Bowen v. Michigan Academy of Family Physicians, 476 U.S. 667, 681 n.12 (1986); Bartlett v. Bowman, 816 F.2d 695, 703–07 (D.C. Cir. 1987). We therefore examine the proposal's various remedial restrictions from that perspective.

Proposed 18 U.S.C. 3626(a)(1) in the proposal goes further than the current statute in ensuring that any relief ordered is narrowly tailored. However, since it permits a court to order the "relief . . . necessary to remove the conditions that are causing the deprivation of . . . Federal rights," this aspect of the proposal appears to be constitutionally unobjectionable, even if it constrains both state and federal courts.

Proposed 18 U.S.C. 3626(a)(2) bars relief that reduces or limits prison population unless crowding is the primary cause of the deprivation of a federal right and no other relief will remedy the deprivation. We strongly support the principle that measures limiting prison population should be the last resort in prison conditions remedies. Remedies must be carefully tailored so as to avoid or keep to an absolute minimum any resulting costs to public safety. Measures that result in the early release of incarcerated criminals, or impair the system's general capacity to provide adequate detention and correctional space, must be avoided when any other feasible means exist for remedying constitutional violations.

Certain features of the formulation of proposed 18 U.S.C. 3626(a)(2) however, raise constitutional concerns. In certain circumstances, prison overcrowding may result in a violation of the Eighth Amendment, see Rhodes v. Chapman, 452 U.S. 337 (1981). Hence, assuming that this provision constrains both state and federal courts, it would be exposed to constitutional challenge as precluding adequate remedy for a constitutional violation in certain circumstances. For example, severe safety hazards or lack of basic sanitation might be the primary cause of unconstitutional conditions in a facility, yet extreme overcrowding might be a substitute and independent, but secondary, cause of such conditions. Thus, this provision could foreclose any relief that reduces or limits prison population through a civil action in such a case, even if no other form of relief would rectify the unconstitutional condition of overcrowding.

This problem might be avoided through an interpretation of the notion of a covered "civil action" under the revised section as not including habeas corpus proceedings in state or federal court which are brought to obtain relief from unconstitutional conditions of confinement. See e.g., Preiser v. Rodriguez, 411 U.S. 475, 499 (1973). However, this depends on an uncertain construction of the proposed statute, and the proposal's objectives could be undermined if the extent of remedial authority depended on the form of the action (habeas proceedings vs. regular civil action). Since the relief available in habeas proceedings in this context could be limited to release from custody, reliance on such proceedings as an alternative could carry heavy costs in relation to this proposal's evident objective of limiting the release of prisoners as a remedy for unconstitutional prison conditions.

A more satisfactory and certain resolution of the problem would be to delete the requirement in proposed 18 U.S.C. 3626(a)(2) that crowding must be the primary cause of the deprivation of a federal right. This would avoid potential constitutional infirmity while preserving the requirement that prison caps and the like can only be used where no other remedy would work.

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[2] However, there is a typographic error in line 22 of page 8 of the bill. The words "and exhausted" in this line should be "are exhausted."

Proposed 18 U.S.C. 3626(b)—which automatically terminates prospective relief after two years, and provides for the immediate termination of prospective relief approved without a judicial finding of violation of a federal right—raises additional constitutional concerns. It is possible that prison conditions held unconstitutional by a court may persist for more than two years after the court has found the violation, and while the court order directing prospective relief is still outstanding. Hence, this provision might be challenged on constitutional grounds as foreclosing adequate judicial relief for a continuing constitutional violation.

However, we believe that this provision is constitutionally sustainable against such a challenge because it would not cut off all alternative forms of judicial relief, even if it applies both to state court and federal court suits. The possibility of construing the statute as not precluding relief through habeas corpus proceedings has been noted above (as has the possibility that habeas may provide only limited relief). More importantly, the section does not appear to foreclose an aggrieved prisoner from instituting a new and separate civil action based on constitutional violations that persisted after the automatic termination of the prior relief.

A more pointed constitutional concern arises from the potential application of the restrictions of proposed 18 U.S.C. 3626(b) to terminate uncompleted prospective relief ordered in judgments that became final prior to the legislation's enactment. The application of these restrictions to such relief raises constitutional concerns under the Supreme Court's recent decision in Plauty, Spendthrift Farm, Inc., 115 S.Ct. 1447 (1995). The Court held in that case that legislation which retroactively interferes with final judgments can constitute an unconstitutional encroachment on judicial authority. It is uncertain whether Plaut's holding applies with full force to the prospective, long-term relief that is involved in prison conditions cases. However, if the decision does fully apply in this context, the application of proposed 18 U.S.C. 3626(b) to orders in pre-enactment final judgments would raise serious constitutional problems.

While we believe that most features of that STOP proposal are constitutionally sustainable, at least in prospective effect, we find two aspects of the legislation to be particularly problematic for policy reasons.

First, the proposal apparently limits prospective relief to cases involving a judicial finding of a violation of a federal right. This could create a very substantial impediment to the settlement of prison conditions suits—even if all interested parties are fully satisfied with the proposed resolution—because the defendants might effectively have to concede that they have caused or tolerated unconstitutional conditions in their facilities in order to secure judicial approval of the settlement. This would result in litigation that no one wants, if the defendants were unwilling to make such a damaging admission, and could require judicial resolution of matters that would otherwise be more promptly resolved by the parties in a mutually agreeable manner.

Second, we are concerned about the provision that would automatically terminate any prospective relief after two years. In some cases the unconstitutional conditions on which relief is premised will not be corrected within this timeframe, resulting in a need for further prison conditions litigation. The Justice Department and other plaintiffs, would have to refile cases in order to achieve the objectives of the original order, and defendants would have the burden of responding to these new suits. Both for reasons of judicial economy, and for the effective protection of constitutional rights, we should aim at the resolution of disputes without unnecessary litigation and periodic disruptions of ongoing remedial efforts. This point applies with particular force where the new litigation will revisit matters that have already been adjudicated and resolved in an earlier judgment.

Existing law, in 18 U.S.C. 3626(c), already requires that any order of consent decree seeking to remedy an Eighth Amendment violation be reopened at the behest of a defendant for recommended modification at a minimum of two year intervals. This provision could be strengthened to give eligible intervenors under the STOP proposal, including prosecutors, the same right to periodic reconsideration of prison conditions orders and consent decrees. This would be a more reasonable approach to guarding against the unnecessary continuation of orders than imposition of an unqualified, automatic time limit on all orders of this type.

Mr. HATFIELD. Mr. President, for the better part of an hour we have notified Members through the communication system that we are ready to go to third reading and finalize, first of all, the managers' package—for the better part of an hour. And I think it has now reached a reasonable period of time to bring this to a halt.

So I want to say that at 5:05—in 15 minutes—I will ask for the lifting of the quorum and the Chair will put the question. So that will mean we have waited for an hour and 10 minutes for anyone to exercise their parliamentary right. I think that is a fairly good test of knowing if anyone is interested in doing so. Then we will move to the third reading following the adoption of the managers' package.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

COMMON SENSE PRODUCT LIABILITY REFORM ACT

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the conference report on H.R. 956, the Common Sense Product Liability Reform Act.

The legislation is modest in its reach, but it includes long-overdue changes, and it pulls together commonsense reforms that command broad support in this Congress.

Nonetheless, President Clinton announced that he will veto the bill and if, indeed, he does veto this legislation, he will line up with the special interests—the trial lawyers—rather than the American people.

The President refused to buck the trial lawyers last year, also, and he vetoed securities litigation reform. His veto was overridden by a bipartisan vote. The senior Senator from Connecticut, Senator DODD, brought strong support from the other side of the aisle, and we overrode the veto. It was not a radical bill. It was a balanced bill, modest reform. But the trial lawyers handed him the veto pen, and, political considerations at the forefront, he signed on the dotted line to veto securities reform.

Likewise, the Product Liability Reform Act is not radical legislation, as Presidential campaign aides insist. It addresses some of the principal abuses—our efforts to pass an expansive bill failed—and it, too, has a broad base of support. Just look at the bipartisan leadership on this bill. But despite the consensus for the bill, President Clinton again will do the trial lawyers' bidding, and he insists that he will veto yet another reform measure.

The argument that this legislation goes too far just does not hold up. The conference report was hammered out with the 60 votes for cloture in mind. It is, by definition, a consensus bill. So, let the facts be clear, this veto is not about consumer protection—the trial lawyers are worried about changes to a legal racket that took them years to build—it is about political considerations in an election year.

So, despite all the White House rhetoric about wages and growth, the President will take a stand for growth, but it will not be for growth in jobs. No, it will be for continued growth in the frivolous lawsuits that swell court dockets and cost American jobs.

The American tort system is far and away the most expensive of any industrialized country. It cost $152 billion in 1994. This is equivalent to 2.2 percent of the gross domestic product. This has serious economic implications, and, in fact, it is estimated that the legal system keeps the growth of our gross domestic product approximately 10 percent below its potential.

We have heard a lot of discussion about economic growth, but I believe that a good legal reform bill is, in effect, a growth bill.

The costs of these baseless lawsuits are profound—lost jobs, good products withdrawn from the market, medical research discontinued, and limited economic growth—all because our tort system is far too expensive.

We do not have the votes for general legal reform in this Chamber. I wish we did. However, we do have the votes for limited product liability reform, and we now have a bill that addresses the principal abuses.

President Clinton will be forced to choose sides on this bill. I hope he will reconsider his announcement and line up with the American workers rather than the trial lawyers. This bill will reduce the costs of frivolous lawsuits—the cases that compel companies to settle rather than risk ruin in the hands of juries run amok—and it will boost capital investment in our factories. Consequently, this legislation will generate jobs—manufacturing jobs—and strengthen our industrial base. This is good economics, and, Mr. President, it is good for the working people of this country.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, for the better part of an hour we have notified Members through the communication system that we are ready to go to third reading and finalize, first of all, the managers' package—for the better part of an hour. And I think it has now reached a reasonable period of time to bring this to a halt.

So I want to say that at 5:05—in 15 minutes—I will ask for the lifting of the quorum and the Chair will put the question. So that will mean we have waited for an hour and 10 minutes for anyone to exercise their parliamentary right. I think that is a fairly good test of knowing if anyone is interested in doing so. Then we will move to the third reading following the adoption of the managers' package.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, may I proceed for 5 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, in response to my distinguished friend from North Carolina—and I know North Carolina very well—I would challenge the distinguished Senator to name the industry that refused to come to North Carolina, or to Tennessee, on account of product liability. Specifically, the State of North Carolina, as well as my State of South Carolina, has foreign industry galore. They talk about the international competition, and within that international competition we just located, with respect to investment Hoffman LaRoche from Switzerland, the finest medical-pharmaceutical facility that you could possibly imagine; with respect to the matter of photographic papers, Fuji has a beautiful new plant there; and we have Hitachi, a coil roller bearings, and we have over 40 industries from Japan and 100 from Germany. The distinguished Presiding Officer has 98 Japanese plants in Tennessee. In my 35 years dealing with industry and bringing industry into South Carolina, they have yet to mention product liability.

Now, let us get to the trial lawyers. Bless them, because if there is a lazy crowd of bums, it is the corporate lawyers that sit downtown here and infest this particular democratic body with billable hours—billable hours. All they have to do is get up and see a Senator, and they send a bill. All they have to do is sit down and say something, and it is $200, $300, $400, or $500 an hour—the whole crowd up here in Washington. They have hardly ever tried a case in court.

Let us go right to the particular product liability cases. The American trial bar association—the American Bar Association—is opposed to this measure. The Senator from North Carolina should know that. The Association of State Legislators have opposed it. The Association of State Supreme Court Judges have opposed it. The attorneys general have come here and law professors from all around the country have come here to oppose it. The reason they have come is that this is the most dastardly measure you could possibly imagine.

Talk about balancing how they got together, why not apply this bill to the manufacturing? It is all applied to the injured parties who have difficulty getting a lawyer in the first instance. You have to have a chance to get in court, not just your day in court. But to get to court, you have to be willing to take on the expenses—not billable hours, but the risk of winning or losing. Under the contingency arrangement unless 12 jurors find in their behalf and the courts of appeal affirm that particular finding, you don't get paid. So it is not willy-nilly.

They mention a coffee case—they have anecdotal nonsense—the coffee case in New Mexico where the lady dropped the hot coffee. She got third-degree burns. She went to the hospital for an extended period of time. But the trial judge cut back on that particular award. They never mentioned that. We have a good judiciary there in the State of New Mexico.

So we can go into these cases. But to come here, as I heard one particular statement just earlier this afternoon, that the President of the United States was threatening a veto because he was bankrolled by the trial lawyers—I wish every one would look up and see the Senator who made that statement. He is an expert in bankrolling.

That is all I can say.

I yield the floor.

Mr. DOMENICI. Mr. President, I want to say to my friend, Senator HOLLINGS, that he mentioned New Mexico and the McDonald case. I do not know how this story will strike you, but about 10 days after that event—and the paper was full of the stories—I pulled into a McDonald's in downtown Albuquerque on my way to Santa Fe in the car. And we pulled up to the drive-in window to get coffee, and in the process talking to the nice lady working for McDonald's, we asked for the coffee. She had it ready. Just as we started to leave, I was sitting in the front seat with one of my staff men right here. We were looking at her, and she was smiling heavily—almost laughing. I said, "What is the matter, ma'am?" We had been talking about the case before. She said, "Well, last night a truck came by here and the man in the driver's seat sitting right here close to me said, 'Don't bother with the cup. Just pour it in my lap.'" [Laughter.]

Mr. CHAFEE. Mr. President, I ask that I might proceed for 3 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I want to take a moment of the Senate to discuss further the matter that the distinguished Senator from North Carolina brought up, namely, the product liability reform conference report.

I want to take a moment to discuss an important matter that today or tomorrow will come before the Senate: namely, the product liability reform conference report. I must say that I was sorely disappointed to read over the weekend that the President has issued a veto threat for this carefully balanced, carefully drafted, well-thought-out measure. I find it hard to believe the President's advisors could come up with a credible basis for objecting to this commonsense bill. I strongly urge the President to reconsider.

SENATE HISTORY RE PRODUCT LIABILITY REFORM

This issue is not a new one, and this legislation was not drafted in a hasty or casual manner. Indeed, it is the cumulation of more than a decade's worth of hard work. Let me outline the enormous time and energy that has been expended on behalf of this bill by its Senate sponsors:

I would like to just briefly outline what is going into this bill. No one can suggest that this is a will-o'-the-wisp piece of legislation that just suddenly came out of nowhere. In 1981, legislation was introduced similar to the bill that was finally approved and comes from the conference today or this week. It was introduced in 1981.

In the 97th Congress (1981–82), S. 2631 was introduced by Senator Kasten and others. It was reported by the Commerce Committee but never taken up by the Senate. In the 98th Congress (1983–84), Senators Kasten, Percy, and GORTON again introduced product liability legislation (S. 44), and again it was reported by Commerce. And again it saw no further action.

In the 99th Congress (1985–86), Senator Kasten introduced a revised version of his product liability reform proposal (S. 100). This bill was defeated on a tie vote in Committee. However, a host of freestanding amendments were considered during hearings. Eventually an original Committee bill (S. 2760) was sent to the floor, where the Senate voted overwhelmingly to consider it.

Yet notwithstanding the strong votes, the bill was returned to the calendar and the Senate recessed for the year.

In every Congress we have worked on this particular piece of legislation.

In the 100th Congress (1987–88), Senators Kasten, PRESSLER, ROCKEFELLER, and Danforth, soldiering on, introduced two more revised bills (S. 666, S. 711), neither of which was taken up by the Committee or the Senate. In the 101st Congress (1989–90), ever hopeful, Senators Kasten, GORTON, PRESSLER, and ROCKEFELLER introduced their bill. S. 1400 won Committee approval, but was blocked from Senate consideration.

In the 102d Congress (1991–92), Senators Kasten and ROCKEFELLER led a bipartisan group in introducing S. 640. The bill was favorably reported, but was stalled for 7 months by liability reform opponents. To force floor action, S. 640 was offered as an amendment to the then-pending motor-voter bill. But cloture failed, and subsequently the amendment was sent to Judiciary for further hearings. However, proponents were able to win a commitment from the Democratic leader to bring the bill up later. That fall, the Senate witnessed an extraordinary effort by bill opponents to stymie the bill by forcing the Senate to hold three back-to-back cloture votes, each of which fell at least 2 votes short of the 60 needed. The end result? That bill also died.

How about the 103d Congress? Anything better? Not much. S. 687 was introduced in March 1993 with Senators ROCKEFELLER and GORTON again bravely leading the charge. After a hearing and the strongest committee vote yet, 16 to 4, the bill went to the floor, but again the opponents stopped its momentum with two cloture votes, and that killed the bill for the rest of the 103d.

Now we come to the 104th Congress, some 15 years after the first Kasten bill was presented. Prospects seemed pretty good. Supporters had gained new adherents on both sides of the aisle. Product liability and tort reform had caught the public's attention and support. The legislation in itself had plenty of time to ripen. After all, there had been countless hearings and enormous opportunity for public comment.

To their credit, the sponsors continued to take all legitimate concerns into account and came up with reasonable responses to those questions raised.

Will this be the year of product liability reform? Well, let us see. S. 565 was introduced in March 1995, a year ago, by Senators GORTON, ROCKEFELLER, PRESSLER, LIEBERMAN, and others, and a large bipartisan coalition. The bill was reported in April. The committee took up the bill in late April and began voting on amendments. A total of four cloture votes were held on or in relation to the bill, with the fourth vote in this grueling procession being ultimately successful. On May 10, with bipartisan support, the bill as amended passed the Senate, 61–37. Now the conference report is finally before us. But now we learn that all this work is for naught—for notwithstanding the views of some of his advisors and the strong support of many Democrats, the President has decided to veto this bill.

Frankly, I believe this bill has seen more roadblocks in the last decade than practically any other bill we have seen. I venture to guess that product liability has been subject to more cloture votes than any other bill: two in 1986, three in 1992, two in 1993, and four in 1995.

Yet, it seemed we were close to beating that gridlock with this new Congress. The drafting of the bill was bipartisan from Day One. The White House was well aware of what was going on, watching closely as the Senate took up the bill and began adding amendments. Indeed, I understand from the key Republican and Democratic sponsors of the bill that it was the administration that, during the Senate debate in May, quite helpfully suggested the addition of the so-called additur provision to the final version of the Senate bill—the provision that helped the bill win final approval by that 61 to 37 margin.

THE VETO THREAT

What, then, happened to change the White House attitude? Did the bill change drastically in conference? The answer is no, hardly at all. It was clear to all that the House broader tort reform bill would not win administration approval. Therefore, to their credit, the conferees were careful to stick closely to the Senate version. The bill that we will vote on is virtually identical to the Senate-passed bill that won such strong approval.

What, then, has caused the President to issue the veto threat? I cannot believe he is personally opposed to a Federal liability law, for as Governor he sat on the National Governors' Association Committee that drafted the NGA's first resolution favoring Federal liability reform.

Here in my hand I have the letter to Senator DOLE stating the veto threat. The reasons for the veto are couched very carefully but do not stand up to close scrutiny. First, we are told the bill is an "unwarranted intrusion on state authority"—yet in this case, the need for a uniform product liability law—not 50 separate laws—is so warranted that the NGA enthusiastically supports this measure. Second, we are told the bill would "encourage wrongful conduct" because it abolishes joint liability. But that deduction stretches credibility; moreover, joint and several liability remains for economic damages. Third, the letter accuses the bill of "increas[ing] the incentive to engage in the egregious misconduct of knowingly manufacturing and selling defective products—a charge that makes no sense—and then goes on to say that the additur provision the White House itself asked for does not take care of this alleged problem.

None of these three statements accurately represents what this balanced, bipartisan conference report would do. They are merely there for cover, to allow a veto to proceed. That is a shame. I am inclined to agree with my friend from West Virginia, who has worked so long on this bill, when he says with regret that "special interest and obvious, raw political considerations in the White House are overriding sound and reasonable policy judgment."

THE 1996 PRODUCT LIABILITY CONFERENCE REPORT

No question about it—this bill is sound and reasonable policy. Let me quickly outline its key provisions.

Under this bill, those who sell, not make, products are liable only if they did not exercise reasonable care; if they offered their own warranty and it was not met; or they engaged in intentional wrongdoing. In other words, they cannot be caught up in a liability suit if they did not do anything wrong. That concept should sound familiar to most Americans.

Also under this bill, if the injured person was under the influence of drugs or alcohol, and that condition was more than 50 percent responsible for the event that led to their injury, the defendant cannot be held liable. Likewise, if the plaintiff misused or altered the product—in violation of instructions or warnings to the contrary, or in violation of just plain common sense—damages must be reduced accordingly. Of all the provisions in the bill, it seems to me these are the ones that are the most obvious. Why on earth should we blame the manufacturer for behavior that everyone knows would place the product user at risk? Is that fair? No. Does that not contradict our notion of an individual's personal responsibility? Yes. This provision goes a long way toward ensuring that freely undertaken behavioral choices are taken into account in liability actions.

Regarding time limits, the bill allows injured persons to file an action up to 2 years after the date they discovered, or should have discovered, the harm and its cause. For durable goods, actions may be filed up to 15 years after the initial delivery of the product. These provisions are fair, providing some certainty with regard to liability exposure while at the same time protecting consumers who have been harmed.

Either party may offer to proceed to voluntary nonbinding alternative dispute resolution. Simple, but again, it makes sense.

Now the most controversial element of the bill: punitive damages. Let me remind my colleagues that these damages are separate and apart from compensatory damages. Compensatory damages are meant to make the injured party whole, by compensating him or her for economic and noneconomic losses; punitives are meant to deter and punish. Under the bill, punitives may be awarded if a "clear and convincing evidence" standard proving "conscious, flagrant indifference to the right of safety of others" is met. The amount awarded may not exceed two times the amount awarded for compensatory loss, or $250,000—whichever is greater—for small business, whichever is less. At the suggestion of the White House, a further provision was included: If the court finds the award to be insufficient, it may order additional damages.

Again, this compromise seems to make sense. It sets a framework for punitive damage awards in which the level of punitives is tied to the harm actually suffered by the plaintiff, with the ability to go beyond the cap in truly egregious cases. This compromise cap helps resolve the problem of arbitrary and inconsistent awards, while at the same time ensuring that punitive awards will not be meaningless inproportion to the injury suffered. The Washington Post calls this approach an important first step that creates some order and boundaries.

Each of the provisions I have outlined make eminent sense. Each helps provide certainly in an area where there now, notoriously, is none. That is why Senator ROCKEFELLER says the conference report "delivers fair and reasonable legal reform" that "would make American industry and American workers more competitive." He is absolutely right.

I pay my compliments to Senators ROCKEFELLER, GORTON, PRESSLER, and LIEBERMAN. They have worked tirelessly for years and years to enact meaningful and fair product liability reform. They have done this Nation a great service. And their work should not be for naught.

Thus, I urge the President to reconsider his position, and join the bipartisan coalition supporting this critically important legislation. I urge him to disregard the powerful political constituencies aligned against this bill. I urge him to sign this bill into law.

Mr. President, I hope that this laborious marathon that we have been engaged in to see product liability reform passed here will finally succeed.

I thank the Chair.

BALANCED BUDGET DOWNPAYMENT, ACT II

The Senate continued with the consideration of the bill.

Mr. HATFIELD. I thank the Senator from Rhode Island for yielding the floor at this time.

Mr. President, we are about ready to wind this up. I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3554 TO AMENDMENT NO. 3553

Mr. McCAIN. Mr. President, I have an amendment in the form of a second-degree amendment at the desk. I call it up at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 3554.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 5 of Amdt. No. 3553, strike "shall" and insert "may."

Mr. McCAIN. Mr. President, this is not earmarked, and I oppose it. I urge action on the amendment.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 3554.

The amendment (No. 3554) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3553

The PRESIDING OFFICER. The question now occurs on the underlying managers' amendment.

The amendment (No. 3553) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the managers' package was adopted.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3523

Mr. WARNER. Mr. President, last week I offered an amendment to prohibit funding under the District of Columbia provisions of H.R. 3019 which would directly or indirectly serve to implement or enforce the lifting of taxicab reciprocity agreements—which have served well for 50 years—in the Washington, DC, Metropolitan area.

I am pleased to report that that legislative action, at this time, is no longer necessary, and that my Amendment No. 3523 therefore has been withdrawn.

As a result of direct negotiations which have been taking place between myself and officials of the District government, I today received an assurance that hopefully will be in the best interests of northern Virginia consumers and businesses. The longstanding taxicab reciprocity agreements between the District, Virginia, and Maryland have been preserved for a period of 90 days, during which time there will be an opportunity for continued negotiations.

It had been my grave concern, and that of my constituents, that the February 6 decision of the D.C. Taxicab Commission to unilaterally terminate reciprocity agreements of nearly 50 years standing would have been highly disruptive to local commerce and transportation services in Metropolitan Washington. We must approach all forms of transportation among Virginia, the District, and Maryland as regional. Metrorail is a prime example.

Working with my northern Virginia colleague, Congressman TOM DAVIS, and our valued constituents, Charles King of Arlington Red Top Cab, Robert Werth of Alexandria Yellow Cab, and Bob Woods of Alexandria Diamond Cab, we have secured from the District government a firm commitment that the status-quo in taxicab reciprocity will be preserved for 90 days.

Furthermore, during this time period, the District has pledged to work with its partners in the Metropolitan Washington Council of Governments [COG] to pursue an equitable and fair new reciprocity agreement to replace the one of 50 years.

Assuming this can be done, this is a far more preferable and reasonable process that either unilateral action by one party—the District, or by Congressional action at this time.

The possibility of taxicab reciprocity termination has been a serious issue for my constituents in northern Virginia. Taxicab services in Arlington and Alexandria estimate that at least 10 percent of their business is conducted under the nearly 50-year-old taxicab reciprocity agreement.

On the other side of the issue, I understand that District taxi services have complaints that suburban companies may not be complying with the letter of the reciprocity agreement. Those issues also need to be addressed. We should not, "however, throw the baby out with the bath water."

In closing, I would just like to add a few words about the countless visitors we have each year coming to the Metropolitan Washington region. They expect and deserve public transportation services of the highest quality and safety.

Furthermore, I believe the District is taking the correct steps in modernizing their fare systems with meters, as in other major American cities. As a part of modernization, however, it is essential that reciprocal taxicab agreements be maintained.

I welcome the news that the District government will preserve the current taxicab reciprocity agreement for 3 months while this matter is considered among the members of the Metropolitan Washington Council of Governments.

I thank all of my colleagues for their kind cooperation in this matter.

AMENDMENT NO. 3494

Mr. McCAIN. Mr. President, I rise to express my concern with Amendment No. 3494 which was accepted on March 14 after it was offered by my friend from Idaho, Senator CRAIG. Amendment No. 3494 earmarks, from Legal Services Corporation funds, a payment of $250,000 to an Idaho family, Leeland and Karla Swenson, for attorneys fees and expenses they encountered when their adoption of a Lakota Sioux Indian child ran afoul of the requirements of the Indian Child Welfare Act.

First, let me say, I understand the difficulty the Swenson family had with that case, and I understand why Senator CRAIG wants to try to help them. But I oppose this kind of earmark of funds for the private relief of certain individuals because it bestows Federal funds without any legislative record, without any reliable accounting of costs, and without any reasonable factual inquiry.

My colleagues should note that the Idaho State courts twice refused to award the Swensons their attorneys fees and expenses in this case. In their sworn affidavit filed with the court seeking fees and expenses, the Swenson attorneys sought $103,000, not the $250,000 provided by Amendment No. 3494. The $103,000 figure was based on an hourly rate of $150. Even the $103,000 figure is a mystery, as it is based on an hourly rate that is nearly double the hourly rate these same lawyers sought from the court 2 years earlier in the same case.

I don't know the Idaho courts' reasons for denying these attorneys' claims for fees and expenses, but I know the U.S. Senate has absolutely no reasons on the record for awarding $250,000 in fees and expenses to these attorneys. We don't know what they did. We don't know what is a reasonable hourly fee. And we don't know how much the lawyers have already received in payment.

News accounts report that a local group raised, through a benefit auction, $60,000 to help pay the lawyer fees and expenses. The same accounts report that the lawyers have agreed to reduce their fees to the amounts raised.

Much has also been made of the fact that the Swenson family auctioned off their dairy farm equipment in order to pay back money they borrowed to pay legal expenses. But it appears that passion may have exaggerated some of the story told about this case. Rather than being forced to sell their family farm, the Swenson family held a public auction earlier this month to sell off farm equipment and animals they had used in their dairy operations. Leeland Swenson continues, with his father, to own and operate their family farm and maintain a substantial cattle and crop operation. The Senate has been told the Swenson family is bankrupt, but there has been no evidence offered that they have filed for bankruptcy.

Now, Mr. President, let me be clear. I respect the motivation behind the effort made by my friend from Idaho, Senator CRAIG, even as I believe it to be a seriously misguided earmark of Federal funds without reliable justification and documentation.

I do not seek to debate or examine the facts of the Indian child welfare case that gave rise to this amendment. That case took 6 years to resolve.

Mr. President, my point is that the earmark in this amendment appears to be without sound basis in fact. The earmark is actually a private relief bill in the nature of an appropriations amendment, but it has escaped even the minimal scrutiny the Senate gives to private relief bills. There are more than 45 private relief bills pending before the Senate today. No private relief bills have been passed in the 104th Congress. So I must ask the Senator from Idaho, Senator CRAIG, why has this matter been leapfrogged in front of all the others? And with neither a committee referral nor review to ensure against undue enrichment?

Mr. President, I do not think this earmark for lawyers fees can or should survive careful scrutiny. I understand from discussions with Senator CRAIG that in his view the language of the amendment does not provide for an automatic payment of $250,000 but instead would pay up to $250,000 of actual legal fees and expenses related to this case.

If our colleagues on the conference committee do not recede to the House and drop this amendment altogether, Mr. President, at the very least I would hope that they clarify the bill language so that it only pays "up to" $250,000 for actual legal fees and expenses. Even then I am unclear who will decide what is actual. I ask unanimous consent that a copy of an article from the Idaho Press-Tribune dated February 23, 1996, as well as a copy of an Associated Press article dated March 15, 1996, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rapid City Journal, Mar. 15, 1996]

SENATE VOTES TO PAY COUPLE'S LEGAL BILLS

WASHINGTON.—The government may pay the legal bills of a couple who lost their farm after a child custody battle with the Oglala Sioux Tribe of South Dakota.

The Senate voted Thursday to take $250,000 from the Legal Services Corp.'s 1996 budget to pay the couple's legal fees and expenses. Legal Services subsidizes the Idaho legal-aid agency that represented the South Dakota tribe in the long court fight.

The Leland Swenson family of Nampa, Idaho, adopted the half-Indian child six years ago, but the tribe sued to gain custody under a law that allows tribes to intervene in adoption cases involving their members. The Idaho Supreme Court ruled against the tribe, and the adoption was made final last month.

The family sold its dairy farm and equipment to pay back family, friends and banks who lent them money during the legal wrangling.

"They bankrupted this family in an attempt to gain custody of this child," said Sen. Larry Craig, R-Idaho. "The family won, the happy ending is here, but the family is bankrupt."

Attorneys with Idaho Legal Aid Services which represented the tribe, said the couple's legal fees did not exceed $100,000, and half of that was paid from a benefit auction last year. Aides to Craig said the $250,000 figure was based on a request by Nampa's mayor.

"The tribe was eligible for our services. We get special money to handle that kind of case," said Ernesto Sanchez, executive director of Idaho Legal Aid. "We were doing what we thought we were supposed to be doing."

The Swenson family's compensation was added to a $160 billion bill that would fund government operations through next September. The House does not have a similar provision in its version of the bill.

The custody battle stems from passage of the 1978 Indian Child Welfare Act, which was intended to stop the practice of taking Indian children off reservations. At one time, an estimated one in four Indian children was adopted or living in an institution or foster care.

Adoption advocates complain that tribes are now using the law to seize children with Indian ancestry or connections to a reservation.

Casey Swenson was born in September 1989 to a non-Indian mother and a father who is an Oglala Sioux. Court records said the father refused to acknowledge the child, wouldn't pay support and has taken no part in the court proceedings.

The tribe should have used its own attorneys on the case, Craig said.

"I think this sends a clear message to legal services. Do what the law intended you to do," Craig said.

[From the Idaho Press-Tribune, Feb. 23, 1996]

CASEY'S ADOPTION FINAL TODAY

(By Sherry Squires)

NAMPA.—A six-year drama ended today for the Swenson family and the community that supported them.

The last of countless court hearings was held at 11 a.m., finalizing Leland and Karla Swenson's adoption of Casey.

The biological son of an Oglala Sioux Indian father and white mother, Casey has lived with adoptive parents Leland and Karla Swenson since the day after he was born.

The Oglala Sioux tribe fought for six years to move Casey to the Pine Ridge, S.D., reservation where they live.

But the Idaho Supreme Court ruled in September that Casey would stay with his adoptive parents. The court required one final hearing to take place. Casey's birth mother had to appear today before a judge and voice her wishes to allow the Swensons to adopt Casey.

The Oglala Sioux Tribe did not appeal the Supreme Court ruling. The deadline passed in late * * *

"The worth of Casey's life is infinite to us." Leland said "We'd do it all again in a second. I wouldn't even hesitate."

The Swensons are parents to Casey and 15-month-old Anna Lee, whom they also adopted.

It was from Casey that the Swensons said they mustered the courage to adopt again.

"We had prayed about it a lot," Karla said. "We believed Casey would stay with us no matter what."

"He's always talked about a little sister." Leland said. "We decided he shouldn't suffer because of the circumstances. Now he talks about a little brother, and it scares me to death."

Before Anna Lee's adoption when the Swensons were still searching for a daughter to adopt, they were notified that a little girl had been found for them.

"It was very, very scary with Anna Lee," Karla said.

But her adoption went smoothly and has been finalized.

Adoption rules generally only allow a family to adopt two children. But occasionally some families can adopt another.

The Swensons said they'd adopt again if given the chance.

With Casey's ordeal behind them, the Swensons plan to continue to tell their story and work for reform of the Indian Child Welfare Act at the national level.

"We would like to see adoption laws changed so they protect the child and not the birth parents," Karla said.

They have tried to settle into the security that Casey will stay with them. The worry still comes and goes. But it never goes away.

"After living with that so long, it becomes a way of life," Leland said. "I don't know how long it will take. We're always going to be looking over our shoulder."

But Casey has stopped looking over his, his parents said.

They believe that is partly because he was diagnosed with Attention Deficit Disorder two years ago.

The disorder often causes learning and behavioral problems in children. The children are at or above average intelligence levels, but they sometimes suffer from poor memory, a short attention span and hyperactivity.

The Swensons believe the disorder has sheltered Casey. Without it his understanding may have been better, and his fears greater.

He was hesitant to go to court again today.

"He doesn't understand why he has to do this again," Karla said. "I told him he has to adopt us this time."

The Swensons' personal future is somewhat uncertain.

The family will sell all of their dairy equipment at a March 2 auction. They sold their dairy Thursday.

Leland will help farm 61 acres that his father owns, but he also is looking for full-time work.

They hope the proceeds from the auction will allow them to pay the nearly $100,000 they owe to family, friends and banks who helped them pay legal expenses.

The Swensons' attorney, Carolyn Steele of Boise, accepted what they could pay as full payment for legal fees.

"She has been a very good friend to us," Leland said. "I want people to know there are some good attorneys out there. In our eyes, she's the best. She wasn't in it for the money. She sacrificed a lot to see this to the end."

and the Swensons said they owe a lot to a community that supported them to the end.

An auction held a year ago also helped them pay legal expenses.

"A lot of the people who came couldn't afford to be there," Leland said. "With all the garbage that goes on in this world, there's a lot of wonderful people still out there."

"Everyone in Nampa was in our boat with us," Karla said, "and probably Caldwell, too."

The couple said this week they now just want a new start.

"We appreciate that people are concerned," Leland said. "But I want them to know we're going to be OK."

"We feel like we still have the most important thing of all. That's our precious family. That's all that matters."

Mrs. BOXER. Mr. President, I will vote against H.R. 3019, the omnibus consolidated rescissions and appropriations bill, because it fails on three counts.

First, it provides too little for critical national priorities, especially education, anticrime efforts, and environmental protection;

Second, it contains dangerous and misguided legislative riders that threaten our Nation's environment and natural resources; and

Third, it undermines a woman's constitutional right to choose.

UNDERFUNDED PRIORITIES

Though some funds for environmental protection were added to the Republican bill by the Bond-Mikulski amendment, the bill still leaves critical programs underfunded and unable to meet current needs. Superfund cleanup grants, Safe Drinking Water revolving fund, EPA enforcement budget, Clean Water revolving fund, national parks budget—all will receive less than they need, and most will receive less in real terms in fiscal year 1996 than in 1995, even though needs are greater.

For education, again, even though funds were restored to the bill by the Specter-Harkin amendment, the bill still underfunds critical elementary and secondary education programs, including Title 1 for disadvantaged children, Goals 2000, School-to-Work, Safe and Drug-Free Schools, and Summer Jobs for Youth.

The bill proposes to dismantle one of the most effective crimefighting programs Congress has ever passed—the Community Policing Services [COPS] Program, established in the 1994 Violent Crime Control Act. This program was intended to give local police forces 100,000 more cops on the beat. Thirty-three thousand has already been dispatched in local communities across the Nation, and the crime rate in many cities is dropping. H.R. 3019 would replace COPS with a block grant program that force police officers on the beat to compete with other law enforcement programs for limited funds.

DANGEROUS RIDERS

H.R. 3019 contains many legislative riders that President Clinton has vetoed in the past because they threaten the environment and our Nation's precious natural resources.

These provisions would: Block new drinking water standards; prohibit the EPA from enforcing a rule on reformulated gasoline; boost logging levels in the Tongass National Forest; prohibit the listing of new endangered species; undermine wetland protection; prohibit the issuance of new energy efficiency standards; limit the listing of new Superfund sites, and prohibit the Park Service from fully implementing the California Desert Protection Act regarding the Mojave Preserve.

The bill also urges the EPA to consider relaxing toxic air standards for certain industries, exempt some industries from requirements for risk management plans, including measures to prevent accidental chemical releases, and urges EPA not to expand the Toxic Release Inventory, one of the Nation's most successful nonregulatory public disclosure initiatives ensuring community right-to-know about toxic chemicals that are being released into the environment.

LIMITS RIGHT TO CHOOSE

The bill continues the ban on the use of the District of Columbia's locally raised funds to pay for abortions. There are over 3,000 counties and 19,000 cities in the United States, but only the District of Columbia is forced to submit to such a cruel and arbitrary restriction.

The bill also allows ob-gyn residency programs that lose their accreditation because of failure to provide abortion training to continue to receive Federal funds as if they were accredited. This is a terrible setback for women's health. This amendment invites protesters to target hospitals and pressure them to stop training doctors in procedures that may be vitally needed to preserve the health of female patients.

Mrs. MURRAY. Mr. President, I rise today to announce my support for the Senate version of H.R. 3019. I do not make this decision lightly, nor do I make it with great comfort. Rather, I support this bill grudgingly, because it is in the interest of my constituents that Congress act to complete the fiscal year 1996 budget process.

I am voting in favor of H.R. 3019 for three reasons. First, this bill contains critical Federal relief for flood victims throughout the Northwest; the Government has made promises to help people recover from the damage, and this bill delivers on that promise. Second, the Senate took the high road on funding for several critical programs emphasizing education and the Environmental Protection Agency; I'm pleased we were able to add back $2.7 billion in funding for the Department of Education, and over $700 million for EPA. Third, and finally, this Congress has an obligation to complete the people's business. We are now 6 months into fiscal year 1996, and five appropriations bills remain unsigned. By passing this bill today, we are finally able to move the process forward and see a light at the end of the tunnel on this year's budget.

I want to be very clear about the merits of this bill: while it was improved in some respects during the floor debate, it still has many serious problems. The salvage timber provisions are inadequate. The restrictive language on reproductive freedom is a serious problem for women everywhere. The funding levels in general do not even meet fiscal year 1995 levels for critical programs in education and other important children's services. There are riders on fisheries management, tribal appropriations, and endangered species protection that need serious revisions. And, the Columbia Basin ecosystem assessment language, while favorably revised since the original Interior appropriations bill, still must be strengthened.

In short, Mr. President, there are still a lot of problems with this bill, and I will continue to attempt to address them as we move in a conference committee. And I want to make one thing very clear right now: I cannot support a conference report that moves significantly toward the House bill. That version of H.R. 3019 is laden with riders that I believe are not remotely in the public interest. In addition, the funding levels on education and other programs are simply unacceptable. If the conference report does not substantially reflect the Senate numbers on education, it will be very difficult for me to support it.

In general, Mr. President, I have been deeply concerned about the way this Congress has handled the fiscal year 1996 appropriations process. We have seen too many riders, too many cuts poorly thought out, and too much delay in finishing what should have been done last September. This hasn't been the case with every bill to be sure. But the remaining five bills have been the unfortunate victims of too much politicking. I sincerely hope we can come together in conference, smooth out the remaining rough edges, and finish the people's business.

Mr. KEMPTHORNE. Mr. President, I rise today in support of the omnibus appropriations bill. I particularly want to thank Senators HATFIELD and GORTON for their leadership and assistance in meeting the critical needs of Idaho as a result of the floods. I have always voted on the Senate floor to provide disaster aid to other regions of the country in times of need. I now ask my colleagues to support the Northwest victims with the same compassion. This is not a partisan issue, quite the contrary. This is an American issue of restoring hope to families who, in some cases, have lost everything they own.

FLOOD DAMAGE TO INFRASTRUCTURE

I was in my home State of Idaho during this disaster and I saw first hand its devastation. I witnessed flood-damaged homes and churches which had to be destroyed before they were swept downstream and knocked out bridges. I watched entire communities having their heart and soul taken from them. I know other communities in the Northwest suffered through the same anguish that Idaho towns did.

In fact, for some communities the pain and suffering continues. The town of St. Maries, home to 2,500, still has portions of the city under more than 2 feet of water. The Federal Emergency Management Agency estimates that the Idaho clean up costs will exceed $13 million but complete surveys cannot be done until the water recedes. These folks need help, and they need it now. That is why we must pass this appropriation bill as quickly as possible. I want to thank Senator HATFIELD for including my language in this bill that will provide funding to rebuild damaged levees in towns like St. Maries.

We must repair and strengthen these levees now so we can avoid similar flood events when the spring run-off occurs.

ENVIRONMENTAL DAMAGE AS A RESULT OF THE FLOODS

It will be some time before we know the full impact from the disaster. Although we all rightfully focus on the human impacts of acts of nature, there is another impact which deserves our attention. The environmental impact of the flood should not be neglected.

In our region, we have spent considerable sums to preserve anadromous fish, protect wildlife and conserve the environment. The natural resources of the Pacific Northwest are our heritage and legacy to future generations. If that investment has been compromised by the floods we should be informed of it at the earliest opportunity.

While streams remain swollen and snowpack continues on the ground, we may not have had sufficient opportunity to discern the true impact of the environmental damage of the flood. The several Federal agencies charged with assessing the damage need our support. That's why I have asked to have included in this emergency supplemental appropriations bill the inclusion of $1,600,000 for the Fish and Wildlife Service to implement fish and wildlife restoration activities and provide technical assistance to FEMA, NCRS, the Corps of Engineers and the States.

I want to thank Senators HATFIELD and GORTON for agreeing with me that wise stewardship of the land is our responsibility. Although the majority of the funds available under this bill are for human needs as a result of the flood the environmental needs are not being ignored.

SAFE DRINKING WATER ACT—REVOLVING LOAN FUND

This budget bill contains the second critical element of our effort to reauthorize and improve the Safe Drinking Water Act.

Last November, the Senate unanimously passed legislation to overhaul the Federal Safe Drinking Water Act. That legislation included authorization, for the first time, of a State revolving loan fund for drinking water infrastructure. Today, by voting to support this budget, we will effectively set aside up to $900 million in 1996 to make that State revolving loan fund a reality. If the Safe Drinking Water Act is reauthorized before June 1 of this year, these funds will be available to States and local drinking water systems to construct or upgrade their treatment and water distribution systems.

States and local governments have a significant responsibility under the Safe Drinking Water Act to provide safe and affordable drinking water every day. This revolving loan fund will help communities, particularly small and rural communities, across the country meet this responsibility.

HORNOCKER INSTITUTE

Among other things, this omnibus budget bill includes approximately $500 million in funding for the Fish and Wildlife Service for fiscal year 1996. Of this amount, almost $35 million has been appropriated for recovery activities under the Endangered Species Act. In conducting these very important activities, I strongly urge the Fish and Wildlife Service to fund two ongoing research projects on gray wolves that are being conducted by the Hornocker Wildlife Research Institute at the University of Idaho.

As part of its recovery effort for the endangered gray wolf, the Fish and Wildlife Service has been artificially introducing gray wolves into Yellowstone National Park in Montana, Wyoming, and portions of central Idaho. Early studies, however, have shown that introducing the gray wolves is having an impact on the existing mountain lion population. The studies indicate that the wolf and the mountain lion are direct competitors, with the wolf emerging as the dominant predator, jeopardizing the mountain lion young and forcing the mountain lion into areas occupied by humans. This is obviously an issue of significant concern for the citizens of Idaho, Montana and Wyoming, whose lives and livelihoods may be threatened by displaced mountain lions.

The Hornocker Institute has been doing research on the interaction between the gray wolf and the mountain lion for the past several years and has been cited as the world authority on mountain lions. The Institute's early research on mountain lions played a critical role in shaping the policy on how mountain lions should be managed in the West. To continue its important research that will guide future policy on the management of the gray wolf and mountain lion populations, the Hornocker Institute needs $300,000 annually over the next 5 years. The Senate Appropriations Committee recognized the value of the institute's efforts and urged the Fish and Wildlife Service to support the institute's research.

I am disappointed that the bill does not earmark funds specifically for this important research, but it is my strong hope that the Fish and Wildlife Service will be guided by the Appropriations Committee's recommendations and provide much-needed funds for the Hornocker Institute to continue its research efforts.

TIMBER SALVAGE

I also joined my colleagues in support of wise, balanced management of our national forests. The issue at stake—managing for healthy, productive forests. The Murray amendment would have eliminated the one tool that is working; the one tool that is helping Idaho's economy and Idaho's environment recover from devastating fires which burned nearly 589,000 acres—919 square miles—of forest land in Idaho 2 years ago. That's a charred area that would cover three-fourths of the entire State of Rhode Island.

This amendment would leave that dead and dying timber to rot —adding fuel to future devastating fires and denying Idaho's struggling rural communities from accessing those resources.

Have we come to a point where it is no longer politically correct to harvest a tree? Gifford Pinchot, the father of the Forest Service and advisor to the creator of our National Park and Forest System, Teddy Roosevelt, was adamant that our Federal forests not be "preserves", but "reserves" managed for the best good of the public. He specifically viewed timber harvest as a central part of forest management.

A century of fire suppression activities has left our Nation's forests primed for massive, catastrophic fires. It is not a question of if, but when, our forests will burn again. And unsalvaged, unthinned burned areas are one of the tinderboxes we can point to. We have so many tall, dry, match sticks covering the hillsides, waiting for another lightning strike. Without restoration, those trees will burn again, and without replanted cover, these watersheds are vulnerable to massive soil erosion.

This amendment would have been a huge setback in this Congress' attempt, and the need to correct Federal timber policy. At some point we have to decide if we are going to let the folks we hired to manage our forests do their job. I supported the salvage provision last year because it did exactly that—it brought management decisions back to the local level, and gave local managers the flexibility to meet federal environmental policy goals within the timeframe dictated by emergency salvage conditions.

ENDANGERED SPECIES ACT

As chairman of the Drinking Water, Fisheries and Wildlife subcommittee I have held a number of field hearings as well as hearings here in the Nation's Capital to look at the current Endangered Species Act and to identify ways to improve the act.

It is clear, from the testimony we gathered, that the Endangered Species Act has not accomplished what Congress intended when it was written more than 20 years ago. And, it's clear that it is possible to achieve better results for species by improving the ESA.

The Endangered Species Act needs to be carefully reviewed, debated, and rewritten so that it accomplishes its fundamental purpose—to conserve species. We can't wait any longer.

The original reasons for the moratorium remain valid. Until the Endangered Species Act is reformed to accomplish what it was intended to do, there is no reason to add more species to it.

Last month, the President was in Idaho addressing the needs of flood victims in the northern part of my State. And during the course of his visit we had a good discussion about the need to reform the Endangered Species Act. Working off of the cooperation between Federal, State and local governments who were working together to help flood victims, the President acknowledged that we need to establish the same sort of partnership to reform the Endangered Species Act.

I want to take this opportunity to complement Senator REID, the ranking member of our Subcommittee on Fisheries and Wildlife, who has not only acknowledged the need to work together to reform the Endangered Species Act, but has committed the time to make that reform happen. Working together, we may find a solution to the problems of the act by restoring the promise of the act. But others need to participate in true bipartisan discussions if they are serious about reform; they need to come to the table.

I want to move forward this year with the kind of a bipartisan bill that will incorporate the very real changes that everyone agrees are needed. Until then it only seems appropriate that the time-out represented by the moratorium is the best way to encourage everyone to stay at the table.

Perhaps the administration agrees. The moratorium was not in force during certain periods between continuing resolutions during 1995. The Secretary announced that he was not going to rush through various listing packages or critical habitat designations during that time. Instead, he honored the intent of the moratorium. Why honor the intent of the moratorium when it did not apply, and now seek to overturn it during an emergency bill?

There is an emergency in America concerning the Endangered Species Act. And from the view of my State, that need must be addressed by reform, not just adding more species to the list. If there is an emergency with regards to a particular species as a result of this moratorium, let's address that, but let's not simply bring more species under the umbrella of this Act, which is not recovering species in the first place.

It is evident to me that if we are to move forward to a safer, cleaner, healthier future, we have to change the way Washington regulates laws like the Endangered Species Act. States and communities must be allowed, even encouraged, to take a greater role in environmental regulations and oversight. After all, who knows better about what each community needs, a local leader or someone hundreds of miles away in Washington, DC?

There are national environmental standards that must be set in the Endangered Species Act, and the Federal Government must make that determination, but Federal resources must be targeted and allocated more effectively, and that's why we must have a greater involvement by State and local officials.

The improvements we need in Washington go beyond State and local involvement. We need to plan for the future of our children, not just for today. Science and technology are constantly changing and improving. In the case of the Endangered Species Act, the Federal Government hasn't kept up with these improvements, and old regulations have become outdated and don't do the best job they can. That is why I want to reform the Endangered Species Act.

In the meantime, Mr. President, I think the moratorium on listings is the best tool we have to ensure that we continue to work toward meaningful reform of the Endangered Species Act.

THE CLEAN WATER ACT 404(C) RIDER

Mr. CHAFEE. Mr. President, I would like to make a few remarks about one of the environmental provisions in the Hatfield Substitute to H.R. 3019, the Omnibus Appropriations and Rescissions Bill. I applaud the good work of Chairman HATFIELD and Ranking Member BYRD and the other members of the Appropriations Committee in negotiating this comprehensive measure.

I am deeply troubled, however, by the committee's decision to maintain the rider that bars the Environmental Protection Agency [EPA] from using any of its fiscal year 1996 funds to implement Section 404(c) of the Clean Water Act.

Since its enactment in 1972, Section 404 of the Clean Water Act has played a key role in the progress we have made toward achieving the act's purpose, which is "to maintain the chemical, physical, and biological integrity of the Nation's waters." Section 404(c) authorizes the EPA to prohibit the disposal of dredged or fill material into the Nation's waters, including wetlands, if doing so would harm especially significant resources.

The proponents of this rider assert that it would eliminate the confusion caused by the "duplicative roles" of EPA and the Army Corps of Engineers in administering the Federal Wetlands Program. The problem with this logic is that, every year, the Corps of Engineers itself sponsors water resource projects that require the disposal of hundreds of millions of cubic yards of dredge and fill material. Without EPA oversight, the corps would have no check on the environmental impact of these activities. In other words if the rider barring EPA oversight is enacted into law, who oversees what the corps does?

Moreover, the Corps of Engineers supports EPA's role in the veto of its wetlands permit decisions. I would like to quote a statement made in a letter written March 13, 1996, by Secretary of the Army Togo West and EPA Administrator Carol Browner. The letter states: "We want to emphasize unequivocally that Section 404(c) provides an essential link between our agencies in the implementation of the Section 404 program and contributes significantly to our effective protection of the Nation's human health and environment." I could not have said it better myself. Mr. President, I ask unanimous consent that this letter written by Administrator Browner and Secretary West be printed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. Mr. President, EPA has used its 404(c) authority only 12 times in the history of the Clean Water Act. It is hardly a waste of Government resources. Moreover, these veto actions, although infrequent, have protected almost 7,300 acres of wetlands, including some of the Nation's most valuable wetlands in the Florida Everglades and near the lower Platte River.

Aside from the fact that this rider is unsound policy, the appropriations process simply is not the proper context to raise complex legislative issues such as EPA's role in the Federal Wetlands Program. Rather, the appropriate forum for such issues is the ongoing Clean Water reauthorization process. The Committee on Environment and Public Works has held four hearings on section 404, and two additional hearings on Clean Water Act reauthorization. In fact, the committee conducted a hearing on wetlands mitigation banking just last week. I have been working closely with Senator FAIRCLOTH, who is chairman of the relevant subcommittee, and other members of the committee, to achieve meaningful reform of the Federal Wetland Program.

Although I do not intend to offer an amendment, I strongly urge the committee members to drop this controversial provision from the appropriations bill. The removal of this provision would increase the likelihood that Congress will bring closure to the precarious budgetary situation for fiscal year 1996.

EXHIBIT 1

U.S. ENVIRONMENTAL PROTECTION AGENCY, DEPARTMENT OF THE ARMY,

March 13, 1996.

Mr. ROBERT G. SZABO,
The National Wetlands Coalition,
Washington, DC.

DEAR MR. SZABO: We read with concern your January 22, 1996, letter to President Clinton regarding his veto of the Environmental Protection Agency's (EPA) appropriations bill, in part, because the bill would have eliminated EPA's authority under Clean Water Section 404(c). As the President's veto message stated, this provision would preclude EPA "from exercising its authority under the Clean Water Act to prevent wetlands losses." As the national program managers of the agencies charged with the administration of Clean Water Act Section 404, we appreciate the opportunity to respond to your letter on behalf of the Clinton Administration.

We want to emphasize unequivocally that Section 404(c) provides an essential link between our agencies in the implementation of the Section 404 program and contributes significantly to our capacity to ensure effective protection for the nation's human health and environment. The decision of Congress in 1972 to establish joint administration of Section 404 explicitly recognized the advantages of integrating the Corps of Engineers historical role in protecting the navigational integrity of the nation's waters with EPA's responsibilities for achieving the broader environmental goals of the Clean Water Act. The value and logic in this decision remains valid today and we, therefore, cannot agree with the conclusion in your letter that EPA's authority under Section 404(c) is not justified.

We strongly agree that implementation of Section 404(c), like the Section 404 program itself, requires a balance to ensure protection of the nation's waters while effectively guarding the property rights of private landowners. The President's Wetlands Plan, developed in 1993, reflects this commitment to make the Section 404 program more fair and flexible. Many of the constructive improvements identified in the President's Wetlands Plan have been implemented, and tangible benefits of these actions are being realized. Moreover, information collected as part of a recent Corps of Engineers survey of their field offices demonstrates that EPA's Section 404(c) authority is not being used in a threatening way, but constructively and with considerable discretion. Repeal of EPA's Section 404(c) authority is unnecessary to make the Section 404 program more fair and flexible but would invariably erode its ability to protect human health and the environment. We cannot support this result.

The organizations which, with you, signed the letter to the President represent an important cross section of the nation, and we appreciate your vital interest in this issue. Our challenge is to identify improvements to the Section 404 program that address legitimate concerns without weakening its environmental protections. We look forward to working with you as we meet that challenge.

Sincerely,

CAROL M. BROWNER,
Administrator.
TOGO D. WEST, Jr.,
Secretary of the Army.

Ms. MOSELEY-BRAUN. Mr. President, I want to say at the outset that hostage taking and legislative blackmail is not the way to arrive at the kind of solution we need to solve our budget problems. While I support this bill's goal to provide funding for Federal agencies for the remainder of the fiscal year 1996, I have several reservations about the bill.

I am a firm believer in tightening our Government's fiscal policies and will continue to work toward that end. I am convinced that restoring budget discipline will help ensure that our children—and future generations—will be able to achieve the American Dream. We have an obligation to our children to protect their future opportunities, and not to leave them a legacy of debt. But this bill does not do enough to protect American priorities.

The President reviewed this bill and found that it was lacking $8 billion in funding for priorities important to Americans: Efforts to protect the environment, efforts to help educate our children, and initiatives that will help keep our streets safe. Rather than working in a bipartisan manner toward a bill that the President could sign, however, this bill is designed to draw a Presidential veto. This is unfair to our students who want to pursue educational opportunities. It is unfair to all Americans who want to live in a clean and safe community. It is unfair to Government employees who want to work. And it is unfair to all others who depend upon the appropriations contained in these bills.

We made some strides to add funding for education by passing a bipartisan amendment last week, but we have not done enough to restore funding for other priorities such as environmental cleanup. The bill does contain a contingency fund of $4.8 billion in additional funding, but this is an illusory commitment because it is contingent on budget agreements not yet achieved. The contingency plan holds American priorities hostage.

The American people sent us a clear message after the last budget crisis—do not risk shutting the Federal Government by promoting an extreme set of budget priorities. This message has apparently gone unheard. The continuing resolution before us does not seek balance, or moderation, and it does not even pretend to resolve the important appropriation issues we should have resolved months ago.

Of the 13 appropriations bills Congress is supposed to pass every year, 5 are still undone even though the fiscal year is almost half over. Several Federal Cabinet departments have been without fully approved spending plans. Now, nearly 6 months into the fiscal year, we are considering a 10th extension.

The activities financed by these uncompleted appropriation bills, or what is also known as domestic discretionary spending, is but a part of Federal spending that underlie our Government's budget problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and it is steadily declining.

Every dollar of Federal spending must be examined to see what can be done better, and what we no longer need to do. However, the budget cannot be balanced simply by whacking away at domestic discretionary spending. To suggest to the American people that by cutting discretionary spending we will achieve budgetary integrity is to perpetuate a fraud.

The budget proposed by the majority party calls for $349 billion in savings from discretionary spending, but that comes from a portion of the budget that constitutes only 18 percent of the overall Federal budget—the part of spending that is not growing and the part of the budget that funds education and police and basic services we all count on. This part of the budget is not the major source of our deficit problem. We need to focus our savings on those areas of the budget that don't conflict with our priorities and values.

How we bring back fiscal discipline makes a real difference. If we care about our children, if we care about our future, if we care about our Nation and ensuring an opportunity for every American to achieve the American Dream, we cannot abandon our commitment to education, access to health care, and to creating economic opportunity.

Mr. President, we need to move to a balanced budget. And we need to do it in a way that does not sacrifice the long-term goals of the American people to achieve illusory short-term cuts. We need a budget that restores fiscal discipline to the Federal Government. We need a budget based on the realities facing Americans. Most importantly, we need a budget for our future.

As this bill makes disproportionate cuts in programs important to the American people, I will vote against this bill. I urge my colleagues to work together to develop the kind of overall permanent budget agreement that the American people want and deserve.

Mr. BIDEN. Mr. President, I am sorry that I cannot vote for this appropriations bill today. We must move quickly to resolve the issues that still remain from last year's prolonged, confrontational, and, in the end, fruitless budget debates. But this bill will not advance that cause.

This bill, despite the best efforts of the distinguished leaders of the Appropriations Committee, still falls short. I am heartened that a majority of the Senate was moved to approve more adequate funding for our Nation's educational system. There is certainly no higher priority for us than preparing our country's young people for the future.

But that is not the only priority our country has, Mr. President, nor is it our only responsibility here in Congress. And, I am sorry to say, I find that this bill does not fulfill those responsibilities.

Our attempts to provide more support for the infrastructure investments we need for cleaner air and water were an inadequate step in the right direction. And we failed to meet our responsibility to maintain our country's hard-won superiority in high-technology research and development.

It is surely a false economy if we claim that we must sacrifice clean air and clean water, that we must roll back the progress we have made in advanced technologies, to balance the budget.

That is simply not the case. Amendments that provided more adequate support for those key national priorities at the same time specified the savings from other parts of the budget needed to neutralize their impact on the deficit.

Mr. President, we could have met those responsibilities and still kept within the tight spending limits set by this bill. But we chose not to, Mr. President. And if the Senate bill falls short, Mr. President, the version of this legislation passed by the House, I fear is even worse.

But, Mr. President, I must oppose this omnibus appropriations bill for one overriding reason—this bill slashes the effort to add 100,000 more police to our Nation's streets. This is the single-most-important crime-fighting initiative the Federal Government has undertaken in decades and I will not be party to any effort to go back on our word to add 100,000 police officers to the streets and neighborhoods all across America.

I have spoken with the White House and the President agrees that the only course to take on the 100,000 cops program is unequivocal and unwavering support for adding 100,000 cops to our streets—all dedicated to community policing. This program is working—more than 33,000 police have already been funded.

What is more, the results of community policing speak for themselves—more cops mean less crime.

To cite just one specific example—look what has happened in New York City. More police devoted to community policing has proven to mean less crime—in the first 6 months of 1995 compared to the first 6 months of 1994: murder is down by 30 percent; robbery is down by 22 percent; burglary is down by 18 percent; and car theft is down by 25 percent.

In the face of that success in fighting America's crime epidemic, it would be folly to go back on our commitment to adding 100,000 cops. "If it ain't broke, don't fix it"—as a former President used to say.

That, unfortunately, is exactly what the latest continuing resolution proposes to do—instead of fully funding the President's request for the 100,000 cops program, this latest proposal would slash the 1996 request for the cops program to $975 million—about one-half the $1.9 billion request.

Not only is the 100,000 cops program subject to extreme cuts—but the latest continuing resolution also takes nearly $813 million that was supposed to go to the 100,000 cops program to fund a so-called law enforcement block grant program.

What is wrong with this approach?

First, this so-called law enforcement block grant is written so broadly that the money could be spent on everything from prosecutors to probation officers to traffic lights or parking meters—and not a single new cop.

Second, this block grant has never been authorized by the Senate. So, let's be clear on what is being done here. What this continuing resolution does is take a crime bill that has been passed only by the House, whose funds have been authorized only by the House, whose block grant idea has already been rejected by the Senate, and incorporate it into an appropriations bill so it is passed and funded—all in one fell swoop.

Mr. President, if we are going to legislate by fiat like this, then we might as well do away with committees, with hearings, with subcommittee markups, with full committee markups, and with careful consideration of authorizing legislation. We could simply do all the Senate's business on appropriations bills or continuing resolutions.

I, for one, happen to believe that's a terrible way to proceed and I believe that's reason enough to oppose this bill.

If the Republicans want to change the crime bill, they have the right to try—but let's do it the right way and then let's vote on it. Wiping out major pieces of the most significant anticrime legislation ever passed by the Congress on an appropriations bill makes a mockery of our Senate process. The importance of the programs we are considering, not to mention the perception of our institution, demands better.

Thank you, Mr. President.

VOTE ON AMENDMENT NO. 3466, AS AMENDED

The PRESIDING OFFICER. The question now is on agreeing to the substitute amendment, as amended.

The amendment (No. 3466), as amended, was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the substitute was adopted. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oregon.

ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, I ask unanimous consent that following the passage of H.R. 3019, the Senate proceed to vote passage of the small business regulation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—79

Abraham
Akaka
Baucus
Bennett
Bingaman
Bond
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gregg
Harkin
Hatch
Hatfield
Heflin
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thompson
Thurmond
Wellstone
Wyden

NAYS—21

Ashcroft
Biden
Boxer
Brown
Faircloth
Feingold
Gramm
Grams
Grassley
Helms
Hollings
Inhofe
Kerry
Kyl
Lautenberg
McCain
Moseley-Braun
Nickles
Smith
Thomas
Warner

So the bill (H.R. 3019), as amended, was passed.

(The text of the bill was not available for printing. It will appear in the RECORD of March 20, 1996.)

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

The Senate will please come to order so the Senator from Oregon may proceed.

Mr. HATFIELD. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives on the disagreeing votes thereon of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. ABRAHAM) appointed Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY of Nebraska, Mr. KOHL, Mrs. MURRAY, conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I would like to take a very brief moment to acknowledge the input of many people to make this possible. I need not, Mr. President, indicate further this has been a very difficult and intricate package to craft; and this could not have happened without the cooperation of Senator BYRD, the ranking member, and the ranking members of our committee, as well as our own Republican members. I want to commend particularly the leadership that has been so important in getting us to this particular point. I hope that all of you will say your prayers, and include the Appropriations Committee, as it now goes to conference with the House of Representatives.

SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the clerk will report S. 942.

The assistant legislative clerk read as follows:

A bill (S. 942) to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. BINGAMAN. Mr. President, I intend to support the small business regulatory fairness bill, S. 942, as modified by the managers' amendment.

This bill is a testament to the good work that occurred at the White House Conference on Small Business organized here in Washington last June. This national conference was the final step in a grassroots public discourse about small business needs and concerns that involved more than 21,000 small business people participating in 59 State conferences across the country. Starting with more than 3,000 issue recommendations at the State level, regional groups shaved the list to a set of 293 concerns. And finally, the White House Conference focused on 60 specific recommendations that might substantially improve the environment for the growth and success of small business activity.

I think that the work of the White House Conference has given us a good roadmap of items to debate and discuss which directly impact our Nation's economic health. One of the major concerns of small business owners today is simply complying with Federal regulations, being able to understand the regulations—which are often extraordinarily complex, and not falling subject to arbitrary enforcement and penalties. It is important that our Government be accountable to those it governs and must avoid arbitrary and ad hoc enforcement.

Mr. President, this legislation requires that Federal agencies produce small entity-compliance guides that outline in simple, understandable language what is required from small businesses. This is a commonsense adjustment in which both Federal regulators and small firms win. Furthermore, this act creates five-person regional citizen small business review boards in each of the 10 Government regions covered by the Small Business Administration. This measure gives small business a voice at the table when Federal guidelines are discussed, and this is as it should be.

Also central to this act is the creation of more cooperative and less punitive regulatory environment between agencies and small business that is less threatening and more solution-oriented than we have achieved in the past. And equally important are provisions in this legislation making Federal regulators more accountable for enforcement actions by providing small businesses a meaningful opportunity for redress of excessive or arbitrary enforcement activities.

As our Nation's larger firms continue a process of downsizing, restructuring, and outsourcing, our small business sector will continue to grow rapidly and will continue to be the major jobs generator for the country. It is crucial that the Federal Government do what it can to help small businesses thrive in a regulatory environment that is well defined and user friendly rather than to suffer because of uncertainty and unclear codes.

I am frequently visited by small business people and groups from my own

State of New Mexico and am very much pleased by their attention to the debates that occur in Washington about legislation that might impact them and their companies. These firms typically don't have a staff section designed to study the tax implications of everything we do here in this Chamber; nor do they have the time and personnel to devote to close monitoring of our legislative activities. But still, tens of thousands of small business people in the Nation do invest time and become personally involved with the legislative process and have committed themselves to improving the interaction between Government and the small business sector.

I would like to mention one example from New Mexico, a person who demonstrates well a combination of entrepreneurial excellence, community concern and strong civic involvement. Ioana McNamara, the president and founder of an Albuquerque-based small business called Wall-Write, was one of those who participated from New Mexico in the White House Conference on Small Business. I want to publicly commend her for getting involved and working on these issues. She and others from the New Mexico small business delegation, including another small business person—Diane Denish—who served as the delegation chair for the White House Conference—have done a great deal to make sure that small firms in New Mexico do their part to achieve a more productive relationship between Government and business.

Clearly, people like Ioana McNamara and Diane Denish have more than enough to do in growing their businesses without paying attention to whether this Chamber is about to do something that harms or helps their businesses—but they have decided to do what they can to help implement the measures decided on at the White House Conference. I think our Nation should express its gratitude to these people and the thousands of others who participate in the making of good policy.

Mr. KERRY. Mr. President, the Small Business Regulatory Enforcement Fairness Act represents an opportunity to change not only the regulatory burden on small business, but more importantly, to begin to change the way all Federal agencies, including the Internal Revenue Service [IRS], deal with small business. I am pleased to be a cosponsor of the bill.

In far too many cases, the Federal Government has acted as the judge, jury, and executioner for small businesses. Testimony before the Small Business Committee indicated many small businesses fear agencies like the IRS will levy huge fines on them for failure to comply with minor rules and regulations—of which they may be entirely ignorant. The Federal Government must become a partner in the growth and development of small businesses, not an adversary.

While not perfect, this legislation includes a number of provisions which will ease regulatory burdens and give small businesses some recourse when Federal bureaucrats are over zealous in the exercise of their power.

The bill requires agencies to publish in plain English a guide to assist small business in complying with regulations. Federal regulations are often too difficult for anyone to understand, let alone a small businessperson who is trying to run his or her business. It will also allow Small Business Development Centers to offer assistance to small businesses in complying with Federal regulations.

The bill would also establish an ombudsman to help small businesses get fair and legal treatment from the Government if they have been treated unfairly. The ombudsman would also assist small businesses in recovering legal fees as a result of unfair Government actions.

Under the bill, Federal agencies would be required to waive civil penalties for first violations by small businesses that do not constitute a serious threat to public health, safety, or the environment.

The bill provides that small business representatives are to be consulted in Federal agency rulemaking decisions that would have a significant impact on small businesses so that small business interests would be considered at the outset in the development of regulations.

While these reforms will not end the difficulties many small businesses face in complying with Federal regulations, they should help ease the burden. I hope this legislation will mark the beginning of a new era of better relations between Government and small business. The Federal Government should be working in partnership with small businesses—not at cross-purposes with them.

I am proud to support this legislation and would like to thank the chairman of the Small Business Committee, Senator BOND, and the ranking member Senator BUMPERS, along with their staffs for their effort in producing this legislation.

Mrs. MURRAY. Mr. President, I would like to take this opportunity to commend Senator BOND for his leadership on small business issues, and lend my support to the Small Business Regulatory Fairness Act, which will lessen regulatory burdens imposed on small businesses by Federal agencies.

Mr. President, I have talked with many small business owners in my home State and one thing they all tell me is how difficult and costly it has become to comply with many of the Federal regulations imposed upon the. Among other things, this legislation will require agencies to publish materials in plain language to help small businesses comply with regulations. The bill will also enhance the small business communities' voice with the Small Business Administration by providing them a role in determining future regulations.

When I was growing up, my father ran a small business in Bothell, WA. I know the time and energy small business people put into their companies. And, throughout my term, I have worked to reform a Government that continues to hamper small business owners.

I was a cosponsor of the S-Corporation Reform Act of 1993, and returned as a cosponsor of S. 758 last year, which would remove obsolete provisions from the tax code, making it easier for small businesses to raise capital. I cosponsored the Family Health Insurance Protection Act which would provide health insurance market reform for small businesses and families. And, on the first full day of this Congress, I introduced the American Family Business Preservation Act which would reduce the rate of estate tax imposed on a family owned business, encouraging families to keep their businesses intact. And, as many of my colleagues will remember, last Congress, we fixed a problem that has been plaguing small businesses that wanted to refinance their SBA 503 loans. Now, many small businesses in Washington State and across the country will be able to refinance their 503 loans.

Mr. President, I strongly believe Government cannot solve every problem in this country, but it can foster a healthy economic environment in which all businesses may prosper. I encourage each of my colleagues to support S. 942. The Small Business Regulatory Fairness Act continues our work by reducing redtape and making it easier for our small businesses to comply with often burdensome Federal regulations. I believe this is the type of reform our small businesses want and deserve.

Mr. GLENN. Mr. President, I support the managers' amendment to S. 942, the Small Business Regulatory Enforcement Fairness Act. I have been a long supporter of regulatory reform, and I believe this legislation provides significant regulatory relief to small businesses, small governments, and other small entities.

I congratulate the managers of this bill—Senator BOND, chairman of the Small Business Committee, and Senator BUMPERS, Ranking Democrat on the committee—for their efforts to craft a workable bill. I know they have consulted frequently with other members, the small business community, and the administration to address concerns and improve the legislation. In the midst of contentious debate about other regulatory reform issues, Senator BOND and Senator BUMPERS have put together a regulatory reform bill that will provide significant relief to small business. This legislation should get broad bipartisan support in both the Senate and House, and I am sure will soon be signed into law.

The purposes of this legislation are important and I support them. Some of the details, however, still concern me. For example, the bill provides for judicial review of Regulatory Flexibility Act decisions. This will put needed teeth into the Reg Flex Act and ensure that agencies prepare required regulatory impact analyses and pay more attention to the special impact of their rules on small business and other small entities, such as local governments. I am concerned, however, that these judicial review provisions may be overly broad and will lead to unnecessary litigation. Only time will tell whether my concern is well founded. At this point, I am prepared to give the new provisions the benefit of some doubt.

The bill also establishes a small business ombudsman process to help improve cooperation between regulatory agencies and regulated businesses. I support this idea. But, I am concerned that the implementation process, with its Small Business Fairness Boards, will end up creating a one-sided record of complaints that will distort the broad public mission of our agencies. Our agencies should not be viewed as the enemy when they carry out the laws passed by the people's representatives in Congress. I am happy, at least, that in the final version of the bill before us, the Ombudsman will focus on general agency enforcement activity and not attempt to evaluate or rate the performance of individual agency personnel.

Finally, the legislation creates small business review panels to ensure that small business perspectives are fully considered by agencies during rulemaking. Again, I support the important purpose of ensuring that agencies hear the voices of the little guys who do not always get through the maze of agency process and the larger more organized commenters. It is, however, important to ensure that this opportunity for comment does not create a precedent of giving special leverage to one segment of the public. I am, at least, heartened by the fact that review panel comments on an agency proposed rule will go into the public record, and that other interested parties will have an opportunity to respond to those comments before the agency makes its rulemaking decision. The fact that these review panels, as well as the Fairness Boards, will be subject to the Federal Advisory Committee Act [FACA] and the Government in the Sunshine Act will also help ensure that the new process will be open to the public.

On balance, I believe the managers' amendment should be supported. Again, I commend Senator BOND and Senator BUMPERS for their openness to concerns about the bill. Since we first saw drafts a week or so ago, significant changes and improvements have been made. Given these changes, I will vote for the managers amendment. But given my concerns, let me also say that these provisions should not be modified by the House. If they are made more onerous, then they should not be supported. If House action leads to changes in conference, then the Senate should say no to the conference report.

Let me clear up one fact about this legislation. A week and a half ago, on Thursday, March 7, 1996, Senator BOND stood here on the floor and described his hopes for a bipartisan agreement on this legislation. Our Minority Leader, Senator DASCHLE, agreed, saying that Democrats hoped to provide broad, if not unanimous, support for the final bill. Unfortunately, several other of our colleagues on the other side of the aisle then went on to accuse Democrats of delaying the bill and even of engaging in a filibuster. That could not be further from the truth.

When the Small Business Committee considered the legislation on Wednesday, March 6, there was general agreement that a managers' amendment would be prepared for the bill. On the 7th, as we waited to see the proposed amendment, we were surprised to hear our Republican colleagues accusing Democrats of holding up the bill. As it turned out, I did not see the final proposed manager's amendment for another whole week—March 14, an entire week after Thursday the 7th. Far from Democrats holding up this legislation, the fact is that the managers of this bill were not ready to bring the bill to the floor until at least a full week after we were being accused of delay. I am definitely not criticizing the managers. Their careful deliberations are to be commended. But certainly, other Senators should not be falsely accused of delaying the bill, when they were only waiting to see the results of those deliberations.

I hope I have set the record straight. There was never a filibuster on this legislation. We are happy there is finally an agreement on the managers' amendment. We are pleased that we now have it and can move forward and quickly pass the legislation.

I must say though, that once again, I am very disappointed in the rhetorical excesses of my colleagues on the other side of the aisle. Rather than even admit to working cooperatively, which is the case with the bipartisan bill before us, they tried to mislead the public about the status of this legislation. There certainly are enough instances where we honestly disagree, but here where we are working together, there is nothing to disagree about.

We need more of the bipartisan cooperation seen in the work of Senators BOND and BUMPERS and the other members of the Small Business Committee on this legislation. We need much less of partisan sniping.

THE NICKLES-REID CONGRESSIONAL REVIEW AMENDMENT

S. 942 comes to the floor with an agreement to consider one other amendment. This is the Nickles-Reid Congressional Review legislation and I urge my colleagues to support this amendment. We passed this legislation last year, as a substitute to the Regulatory Moratorium. Congressional Review will create more work for us, but its expedited legislative veto process will ensure congressional accountability for Federal agency rules. I believe we need this process so that we can do our part for regulatory reform.

I have always been struck when in hearings, agency officials—under successive administrations—have pointed out that most agency regulations are strictly required by laws passed by Congress. The Nickles-Reid Congressional Review process will close the loop, so that when an agency issues a rule that some may oppose, we will have an opportunity to consider it in the context of the law and determine its reasonableness. This will not only help with accountability for individual rules, but will also help us identify specific statutory provisions that need revision. For these reasons, I am happy to support the Nickles-Reid amendment, and urge my colleagues to do so, as well.

CONCLUSION

With the combination of Small Business Regulatory Fairness and Congressional Review, we have significant bipartisan regulatory reform legislation. It should be passed by the House and be signed into law by the President.

Our job as legislators is to create laws that can work and can improve conditions in our country. Some have wanted to bull through and legislate now on a larger regulatory reform package. The truth is that there is simply too much there that is unsettled and about which too many do not agree. Now is the time to move legislation that can work and that will improve the regulatory process.

If in the quiet of committee we can return to the other regulatory reform issues of cost-benefit analysis and risk assessment, I think we should. But for now, let us work together on bills such as the legislation before us today that can pass and should pass.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 942, the Small Business Regulatory Enforcement Fairness Act.

Mr. President, America's small businesses badly need relief from excessive and unnecessary regulations. For years, those of us on the Small Business Committee have heard first hand from men and women in small businesses about the disproportionate regulatory burden they face. This burden was confirmed late last year in a report by the Small Business Administration's Office of Advocacy. Among other things, the report found that while small businesses employ 53 percent of the workforce, they bear 63 percent of total business regulatory costs.

The annual average cost of regulation, paperwork, and tax compliance for small businesses is about $5,000 per employee. By contrast, the comparable burden for businesses with over 500 workers is $3,400 per employee. This difference is significant. Big businesses already enjoy a competitive advantage over their smaller counterparts because of economies of scale. The Federal Government should not further disadvantage small businesses by imposing uniform regulations where tiering the regulation to account for business size would be just as effective.

Mr. President, the bill before us will give teeth to the Regulatory Flexibility Act Congress passed in 1980. That act, known as the Reg Flex Act, requires agencies to assess the effects of their proposed rules on small entities. Based on this assessment, agencies either have to conduct a regulatory flexibility analysis describing the impact on small entities, or they must certify that their rule will not have a significant economic impact on a substantial number of small entities.

Despite Congress's best intentions, agencies all too often have refused to comply with the Reg Flex Act. Unfortunately, there is nothing small businesses can do currently to enforce compliance. S. 942 would correct this problem. The bill would enable small businesses to take agencies to court to challenge an agency's determination. This should provide the spur necessary to ensure much greater compliance in the future.

In addition, this bill will require agencies to publish compliance guides for small businesses. In the study commissioned by SBA, 94 percent of small businesses said that it was unclear what they had to do to be in compliance with regulations. By providing easily understood explanations of regulations, agencies will ensure greater compliance. In addition, the bill directs agencies to provide informal guidance to small businesses about what is required of them to be in compliance.

In the case of regulations for which a regulatory flexibility analysis is required, small businesses will now be part of the rulemaking process by providing advice and recommendations to agencies before proposed and final rules are issued. To further help small businesses make their way through complicated regulations, the bill permits Small Business Development Centers and Manufacturing Technology Centers to offer regulatory compliance assistance and onsite assessments for small businesses.

Finally, Mr. President, S. 942 makes it easier, in certain instances, for small businesses to obtain attorneys fees from the government for claims upon which they prevail. I had serious concerns about the language we considered in the Small Business Committee mark up, which modified the so-called Equal Access to Justice Act. I did, however, have the assurance of the Senator from Missouri that our offices would change these provisions so that we would not be rewarding companies with attorneys fees when they violated the law, because, for example, they prevailed on 1 of 10 claims. I believe the new language contained in sections 301 and 302 accomplishes the goal of aiding firms that had to fight the Government on meritless suits, while protecting taxpayers from paying the attorneys fees for companies that have broken the law.

Mr. President, I want to commend Senator BOND and his staff for their willingness to adopt recommended changes suggested by myself and other members of the Small Business Committee. Most Members of this body express their desire to work with their colleagues across the aisle, but those expressions often prove hollow. In this case, however, I am happy to say that S. 942 is truly a bipartisan bill and I hope we will have many more such bills before the end of the 104th Congress.

I also want to acknowledge the work of the Clinton Administration's "Reinventing Government" initiative and last year's White House Conference on Small Business. Their efforts laid the groundwork for the legislation we are considering today.

Again, I want to thank Senator BOND and Small Business Committee staffers Keith Cole and John Ball for their assistance on this legislation, and I hope my colleagues will join me in supporting S. 942.

Mr. MURKOWSKI. Mr. President, no one more strongly supports the goals sought by the statutes and regulations of this country than I do.

I come from a beautiful State blessed with resources that I have worked to see used productively and conserved wisely, I myself enjoy the great outdoors in Alaska, along with my family, and intend to have these same kinds of experiences enjoyed by my children and grandchildren; I have been a banker, where it has been my privilege to see individuals succeed in small business; I have seen first hand how issues like safety and worker protection go hand in hand with ensuring that success, but there is no doubt that achieving better protection of human health and the environment can only happen if we regulate smarter.

Individuals and businesses, big and small, spend too much time trying to comply with too much paperwork, and too much regulation from too many Washington bureaucrats. For example: above-ground storage tanks must comply with five different regulations that each require a separate spill prevention plan; this means that a business with tanks files five different sets of plans—one to the State, and two each to the EPA and the Coast Guard.

If you buy a business that was once registered to produce pesticides, even if you don't produce pesticides, or never have, the EPA will still want you to send in annual production reports with zeros filled in. If you don't, you can be sued and potentially fined. For just one statute, the Resource Conservation and Recovery Act, EPA has issued 17,000 pages of regulations and proposed regulations. The volume I'm holding has over 1,000 pages, and on any one of them is a place where a small business can get tripped up. By the way, this is one volume of title 40 of the Code of Federal Regulations. Title 40 deals with environmental protection. Title 40 has 20 more volumes like this one. And its only title 40.

The Code of Federal Regulations occupies an entire 4 foot by 8 foot bookcase in the Senate library. A copy of the code costs almost $1,000, and is updated four times a year. Even if a small business could afford to buy it, it would be impossible to read it all. Why do we want to force every business in America to have to keep a battery of lawyers around just to advise about the overwhelming details in the Code of Federal Regulations?

Now, usually when I describe these examples, I talk about Anchorage, AK. There, fish guts were added to the waste water to comply with regulations that require a certain amount of organic waste removed during sewage treatment. The water was too clean, so material had to be added just to comply with the requirement to get a minimum amount out. But I am happy to say that today I am no longer using that example. It seems that in response to a lawsuit, EPA announced its intention to lift some of the restrictions on sewage treatment plants such as the one in Anchorage.

EPA states, "This change would provide the affected municipalities with additional flexibility and, in some cases, cost savings without compromising environmental quality."

If we are to move forward to a safer, cleaner, healthier future, we have to change the way Washington regulates. This bill is a positive and helpful step in that direction. S. 942 will ensure small business participates in rulemaking. This in turn will mean that rules will take small business needs into consideration before a rule is enacted. The bill also allows judicial review of regulations for compliance with the 16-year-old Regulatory Flexibility Act. A court can now examine whether agencies considered adverse impacts to Small Business when it writes regulations, and determine if an agency acted in an arbitrary manner. Penalty waivers and reductions when appropriate for small business violations. Recovery of attorney's fees when small business is forced into defensive litigation due to enforcement excesses. Comprehensive regulatory reform will continue to be a high priority for this Senator.

As science and technology continue to change, we must have a Federal Government that can be responsive to such changes. We need to plan for the future, not just for today, and that means a regulatory system that can keep up with improvements.

Four fundamental changes to the regulatory system will have to occur to ensure those improvements in the future. First, we must do a thorough review of existing regulations in place, decide what we need and what we don't, and avoid adding any more we don't need; second, Washington should be required to disclose the expected cost of current and new regulations. The public has a right to know what laws and regulations cost; third, when making regulatory decisions, the Government should use best estimates and realistic assumptions rather than worst case scenarios advanced by extremists; and fourth, new regulations should be based on the most advanced and credible scientific knowledge available.

Common sense must be returned to regulating. I applaud Senators BOND and BUMPERS, and all those who worked to bring this bill to the floor. It is an important first step toward a safer, cleaner, healthier future.

Mr. WELLSTONE. Mr. President, I am very pleased to vote for this bill, reported out of the Small Business Committee 2 weeks ago. I commend Chairman BOND for moving the bill through our Committee, as well as ranking member Senator BUMPERS. I appreciate the cooperation of both in working with me and my staff to help ensure that the easing of regulatory burden accomplished in this bill, which is needed and desirable, will not turn back the clock in the area of necessary enforcement of worker safety laws and regulations when there are serious violations.

The bill provides judicial review for agency actions under the Regulatory Flexibility Act. And it would require agencies to publish plain-English compliance guides to help small business meet Government rules. I appreciate that the Senate is taking this positive, bipartisan action in the area of regulatory reform policy with a bill that came from the Small Business Committee. It brings badly needed common sense to regulations affecting small businesses.

Mr. President, it is important that we take this step on a key item from the agenda of the White House Conference on Small Business. Minnesota delegates to the White House Conference selected this issue, as expressed in a Conference resolution, to be one of their top priorities.

Mr. STEVENS. Mr. President, I strongly support the Small Business Regulatory Enforcement Fairness Act. Small business is overloaded with unreasonable regulatory requirements and paperwork. We are long overdue in doing something about it.

This legislation will help small business in several major ways. First, it provides judicial review of the Regulatory Flexibility Act to ensure that agencies will consider the impact of regulations on small businesses, small towns, and nonprofit organizations. The Reg-Flex Act has been on the books for 16 years, but agencies have ignored it because it could not be enforced in court. We are putting an end to that.

Second, this legislation helps small business to participate in the federal regulatory process. Third, it provides an opportunity for small businesses to redress arbitrary Government enforcement actions.

In addition, Senator NICKLES is adding a provision that would allow Congress to review new rules under expedited procedures. This can provide redress for both big and small business, governments, and non-profit organizations. If a rule is unreasonable, Congress will have an opportunity to veto it.

Mr. President, small business is critical to the well-being of the country and my home State of Alaska. Over 99 percent of Alaska's businesses are small businesses. They are the largest employers of minorities, women, and youth in Alaska. Alaska boasts a higher percentage of women-owned businesses than any State. Small business creates new jobs, is a crucial source of entrepreneurial innovation, and makes the American dream a reality for countless Americans.

Federal bureaucrats must be more sensitive to the devastating impact that overregulation can have on small business. About 65 percent of Alaska's small businesses employ one to four employees. Many could drown unless we stem the rising tide of federal rules and redtape. I congratulate Senator BOND and my other colleagues who have promoted this important legislation.

SMALL BUSINESS REVIEW PANELS

Mr. GLENN. Let me make sure I understand how the Small Business Review Panels will work. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses, and other small entities such as small local governments, about the potential impacts of that proposed rule. That information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel. The panel will then issue a report on those individual's comments, which will become part of the rulemaking record. Then, after the proposed rule is published in the Federal Register and prior to the publication of a final regulatory flexibility analysis, a second review panel will be convened, and again it will review and report on the individual's comments on the proposed rule. Is this correct?

Mr. BOND. Yes; my colleague from Ohio has correctly summarized the review panel process.

Mr. GLENN. Good, now let me ask specifically with regard to the first review panel stage: I trust that it is the managers' intention that the review panel's report and related information be placed in the rulemaking record in a timely fashion so that others interested in the proposed rule may have a reasonable opportunity to review that information and submit their own responses to it before the close of the agency's public comment period for the proposed rule.

Mr. BOND. That is correct.

Mr. GLENN. Good. Now, let me ask about the second review panel stage: I trust that it is the managers' intention that should an agency decide to significantly modify a proposed final rule on the basis of the panel's report, the agency will reopen the rulemaking proceeding and allow public comment on the newly revised proposal. I believe that not to do so would be to overturn longstanding rules against ex parte communications. Again, securing meaningful input from small entities should not be at the price of undercutting the openness and fairness of the Government decisionmaking process.

Mr. BOND. I agree. Again, our purpose is to ensure that the concerns of small business and other small entities be fully and carefully considered by rulemaking agencies. If those concerns lead to a significant change in the regulatory proposal, the process should be reopened to allow all interested parties to comment on the revised proposal.

Mr. GLENN. I thank the Senator very much. I am glad that we agree on how this process will work.

Mr. LEVIN. Mr. President, one of the proposals we have before us, in S. 942, would establish an ombudsman in the Small Business Administration. That ombudsman would solicit information from small businesses on Federal regulatory enforcement practices and develop ratings of how well Federal agencies perform their enforcement duties. The ombudsman would have the ability to refer serious cases of abuse to an agency's inspector general.

This provision seeks to make regulatory agencies more responsive to the concerns of small businesses by giving small businesses a means to respond to excessive regulatory enforcement practices. While I firmly believe that we need to fight for fundamental change in the culture of small business regulation, I question whether this proposal, although well-intentioned, is the best catalyst for affecting that change.

I am concerend that the Small Business Committee did not fully consider other options that could provide a better mechanism for giving small businesses a stronger voice within agencies that regulate them. In particular, I think the committee should have taken more time to look at the pros and cons of placing an ombudsman in each regulatory agency, rather than relying on a lone ombudsman in the Small Business Administration to cover all agencies.

I have been working for the past several months on a proposal that would create an office of ombudsman in each major regulatory agency. My proposal would give the ombudsman sufficient authority within the agency to solve problems and sufficient independence from the regulatory structure to act fairly. The ombudsman would be the mediator or honest broker between the small business who is the subject of an inspection or enforcement action and the regulatory apparatus of the agency.

This was a recommendation of the Administrative Conference of the United States back in 1990, and I think it makes a lot of sense. I believe that much of the dissatisfaction of the regulated public with regulations is not only with the content of some of our regulations but also with the way in which they are enforced. Agencies often view a small business as a violator to be caught instead of as a company to be helped into compliance. And that's a big difference. The ombudsman would be there to put a friendly place—the spirit of cooperation—on the implementation of regulatory requirements.

I agree that we need to give small businesses a stronger voice in the agencies that regulate them, but we must make sure that agencies are ready and willing to listen. That's why we need to consider placing an ombudsman in each agency and not just rely on a single ombudsman in the Small Business Administration.

Mr. President, I have a number of concerns about placing a lone ombudsman in the Small Business Administration.

First, the ombudsman would be responsible for soliciting comments about and developing ratings of programs and offices in each Federal agency that regulates the small business community. Carrying out this responsibility would require the ombudsman to become familiar with the operations of hundreds of programs in dozens of agencies. That's just not a reasonable expectation.

Second, ombudsmen have traditionally been neutral officials who field complaints and recommend solutions to individual disputes between the Government and the regulated public. The broad jurisdiction of the office proposed in this bill would prohibit the ombudsman from focusing on the day-to-day problems small businesses face in dealing with agency regulators. The EPA Small Business ombudsman fields thousands of such inquiries every year, and that's just for one agency. Rather than investigating and mediating individual disputes himself or herself, the ombudsman would have to refer alleged cases of agency misconduct to the inspector general of the relevant agency.

In other words, the ombudsman wouldn't receive information for the purpose of mediating disputes, solving problems, and fostering collaboration between agencies and regulated parties. Instead the ombudsman would receive information primarily for assessing agency performance. That doesn't help get immediate and specific problems solved.

At the hearing on S. 942 in the Small Business Committee, several representatives of the small business community said that they would prefer to have a single ombudsman in the Small Business Administration rather than an ombudsman in each individual regulatory agency. They argued that agency ombudsmen could be influenced by internal agency politics and that, because of this, small businesses would be susceptible to intimidation by regulators if they came forward with complaints. While I understand the reluctance of small businesses to complain directly to an agency official about inappropriate regulatory practices, I believe that ombudsmen in regulatory agencies can be given sufficient independence from the regulatory structure to act fairly and to assure regulated parties that their inquiries will not be used against them.

One witness, Wendy Lechner from the Printing Industries of America, made a point of praising the work of the Small Business Ombudsman at the Environmental Protection Agency and recommended that such ombudsman programs should be replicated throughout the regulatory agencies. The EPA office is one of approximately half a dozen ombudsman offices operating throughout the Federal Government that address disputes between agencies and the regulated public. By and large, these ombudsmen have improved communications between the agencies and regulated parties, uncovered systemic problems and chronic abuses in the regulatory process, and saved valuable resources through informal dispute resolution that otherwise would have been wasted on the costs of formal legal proceedings.

Mr. President, I do not think the ombudsman provision in S. 942 solves the enforcement problem for small businesses. I will continue to work on legislation that would place an ombudsman in each regulatory agency. I think such an approach would foster collaboration between small businesses and the agencies that regulate them and achieve better results.

I commend the chairman and ranking Democrat on the Small Business Committee for their hard work on this bill and look forward to working with them as my ombudsman proposal is developed.

THE SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996

Mr. DOMENICI. Mr. President, I know I do not have to tell you that small businesses create most of the jobs in America. Small businesses are the engine that keep the American economy running. I know that in my State small businesses make up 85 to 90 percent of private employers. In that regard, I have created a New Mexico small business advisory board.

I have also participated in Small Business Committee field hearings throughout my State. Indeed, I was privileged to have had the chairman of the Small Business Committee, Senator BOND, come out to New Mexico and hear from those New Mexico small businesses firsthand at a Small Business Committee field hearing in Albuquerque.

Mr. President, what we found was that almost all of the small business owners we talked to—who are the people who create almost all of the private sector jobs in my State—told us just how smothering the explosion in Federal regulations has become.

In particular, those small business owners identified the Occupational Safety and Health Administration [OSHA] and the Environmental Protection Agency [EPA] as the two Federal agencies which promulgate the most unreasonable and burdensome regulations. Mr. President, these small business painted a picture of the Federal bureaucracy at its worst: arrogant, unresponsive, inefficient, and unaccountable.

Further, Mr. President, because a great number of new businesses are being started by women, some of the most vocal critics of EPA's and OSHA's unreasonable regulations are women-owned businesses.

I believe one of the biggest reasons for these bureaucratic problems is that small businesses are just not adequately consulted when regulations affecting them are being proposed and promulgated. I am not alone in this belief. In 1994 five agencies—including the Small Business Administration, EPA, and OSHA—held a small business forum on regulatory reform, and they came up with some conclusions about the problems with the current regulatory process.

Let me quote from the administration's own report summarizing the principal concerns identified at the forum:

> Concern: "The inability of small business owners to comprehend overly complex regulations and those that are overlapping, inconsistent and redundant;"
>
> Concern: "The need for agency regulatory officials to understand the nuances of the regulated industry and the compliance constraints of small business;"
>
> Concern: "The perceived existence of an adversarial relationship between small business owners and federal agencies;"

And finally, Mr. President, and I think most important:

> Concern: "The need for more small business involvement in the regulatory development process, particularly during the analytic, risk assessment and preliminary drafting stages."

Mr. President, this is the agencies' own report on the problems with the regulatory process.

During the floor debate on last year's regulatory reform bill, Chairman BOND and I successfully added an amendment that would have squarely addressed those concerns. That amendment had the support of the National Federation of Independent Business, and was accepted by the Senate. As we all know, however, the broader regulatory bill did pass.

That is why I am so happy to have worked with Chairman BOND to ensure that my small business advocacy panel initiative was included as a section of the bill we are about to vote on today, the Small Business Regulatory Enforcement Fairness Act of 1996. The small business community has no greater champion than my good friend from Missouri, and I am proud to be associated with his outstanding bill.

Mr. President, the structure and process of these advocacy panels is as follows:

First, prior to publication of an initial regulatory flexibility—reg flex—analysis, an agency would notify the Chief Counsel for Advocacy of the Small Business Administration of potential impacts of a proposed rule on small business.

Second, the Chief Counsel would identify individual representatives of small business for advice and recommendations about the proposed rule.

Third, the agency would convene a review panel consisting of representatives of the agency, the Office of Information and Regulatory Affairs, and the Chief Counsel, to review the information collected on the impact of the proposed rule on small business.

Pursuant to the information obtained at the review panels, and where appropriate, the agency shall modify its proposed rule.

Finally, the findings and comments of the review panel shall be included as part of the rulemaking record.

This process shall be repeated prior to the final publication of a reg flex analysis.

Remember, Mr. President, the agencies themselves have recognized that small businesses are underrepresented during rulemakings. I believe that these review panels, convened before the initial and the final reg flex analyses, will ensure that small businesses finally have an adequate voice in the regulatory process. In addition, these panels, working together so all viewpoints are represented, will be the crux of reasonable, consistent, and understandable rulemaking. Finally, Mr. President, and perhaps most important, these panels will help reduce counterproductive, unreasonable Federal regulations at the same time they are helping to foster the nonadversarial, cooperative relationships that most agree are long overdue between small businesses and Federal agencies.

Mr. HELMS. Mr. President, the pending bill, S. 942, the Small Business Regulatory Enforcement Fairness Act of 1996, deserves the support of all Senators—and the able chairman of the Small Business Committee, our good friend from Missouri, Mr. BOND, is to be commended for his persistence.

This legislation is badly needed. In North Carolina literally hundreds of small businesses are struggling under the heavy regulatory burdens imposed by the Washington bureaucracy. These businesses are seeing their profit margins gobbled up by oppressive Federal regulations.

Mr. President, S. 942, will go a long way toward leveling the playing field and giving small businesses some long overdue relief from a portion of existing burdensome regulations. Small businesses now will be better able to challenge burdensome regulations in the courts.

Federal agencies hereafter will be required to obtain the views and opinions of small businesses before regulations are drafted, making small businesses players before regulations are drafted and imposed.

Mr. President, Mary McCarthy in the October 18, 1958, New Yorker Magazine observed, "Bureaucracy, the rule of no one, has become the modern form of despotism."

How true, and I'm hopeful that both the Senate and the House will pass this legislation, and that the President will sign it, because no bureaucracy or bureaucrat should be permitted to be a despot over the people they are supposed to be serving.

DUTIES AND FUNCTIONS OF THE OMBUDSMAN

Mr. LEVIN. One of the proposals put forward in S. 942 would establish an ombudsman position in the Small Business Administration. The proposal of the Senator from Missouri would provide a way to gather and publicize information about how agencies across the board treat small businesses in the regulatory enforcement process. I have concerns about the language the bill uses to describe the duties and functions of the ombudsman.

Specifically, I would like to ask the Senator from Missouri about title II, section 30(b)(2) (A) and (C). In an earlier version of the bill, these sections, which outline the duties of the ombudsman, stated that the ombudsman shall

> work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are [provided with a means to comment on and rate the performance of such personnel],

and,

> based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies [concerning the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices and personnel of each agency].

This language appeared to direct small businesses and the ombudsman to publish employment ratings of specific agency employees who carry out regulatory enforcement actions. While the boards and the ombudsman are specifically directed to report on substantiated actions of agency personnel, I am concerned that this provision would have focused attention inappropriately on public ratings of individuals rather than on rating the performance of the agencies and agency offices. Such an individual rating system could interfere with the employment relationship between agencies and their employees.

The language of the bill before us today is somewhat different from the earlier version. The current version of the bill states that the ombudsman shall

> work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are [provided with a means to comment on the enforcement activity conducted by such personnel],

and

> based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies [evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency].

While the current language still allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it appears to remove the mandate for the boards and the ombudsman to create a public performance rating of individual agency employees. Senator BOND, is this interpretation correct and, if so, was the change in language made in order to focus the reports of the boards and the ombudsman on rating overall agency performance rather than on rating individual regulators?

Mr. BOND. The Senator's interpretation of the change in language is correct. My goal is to reduce the instances of excessive and abusive enforcement actions. Those actions obviously originate in the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and we are very definitely trying to change the culture and policies of Federal regulatory agencies. At other times, the problem is really that there are some bad apples at these agencies. It is for that reason that we specifically included a provision to allow the ombudsman, where appropriate, to refer serious problems with individuals to the agency's inspector general for proper action. The ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies. The intent of the bill is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community.

Mr. LEVIN. I thank the chairman of the Small Business Committee. This is an important change and clarifies that the purpose of the ombudsman's report is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole.

Mr. DASCHLE. Mr. President, passage of the Small Business Regulatory Fairness Act will mark an important milestone in our efforts to provide American business with reasonable, common sense regulatory relief. It is a bill that should be passed by Congress and sent to the President with dispatch.

This legislation, which was approved unanimously by the Senate Small Business Committee, and which I expect will pass the Senate with overwhelming bipartisan support, will provide much needed change in the way Federal agencies deal with American small business. It acknowledges that the Federal bureaucracy often chokes small business in red tape, and institutes a number of reforms that will unleash their productive energy without diminishing the Federal responsibility to protect the public health and safety. Passage of this bill will send an important message to small business owners across the country that their voice is being heard in Washington, DC.

Small businesses already face a daunting array of challenges, from the uncertain economic climate to the myriad daily paperwork burdens of accounting, bookkeeping, and bill paying. The further burden of keeping up with, and complying with, Federal regulations can discourage even the most stalwart business men and women from striving to achieve their dream of entrepreneurship.

The Federal Government has a responsibility to protect worker health and safety, public health, and the environment. In that effort, agencies issue regulations, but experience shows that many of those regulations look good on paper, but don't work in the real world. This bill acknowledges that fact and demonstrates our determination to both confront and correct mistakes.

Federal agencies should be as sensitive as possible to the challenges faced by small businesses in America, and I expect this bill will help achieve that goal. Many of this bill's provisions were developed by small business owners from South Dakota and across the country during the White House Conference on Small Business last summer. No one knows more about the risks and pitfalls associated with owning a small business than businesspeople themselves. The White House conference gave them a forum in which to discuss how the regulatory process could be improved, and I am glad that Congress has taken to heart what they had to say on this subject.

One of the most frequent criticisms I hear from small business owners is that Federal agencies bring harsh enforcement actions against businesses for relatively insignificant and unintentional violations of Federal rules. This legislation responds to that concern by requiring agencies to develop policies to waive fines for first-time, nonserious violations.

The legislation also requires Federal agencies to publish easy-to-read guidance for small business to comply with Federal rules and creates a small business and agricultural ombudsman at the Small Business Administration to provide a means to comment on agency enforcement personnel and to develop a customer satisfaction rating of Federal agencies. It assists small businesses in recovering attorneys' fees if they have been subject to excessive and unsustainable enforcement actions, and subjects final agency actions under the Regulatory Flexibility Act to judicial review. Small businesses will now be able to hold the feet of Federal agencies to the fire and ensure that they comply with the letter and spirit of the Regulatory Flexibility Act

Finally, I am very pleased that the congressional veto legislation developed by Senators Reid and NICKLES and passed by the Senate last year has been added to the Small Business Regulatory Fairness Act. The REID/NICKLES provision establishes a process through which Congress can review major regulations before they are issued, thereby ensuring that the agencies developing these rules adhere to the intent of Congress and develop reasonable requirements for American business.

Mr. President, the Small Business Regulatory Fairness Act was written with advice from the small business community and will pass the Senate with strong bipartisan support. It reaffirms Congress' belief in the essential role that small business plays in the American economy and sends a clear signal that the public and private sectors are ready to work together in promoting the economic growth and expansion we will need to compete in the 21st century. I urge all my colleagues to support this important bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SMITH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—100

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

The bill (S. 942) was passed, as follows:

S. 942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the White House Conference on Small Business involve reforms to the way Government regulations are developed and enforced, and reductions in Government paperwork requirements;

(5) the requirements of the Regulatory Flexibility Act have too often been ignored by Government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by the Regulatory Flexibility Act.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of the Regulatory Flexibility Act;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

SEC. 4. EFFECTIVE DATE.

This Act shall become effective on the date 90 days after enactment, except that the amendments made by title IV of this Act shall not apply to interpretive rules for which a notice of proposed rulemaking was published prior to the date of enactment.

TITLE I—REGULATORY COMPLIANCE SIMPLIFICATION

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 103. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency, it shall be the practice of the agency to answer inquiries by small entities concerning information on and advice about compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

SEC. 104. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 to small business concerns; and

"(S) developing programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.".

SEC. 105. MANUFACTURING TECHNOLOGY CENTERS AND PROGRAMS ESTABLISHED UNDER SECTION 507 OF THE CLEAN AIR ACT AMENDMENTS OF 1990.

(a) GENERAL.—The Manufacturing Technology Centers and other similar extension centers administered by the National Institute of Standards and Technology of the Department of Commerce shall, as appropriate, provide the assistance regarding regulatory requirements, develop and distribute information and guides and develop the programs to provide confidential onsite assessments and recommendations regarding regulatory compliance to the same extent as provided for in section 104 of this Act with respect to Small Business Development Centers.

(b) SECTION 507 PROGRAMS.—Nothing in this Act in any way limits the authority and operation of the small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990.

SEC. 106. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the States, develop guides that fully integrate requirements of both Federal and State regulations where regulations within an agency's area of interest at the Federal and State levels impact small businesses. Where regulations vary among the States, separate guides may be created for separate States in cooperation with State agencies.

TITLE II—REGULATORY ENFORCEMENT REFORMS

SEC. 201. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, onsite inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C. App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings, and recommendations of the Boards to the Administration and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under paragraph (C) and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administration shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members appointed by the Administration, who are owners or operators of small entities, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate.

"(4) Members of the Board shall serve for terms of three years or less.

"(5) The Administration shall select a chair from among the members of the Board who shall serve for not more than 2 years as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.—

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business: *Provided*, That the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation: *Provided*, That members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 202. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered by the small entity through participation in a compliance assistance or audit program operated or supported by the agency or a State;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to Congress no later than 2 years from the effective date on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

TITLE III—EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504 of title 5, United States Code, is amended—

(1) in subsection (b), by striking "$75" in subparagraph (b)(1) and inserting "$125"; and

(2) in subsection (a) by adding the following new paragraph:

"(4) In an adversary adjudication brought by an agency, an adjudicative officer of the agency shall award attorney's fees and other expenses to a party or a small entity, as defined in section 601, if the decision of the adjudicative officer is disproportionately less favorable to the agency than an express demand by the agency, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorney's fees unjust. For purposes of this paragraph, an 'express demand' shall not include a recitation by the agency of the maximum statutory penalty (A) in the administrative complaint, or (B) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this paragraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31, United States Code.".

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended—

(1) in paragraph (d), by striking "$75" in subparagraph (2)(A) and inserting "$125"; and

(2) in paragraph (d)(1) by adding the following new subparagraph:

"(D) In a civil action brought by the United States, a court shall award attorney's fees and other expenses to a party or a small entity, as defined in section 601 of title 5, United States Code, if the judgment finally obtained by the United States is disproportionately less favorable to the United States than an express demand by the United States, unless the party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award of attorney's fees unjust. For purposes of this subparagraph, an 'express demand' shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount. Fees and expenses awarded under this subparagraph may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31, United States Code.".

TITLE IV—REGULATORY FLEXIBILITY ACT AMENDMENTS

SEC. 401. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603(a) of title 5, United States Code, is amended—

(1) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretive rule involving the internal revenue laws of the United States"; and

(2) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretive rule involving the internal revenue laws of the United States, this chapter applies to interpretive rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretive rules impose on small entities a collection of information requirements, as defined in the Paperwork Reduction Act of 1995.".

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or is otherwise required to publish an initial regulatory flexibility analysis, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small business was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 402. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this chapter, except the requirements of sections 602, 603, 609 and 612.

"(2) Each court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review any claims of noncompliance with this chapter, except the requirements of sections 602, 603, 609 and 612.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to a petition for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, a petition for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the one year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) If the court determines, on the basis of the rulemaking record, that the final agency action under this chapter was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court shall order the agency to take corrective action consistent with this chapter, which may include—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities, unless the court finds good cause for continuing the enforcement of the rule pending the completion of the corrective action.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Except as otherwise required by this chapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct a rulemaking.

"(d) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(e) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual and legal reasons for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code, is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 404. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.—Section 609 of title 5, United States Code, is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities", by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following new subsection:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full-time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c): *Provided*, That such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) Prior to publication of a final regulatory flexibility analysis that a covered agency is required by this chapter to conduct—

"(1) an agency shall reconvene the review panel established under paragraph (b)(3), or if no initial regulatory flexibility analysis was published, undertake the actions described in paragraphs (b) (1) through (3);

"(2) the panel shall review any material the agency has prepared in connection with this chapter, including any draft rule, collect the advice and recommendations of the small entity representatives identified by the agency after consultation with the Chief Counsel, on issues related to subsection 604(a), paragraphs (3), (4) and (5);

"(3) not later than 15 days after the date a covered agency convenes a review panel pursuant to paragraph (1), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsection 604(a), paragraphs (3), (4) and (5): *Provided*, That such report shall be made public as part of the rulemaking record; and

"(4) where appropriate, the agency shall modify the final rule, the final regulatory flexibility analysis or the decision on whether a final regulatory flexibility analysis is required.

"(d) An agency may in its discretion apply subsections (b) and (c) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(e) For purposes of this section, the term 'covered agency' means the Environmental Protection Agency and the Occupational Health and Safety Administration of the Department of Labor.

"(f) The Chief Counsel for Advocacy, in consultation with the individuals identified in paragraph (b)(2) and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of paragraphs (b)(3), (b)(4), and (b)(5), and subsection (c) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows—

"(1) in developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration; or in developing a final rule, the extent to which the covered agency took into consideration the comments filed by the individuals identified in paragraph (b)(2);

"(2) special circumstances requiring prompt issuance of the rule; and

"(3) whether the requirements of subsection (b) or (c) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

TITLE V—CONGRESSIONAL REVIEW

SEC. 501. SHORT TITLE.

This title may be cited as the "Congressional Review Act of 1996".

SEC. 502. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the effectiveness of certain significant final rules is imposed in order to provide Congress an opportunity for review.

SEC. 503. MORATORIUM ON REGULATIONS; CONGRESSIONAL REVIEW.

(a) REPORTING AND REVIEW OF REGULATIONS.—

(1) REPORTING TO CONGRESS AND THE COMPTROLLER GENERAL.—

(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule; and

(iii) the proposed effective date of the rule.

(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to section 603, section 604, section 605, section 607, and section 609 of Public Law 96-354;

(iii) the agency's actions relevant to title II, section 202, section 203, section 204, and section 205 of Public Law 104-4; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders, such as Executive Order 12866.

(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

(2) REPORTING BY THE COMPTROLLER GENERAL.—

(A) The Comptroller General shall provide a report on each significant rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 504(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by subparagraph (B) (i) through (iv).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under paragraph (2)(A) of this section.

(3) EFFECTIVE DATE OF SIGNIFICANT RULES.—A significant rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

(A) the later of the date occurring 45 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register;

(B) if the Congress passes a joint resolution of disapproval described under section 504 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 504 is enacted).

(4) EFFECTIVE DATE FOR OTHER RULES.—Except for a significant rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) FAILURE OF JOINT RESOLUTION OF DISAPPROVAL.—Notwithstanding the provisions of paragraph (3), the effective date of a rule shall not be delayed by operation of this title beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 504.

(b) TERMINATION OF DISAPPROVED RULEMAKING.—A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 504.

(c) PRESIDENTIAL WAIVER AUTHORITY.—

(1) PRESIDENTIAL DETERMINATIONS.—Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this title may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) GROUNDS FOR DETERMINATIONS.—Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws; or

(C) necessary for national security.

(3) WAIVER NOT TO AFFECT CONGRESSIONAL DISAPPROVALS.—An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 504 or the effect of a joint resolution of disapproval under this section.

(d) TREATMENT OF RULES ISSUED AT END OF CONGRESS.—

(1) ADDITIONAL OPPORTUNITY FOR REVIEW.—In addition to the opportunity for review otherwise provided under this title, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 504 shall apply to such rule in the succeeding Congress.

(2) TREATMENT UNDER SECTION 504.—

(A) In applying section 504 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report must be submitted to Congress before a final rule can take effect.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

(e) TREATMENT OF RULES ISSUED BEFORE THIS TITLE.—

(1) OPPORTUNITY FOR CONGRESSIONAL REVIEW.—The provisions of section 504 shall apply to any significant rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on March 1, 1996, through the date on which this title takes effect.

(2) TREATMENT UNDER SECTION 504.—In applying section 504 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of this Act; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) ACTUAL EFFECTIVE DATE NOT AFFECTED.—The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 504.

(f) NULLIFICATION OF RULES DISAPPROVED BY CONGRESS.—Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 504 shall be treated as though such rule had never taken effect.

(g) NO INFERENCE TO BE DRAWN WHERE RULES NOT DISAPPROVED.—If the Congress does not enact a joint resolution of disapproval under section 504, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

SEC. 504. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) JOINT RESOLUTION DEFINED.—For purposes of this section, the term "joint resolution" means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 503(a) is received by Congress and ending 45 days thereafter, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.". (The blank spaces being appropriately filled in.)

(b) REFERRAL.—

(1) IN GENERAL.—A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

(2) SUBMISSION DATE.—For purposes of this subsection the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 503(a)(1); or

(B) the rule is published in the Federal Register.

(c) DISCHARGE.—If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) FLOOR CONSIDERATION.—

(1) IN GENERAL.—When the committee to which a resolution is referred has reported,

or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(3) FINAL PASSAGE.—Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) TREATMENT IF OTHER HOUSE HAS ACTED.—If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(1) NONREFERRAL.—The resolution of the other House shall not be referred to a committee.

(2) FINAL PASSAGE.—With respect to a resolution described in subsection (a) of the House receiving the resolution—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) CONSTITUTIONAL AUTHORITY.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 505. SPECIAL RULE ON STATUTORY, REGULATORY AND JUDICIAL DEADLINES.

(a) IN GENERAL.—In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 504, that deadline is extended until the date 12 months after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 503(a).

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

SEC. 506. DEFINITIONS.

For purposes of this title—

(1) FEDERAL AGENCY.—The term "Federal agency" means any "agency" as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) SIGNIFICANT RULE.—The term "significant rule"—

(A) means any final rule that the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds—

(i) has an annual effect on the economy of $100,000,000 or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(ii) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency;

(iii) materially alters the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(iv) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866; and

(B) shall not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by such Act.

(3) FINAL RULE.—The term "final rule" means any final rule or interim final rule. As used in this paragraph, "rule" has the meaning given such term by section 551 of title 5, United States Code, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

SEC. 507. JUDICIAL REVIEW.

No determination, finding, action, or omission under this title shall be subject to judicial review.

SEC. 508. APPLICABILITY; SEVERABILITY.

(a) APPLICABILITY.—This title shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this title, shall not be affected thereby.

SEC. 509. EXEMPTION FOR MONETARY POLICY.

Nothing in this title shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

SEC. 510. EXEMPTION FOR HUNTING AND FISHING.

Nothing in this title shall apply to rules that establish, modify, open, close, or conduct a regulatory program for a commercial, recreational, or subsistence activity relating to hunting, fishing, or camping.

SEC. 511. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

Mr. BOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I would like to express my appreciation to my colleagues for the overwhelming endorsement of this small business regulatory relief measure. Particularly, I want to thank my ranking member, Senator BUMPERS. He and all the members of the committee worked very hard on this bill.

The purpose of the bill is to provide targeted relief to small businesses, small entities such as townships, counties, and cities, and not-for-profit organizations who feel overwhelmed by Government regulation.

This is a measure providing judicial enforcement and therefore, putting teeth into the requirements of the measure that Congress adopted in 1980 saying that regulations affecting small business and small entities must have an analysis to make sure that flexibility for these small entities was included and was a No. 3 priority for small business. At the White House Conference on Small Business held in Washington last year, 2,000 delegates from all across the country said this was the third most important item on their agenda.

We took that message from the small businesses, from small entities, from people who attended our hearings across the country and in Washington, and people who contacted us in our States, and we crafted a measure that had the strongest bipartisan support. Our staffs worked with a wide variety of groups. We had the full support of the President and the Administrator of the Small Business Administration. But lots of people had lots of concerns and lots of little issues that needed to be addressed in this bill. As a result, we made significant numbers of minor changes to make sure that the bill did what it accomplishes.

I believe that while the project is not perfect, it is an excellent measure. I hope we will see quick action on it in the House so that we may come to conference and agree, and send to the President something at least very close to this measure.

I wish to extend a very special thanks to the counsel for the minority, John Ball, to the director of the Small

Business Committee, Louis Taylor, and to Keith Cole. Among them, they listened to many, many hours of telephone calls and concerns from people who had a little fix here and a little fix there. The end product, I think, reflected much good advice and some advice that could not be taken. But I express appreciation, first, to the members of the Small Business Committee themselves who worked hard on this, to all of their staffs, and to the representatives of small business who showed the strength and the resolve to keep us focused on this, a measure designed to provide regulatory relief to an area which has experienced tremendous burdens from Government regulations.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP

Mr. GRASSLEY. Mr. President, last week, a new book hit the stands titled "Blood Sport." It is written by Mr. James B. Stewart.

The book is an account of the Whitewater issue. Many of us have had trouble understanding the issue. Reading this book helps. It makes a complicated financial scandal read more like a story.

Mr. Stewart was given access to sources by the White House. In part, it was because he is ideologically compatible with the Clintons. Those are Mr. Stewart's bona fides for the book he writes about the President and the First Lady.

In his own words, Mr. Stewart paints the character of the first couple this way:

> [T]he Clintons themselves proved no different from their recent predecessors in the White House, deeply enmeshed in a Washington culture so accustomed to partisan distortion and "spin" that truth is the most frightening prospect of all.

Let me repeat that last phrase, Mr. President: "* * * that truth is the most frightening prospect of all."

Mr. Stewart's observation seems to substantiate those of columnist Charles Krauthammer. On January 12, Mr. Krauthammer's column appeared in the Washington Post under the title, "Why Whitewater Now?" In it, he calls Whitewater "a scandal that appears to be all coverup and no crime." He then asks the logical question: Why would there be a coverup if there's no crime? He asks the question of both Whitewater and Travelgate.

Here is his conclusion: "Because the vanity of the Clintons is not that they are merely law abiding * * * but that they are morally superior."

In Whitewater, the Clintons certainly are vulnerable. In October 1991, bill Clinton said: "Let's not forget that the most irresponsible people of all in the 1980s were * * * those who sold out our savings and loans with bogus deals."

Meanwhile, we now find that Mrs. Clinton drafted the option papers for Castle Grande on behalf of Madison Guaranty Savings & Loan. Federal regulators have called Castle Grande a sham operation. Isn't it fair, then, to lump the Clintons into the same category of, using Clinton's words, "the most irresponsible people of all in the 1980s?"

In Travelgate, the Clintons are once again vulnerable. Using Mr. Krauthammer's words, the "morally superior" Clintons, had an interest in covering up their nonillegal actions. After all, just how morally superior can one be when sacking seven innocent employees for a relative and a rich Hollywood crony, who, both, by the way, advised the action and stood to profit from it?

And finally, there's Cattlegate. During the 1992 campaign, the Clintons railed against Wall Street's high rollers. We later learn that the First Lady's luck had turned $1,000 into $100,000. Once again, the target of the Clintons' railing might well have included the Clintons themselves.

Mr. Krauthammer sums this all up in a phrase: "Political duplicity." He says: "[T]he offense is hypocrisy of a high order. Having posed as our moral betters, they had to cover up. At stake is their image * * *"

Mr. President, it is my view that there's a serious lack of moral leadership in the White House. By moral, I mean basic values such as honesty, trust, forthrightness. It is the quality most needed in the Presidency—in a President. The governed expect that their elected officials, their leaders, will be role models.

Franklin Roosevelt is a more credible source than I on this point. He once said: "The Presidency is not merely an administrative office * * * It is more than an engineering job * * * It is preeminently a place of moral leadership."

Clearly, FDR understood the importance of the First Family setting an exemplary standard for the governed.

I feel obliged to share these observations, Mr. President. Having long been a student of politics and history, I adopted a view held by another Roosevelt—Teddy Roosevelt. He commented on how important it is to criticize the President when warranted:

> [I]t is absolutely necessary that there should be full liberty to tell the truth about his acts * * * Any other attitude in an American citizen is both base and servile. To announce that there must be no criticism of the President * * * is not only unpatriotic and servile, but is morally treasonable to the American public * * * It is even more important to tell the truth, pleasant or unpleasant, about him than about any one else.

Mr. President, I feel the same obligation felt by Teddy Roosevelt—to tell the truth about the President. Pleasant or unpleasant. And the crucial issue is the same one proclaimed by Franklin Roosevelt—moral leadership.

In my view, there is a void in this White House of moral leadership. As we approach a new era, a new millenium, and a new world, this is not desirable. How can we be leaders of the free world without strong leadership at home?

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BOOK THAT BRINGS NEW UNDERSTANDING TO A TRAGIC ILLNESS

Mr. HOLLINGS. Mr. President, I would like to take a moment to talk about a book I recently read, and to recommend it to anyone who seeks to learn more about Alhzeimer's Disease. The book is called "He Used To Be Somebody" and it is a poignant, soul-searching account of one couple's struggle with the disease as told through the eyes of the wife and caregiver. The author is an extraordinary woman, Beverly Bigtree Murphy.

What made this story particularly moving for me is that I knew the man about whom the book is written. Tom Murphy was a good friend of mine. Even if you did not know Tom personally, however, you come to know him over the course of the book. And it is by watching the loss of his great spirit and personality little by little to this disease that the reader comes closer to understanding the reality of Alzheimer's.

The book is made up of episodes that illustrate the process by which Alzheimer's disease takes away a loved one. Through her personal anecdotes and history, Beverly Bigtree Murphy conveys a larger picture of what life with an Alzheimer's sufferer is like in a way that no clinical account can. She manages to incorporate in the book her whole ordeal, describing problems caused by lack of understanding from family and loved ones, discouragement from doctors, legal battles and the financial strain.

What other people would describe as a nightmare scenario—what is in fact a nightmare, the author accepts as real and shows how she has worked through it. In order to fight the fear, anger and sadness, she uses her strong resolve and her love for her husband.

There is a lot to be learned in this book about the effects of grief and the emotional toll of the disease. In addition to being a love story and a very personal account, "He Used To Be Somebody" also addresses the larger social issue of Alzheimer's disease. It seeks to disabuse the public of the misconceptions and distortions in the media and in society that stem from a fundamental lack of understanding. In this way, Beverly Bigtree Murphy acts as an advocate for Alzheimer patients and their families.

She asserts the power of positive thinking, and describes her realization that even in the face of a hopeless, unchangeable situation, people still have choices. They can choose how to respond. In "He Used To Be Somebody," we see Beverly Murphy choose love over anger. Through her description of isolation, loneliness and feelings of being trapped, she achieves what she describes as: "a mission to increase awareness of caregiver needs, and to work as an activist to improve the care of and attitudes towards the frail elderly in this country."

Mr. President, I urge my colleagues to read this book. Whether or not you have a friend or loved one who suffers from Alzheimer's, this book is an excellent tool for understanding the nature of the disease. It is an informative guide and it is an inspirational story.

SHAWN AUSTIN

Mr. BAUCUS. Mr. President, I am proud to bring to the attention of the Senate, the courage and patriotism of a brave young Montanan. Shawn Austin, a Billings-born 21-year-old, was shot in the left shoulder while patrolling his base in Northern Bosnia. Shawn spotted an intruder trying to break in through his camp's perimeter. When Shawn challenged him, the intruder opened fire. Shawn was hit, but he was able to return fire and the intruder fled.

Fortunately, the bullet did not hit any bones and caused little damage. God willing, Shawn will be back on his feet very soon. He is the second soldier in the American peace-keeping force in Bosnia to be injured. And I think this occasion gives us a chance to pause and think deeply on our Nation's mission in this troubled part of the world.

I spoke with Shawn's parents, Terry and Doreen, last week. They are proud of and concerned about their son. I share their concerns. And I salute Shawn Austin for his bravery in the line of duty. He has paid a high price for our country. My thoughts and prayers are with him and his family.

THE DEATH OF ROSWELL GILPATRIC

Mr. KENNEDY. Mr. President, I was greatly saddened to hear of the death of Roswell Gilpatric this past Friday. As Deputy Secretary of Defense during President Kennedy's administration, he provided wise counsel throughout those thousand days—and especially during times of great crisis.

At the height of the Cuban missile crisis, when the crucial decision had to be made on what course of action to take—an air strike or a blockade—Roswell Gilpatric spoke up. His experience and wisdom led him to say to President Kennedy that, "Essentially, this is a choice between limited action and unlimited action, and most of us think that it is better to start with limited action." At a very difficult moment, President Kennedy's respect for Ros Gilpatric's good judgment helped to reinforce his own instincts that it would be best to start with a course of limited action. We now know what officials did not know then—that the consequences of an air strike could have triggered a nuclear exchange, the results being too terrible to imagine.

Ted Sorensen said that Roswell Gilpatric was an "indispensable" man in the administration of President Kennedy, as his impact in the Cuban missile crisis illustrates. He was also valuable in his effort to help Secretary of Defense McNamara reorganize the Defense Department's management and command staffs. His intelligence, resourcefulness, and easygoing manner made him a man who could be depended on to handle great responsibility with grace, dignity, and diplomacy. His entire life was an example of that.

Roswell Gilpatric, a native of New York, attended Yale University. He graduated with honors as a member of Phi Beta Kappa and went on to Yale Law School where he became an editor of the Law Journal. After his graduation in 1931, he joined the law firm of Cravath, Swain & Moore where he rose to become a partner, and later presiding partner, from 1966 until his retirement in 1977. During these years he also made time for public service, first, as Undersecretary of the Air Force from 1951 to 1953, and then as a member of the New Frontier, assisting President Kennedy. After his public service in Washington, he returned to New York and became a director of the Federal Reserve Bank of New York and eventually its chairman.

From the beginning of his service as Deputy Secretary of Defense, Ros Gilpatric was a valued advisor to my brother. As the years passed, he provided warm friendship and loyal support to all of us in the Kennedy family, and especially to Jackie after the loss of President Kennedy. They shared an interest in the arts and worked together on many causes in his capacity as a trustee of NYU's Institute of Fine Arts, the New York Public Library, and the Metropolitan Museum.

Vicki joins me in expressing our deepest sympathy to his wife Mimi and his children, grandchildren, and great-grandchildren. I know that they take comfort and pride in his outstanding contributions to the Nation and New York. Roswell Gilpatric served his community and his country with great caring, commitment, and distinction. President Kennedy paid him his highest compliment when said of him what we all say now—Roswell Gilpatric made a difference.

PASSING OF TRIBAL ELDER

Mr. CAMPBELL. Mr. President, the Northern Cheyenne and native Americans across the country are mourning the loss of an elder, statesman, and ambassador for our people, and I would like to take a few moments to pay tribute to this extraordinary man whose death is a great loss not only for all Indian nations but for the entire country.

William "Bill" Tallbull's life exemplifies service and dedication to one's country and people. A World War II veteran, Bill spent much of his life on the Northern Cheyenne Reservation serving his tribe, including a position as a councilman for the Northern Cheyenne. He retired in 1972, and while most people dream of retirement, Bill was not the type of man to be idle. He came out of retirement a few short years later, and went on to serve his tribe and his country for another two decades.

Bill's list of accomplishments is a long and impressive list. He has done more in his lifetime than most people ever dream of doing. He became an assistant history professor at Dull Knife Memorial College, located on the Northern Cheyenne Reservation, teaching oral traditions and ethno-botany classes. From 1983 through 1995, he served as chairman of the Northern Cheyenne Tribal Cultural Resource Program, and in 1990, he received the Montana State Historic Preservation Award becoming the first native American so honored by the State of Montana.

Bill was also instrumental in the formation of the Native American Grave Protection and Repatriation Act, having worked with former Senator Melcher of Montana on the initial draft of that legislation. He was later appointed by former Secretary of the Interior Manual Lujan, Jr., to sit on the committee which wrote the regulations for this act. Bill was the only native American to serve on that committee.

In his ongoing efforts to safeguard the native American culture and heritage, Bill was a founder of the Medicine Wheel Alliance, an organization committed to preserving the Medicine Wheel National Historic Landmark in the Bighorn Mountains. This commitment to landmark preservation led President Clinton, in 1994, to appoint Bill to become the first native American ever to serve on the Advisory Council on Historic Preservation, a national panel committed to protecting historical landmarks across the country.

A professor, author, historian, and ethno-botanist, Bill was also a devoted husband, father, and tribal elder. He was admired and respected by all who knew him, and his commitment to the promotion of cultural awareness and to the protection of the native American heritage benefited all Americans, regardless of race or ethnicity.

I was honored to have known this distinguished tribal leader, and his death is a great loss for all of us. However, I'm certain Bill would not have wanted his death to create a void where his work is concerned. We can all learn from this great man and continue his work for cultural awareness and spiritual integrity of the land. There could be no better tribute to such a man as Bill Tallbull.

THE VALUE OF LIFE: HARVEY C. KRAUTSCHUN DAY IN SOUTH DAKOTA

Mr. PRESSLER. Mr. President, men are measured by both word and deed, yet the greater measure of man is by their deeds. A man's deeds shape the character of mankind. Our active protection of human life is a monumental measure of mankind's character. Harvey Krautschun's deeds define the essence of "being committed to life" and his own personal character—one that should be a model for mankind.

All South Dakotans know Harvey for his great service in our State legislature. He has served in the legislature for 11 years. He has been the Speaker of the State House of Representatives for a year. Recently, Harvey announced he will not seek reelection. This is unfortunate. His shoes will be hard to fill. But I rise today to pay tribute to Harvey's contributions not as an elected official, which are many, but in his singular contribution as a loving, caring husband.

Recently, Gov. Bill Janklow declared Saturday, February 24, Harvey C. Krautschun Day in South Dakota. This honor was given for the life he saved—the life of his wife, Joy. He stood by Joy's hospital bed as she lay comatose for a month, fighting for her life. Because of his constancy and commitment to his wife's life, even as doctors began discussing terminating life-support, Harvey's devotion remained unmoved. He would see his wife awake again.

Harvey demonstrated bravery, courage, and faith in protecting his wife's life. Joy found herself in this condition also because of bravery and courage. In July of 1995, when a newborn colt jumped into an 8-foot-deep pond, Joy jumped in to save the colt. While trying to save the colt, Joy's heart suddenly failed. Harvey rushed to her side, and began administering mouth-to-mouth resuscitation. Their son, Bart, rushed to find additional help, calling an ambulance. Bart returned to his mother's side and performed cardiopulmonary resuscitation on her. Father and son together fought to save Joy's life. The massive heart failure pushed her into a coma. Miraculously, Joy awoke from her coma. Her recovery from the massive heart arrhythmia would entail months of hospitalizations and therapy. Joy did recover, she did awaken from the coma, and today she is living with her family. Doctors had believed she would not live. But Harvey and his family made a commitment to Joy's life, and, thereby, saved her.

To speak of saving a life, to speak of heroism measures a man's values and ideals. To take courageous, loving actions measures a man's valor and commitments. Considering the turbulence surrounding all of us on a daily basis, at times finding simple answers to our problems is difficult, if not humanly impossible. Some mornings while reading the South Dakota newspapers, I wonder, "What keeps people so strong?" In the quake of unforseen events—I have found strength in faith and prayer. So when I heard of the sudden accident of Joy Krautschun and the courageous and enduring actions of her husband, Harvey, I knew faith in the human spirit and prayer are the strongest, most powerful agent we have to combat the turbulence in our lives.

I have personally known Harvey for many years. As fellow runners, we jogged together through Spearfish Canyon. As a South Dakota statesman, Harvey has dutifully represented and protected his community, State, and all human life. Harvey has always been there for his constituents. In cases where the problem stretched to the Federal level, Harvey took the initiative to seek out help. It has been my pleasure to have worked with Harvey on such cases in the past. Harvey truly believes in fighting the good fight.

I have a great deal of respect and admiration for Harvey's leadership in the South Dakota Legislature. I trust and appreciate his views and advice on State and national issues. Harvey and his entire family are good, exemplary people and patriots of their Spearfish community.

Harriet and I wish Harvey and his family many more years of health and happiness. Harvey, Joy and their family continue to be in our thoughts and prayers. Knowing a man who is so committed in faith and deed to community, State, country, family, and the very essence of life is an honor. Harvey is true to his rocksolid beliefs in both word and deed.

February 24 may have been Harvey Krautschun Day for South Dakota, but it's safe to say that for Joy Krautschun, every day is Harvey Krautschun day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the $5 trillion Federal debt stands today as an increasingly grotesque parallel to the energizer bunny on television that keeps moving and moving and moving—precisely in the same manner, and to the same extent, that President Clinton is allowing the Federal debt to keep going up and up into the stratosphere.

Politicians like to talk good games—and "talk" is the operative word—about cutting the Federal spending and thereby bringing the Federal debt under control. But watch how they vote on the big-spending bills.

Mr. President, at the close of business yesterday, March 18, the Federal debt stood at $5,055,609,537,686.31, an average per capita debt of $19,116.82 for every man, woman, and child in America.

DEFENSE AUTHORIZATION REQUEST FOR THE FISCAL YEAR 1997 AND THE FUTURE YEARS DEFENSE PROGRAM

Mr. THURMOND. Mr. President, today the administration officially sent its budget requests to the Congress. Although much of the detailed budget information is still not available for review, I want to provide my initial views of the material we have received in the Armed Services Committee. On the positive side of the ledger, I was very pleased that the military pay raise was fully funded in this budget request. The young men and women who serve our Nation in uniform continue to be the most important asset of our Nation's defense. This year, I intend that the Armed Services Committee will continue to provide increased funding for the quality-of-life initiatives and programs we began in last year's authorization bill.

Mr. President, I am troubled over several decisions made in the proposed budget. First is the Defense Department's decision to again reduce funding for critical ballistic missile defenses. We should be seeking ways to accelerate the development and deployment of both theater and national missile defense systems, not delay them. Under the Department's new proposal, we would not deploy a theater high altitude area defense system, commonly known as THAAD, or Navy upper tier, for another decade. This delay is unacceptable. I find it hard to believe that the administration would continue to place the lives of our service men and women at risk, by delaying this critical capability.

Additionally, the levels of spending for modernization are perilously dangerous. Gains made in last year's bill, as a result of funds added by Congress, to revitalize modernization, may be lost due to inadequate levels of funding in this budget. The procurement accounts have been reduced by 44 percent since fiscal year 1992. This year's budget request decreases procurement spending even further.

General Shalikashvili recently stated we should provide $60 billion a year for defense modernization by fiscal year 1998. This is 2 years earlier than the administration previously indicated in last year's budget, and now will not be achieved until fiscal year 2001. Recent testimony, before the Armed Services Committee by Vice Chairman of the Joint Chiefs of Staff, Admiral Owens, reinforces my concerns. I agree with Admiral Owens that we have a "crisis in procurement." I agree with him also, that procurement continues to be underfunded.

While the Department's planning documents reflect increased spending for procurement in the outyears, I am not confident that we will ever get there. The administration's budget for this year reflects another decline in procurement spending. It appears that each year, modernization is used as a bill payer to fix other near term problems. This concerns me. I fail to see how this budget provides for adequate modernization. I believe that the Congress will be required to add funds to the defense budget again this year, to provide for minimal levels of modernization.

The Armed Services Committee will continue to look for opportunities to work with the military services, as we did last year, to add funds where they will have the most beneficial effects. We intend to invest money now where these investments will save money in the future.

As an example, last year we provided authority for multiyear procurement and an additional $82 million for the Longbow Apache Helicopter Program in the fiscal year 1996 Defense bill. As a result, we may save up to $1 billion over the life of this program. We want to continue to look at other innovative ways to achieve savings, which can then be applied toward other vital defense needs.

Finally, I remain concerned about the increasing frequency of deployments and the amount of time our men and women in uniform spend away from their homes and families. Ongoing and contingency operations, such as Haiti and Bosnia, not only drain resources away from current and future readiness, but place undue strain on our service members and their families.

Over the course of the next couple of months, the Armed Services Committee will continue to conduct an extensive evaluation of the budget request. Readiness, both current and long term, must be maintained and in some cases, revitalized. Modernization must be restored. Missile defense must become a reality.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

REPORT OF THE BUDGET OF THE U.S. GOVERNMENT FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations and to the Committee on the Budget.

To the Congress of the United States:

The 1997 Budget, which I am transmitting to you with this message, builds on our strong economic record by balancing the budget in seven years while continuing to invest in the American people.

The budget cuts unnecessary and lower priority spending while protecting senior citizens, working families, and children. It reforms welfare to make work pay and provides tax relief to middle-income Americans and small business.

Three years ago, we inherited an economy that was suffering from short- and long-term problems—problems that were created or exacerbated by the economic and budgetary policies of the previous 12 years.

In the short term, economic growth was slow and job creation was weak. The budget deficit, which had first exploded in size in the early 1980s, was rising to unsustainable levels.

Over the longer term, the growth in productivity had slowed since the early 1970s and, as a result, living standards had stagnated or fallen for most Americans. At the same time, the gap between rich and poor had widened.

Over the last three years, we have put in place budgetary and other economic policies that have fundamentally changed the direction of the economy—for the better. We have produced stronger growth, lower interest rates, stable prices, millions of new jobs, record exports, lower personal and corporate debt burdens, and higher living standards.

Working with the last Congress in 1993, we enacted an economic program that has worked better than even we projected in spurring growth and reducing the deficit. We have cut the deficit nearly in half, from $290 billion in 1992 to $164 billion in 1995. As a share of the Gross Domestic Product, we have cut the deficit by more than half in three years, bringing the deficit to its lowest level since 1979.

While cutting overall discretionary spending, we also shifted resources to investments in our future. With wages increasingly linked to skills, we invested wisely in education and training to help Americans acquire the tools they need for the high-wage jobs of tomorrow. We also invested heavily in science and technology, which has been a strong engine of economic growth throughout the Nation's history.

For Americans struggling to raise their children and make ends meet, we have sought to make work pay. We expanded the Earned Income Tax Credit, providing tax relief for 15 million working families. And we have given 37 States the freedom to test ways to move people from welfare to work while protecting children.

As the economy has become increasingly global, prosperity at home depends heavily on opening foreign markets to American goods and services. With this in mind, we secured legislation to implement the General Agreement on Tariffs and Trade and the North American Free Trade Agreement, and we have completed over 80 other trade agreements. Under our leadership, U.S. exports have grown to an all-time high.

With these policies, we have helped pave the way for a future of sustained economic growth, low interest rates, stable prices, and more opportunity for Americans of all incomes. But our work is not done.

Looking ahead, as I said recently in my State of the Union address, we must answer three fundamental questions: First, how do we make the American dream of opportunity for all a reality for all Americans who are willing to work for it? Second, how do we preserve our old and enduring values as we move into the future? And, third, how do we meet these challenges together, as one America?

This budget addresses those questions.

CREATING AN AGE OF POSSIBILITY

I am committed to finishing the job that we began in 1993 and finally bringing the budget into balance. In our negotiations with congressional leaders, we have made great progress toward reaching an agreement. We have simply come too far to let this opportunity slip away.

A balanced budget would reduce interest rates for all Americans, including the young families across the land who are struggling to buy their first homes. It also would free up funds in the private markets with which businesses could invest in factories and equipment, or in training their workers.

But we have to balance the budget the right way—by cutting unnecessary and lower priority spending; investing in the future; protecting senior citizens, working families, children, and other vulnerable Americans; and providing tax relief for middle-income Americans and small businesses.

My budget does that. It strengthens Medicare and Medicaid, on which millions of senior citizens, people with disabilities, and low-income Americans rely. It reforms welfare. It cuts other entitlements. And it cuts deeply into discretionary spending.

But while cutting overall discretionary spending, my budget invests in education and training, the environment, science and technology, law enforcement, and other priorities to help build a brighter future for all Americans. We should spend more on what we need, less on what we don't.

PROJECTING AMERICAN LEADERSHIP

Across the globe, we live in a time of great opportunity and great challenge. With the end of the Cold War, the world looks to the United States for leadership. Providing it is clearly in our best interest. We must not turn away.

My budget provides the necessary resources to advance America's strategic interests, carry out our foreign policy, open markets abroad, and support U.S. exports. It also provides the resources to confront the emerging global threats that have replaced the Cold War as major concerns—regional, ethnic, and national conflicts; the proliferation of weapons of mass destruction; international terrorism and crime; narcotics trading; and environmental degradation.

On the diplomatic front, our successes have been numerous and heartening, and they have made the world a safer and more stable place. Through our leadership, we are helping to bring peace to Bosnia and the Middle East, and we have spurred progress in Northern Ireland. We also encouraged the movement toward democracy and free markets in Russia and Central Europe, and we led a successful international effort to defuse the nuclear threat from North Korea.

On the military front, we have deployed our forces where we could be effective and where it was in our interest to promote stability by ending bloodshed (such as in Bosnia) and suffering (such as in Rwanda). We also have used the threat of force to ease tensions, such as to unseat an unwelcome dictatorship in Haiti and to stare down Iraq when it threatened again to move against Kuwait.

This budget provides the funds to sustain and modernize the world's strongest, best-trained, best-equipped, and most ready military force. Through it, we continue to support service members and their families with quality-of-life improvements in the short term, while planning to acquire the new technologies that will become available at the turn of this decade.

CREATING OPPORTUNITY AND ENCOURAGING RESPONSIBILITY

The Federal Government cannot—by itself—solve most of the problems and address most of the challenges that we face as a people. In some cases, it must play a lead role—whether to ensure the guarantee of health care for vulnerable Americans, expand access to education and training, invest in science and technology, protect the environment, or make the Tax Code fairer. In other cases, it must play more of a partnership role—working with States, localities, non-profit groups, churches and synagogues, families, and individuals to strengthen communities, make work pay, protect public safety, and improve the quality of education.

To restore the American community, the budget invests in national service, through which 25,000 Americans this year are helping to solve problems in communities while earning money for postsecondary education or to repay student loans. We want to create more Empowerment Zones and Enterprise Communities to spur economic development and expand opportunities for the residents of distressed urban and rural areas. We want to expand the Community Development Financial Institutions Fund to provide credit and other services to such communities. With the same goal in mind, we want to transform the Department of Housing and Urban Development into an agency that better addresses local needs. And we want to maintain our relationship with, and the important services we provide to, Native Americans.

In health care, our challenge is to improve the existing and largely successful system, not to end the guarantees of coverage on which millions of vulnerable Americans rely. My budget strengthens Medicare and Medicaid, ensuring their continued vitality. For Medicare, it strengthens the Part A trust fund, provides more choice for seniors and people with disabilities, and makes the program more efficient and responsive to beneficiary needs. For Medicaid, it gives States more flexibility to manage their programs while preserving the guarantee of health coverage for the most vulnerable Americans, retains current nursing home quality standards, and continues to protect the spouses of nursing home residents from impoverishment. My budget proposes reforms to make private health care more accessible and affordable, and premium subsidies to help those who lose their jobs pay for private coverage for up to six months. It also invests more in various public health services, such as the Ryan White program to serve people living with AIDS, and research and regulatory activities that promote public health.

Because America's welfare system is broken, we have worked hard to fix those parts of it that we could without congressional action. For instance, we have given 37 States the freedom to test ways to move people from welfare to work while protecting children, and we are collecting record amounts of child support. But now, I need the help of Congress. Together, in 1993 we expanded the Earned Income Tax Credit for 15 million working families, rewarding work over welfare. Now, my budget overhauls welfare by setting a time limit on cash benefits and imposing tough work requirements, and I want us to enact bipartisan legislation that requires work, demands responsibility, protects children, and provides adequate resources to get the job done right—with child care and training, giving recipients the tools they need.

More and more, education and training have become the keys to higher living standards. While Americans clearly want States and localities to play the lead role in education, the Federal Government has an important supporting role to play—from funding preschool services that prepare children to learn, to expanding access to college and worker retraining. My budget continues the strong investments that we have made to give Americans the skills they need to get good jobs. Along with my ongoing investments, my budget proposes a Technology Literacy Challenge Fund to bring the benefits of technology into the classroom, a $1,000 merit scholarship for the top five percent of graduates in every high school, and more Charter Schools to let parents, teachers, and communities create public schools to meet their own children's needs.

As Americans, we can take pride in cleaning up the environment over the last 25 years, with leadership from Presidents of both parties. But our job is not done—not with so many Americans breathing dirty air or drinking unsafe water. My budget continues our efforts to find solutions to our environmental problems without burdening business or imposing unnecessary regulations. We are providing the necessary funds for the Environmental Protection Agency's operating program, for our national parks and forests, for my plan to restore the Florida Everglades, and for my "brownfields" initiative to clean up abandoned, contaminated industrial sites in distressed urban and rural communities. And we are continuing to reinvent the regulatory process by working collaboratively with business, rather than treating it as an adversary.

With science and technology (S&T) so vital to our economic future, our national security, and the well-being of our people, my budget continues our investments in this crucial area. To maintain our investments, I am asking Congress to fulfill my request for basic research in health sciences at the National Institutes of Health, for basic research and education at the National Science Foundation, for research at other agencies that depend on S&T for their missions, and for cooperative projects with universities and industry, such as the industry partnerships created under the Advanced Technology Program.

To attack crime, the Federal Government must work with States and communities on some problems and lead on others. To help communities, we continue to invest in the Community Oriented Policing Services (COPS) program, which is putting 100,000 more police on the street. We are helping States build more prisons and jail space, better enforce the Brady bill that helps prevent criminals from buying handguns, and better address the problem of youth gangs. At the Federal level, we are leading the fight to stop drugs from entering the country and expand drug treatment efforts, and we are stepping up our efforts to secure the border against illegal immigration while we help to defray State costs for such immigration.

For many families, of course, the first challenge often is just to pay the bills. My budget proposes tax relief for middle-income Americans and small businesses. It provides an income tax credit for each dependent child under 13; a deduction for college tuition and fees; and expanded individual retirement accounts to help families save for future needs and more easily pay for college, buy a first home, pay the bills during times of unemployment, or pay medical or nursing home costs. For small business, it offers more tax benefits to invest, provides estate tax relief, and makes it easier to set up pensions for employees. It also would expand the tax deduction to make health insurance for the self-employed more affordable.

MAKING GOVERNMENT WORK

As we pursue these priorities, we will do so with a Government that is leaner, but not meaner, one that works efficiently, manages resources wisely, focuses on results rather than merely spending money, and provides better service to the American people. Through the National Performance Review, led by Vice President Gore, we are making real progress in creating a Government that "works better and costs less."

We have cut the size of the Federal workforce by over 200,000 people, creating the smallest Federal workforce in 30 years, and the smallest as a share of the total workforce since before the New Deal. We are ahead of schedule to cut the workforce by 272,900 positions, as required by the 1994 Federal Workforce Restructuring Act that I signed into law.

Just as important, the Government is working better. Agencies such as the Social Security Administration, the Customs Service, and the Veterans Affairs Department are providing much better service to their customers. Across the Government, agencies are using information technology to deliver services more efficiently to more people.

We are continuing to reduce the burden of Federal regulation, ensuring that our rules serve a purpose and do not unduly burden businesses or taxpayers. We are eliminating 16,000 pages of regulations across Government, and agencies are improving their rulemaking processes.

In addition, we continue to overhaul Federal procurement so that the Government can buy better products at cheaper prices from the private sector. No longer does the Government pay outrageous prices for hammers, ashtrays, and other small items that it can buy cheaper at local stores.

As we look ahead, we plan to work more closely with States and localities, with businesses and individuals, and with Federal workers to focus our efforts on improving services for the American people. Under the Vice President's leadership, agencies are setting higher and higher standards for delivering faster and better service.

CONCLUSION

Our agenda is working. We have significantly reduced the deficit, strengthened the economy, invested in our future, and cut the size of Government while making it work better for the American people.

Now, we have an opportunity to build on our success by balancing the budget the right way. It is an opportunity we should not miss.

March 1996.

WILLIAM J. CLINTON.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2151. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the Office's Sequestration Preview Report for fiscal year 1997; pursuant to the order of August 4, 1977; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC–2152. A communication from the Chairman of the Joint Chiefs of Staff, transmitting, pursuant to law, the 1996 Force Readiness Assessment; to the Committee on Armed Services.

EC–2153. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Davis-Monthan Air Force Base [AFB], Arizona; to the Committee on Armed Services.

EC–2154. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Lackland Air Force Base [AFB], Texas; to the Committee on Armed Services.

EC–2155. A communication from the Chief (Programs and Legislation Division), Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a cost comparison study relative to Little Rock Air Force Base [AFB], Arkansas; to the Committee on Armed Services.

EC–2156. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Bureau of Export Administration's annual report for fiscal year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–2157. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report entitled "Rental Housing Assistance At A Crossroads"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2158. A communication from the president and chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving exports to the Republic of Korea; to the Committee on Banking, Housing, and Urban Affairs.

EC–2159. A communication from the chairman of the board of the National Credit Union Administration, transmitting, pursuant to law, a report relative to schedules of compensation; to the Committee on Banking, Housing, and Urban Affairs.

EC–2160. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorization of Federal Aviation Administration for fiscal years 1997–99, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–2161. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Southeast Alaska Public Lands Information Center; to the Committee on Energy and Natural Resources.

EC–2162. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a notice concerning defense articles to Laos relative to Presidential Determination 93–45; to the Committee on Foreign Relations.

EC–2163. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–222 adopted by the council on February 6, 1996; to the Committee on Governmental Affairs.

EC–2164. A communication from the Director of the Office of Communications of the Department of Agriculture, transmitting, pursuant to law, the 1995 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2165. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of activities under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2166. A communication from the General Counsel of the Office of National Drug Control Policy, Executive Office of the President, the annual report under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2167. A communication from the Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the 1995 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC-2168. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report under the Freedom of Information Act for the National Archives and Records Administration during 1995; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. SIMON, Mr. SPECTER, Mr. BIDEN, Mr. SIMPSON, Mr. KENNEDY, Mr. GRASSLEY, Mr. KOHL, Mr. DEWINE, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. JOHNSTON, Mr. D'AMATO, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, Mr. SARBANES, Mr. WELLSTONE, Mr. HARKIN, Mr. WYDEN, and Mr. LAUTENBERG):

S. 1624. A bill to reauthorize the Hate Crime Statistics Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 1625. A bill to provide for the fair consideration of professional sports franchise relocations, and for other purposes; to the Committee on the Judiciary.

By Mr. BRYAN (for himself and Mr. REID):

S. 1626. A bill to provide for the orderly disposal of Federal lands in Southern Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. SIMON, Mr. SPECTER, Mr. BIDEN, Mr. SIMPSON, Mr. KENNEDY, Mr. GRASSLEY, Mr. KOHL, Mr. DEWINE, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. JOHNSTON, Mr. D'AMATO, Mr. AKAKA, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. MURRAY, Mr. PELL, Mr. SARBANES, Mr. WELLSTONE, Mr. HARKIN, Mr. WYDEN, and Mr. LAUTENBERG):

S. 1624. A bill to reauthorize the Hate Crime Statistics Act, and for other purposes; to the Committee on the Judiciary.

THE HATE CRIMES STATISTICS ACT REAUTHORIZATION ACT OF 1996

Mr. SARBANES. Madam President, I am pleased to join today with Senator HATCH, Senator SIMON, and others as an original cosponsor of legislation to permanently authorize the Hate Crimes Statistics Act. The Hate Crimes Statistics Act, passed overwhelmingly by Congress in 1990 and signed into law by President Bush, directs the Department of Justice to compile and publish data on crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity. The 1994 Crime Law added the requirement that data also be collected about crimes based on disability. The categories of crime for which data is collected under the act includes homicide, rape, assault, arson, vandalism, and intimidation. The law expired on December 31, 1995, and not only should be reauthorized, but should be given a permanent mandate.

Before enactment of this law, there existed no such national collection of data on hate crimes. At the time it was originally passed, this law was needed to fill the gap in information concerning the deplorable, and increasing, incidence of violent crimes based on bigotry and prejudice. Today, 6 years later, this statute remains vitally necessary.

Madam President, far too often, we hear reports of violent hate-related incidents which shock all decent people in this country. It seems inconceivable that in 1996 such crimes can still be so pervasive, but statistics collected under the law indicate that thousands of hate crimes take place each year. Therefore, it is critically important that we continue to monitor the occurrence of these crimes, in order that we may more effectively respond to them. This law has enabled a systematic collection of information about these crimes on a national basis allowing us to develop a clear picture of the problem and fashion appropriate governmental responses.

Some States, including my home State of Maryland, officially monitor the incidence of hate violence and law enforcement officials in those States have testified to the usefulness of this information. In addition, a number of private groups have done an outstanding job collecting information and pointing out the serious problem of bigotry-related crimes. In particular, I would like to recognize the work of the National Institute Against Prejudice and Violence at the University of Maryland, formed in 1984 through the efforts of former Governor of Maryland Harry Hughes and others. This fine organization has been a clearinghouse for information on hate crimes and has conducted original research and provided assistance to communities wishing to deal with the problems of hate crime violence.

However, these efforts are simply not enough. A national collection of information is vital. The 1990 act accomplished the establishment and implementation of a Federal data collection system which has proven useful and should continue.

Although the Federal Bureau of Investigation is required under the law to collect information on hate crimes, participation by State and local law enforcement agencies under the law is strictly voluntary. However, participation has increased over the time that the law has been in effect. There has been a significant effort on the local level to encourage participation in the effort and as participation increases, the information will become increasingly more helpful for purposes of identifying and examining national trends in bias-related crime and effectively responding to such crime.

Madam President, experience over the past few years has shown the act also is helpful to State and local law enforcement, both in the effort to provide training with respect to hate crimes and in the effort to identify how law enforcement agencies should direct their resources in dealing with hate crimes. An essential aspect of the effort to address the problem of hate crimes in this country is ensuring that the police have a greater awareness of hate crimes and treat such incidents with more sensitivity and understanding. The presence of more supportive and helpful law enforcement makes it more likely that hate crime victims will report these crimes, which in turn allows Federal, State, and local law enforcement to better respond.

I want to congratulate Senators SIMON and HATCH for their leadership on this important legislation and I urge my colleagues to support prompt enactment of this bill.

Mr. D'AMATO. Madam President, I am pleased to join my colleagues in introducing this bill that will extend the authority of the Attorney General to collect data on crimes motivated by race, religion, or ethnic hatred. The Act was the first action taken by Congress as a direct response to hate-motivated crimes and has certainly merited its continued existence.

When the original act was passed in 1990, the Attorney General was directed to collect data on any crime that evidenced some type of prejudice. It was the first action taken by Congress to address the violence emanating from hate crimes. The reports that have since been prepared by the Attorney General, based on the collected data, describe trends and patterns associated with hate crimes. Having this information is a great asset for Federal officials as well as State and local governments in formulating responses to the vicious behavior of perpetrators of bias crimes.

For New York, with its unique mix of people, the collection of hate crime statistics is too important to fall by the wayside. Communities in my State have begun to organize in order to respond to the incidents of hate crimes in their neighborhood. For example, residents in the town of Oyster Bay on Long Island recently met with their councilman to discuss the escalating occurrences of hate crimes. The response by citizens of my State is laudable and, I believe, must be supported by information compiled in these reports. A permanent database will assist in composing effective initiatives that will fight hate crimes.

State and local law enforcement in New York have struggled against the rising tide of hate crimes. A uniform compilation of statistics can be an asset in determining strategy, even if the participation in the collection of data is voluntary. With a better understanding of the implications and trends of hate crimes, our criminal justice system can target scarce resources to those mechanisms that work the best to combat bias crimes.

Several years ago, the Crown Heights section of Brooklyn saw a senseless violent murder of a young Rabbinical student, a crime that was seemingly motivated by religious hatred. The tension within the community mounted, culminating in days of riots and years of healing. Detecting patterns in the incidents of hate crimes may have forewarned New York City of the horrendous turmoil that was to follow the brutal murder of that young student, Yankel Rosenbaum.

If used in the right manner, statistics are a valuable tool. I hope that my colleagues recognize the need to maintain this database and urge the passage of this important legislation.

Mr. SIMON. Madam President, I rise today to join Senator HATCH in the introduction of a bill to reauthorize and provide a permanent mandate for the Hate Crimes Statistics Act. I would also like to thank Chairman HATCH for his leadership on this important issue, and for scheduling today's Senate Judiciary Committee hearing on this bill. This bill's 28 original cosponsors show the strong bipartisan support for this measure. It also has the strong support of Attorney General Reno, as well as the endorsement of major law enforcement and advocacy groups.

The Hate Crimes Statistics Act, which passed the Senate in 1990 by a vote of 92–4 and was signed into law by then President Bush, requires the Justice Department to collect data on crimes that show evidence of prejudice based on race, religion, ethnicity, or sexual orientation. Until this act was passed, no Federal records of such crimes were maintained. This lack of information made it difficult to determine whether a particular crime was an isolated incident, or part of a continuing series against a particular group.

The act has proven successful in its initial purpose—the creation of data collection—and has also served as a catalyst for an FBI effort to train State and local law enforcement officials about hate crimes. Hearings held before the Senate Judiciary Committee's Subcommittee on the Constitution in 1992 and 1994 showed that one of the prime benefits of the act is that it has helped dramatically increase the awareness and sensitivity of the police about hate crimes. Not only do victims of hate crimes benefit from a more informed police force, but greater police awareness encourages others to report hate crimes.

Since all data submission under the act is voluntary, we did not anticipate 100 percent participation by State and local law enforcement agencies from the start. Nonetheless, over the course of 4 years, there has been great progress in participation levels. In 1991, 2,771 law enforcement agencies participated in the voluntary reporting program. In 1994, more than 7,200 agencies participated. Local police, advocacy groups, mayors, and others have joined the effort to encourage every law enforcement agency to comply, and as more and more local agencies participate, the statistics will be more and more useful to identify trends and formulate responses. In addition, the FBI is in the process of working with States to upgrade their computer systems. When this transition is complete, the data should be even more useful. Unfortunately, there are still law enforcement agencies in some States and many large cities which are not yet participating in the data collection. We need active oversight of this act to ensure that these agencies join in this important effort, making the statistics more accurate and useful.

FBI Director Louis Freeh has stated that he is committed to the continued tracking of hate crimes statistics. However, we believe that this effort has proven its usefulness and deserves a permanent mandate. Collecting such data will not erase bigotry. It will, however, be a valuable tool in the fight against prejudice. The information is essential in identifying how law enforcement should best focus its resources in dealing with hate crimes. The data will also be useful to policymakers and local communities in their efforts to fight these crimes.

Obviously, the FBI statistics do not yet accurately reflect the level of violence motivated by prejudice in our society. More and more agencies participate each year, however, we need only read the headlines and reports by advocacy groups to see how widespread the problem of hate crimes remains in our Nation.

The Justice Department recently launched a civil rights probe into a rash of arson which has destroyed at least 23 black churches in the South since 1993. The Justice Department is trying to determine whether the crimes are racially motivated, and whether they are connected. Several of the incidents have been solved, however, and clearly racism motivated the offenders. The teenagers found guilty of burning a church in Mississippi in 1993 shouted racial epithets during commission of their crime. Racist graffiti was spray-painted on the walls of a Knoxville, TN, Baptist church set afire on January 8, 1996. Sumter County Circuit Court Judge Eddie Hardaway, a black judge who sent two white men to jail for vandalizing black churches, was recently the victim of a shotgun attack which shattered bedroom windows in his home. During the 1960's civil rights movement, many black churches were set ablaze, however in the late 1980's and early 1990's only one or two such crimes were reported each year. This recent string of arson reminds us that prejudice and hate crimes remain a problem in our Nation.

Recent reports by private groups, such as the Anti-Defamation League, the National Coalition on Anti-Violence Projects, and the National Asian Pacific American Legal Consortium, confirm that unfortunately the problem of crimes based on prejudice continues. The ADL's 1995 Annual Audit of Anti-Semitic Incidents actually had some good news: the 1,843 anti-Semitic incidents reported to the Anti-Defamation League in 1995 represented a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066. This is the largest decline in 10 years. However, this good news is tempered by the seriousness of many of the incidents reported. For the fifth straight year in a row, acts of anti-Semitic harassment against individuals outnumber incidents of vandalism against institutions and other property.

The National Coalition of Anti-Violence Projects and New York City Gay and Lesbian Anti-Violence Project report similar findings for 1995. There were fewer incidents of violence against homosexuals in 1995, but the incidents were more violent. There was an 8 percent drop in the number of incidents, but a 10 percent increase in the number of assaults and rapes.

We need to realize that the name-calling, the graffiti, the discrimination, and the threats and violence are all signs of a pervasive problem. The more informed we are about the scope and nature of our communities' problems with hate crimes, the better able we will be to develop effective prevention and prosecution strategies, as well as support structures for victims of these crimes.

I am pleased to join with Senator HATCH today, with support from 28 of our colleagues, the Attorney General and law enforcement and advocacy groups across the Nation, to introduce the reauthorization of the Hate Crimes Statistics Act. I encourage all of my colleagues to join us in working to pass this important legislation.

Mr. CAMPBELL. Thank you, Mr. President, for the opportunity to address this important issue. If one needs a reminder as to why we must make the Hate Crime Statistics Act mandate permanent, one need look no further than today's headlines. Throughout the South, Federal and State authorities are investigating a rash of arson against African-American churches reminiscent of the violence perpetrated three decades earlier. In California, a native American was brutally stabbed by skinheads.

My home State of Colorado has not been immune from the scourge of hate violence. In Morrison, CO, a swastika was burned on a woman's lawn. While in Aurora, a man shot his neighbor with a BB gun because of hatred for his Asian neighbor.

In 1995, the Southern Poverty Law Center's Klanwatch Project counted 267 active hate groups in the United States including 6 in Colorado. And, in 1994, because of the passage of the Hate Crimes Statistics Act, law enforcement agencies in the United States were able to identify 5,852 hate crimes.

Hate crimes are a growing problem—one that cannot merely be measured by numbers alone. If we are going to be successful in our battle against the scourge of violent hate crime, one thing is certain—we must have hard, reliable, information about the nature and the scope of the problem.

Mr. President, this bill calls for a permanent mandate for the collection of hate crime data by the Justice Department. This important piece of legislation received broad bipartisan support and was signed into law by President Bush in 1990.

Data collection is crucial to this effort for other reasons as well. According to an article in Stanford Law & Policy Review entitled "Bias Crime: A Theoretical and Practical Overview," data collection has proven to be a gateway for other important initiatives in the battle against crime. These other responses include enhanced investigative techniques, improved services for victims and the establishment of interagency coordination.

There is another important purpose to this legislation as well. It sends a strong, symbolic message that we, as a nation, will not tolerate this kind of behavior. Mr. President, I proudly cosponsor this legislation which will make the Hate Crimes Statistics Act a significant and permanent addition to our framework of anticrime laws.

By Mr. SPECTER:

S. 1625. A bill to provide for the fair consideration of professional sports franchise relocations, and for other purposes; to the Committee on the Judiciary.

THE PROFESSIONAL SPORTS FRANCHISE RELOCATION ACT OF 1996

Mr. SPECTER. Mr. President, the purpose of my seeking recognition is to introduce legislation that would provide for an antitrust exemption for the National Football League on the subject of franchise moves, because that has become such a major problem in the United States. Note the recent move of the Cleveland Browns to Baltimore, and previous moves of the Cardinals from St. Louis to Phoenix, of the Rams from Los Angeles to St. Louis, of the Colts from Baltimore to Indianapolis, and the tremendous dislocations that these moves have caused not only to sports fans who have a very close relationship with their team —really, America is in love with sports and it carries from the high school to the college and professional level—but to all Americans. We have recently seen the Pirates saved in the city of Pittsburgh because of the ability of professional baseball to control franchise moves, which is not possible for professional football, because baseball has a generalized exemption to the antitrust laws, whereas football does not.

This is a matter which has enormous financial implications for the cities involved. There are thousands of jobs involved in hotels, restaurants, commercial opportunities, and more than even the financial matters and the status as a big-league city. As a Senator from Pennsylvania, with major sports teams in my State, it is a matter of very, very significant importance. It first came to my attention personally in my early years in the Senate, back in 1982, when Dan Rooney, the owner of the Steelers, approached me with then-Commissioner Pete Rozelle seeking hearings in the Judiciary Committee on the then-pending move of the Raiders from Oakland to Los Angeles. Senator THURMOND, then chairman of the Judiciary Committee, scheduled those hearings. They were very important hearings, which, regrettably, did not stop the move of the Raiders from Oakland to Los Angeles. Then we have seen the Raiders move back from Los Angeles to Oakland, and it led me to introduce a series of bills, as others have, on this very important subject. These are delineated in a fuller statement, which I will have made a part of the RECORD at the conclusion of this brief presentation.

I believe, Mr. President, that legislation is necessary in this area to provide stability for professional football. It is my hope, as we move through this legislative process, that we will receive from football, as well as from baseball, for the preservation of their antitrust exemption, some consideration that will result in the avoidance of some cities putting up vast sums of money, like Baltimore is putting up some $200 million to bring the Browns to Baltimore from Cleveland, according to press reports. This antitrust exemption applies, as well, to basketball and hockey. Again, it is very important to have stability in those leagues so they can avoid dislocations and having franchises moved because of the threat of judicial holdings that the antitrust laws are violated when the league attempts to block a team from relocating.

My legislation does contain a provision that where a team moves and it leaves the city at a loss because of infrastructure changes the city has made, or contractual obligations, the moving team has to reimburse the city for its share of that public debt. This is an idea brought to me by the distinguished mayor of Pittsburgh, Mayor Tom Murphy. It is based on a resolution adopted by the Conference of Mayors. My bill also has a provision that requires that when a team moves from a city, if the league expands, that city will have the first opportunity—in effect, the right of first refusal—to be considered for an expansion team. The bill does not impose an obligation on the league, because there are many complicating factors that the league has to consider in deciding where a team should be located.

But we have seen tremendous instability in professional sports with these franchise moves. My own concern arose a long time ago when the Dodgers moved from Brooklyn to Los Angeles. I thought Los Angeles ought to have a team, but not the Dodgers. They ought to have had an expansion team. At the same time there was the move of the Giants to San Francisco from New York.

This legislation builds upon previous bills of mine, which I have specified in my longer statement. It is a part of the process, and I believe we need to have a dialog with the commissioners on the whole variety of issues confronting sports, as I have with Commissioner Tagliabue, talking about, for example, the need for multipurpose stadiums—with objections now to using the Vet in Philadelphia or Three Rivers in Pittsburgh for multiple sports—using, for example a kidney-shaped design to accommodate both football and baseball. We must try to see to it that we have stability and we do not impose enormous burdens on the taxpayers for new stadiums, but that we retain the big-league-city status of current markets that support their teams and expand the leagues, where appropriate, and find some way to stabilize professional sports with revenue sharing and salary caps to protect small-market teams. These issues raise complex matters which are yet to be worked out, but this bill is a start to addressing some of the issues facing professional football, basketball, and hockey.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Sports Franchise Relocation Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) professional sports teams foster a strong local identity with the people of the cities and regions in which they are located, providing a source of civic pride for their supporters;

(2) professional sports teams provide employment opportunities, revenues, and a valuable form of entertainment for the cities and regions in which they are located;

(3) in many communities, there are significant public investments associated with professional sports facilities;

(4) it is in the public interest to encourage professional sports leagues to operate under policies that promote stability among their member teams and to promote the equitable resolution of disputes arising from the proposed relocation of professional sports teams; and

(5) professional sports teams travel in interstate commerce to compete, and utilize materials shipped in interstate commerce, and professional sports games are broadcast nationally.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "antitrust laws" shall have the meaning given to such term in the first section of the Clayton Act (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(2) the term "home territory" means the geographic area within which a member team operates and plays the majority of its home games, as defined in the governing agreement or agreements of the relevant league on July 1, 1995, or upon the commencement of operations of any league after such date;

(3) the term "interested party" includes—

(A) any local government that has provided financial assistance, including tax abatement, to the facilities in which the team plays;

(B) a representative of the local government for the locality in which a member team's stadium or arena is located;

(C) a member team;

(D) the owner or operator of a stadium or arena of a member team; and

(E) any other affected party, as designated by the relevant league;

(4) the term "local government" means a city, county, parish, town, township, village, or any other general governmental unit established under State law;

(5) the terms "member team" and "team" mean any team of professional athletes—

(A) organized to play major league football, basketball, or hockey; and

(B) that is a member of a professional sports league;

(6) the term "person" means any individual, partnership, corporation, or unincorporated association, any combination or association thereof, or any political subdivision;

(7) the terms "professional sports league" and "league" mean an association that—

(A) is composed of 2 or more member teams;

(B) regulates the contests and exhibitions of its member teams; and

(C) has been engaged in competition in a particular sport for more than 7 years; and

(8) the terms "stadium" and "arena" mean the principal facility within which a member team plays the majority of its home games.

SEC. 4. ACTIONS AUTHORIZED.

The antitrust laws shall not apply to a professional sports league's enforcement or application of a rule authorizing the membership of the league to decide whether or not a member team of such league may be relocated.

SEC. 5. PROCEDURAL REQUIREMENTS.

(a) NOTICE.—

(1) IN GENERAL.—Any person seeking to change the home territory of a member team shall furnish notice of such proposed change not later than 210 days before the commencement of the season in which the member team is to play in such other location.

(2) REQUIREMENTS.—The notice shall—

(A) be in writing and delivered in person or by certified mail to all interested parties;

(B) be made available to the news media;

(C) be published in one or more newspapers of general circulation within the member team's home territory; and

(D) contain—

(i) an identification of the proposed new location of such member team;

(ii) a summary of the reasons for the change in home territory based on the criteria listed in subsection (b)(2); and

(iii) the date on which the proposed change would become effective.

(b) PROCEDURES.—

(1) ESTABLISHMENT.—Prior to making a decision to approve or disapprove the relocation of a member team, a professional sports league shall establish applicable rules and procedures, including criteria and factors to be considered by the league in making decisions, which shall be available upon request to any interested party.

(2) CRITERIA TO BE CONSIDERED.—The criteria and factors to be considered shall include—

(A) the extent to which fan loyalty to and support for the team has been demonstrated during the team's tenure in the community;

(B) the degree to which the team has engaged in good faith negotiations with appropriate persons concerning terms and conditions under which the team would continue to play its games in the community or elsewhere within its home territory;

(C) the degree to which the ownership or management of the team has contributed to any circumstance that might demonstrate the need for the relocation;

(D) the extent to which the team, directly or indirectly, received public financial support by means of any publicly financed playing facility, special tax treatment, or any other form of public financial support;

(E) the adequacy of the stadium or arena in which the team played its home games in the previous season, and the willingness of the stadium, arena authority, or local government to remedy any deficiencies in the facility;

(F) whether the team has incurred net operating losses, exclusive of depreciation or amortization, sufficient to threaten the continued financial viability of the team;

(G) whether any other team in the league is located in the community in which the team is located;

(H) whether the team proposes to relocate to a community in which no other team in the league is located;

(I) whether the stadium authority, if public, is opposed to the relocation; and

(J) any other criteria considered appropriate by the professional sports league.

(c) HEARINGS.—In making a determination with respect to the location of such member team's home territory, the professional sports league shall conduct a hearing at which interested parties shall be afforded an opportunity to submit written testimony and exhibits. The league shall keep a record of all such proceedings.

SEC. 6. JUDICIAL REVIEW.

(a) IN GENERAL.—A decision by a professional sports league to approve or disapprove the relocation of a member team may be reviewed in a civil action brought by an interested party subject to the limitations set forth in this section.

(b) VENUE.—

(1) IN GENERAL.—Subject to paragraph (2), an action under this section may be brought only in the United States District Court for the District of Columbia.

(2) EXCEPTION.—If the home territory of the member club or the proposed new home territory of the member club is within 50 miles of the District of Columbia, an action under this section may be brought only in the United States District Court for the Southern District of New York.

(c) TIME.—An action under this section shall be brought not later than 14 days after the formal vote of the league approving or disapproving the proposed relocation.

(d) STANDARD OF REVIEW.—Judicial review of a decision by a professional sports league to permit or not to permit the relocation of a member team shall be conducted on an expedited basis, and shall be limited to—

(1) determining whether the league complied with the procedural requirements of section 5; and

(2) determining whether, in light of the criteria and factors to be considered, the league's decision was arbitrary or capricious.

(e) REMAND.—If the reviewing court determines that the league failed to comply with the procedural requirements of section 5 or reached an arbitrary and capricious decision, it shall remand the matter for further consideration by the league. The reviewing court may grant no relief other than enjoining or approving enforcement of the league decision.

SEC. 7. MISCELLANEOUS.

(a) PAYMENT OF DEBTS.—

(1) IN GENERAL.—Any team permitted by a professional sports league to relocate its franchise to a different home territory from a publicly owned facility that remains subject to debt for construction or improvements shall pay to the facility owner, on a current basis until the retirement of that debt, its proportionate share, based upon dates of facility usage during the 12 months prior to the notice of the team's intent to relocate, of the existing debt service on such obligations.

(2) EFFECT ON EXISTING RIGHTS.—This subsection shall not affect a stadium authority's rights, if any, to seek specific enforcement of its lease or a club's rights, if any, to seek a judicial determination that its lease has been breached.

(b) COMPETITION.—Any community from which a professional sports league franchise relocates under this Act shall receive 180 days' prior notice of any league decision to expand and an opportunity to compete for such an expansion franchise on grounds no less favorable than those afforded to other communities.

SEC. 8. EFFECTIVE DATE.

This Act shall apply to any league action addressing relocation of the home territory of a member team that occurs on or after June 1, 1995, and to any lawsuit addressing such league action filed after June 1, 1995.

ADDITIONAL COSPONSORS

S. 47

At the request of Mr. SARBANES, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 47, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 295, a bill to permit labor-management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 529

At the request of Mr. GRAHAM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 529, a bill to provide, temporarily, tariff and quota treatment equivalent to that accorded to members of the North American Free Trade Agreement [NAFTA] to Caribbean Basin beneficiary countries.

S. 607

At the request of Mr. WARNER, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Tennessee [Mr. THOMPSON] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 956

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 956, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1093

At the request of Mr. REID, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1093, a bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the Act, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE JOINT RESOLUTION 49

At the request of Mr. KYL, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 49, a joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. MCCAIN, his name was withdrawn as a cosponsor of Senate Concurrent Resolution 3, a concurrent resolution relative to Taiwan and the United Nations.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. THOMAS, the names of the Senator from Virginia [Mr. ROBB], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from North Dakota [Mr. DORGAN], the Senator from Idaho [Mr. CRAIG], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nevada [Mr. BRYAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress regarding proposed missile tests by the People's Republic of China.

AMENDMENT NO. 3511

At the request of Mr. CHAFEE his name was added as a cosponsor of Amendment No. 3511 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

AMENDMENT NO. 3513

At the request of Mr. COATS the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Maine [Ms. SNOWE] were added as cosponsors of Amendment No. 3513 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

AMENDMENT NO. 3520

At the request of Mr. WELLSTONE the names of the Senator from Connecticut [Mr. DODD], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Amendment No. 3520 proposed to H.R. 3019, a bill making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

At the request of Mr. CONRAD his name was added as a cosponsor of Amendment No. 3520 proposed to H.R. 3019, supra.

AMENDMENTS SUBMITTED

THE 1996 BALANCED BUDGET DOWNPAYMENT ACT, II

HATFIELD AMENDMENT NO. 3553

Mr. HATFIELD proposed an amendment to amendment No. 3466 proposed by him to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes; as follows:

On page 412, line 23, strike "$497,670,001" and insert "$498,920,000".

On page 412, line 24, strike "1997," and insert "1997, of which $2,000,001 shall be available for 9 activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533),".

At the appropriate place insert the following:

SEC. . CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473, provided that the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall not be effective if:

(1) a competing license application is filed within 90 days of the date of enactment of this act, or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

On page 577, between lines 23 and 24, insert the following new section:

Sec. . Notwithstanding any other provision of law, in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996, (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

At the end of the general provisions in chapter 8 (relating to the Department of Defense) of title II (relating to emergency supplemental appropriations for fiscal year 1996), add the following:

Sec. 804. (a)(1) Section 1177 of title 10, United States Code, relating to mandatory discharge or retirement of members of the Armed Forces infected with HIV–1 virus, is repealed.

(2) The table of sections at the beginning of chapter 59 of such title is amended by striking out the item relating to section 1177.

(b) Subsection (b) of section 567 of the National Defense Authorization Act for Fiscal year 1996 is repealed.

On page 754, before the heading on line 5, insert the following:

(TRANSFER OF FUNDS)

Sec. . Of the funds appropriated or otherwise made available in title IV of the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the paragraph "Research Development, Test, and Evaluation, Air Force", $44,900,000 are transferred to and merged with funds appropriated or otherwise made available under title II of that Act under the paragraph "Operation and Maintenance, Air Force" and shall be available for obligation and expenditure for the operation and maintenance of 94 B–52H bomber aircraft in active status or in attrition reserve.

On page 754, before the heading on line 5, insert:

Sec. . Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test, and Evaluation, Defensewide", $500,000 of the funds provided for the Advanced Research Projects Agency may be available to purchase photographic technology to support research in detonation physics: *Provided*, That the Director of Defense Research and Engineering shall provide the congressional defense committees on Appropriations with a plan for the acquisition and use of this instrument no later than April 29, 1996.

On page 754, before the heading on line 5, insert:

Sec. . Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test, and Evaluation, Defensewide", up to $2,000,000 of the funds provided for the Joint DOD–DOE Munitions Technology Development program element shall be used to develop and test an open-architecture machine tool controller.

On page 770, after line 4 of the Committee substitute, insert the following new section:

Sec. . The Secretary shall advance emergency relief funds to the State of Missouri for the replacement in kind of the Hannibal Bridge on the Mississippi River damaged by the 1993 floods notwithstanding the provisions of section 125 of title 23, United States Code: Provided, That this provision shall be subject to the Federal Share provisions of section 120, title 123, of United States Code.

On page 643, after line 3 of the Committee substitute, insert the following new paragraph:

Of the amount made available under this heading, notwithstanding any other provision of law, $13,000,000 shall be for a grant to Watertown, South Dakota for the construction of wastewater treatment facilities.

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

Sense of the Senate.—It is the Sense of the Senate that the Conference on S. 1594, making Omnibus Consolidated Rescissions & Appropriations for Fiscal Year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any federal disaster assistance.

SEC. . SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.

Sense of the Senate.—It is the Sense of the Senate that Congress and the relevant committees of the Senate shall examine the manner in which federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any federal assistance, providing for such funds out of existing budget allocation rather than taking the expenditures off budget and adding to the federal deficit.

Sec. . None of the funds made available by this Act or any previous Act shall be expended if such expenditure would cause total fiscal year 1996 non-defense discretionary expenditures for:

Agriculture, rural development and related programs or activities contained in this or prior year Acts to exceed $13,581,000,000;

Commerce, Justice, State, the Judiciary and related programs or activities contained in this or prior year Acts to exceed $23,762,000,000;

Energy and water development programs or activities contained in this or prior year Acts to exceed $9,272,000,000;

Foreign operations programs or activities contained in this or prior year Acts to exceed $13,867,000,000;

Interior and related programs or activities contained in this or prior year Acts to exceed $13,215,000,000;

Labor, health and human services, education and related programs or activities contained in this or prior year Acts to exceed $68,565,000,000;

Transportation and related programs or activities contained in this or prior year Acts to exceed $36,756,000,000; and

Veterans Affairs, Housing and independent agencies' programs or activities contained in this or prior year Acts to exceed $74,270,000,000: *Provided*, That the President shall report to the Committees on Appropriations within 30 days of the enactment into law of this Act on the implementation of this section: *Provided further*, That no more than 50 percent of the funds appropriated or otherwise made available for obligation for non-defense programs and activities in title II—Emergency Appropriations—of this Act and containing an emergency designation shall be expended until the report mentioned in the preceding proviso is transmitted to the Committees on Appropriations.

At the appropriate place in the bill insert the following:

SECTION 1. DESIGNATION.

The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known as designated as the "Jonathan M. Wainwright Memorial VA Medical Center."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in section 1 shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center."

On page 39, above the title on line 10, insert the following:

Sec. . (a) State Compatibility With Federal Bureau of Investigation Systems.—(1) The Attorney General shall make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) Uses.—The executive officer of each State shall use the funds made available under this subsection in conjunction with units of local government, other States, or combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(C) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(D) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(b) Eligibility.—To be eligible to receive a grant under this section, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(c) Interstate Compacts.—A State may enter into a compact or compacts with another State or States to carry out this section.

(d) Allocation.—The Attorney General shall allocate the funds appropriated under subsection (e) to each State based on the following formula:

(1) .25 percent shall be allocated to each of the participating States.

(2) Of the total funds remaining after the allocation under paragraph (1), each State

shall be allocated an amount that bears the same ratio to the amount of such funds as the population of such State bears to the population of all States

(3) APPROPRIATION.—$11,800,000 is appropriated to carry out the provisions in this section and shall remain available until expended.

On page 755, above the title on line 3, insert the following:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 104-107, $25,000,000 are rescinded.

SEC. . PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

On page 461, line 14, of the pending Hatfield amendment, insert the following, before the period:

": *Provided*, That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations acts, $200,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin Region".

On page 756, between lines 10 and 11, insert the following:

SEC. 1103. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

In the modification to amendment No. 3466, identified as section 3006, change the instructions to read, "On page 754, after line 19, insert:";

In the modification to amendment No. 3466, identified as section 3007, insert the following instructions: "On page 754, before the heading on line 5, insert:"

In amendment No. 3510, change the instructions to read, "On page 754, before the heading on line 5, insert:".

At the appropriate place, insert the following new section:

SEC. . COMPOSITION OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 637(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104-52, 109 Stat. 509) is amended—

(1) by striking "thirteen" and inserting "seventeen", and

(2) in subparagraphs (B) and (D)—

(A) by striking "Two" and inserting "Four", and

(B) by striking "one from private life" and inserting "three from private life".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996.

McCAIN AMENDMENT NO. 3554

Mr. McCAIN proposed an amendment to amendment No. 3553 proposed by Mr. HATFIELD to amendment No. 3466 proposed by Mr. HATFIELD to the bill H.R. 3019, supra; as follows:

On page 13, line 5 of amendment No. 3553, strike "shall" and insert "may".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Tuesday, March 19, 1996, to receive testimony from the unified commanders on their military strategies, operational requirements, and the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, to conduct a nominations hearing of the following nominees: Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, March 19, 1996, session of the Senate for the purpose of conducting a hearing on oversight of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 10 a.m. in SD-226 to hold a hearing on "Reauthorization of the Hate Crimes Statistics Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GRAMS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 9 a.m. in SH-216 to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, to hold hearings on the Asset Forfeiture Program—A Case Study of the Bicycle Club Casino.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 19, 1996, at 10 a.m. to hold hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. GRAMS. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services authorized to meet at 9 a.m. on Tuesday, March

19, 1996, in open session, to receive testimony on Department of Navy Expeditionary Warfare Programs in review of the Defense authorization request for fiscal year 1997 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

APPROPRIATIONS FOR ADULT EDUCATION AND LITERACY

• Mr. SIMON. Mr. President, last Thursday I offered an amendment to the omnibus appropriations bill to restore funding for three Federal literacy programs. The Senate will vote on this amendment tomorrow.

Adult education and literacy programs are essential to reducing welfare dependency, crime, and unemployment. Yet all Federal, State, and local public and private nonprofit literacy programs combined serve only 10 percent of those in need.

Last year, I had the pleasure of meeting with a group of new readers who had recently completed basic literacy programs. These individuals shared with me the difficulties they had faced and how learning how to read and write had changed their lives for the better. I was so struck by their stories that I contacted their Senators encouraging them to meet with their States' new readers. I do not know how many of my colleagues took me up on this offer, but I trust that those who did found this experience as informative and as inspiring as I did.

I also asked one of the women who visited me, Elaine Randall, to write out her story, as I thought it was particularly moving. She was kind enough to send it along to me. I ask that her account be printed in the RECORD.

The letter follows:

Dear Senator SIMON:

Thank you for meeting with me and the other adult learners who were in Washington for the National Institute of Literacy (NIFL) work group meeting on July 23–24. These 20 adult learners from around the country met with NIFL staff to open a dialogue on the students' views of literacy policy and practices, and to explore ways to take a more active role in shaping them.

We were chosen as participants in this NIFL student work group for our local, state, and national literacy involvement. Besides receiving adult basic education or English as a Second Language instruction, we are student leaders "giving back"—working towards solutions. We are not the only ones out there doing this. We are only a handful of adult learners who start and lead student support groups; speak to encourage others to join a literacy program; encourage businesses to fund literacy organizations; and advise our programs on ways to improve recruitment, retention, and learning gains. These are only a few examples of the kinds of contributions students all over the country are making to "give back" as much as they "get" from the literacy field.

Each of us has worked long and hard to become contributors in the literacy field. We have been improving our basic reading and writing skills and developing our leadership abilities. This is where we are now, but it's not where we started. As non- or low-level readers, each of us has had different experiences throughout our lives. However, those experiences and the feelings and the emotions they caused were very similar.

Being able to read is expected daily in American life. Before an adult literacy program started in my area, it seemed like there was no chance for me to learn how to read. My choices in life were severely limited—I constantly guarded against being put into situations where I would have to read and write. I discovered how society mistreats those who cannot read.

While other children were learning to read and write in school, I learned early on what it meant to be illiterate in our society, and why it was important to cover it up and how to do it. By second grade all my classmates knew I was behind, which made me a target of their taunting. Kids who were friends in my neighborhood did not care to talk with me in class for fear of being called stupid—"If you talk with a dummy, you must be a dummy too." My best friend was older than me and didn't know I was having trouble with reading. When my third grade teacher began keeping me after school every day, to give me more time to do classwork, my best friend didn't understand why I had to stay instead of walking home with her. I couldn't tell her, because I had learned the year before what happens when people find out you can't read.

I always wanted to learn and know what other people knew, but no matter how hard I tried, I couldn't catch up. School seemed like a prison where I was being punished for not being smart enough. I wanted to drop out when I became old enough.

By the time I was in high school, I had become a master in "school survival." School survival was going to school everyday, knowing no matter how hard I tried, I was still going to fail. So, I learned to balance between trying hard enough to please my teachers without excessively tormenting myself in the process. Another part of my school survival was to figure out what I would need to graduate: how many credits, which courses were the easiest, and the minimum number of academic classes I would have to take.

I realized I'd need a high school diploma in order to help cover up my illiteracy in the future—especially when it came to finding a job. I knew an employer would be less likely to suspect I couldn't read very well if I had a high school diploma. The day I graduated, I tried to read my diploma, but I could only read a few words. Nonetheless, I felt I had earned it through hard work and a lot of tears.

It was not easy to find a job that didn't require reading. My employment options were limited since I did not have a trade. I had tried taking some trade classes in high school. I could understand the theory of what the teachers were saying, but didn't learn what I needed to know—that was in a book. I've always been a hard worker and knew if I could get my foot in the door somewhere, I would do a good job. After identifying a job in manufacturing, I still had to fill out the job application as well as read and sign forms. To this day, I don't know what I signed. I could only hope I would not do something that violated what was in those forms.

I went as far as I could in jobs with the minimum amount of reading or writing involved. My supervisors considered me a valuable employee and never suspected I had trouble reading. I felt I had the potential to do more. When a literacy program for adults started at my local library, I finally had an opportunity to get the help I needed so I could do more.

It wasn't until a few years ago that I discovered the reason why I had so much trouble learning to read and write. I have a language-based learning difference—clinically diagnosed dyslexia and attention deficit disorder. At least now I know what I'm dealing with. It was not my fault—I was smart enough. What I needed was a teaching and learning method that worked for me.

There is a difference between learning to read and reading to learn. I first needed to learn how to read and that has taken time. I've been working on my education for almost nine years and I am still taking classes two nights a week. During the same time, I have had to work to support myself. Like most adults, I do not have the luxury of going back to school full-time because I must fulfill other obligations and responsibilities.

There is no "quick fix" solution—two years and you're finished. It is a long process. It is one we all must agree to commit to. There are many more adults like me who, with the right help, can get better jobs and lead more productive lives. They, too, can begin to "give back" to the system.

Thank you for your commitment to help improve the adult literacy system. Around the country, there are many adult learners equally committed to improving the system in addition to their own education. It's great to know we have people like you working with us to make it possible for adults who cannot read, write, or speak English to get the help they need.

Sincerely,

ELAINE W. RANDALL.•

THE GAMBLING LOBBY VERSUS FRANK WOLF

• Mr. SIMON. Mr. President, Congressman FRANK WOLF is a Republican and I am a Democrat, but we have joined with Senator LUGAR and others in proposing a commission to look at where this Nation is going and the question of legalized gambling.

The most casual observer must recognize that we are headed for some problems.

I was pleased to see the editorial in the Washington Post, "The Gambling Lobby v. Frank Wolf," which I ask to be printed in the RECORD at the conclusion of my remarks.

The reality is that one of the reasons the gambling lobby is so effective is the huge amounts of campaign contributions that are provided.

And, as we know from indictments and convictions across the land, the gambling gentry do not hesitate, from time to time, to get into illegal activity to promote their enterprises.

I am proud of my colleague, FRANK WOLF, for what he is doing, as I am proud of Senator RICHARD LUGAR and the other cosponsors in the Senate.

The Post editorial follows:

THE GAMBLING LOBBY V. FRANK WOLF

A funny thing is happening with the gambling issue in the House. Rep. Frank Wolf (R-Va.) has been pressing for a useful bill to create a national commission to study the economic and social impact of the spread of gambling, and the bill was making good progress. Mr. Wolf's bill has already cleared the Judiciary Committee and is supposed to go to the floor of the House in early March.

But in the interim, the bill has gone to the House Resources Committee, which claims jurisdiction because the measure affects gambling on Indian reservations. House Resources now plans another set of hearings on the bill, and Mr. Wolf is understandably worried that the hearings might be used to further delay consideration. Given the wide support the bill has—it's hard to argue against a national study of gambling's spread or to pretend there are no national implications to this trend—the danger is that the bill will be killed not directly but by endless delay and amendment.

The American Gaming Association (the gambling industry likes the 17th century drawing room sound of "gaming") insists that it is not opposed to a national study of gambling. But it sees the Wolf bill, as written, as just the first step in an effort by Congress to impose some federal rules on an industry that has so far been largely regulated by the states. It also complains that the commission as set up in the Wolf bill now has no representation from state officials (governors or legislators), even though one of the main purposes of the committee is to provide more objective information to local officials than they usually get from the gambling industry.

These objections strike us mostly as clever ways for the industry to gum up the progress of useful legislation. In particular, it would be foolish to limit the commission's mandate. With the spread of gambling—especially to Indian reservations, whose casinos have ways around state regulation—there may well be a case for some national rules. If any event, it's certainly an issue the commission should debate.

The gambling industry has a great deal of money, has been making large campaign contributions and recently hired some of Washington's most influential lobbyists. We have no doubt that the industry can bring a lot of pressure against Mr. Wolf's bill and construct some ingenious stratagems to weaken it. The issue is whether the House leadership will play along, mouthing kind words about Mr. Wolf's efforts while trying to undermine them. The leaders should not play that game. They should keep the promise and let an undiluted version of the Wolf bill go to the floor on schedule.•

MAIL BALLOT VOTING

• Mr. SIMON. Mr. President, I suppose there is no columnist whose writings I read, and with whom I agree more consistently, than Carl Rowan.

And his recent column about the mail voting experiment in Oregon is no exception.

Every move forward to enlarging the voter franchise has been resisted. That includes giving voting rights to African-Americans, native Americans and to American women.

And the secret ballot which we prize so much today was not part of our early history.

We have gradually made improvements, despite the objections of many people who were wedded to the status-quo.

I do not suggest that on the basis of the Oregon experiment, we should nationally move to mail voting yet, but I would like to see several States try it, because my instinct is that it is likely to be an improvement over the present system.

I ask that the Carl Rowan column be printed in the RECORD.

The column follows:

A KNOCK AT MAIL BALLOTS IS A KNOCK AT DEMOCRACY

(By Carl Rowan)

The political mentalities of the 1770s and 1950s are bursting out all over now that Oregon has had a successful mail ballot to fill the seat of disgraced Sen. Bob Packwood.

I hear cries that the mail ballot cheapened the election, robbing the vote of the sacred majesty that the framers of our government intended.

I hear complaints that the mail ballot permitted uneducated people "who don't even know the names of their congressmen" to vote.

We're told that it allowed all people to vote without expending the small amount of energy and sacrifice of going to a neighborhood polling place, undermining the notion that "the vote is a precious thing."

This is swallowed by some as the sentimentality of patriotism, but it is, in fact, undemocratic gibberish that ought not override the fact that the Oregon election lifted the percentage of voters to about 65 percent of those eligible, a figure that made democratic participation almost as high as in European countries. It saved Oregon about $1 million. And it produced results that any Republican could applaud.

So we are to deplore this election as a violation of what "the framers" intended? I remember that the framers counted black citizens as three-fifths of a vote. And women as zero percent of a vote. Naturally, neither I nor my wife is much impressed by a reminder of what the framers believed about the semi-slave status of African-American males, or women.

The framers created a situation under which many states could decree that only the propertied could vote. When that idea and "poll tax" requirements were beaten down, polling places were located where millions of poor, ill minority citizens could not get to because they lacked transportation or couldn't leave their jobs.

Nothing in a neighborhood polling place could be more sacred to deprived citizens than casting their first ballot—primarily because the mail ballot allowed them to do so.

So spare me this balderdash about how this country must return to a respect for what "the framers" intended!

I find especially offensive the complaints that mail ballots were cast by "uninformed, uneducated" citizens. In the 1950s some states had laws requiring "literacy tests" for those seeking to vote. That was implemented in ways where white registrars could deny the ballot to blacks who couldn't answer "correctly" such questions as "How many bubbles in a bar of soap?"

Everyone I've heard deploring the mail ballot would be incensed if anyone accused them of harboring the racist and sexist views of the framers. Yet they peddle those views almost mindlessly.

We either treasure democracy or we don't. If we do, the more of it the better. So I say of the Motor Voter law and mail ballot: "Welcome and hooray!"•

SENATOR COHEN: WHY I AM LEAVING

• Mr. SIMON. Mr. President, I received a note in the mail from Marion Plancon of Staten Island, NY, and she enclosed an op-ed piece written by our colleague, Senator WILLIAM COHEN, for the Los Angeles Times.

Somehow I missed seeing the original publication of it.

But I have found through the years on the Senate floor and with my service with him in the House, that our colleague, BILL COHEN usually makes sense.

And his call for greater civility, less hostility, more reason, and less shouting is a call that should be heeded in this body, and also by the American public.

I wish that the extremes of partisanship and hostility were only in the House and Senate or only between the administration and Congress.

Unfortunately, we do reflect the American public sometimes more than we should.

We should be a reconciling force, and I fear that we are not.

I ask that the WILLIAM COHEN op-ed piece be printed in the RECORD.

The column follows:

[From the Los Angeles Times]

WHY I AM LEAVING

(By William S. Cohen)

Last week, I announced that I would not seek reelection to the Senate for a fourth term. I have been moved by the reaction of my constituents and colleagues. Many expressed sadness over my decision, and nearly all were perplexed. Why are so many leaving the Senate? How can the center hold? Won't the system fall apart?

It is not a case, to continue with Yeats's words, "that the best lack all conviction while the worst are full of passionate intensity."

Such a poetic construct presumes too much and maligns the character and capabilities of those who have most recently arrived in Congress and those who have chosen to remain.

Those of us leaving the Senate do so for unique and deeply personal reasons. I suspect, however, that we share a common level of frustration over the absence of political accord and the increase in personal hostilities that now permeate our system and our society.

Increasingly, public officials face: Too little time to reason and reflect; the hair-trigger presumption of guilt pulled at the slightest whisper of impropriety; the schizophrenia of a public that wants less government spending, more government services and lower taxes, and the unyielding demands of proliferating single-issue constituencies.

Too many hours are devoted to endless motion without movement, interminable debate without decision and rhetorical finger-pointing without practical problem-solving.

Our republic, we know, was designed to be slow-moving and deliberative. Our Founding

Fathers were convinced that power had to be entrusted to someone, but that no one could be entirely trusted with power. They devised a brilliant system of checks and balances to prevent the tyranny of the many by the few. They constructed a perfect triangle of allocated and checked power. Euclidean in symmetry and balance. There could be no rash action, no rush to judgment, no legislative mob rule, no unrestrained chief executive.

The difficulty with this diffusion of power in today's cyberspace age is that everyone is in check, but no one is in charge.

But more than the constitutional separation of powers is leading to the unprecedented stalemate that exists today. There has been a breakdown in civil debate and discourse. Enmity at times has become so intense that members of Congress have resorted to shoving matches outside the legislative chambers. The Russian Duma, it seems, is slouching its way toward the Potomac as debate gives way to diatribe.

We are witnessing a gravitational pull away from center-based politics to the extremes on both the right and left. Those who seek compromise and consensus are depicted with scorn as a "mushy middle" that is weak and unprincipled. By contrast, those who plant their feet in the concrete of ideological absolutism are heralded as heroic defenders of truth, justice and the American way.

The departure of centrists from party ranks may be cheered by ideologues in the short term. But unless the American people are willing to embrace one party dominance and governance for extended periods (or turn to the British parliamentary model, which I don't recommend), then elements within the liberal and conservative factions will necessarily move back to the center, toward compromise and, yes, consensus.

The American people are experiencing a great deal of anger and anxiety at this time. The stern virtues of self-discipline and fiscal prudence have given way to the soft vices of mindless consumption and selfish gratification. We are now paying for the wages of our sins, and ironically, our citizens are angry with political leaders who have indulged their appetites, purchased their votes and passed the bills to the next generation. The road to fiscal solvency and sanity will not be easy, and it surely will not be paved with the bloated promises of blandishments of political extremists.

I have devoted nearly a quarter of a century to public service and a search for common ground in a society that is growing in complexity and diversity. Although I have decided to enter the private world to pursue new challenges and opportunities, I remain convinced that the American political system will pass through this transitional phase in our history and return to the center, the place where most people live and a democracy functions best.•

JAMES THOMAS VALVANO

• Mr. MOYNIHAN. Mr. President, March 10, 1996, marked what would have been James Thomas Valvano's 50th birthday. It has been almost 3 years since the Queens, NY, native lost a rather public battle with cancer. The intent here, however, is not to eulogize. And any attempt to do so would pale in comparison to the impassioned eloquence of that offered on this floor by my distinguished friend and colleague from North Carolina, Mr. HELMS on April 28, 1993. I did not know Jim Valvano—barely knew of him. But I am aware of the good work done by the foundation he founded in the final weeks of his life.

On March 4, 1993, Jim Valvano was awarded the inaugural ESPN Arthur Ashe Award for Courage at the American Sports Awards. In an acceptance speech that was widely noted and shall long be remembered, he announced the creation of the V Foundation for Cancer Research. With a Churchillian stoutness of spirit, Valvano set forth the mission:

> It may not save my life. It may save my children's lives. It may save someone you love. . . . [I]t's motto is, "Don't give up, don't ever give up." That's what I'm going to do every minute that I have left . . . so that someone else might survive, might prosper and might actually be cured of this dreaded disease. . . . I'm going to work as hard as I can for cancer research and hopefully, maybe, we'll have some cures and some breakthroughs.

Since that night the V Foundation has raised more than $2.3 million for that mission. Here are just some of the organizations and programs to which the V Foundation has contributed: $250,000 to fund a national public awareness campaign through the NCCR [National Coalition of Cancer Researchers]; $100,000 to fund Dr. Gerold Bepler at Duke Comprehensive Cancer Center; $100,000 to fund a 2-year grant for Dr. Phil Hochhauser at Memorial Sloan-Kettering Cancer Center in New York; $100,000 to the UNC Lineberger Cancer Center for construction of the Jim Valvano Cancer Research Lab; $100,000 to fund Dr. Leland Powell at the University of California at San Diego; $100,000 to fund the research of Dr. Thomas Gajewski at the University of Chicago Comprehensive Cancer Center; $29,000 to the Kosair Children's Hospital in Louisville, KY, for the construction of the Angela Valvano Classroom.

Any basketball coach who carried a collection of Emily Dickinson poems in his gym bag and quoted Edna St. Vincent Millay and Ralph Waldo Emerson to sports reporters most certainly knew the impermanence of athletic achievements. Records are broken, victory banners fade, championship rings tarnish. But when all of these are long forgot, James Thomas Valvano will be remembered to the beneficiaries of the foundation that bears his name. And through them, to us all.

Mr. President, I ask that the entire text of Jim Valvano's remarks at the 1993 ESPN Awards be printed in the RECORD.

The remarks follow:

Thank you. Thank you very much. Thank you. That's the lowest I've ever seen Dick Vitale since the owner of the Detroit Pistons called him in and told him he should go into broadcasting.

I can't tell you what an honor it is, to even be mentioned in the same breath with Arthur Ashe. This is something I certainly will treasure forever. But, as it said on the tape, and I also don't have one of those things going with the cue cards, so I'm going to speak longer than anybody else has spoken tonight. That's the way it goes. Time is very precious to me. I don't know how much I have left and I have some things that I would like to say. Hopefully, at the end, I will have something that will be important to other people, too.

But, I can't help it. Now I'm fighting cancer, everybody knows that. People ask me all the time about how you go through your life and how's your day, and nothing is changed for me. As Dick said, I'm a very emotional and passionate man. I can't help it. That's being the son of Rocco and Angelina Valvano. It comes with the territory. We hug, we kiss, we love.

When people say to me how do you get through life or each day, it's the same thing. To me, there are three things we all should do every day. We should do this every day of our lives. Number one is laugh. You should laugh every day. Number two is think. You should spend some time in thought. Number three is, you should have your emotions moved to tears, could be happiness or joy. But think about it. If you laugh, you think and you cry, that's a full day. That's a heck of a day. You do that seven days a week, you're going to have something special.

I rode on the plane up today with Mike Krzyzewski, my good friend and a wonderful coach. People don't realize he's 10 times a better person than he is a coach, and we know he's a great coach. He's meant a lot to me in these last 5 or 6 months with my battle. But when I look at Mike, I think, we compete against each other as players. I coached against him for 15 years, and I always have to think about what's important in life to me are these three things. Where you started, where you are and where you're going to be. Those are the three things that I try to do every day. When I think about getting up and giving a speech, I can't help it. I have to remember the first speech I ever gave.

I was coaching at Rutgers University, that was my first job, oh, that's wonderful [reaction to applause], and I was the freshmen coach. That's when freshmen played on freshmen teams, and I was so fired up about my first job. I see Lou Holtz here. Coach Holtz, who doesn't like the very first job you had? The very first time you stood in the lockerroom to give a pep talk. That's a special place, the lockerroom, for a coach to give a talk.

So my idol as a coach was Vince Lombardi, and I read this book called "Commitment to Excellence" by Vince Lombardi. And in the book, Lombardi talked about the first time he spoke before his Green Bay Packers team in the lockerroom, and they were perennial losers. I'm reading this and Lombardi said he was thinking should it be a long talk, a short talk? But he wanted to be emotional, so it would be brief. So here's what I did. Normally you get in the lockerroom, I don't know, 25 minutes, a half hour before the team takes the field, you do your little X and O's, and then you give the great Knute Rockne talk.

We all do. Speech No. 84. You pull them right out, you get ready. You get your squad ready. Well, this is the first one I ever gave and I read this thing, Lombardi, what he said was he didn't go in, he waited. His team was wondering where is he? Where is this great coach? He's not there. Ten minutes he's still not there. Three minutes before they could take the field Lombardi comes in, bangs the door open, and I think you all remember what great presence he had, great presence. He walked in and he walked back and forth, like this, just walked, staring at the players. He said, "All eyes on me."

I'm reading this in this book. I'm getting this picture of Lombardi before his first game and he said, "Gentlemen, we will be successful this year, if you can focus on three things, and three things only. Your family, your religion and the Green Bay Packers." They knocked the walls down and the rest was history. I said, that's beautiful. I'm going to do that. Your family, your religion and Rutgers basketball. That's it. I had it. Listen, I'm 21 years old. The kids I'm coaching are 19, and I'm going to be the greatest coach in the world, the next Lombardi.

I'm practicing outside of the lockerroom and the managers tell me you got to go in. Not yet, not yet, family, religion, Rutgers basketball. All eyes on me. I got it, I got it. Then finally he said, 3 minutes, I said fine. True story. I go to knock the doors open just like Lombardi. Boom! They don't open. I almost broke my arm. Now I was down, the players were looking. Help the coach out, help me out. Now I did like Lombardi, I walked back and forth, and I was going like that with my arm getting the feeling back in. Finally I said, "Gentlemen, all eyes on me." These kids wanted to play, they're 19. "Let's go," I said. "Gentlemen, we'll be successful this year if you can focus on three things, and three things only. Your family, your religion and the Green Bay Packers. I told them. I did that. I remember that. I remember where I came from.

It's so important to know where you are. I know where I am right now. How do you go from where you are to where you want to be? I think you have to have an enthusiasm for life. You have to have a dream, a goal. You have to be willing to work for it.

I talked about my family, my family's so important. People think I have courage. The courage in my family are my wife Pam, my three daughters, here, Nicole, Jamie, LeeAnn, my mom, who's right here, too. That screen is flashing up there "30 seconds" like I care about that screen right now, huh? I got tumors all over my body. I'm worried about some guy in the back going 30 seconds? You got a lot, hey va fa napoli, buddy. You got a lot.

I just got one last thing, I urge all of you, all of you, to enjoy your life, the precious moments you have. To spend each day with some laughter and some thought, to get your emotions going. To be enthusiastic every day and Ralph Waldo Emerson said, "Nothing great could be accomplished without enthusiasm," to keep your dreams alive in spite of problems whatever you have. The ability to be able to work hard for your dreams to come true, to become a reality.

Now I look at where I am now and I know what I want to do. What I would like to be able to do is spend whatever time I have left and to give, and maybe, some, some hope to others. Arthur Ashe Foundation is a wonderful thing, and AIDS, the amount of money pouring in for AIDS is not enough, but is significant. But if I told you it's 10 times the amount that goes in for cancer research. I also told you that 500,000 people will die this year of cancer. I also tell you that one in every four will be afflicted with this disease, and yet somehow, we seem to have put it in a little bit of the background. I want to bring it back on the front table.

We need your help. I need your help. We need money for research. It may not save my life. It may save my children's lives. It may save someone you love, and ESPN has been so kind to support me in this endeavor and allow me to announce tonight, that with ESPN's support, which means what? Their money and their dollars and their helping me, we are starting the Jimmy V Foundation for cancer research. And its motto is, "Don't give up, don't ever give up." That's what I'm going to do every minute that I have left.

I will thank God for the day and the moment I have. If you see me, smile and give me a hug. That's important to me, too. But try if you can to support, whether it's AIDS or the cancer foundation, so that someone else might survive, might prosper and might actually be cured of this dreaded disease.

I can't thank ESPN enough for allowing this to happen. I'm going to work as hard as I can for cancer research and hopefully, maybe, we'll have some cures and some breakthroughs. I'd like to think, I'm going to fight my brains out to be back here again next year for the Arthur Ashe recipient. I want to give it next year!

I know I gotta go, I gotta go, and I got one last thing and I've said it before and I want to say it again. Cancer can take away all my physical abilities. It cannot touch my mind, it cannot touch my heart and it cannot touch my soul. And those three things are going to carry on forever.

I thank you and God bless you all.●

EVERY MAN A PETER LYNCH

● Mr. SIMON. Mr. President, one of the more informative journals that I read is one called Grant's Interest Rate Observer. It contains information that I find in no other journal.

James Grant, the publisher and editor, also makes observations about a variety of things, and recently he had comments on the suggestion that part of the Social Security fund be invested in the stock market.

Before people start chasing this rainbow, it would be good to read his thoughtful observations which I ask to be printed in full in the RECORD.

The article follows.

[From Grant's Interest Rate Observer, Mar. 1, 1996]

EVERY MAN A PETER LYNCH

In the Nixon years, it was said triumphantly that only a Republican could have opened China. Perhaps the Clinton administration believes that only a Democrat can open Wall Street. On February 17, The New York Times disclosed that a federal advsisory panel will recommend an epochal change in Social Security policy; investing billions of dollars of payroll taxes in the stock market.

For now, of course, the Social Security Trust Fund holds only Treasury securities, $483 billion's worth at last report. In fiscal 1994, $381 billion, in round numbers, was paid into Social Security (via payroll taxes, from employers and employees combined), and $323 billion was paid out. The Treasury issued special, non-negotiable, interest-bearing claims to the Social Security Trust Fund to acknowledge receipt of the difference. The difference, $58 billion, was "invested" only in the sense that it wasn't actually stolen. It was spent. (A Mexican official once told the British journalist James Morgan, apropos of government "investment": "Senõr, the money that was stolen was invested better than the money that was invested.")

In 1974, the Social Security System was consolidated for accounting purposes into the unified federal budget. In effect, a Social Security surplus (such as the nation currently, and temporarily, enjoys) works to reduce the reported federal deficit; a shortfall tends to expand it. It follows that any redeployment of Social Security assets into the stock market would force an identical increase in federal borrowing. So also, a diversion of an individual's payroll taxes into an earmarked equity investment account would force a corresponding rise in federal borrowing—other things being the same.

However, it is always possible that other things would not be the same. Things could improve. A revitalized private sector might generate more tax revenue than even the government could spend, or investment returns might beggar even those of the past five years, causing the much feared $11 trillion unfunded Social Security liability (the difference between the present value of promised benefits and the present value of projected taxes) to melt away like the much feared banking calamity of 1990–91. How often have free markets made short work of allegedly intractable political or economic problems? Often enough, in our experience.

Yet, to us, the heart of the Social Security trial balloon was contained in the Times story's perceptive third paragraph: "Such discussions would have been unthinkable just a few years ago," and in a quotation from the chairman of the Clinton study group, Edward M. Gramlich, professor of economics and dean of the School of Public Policy at the University of Michigan, a few paragraphs below that: "Stocks have outperformed bonds by a singificant margin over long periods of time."

Did anyone in public life remember to put in a good word for stocks at the bottom of the 1969–74 bear market, or on the Tuesday following Black Monday in October 1987? According to the Times, the draft of the report by the Advisory Council on Social Security puts on a brave, bull-market face: "While stock investments would entail 'a slight increase' in risk for Social Security," the paper relates, "the risk would be manageable." And another panel member boldly affirmed: "Beyond the floor of protection provided by Social Security, we should let people participate fully in this economic miracle that we call America." Will the panelist's economic patriotism be just as intense during the next cyclical downswing, we wonder, or will it be subject to revision?

It is almost certainly no accident that the Social Security investment plan came into the world at the same time as Dow 5,500. According to James A. Bianco, Arbor Trading Group, Barrington, Ill., the capitalization of the U.S. stock market at year-end 1995 stood at 87.5% of GDP, the highest such percentage in history. "Likewise," Bianco went on, "the size of available cash, or M-2, to the size of the stock market is the lowest in history at 57.1%. What this suggests is that the stock market is grossly overvalued." Enthusiasts for what would boil down to the greatest bond-for-stock swap in the history of the republic have thought of everything except what the stocks would be worth.●

ADULT EDUCATION FOR FAMILY LITERACY

● Mr. SIMON. Mr. President, a former valued staff member of mine who is now working with the National Institute for Literacy, Alice Johnson, sent me an article that appeared in the magazine, Adult Learning. It is titled, Adult Education for Family Literacy by Thomas G. Sticht, President of the Applied Behavioral and Cognitive Sciences Company in El Cajon, CA. In the midst of budget cutting I hope we will not be short-sighted on this matter of literacy.

There has been a great deal of talk about the growing disparity between the top one-fifth of our population and the lower one-fifth of our population in terms of income.

One of the most effective ways of lifting the lot of the bottom one fifth is to make sure that they have the basic skills that are needed in our society, and that certainly includes reading. There is no single magic bullet for solving this problem. It is a mosaic with many pieces. But literacy is one of the pieces.

The article points out that when we educate adults better, they then feel comfortable in schools and demand and get better education for their children.

Two years ago, I visited 18 schools in the impoverished areas of Chicago and one of the things I heard from teachers over and over was that they wished they had more parental involvement, but frequently the parents do not feel comfortable coming into a school situation because they cannot read and write.

If we diminish our future by cutting back on literacy funding everyone loses.

I urge my colleagues to read the article by Thomas Sticht which I ask to be printed in the Record.

The article follows:

[From Adult Learning, November/December 1995]

ADULT EDUCATION FOR FAMILY LITERACY

(By Thomas G. Sticht)

For nearly a half century, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) has led a worldwide movement to promote the development of literacy programs for adults and primary education for children. Many successes have been documented in both of these programs. Over the last quarter century, the rate of literacy among the earth's adults has declined, but because of population growth, the absolute numbers of illiterate adults continued to grow. However, at the outset of International Literacy Year in 1990, both the rate and the absolute numbers of adult illiterates had declined. Still, there were an estimated 921 million adult illiterates in the underdeveloped nations of the world, and some 42 million low literates in developed nations.

Paralleling the growth of adult literacy education in the world, there has been an increase in the numbers of children enrolled in primary education. Over the last four decades enrollments in underdeveloped nations' primary schools rose from about one-third to over seventy percent of primary aged children. Yet, at the beginning of International Literacy Year in 1990, UNESCO estimated that in developing countries as a whole, some 386 million children and young adults aged from six to seventeen years would not be attending school. They are in a trajectory toward beginning the next generation of illiterate adults.

FAMILY LITERACY

In 1994, the International Year of the Family signaled a new direction for adult and childhood literacy programs worldwide, one that unites adults' literacy and children's primary education. Taking stock of research and experience over the last half century, the United Nations noted that:

The family constitutes a context of informal education, a base from which members seek formal education, and should provide a supportive environment for learning. Literacy has a dramatic effect on the dissemination of ideas and the ability of families to adopt new approaches, technologies and forms of organization conducive to positive social change. Often affected by early school leaving or dropping out, literacy is a prime conditioner of the ability of families to adapt, survive and even thrive in rapidly changing circumstances. Attention should also be given to promoting equal opportunities for girls and young women.

Whereas in the past, there has been tacit recognition of the importance of the literacy education of adults as a key factor in promoting the attendance of children in primary education, the United Nations' statement makes clear that, rather than being regarded as a secondary institution to the schools as educational agents, the family is each society's first and most basic educational institution.

There is evidence to suggest that as developing nations move toward the educational and economic status of industrialized nations, the family will play a greater role in the educational achievement of children. Studies of twenty-nine developing and industrialized nations examined the relative contributions of school quality (e.g., number and quality of textbooks, teacher's educational preparation) versus family background factors (e.g., parents' education levels) on children's achievement in science education. The research revealed that, as nations moved from being less to more developed, the quality of schools diminished as the primary determinant of science achievement, and the influence of family background factors increased. For instance, in India, school quality accounted for ninety percent and home factors only ten percent of the children's variation in science achievement. In Australia, on the other hand, school quality accounted for only twenty percent and home factors eighty percent of the variation in science achievement.

FAMILY LITERACY PROGRAMS

The family literacy concept makes explicit what has generally been implicitly understood, and recognizes the family as an institution for education and learning, and the role of parents as their children's first teachers. The starting point for the development of human resources within a culture is the family. Families provide an intergenerational transfer of language, thought, and values to the minds of their newborn infants and throughout the formative years of their children's lives. Families provide initial guidance in learning to use the cultural tools that will be valued and rewarded within the culture. Families interpret the culture for their children and they mediate the understanding, use, and value placed on the cultural tools for learning and education, of which the capstone tools are language and literacy.

This recognition of the intergenerational role that parents play as family educators places a much higher premium on the importance of adult education than has traditionally been accorded. Up to now adult literacy education programs have generally aimed at making adults literate while the business of making the adults' children literate has been left to the formal school system. Under the family literacy concept, however, it is now recognized that, due to the intergenerational transfer of cognitive skills, including language and literacy, an investment in the literacy education of adults provides "double duty dollars." It improves the educational level of adults and simultaneously improves the educability and school success of the adults' children.

Family literacy programs differ from traditional adult literacy programs in that they are designed to maximize the probability that adults who receive literacy education will actually succeed in transferring aspects of their new beliefs, attitudes, knowledge, and skills intergenerationally to their children.

THE CENTRALITY OF ADULT EDUCATION TO NATIONAL DEVELOPMENT GOALS

In most nations, adult education occupies a tertiary position to the formal schooling of children. However, as noted above, evidence now exists to suggest that adult education, and particularly literacy education for present and potential parents, should occupy a central position in all governments' educational planning. Four interrelated reasons for nations to support greater investments in adult education are summarized below.

1. Better Educated Adults Are More Productive for Society. Supervisors in six manufacturing companies near Chicago reported that adult literacy programs made improvements in job training, job performance, promotability of participants, and productivity, such as scrap reduction, reduced paperwork, and less wastage. Other research found that more literate workers who actually use their literacy skills at work may increase their productivity as much as ten to fifteen percent. Adult literacy education improves work today, reforming schools for children takes decades.

2. Better Educated Adults Provide Better Communities for Learning. At AC Rochester, a supplier of components for General Motors automobile manufacturing in New York State, management, labor union members, and educators got together, and provided adult literacy programs for employees. This helped increase the local tax base for community services by bringing in several new contracts, including a billion dollar contract with Russia.

3. Better Educated Adults Demand and Get Better Schooling for Children. Wider Opportunities for Women in Washington, DC, found that mothers in women's literacy programs spent more time with their children talking about school, helping them with their homework, taking them to the library, and reading to them. They also said they spent more time going to and helping with school activities, they talked more with teachers about their children's education, their children attended school more, showed improvements in their school grades, test scores, and reading.

4. Better Educated Adults Produce Better Educated Children. Better educated parents send children to school better prepared to learn, with higher levels of language skills, and knowledge about books, pencils, and other literacy tools needed for school and life. Better educated mothers have healthier

babies, smaller families, children better prepared to start school, and children who stay in school and learn more.

MAKE EVERY ADULT BASIC EDUCATION CLASS A FAMILY LITERACY CLASS

The San Diego Consortium for Workforce Education and Lifelong Learning (CWELL) operates an Action Research Center (ARC) in the San Diego Community College District, Continuing Education Division. In 1994, the ARC initiated research orchestrated around the theme, "make every adult basic education class a family literacy class." The research included the publication of a simple rating scale in one issue of the Community Exchange, the newspaper that the ARC publishes to disseminate R&D information into the ARC community.

The rating scale asks adults to rate how frequently they perform various parenting activities such as reading to their children, taking them to the library, helping with homework and so forth. A tabulation of responses from 131 adults in five different adult basic education and English as a Second Language (ESL) programs indicated that adults vary greatly in how often they engage in these kinds of activities that can help transfer literacy to their children. These data provide a baseline for comparing parenting activities before the ARC introduces activities to "make every adult education class a family literacy class."

With sound evaluation of these programs, it should be possible to demonstrate that "double duty dollars" can be obtained through the intergenerational transfer of literacy that takes place in adult basic skills education programs. Governments and other sponsors of education programs should know that they can obtain multiplier effects for their investments in adult basic education. They should know that by investing in the education of adults, they can improve the education of children.•

ARAFAT MUST STIFLE EXTREMISTS

• Mr. SIMON. Mr. President, all of us have been stunned by the suicidal missions of extremist in Israel.

And it is the hope of most people around the world, as well as in the Middle East, that the extremists should not prevail and scuttle the peace process.

I was particularly pleased to read in the Chicago Tribune as well as the New York Times, the letter of Ray Hanania, President of the Palestinian American Congress, which I ask to be printed in the RECORD. Mr Hanania is calling on Yasser Arafat to crack down on the extremists.

People of good will of every persuasion should join in this endeavor.

The article follows:

[From the Chicago Tribune]

ARAFAT MUST STIFLE EXTREMISTS

(By Ray Hanania)

CHICAGO.—The Israelis are right about one thing: It is the responsibility of Yasser Arafat, president of the Palestinian Authority, to crack down on extremists who are based in the territories that he controls.

It is not an easy decision to make, but it is one that Arafat must make if the Middle East peace process is to succeed and Palestinians are to have their own state.

Arafat must come to grips with the responsibilities of Democratic leadership. This is no longer a revolution in which internal criticism is hushed for the sake of survival.

While he must learn to tolerate criticism and not jail Palestinian journalists who attack his policies, so too must he learn to be more forceful with those who challenge the foundation of Palestinian democracy.

Palestine is democratic. And Arafat's election is founded on democracy. Democracy requires that leaders no longer need to seek unanimity to justify their actions. Quite the contrary, democracy allows leaders to do what they could not do before—make decisions with the slimmest of majorities.

Realizing that he can never make everyone, especially the extremists, happy with any decision he makes is a necessity if he and the Palestinian people are to survive as a nation.

It is a realization he has yet to come to grips with. And when he does, he will discover that the vast majority of Palestinians support a crackdown but fear public expression of this view. The extremists have and will use violence against their own people to justify their means and achieve their goals.

Our leaders need courage to change this.

In the United States, the Palestinian-American community has spoken loudly, favoring the peace process. While we, as a community, may not totally agree with every detail, the principle of pursuing a peaceful resolution of the Israel-Palestine question is now a mandate for our people.

Arafat cannot make the mistake of believing that he can walk between the moderates and those who advocate violence. The extremists that he must silence are the very same people who, if given the chance, would silence Palestinian democracy and destroy any hopes of establishing a democratic Palestinian state.•

VALLEY HAVEN SCHOOL 20TH ANNIVERSARY HIKE/BIKE/RUN

• Mr. SHELBY. Mr. President, I wish to take a moment and bring to my colleagues' attention the 20th anniversary of the Valley Haven School Hike/Bike/Run. The Valley Haven School, located in Valley, AL, is a school for mentally retarded and multiple handicapped citizens of all ages. Started 37 years ago by volunteers, the school is now professionally staffed and currently offers skilled training to 95 students ranging in age from 3 months to 60 years.

Mr. President, local moneys of $100,000 must be raised each year to meet operating expenses and match State and Federal grants. The primary source of these funds is the annual Hike/Bike/Run, which consists of a 5 or 10 mile walk, an 11 or 22 mile bike ride, a skate-a-thon, a 1, 3.1, or 6.2 mile run, a 5 mile bike ride for children, and the Trike Trek for preschoolers.

Each participant in the Hike/Bike/Run obtains pledges for their participation, and all proceeds go directly to Valley Haven to support the education and training for handicapped students. In 1995, this 1 day fundraiser involved over 1,000 participants and 8,000 pledging sponsors. The event generated over $100,000 in pledges to support the work of the school.

Mr. President, I would like to congratulate and commend Valley Haven and the entire Valley community for displaying such strong support and concern for these special students. This year's Hike/Bike/Run will be held on Saturday, May 4, and I know that the community will once again unite to support this wonderful program and help Valley Haven School help its students.•

LITHUANIAN INDEPENDENCE

• Mr. LEVIN. Mr. President, I rise to honor the 78th anniversary of Lithuania's independence in 1918. This should be a time for remembrance and renewal. It evokes memories of great sadness and also great joy. The long night of Soviet domination and occupation has given way to a new beginning for the Lithuanian people. It is heartening to the world to see that Lithuania's strong and vibrant culture has survived the many years of Soviet control.

Lithuania showed its commitment to joining the free world when it was the first country from the former Soviet Union to formally join the Partnership for Peace in 1994. The faith and courage of the Lithuanian people and the undying efforts and support for Lithuanian independence of Lithuanian-Americans has the respect and admiration of peace-loving people throughout the world. I know that my Senate colleagues join me in honoring Lithuania's independence.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President, pursuant to 22 U.S.C. section 276h through 276k, appoints the Senator from Texas [Mrs. HUTCHISON] as the chairman of the Senate delegation to the Mexico-United States Interparliamentary Union during the second session of the 104th Congress.

UNANIMOUS-CONSENT AGREEMENT—CLOTURE VOTES

Mr. GRAMS. Mr. President, I ask unanimous consent that the two cloture votes scheduled for today be postponed to occur on Thursday, at a time to be set by the majority leader, after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 956

Mr. GRAMS. Mr. President, I ask unanimous consent that at 10 a.m., on Wednesday, the Senate turn to the product liability conference report, that the conference report be considered read, and there be 5 hours for debate, to be equally divided in the usual form, and at 3 p.m., on Wednesday, the Senate proceed to a vote on the motion to invoke cloture, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 227

Mr. GRAMS. Mr. President, I further ask unanimous consent that immediately following the cloture vote, regardless of the outcome, the Senate proceed to the cloture vote with respect to the Special Committee to Investigate Whitewater.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1459

Mr. GRAMS. Mr. President, I further ask unanimous consent that, notwithstanding rule XXII, that following the two cloture votes on Wednesday, the Senate proceed to S. 1459, the grazing fees bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 956

Mr. GRAMS. Mr. President, I further ask unanimous consent that if cloture is invoked with respect to the product liability conference report, that the Senate resume the conference report at 9 a.m., on Thursday, and there be 3 hours for debate to be equally divided in the usual form, and at 12 noon, on Thursday, the Senate proceed to the adoption of the product liability conference report, without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, MARCH 20, 1996

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m., Wednesday, March 20, 1996, and, further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of the conference report to accompany H.R. 956, the product liability bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, the Senate will debate the product liability conference report at 10 a.m., until 3 p.m., on tomorrow. At 3 p.m., there will be two consecutive rollcall votes. The first vote will be on invoking cloture on the product liability conference report, to be followed by a vote on cloture on the motion to proceed to the Whitewater resolution. Following those cloture votes, the Senate will begin consideration of the grazing bill, S. 1459. Additional votes could therefore occur during Wednesday's session of the Senate. Under the previous order, if cloture is invoked on Wednesday on the product liability conference report, there will be 3 hours of additional debate on that conference report on Thursday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATIONS TO AMENDMENT NO. 3553 TO H.R. 3019

Mr. GRAMS. Mr. President, I send to the desk modifications for pages 1, 4, and 5 of the managers' amendment to H.R. 3019 and ask it be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modifications are as follows:

On page 412, line 23, strike "$497,850,000" and insert "499,100,000".

On page 412, line 24, strike "1997, of" and insert "1997, of which $2,000,000 shall be available for activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), of".

On page 577, between lines 23 and 24, insert the following new section:

SEC. . (a) REIMBURSEMENT OF CERTAIN CLAIMS UNDER THE MEDICAID PROGRAM.—Notwithstanding any other provision of law, and subject to subsection (b), in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996 (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

(b) LIMITATION ON RESCISSION OR REIMBURSEMENT OF CLAIMS.—The total amount of payment reductions rescinded or reimbursement of claims allowed under subsection (a) shall not exceed $54,000,000.

(c) OFFSET OF FUNDS.—Notwithstanding any other provision of this Act, the amounts on lines 5 and 8 of page 570 (relating to the Social Services Block Grant) shall each be reduced by $70,000,000.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Wednesday, March 20, 1996, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, March 19, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

NINE STEPS TO FISCAL RESPONSIBILITY—SPENDING CUTS

The SPEAKER. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, everyone knows that our national debt is spiraling out of control, passing the $5 trillion mark earlier this year. To put this incredible number in some kind of perspective, the Washington Times last week gave a particularly timely analogy. It noted, just in time for the St. Patrick's Day weekend, that just the one day's increase that day in the national debt, which was around $8 billion, would be enough money to purchase 8 pints of beer at $3.75 each for every citizen of the United States and Ireland for St. Patrick's Day. That would be quite a celebration, a pretty big party.

Of course, the bill for that party is going to be paid for by the children who are not old enough to drink beer yet, because we are going to have to send the bill to them. What I am saying is if we do not address this addiction to debt spending, it is our children and our grandchildren who are going to be stuck with the budgetary hangover.

Most know that the first step to recovery from any kind of an addiction is to admit to the problem. The St. Patrick's Day free beer scenario underscores the need for the Federal Government to recognize and treat its addiction to deficit spending.

For that reason, I rise again today to offer my annual list of specific discretionary spending cuts which, if enacted into law, could save the American taxpayer more than $300 billion over the next 5 years.

The cuts provided fall into nine general categories, a nine-step program toward fiscal responsibility. These cuts dramatically demonstrate the hundreds of billions of waste that still exist in nearly all areas of the Federal Government, from social programs, to corporate welfare, to congressional and governmental operations. There is not a citizen in this country who thinks every single tax dollar that we have spent is well spent.

The 104th Congress has taken on the challenges of balancing the budget with an aggressive plan to eliminate our deficit by the year 2002. Unfortunately, while Congress has made the tough choices inherent in balancing the budget, the President has mostly stayed on the sideline, playing what I think I can fairly call partisan games for short-term political gain.

President Clinton has thwarted the responsible attempts to rein in spending and eliminate wasteful programs. While he has insisted that the era of big Government is over, he said it right here, his actions hardly complement that declaration. Highlights of Mr. Clinton's irresponsibility include bringing about the defeat of the balanced budget amendment. You all remember, that died by one vote, and the defeat of the Penny-Kasich spending cuts bill, and vetoing the first balanced budget plan in over a generation, which we sent to him and he vetoed.

In fact, even when he finally agreed to offer a balanced budget using real numbers, he relied on accounting gimmicks, and ignored out-of-control entitlement programs. Specific recent revelations about the Medicare Trust Fund suggest the administration has been playing a shell game with seniors' health care and other mandatory programs. Even more incredibly, more than 95 percent of his discretionary cuts would not have taken place until after the year 2000.

The beat goes on, and it goes on today as the President announces that he is urging Congress to increase, increase, Commerce Department funding at a time when we are moving to eliminate this wasteful agency altogether. He is also threatening to shut down the Government again, unless Congress ponies up a handsome ransom of $8 billion more for his pet projects in fiscal year 1996 spending. That is today. That is this year.

While the President is quite vocal as to which programs should be expanded and increased, he has given us very few details about which should be cut or terminated. If he is truly serious about ending the era of big Government, he should get specific on what programs he would cut to pay for his priorities.

As the President releases his budget today, I remain hopeful, not particularly optimistic, but hopeful, that it will contain the type of real fiscal discipline this country needs. I hope that he has a list of spending cuts that reflect his priorities and his desire to eliminate deficit spending.

Mr. Speaker, my list is certainly not exhaustive, nor is it noncontroversial. There are several items on the list about these cuts that I am not particularly happy about, but I do not think they are high enough priority.

Still, it begins to frame the debate in terms of our priorities and it eliminates those programs, agencies and initiatives that fail these three simple tests that we should all ask ourselves. First of all, is this a Federal responsibility? Second of all, does it work? And, third of all, can we afford it?

If we do not ask those three simple questions about every program that comes forward in our budget process, we simply are not doing our job. If we could afford the luxury of endless spending, perhaps we would not have to do that. We cannot afford that anymore, and, besides, it is just good practical business, taking care of the American taxpayers' dollars, to ask those simple questions: Is this something Government should do, can we afford it, and does this thing work, is it on target? That is pretty simple. I think we can even get that message here.

Mr. Speaker, I include the following nine-step program for fiscal responsibility for the RECORD.

A NINE STEP PROGRAM FOR FISCAL RESPONSIBILITY

All savings are over a five year period, calculated in millions of dollars and based on best official estimates.

LEADING BY EXAMPLE: CONGRESSIONAL AND EXECUTIVE BRANCH REFORM

Savings and description

2,200—Reduce the Legislative Branch Appropriations by 20 percent
284—Reduce the Executive Office of the President Appropriation by 20 percent
85—Reduce the "franking" allocation to Members of Congress by 50 percent
118—Roll back the Congressional Pay Raise to $89,500
2.5—Reduce the Attending Physician's Office by 33 percent
1.1—Privatize the House and Senate Gymnasiums

FREE MARKET AGRICULTURAL REFORM

Savings and description

12,700—Abolish the Cotton Price Support and Loan Programs
11,000—Lower target prices for subsidized crops 3 percent annually

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5,000—Eliminate the Dairy Subsidy Program

3,950—Merge the Agricultural Research Service, the Cooperative Research Service and the Agricultural Extension Service; cut funding by 50 percent

1,660—End the Federal Crop Insurance Program and replace with standing authority for disaster assistance

660—Reduce Commodity Credit Corporation Subsidies to those with off-farm incomes over $100,000

200—End the Peanut Subsidy Program

100—Eliminate the Tobacco Price Support Program

GOVERNMENT FOR THE PEOPLE, NOT THE BUREAUCRATS

Savings and Description

64,000—Lower by 10% per annum the projected growth rate of non-postal, civilian agencies overhead (excluding travel)

14,740—Eliminate DOD payments for indirect Research & Development; substitute direct R&D

8,850—Continue the partial civilian hiring freeze at DOD

6,000—Defense Acquisition Reform

3,080—Repeal the Davis-Bacon Act

2,550—Reduce DOE energy technology spending

1,900—Fully implement H.R. 2452 (102nd) to provide additional conservation measures for federal agencies

1,500—Strengthen and restructure NASA (NPR proposal)

1,000—Reduce overhead in federally-sponsored university research

900—Service Contract Act reform

858—Lower the travel budgets of all non-postal civilian agencies by 15 percent

540—Reform vacation and overtime for the Senior Executive Service

PRIVATIZING AND DOWNSIZING GOVERNMENT

Savings and description

9,000—corporatize the Air Traffic Control System

4,170—Facilitate contracting out and privatization of military commissaries

2,000—Privatize the Government National Mortgage Association

1,900—Eliminate the Legal Services Corporation

1,522—Eliminate the Economic Development Administration

913—Eliminate Rural Economic and Community Development (RCED) duplication with the Small Business Administration

690—Eliminate the Appalachian Regional Commission

580—End funding for all non-energy Tennessee Valley Authority (TVA) activities

174—Eliminate the Rural Utilities Service (formerly the Rural Electric Administration)

140—Close the Bureau of Mines and merge its data gathering activities with other Interior research agencies

56—Eliminate the Arms Control Disarmament Agency

10—Phase out the U.S. Fire Administration

FOREIGN ASSISTANCE THAT PUTS AMERICAN TAXPAYERS FIRST

Savings and description

13,125—Cut the foreign aid budget (150 Account) by 15 percent and make all earmarks in that account subject to a two-thirds vote for passage

8,100—Eliminate the Agency for International Development

1,510—Eliminate Public Law 480 International Assistance Program

150—Phase out the Foreign Agricultural Service Cooperation Funding

ATTACKING CORPORATE WELFARE

Savings and description

3,388—Eliminate Export Enhancement Program

3,372—Sell the Power Marketing Administrations

2,660—Phase out subsidies for AMTRAK

2,000—End postal subsidies to not-for-profit organizations (excluding blind and handicapped individuals)

1,002—Eliminate Travel, Tourism and Export Promotion Administration (as a taxpayer supported entity)

692—Sell the National Helium Reserves

660—Phase out ACTION (umbrella organization for domestic volunteer activities) as a tax supported program

500—Eliminate the Market Promotion Program

195—Eliminate Essential Air Service subsidies

121—Terminate Dairy Export Incentive Program

PRIORITIZING OUR SOCIAL SPENDING

Savings and description

27,000—Prohibit direct federal benefits and unemployment benefits to illegal aliens

6,300—Consolidate the administrative costs of the AFDC, Food Stamps and Medicaid programs

5,700—Freeze the number of rental assistance commitments

5,400—Increase Medicare safeguard funding by $540 million over 5 years

4,900—Reduce NIH funding by 10 percent, concentrating on overhead

3,850—Eliminate "impact aid" to school districts with military bases

3,400—Eliminate non-targeted vocational state funding

3,060—Eliminate AmeriCorps

2,930—Eliminate the William D. Ford program (direct student lending)

2,600—Cut the National Endowment for Arts by 50 percent

2,060—Eliminate the Goals 2000 program

1,400—Scale back Rural Rental Housing Assistance program

1,400—Eliminate Office of the Surgeon General

1,000—Consolidate social services programs

990—Eliminate HUD special-purpose grants

883—Cut funding for the Corporation for Public Broadcasting by 50 percent

610—Replace new public housing construction with vouchers

144—Streamline HUD

ENDING TAXPAYER SUBSIDIES THAT DEGRADE OUR ENVIRONMENT

Savings and description

7,400—End all new Bureau of Water Reclamation water projects

2,200—End Irrigation Subsidies

1,100—Privatize the U.S. Enrichment Corporation

1,000—Reduce the fill rate for the Strategic Petroleum Reserve

1,000—1872 Mining Law Reform

880—End the "Corridor H" program

912—Eliminate the Clean Coal Program

250—Grazing Reform

235—Eliminate below-cost timber sales from national forests

80—End the Boll Weevil Eradication Program

CUTTING OUT THE PORK

Savings and description

8,850—Limit federal highway spending to the amount brought in by motor vehicle fuel taxes

6,250—Reduce mass transit grants; eliminate operating subsidies

5,150—Scale back Low Income Home Energy Assistance Grants

2,590—Terminate all highway demonstration projects

1,380—Eliminate Rural Development Association loans and guarantees

250—Eliminate redundant polar satellite programs

0.3—Close under-utilized black lung offices

THE DIRTY LITTLE SECRET OF AFFIRMATIVE ACTION FOES: THEY GET BY WITH A LITTLE HELP FROM THEIR FRIENDS

The SPEAKER pro tempore (Mr. NETHERCUTT). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I have the great honor of serving on the House Committee on the Judiciary, and this has been a very, very difficult year, because we have had incoming missiles from every which way attacking affirmative action. I for one have been a believer in affirmative action, because I remember I could not get into a lot of schools I wanted to get into as a young woman, because even though I passed all the tests, they would say "Whoops, wrong chromosomes; have a nice day," and you went right out the door. So I have been very interested in this debate on affirmative action.

Well, I am going to do today what one of the ex-mayors of New York used to do. Mayor LaGuardia used to read the newspaper to people, and I think it is time to start reading the newspaper to people, because one of these incoming missiles against affirmative action came in the form of a vote by the University of California regents. That distinguished panel voted aggressively to back off of affirmative action. To end affirmative action as we know it, and now we know why that group wanted to.

They believe in the old Beatles song, "You get by with a little help from your friends." Remember that? "I get by with a little help from my friends." Well, this is what they are all singing.

This Saturday's Los Angeles Times did a wonderful job of exposing these regents, who are so pure and want a level playing field and all of this other stuff that you have heard about affirmative action. And what you really find as you read this newspaper, which is absolutely fascinating, because they go further and document all of the politicians, from Governor Pete Wilson, who led the antiaffirmative action charge in his now historic run for President, and he is no longer there, but from Governor Pete Wilson to many of the regents who voted for this, all the different people that they insisted that the University of California put at the front of the line, even though their grades happened to be lower than many others that they shut the door on because of this, their scores turned out to be lower. It is very interesting reading, and I hope people will look at this.

When some of these young students who got moved to the front of the line because their dad or mom knew the regent or they were business associates or whatever, when they would interview some of these young students, some of them said very clearly, "But, of course, that is what is going on. This is America. It is who you know, not what you know."

Now, most minorities and women knew that. They knew that if they did not know somebody big, they were not going to get in. Actually some of them, they did not even need bother apply, because they were not going to get through the barrier. People could not look beyond their skin color, religion or sex.

So we are working hard to try and have a wakeup call to people, to say look, affirmative action is not perfect, but we ought to fix it, and we ought to be working on what you know, not who you know. But when you look at these regents, it is so clear by this record that special privilege is something that they want to continue. They want to continue with it, and they see affirmative action challenging that.

One of the regents who aggressively, aggressively fought affirmative action, was a man named Leo Kolligan. Now, this guy got in over 35 different young people, according to the L.A. Times, that were not as qualified. One score was lower than 6,000 other young people who were turned away, but he got in. It is who you know, not what you know.

When you look at all of the others, they all happen to be sons and daughters of very prominent folks in the community that these different regents knew, or relatives, it is amazing how thick blood can run, or prominent politicians or relatives of prominent politicians or large fund raisers or whatever.

But that is not what we have said the American dream is about. So as you listen to this raging debate about affirmative action, we really ought to put it into some kind of context. What we really want to make sure is that the dream is attainable for everyone, no matter what their background, and it is really honest-to-goodness attainable. And if we go back to this who you know, it is not. You cannot say it is one thing, and then have it operating in an entirely different way.

The young people of America know that, and they know how fraudulent it is. You have so many students protesting in California on the campuses on this. I hope everybody pays serious attention to this, and we do not get caught up in undoing something so important.

GOOD NEWS AND BAD NEWS ON THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. SMITH] is recognized during morning business for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, there is good news and bad news in the President's budget that we received today. Let me go with some of the bad news first. Some of the bad news is that he has greater tax increases and that he has more spending for the Federal Government. In other words, some of the same old policy of tax and spend. In fact, on taxes, even though he has a temporary tax cut, the tax cut is done away with by the year 2002, and he has actually a tax increase of over $10 billion by the time he gets to 2002.

Now, I think that old tax and spend and borrow philosophy is the bad news. Here is the good news. It is the Republicans, by hanging tough, have now changed the frame of the debate in Washington, so the President's budget still says through their figuring that this budget balances by the year 2002. And that is good news.

Let me point out why I think it is such good news. It is because borrowing has obscured the true size of Federal Government. If the American people had to pay the taxes that are required for this huge overbloated, overregulating Government that we have now, they would not stand for it. They would say, "Wait a minute. Get rid of that fraud and abuse. Get rid of some of these programs, because we do not like you talking 50 percent of every dollar we earn for taxes at the local, State, and national level."

Let me display this chart a little bit that shows the pie of the way we divide up Federal expenditures. Now, for this current fiscal year, it is a little over $1.5 trillion. The blue portion of this pie that now represents about 50 percent of total government spending is in the so-called welfare entitlement spending. That means if you achieve a certain criteria of age or poverty, the money is automatically going to be there. The Congress does not appropriate that money every year. The only way we can reduce the cost of these welfare entitlement programs is having the President sign a bill, or override his veto.

So if we are going to achieve a balanced budget, that means that we are going to have to achieve some changes in the welfare and entitlement programs. Some of the welfare recipients are going to have to start working. Our welfare programs have been successful in transferring wealth, but, too often in the process, we have taken away their self-respect. We have taken away their drive to get up every morning, even when they do not feel like it, and go to work and contribute to the economy of the United States. So they have been recipients of other taxpayer spending.

That has to be changed. We have sent one bill to the President. He has vetoed it. We sent another welfare reform bill to the President, and he has vetoed it. What we have got to start doing is having cooperation, or the kind of a President that is going to say yes, some of these changes need to be made.

Let me just briefly go around the rest of this pie chart. We have got interest on the Federal debt. The Federal debt is now about $5 trillion. That interest is also on automatic pilot. We have got the defense in green. The defense programs now, even the hawks and the doves, the Republicans and Democrats, the liberals and conservatives, only disagree on about plus or minus 8 percent deviation. In other words, everybody agrees we need a certain amount of defense in this country, so there is very little flexibility.

What is left? What is left for Congress, what they have control of, is the 12 appropriation bills that represent the discretionary spending outside of defense.

In this little red pie chart area, we have been successful in the last 14 months of cutting $40 billion out of spending. That is a good start. And the reason we have accomplished this, the reason the President and the Democrats and the liberals are now at least saying we need a balanced budget, is because we have changed the frame of the debate by saying look, we are not going to pass this kind of increase. Even if you veto it, Mr. President, even if you shut down Government. And are not going to give you a clean debt ceiling increase, because we are concerned with the debt of this country going over $5 trillion, unless we make some of those changes.

Here is my point, Mr. Speaker: If we continue to stick to our guns, if we continue to hang tough, using the leverage that we have of increasing the debt limit, of being very frugal in the appropriation bills that we pass, we can achieve it. We can do it. It is not this overspending and overborrowing. Borrowing has obscured the true size of Government. It needs to be changed. Let us hang tough, let us stick in there, let us do it.

UNITED STATES-TAIWAN-CHINA RELATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, today the House will take up later on House Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress that the United States is committed to the military stability of the Taiwan Straits and to the defense of Taiwan against invasion, missile attacks, or blockade by the People's Republic of China. The House's consideration of this resolution is timely. It coincides with meetings today between United States and Taiwanese officials to discuss Taiwan's defense needs and possible United States weapons sales in a regularly scheduled annual consultation.

Consideration of this resolution also comes at a time of increased military maneuvers by the People's Republic. Over the past few months, China has conducted missile tests off the coast of Taiwan, including missile firings which have landed adjacent to Taiwanese major ports and live ammunition fire operations in the Straits.

Yesterday China upped the ante by declaring that they will go forward with planned war games around islands it controls and ordered residents to evacuate. The PRC also announced a new series of exercises in a large part of the Taiwan Straits and has warned international shipping and aviation to stay away from the region.

The reason for the PRC's escalation is clear: It is an orchestrated campaign to intimidate Taiwanese voters and to influence the outcome of Taiwan's first direct Presidential elections this coming Saturday. The resolution under consideration today rejects this type of coercion and supports the historic democratic election in Taiwan this weekend. It reinforces the Clinton administration's support for democracy and stability in the region and peaceful resolution of the current dispute.

As the Member of Congress whose district is closest to this conflict and directly impacted by the outcome, I am mindful of its implications for Guam. While some have argued that my islands could benefit by some of this instability, I reject this line of thinking. Even though some short-term economic gain may result from capital diverted from the region to Guam, our long-term economic growth will suffer without economic prosperity in Pacific Rim and Pacific Basin nations and territories.

Guam's economy is tourist driven, roughly 1 million of whom arrive from the Asia Pacific region. Tourist arrivals have increased over 180 percent in 10 years, with Korea and Taiwan recently leading the way as the fastest growing visitor markets. Increasingly our economy also depends on investment from Japan, Taiwan, the Philippines and South Korea. A blockade, invasion or missile attack on Taiwan would not only affect Taiwan, but also the United States and the rest of the region.

Economic growth throughout the United States would be jeopardized if the flow of exports to the region is disrupted in any way. Over 40 percent of all United States trade involves the Asia-Pacific region. U.S. trade in the region now exceeds $370 billion, which is 76 percent greater than U.S. trade with Europe. An estimated 2.6 million American jobs depend on United States exports to Asia.

Taiwan has become a major trading partner of the United States and all the major economies in the region. Taiwanese two-way trade with the United States is roughly $43 billion. Furthermore, United States, Japan, and Hong Kong account for more than 60 percent of Taiwanese exports. We can only imagine what would happen if the 19th largest economy in the world was cut off from the rest of the world by an invasion, blockade or missile attack. When the peso collapsed in Mexico last year, shock waves went throughout economies and stock markets as far away as Asia. A disruption of trade in and out of Taiwan could have even greater consequences.

Over the past 50 years, U.S. engagement in Asia and the Pacific has ensured a stable political and military environment and made possible the tremendous economic growth in the Pacific region. We should welcome the Clinton administration's dispatch of the *Nimitz* and the *Independence*. It sends Beijing a strong signal that the United States is committed to regional stability and economic growth. The resolution before the House only strengthens this commitment.

It is my hope that when the current dispute is resolved, Congress and the administration and the American people will wake up to a very new geopolitical reality. The Asia-Pacific region has become the most dynamic region in the world, and all major indicators point to the Asia-Pacific region as the most vibrant region in the next century. The region is home to the seven largest armies in the world, the largest population, and the greatest volume of trade.

Let us not turn our back on Taiwan. Let us support them, and let us support the resolution.

SUPPORT THE TRAVEL AND TOURISM PARTNERSHIP ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Mr. Speaker, I rise today to urge support for the travel and tourism industry; that is, the Travel and Tourism Partnership Act. Travel and tourism is America's and the world's largest industry, or it will be in 4 years. Today, travel and tourism employs some 7 million people directly, and some 6.5 million people indirectly in the United States.

In the next 2 months, before the Travel and Tourism Administration closes down at the Commerce Department, I encourage my colleagues to focus on this industry and the jobs it creates, what it does to keep our taxes lower for all Americans, and what it is doing for America as far as our economy is concerned.

The travel and tourism industry is one that has been neglected too long by this Congress. Mr. Speaker, Members debate frequently here on the floor on what we can do to promote good paying jobs, to keep our economy strong, how to revitalize our cities, and how to create the opportunities that our young people need and how to rejuvenate our local economies. The question always comes down to what can we do as a Congress to create more jobs?

One of the problems, of course, in the inner cities, is that businesses are closing down, opportunities have been lost, and neighbors are packing up and moving away. But today it is not only a problem for inner cities, it is also a problem for small towns.

In rural communities all across America where farms and industries once supported a main street bustling with restaurants, hardware stores, five-and-dimes, grocery stores, service stations, hotels, you name it, some of these small towns have been very hard hit.

But what has kept our hometowns and small towns from fading away in America has been one industry; it has been the travel and tourism industry. The travel and tourism industry many times has kept alive our small towns, our rural towns.

Tourism is today America's second largest employer. When we help tourism, it is like starting a downtown revitalization project or helping a small town anywhere in America.

With less than 2 months to go before the USTTA shuts its doors forever, it is time for Members to do two things, and I think it is imperative for us to do that: One is to recognize the vital role that tourism plays in our districts, and to commit becoming a new catalyst for further growth by helping travel and tourism.

We have a bill before Congress that is an outgrowth of the travel and tourism White House conference that we had here in October. We had some 1,700 leading people in travel and tourism come to Washington at the end of October, and they asked Congress for legislation dealing with a partnership act which allows the government and industry to work together. This would be really a prototype for legislation in the future.

We have the bill before us, H.R. 2579. This bill allows America to compete not only in our country, but also internationally in the travel and tourism industry. Again, it is the outgrowth of the White House Conference on Travel and Tourism. It is a real job creator. There is not a bill before Congress that will create as many jobs as the Partnership Act, H.R. 2579, so I am asking

Members to sign on. It is a real economic stimulus, especially for our local communities.

We now have 195 cosponsors. We want to do what is said to be impossible. We want to reach 218. So, you see, we are in striking distance. We are striving to achieve the ultimate goal, which is 218 cosponsors. I am asking all Members to become involved.

We have come a long way. We have made strides that others have said would be unachievable. But with all our success, we have a long trail ahead of us. We must get the job done. Time is of the essence.

Mr. Speaker, I ask all Members to focus on travel and tourism, because of what it means to our economy and what it means to jobs for all Americans. It is time for us to focus on this emerging industry. After all, travel and tourism, telecommunications, and information technology are the three greatest job producers of the 1990's and the 21st century. If we in Congress are forward looking and if we in Corning are going to focus on what has to be done for our economy and for the future of this country, then we have got to focus on travel and tourism, and we have got to do that today, because we have only 2 months before USTTA closes down.

So I ask all Members to focus on travel and tourism. Let us complete the big job we started. I ask all Members to help by cosponsoring this legislation today.

Mr. Speaker, I thank you for giving me the time to express my concerns about travel and tourism this afternoon.

CUTS IN EDUCATION ARE HITTING HOME

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Mr. Speaker, I wanted to focus on education this afternoon, because I am very concerned about the consequences of the House Republican leadership and their spending proposals with regard to education, the cuts that they have implemented or they are trying to implement in education.

Essentially what we are seeing now is that these cuts are hitting home. I am going back to my district, and I know others have heard from their districts and their hometowns, are hearing back from the school boards and from local residents about the fact that teachers now have to be laid off or taxes have to be raised in order to provide for education programs that the Federal Government will no longer fund under these Republican proposals.

I have said before that education is one of the priorities that the President and the Democrats in Congress have stressed should not be severely impacted during these constant budget battles on the floor. Yet once again we face the situation where the House passed a spending bill a few weeks ago for the remainder of this fiscal year that would severely cut, provide the largest cut in educational programs in the history of the Federal Government.

This is basically amounting to a 13-percent reduction from the last fiscal year, a $3.3 billion cut in education programs. The Senate, fortunately, as I have mentioned before, when this bill went over to the Senate, tried to restore most of this, about $2.5 billion in education funds. However, the Senate bill will not prevail if Speaker GINGRICH and the Republican extremists, the Republican leadership, do not go along with the Senate version. So we have to constantly push to say that the House version that makes all these cuts in education funding is not the way to go, and that we as Democrats support the Senate version and the President supports the Senate version to put back a lot of this education money.

Now what does this all mean? A lot of times on the floor of the House we talk about money or about amounts of money or percentages, and some people wonder what does it mean to me locally back at home? Well, it means a lot. I think we have got a very good glimpse of that today, or I should say yesterday, in the New York Times. The New York Times had an article in yesterday's paper, "Federal Budget Impasse Hits Home With the Threat of Layoffs in School Districts."

It takes us to a relatively small town in upstate New York, Schenectady. There they are starting to send out notices to the teachers to tell them they are going to be laid off because of the cutbacks in Federal funding. I just wanted to read some sections of this article, if I could, because I think it is so indicative of what the impact is of these House Republican cuts in education funding. It talks about Teresa McAnaney and her colleagues at the Pleasant Valley Elementary School in Schenectady who:

> . . . have tended to view the budget stalemate in Washington as a distant drama that has mainly led to the periodic closing of the nation's parks and museums and a handful of Government agencies.
>
> But earlier this month, this faraway crisis hit home: the superintendent's office notified Ms. McAnaney that she would be among 16 teachers and aides in the city school district at risk for layoffs in the fall because the district had no idea how much money it would receive from the Federal or state governments.

She says that "The uncertainty is the most frustrating part of this whole thing."

This is what we are talking about. This week, this Federal Government is operating with a stopgap funding measure that extends for 1 week. This Friday again the Government or certain agencies of the Government, including the Education Department, will close down if we do not pass another bill extending funding for another week or another month. The process has to stop, because with these stopgap measures and taking the education funding from week-to-week, which is what the Republican leadership has been doing, there is so much uncertainty back in our hometowns and throughout this country about education funding that they do not know what to do. What they have to do is essentially plan for the worst, lay off teachers, particularly those funded through title I for various programs, and tell them and assume they are not going to have the money for the next fiscal year. The only way that they can avoid that is if they go and take their local property taxes in order to keep some of these teachers and some of these programs going.

I went on further in the article, I thought it was particularly interesting, because further on in this New York Times article they have another individual who is also from Schenectady, who talks about how Congress and the Federal legislators are not paying attention to what is happening in the small towns. This gentleman is quoted as saying that "I don't think those people realize how their fighting is hurting ordinary people like myself * * * Maybe they should come into a school to see the problems they are creating every day."

He says, "It has reached the point that people cannot even plan."

Once again, I think that is the problem here. We keep talking about this Federal budget and the Republican leadership keeps saying that if we cut this money out of education programs, it will not matter. Let me tell you, it does matter. We are going to see more and more that it matters in coming weeks if the Republican leadership does not turn around and restore this education funding.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2745

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2745.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

HEALTH CENTERS CONSOLIDATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Mexico [Mr. RICHARDSON] is recognized during morning business for 5 minutes.

TRIBUTE TO REPRESENTATIVE JIM BUNNING

Mr. RICHARDSON. Mr. Speaker, I am going to talk about a bill I have introduced to reauthorize community health centers. Before I do that, there are three brief items I wanted to make my colleague aware of.

I would also like to join in congratulating our colleague from Kentucky, JIM BUNNING, recently elected to the Baseball Hall of Fame. It is about time. JIM BUNNING, an outspoken politician. When he was a baseball player, he was outspoken, too. He told it like it is. The sports writers kept him off the Hall of Fame for years. They finally rectified that. About time. A great pitcher. For 11 years, he never missed a start.

Now, our hope, especially the democratic baseball team, is that JIM BUNNING will now see fit to pitch in the annual game. JIM did so 3 years ago. I am proud to announce that the great JIM BUNNING has lost his fast ball. Of course, he is in his fifties or sixties. We hope JIM is encouraged to play ball again. But congratulations to the great JIM BUNNING.

Mr. Speaker, I include for the RECORD the following statistics:

14—BUNNING, JAMES PAUL (JIM) RHP

Born—Covington, Ky., 10/23/31 . . . Home—Southgate, Ky. . . . B—R, T-R, . . . 6-3, 200 . . . Married Mary Theis; 9 children; Barbara, twins Jimmy and Joan, Cathy, Bill, Bridget, Mark, and twins Dave and Amy . . . 1949 St. Xavier School grad and 1953 Xavier U. grad with B.S. Degree in economics . . . Traded by Detroit to Phillies 12/5/63 with Gus Triandos for Don Demeter and Jack Hamilton . . . Traded to Pirates 12/16/67 for Woodie Fryman, Hal Clem, Don Money, and Bill Laxton . . . Traded to Dodgers 8/15/69 for infielder Chuck Coggins, outfielder Ron Mitchell and cash . . . Released by Dodgers and signed by Phillies 10/28/69, after unclaimed in major league waivers.

ALL-STAR GAMES

	W–L	IP	H	R	ER	BB	SO	ERA
1957 American	1–0	3	0	0	0	0	1	0.00
1959 American (1st ga.)	0–0	1	3	2	2	0	1	18.00
1959 American (2nd ga.)	0–0	0	0	0	0	0	0	0.00
1961 American (1st ga.)	0–0	2	0	0	0	0	2	0.00
1961 American (2nd ga.)	0–0	3	0	0	0	0	1	0.00
1962 American (1st ga.)	0–0	3	1	0	0	0	2	0.00
1963 American	0–1	2	0	1	0	1	0	0.00
1964 National	0–0	2	2	0	0	0	4	0.00
1966 National	0–0	2	1	0	0	0	2	0.00
Total	1–1	18	7	3	2	2	13	1.00

Year and club	W	L	PCT	ERA	G	GS	CG	IP	H	BB	SO	ShO	Relief Pitching			BATTING			BA
													W	L	SV	AB	H	HR	
1955 DET A	3	5	.375	6.35	15	8	0	51	59	32	37	0	2	0	1	15	3	0	.200
1956	5	1	.833	3.71	15	3	0	53.1	55	28	34	0	4	0	1	18	6	0	.333
1957	20	8	.714	2.69	45	30	14	267.1	214	72	182	1	2	1	1	94	20	1	.213
1958	14	12	.538	3.52	35	34	10	219.2	188	79	177	3	0	0	0	75	14	0	.187
1959	17	13	.567	3.89	40	35	14	249.2	220	75	201	1	0	1	1	89	17	1	.191
1960	11	14	.440	2.79	36	34	10	252	217	64	201	3	0	0	0	81	13	0	.160
1961	17	11	.607	3.19	38	37	12	268	232	71	194	4	0	0	1	100	13	0	.130
1962	19	10	.655	3.59	41	35	12	258	262	74	184	2	0	0	6	95	23	1	.242
1963	12	13	.480	3.88	39	35	6	248.1	245	69	196	2	0	0	1	84	13	0	.155
1964 PHI N	19	8	.704	2.63	41	39	13	284.1	248	46	219	5	0	0	2	99	12	0	.121
1965	19	9	.679	2.60	39	39	15	291	253	62	268	7	0	0	0	103	22	1	.214
1966	19	14	.576	2.41	43	41	16	314	260	55	252	5	1	0	1	106	19	0	.179
1967	17	15	.531	2.29	40	40	16	302.1	241	73	253	6	0	0	0	104	17	2	.163
1968 PIT N	4	14	.222	3.88	27	26	3	160	168	48	95	1	0	0	0	51	5	0	.098
1969 2 teams—totals for PIT N (25G 10–9) and LA N (9G 3–1)	13	10	.565	3.69	34	34	5	212.1	212	59	157	0	0	0	0	65	4	0	.062
1970 PHI N	10	15	.400	4.11	34	33	4	219	233	56	147	0	0	0	0	71	9	0	.127
1971	5	12	.294	5.48	29	16	1	110	126	37	58	0	0	2	1	25	3	1	.120
17 yrs	224	184	.549	3.27	591	519	151	3760.1	3433	1000	2855	40	9	4	16	1275	213	7	.167

JIM DANDY DATES

April 19, 1955—Baltimore Orioles' catcher Hal Smith becomes second-inning strikeout victim, the very first in Jim's glorious career.

1957–67—In eleven straight seasons Jim did not miss a start. Starting 399 games and completing 134—2953 innings pitched—184 W 127 L.

July 20, 1958—Jim becomes third pitcher in Detroit Tigers history to pitch a no-hitter, 3-0, at Boston's Fenway Park in the first game of a doubleheader. Only two walks and a hit batter keep him from a perfect game.

June 21, 1964—The father of seven children then, Jim pitches the major league's first regular season perfect game in 42 years, 6-0, against New York Mets on Father's Day at Shea Stadium, also the first game of a Sunday doubleheader. Wife, Mary and oldest daughter Barbara, were in attendance.

April 14, 1968—Side-armer strikes out Claude Osteen to become only second pitcher in baseball history to reach 1,000 strikeouts in both leagues. Cy Young was the first.

August 11, 1970—Move over again, Cy Young. Jim stops Houston Astros, 6-5, at Houston's Astrodome for his 100th National League victory, tying Young for 100 wins in both leagues.

April 10, 1971—Jim goes into record book as winning pitcher in first game ever at Veterans Stadium as he beats Montreal Expos, 4-1, before 55,352 fans.

May 31, 1971—At San Diego, Clarence Gaston becomes strikeout victim 2,820, moving Jim ahead of Young into second place on the all time strikeout list behind Walter Johnson with 3,508.

HANDLING THE TAIWAN-CHINA CRISIS

Mr. Speaker, I also hope that today we are very cautious in this Taiwan-China resolution. I think the last thing we want to do is send a signal to China and Taiwan that the United States has a firm, no-holds-barred policy toward averting conflict. I think here is a classic case where ambiguity and flexibility is our best policy tool as we deal with China and as we deal with Taiwan in these very critical times.

What we do not want to do is give the President and the Secretary of Defense less flexibility in the way they are responding to this crisis. We should not be having this bill on the floor. We should support the Taiwan Relations Act, the Shanghai communique which President Nixon and Henry Kissinger very artfully put together.

Mr. Speaker, I believe that we have to be very careful and the signal we send. Of course we support Taiwan. Of course we believe that their freedom is important. But the last thing we need is 435 Secretaries of State telling the President what he or she should do.

Mr. Speaker, on community health centers, I would urge my colleagues to join me in helping more than 9 million people in 2,400 communities across this country to continue to have a cost-effective source of quality primary health care.

Last week I introduced H.R. 3081, the Health Centers Consolidation Act, a bill already introduced in the other body by Senator KASSEBAUM. The Kassebaum-Richardson bill consolidates, streamlines, and reauthorizes four health centers: Migrant health centers, community health centers, health care centers for the homeless, and health centers for residents of public housing. It basically reauthorizes these critically important community health centers that are right now hanging on the vine.

This consolidation is going to reduce paperwork and administrative costs, while still maintaining community-based systems of health care to address the needs of medically underserved communities in vulnerable populations.

Federal health center programs have been highly successful in treating some of the most needy populations still at risk today. Although this body and the President are committed to making health insurance more accessible through the Kennedy-Kassebaum bill, we must still face the fact that millions of Americans cannot afford health care insurance or basic health care. In fact, an estimated 43 million Americans will be without health care coverage this year.

Community health centers provide service to those needy Americans who have no other source of health care; 21.2 million people live in rural areas that lack access to any primary health care provider. Private practice in these underserved areas is not economical because of low incomes and low population density.

In my State of New Mexico, Federal health centers serve 156,000 patients each year. My State has 56 clinics in 27 of the State's 33 counties. Many of the States in this country that are rural probably have a similar percentage.

In most areas these clinics are the sole providers of health care in the county. These clinics are usually also the only providers with a sliding fee scale, which means they provide both geographic and economic access to health care for many uninsured or geographically isolated New Mexicans.

Although they serve much smaller populations, community health centers for migrant populations, the homeless and public housing residents, provide necessary services to many medically underserved populations.

Last year a network of 122 migrant health centers across the country provided basic health care services to 600,000 migrant and seasonal farm workers. Mr. Speaker, this a good bill. It should be reauthorized. I invite cosponsors to the Kassebaum-Richardson bill.

UNITED STATES MUST BE CLEAR ABOUT ITS POSITION REGARDING DEMOCRACY IN TAIWAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. COX] is recognized during morning business for 5 minutes.

Mr. COX of California. Mr. Speaker, I would like to respond to the preceding speaker's remarks concerning the events now taking place in the Taiwan Strait. It is very, very important that this Congress is treating this issue today on the floor. It is very, very important that the United States of America make clear to the People's Republic of China that a war of aggression waged against the democracy on Taiwan will not be accepted, not by the United States, not by the free world, and that is the world that Taiwan is joining, because right now, in the days ahead, Taiwan is preparing for the first ever free, fair, open, and democratic elections of a head of government in nearly 5,000 years of Chinese history.

This is an extraordinary achievement which all of us applaud, and we should. Communism, which continues to reign in the People's Republic of China, is the antithesis of democracy. Wei Jingsheng, who was recently sentenced again to prison for his role as a democracy activist in the People's Republic, is recent testimony to how stark that difference is.

The People's Republic of China is free to maintain its Communist dictatorship. It is free to abuse human rights. It is free to in every respect, economic and political, differ from the free people on Taiwan and do all of this without military threat from the United States or anyone. In fact, we openly trade with the People's Republic of China.

But what they are not free to do, what they have no right to do, in nature or in law, is to mount an unprovoked military assault against the island democracy on Taiwan.

Right now, the People's Republic of China is threatening freedom in the world because they are threatening this military invasion. The United States policy has been and shall remain that we will trust any outcome peaceably achieved through diplomatic negotiations and ongoing discussions and all other peaceful meetings between the Government on Taiwan and the Government in Beijing, the Communist Government of the People's Republic of China.

Unilateral imposition of a solution, least of all by military force, is not acceptable. in the Shanghai Communique, which the preceding speaker referred to, in 1982, the People's Republic of China agreed that they would seek a peaceful resolution of any disagreements they have with Taiwan. That is what everyone in the world should support.

Naked military aggression targeted against a democracy is something that everyone here should understand threatens each of us. What we want in that region is peace. What we do not want is inadvertent war.

Right now the Communist leaders in Beijing are pushing and pushing and pushing as hard as they can, competing in fact with one another, to see which of them is going to succeed to the head of that dictatorship, and they are trying to show who is the most muscular, who is the most Communist, who is the most opposed to democracy.

As they push and push and push, they must understand that there is a line beyond which they must not go, and that is launching a military assault against Taiwan. If the United States is ambiguous on this point, we risk war through weakness. We will not have war. We will have peace if we are quite clear in this aspect of our foreign policy. But there is nothing to be gained and everything to be lost from saying we are not sure what would happen if the People's Republic of China were to launch a military invasion of Taiwan, because the truth is we do know the answer to that, and we ought to tell Beijing first before it happens. The People's Republic of China is our sixth-largest trading partner. Taiwan is America's seventh-largest trading partner. Because the PRC runs a huge trade deficit with America, it is true that Taiwan actually buys more from the United States than does the Communist government in China. Because they are respectively our sixth- and seventh-largest trading partners, we have nothing to gain from a war in the Taiwan Strait.

We in America must be the peacemakers, and there is only one way for the world's only superpower to maintain peace here, and that is to be clear. We have no diplomacy that can help us once there is a war that is started on a mistaken premise that the United States will not respond. But we do have a means—because of our relationship with both Taiwan and the People's Republic of China—have a means to keep the peace, and that is to let them know that America stands by its friendship with the peaceful government on Taiwan. Taiwan is not a threat to the PRC. The PRC, the People's Republic of China, must not be a threat to the free government on Taiwan.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

SUMMER JOBS PROGRAM CRITICAL FOR OUR YOUNG PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, there are some in this House who would want to require young people of America to bear the additional burden of being denied and deprived of a job and of a chance. These Members talk about the dilemma of teenagers, teenage pregnancy. They talk about the horror of teen violence. They talk about the plague and the scourge of drugs in our communities. Yet those same Members in the House Labor-HHS appropriation bill voted to eliminate the very program that serves to help prevent those problems, summer jobs. If those Members have their way, some 615,000 youth will not have a work experience, nor will they have educational assistance, in some 650 communities across the United States.

Recently, however, the Senate, by an overwhelming majority, some 84 to 16, Republicans and Democrats alike, voted to continue the Summer Youth Employment Program by restoring $635 million in funds. The House should follow the Senate in this critical matter.

While funding under the Senate program obviously is at 75 percent of the level it was when George Bush was President, nevertheless our youth indeed would have jobs, and that is the critical point.

Mr. Speaker, the Summer Youth Employment Program has worked, has served youths very well since 1964. This is not a perfect program, but it is a program that should be made stronger, not necessarily ended. It has been going on for 30 years, and it has meant the difference in the lives of millions of young people.

This program does not provide charity; it provides a chance. Very often this is the first opportunity young people have to get a job, to obtain employment experience, to learn the work ethic through summer jobs programs. A job gives an individual dignity, a feeling of contributing, pride in oneself, and the resources to purchase needed goods and services. A job gives an individual worth and value.

On the other hand, Hippocrates recognized some 400 B.C. that "Idleness and lack of occupation tend toward evil."

Unemployment rates among our youth is at 17.5 percent. That is three times as large as is in our general population. The unemployment rate for African-American teenagers is almost at 40 percent, and without the summer program, it would be almost 50 percent. If some in Congress have their way, Mr. Speaker, for every employed African-American youth, there would be one unemployed African-American teenager. Surely in 1996 Congress could recognize the wisdom of Hippocrates, which has survived throughout the years.

Also, Mr. Speaker, it costs so little to give a youth a chance, but it costs society so much when we do not give the youth a chance. Last year, the summer program cost less than $1,500, less than $1,500. In contrast, conservative estimates are that it costs $70,000 in prison construction and welfare spending when you have a student dropping out of high school from the ages of 18 to 54. Contrast that, $70,000 with $1,500. It cannot be disputed that there is a link between poverty and joblessness, and there is a link between joblessness and those who wind up in prison and those who wind up on our welfare rolls.

If we really want to move from welfare to work, let us give our young people a chance. Let them work. If you really want to fight criminal behavior, let us give our young people an alternative. Let them work. They want to work.

Last year there were two applications for every job available, and there were not enough jobs to go around. The summer employment program is broad-based, both in urban and rural communities. Indeed, there are more youth in rural communities than in urban communities. These young people use this money for critical needs, for going back to school, for clothing and special school items.

Mr. Speaker, we can spend more money to build more jails, open more courts, incarcerate more youth, or we can spend less money, less money, build fewer jails, and employ our young people and give them opportunities. We can get less for more by ignoring the problem, or we can get more for less by giving young people a chance.

Charity is getting something for nothing. A chance is an opportunity to become something rather than nothing. Most American youth I know want to have that chance. When we decide the spending for the rest of the year, I hope we do not disregard our Nation's youth.

Mr. Speaker, remember, idleness breeds evil.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 2 p.m.

Accordingly (at 1 o'clock and 21 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HUTCHINSON) at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray with the psalmist of old when we ask that You would teach us, O God, to number our days so that we gain hearts of wisdom. As the time goes by and the days become years and we add so many experiences to our life's work, may we learn discernment and sagacity in the ways of the world and may we foster patience and comprehension in our own hearts, and so make judgments of justice and mercy. Bless us, O God, this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. FORBES] come forward and lead the House in the Pledge of Allegiance

Mr. FORBES led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THREAT OF A GOVERNMENT SHUTDOWN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, President Clinton is fighting, threatening a Government shutdown, for $7 million more to send to foreign countries to educate their students on the environment and rainfall measurement techniques. He wants to give $10 million more to the National Endowment for the Arts. He wants more money to establish a new Federal program to help guide people through the 160 Federal job training programs. Only the Clinton administration would want to create a new program to make the maze of 160 overlapping programs understandable. Further, Clinton wants $2 million for the Ounce of Prevention Council which in a year and a half has produced one glossy magazine and administered zero grants. White House Chief of Staff Leon Panetta's wife works for this program and is paid $300 per day.

It is simply hypocritical to say you are for a balanced budget and then demand $8 billion for more spending. In January, the President said, "The era of Big Government is over." He also vowed to never shut down the Government again. Unfortunately, he has abandoned these pledges already to return to the traditional liberal tax and spend philosophy. That the President would support paying Mrs. Leon Panetta $300-a-day to produce one magazine but is not willing to give Americans families a $500-tax cut is the height of arrogance.

THE COURTS IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 10 years ago Terry Clark was sentenced to death for killing a 9-year-old girl. Clark admitted he did it. He said, I grabbed her from her bike. I raped her. Then I shot her in the head three times.

The death sentence was overturned on a technicality. But now, once again, a New Mexico jury has sentenced Clark to death. This time Clark says, "Do not kill me. It will serve no purpose and you will destroy the health of my aged mother."

Mr. Speaker, did Clark ever consider the health of the victim's family or the victim? Unbelievable here, Mr. Speaker.

The father now says, lethal injection is too good for this bum. And I agree. When a bum like Clark, after 10 years killing a 9-year-old helpless victim, is still drawing breath in America, there is something wrong with the courts of America.

It is time for Congress to say, good night sweet prince, Clark. It is time for you to meet your maker, Jack. You do not go around killing people in America.

LAST STAND FOR BIG GOVERNMENT

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, call it Big Government's $8 billion last stand. It comes right on time, less than 3 months after President Clinton declared the era of Big Government is over. Well, of course, the President's policies have not exactly helped end Big Government's reign. We cannot forget the President's $16 billion pork barrel stimulus package, raising taxes to pay for more social spending. And even then the Democrat controlled Congress shot that idea down. But Big Government's biggest supporter did not stop there.

The President raised taxes by $260 billion and used the money to increase spending. He vetoed the Republican balanced budget plan, the only realistic plan that achieved a balanced budget. Now he wants to raise taxes by $8 billion so he can spend more money on such important Government initiatives as step aerobics, massage schools, and helping kids in other countries learn how to measure rainwater.

Mr. Speaker, the era of Big Government may be coming to an end, but with this $8 billion pork barrel package, the President has made it clear he is going down fighting.

FEDERAL FUNDING FOR EDUCATION MAKES A DIFFERENCE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, yesterday 27 House Republicans sent a letter to Chairman LIVINGSTON asking that the House include additional funds for education. I want to commend our Republican colleagues who believe, as I do, that these massive cuts in education will affect the future of our children.

Education is not a waste. It is not pork. And our young people are not expendable resources. On the contrary, education is the key to our children's future and the key to our country's future success. Cutting our commitment to education is the equivalent of declaring war on ourselves. One need only look at our world competitors and see who is lengthening the school year, raising their standards and improving the product of their school system and adding money to education funding rather then cutting it.

I ask my colleagues on both sides of the aisle to consider what we are doing in our education system, both in terms of funding and also the message we are sending to our Nation's children. We hear so much about providing a better future for our children and grandchildren. It is time to put our money where our mouth is.

SECRETARY O'LEARY

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, Steven Covey has the seven habits of highly effective people. Let me propose the seven habits of a highly ineffective Energy Secretary.

First, always have Madonna's jet on the runway, ready to go at any time. Second, make sure you have plenty of champagne and caviar on ice. Third, make sure you always have a five-star hotel and restaurant booked. Fourth, always take a huge entourage with you on your trips. Remember, the more the merrier. Fifth, lavishly spend as much taxpayer money as you can on those feel-good self-help workshops.

Sixth, even if you run out of money, you can transfer money from a nuclear storage program or just furlough your employees. Seventh, if you run into any trouble, just blame Congress.

Mr. Speaker, Secretary O'Leary, the congenital flier, has some bad travel habits. It is time to revoke her free ride and end the indefensible practice of furloughing DOE workers while spending lavishly on those feel-good self-help workshops and on her personal travel budget.

MAHMOUD ABDUL-RAUF'S FREEDOM OF SPEECH

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, the actions of NBA basketball player, Chris Jackson, now Mahmoud Abdul-Rauf, are despicable. This superrich, NBA star should be thankful for the opportunity American free enterprise bestowed on him. Instead he refused to stand and show respect for the Stars and Stripes during the national anthem. He said he could not do so because "Old Glory" is a symbol of tyranny and oppression. He earns $2.6 million per year—over $31,000 per game, If that is "tyranny and oppression" there are many waiting in line to be oppressed. Now, Abdul-Rauf says he wants to move to Canada. Maybe he will be willing to pay back the cost of his education at LSU and his salary from the Denver Nuggets—all conspirators in his "tyrannical and oppressive" United States. Mr. Speaker, I lived for 6 years in a Communist regime where real tyranny and oppression existed. America is paradise. Millions of Americans have fought and died to protect Abdul Rauf's freedom of speech. If Abdul-Rauf believes the flag represents tyranny and oppression, I say let him try Iran and see if they will tolerate his disrespect and pay him millions to play basketball. When this poor "oppressed" millionaire leaves, I'll say good riddance.

THE PEOPLE SHOULD KNOW WHO TRUSTS TERRORISTS

(Mr. BRYANT of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, last Wednesday on this floor the distinguished gentleman from Illinois [Mr. HYDE] made the following statement, that he had overhead a Republican Member of this House say this, and I quote: "I trust Hamas more than I trust my own Government."

Mr. Speaker, this has to be one of the most morally reprehensible statements I have heard ever made by any public official. For any Member of this body to say that he would trust a terrorist organization that proudly kills innocent women and children more than he trusts his own Government has no right to be a part of this Government.

I respect Mr. HYDE'S disgust at that statement. I share that disgust. I would like to further request that Mr. HYDE let the American people know who this Member of Congress is. The people of this country have a right to know who in this body is willing to say he respects and trusts a terrorist organization more than his own Government.

THE PRESIDENT HAS THE SAME OLD REMEDIES ON THE BUDGET

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, today the Clinton administration introduced its budget for 1997. I'm sure that liberals all across Washington are pleased to see more taxes, more money for the Federal bureaucracy, and more of the status quo.

The rest of America, I suspect, will not be as enthusiastic. Bill Clinton has no plan to save Medicare, he has no plan to reform welfare, and he offers the same old big government remedies that have failed for the last generation.

Mr. Speaker, just a few weeks ago, Bill Clinton asked Congress to give him $8 billion in additional spending for his liberal constituencies. Now, he is asking for billions and billions more. today, the national debt stands at 5 trillion, 35 billion, and 165 million dollars. It's time for Bill Clinton to stop playing political games with our children's future. Clinton's new budget offers crystal clear proof that there is no reason to believe that he wants to balance the budget.

FIFTH ANNIVERSARY OF THE PERSIAN GULF WAR

(Mr. HALL of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Texas. Mr. Speaker, 5 years ago the United States fought a war in the Persian Gulf to safeguard our access to a plentiful supply of crude oil in the Middle East. In 1991, the United States had a lot at stake in the Persian Gulf, and since then not much has changed. This country must make it a top priority to protect its access to a plentiful supply of crude oil—which is why we went to war in the first place. This Nation will fight for energy.

The gulf crisis prompted a need for dramatic changes in U.S. energy policy. Since that time, we have made some movement forward by allowing the export of crude oil in Alaska, and providing drilling and exploration incentives for offshore drilling. I applaud my colleagues and the leaders of this country in the advancements we have made to this precious industry, but we must not stop there. We must continue to strive toward more U.S. oil and gas production and guard against the interruption of foreign supplies in the future. If we fail to recognize the dangers of an increased reliance on imported oil, this country could once again find itself in the same predicament we were in with the Middle East in 1991.

At a time when Washington is trying to balance the budget and promising ways to stimulate the economy, Congress and the leaders of this Nation must take a hard look at the domestic oil and gas industry for answers. In the end, this Nation's economy will reap the benefits of a strong domestic industry instead of suffering the consequences of our dangerous dependence on foreign oil.

PRESIDENT CLINTON SUPPORTS BIG GOVERNMENT

(Mr. FORBES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, less than 3 months ago President Clinton, who brought us Goals 2000, AmeriCorps, a $260 billion tax increase to pay for more Federal spending, a plan for Government-run health care, a $16 billion pork-barrel stimulus package, and to cap it all off $800 billion in new debt, stood in this room and with a straight face spoke these words: "The era of big government is over."

Well, well, well, and how is President Clinton hoping to end the era of big government today? Let us see, he is demanding, as his price to keep the Government open, $8 billion more—that is right $8 billion—in new big government spending.

Mr. Speaker, the President may have declared the end of an era, but that is about all he did. Now, do not get me wrong, Republicans have done their part. We have saved American taxpayers more than $20 billion in the past year. But make sure you look beyond the words and observe the actions—Bill Clinton is big government's last line of defense, and he has got an $8 billion plan to prove it.

□ 1415

GIVE AMERICA'S CHILDREN A 21ST CENTURY EDUCATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday, 27 House Republicans joined Democrats and endorsed the Senate's plan to add $2.6 billion back into education.

Many of us have been urging Speaker GINGRICH to follow the Senate's lead and restore these funds.

We welcome the support from our 27 Republican colleagues. Their letter said that education must be one of our Nation's top priorities and the Senate has taken responsible action to protect our children's future.

I agree and I can tell you that in my State of Connecticut, these cuts would be disastrous. Educators in Connecticut are staring down the barrel of a gun because they face a March 30 deadline for notifying teachers of layoffs if Federal funds are not available.

Mr. Speaker, at a time when Americans are anxious about their economic future, we should be increasing our investment in education. This crisis is entirely preventable. Let's pass a full-year budget that gives our citizens the tools they need to meet the challenges of the 21st century.

BILL CLINTON'S VIEW OF AMERICA: MORE TAXES, MORE SPENDING, MORE GOVERNMENT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, today the President is going to release his budget. Unfortunately, his view of America is more taxes, more spending, and more government.

This is a fact, it is not partisan rhetoric, and we should not be surprised. In the past 3 years President Clinton has passed the largest tax increase in history, vetoed welfare reform, not once, but twice, vetoed tax benefits for families and businesses, vetoed the first balanced budget in 26 years, and allowed Medicare to go bankrupt.

Now he simply wants $8 billion more in new spending this year and a 4-percent increase in spending next year; all this despite his rhetoric that the era of big government is over. This President has proven he cannot manage his own bureaucracy. He has shown by his actions he is not ready to give the people of this country the ability to achieve their own American dream.

RESTORE FUNDING FOR EDUCATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, what the President and Democrats in Congress have been saying is that priorities, whether it be education, the environment, or protecting health care, particularly for seniors with Medicare and Medicaid, that these priorities should not be cut in these constant budget battles in this House of Representatives. That is why it is so important that we restore education funding.

The House has passed a bill that cuts education funding by $3.3 billion, a 13-percent cut over the previous year. That is going to mean layoffs in local school districts or it is going to mean property taxes to those school districts that want to keep educational programs that would otherwise be lost, and what we are saying is that in this budget battle education must be a priority.

The Republicans in the Senate have already voted to restore this education funding because they do not want to see the teachers laid off. They want to make sure that students in the various school districts around the country get a proper education, that class sizes do not get too large, that they are able to get textbooks, and they are able to get the things that are necessary and provided under title I funding.

The Republicans should not sacrifice education, and that is what they are doing here in this House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. HUTCHINSON) laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, March 19, 1996.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, March 18th at 2:55 p.m. and said to contain a message from the President whereby he transmits the text of a proposed agreement between the U.S. Government and the Government of the Argentine Republic Regarding the Peaceful Uses of Nuclear Energy.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN GOVERNMENT OF THE UNITED STATES AND GOVERNMENT OF ARGENTINE REPUBLIC CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–188)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the Argentine Republic Concerning Peaceful Uses of Nuclear Energy with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Argentine Republic has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 (NNPA) and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Argentina under appropriate conditions and controls reflecting a strong common commitment to nuclear non-proliferation goals.

The proposed new agreement will replace an existing U.S.-Argentina agreement for peaceful nuclear cooperation that entered into force on July 25, 1969, and by its terms would expire on July 25, 1999. The United States suspended cooperation with Argentina under the 1969 agreement in the late 1970's because Argentina did not satisfy a provision of section 128 of the Atomic Energy Act (added by the NNPA) that required full-scope International Atomic Energy Agency (IAEA) safeguards in nonnuclear weapon states such as Argentina as a condition for continued significant U.S. nuclear exports.

On December 13, 1991, Argentina, together with Brazil, the Argentine-Brazilian Agency for Accounting and Control of Nuclear Materials (ABACC) and the IAEA signed a quadrilateral agreement calling for the application of full-scope IAEA safeguards in Argentina and Brazil. This safeguards agreement was brought into force in March 1994. Resumption of cooperation would be possible under the 1969 U.S.-Argentina agreement for cooperation. However, both the United States and Argentina believe it is preferable to launch a new era of cooperation with a new agreement that reflects, among other things:

—An updating of terms and conditions to take account of intervening changes in the respective domestic legal and regulatory frameworks of the parties in the area of peaceful nuclear cooperation;

—Reciprocity in the application of the terms and conditions of cooperation between the parties; and

—Additional international non-proliferation commitments entered into by the parties since 1969.

Over the past several years Argentina has made a definitive break with earlier ambivalent nuclear policies and has embraced wholeheartedly a series of important steps demonstrating its firm commitment to the exclusively peaceful uses of nuclear energy. In addition to its full-scope safeguards agreement with the IAEA, Argentina has made the following major non-proliferation commitments:

—It brought the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) into force for itself on January 18, 1994;

—It became a full member of the Nuclear Suppliers Group in April 1994; and

—It acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on February 10, 1995.

Once Argentina's commitment to full-scope IAEA safeguards was clear, and in anticipation of the additional steps subsequently taken by Argentina to adopt responsible policies on nuclear non-proliferation, the United States entered into negotiations with Argentina on a new agreement for peaceful nuclear cooperation and reached ad referendum agreement on a text on September 3, 1992. Further steps to conclude the agreement were interrupted, however, by delays (not all of them attributable to Argentina) in bringing the full-scope IAEA safeguards agreement into force, and by steps, recently completed, to resolve issues relating to Argentina's eligibility under section 129 of the U.S. Atomic Energy Act to receive U.S. nuclear exports. As the agreement text initialed with Argentina in 1992 continues to satisfy current U.S. legal and policy requirements, no revision has been necessary.

The proposed new agreement with Argentina permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components thereof. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

From the U.S. perspective the proposed new agreement improves on the 1969 agreement by the addition of a number of important provisions. These include the provisions for full-scope safeguards; perpetuity of safeguards; a ban on "peaceful" nuclear explosives; a right to require the return of exported nuclear items in certain circumstances; a guarantee of adequate physical protection; and a consent right to enrichment of nuclear material subject to the agreement.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 18, 1996.*

THE BUDGET FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

The 1997 Budget, which I am transmitting to you with this message, builds on our strong economic record by balancing the budget in seven years while continuing to invest in the American people.

The budget cuts unnecessary and lower priority spending while protecting senior citizens, working families, and children. It reforms welfare to make work pay and provides tax relief to middle-income Americans and small business.

Three years ago, we inherited an economy that was suffering from short- and long-term problems—problems that were created or exacerbated by the economic and budgetary policies of the previous 12 years.

In the short term, economic growth was slow and job creation was weak. The budget deficit, which had first exploded in size in the early 1980s, was rising to unsustainable levels.

Over the longer term, the growth in productivity had slowed since the early 1970s and, as a result, living standards had stagnated or fallen for most Americans. At the same time, the gap between rich and poor had widened.

Over the last three years, we have put in place budgetary and other economic policies that have fundamentally changed the direction of the economy—for the better. We have produced stronger growth, lower interest rates, stable prices, millions of new jobs, record exports, lower personal and corporate debt burdens, and higher living standards.

Working with the last Congress in 1993, we enacted an economic program that has worked better than even we projected in spurring growth and reducing the deficit. We have cut the deficit nearly in half, from $290 billion in 1992 to $164 billion in 1995. As a share of the Gross Domestic Product, we have cut the deficit by more than half in three years, bringing the deficit to its lowest level since 1979.

While cutting overall discretionary spending, we also shifted resources to investments in our future. With wages increasingly linked to skills, we invested wisely in education and training to help Americans acquire the tools they need for the high-wage jobs of tomorrow. We also invested heavily in science and technology, which has been a strong engine of economic growth throughout the Nation's history.

For Americans struggling to raise their children and make ends meet, we have sought to make work pay. We expanded the Earned Income Tax Credit, providing tax relief for 15 million working families. And we have given 37 States the freedom to test ways to move people from welfare to work while protecting children.

As the economy has become increasingly global, prosperity at home depends heavily on opening foreign markets to American goods and services. With this in mind, we secured legislation to implement the General Agreement on Tariffs and Trade and the North American Free Trade Agreement, and we have completed over 80 other trade agreements. Under our leadership, U.S. exports have grown to an all-time high.

With these policies, we have helped pave the way for a future of sustained economic growth, low interest rates, stable prices, and more opportunity for Americans of all incomes. But our work is not done.

Looking ahead, as I said recently in my State of the Union address, we must answer three fundamental questions: First, how do we make the American dream of opportunity for all a reality for all Americans who are willing to work for it? Second, how do we preserve our old and enduring values as we move into the future? And, third, how do we meet these challenges together, as one America?

This budget addresses those questions.

CREATING AN AGE OF POSSIBILITY

I am committed to finishing the job that we began in 1993 and finally bringing the budget into balance. In our negotiations with congressional leaders, we have made great progress toward reaching an agreement. We have simply come too far to let this opportunity slip away.

A balanced budget would reduce interest rates for all Americans, including the young families across the land who are struggling to buy their first homes. It also would free up funds in the private markets with which businesses could invest in factories and equipment, or in training their workers.

But we have to balance the budget the right way—by cutting unnecessary and lower priority spending; investing in the future; protecting senior citizens, working families, children, and other vulnerable Americans; and providing tax relief for middle-income Americans and small businesses.

My budget does that. It strengthens Medicare and Medicaid, on which millions of senior citizens, people with disabilities, and low-income Americans rely. It reforms welfare. It cuts other entitlements. And it cuts deeply into discretionary spending.

But while cutting overall discretionary spending, my budget invests in education and training, the environment, science and technology, law enforcement, and other priorities to help build a brighter future for all Americans. We should spend more on what we need, less on what we don't.

PROJECTING AMERICAN LEADERSHIP

Across the globe, we live in a time of great opportunity and great challenge. With the end of the Cold War, the world looks to the United States for leadership. Providing it is clearly in our best interest. We must not turn away.

My budget provides the necessary resources to advance America's strategic interests, carry out our foreign policy, open markets abroad, and support U.S. exports. It also provides the resources to confront the emerging global threats that have replaced the Cold War as major concerns—regional, ethnic, and national conflicts; the proliferation of weapons of mass destruction; international terrorism and crime; narcotics trading; and environmental degradation.

On the diplomatic front, our successes have been numerous and heartening, and they have made the world a safer and more stable place. Through our leadership, we are helping to bring peace to Bosnia and the Middle East, and we have spurred progress in Northern Ireland. We also encouraged the movement toward democracy and free markets in Russia and Central Europe, and we led a successful international effort to defuse the nuclear threat from North Korea.

On the military front, we have deployed our forces where we could be effective and where it was in our interest to promote stability by ending bloodshed (such as in Bosnia) and suffering (such as in Rwanda). We also have used the threat of force to ease tensions, such as to unseat an unwelcome dictatorship in Haiti and to stare down Iraq when it threatened again to move against Kuwait.

This budget provides the funds to sustain and modernize the world's strongest, best-trained, best-equipped, and most ready military force. Through it, we continue to support service members and their families with quality-of-life improvements in the short term, while planning to acquire the new technologies that will become available at the turn of this decade.

CREATING OPPORTUNITY AND ENCOURAGING RESPONSIBILITY

The Federal Government cannot—by itself—solve most of the problems and address most of the challenges that we face as a people. In some cases, it must play a lead role—whether to ensure the guarantee of health care for vulnerable Americans, expand access to education and training, invest in science and technology, protect the environment, or make the tax code fairer. In other cases, it must play more of a partnership role—working with States, localities, non-profit groups, churches and synagogues, families, and individuals to strengthen communities, make work pay, protect public safety, and improve the quality of education.

To restore the American community, the budget invests in national service, through which 25,000 Americans this year are helping to solve problems in communities while earning money for postsecondary education or to repay student loans. We want to create more Empowerment Zones and Enterprise Communities to spur economic development and expand opportunities for the residents of distressed urban and rural areas. We want to expand the Community Development Financial Institutions Fund to provide credit and other services to such communities. With the same goal in mind, we want to transform the Department of Housing and Urban Development into an agency that better addresses local needs. And we want to maintain our relationship with, and the important services we provide to, Native Americans.

In health care, our challenge is to improve the existing and largely successful system, not to end the guarantees of coverage on which millions of vulnerable Americans rely. My budget strengthens Medicare and Medicaid, ensuring their continued vitality. For Medicare, it strengthens the Part A trust fund, provides more choice for seniors and people with disabilities, and makes the program more efficient and responsive to beneficiary needs. For Medicaid, it gives States more flexibility to manage their programs while preserving the guarantee of health coverage for the most vulnerable Americans, retains current nursing home quality standards, and continues to protect the spouses of nursing home residents from impoverishment. My budget proposes reforms to make private health care more accessible and affordable, and premium subsidies to help those who lose their jobs pay for private coverage for up to six months. It also invests more in various public health services, such as the Ryan White program to serve people living with AIDS, and research and regulatory activities that promote public health.

Because American's welfare system is broken, we have worked hard to fix those parts of it that we could without congressional action. For instance, we have given 37 States the freedom to test ways to move people from welfare to work while protecting children, and we are collecting record amounts of child support. But now, I need the help of Congress. Together, in 1993 we expanded the Earned Income Tax Credit for 15 million working families, rewarding work over welfare. Now, my budget overhauls welfare by setting a time limit on cash benefits and imposing tough work requirements, and I want us to enact bipartisan legislation that requires work, demands responsibility, protects children, and provides adequate resources to get the job done right—with child care and training, giving recipients the tools they need.

More and more, education and training have become the keys to higher living standards. While Americans clearly want States and localities to play the lead role in education, the Federal Government has an important supporting role to play—from funding preschool services that prepare children to learn, to expanding access to college and worker retraining. My budget continues the strong investments that we have made to give Americans the skills they need to get good jobs. Along with my ongoing investments, my budget proposes a Technology Literacy Challenge Fund to bring the benefits of technology into the classroom, a $1,000 merit scholarship for the top five percent of graduates in every high school, and more Charter Schools to let parents, teachers, and communities create public schools to meet their own children's needs.

As Americans, we can take pride in cleaning up the environment over the last 25 years, with leadership from Presidents of both parties. But our job is not done—not with so many Americans breathing dirty air or drinking unsafe water. My budget continues our efforts to find solutions to our environmental problems without burdening business or imposing unnecessary regulations. We are providing the necessary funds for the Environmental Protection Agency's operating program, for our national parks and forests, for my plan to restore the Florida Everglades, and for my "brownfields" initiative to clean up abandoned, contaminated industrial sites in distressed urban and rural communities. And we are continuing to reinvent the regulatory process by working collaboratively with business, rather than treating it as an adversary.

With science and technology (S&T) so vital to our economic future, our national security, and the well-being of our people, my budget continues our investments in this crucial area. To maintain our investments, I am asking Congress to fulfill my request for basic research in health sciences at the National Institutes of Health, for basic research and education at the National Science Foundation, for research at other agencies that depend on S&T for their missions, and for cooperative projects with universities and industry, such as the industry partnerships created under the Advanced Technology Program.

To attack crime, the Federal Government must work with States and communities on some problems and lead on others. To help communities, we continue to invest in the Community Oriented Policing Services (COPS) program, which is putting 100,000 more police on the street. We are helping States build more prisons and jail space, better enforce the Brady bill that helps prevent criminals from buying handguns, and better address the problem of youth gangs. At the Federal level, we are leading the fight to stop drugs from entering the country and expand drug treatment efforts, and we are stepping up our efforts to secure the border against illegal immigration while we help to defray State costs for such immigration.

For many families, of course, the first challenge often is just to pay the bills. My budget proposes tax relief for middle-income Americans and small businesses. It provides an income tax credit for each dependent child under 13; a deduction for college tuition and fees; and expanded individual retirement accounts to help families save for future needs and more easily pay for college, buy a first home, pay the bills during times of unemployment, or pay medical or nursing home costs. For small business, it offers more tax benefits to invest, provides estate tax relief, and makes it easier to set up pensions for employees. It also would expand the tax deduction to make health insurance for the self-employed more affordable.

MAKING GOVERNMENT WORK

As we pursue these priorities, we will do so with a Government that is leaner, but not meaner, one that works efficiently, manages resources wisely, focuses on results rather than merely spending money, and provides better service to the American people. Through the National Performance Review, led by Vice President GORE, we are making real progress in creating a Government that "works better and costs less."

We have cut the size of the Federal workforce by over 200,000 people, creating the smallest Federal workforce in 30 years, and the smallest as a share of the total workforce since before the New Deal. We are ahead of schedule to cut the workforce by 272,900 positions, as required by the 1994 Federal Workforce Restructuring Act that I signed into law.

Just as important, the Government is working better. Agencies such as the Social Security Administration, the Customs Service, and the Veterans Affairs Department are providing much better service to their customers. Across the Government, agencies are using information technology to deliver services more efficiently to more people.

We are continuing to reduce the burden of Federal regulation, ensuring that our rules serve a purpose and do not unduly burden businesses or taxpayers. We are eliminating 16,000 pages of regulations across Government, and agencies are improving their rulemaking processes.

In addition, we continue to overhaul Federal procurement so that the Government can buy better products at cheaper prices from the private sector. No longer does the Government pay outrageous prices for hammers, ashtrays, and other small items that it can buy cheaper at local stores.

As we look ahead, we plan to work more closely with States and localities, with businesses and individuals, and with Federal workers to focus our efforts on improving services for the American people. Under the Vice President's leadership, agencies are setting higher and higher standards for delivering faster and better service.

CONCLUSION

Our agenda is working. We have significantly reduced the deficit, strengthened the economy, invested in our future, and cut the size of Government while making it work better for the American people.

Now, we have an opportunity to build on our success by balancing the budget the right way. It is an opportunity we should not miss.

WILLIAM J. CLINTON.

March 1996.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Banking and Financial Services, the Committee on Economic and Educational Opportunties, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on National Security, the Committee on Resources, the Committee on Science, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REIMBURSEMENT OF FORMER WHITE HOUSE TRAVEL OFFICE EMPLOYEES

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2937) for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993, as amended.

The Clerk read as follows:

H.R. 2937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, from amounts in the Treasury not otherwise appropriated, such sums as are necessary to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

(b) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under subsection (a) upon submission by the individual of documentation verifying the attorney fees and cost.

(c) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this section.

SEC. 2. LIMITATION ON FILING OF CLAIMS.

The Secretary of the Treasury shall not pay any claim filed under this Act that is filed later than 120 days after the date of the enactment of this Act.

SEC. 3. REDUCTION.

The amount paid pursuant to this Act to an individual for attorney fees and costs described in section 1 shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the "Office of the General Counsel" under the heading "Office of the Secretary" in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

SEC. 4. PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.

Payment under this Act, when accepted by an individual described in section 1, shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. SMITH] and the gentleman from Massachusetts [Mr. FRANK] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2937 would reimburse the legal expenses incurred by former employees of the White House Travel Office due to their dismissal on May 19, 1993. The Secretary of the Treasury would reimburse such costs out of money not otherwise appropriated.

On May 19, 1993, all seven White House Travel Office employees were fired. We now know that the employees' firing and the subsequent FBI investigation was actually instigated by individuals who were pursuing travel and aviation business controlled within the White House. As a result of the actions of those individuals, the seven employees suffered public and private humiliation and incurred extensive legal expenses in their attempt to defend themselves.

Today, after the conclusion of all the investigations, no one has been found guilty of any of the charges. Both a GAO report to Congress and a White House management review acknowledged that the actions of people within the White House, the public acknowledgment of a criminal investigation, and the investigation itself tarnished the employees' reputations and caused them to incur considerable legal expenses.

On the bases of these facts, the committee feels that in the interest of equity, these particular individuals' attorneys fees should be reimbursed.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I appreciate the very thoughtful manner in which the chairman of the subcommittee has managed this at subcommittee. We did adopt a few amendments to tighten it up.

I should note that this is not entirely unprecedented. As a matter of fact, well back in the early 1980's the Congress appropriated funds to compensate for lawyer's fees, Hamilton Jordan, because when he was working for Jimmy Carter he was, wholly unfairly, accused of things.

At the point the independent counsel statute, then called the special prosecutor statute, had a very, very low trigger, and very irresponsible and inaccurate accusations against Mr. Jordan triggered the statute as it was then written. He was then compensated. Indeed, the former Member of the House who is now the Secretary of Agriculture carried the bill at the time because he chaired the appropriate subcommittee, and Mr. Jordan was compensated for his attorney's fees.

So it is not unprecedented that we compensate people who were unfairly put to the need to hire attorneys. In fact, after the Jordan situation, when Congress reenacted the independent counsel statute in 1982, I believe it was, we raised the trigger because we did not want others to have to go through that. We also included a provision there which had not been in the original act, which compensates anybody who was the subject of an independent counsel investigation, the potential target who is not indicated.

Indeed a great deal of money has been paid out, and I would guess millions of dollars for that as the price of this statute, because then under the independent counsel statute people find themselves investigated where they might not otherwise have been because the trigger, although higher than originally, is still lower than in some cases.

Also in the course of that the late Judge George McKinnon, who was a very distinguished head of the special court that appointed independent counsel, developed a lot of law which we alluded to, I believe, in this report and in the discussion in committee to properly distinguish between lawyer's fees that ought to be compensated and other fees that should not be.

Lawyers can do a lot of things for people. They can write articles; they can be public relations advisers. Judge McKinnon set down some very good criteria for differentiating between those properly compensable fees and other expenses, and I am glad to say that I think we will be building on that in that.

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I think the precedent that, having been set before, is useful to follow now, and it is not a binding precedent. No one can then come before us and say, "You must do that." We are not governed by the rule of stare decisis the way the courts are.

However, I think reaffirming the principle that people who have unfairly been put to significant legal expenses, people who were there not because they happen to be in the way of some investigation as an ordinary citizen, but people who because of their governmental position and because of a variety of factors were put to expenses that they should not have had to have been put to, that it is reasonable to compensate them. It is not the first time we have done it. In my judgment it should not necessarily be the last time, because there are other cases where people are involved.

I think it is appropriate to provide the funds for these people here, and understand that we are once again affirming a principle that people who have been unfairly put to great expenses, particularly people of no great personal wealth, ought to be able to look to this Congress for some compensation.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to rise in support of H.R. 2937, which will reimburse the legal expenses incurred by some of the former employees of the White House Travel Office with respect to the firings that took place on May 19, 1993.

Mr. Speaker, I am very pleased to say that the White House has indicated that President Clinton will sign this legislation. I am particularly appreciative of the extraordinary assistance of my colleagues on the Committee on the Judiciary and the support of my colleagues on the minority side of the aisle, and I urge my colleagues to support this vital legislation.

As hard as it may be to believe, nearly 3 years have passed since that late morning of May 19 when five White House Travel Office employees were fired summarily by Mr. David Watkins in order to be out of the White House by noon.

Two of their colleagues were not present for what Mr. Watkins characterized as a surgical procedure. One was on a White House advanced trip to South Korea and learned he had been terminated by CNN. The other, who was on vacation, on a personal vacation in Ireland, was called by his son in Ireland and told, "Dad, Tom Brokaw said you were fired." So this was really the beginning of what was a nightmare, really, for these seven individuals, their families, and their friends. It was a nightmare from which they are only now really beginning to see the light.

I understood and I think most of us here in the Congress understood all along that the Travel Office employees served at the pleasure of the President; so, I think, did the Travel Office employees themselves, as a matter of fact, understand that they served at the pleasure of the President. But from the very first, the manner in which these men were fired raised troubling questions. In particular, the White House's May 19, 1993 statement that the FBI was launching a criminal investigation of the Travel Office was really, I think, highly inappropriate and improper. While that was the most troubling issue arising from the firings, others festered in the days and weeks which followed.

While we are continuing to investigate the events leading up to and surrounding these firings, I am pleased there has been bipartisan support for beginning today to right the wrongs done to these individuals by passing this legal expense relief bill. It is impossible to imagine what the fired Travel Office employees, their families, and friends felt, and the fear that they had to feel as FBI agents combed their neighborhoods and as IRS agents threatened them with audits, as they faced grand juries and possible prosecution in a really Kafkaesque kind of atmosphere.

By May 25, 1993, the media had uncovered strong indications of conflicts of interest in the takeover of the White House Travel Office, and in the wake of media scrutiny and public outrage, the White House backtracked on its firings of five of the seven travel office employees and placed them on administrative leave. Those five men eventually did indeed find employment elsewhere in the Federal Government, and the Director and the Deputy Director of the Travel Office retired.

When I introduced this bill last month, I referred to the eloquence of the seven Travel Office employees, when they testified before the Committee on Government Reform and Oversight, to the pride they took in serving the White House under Democrat and Republican Presidents alike. I believed then and I believe now that Mr. McSweeney said it best when he said:

> I would hope that people would understand that for me and thousands of others, when Air Force One would arrive, the markings on the side were not Democratic Party or Republican Party; it read, and reads, "United States of America." The emblem on its side was not a political poster, it was the seal of the Executive Office of the President of the United States, and when the door opened, the man or woman chosen by the people of this country to fill that office had my complete loyalty and support. I did that for 13 of the proudest years of my life.

The eloquence of the fired Travel Office employees has resonated, I think, across this Nation. In the wake of their January 24, 1996 testimony before the Committee on Government Reform and Oversight, I have received literally scores of letters supporting the fired Travel Office employees and decrying the damage done to their reputations. An example, a Connecticut woman wrote saying:

> My husband and I were astounded when one night a few weeks ago we happened to turn on C-Span right at the moment when Billy Dale was beginning his story on what happened to him in the matter that has now become known as Travelgate. We listened as each of the seven gentlemen told his story, their opening statements. Up until that evening we had been under the impression that Billy Dale and possibly some of his associates had fraudulently misappropriated funds from the travel office and we were so thankful that your committee gave us the opportunity to learn the truth about what happened to these men. What our government did to those seven men should not happen to anyone.

But it did happen, and unfortunately the dedicated longstanding service of those seven men throughout some of the proudest years of their lives cost them dearly in the end. Six of the seven never were charged with any crime, while the seventh, Mr. Billy Dale, was acquitted by a jury of his peers in 2 hours following a 30-month investigation by the Justice Department.

Billy Dale's legal defense cost him nearly $500,000. His six colleagues spent more than $200,000 in their own defense, some $150,000 of which has been reimbursed by the 1994 Transportation appropriations bill, so we have seen partial compensation made to some of these gentlemen.

This bill will never mitigate the suffering of innocent men, their families and friends. It will, however, I think, make them whole for the legal defense expenses still outstanding against them, and quite rightly so.

So again, I would express my appreciation for the help of the chairman of the committee, the gentleman from Illinois [Mr. HYDE], the gentleman from Texas [Mr. SMITH], my colleagues on the Committee on the Judiciary and the Committee on Government Reform and Oversight, and Members of the minority, for their bipartisan support for this very, very humane and overdue piece of legislation. I urge support for this bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to say that I have seen a great amount of testimony and other information about the Travel Office matter. This is because I serve on both of the committees represented here today, the Committee on the Judiciary and the Committee on Government Reform and Oversight. Unfortunately, all of the matters that exist between the administration and the Congress about what happened in the Travel Office, even back almost 3 years, have not been resolved yet.

The center of contention is that the administration believes it has furnished Congress with all of the information requested about how things happened and how we got to this point, and some Members of Congress believe that is not the case, so there is still an area of contention between the two branches of government.

But there is no difference of opinion between the administration and the Congress as to the fact that these individuals, these employees of the Federal Government, were not treated fairly; in fact, were mistreated in this whole process. That has been acknowledged by the administration, I think to their credit, to look back at it and say, "We know we didn't handle this right." Mr. Speaker, it is also my understanding that the President does intend to sign this bill, should it reach his desk. I want to urge all Members to vote in favor of this legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I thank the gentleman for yielding time to me.

I commend the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman of the Committee on Government Reform and Oversight, the Committee on which I serve. Mr. CLINGER pursued this matter of the unfair treatment of employees in the Travel Office at the White House when all doors were blocked as to what really happened. Today, after several years of pursuit of the truth, a basic characteristic of the American people, which is fairness, has finally come into play.

I have sat for hours through the testimony of those involved. Chairman CLINGER has been a great leader in this effort to secure long-overdue justice for those employees who worked effectively to meet the travel needs of the various reporters who accompany the President on domestic and international trips. A few of those employees had served both Democratic and Republican Presidents since the early 1960s.

Suddenly, the new Clinton administration fired them. White House employees serve at the pleasure of the President. Instead White House agents abused their authority and abused these employees. This is not new. Occasionally a White House aide has abused the power of his office. Too often, immature individuals who have been successful during the campaign have been asked to join the White House staff. They cause Presidents a lot of difficulty. This is that kind of a case.

President Clinton was ill-served in this matter by the aggressiveness and eagerness of a few members of his staff.

As I noted, they misused their authority. They treated the employees of the Travel Office very unfairly. They made false accusations about very loyal employees. They misused the Federal Bureau of Investigation. As was noted, there has been a sudden loss of records as well as memory.

Travelgate is a sordid chapter in the history of White House staffs. Thus, I am delighted that the Committee on the Judiciary has reported this bill. I urge my colleagues in both parties to adopt it and end this case. At least we will have tried to make whole as to their legal fees to defend themselves the various persons whose lives have been very sadly and badly disrupted by these improper and unjustified activities.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I rise in support of this bill. We had here Federal employees, career employees, who were dismissed from their jobs, put, sitting down, in a windowless moving van with no seats and their belongings, and summarily dumped onto the Elipse, out of sight of the press corps, where they could not comment on the firings.

Some of these employees had worked at the White House since the Kennedy administration for Presidents of both parties. Some of their families learned about these firings through the television, which, according to the White House press office, told that the employees were fired due to embezzlement and severe financial irregularities. We know now that these career civil servants did no wrong. In fact, they were good at what they did. They simply got in the way of larger political and patronage objectives of the White House.

The White House had every right to terminate these individuals if they wanted to. That is not the issue in this case. The problem is that instead of 'fessing up to the deed that this was a political firing, documents were leaked to the press in an attempt to create the illusion that these firings were somehow for cause. They even tried to trump up criminal allegations against one Billy Dale, who, after several weeks of trial, was acquitted in less than 2 hours by a jury of his peers.

Mr. Speaker, this bill is an attempt to pay the legal bills of those wrongly accused. It can never mitigate the suffering they and their families endured, but I ask the support of my colleagues for this bill, and I say thank you to these employees for a job well done. This, in a small way, is our way of thanking those employees for the service they gave the Government.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN], the ranking member of the Committee on Government Reform and Oversight.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding time to me. I am not the ranking member, but I am a member of the Committee on Government Reform and Oversight.

Mr. Speaker, I think we ought to put some perspective to this debate. We are faced with an anomalous situation. We are singling out seven Federal employees for special and unprecedented treatment by compensating them for their legal expenses.

The House of Representatives has taken great pride in the fact that we are now going to operate under the rules that apply to other employers. That started in January of this year. In December of last year, over 100 House employees were summarily fired, and some of them apparently were fired because they were Democrats. They were, many of them, career people who had been here for a very long period of time. They are out. They do not have a job. No one is seeking to compensate them.

What we are faced with in this case is not compensating people for losing their jobs, because six of the seven travel office employees got jobs right away. What we are seeking to do is to pay for their legal fees. That might be the right thing to do, but it might have been the right thing to do when Federal employees were targeted and smeared by Senator McCarthy and other investigators over the years. It might be the right thing to do for many in the Clinton White House, employees who face hundreds of thousands of dollars in legal bills.

Yesterday an article in the Legal Times noted, and I want to quote this:

> At last count, nearly 40 current and former officials of the Clinton White House alone have found it necessary to retain counsel. The essential problem is that anyone taking a senior governmental position these days, especially in the White House, may end up in need of legal counsel, no matter how honorably she (or he) conducts herself (or himself). That wasn't true 20 years ago. It is a consequence of our current culture, of hair-trigger resort to criminal investigations as the ultimate weapon in partisan warfare.

Mr. Speaker, there have been a growing number of investigations by appointed investigators, as well as congressional ones, much of which, in my opinion, have been motivated by partisan considerations.

The White House, under President Clinton, came in and looked at the travel office and they had an independent review by the Peat, Marwick accounting firm that said there was a shambles in the travel office operations in terms of bookkeeping, a lot of mismanagement. They brought this to the attention of the people running the internal operations of the White House.

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In fact, some of the claims about mismanagement led to the Justice Department deciding to prosecute Mr. Dale. He was acquitted, but in this legislation, the proponents seek to compensate him for his attorney's fees.

There is another former White House aide that had something to do with the travel office, David Watkins. He has incurred, according to testimony he gave us, over $100,000 in attorney's fees and more bills are yet on the way. Mr. Watkins has not been charged with any crime. Should we be compensating him for his attorney's fees?

Many lawyers in this House know the adage, "tough cases make bad law." Unless we use H.R. 2937 as a precedent for future Federal employees, this will indeed be a bad law. We should never single out one group for special treatment, even if they have a meritorious claim, while ignoring others in similar situations.

Mr. Speaker, I hope in passing H.R. 2937 the majority will also commit to supporting future legislation that provides such compensation to other Federal employees. That is the precedent we are taking in adopting this legislation. It is one that I hope the Judiciary Committee thought through quite carefully, because it may be one that will incur the taxpayers of this country an enormous amount of expenses, for not just these seven people but others who have as meritorious, if not more meritorious, a claim that for their Government service and for their having to deal with accusations and investigations, for which they had to hire lawyers just to protect themselves in case someone later wanted to come back and second-guess them on anything they might have said or anything they might have done.

Mr. Speaker, I thank the gentleman for allowing me to make this statement and I hope Members will be very thoughtful about the consequences of legislation that we are looking at today.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to respond briefly to some of the comments made by the gentleman from California [Mr. WAXMAN]. He is certainly very correct when he said that the administration had the power legally to discharge all of the White House travel employees upon their entry into the White House if they had wanted to. If they had just done that, we would not be here today.

Mr. Speaker, the fact of the matter is that in a number of positions they do change politically, from Republican to Democrat, from Democrat to Republican, sometimes even within a party if different individuals take charge. That is part of the system, whether we all approve of it or not. The problem is that is not what happened here.

Mr. Speaker, what happened here is the fact that these individuals were virtually slandered by public accusations of financial mismanagement as the reason why they were, in fact, discharged. Those have never been supported. I do not believe there was officially an audit of the White House Travel Office.

Mr. WAXMAN. If the gentleman will yield, there was an official audit by Peat Marwick.

Mr. SCHIFF. I will yield in a moment to the gentleman. I believe it was a management study.

Mr. Speaker, in any event, the General Accounting Office took a look at the new White House Travel Office and the first thing they found was financial discrepancies in the sense of deposits not being entered in the checkbook and so forth. Nobody has been fired in the White House Travel Office over that. The point is that was never the reason why these employees were discharged. There has been ample evidence of that throughout all of the testimony.

Mr. Speaker, I just want to say before I yield to the gentleman from California that with respect to Mr. Watkins' legal fees, I do not know what will come out of that. Maybe at some point Mr. Watkins can come to the Congress also. I can say, however, because I attended the hearings that this matter continues to be alive in the U.S. Congress because Mr. Watkins' memorandum, which he himself wrote and notes that he himself wrote, contradict, in my judgment at least, what he and others told the official investigators in this case, and that is what is keeping this matter at the center of congressional attention, getting a straight story on that.

With that, I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding.

I want to point out that when the General Accounting Office did their evaluation, they talked to a Mr. Larry Herman from Peat Marwick. He was a Peat Marwick senior partner who led the travel office review. In Mr. Herman's professional judgment, and I am quoting from the GAO notes, the travel office's accounting records were, quote, "the messiest, most illegible bookkeeping he had ever seen." He stated he was, quote, "barely able to read the writing, very sloppy, and inconsistent with no explanations of differences," end quote.

Mr. Speaker, he was also frustrated he could not obtain appropriate responses from Mr. Dale, and they further went on that they seemed to have no concern for recordkeeping of other people's money. This might just be sloppiness, but they certainly raised a lot of concern when this audit was presented to people in the White House as to whether they ought to continue to keep the travel office employees in their jobs, and they decided eventually not to.

Mr. Speaker, what all of the Members here seem to be saying is that if they simply fired them for political reasons, that would have been OK.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume for what I believe will be my final comments, although I make no guarantees.

Mr. Speaker, I want to say first that I appreciate the gentleman from New Mexico's point as a member of the Committee on the Judiciary. I think he has made the only appropriate statement we can make. We do not set precedents here in the way a legal court does. No Congress binds a future Congress.

Mr. Speaker, the Congress retains always not the right but the responsibility to make judgments case by case, and I think the gentleman from New Mexico has fairly pointed out, should some other individuals come before the Congress and be able to make claims that Congress finds similarly meritorious, they may benefit. I do have to differ a little bit with the argument that says, well, we should not do it for anybody if we cannot do it for everybody.

Mr. Speaker, we unfortunately rarely can do justice for everyone. I have myself, because I served on the Administrative Law Subcommittee which dealt with claims, on the Immigration Subcommittee, been part of bringing to this floor legislation that made some people whole when other people similarly situated were not made whole. We can never do it all, and I think it would be a mistake to say either we do all of it or we do none of it.

Mr. Speaker, I thank the gentleman from New Mexico, who I think stated it the best way we can. This neither sets a precedent nor precludes someone. Any new case will be judged on the same merits, and I must say I think that we have dealt with this in a nonpartisan and fair manner. I believe other people who might find themselves as claimants can be assured similarly.

The one thing I would take issue with was one of the previous speakers referred to this as a sordid enterprise at the White House, and I would disagree with that. I think the administration made an error. I think it was an error in several ways, in part because it happened early in the administration. I am convinced that they would know better now and would not repeat this. But an error having been made, then I think people ought to be compensated, and we ought to recognize that that opportunity will exist in the future if other people can make a similar case. We will not do justice to everyone, but I would not let that be a reason not to do some justice for some people.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in strong support of the bill. There is precedent, I would tell the gentleman from California. This legislation builds upon an amendment that we adopted in a 1995 transportation appropriation bill where we provided $150,000 to defray the cost of these individuals one other time, and I think it was a unanimous vote here in the Congress.

Second, it is the old saying, everything that goes around comes around, and what the Clinton administration did was to bludgeon these people. These were all career Federal employees, and one of them is a constituent of mine. Billy Dale does not have the beautiful people to go out and put a massive fundraiser on for him the way the President of the United States does. These people have been bludgeoned and their reputations have been ruined and financially they are in trouble. Even after Billy Dale was acquitted, the White House counsel came out and had to put a dagger in him again to say that maybe he was going to go for a plea bargain or something like that.

Mr. Speaker, Billy Dale supported Clinton. Billy Dale was just a career person just trying to do his job, and I will say the only thing I agree with what the gentleman from California [Mr. WAXMAN], said is this one thing. There is too much in this town of filing suits and charges back and forth. It really began against Ed Meese. Ed Meese had to pay a horrible, horrible price. He eventually was paid for it, and it goes on in both parties. If the passage of this bill could be the beginning of a cease-fire for that, it would be appropriate.

Let us not forget, and I want to make the record show, we may never know the truth. Billy Dale was acquitted by a jury of his peers. There is no evidence of gross mismanagement in the offices. There was no evidence of kickback with regard to Ultra Air. In fact, Ultra Air got a $5,000 benefit back from the IRS. They got a rebate from the IRS and the White House had to pay for the excise fees.

Mr. Speaker, this, I think, makes whole not only from a financial point of view but I think from a moral point of view. The passage of this bill should send a message to everyone in this city and this country that these people were innocent, and also for their families and future generations know that they were basically innocent and what happened was absolutely wrong and that passing it can make it as right as we possibly can.

Mr. CONYERS. Mr. Speaker, contrary to the practices and precedents of the House, the majority of the Committee on the Judiciary filed the report to accompany H.R. 2937 without allowing the minority to opportunity to file additional views. Unfortunately, it comes as no surprise that the majority did not want the minority to file additional views. This breach of the traditional comity of the House is consistent with the partisan tone that has characterized the majority's investigation into the Travel Office firings from the beginnings. The majority's report weaves a web of conspiracy that would make even Oliver Stone blanche.

To hear the majority tell it, the conspiracy to frame Travel Office director Billy Dale and drag him through a political show trial includes the FBI investigators and career prosecutors who tried his case, not to mention the private citizens on the grand jury who voted to indict him. Cases where Congress considers providing funds to meet the legal expenses of defendants should meet a threshold of prosecutorial misconduct or the compromising of the criminal justice system. There is no evidence of such misconduct in the case of Mr. Dale. This case was investigated by career FBI agents and prosecuted by career attorneys. No one has suggested misconduct on their parts as they pursued this case.

The fact is that Mr. Dale deposited $50,000 of Travel Office funds into his personal bank account, and that became the basis for the criminal charges of embezzlement. Mr. Dale admitted that he deposited these funds into his account, but denied that his intent was fraudulent, and he was acquitted.

However, even Mr.. Dale, in sworn testimony before the Government Reform Committee, acknowledged that there was no misconduct on the part of the prosecutors or investigators who pursued the criminal case. The gentleman from Pennsylvania [Mr. KANJORSKI] asked Mr. Dale:

> When the allegation of criminal conduct was referred to the Justice Department and the public integrity section of the Justice Department; are you suggesting in any way that either those attorneys in the Justice Department, the people in the grand jury, the judge that tried the case or the people that made up the jury were in some way compromised?

Mr. Dale responded: "Absolutely not."

There is no dispute that White House officials erred in the firings of the five lower level Travel Office employees. The White House admitted as much in its 1993 internal review, and four officials were subsequently reprimanded. It is because of this that I have not opposed H.R. 2937. To the extent that these individuals have legal expenses not covered by previous appropriated sums, it may be appropriate to provide this additional authorization. However, as the majority's report points out, the bulk of the expenses of the Travel Office employees were incurred by Mr. Dale for his defense to the criminal charges brought against him.

I do not believe this legislation provides reimbursement for those expenses. Because H.R. 2937 is limited to costs associated with the employees' termination. Mr. Dale was indicted and acquitted for activities that took place prior to this administration, and therefore could not be related to the termination as required by the legislation.

In fact, an examination of the facts which are conveniently ignored by the majority suggest, first improprieties in Billy Dale's running of the Travel Office had been rumored for years, and the Clinton White House had plenty of reasons to be suspicious of him; second, the Peat Marwick review provided ample evidence of financial mismanagement on Dale's part; and third, there were significant grounds to suspect that he may have been embezzling funds from the Travel Office.

REASONS TO BE SUSPICIOUS ABOUT THE TRAVEL OFFICE

Rumors about improprieties by the Travel Office staff have been circulating since at least 1988, when allegations were made that included Travel Office staff accepting gifts from one airline doing business with the office, which in turn received the Travel Office business on a noncompetitive business. When the Reagan White House questioned Dale about these charges, he admitted that the Travel Office staff regularly accepted gifts of tickets to sporting events and invitations to elaborate fishing parties from contractors. Accepting gifts from contractors doing business with the office was against Federal regulations and may have been a Federal criminal violation.

The Reagan White House, faced with this admission to impropriety, did not refer the evidence to the Justice Department for further investigation as required when any evidence of a crime is uncovered. It never took any disciplinary action against the employees for improperly accepting gifts. And it never instructed that a competitive bidding process be implemented. Instead, it swept the allegations under the rug.

When asked about the lack of competitive bidding, Dale stated that no one else was interested in the business. Yet, during the course of the FBI investigation into the Travel Office, officials of a competing airline charter company told the FBI that it "had concern as to why the Travel Office did not have competitive bidding and why a charter company would have an exclusive contract with the Travel Office.

So when Darnell Martens, whose firm TRM had provided some services for the Clinton campaign, contacted Dale in early 1993 to discuss his firm's bidding on Travel Office business, it should have come as no surprise when Dale told him, according to Martens' notes of the conversation, that he had no chance of obtaining any business. Dale gave two reasons for his response to Martens. The first, that Martens would not be able to offer better price than Dale was already getting, cannot be taken seriously because Dale never even allowed Martens to make a bid. How could Dale possibly know Martens' price if he was not given a chance to bid?

The second added even more to the suspicions about the Travel Office under Billy Dale. According to Martens' notes, Dale said, "I have been here 31 years and no one has seen fit to replace me with commercial operations yet. So until they do, I will continue to handle this without your help." Does the majority, which professes to be the prophet of privatization, see the irony in defending a career bureaucrat fighting desperately for his job against a competitive bid from the private sector? Nevertheless, the 1988 allegations were known within the Clinton White House, and coupled with Martens' rebuke at the hands of Dale, there was plenty of reason to suspect that something was amiss in the Travel Office.

PEAT MARWICK FINDS FINANCIAL MISMANAGEMENT

The Majority, in the midst of its lengthy tale of intrigue of the Travel Office, conveniently fails to note the findings of the Peat Marwick review, while in the same breath discounting its conclusions. In fact, the Peat Marwick review uncovered significant evidence of mismanagement in the Travel Office, evidence that was communicated both to David Watkins before he made the decision to fire the employees, and to the FBI.

The Peat Marwick findings, under the heading of "Lack of Accountability," included a lack of financial control consciousness, no formal financial reporting process, no reconciliations of financial information other than reconciliations of bank statements, and no documented system of checks and balances on transactions and accounting decisions within the office.

When asked to explain these findings at the Government Reform Committee hearing, Mr. Dale denied that the findings amounted to financial weaknesses. However, that same day, Larry Herman, the Peat Marwick senior partner who led the Travel Office review, told the Associated Press that he did in fact find clear evidence of financial mismanagement which may have warranted the firing of Mr. Dale. "My personal assessment is that most companies today would question his management and would include questioning whether to remove that person from that position."

Mr. Herman was even more direct in an interview he gave to the General Accounting Office in September 1993. According to the GAO:

> In Mr. Herman's professional judgment, the Travel Office's accounting records were, the messiest, most illegible bookkeeping, he had ever seen. He stated he was, barely able to read the writing, very sloppy and inconsistent, with no explanation of differences. He was also frustrated that he couldn't obtain appropriate responses from Mr. Dale. Mr. Dale seemed to not understand the significance of items such as lack of reconciliations, missing pages, and lack of followup on open billings. Mr. Herman had orally briefed Mr. Dale on Peat's findings and repeatedly asked for his assistance in locating records. Mr. Herman believed that Mr. Dale had no concern for record keeping of other people's money.

Further, Mr. Herman told GAO that "most of his clients would react the same way as the White House did. Mr. Herman's personal opinion is that it was a wise course of action to start over with [a] clean slate . . ."

THE FBI'S CRIMINAL INVESTIGATION

Information obtained during the course of the Peat Marwick review also provided sufficient evidence for the FBI of its own volition to initiate a criminal investigation of Mr. Dale. According to a memorandum from David Watkins to Mack McLarty attached to the White House management review, when FBI officials were briefed on the Peat Marwick findings, they believed there was sufficient cause for them to conduct a criminal investigation.

Some of that evidence is contained in the Peat Marwick report's findings that of eight checks written against the Travel Office's Riggs Bank account totaling $23,000 made out to cash and signed by Mr. Dale, only $2,000 was reflected in the petty cash fund. Of the $2,000 entry to the petty cash fund, the corresponding check from the Riggs account was for $5,000. The Peat Marwick team's suspicions are further described in later interviews they gave to the GAO and the FBI.

For example, Mr. Herman's interview with the GAO provides more detail about the missing cash:

> On Saturday, during the Peat Marwick review, Billy Dale was asked at least twice more about the missing $3,000. Mr. Herman stated that Billy Dale suddenly seemed to recall something, then turned and opened his desk drawer or credenza and found the envelope with $2,800. This raised another red flag to Mr. Herman. We, the GAO, questioned whether Mr. Dale had the opportunity to place the funds in the drawer between Friday and Saturday. Mr. Herman stated that he did.

The FBI later learned that late on the previous Friday, after being confronted with the discrepancies in the petty cash log, Mr. Dale had withdrawn $2,500 in cash from his White House Credit Union account, and another $400 from an automated teller machine.

Mr. Herman provided a progress report of the Peat Marwick review to two FBI officials that Saturday evening. According to the GAO interview with Herman, The FBI agents were specifically concerned with first, the eight incomplete transactions; second, the weak controls; and third, the $2,800 in Billy Dale's credenza.

MR. DALE NEVER DISCLOSED HIS SECRET DEPOSITS

The FBI found this evidence to be sufficient to initiate a criminal investigation against Mr. Dale. However, it should be noted that during the Peat Marwick review, despite being interviewed for more than 2 hours about his financial management of the Travel Office, Mr. Dale never informed the Peat Marwick reviewers that he had been depositing Travel Office funds into his personal checking account. The discovery that Mr. Dale deposited $50,000 of Travel Office funds into his personal bank account became the basis for the criminal charges against him.

When asked at the Government Reform Committee hearing why he never told his colleagues or even his wife about this unusual and ultimately disastrous, if not criminal, practice, he stated that no one ever asked him. Of course, it would never cross most people's mind to ask the director of a Federal office if he was depositing office funds into his personal bank account. Yet, the Peat Marwick auditors, during their review, spent a considerable amount of time with Mr. Dale to understand his accounting practices. According to Mr. Herman's interview with GAO, Mr. Herman interviewed Mr. Dale to learn how the office worked and the flow of financial activities occurring in the office, such as, files, ledgers, details of advancing, and reimbursement by the press.

This was the perfect opportunity for Mr. Dale to explain to an obviously suspicious team of reviewers a management practice that was the very least unusual. In any case, it was key to understanding the financial management of the Travel Office, and Mr. Dale purposely withheld that information from the Peat Marwick reviewers, Regardless of his ultimate intent, it is not in dispute that Mr. Dale never told anyone about this practice until the FBI discovered it on its own after subpoenaing his personal bank account records.

Thus, based on the information provided by Peat Marwick and obtained during the course of its own investigation, the FBI had many reasons to suspect that Mr. Dale may have been embezzling funds. During the course of its investigation, the FBI found that he had secretly been depositing Travel Office funds into his personal bank account. That evidence was reviewed by career attorneys in the Public Integrity Section of the Department of Justice, and presented to a Federal Grand Jury who voted to indict Mr. Dale. As I stated earlier, there is no evidence of either prosecutorial misconduct or political interference with the criminal case.

For these reasons, I do not believe that Mr. Dale under this legislation is entitled to be reimbursed for legal expenses stemming from the criminal charges filed against him.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2937, the bill just considered.

The SPEAKER pro tempore (Mr. HUTCHINSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2937, as amended.

The question was taken.

Mr. SCHIFF. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

VERMONT-NEW HAMPSHIRE INTERSTATE PUBLIC WATER SUPPLY COMPACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 129) granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

The Clerk read as follows:

H.J. RES. 129

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Vermont-New Hampshire Interstate Public Water Supply Compact entered into between the States of Vermont and New Hampshire. The compact reads substantially as follows:

"VERMONT-NEW HAMPSHIRE INTERSTATE PUBLIC WATER SUPPLY COMPACT

"ARTICLE I

"GENERAL PROVISIONS

"(a) STATEMENT OF POLICY.—It is recognized that in certain cases municipalities in Vermont and New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public water supply facilities are erected and maintained. The States of Vermont and New Hampshire recognize the value of and need for such agreements, and adopt this compact in order to authorize their establishment.

"(b) REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"(c) DEFINITIONS.—

"(1) The term 'public water supply facilities' shall mean publicly owned water supply sources, storage, treatment, transmission and distribution facilities, and ancillary facilities regardless of whether or not the same qualify for Federal or State construction grants-in-aid.

"(2) The term 'municipalities' shall mean cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public water supply facilities and to raise revenue therefore by bonding and taxation, which may legally impose and collect user charges and impose and enforce regulatory control upon users of public water supply facilities.

"(3) The term 'water supply agency' shall mean the agencies within Vermont and New Hampshire possessing regulating authority over the construction, maintenance, and operation of public water supply facilities and the administration of grants-in-aid from their respective State for the construction of such facilities.

"(4) the term 'governing body' shall mean the legislative body of the municipality, including, in the case of a town, the selectmen or town meeting, and, in the case of a city, the city council, or the board of mayor and aldermen or any similar body in any community not inconsistent with the intent of this definition.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"(a) COOPERATIVE AGREEMENTS AUTHORIZED.—Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of public water supply facilities serving all the municipalities who are parties thereto.

"(b) APPROVAL OF AGREEMENTS.—Any agreement entered into under this compact shall, prior to becoming effective, be approved by the water supply agency of each State, and shall be in a form established jointly by said agencies of both States.

"(c) METHOD OF ADOPTING AGREEMENTS.—Agreements shall be adopted by the governing body of each municipality in accordance with statutory procedures for the adoption of interlocal agreements between municipalities within each State; provided, that before a Vermont municipality may enter into such agreement, the proposed agreement shall be approved by the voters.

"(d) REVIEW AND APPROVAL OF PLANS.—The water supply agency of the State in which any part of a public water supply facility which is proposed under an agreement pursuant to this compact is proposed to be or is located, is hereby authorized and required, to the extent such authority exists under its State law, to review and approve or disapprove all reports, designs, plans, and other engineering documents required to apply for Federal grants-in-aid or grants-in-aid from said agency's State, and to supervise and regulate the planning, design, construction, maintenance, and operation of said part of the facility.

"(e) FEDERAL GRANTS AND FINANCING.—(1) Application for Federal grants-in-aid for the planning, design, and construction of public water supply facilities other than distribution facilities shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each State's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective States determined jointly by the respective State water supply agencies. Each municipality shall be responsible for applying for Federal and State grants for distribution facilities to be located within the municipal boundaries.

"(2) Municipalities are hereby authorized to raise and appropriate revenue for the purpose of contributing pro rata to the planning, design, and construction cost of public water supply facilities constructed and operated as joint facilities pursuant to this compact.

"(f) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this compact shall contain at least the following:

"(1) A system of charges for users of the joint public water supply facilities.

"(2) A uniform set of standards for users of the joint public water supply facilities.

"(3) A provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual usage as measured by devices installed to gauge such usage with reasonable accuracy.

"(4) A provision establishing a procedure for the arbitration and resolution of disputes.

"(5) A provision establishing a procedure for the carriage of liability insurance, if such insurance is necessary under the laws of either State.

"(6) A provision establishing a procedure for the modification of the agreement.

"(7) A provision establishing a procedure for the adoption of regulations for the use, operation, and maintenance of the public water supply facilities.

"(8) A provision setting forth the means by which the municipality that does not own the joint public water supply facility will pay the other municipality its share of the maintenance and operating costs of said facility.

"(g) APPLICABILITY OF STATE LAWS.—Cooperative agreements entered into by municipalities under this compact shall be consistent with, and shall not supersede, the laws of the State in which each municipality is located. Notwithstanding any provision of this compact, actions taken by a municipality pursuant to this compact, or pursuant to an agreement entered into under this compact, including the incurring of obligations or the raising and appropriating of revenue, shall be valid only if taken in accordance with the laws of the State in which such municipality is located.

"CONSTRUCTION

"Nothing in this compact shall be construed to authorize the establishment of interstate districts, authorities, or any other new governmental or quasi-governmental entity.

"ARTICLE III

"EFFECTIVE DATE

"This compact shall become effective when ratified by the States of Vermont and New Hampshire and approved by the United States Congress.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation enabling the compact is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the two States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

This is a very dramatic moment in the history of Vermont and New Hampshire, and I am proud to take the floor to participate in this historic time.

Mr. Speaker, as everyone knows or should know, the Constitution itself provides for congressional approval of agreements reached between two or more of the several States of the Union in matters that if they were not approved by Congress could lead to conflict among States involved in or near the problem that is solved. In this particular case, there are certain water problems that cross boundaries between Vermont and New Hampshire. Testimony to these problems and to the way it was going to be solved has been amply provided by the gentleman from Vermont [Mr. SANDERS] and the gentleman from New Hampshire [Mr. BASS].

□ 1500

Testimony was received at our subcommittee hearing, and we were all satisfied by unanimous vote that, indeed, the request for congressional approval was well merited, and the subcommittee did grant its approval as did the full committee when its time came.

Mr. Speaker, I reserve the balance of my time.

Mr. REED. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the joint resolution.

Mr. Speaker, House Joint Resolution 129 would grant congressional consent to an interstate compact between Vermont and New Hampshire. Congressional approval is required before the towns involved can apply for Federal funds to upgrade a joint water-treatment plant. The compact will also permit future joint water-supply facilities of the New Hampshire-Vermont border. Compacts between Vermont and New Hampshire are not new. In fact, there is already one relating to sewer systems.

The towns are hoping to begin construction once the weather turns warm enough to break ground, so I urge speedy passage of this noncontroversial legislation.

Identical legislation has already been passed the Senate by voice vote on December 18, 1995.

This measure was urged before the committee very eloquently by the gentleman from Vermont [Mr. SANDERS] and the gentleman from New Hampshire [Mr. BASS], and I would hope that we would all join them in supporting this very worthy measure.

Mr. REED. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to begin by thanking the gentleman from Pennsylvania [Mr. GEKAS] and the chairman of the full Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], for their assistance in ensuring this joint resolution was passed by the Committee on the Judiciary and placed on the Suspension Calendar in a timely manner. We very much appreciate their willingness to move this matter along so rapidly.

Mr. Speaker, passage of this legislation is very important to the residents of Guildhall, VT. The Vermont-New Hampshire public water supply compact is noncontroversial but it is essential. Passage will allow Guildhall to pay its debt to New Hampshire and will allow the village of Guildhall to update its water transmission lines and provide adequate water services—including fire protection—to its residents. Right now, only one fire hydrant serves the village of Guildhall, and more are needed.

Mr. Speaker, Vermonters take pride in meeting their environmental obligations and this will allow the town of Guildhall to meet requirements under the Clean Water Act. And, if this bill passes under suspension today, Guildhall can start upgrading its water transmission lines and provide improved fire protection on schedule. I urge immediate approval of this resolution.

Mr. REED. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Vermont for his very effective advocacy for his constituents, and also the gentleman from New Hampshire [Mr. BASS] for his very effective advocacy.

Mr. Speaker, I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire [Mr. BASS].

Mr. BASS. Mr. Speaker, I thank the gentleman for yielding me this time.

I appreciate the opportunity to address the House on this very important issue. It may not seem like a big issue to most involved, but it certainly is critical to Northumberland, also known as Groveton, NH. I am sure my distinguished colleague from Vermont has discussed why this bill is so critical.

I would add at this present time the citizens of Guildhall, VT, the town of Guildhall owes Groveton, NH, about $75,000 legitimately, and if this legislation does not pass as soon as possible, the property taxpayers of Northumberland or Groveton, NH, would be hit with an unnecessary increase in their taxes for 1996.

So I appreciate and thank the distinguished subcommittee chairman for moving this bill expeditiously. I am glad to have been able to work with my colleague from Vermont. I hope we can move this bill as fast as possible.

Mr. Speaker, first, I would like to thank Chairman HYDE for bringing this legislation to the floor so quickly. While identical language passed the Senate by voice vote on December 18, 1995, the passage of House Joint Resolution 129 is a time-sensitive matter for the towns of Northumberland, NH and Guildhall, VT.

The resolution that Mr. SANDERS and I have introduced will ratify a longstanding arrangement between these two towns. Northumberland, which is commonly referred to as Groveton, has been supplying drinking water to Guildhall in at least a limited sense for generations. This relationship began with a handfull of Guildhall's residents receiving drinking water and has progressed to the current situation in which a 6-inch water main supplies clean water to the entire town.

Guildhall currently owes Groveton $75,200 for the up-front costs of constructing this water system. Unfortunately, the lack of a resolution to ratify the current arrangement has prevented this payment. If this payment is not made soon, the residents of Groveton will be forced to include this cost in their tax assessments, which will be decided at the town meeting this spring.

The resolution before the House today addresses a noncontroversial, technical matter. House Joint Resolution 129 will simply allow the payment to be made and the current water supply situation to be legitimized. Therefore, I urge my colleagues to pass this resolution today.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 129, the joint resolution now being considered.

The SPEAKER pro tempore (Mr. HUTCHINSON). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I have no further requests time for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 129.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate joint resolution (S.J. Res. 38) granting the consent of Congress to use the Vermont-New Hampshire Interstate Public Water Supply Compact, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. REED. Mr. Speaker, reserving the right to object, and I will not object, but I yield to the gentleman from Pennsylvania [Mr. GEKAS] for an explanation of his request.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Of course, this is simply to further expedite the expeditious way we expedited the expedition of Vermont and New Hampshire, and that is to allow the Senate resolution to take precedence at this juncture, thus moving it directly to the President's desk for final enactment and signing into law.

So it is identical. The House just passed it now. We are doing the formality of having the Senate bill actually take precedence, and our work has been satisfactorily accomplished.

Mr. REED. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

here was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 38

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Vermont-New Hampshire Interstate Public Water Supply Compact entered into between the States of Vermont and New Hampshire. The compact reads substantially as follows:

"Vermont-New Hampshire Interstate Public Water Supply Compact

"ARTICLE I

"GENERAL PROVISIONS

"(a) STATEMENT OF POLICY.—It is recognized that in certain cases municipalities in Vermont and New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public water supply facilities are erected and maintained. The States of Vermont and New Hampshire recognize the value of and need for such agreements, and adopt this compact in order to authorize their establishment.

"(b) REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"(c) DEFINITIONS.—

"(1) The term 'public water supply facilities' shall mean publicly owned water supply sources, storage, treatment, transmission and distribution facilities, and ancillary facilities regardless of whether or not the same qualify for Federal or State construction grants-in-aid.

"(2) The term 'municipalities' shall mean cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public water supply facilities and to raise revenue therefore by bonding and taxation, which may legally impose and collect user charges and impose and enforce regulatory control upon users of public water supply facilities.

"(3) The term 'water supply agency' shall mean the agencies within Vermont and New Hampshire possessing regulating authority over the construction, maintenance, and operation of public water supply facilities and the administration of grants-in-aid from their respective State for the construction of such facilities.

"(4) The term 'governing body' shall mean the legislative body of the municipality, including, in the case of a town, the selectmen or town meeting, and, in the case of a city, the city counsel, or the board of mayor and aldermen or any similar body in any community not inconsistent with the intent of this definition.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"(a) COOPERATIVE AGREEMENTS AUTHORIZED.—Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of public water supply facilities serving all the municipalities who are parties thereto.

"(b) APPROVAL OF AGREEMENTS.—Any agreement entered into under this compact shall, prior to becoming effective, be approved by the water supply agency of each State, and shall be in a form established jointly by said agencies of both States.

"(c) METHOD OF ADOPTING AGREEMENTS.—Agreements shall be adopted by the governing body of each municipality in accordance with statutory procedures for the adoption of interlocal agreements between municipalities within each State; provided, that before a Vermont municipality may enter into such agreement, the proposed agreement shall be approved by the voters.

"(d) REVIEW AND APPROVAL OF PLANS.—The water supply agency of the State in which any part of a public water supply facility which is proposed under an agreement pursuant to this compact is proposed to be or is located, is hereby authorized and required, to the extent such authority exists under its State law, to review and approve or disapprove all reports, designs, plans, and other engineering documents required to apply for Federal grants-in-aid or grants-in-aid from said agency's State, and to supervise and regulate the planning, design, construction, maintenance, and operation of said part of the facility.

"(e) FEDERAL GRANTS AND FINANCING.—(1) Application for Federal grants-in-aid for the planning, design, and construction of public water supply facilities other than distribution facilities shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each State's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective States determined jointly by the respective State water supply agencies. Each municipality shall be responsible for applying for Federal and State grants for distribution facilities to be located within the municipal boundaries.

"(2) Municipalities are hereby authorized to raise and appropriate revenue for the purpose of contributing pro rata to the planning, design, and construction cost of public water supply facilities constructed and operated as joint facilities pursuant to this compact.

"(f) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this compact shall contain at least the following:

"(1) A system of charges for users of the joint public water supply facilities.

"(2) A uniform set of standards for users of the joint public water supply facilities.

"(3) A provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual usage as measured by devices installed to gauge such usage with reasonable accuracy.

"(4) A provision establishing a procedure for the arbitration and resolution of disputes.

"(5) A provision establishing a procedure for the carriage of liability insurance, if such insurance is necessary under the laws of either State.

"(6) A provision establishing a procedure for the modification of the agreement.

"(7) A provision establishing a procedure for the adoption of regulations for the use, operation, and maintenance of the public water supply facilities.

"(8) A provision setting forth the means by which the municipality that does not own the joint public water supply facility will pay the other municipality its share of the maintenance and operating costs of said facility.

"(g) APPLICABILITY OF STATE LAWS.—Cooperative agreements entered into by municipalities under this compact shall be consistent with, and shall not supersede, the laws of the State in which each municipality is located. Notwithstanding any provision of this compact, actions taken by a municipality pursuant to this compact, or pursuant to an agreement entered into under this compact, including the incurring of obligations or the raising and appropriating of revenue, shall be valid only if taken in accordance with the laws of the State in which such municipality is located.

"CONSTRUCTION

"Nothing in this compact shall be construed to authorize the establishment of interstate districts, authorities, or any other new governmental or quasi-governmental entity.

"ARTICLE III

"EFFECTIVE DATE

"This compact shall become effective when ratified by the States of Vermont and New Hampshire and approved by the United States Congress.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part on application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the two States.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 129) was laid on the table.

SENSE OF CONGRESS REGARDING UNITED STATES SUPPORT OF TAIWAN

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 148) expressing the sense to the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China, as amended.

The Clerk read as follows:

H. CON. RES. 148

Whereas the United States began its long, peaceful, and friendly relationship with the Republic of China on Taiwan in 1949;

Whereas since the enactment in 1979 of the Taiwan Relations Act, the policy of the United States has been based on the expectation that the future relationship between the People's Republic of China and Taiwan will be determined by peaceful means and by mutual agreement between the parties;

Whereas the People's Republic of China's intense efforts to intimidate Taiwan have reached a level that threatens to undermine stability throughout the region;

Whereas, since the beginning of 1996, the leaders of the People's Republic of China have frequently threatened to use military force against Taiwan;

Whereas for the past year the People's Republic of China has conducted military maneuvers designed to intimidate Taiwan both during its democratic legislative elections in 1995 and during the period preceding democratic presidential elections in March 1996;

Whereas these military maneuvers and tests have included the firing of 6 nuclear-capable missiles approximately 100 miles north of Taiwan in July 1995;

Whereas the firing of missiles near Taiwan and the interruption of international shipping and aviation lanes threaten both Taiwan and the political, military, and commercial interests of the United States and its allies;

Whereas in the face of such action, Taiwan is entitled to defend itself from military aggression, including through the development of an anti-ballistic missile defense system;

Whereas the United States and Taiwan have enjoyed a longstanding and uninterrupted friendship, which has only increased in light of the remarkable economic development and political liberalization in Taiwan in recent years;

Whereas Taiwan has achieved tremendous economic success in becoming the 19th largest economy in the world;

Whereas Taiwan has reached a historic turning point in the development of Chinese democracy, as on March 23, 1996, it will conduct the first competitive, free, fair, direct, and popular election of a head of state in over 4,000 years of recorded Chinese history;

Whereas for the past century the United States has promoted democracy and economic freedom around the world, and the evolution of Taiwan is an outstanding example of the success of that policy;

Whereas the Taiwan Relations Act directs the President to inform the Congress promptly of any threat to Taiwan's security and provides that the President and the Congress shall determine, in accordance with constitutional processes, appropriate United States action in response; and

Whereas the Taiwan Relations Act of 1979 rests on the premise that the United States will assist Taiwan should it face any effort to determine its future by other than peaceful means, including by boycotts or embargoes: Now, therefore, be it;

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the People's Republic of China should immediately live up to its commitment to the United States to work for a peaceful resolution of any disagreements with Taiwan, and accordingly desist from military actions designed to intimidate Taiwan;

(2) the People's Republic of China should engage in negotiations to discuss any outstanding points of disagreement with Taiwan without any threat of military or economic coercion against Taiwan;

(3) Taiwan has stated and should adhere to its commitment to negotiate its future relations with the People's Republic of China by mutual decision, not unilateral action;

(4) the United States should maintain its capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan, consistent with its undertakings in the Taiwan Relations Act;

(5) the United States should maintain a naval presence sufficient to keep open the sea lanes in and near the Taiwan Strait;

(6) in the face of the several overt military threats by the People's Republic of China against Taiwan, and consistent with the commitment of the United States under the Taiwan Relations Act, the United States should supply Taiwan with defensive weapons systems, including naval vessels, aircraft, and air defense, all of which are crucial to the security of Taiwan; and

(7) the United States, in accordance with the Taiwan Relations Act and the constitutional process of the United States, and consistent with its friendship with and commitment to the democratic government and people of Taiwan, should assist in defending them against invasion, missile attack, or blockade by the People's Republic of China.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the chairman of the Asia and Pacific Subcommittee, Mr. BEREUTER, and the ranking minority member, Mr. BERMAN for bringing this important resolution before us.

Mr. Speaker, the administration is fond of promoting the concept that its policy toward China is one of constructive engagement and that it would be folly to attempt to isolate or contain China. It is true that we must engage the dictators in Beijing. The trouble is that the administration mistakes appeasement for constructive engagement.

Time and time again, the administration has ignored Beijing's violations of MOU's and international agreements on trade, human rights, and weapons proliferation. This is not constructive engagement. This is appeasement and it is directly responsible for the current crises that we face.

The administration must stop sweeping aside China's violations of its many agreements with the United States by dismissing enforcement as an attempt to isolate or contain China.

Accusations about isolation, containment, and political transition periods avoid hard questions of how to deal pragmatically and effectively with a totalitarian government with enormous resources to cause havoc.

If China violates an agreement it must be held accountable. Accountability is constructive engagement. It is appeasement to make excuses when Beijing does not live up to its word.

Beijing and its apologists claim that there is a so-called cloud over United States-Sino relations because the Congress insisted that President Lee of Taiwan be allowed into our country. But the storm began years ago when the Communists took control of China.

This current so-called cloud is really a smoke ring designed to hide the root of the problem—Democracies and dictatorships are fundamentally different and will always clash.

House Concurrent Resolution 148 is a fundamental first step in making it clear where the United States should stand on the vital issue of Communist China's threats against democratic Taiwan.

If the administration remains incapable of constructively engaging China regarding other American interests such as nuclear weapons proliferation, human rights violations, and trade, then the Congress will step in again so that serious situations like the current one do not repeat themselves.

In 1950, Secretary of State Dean Acheson was vague about our Nation's commitment to South Korea, which tempted the North to attack. The Korean war might not have occurred had the United States been more clear about its interests.

We now face a similar problem and a similar solution.

Accordingly, I urge my colleagues to support House Concurrent Resolution 148.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I have some doubts about the content and timing of this resolution, I do intend to vote for it.

For 24 years, United States policy toward Taiwan has been governed by the one-China policy that has been enunciated and reaffirmed in three communiques. It is legally established in the Taiwan Relations Act.

The essence of that policy is that the United States acknowledges that all Chinese on either side of the Taiwan Straits maintain there is but one China, and Taiwan is a part of China. We have chosen deliberately and consciously not to challenge that position. That means that the United States has chosen not to endorse the concept of an independent Taiwan or the concept of two Chinas. That policy has been followed by six Presidents, three Republican and three Democratic.

This is policy that has helped for the past generation to secure peace and stability and promote remarkable economic growth in East Asia. It is a policy that has enabled Taiwan and China to flourish, and it has served United States interests well. The Taiwan Relations Act, which lays out the legal basis for our relationship with Taiwan, contains no commitment to come to Taiwan's assistance in case of military threats or attack by the PRC.

Members should carefully note that there is today no commitment to send troops to defend Taiwan or otherwise to use armed force to repel an attack against Taiwan. The Taiwan Relations Act was carefully written to give the United States maximum flexibility in dealing with Chinese threats to Taiwan.

The resolution before us today sends a somewhat different signal about U.S. policy. It may be only a sense-of-Congress resolution, it may not spell out what the United States must do to assist in defending Taiwan, it may stipulate United States actions to assist in defending Taiwan be in accordance with the Taiwan Relations Act, but the resolution appears to push American policy further than it has ever gone before in a quarter of a century. It appears to increase the United States commitment to defend Taiwan, and many of the cosponsors make this claim for the resolution. It articulates policy in a different way than does the President. It could confuse the people in leadership of Taiwan, of China, and of our many friends in East Asia.

My concern is that because its lack of reference to the one-China policy and because of its rephrasing of the United States commitment to Taiwan, the United States should assist in defending Taiwan. This resolution could be subject to misinterpretation.

Now I also have some concerns about the resolution's timing. We are facing a very serious situation in East Asia. Missiles are flying, live ammunition is being fired, sea lanes and air corridors have been shut down. Our friends in Taiwan feel, with justification, that they are being bullied and coerced. Our relationship with China is strained. Our friends in Tokyo and elsewhere in Asia are alarmed by China's provocative actions, but they also worry about our reaction.

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This, in short, is a time for restraint and negotiation. But, Mr. Speaker, a vote against this resolution sends the wrong message. A vote against this message misleads Beijing about congressional opposition to its recent outrageous actions in the Taiwan Strait. A no vote on this resolution leads the PRC leadership to the erroneous conclusion that the Congress is not united in its condemnation of China's bullying tactics, so I plan to vote for the resolution, but with the reservation I have stated.

Let me also say a word to the administration. This resolution indicates that the administration and the Congress are drifting apart on China policy. This resolution illustrates that the administration has been too timid. I believe the President must now explain fully the administration's policy on China. Now is the time for a clear, authoritative statement from the President on what we expect of the United States-China relationship and what we see as China's role in the world. The administration should consider this resolution a wake-up call. The long-standing consensus on China between the Congress and the administration is eroding. The President and the Congress must reforge a consensus policy toward China.

I would like to ask the principal author of the resolution what it means when it says the United States should assist in defending Taiwan? Is that a change in present policy? Does it mean, for example, that we are prepared to commit United States military forces to defend Taiwan under any and all circumstances? I wonder if the gentleman could give us some interpretation of the words "should assist in defending Taiwan?"

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, while the initial sponsor is not on the floor at this time, I will attempt to answer the gentleman's inquiry. I believe what this infers is that while not necessarily sending military forces, it would mean trying to provide essential material and support to Taiwan in the event that they were being invaded.

Mr. HAMILTON. Mr. Speaker, reclaiming my time, does the gentleman see in the resolution any extension of our obligation beyond the Taiwan Relations Act, or just a reaffirmation of it?

Mr. GILMAN. Mr. Speaker, if the gentleman will yield further, I think it is intended to be a reaffirmation of what is set forth in the act.

Mr. HAMILTON. I find the gentleman's response reassuring, and I commend the gentleman for that. I urge the adoption of the resolution.

Mr. Speaker, I submit the following letters for the RECORD:

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, DC, March 15, 1996.

Hon. WARREN M. CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I am writing to express my concerns about H. Con. Res. 148, relating to U.S. policy toward Taiwan, which was adopted yesterday by the House Committee on International Relations.

In my judgment, this resolution changes in a substantive and obvious way the articulation of a twenty-four year policy supported by six presidents. The resolution appears to rachet up our commitment to Taiwan and to promise a level of support for Taiwan that we have declined to give for the past quarter century. It avoids any reaffirmation of the one-China policy. As a consequence, it appears to create a major difference between the Congress and the executive branch.

I am writing now to ask for more details about your views on this resolution. A representative of the State Department has testified that the administration does not support this resolution.

Why do you not support the resolution?

Does this mean that you oppose it?

What is the difference between not supporting, and opposing?

Is paragraph 7 of the resolved clause the only provision to which the administration objects?

What precisely is the nature of your concerns about this paragraph?

Will the resolution help U.S.-China relations, or act as a hindrance?

If the latter, how much damage will it do to U.S.-China relations?

I would appreciate an answer to this letter by Monday, since there is a good chance the full House will be asked to act upon this resolution early next week.

With best regards,
Sincerely,
LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 19, 1996.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for your letter of March 15 asking for the Administration's position on H. Con. Res. 148 regarding the security of Taiwan.

The Administration agrees with the objective of the resolution's sponsors to make clear to the People's Republic of China that a resort to force with respect to Taiwan would directly involve American national interests and would carry grave risks. We believe there should be no uncertainties about this in Beijing, Taipei or anywhere else. It is important that the Congress and Administration speak in a unified fashion to make clear that the United States feels strongly about the ability of the people of Taiwan to enjoy a peaceful future.

However, the Administration cannot support the resolution as it is currently formulated. Paragraph 7 of the resolved clause uses language that does not appear in the Taiwan Relations Act (TRA). This passage, in stating that the United States should "assist in defending" Taiwan against invasion, missile attack or blockade by the PRC, could be interpreted as expressing an opinion taking us beyond the carefully formulated undertakings embodied in the TRA.

Although the PRC military exercises have been provocative and have raised tensions in the area, they have not constituted a threat to the security or the social or economic system of Taiwan. It is our understanding that the Taiwan authorities agree with our assessment of the situation. Should there be a threat to Taiwan's security, we would promptly meet our obligation under the TRA to consult with Congress on an appropriate response.

We will continue to convey our deep concern to Beijing in unmistakable fashion through our statements and our actions. We support a similar resolution in the Senate which uses formulations we believe would be more helpful to our common efforts to restore stability and reduce tensions in the area.

We hope this information is responsive to your concerns. Please let us know if we can be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I thank the ranking member for his supportive comments.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules, who has been a staunch advocate of democracy in Taiwan and one of the major sponsors of this legislation.

Mr. SOLOMON. Mr. Speaker, let me tell you exactly what it means. But, first of all, let me say this: Why should the United States come to the rescue of a small island country halfway around the world? Let me tell you why: Because we are proud Americans and we pay our debts. For those that might not be able to remember, because the people of Taiwan, they came to our rescue. We, the United States of America, standing shoulder to shoulder against the Japanese imperialists that threatened our freedoms. Do you remember that in World War II? Shoulder to shoulder they stood with us when we were about to lose that war. Then standing shoulder to shoulder again, for 40 years, they were an integral link in the chain of defense against the spread of deadly, atheistic communism, that threatened the freedoms of every single American in this world. They stood as one of the strongest links in that chain of defense against the spread of that deadly communism.

So, yes, we have a moral obligation to defend them against that same deadly, atheistic communism that now threatens their very freedoms, that democracy, that is similar to our own.

But, beyond that, let me tell you something: We owe it to them because we have to abide by U.S. law. I helped write the Taiwan Relations Act in 1979, along with you two gentlemen. Let me tell you what it says. It says that we, the United States of America, will supply the country of Taiwan with qualitative and quantitative weaponry to help them defend themselves.

Let me tell you more importantly what it says, and I will say this to my good friend, the gentleman from Indiana [Mr. HAMILTON], and the gentleman from New York [Mr. GILMAN]. You read the Taiwan Relations Act. It says the United States will stand ready and will be prepared to help defend Taiwan, and this answers your question, LEE, against military attack, from whomever, or economic embargo affecting both sea and air lanes.

Every Member of this Congress has an obligation to come over here and obey the U.S. law and vote for it, and then we ought to defend them against that attack. That is what the law says.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, America is now facing a potential military confrontation in the Straits of Taiwan, or the Taiwan Straits as they are called. We should all come together, and that is what this piece of legislation does, to make certain that the Communist regime on the mainland understands that we are united in our opposition to any use of force by the mainland on Taiwan, and that the United States will respond militarily, if necessary, if force is used against the Republic of China on Taiwan.

But this situation was a long time in coming. It was a long time in the making. Mistakes have been made, and let us quit making those mistakes.

The official policy of this administration has been strategic ambiguity with the Communist dictatorship on the mainland. Ambiguity with dictatorships does not work. If anything is a lesson we should have learned in the past, it is that. The Chinese communists have mistaken our ambiguity for weakness. When this administration decoupled all consideration of trade policy with our discussions with the Communist regime in China on human rights, they did not take that as a sign of good faith from us we needed to discuss human rights. They took that as a sign of weakness.

This President proved himself the worst enemy of human rights to ever serve as President of the United States by decoupling any consideration of human rights with trade discussions with the largest and most heinous opponent and oppressor of people on this planet, the Communist dictatorship in China.

What we have to do now is to reassert to those dictators on the mainland of China that we side with the democratic people of the world, especially in the Republic of China, and we will not tolerate their expansionism or their threats or any other activities that threaten their neighbors. We are a country that stands for human rights and peace. We must be strong. That is what Beijing needs to hear. That is what this resolution is all about.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is important to understand precisely the language of the United States commitment to Taiwan. The Taiwan Relations Act stipulates that it is United States policy to consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a matter of grave concern to the United States.

The act also promises that the United States "will make available to Taiwan such defense articles and defense services as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Mr. Speaker, that is our commitment.

Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, it is, in my opinion, a sad day that we have come to this. It is sad that we even have to pass this resolution, 148.

I support it. I associate myself with the comments of my colleague, the gentleman from New York [Mr. SOLOMON], and the gentleman from New York [Mr. GILMAN], and the gentleman from Indiana [Mr. HAMILTON], and the gentleman from California [Mr. RHORABACHER], for what they have observed about the situation.

Unfortunately, they are correct. I want to reflect just a moment on a few things that I think our dear friends on the mainland should consider, and that is the reason America was formed as a Nation. After the revolution, Lafayette went back home to France and said, "Freedom has found a home, and it is America." The basic reason this country was formed was to give freedom and liberty a home in the world. To varying degrees, we have lived up to that heritage, some ways, very disappointing to me and many Americans, but basically that is our heritage. And when we give a gift like most-favored-nation treaty status to a country somewhere in the world, we have a right to demand that in return for that gift, that they respect the basic reasons for the founding of our country, the basic principles that America believes in, and it is freedom and liberty, and it is human rights.

Unfortunately, the principles of Jefferson, Madison, and Washington go out the window when the dollar sign appears, and good old trade has clouded our eyes about holding people's feet to the fire on the principles for which this country was founded.

I strongly support 148. I regret deeply its necessity. But I would urge all in this body to watch carefully at the final vote on 148, and you will get a clear picture of the depth of the feeling of this Congress, of the American people, as to how we feel about this very important, yet symbolic issue.

Mr. Speaker, please support 148.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Utah [Mrs. WALDHOLTZ].

Mrs. WALDHOLTZ. Mr. Speaker, in less than 96 hours, Taiwan will hold its first-ever direct Presidential election. The election is a culmination of Taiwanese transition from 50 years of authoritarian rule to full-fledged democracy. Freedom and democracy in Taiwan, however, are apparently unacceptable to the People's Republic of China.

Resentful of Taiwan's growing free market economic prosperity, Beijing apparently fears that Taiwan will be seen as a model for political reform on the mainland, and in a blatant show of intimidation the PRC is today conducting yet another in a series of military exercises just miles from Taiwan's largest cities.

House Concurrent Resolution 148 strongly, and in no uncertain terms, condemns China's efforts to intimidate Taiwan. It urges peaceful relations between Beijing and Taiwan and expresses the sense of Congress that the United States should help Taiwan defend itself.

Mr. Speaker, what is at stake here is not just the viability of democracy in Taiwan, but the peace and security of the entire Asiatic region and the world. Beijing's act of aggression must not be allowed to stand. I urge my colleagues to support the resolution.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the Cox resolution today and commend the gentleman for his leadership in bringing this legislation to the floor and the chairman of the full committee for expeditiously getting this through committee. I think this is a very important resolution.

Mr. Speaker, I have been in serious disagreement with the Clinton administration on its China policy in relationship to trade, human rights, and proliferation, but I do think on the issue of Taiwan that the administration's actions have been prudent and appropriate. I think they have been completely consistent with Mr. COX's resolution. I believe that we are voting for this resolution in support of the actions of the administration that calls for a peaceful resolution of the reunification issue between China and Taiwan, and that calls for a cessation of the intimidation of the political process and the economic progress on Taiwan.

These missiles, armed missiles, that the Chinese are lobbing at Taiwan, are lobbed not only against Taiwan, but against democracy, and it is important for this body to stand firm in our support of democracy in Taiwan.

I commend the gentleman from California [Mr. COX].

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Mr. GILMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin [Mr. ROTH], distinguished subcommittee chairman.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, like my colleagues, I am concerned about what is taking place here in Taiwan. This is serious business. This week the people of Taiwan will go to the polls for the first free and open election in Taiwan's history. It is a terrible irony that at the very moment when democracy triumphs, Taiwan is facing the greatest threat in a generation.

This resolution that we are going to vote on embodies a bedrock principle of American policy, that the United States will assist the democracies of the world in defending against tyranny and oppression. My only argument with the resolution I am going to vote for is I do not think it is explicit enough. I think when we send a message, we should send a real message, and I think that what we are doing is obfuscating too much with this resolution. Either we stand with Taiwan or we do not. If we stand with Taiwan, we should say it forthrightly. This is where we stand because China, the rulers in China do not like vacillation. They do not like weakness. Either we are with them or against them. I think they respect their friends, they respect their enemies. But I do not think that in between we send a strong message.

Other than that, I think it is a great resolution. Again, the resolution embodies a bedrock principle.

The leaders of Beijing should make no mistake about it. As far as I am concerned in voting on this, Congress is sending a clear message that the United States will continue to play a role and a very active role in the future of Taiwan and that we will stand behind our commitment. At the same time, I think Congress is sending a message to the Clinton administration that we need clear, consistent, and workable strategy in working with China.

I commend, Mr. Speaker, my colleagues who have spoken here before on this issue because I think they have been right on target and focused on the issue.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I am going to vote for this resolution, but I am very troubled about it. What we are doing is sending a variety of messages. The situation is very, very tense. Last time we sent a signal to Taiwan that we should invite its President here, I voted for that. It caused irreparable damage to our foreign policy, especially our relationship with China.

I know that we are all concerned about Chinese policy toward the United States, toward human rights, toward nonproliferation. I recognize that. But there are 2.25 billion people there, and we need to start getting along with them. I found the Chinese actions outrageous on a number of issues, but at the same time what we are doing here today is possibly exacerbating an already very tense situation.

We are sending different signals about what U.S. policy is. We have got the executive branch policy and now we have a new policy that the House of Representatives is going to send. A key clause of this resolution says, in accordance with the Taiwan Relations Act and the constitutional process of the United States, the United States should assist in defending against invasion, missile attack, or blockade by the People's Republic of China.

It may only be a sense of Congress resolution. It may not spell out what the United States must do in assisting and defending Taiwan. It might stipulate that United States actions to assist in defending Taiwan must be in accordance with the Taiwan Relations Act. But this resolution appears to push American policy further than it has ever gone in a quarter century.

President Nixon and Henry Kissinger with the Shanghai Communique, with the Taiwan Relations Act, spelled out these issues rather ambiguously and for a reason. It worked. The policy, the two-China policy over the years has worked.

Where we are now is in a situation where I am very, very concerned that we are sending a mixed message. A vote against this resolution also sends a wrong message as well. A vote against this resolution misleads Beijing about congressional opposition to its totally outrageous action in the Taiwan Straits. A no vote on this resolution leads the leadership in China to the erroneous conclusion that the Congress is not united in its condemnation of China's bullying tactics.

So for once I think the best kind of policy that we have toward this situation is to give the President flexibility, give the Secretary of Defense some flexibility in dealing with a potential contingency action but not go out there with a dramatic House of Representatives vote which may provoke China into doing something irrational, which may bring us to a situation which, instead of lessening the tension, we are tying the hands of the executive branch where we are perhaps misreading a situation with Taiwan.

Yes, we should defend Taiwan. They are our friends. We have all been there many times. But why do we have to spell this out in such a dramatic way? Why can we not let the executive branch conduct foreign policy in a way that does not tie their hands?

This legislation on Taiwan will create confusion in our policy toward Taiwan.

The legislation never mentions the one-China policy. It says that the United States should assist in defending Taiwan against invasion, missile attack, or blockade by the People's Republic of China. What is different about this legislation than the Taiwan Relations Act?

This bill, which is supposed to send a clear signal to the Chinese, actually muddles the signals that the Chinese will get. The Chinese will view this as new legislation, and may see it as unnecessarily provocative.

Reluctantly, I will vote for this bill because the Congress should not appear split over policy toward China. A split in the Congress may indicate to the Chinese that they can do what they will in the region without a strong response from the United States.

Mr. GILMAN. Mr. Speaker, I yield 10 seconds to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, with all due respect to the previous speaker, and I do respect him, I think he overstates the importance of the vote for President Li's visa. I believe the actions on the part of the Chinese Government would be the same with or without the vote that the Congress took at that time. I want the RECORD to show that.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. COX], chairman of our Republican policy committee and the sponsor of this resolution.

Mr. COX of California. Mr. Speaker, I want to thank all of my colleagues, particularly on the Committee on International Relations, the chairman, the gentleman from New York [Mr. GILMAN], the ranking member, the gentleman from Indiana [Mr. HAMILTON], the gentlewoman from California [Ms. PELOSI], the gentleman from New Jersey [Mr. PAYNE], chairman of the Congressional Black Caucus, the gentleman from California [Mr. LANTOS], and the gentleman from Illinois [Mr. PORTER], the Democratic and Republican cochairs respectively of the Congressional Human Rights Caucus and all of the Members, Democrat and Republican, who stand in support of the principles of freedom and democracy embodied in this resolution today.

This is a strongly bipartisan resolution. It is in strong support of America's longstanding foreign policy vis-a-vis both Taiwan and the People's Republic of China since 1979.

Specifically, we do and will continue to support the peaceful dialog between Taiwan and Communist China. We will support whatever arrangements they peaceably make between themselves. We shall not impose our own view as to their futures. But we expect the People's Republic of China and Taiwan to live up to their respective commitments to a peaceful process.

In the Shanghai communique of 1982, the People's Republic of China pledged to the United States that they would pursue peaceful rather than violent means of settling the question of the future of Taiwan. Since that time, in fact since 1979, and the Taiwan Relations Act, this Congress and every President has supported democracy and its development on Taiwan. What we will see this Saturday is the full flowering of that successful policy.

We will see following last year's free, open, fair, and democratic legislative elections on Taiwan, the first ever free, fair, open, and democratic election for the head of Government in Chinese history, in over 4,000 years of recorded Chinese history.

Everyone in America and everyone in this Congress applauds that development. But the Communists who are jockeying for position and power in Beijing this moment feel threatened alone by that democracy and that freedom and, therefore, they are using this military campaign to influence the vote on Saturday, to intimidate Taiwanese democracy and to make it plain that they believe they have a right, not accorded them in law or nature, to seize Taiwan, its people, and its Government by military force. If that happens, there is no question what would be the United States response indeed what would be the response of the free world. We would be there to defend the free people and the open society and the democracy on Taiwan.

Since that is the case, it is vitally important that we make that plain, diplomatically, privately, and publicly to the rulers in Beijing. They must not wage a campaign of assault and military aggression against Taiwan on the mistaken premise that the United States would not use force.

Unfortunately, some in the administration made comments to this effect over the period of the last year and a half. Right now there is not much question. The United States military is present in the Taiwan Straits as we speak, and another carrier is steaming its way there from the Persian Gulf. The President needs to be supported in these communications with the P.R.C. There cannot be any doubt. The time for ambiguity is over and the time for clarity is upon us.

Our friendship with the People's Republic of China and Taiwan, different in each case, based chiefly on mercantile and trade interests in the one and on our sharing of democratic values on the other, would only be disrupted by war in the Taiwan Straits. We have a strong interest in peace. The People's Republic of China is America's sixth-largest trading partner. Taiwan is our seventh-largest trading partner.

The P.R.C. runs, in fact, the largest trade deficit with America. It is true that Taiwan, in fact, buys more from the United States of America than does the People's Republic of China. We certainly have nothing to gain in a material sense from war in the Taiwan Straits.

Likewise, we have nothing to gain from the loss of the gains of freedom and democracy on Taiwan over these last many years. Today we will send a strong message of support and encouragement for our foreign policy of so many administrations, so many years and decades, of friendship toward the democracy and free and open society on Taiwan and of support for continued peaceful discussions between the People's Republic of China and the Government on Taiwan about their future relationship.

The free world will defend democracy, if it should come to that. But we wish to have peace through clarity and through strength rather than war through weak negotiation. Lest we be misjudged, we pass this resolution today. Again, I want to congratulate my Republican and Democratic cosponsors, including all of the House leadership behind this resolution today.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his very poignant and eloquent remarks in support of the resolution and want to commend him for his hard work.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], chairman of our Subcommittee on Asia and the Pacific of our House Committee on International Relations.

Mr. BEREUTER. Mr. Speaker, House Concurrent Resolution 148 addresses the highly volatile situation in the Taiwan Strait as the P.R.C. has crudely sought to intimidate the people of Taiwan on the eve of national elections. China's missile tests, live-fire exercises, and huge amphibious force opposite Taiwan have been quite rightly labeled as "acts of terrorism" by Speaker GINGRICH.

This Member commends the distinguished member from California, Mr. COX for his initiative in drafting House Concurrent Resolution 148 in consultation with this Member and others, and the distinguished chairman of the House International Relations Committee, Mr. GILMAN for his successful effort to obtain quick committee action on the resolution unanimously reported from the subcommittee I chair. The resolution passed the committee by voice vote with overwhelming bipartisan support.

At this precarious point, Mr. Speaker, miscalculation and recklessness by either party could lead to catastrophe. Many Members of this House—Republican and Democrat alike—were concerned that the administration's initial reaction of deliberate and calculated ambiguity did not convey an adequate expression of U.S. resolve. This Member and others believe it is necessary to send an unambiguous signal that the United States would not sit idly by were Taiwan to be attacked. The decision to send a second Navy aircraft carrier group to join the one already in the waters near Taiwan is an important demonstration of United States intent. House Concurrent Resolution 148 seeks to add some clarity and consistency in our policy vis-a-vis Taiwan's security and Chinese threats.

This Member would emphasize that it is not the intention of House Concurrent Resolution 148 to be anti-P.R.C. when it criticizes Beijing's coercive activities. Nor does the resolution offer unequivocal support of all Taiwanese policies or actions. The United States is not seeking to create new adversaries where none need exist, and we must not be stampeded into adopting policies that are contrary to the U.S. national interest. For example, while we enthusiastically support and congratulate Taiwan's economic success and democratic progress, the United States is not endorsing the efforts of some Taiwanese politicians to enhance Taiwan's position in the United Nations and other international organizations which require statehood. Taiwan's leaders have been—and should continue to be—very careful about such statements. Unilateral actions to establish an independent Taiwan—which Taiwan's leaders consistently claim they are not seeking—would be extremely dangerous, and would be inconsistent with the policies of five successive United States administrations from both political parties.

The purpose of House Concurrent Resolution 148 is simply to make very clear to Beijing that the United States is committed—consistent with the Taiwan Relations Act—to assist in the defense of Taiwan in the event of an invasion, attack, or blockade. It is hoped that this resolution will have a salutary deterrent effect by sending a clear and unequivocal expression of support for peaceful resolution of Taiwan's future status—something both sides say they support—and reaffirming our rejection of any attempt to resolve the issue through the use of force.

This Member urges all his colleagues to support House Concurrent Resolution 148 to send a clear signal to Beijing that the United States will not tolerate bullying of our friends in Taiwan.

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Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, for the last 2 weeks the Taiwanese people have been under siege by Beijing's repeated acts of military intimidation. Beijing has harassed, tormented, and bullied Taiwan in an attempt to break the spirit of the Taiwanese people. These immoral and reckless acts are part of Beijing's carefully crafted strategy designed to suffocate democracy in Taiwan, to intimidate the Taiwanese government, and to influence American foreign policy.

Mr. Speaker, Beijing has failed. They have failed to disrupt the presidential elections, they have failed to browbeat Taiwan into submission. They have only lifted the masses in Taiwan to fight harder for democracy and independence.

As the deployment of the two aircraft carriers shows, United States resolve on this issue is unwavering. The American people will not tolerate such a grave threat to our own national security. The resolution before us today, written in accordance with the Taiwan Relation Act, will send a clear message to Beijing about our interests in a secure and stable Taiwan. This resolution will affirm the American commitment to the people of Taiwan.

I urge Members to vote in favor of this bipartisan resolution which is a continuation of American policy that we cannot, nor can we, accept Taiwan passing the straits, the Chinese passing the Straits of China in an attempt of any type of invasion.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. NETHERCUTT].

Mr. NETHERCUTT. Mr. Speaker, I rise in support of House Concurrent Resolution 148.

Mr. Speaker, I would like to express my support for House Concurrent Resolution 148, a resolution concerning the defense of Taiwan. This resolution is an important step in our relationship with the People's Republic of China because it unambiguously proclaims our interest in the security of Taiwan and condemns China's heavy-handed efforts to intimidate the people of Taiwan as they enjoy their first direct presidential election.

Mr. Speaker, this resolution is necessary because the Clinton administration has invited continued and escalating Chinese aggression by pursuing an inconsistent and unclear policy toward China and Taiwan. Only by making our priorities and interests crystal clear can we prevent future conflict with the People's Republic of China and assure the continued security and prosperity of the United States and our Pacific allies.

Our national interests in Taiwan and the Pacific should be crystal clear. Taiwan possesses the thirteenth-largest developed economy and is an important trading partner for my district, Washington State, and America. Furthermore, if China is allowed to intimidate or attack Taiwan, our relationship with Japan, South Korea, and other important security and trade allies is likely to suffer.

Instead of attempting to bully Taiwan, Chinese leaders should try to learn from Taiwan's example. Taiwan has achieved economic success by fostering an economy that is virtually as free as America's. Taiwan is now prepared to enter the ranks of truly democratic governments where the people elect their own president, an achievement China may someday replicate. It is right for America to defend Taiwan's progress and prevent an autocratic and militaristic Chinese regime from threatening Taiwan and our Pacific allies, and it is important for this body to make that statement by passing House Concurrent Resolution 148.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is a firm statement of support for our democratic friends on Taiwan. We need to stand together to let Beijing know that any military move against our friends on Taiwan will end in a hostile situation which none of us desire or want.

Accordingly, I urge our colleagues to support House Concurrent Resolution 148 to spell out our Nation's commitment to Taiwan.

Mr. SPENCE. Mr. Speaker, I rise in support of the resolution. For beyond the immediate threats China poses to Taiwan, I am concerned about the emerging pattern of aggressive Chinese behavior.

The Chinese provocation in the Taiwan Strait is but a single, short act in what promises to be a longer drama as China forces its way onto the global stage. At this point, we do not yet know whether China will play a starring role—although the pace of Chinese economic development indicates that it will. Or whether China will ultimately play the villain—as its internal repression, ambitious military modernization and confrontational foreign policy would indicate.

The United States needs to unambiguously articulate its national security interests in Asia and reinforce them to the point where the Chinese understand that there will be consequences for their actions. In this context, the administration's policy of strategic ambiguity may have been counterproductive. And the administration's new-found acceptance of strategic clarity strikes me as a late conversion in reaction to congressional pressure on behalf of Taiwan.

I am convinced that China will be one of the country's primary security challenges as we head into the 21st century. While China does not yet pose the kind of threat that the Soviets did—and talk of containment is premature—like the Chinese we need to take the long view. We need to continue to be a force for security, stability, prosperity and democracy throughout the region. Many in the region are looking for U.S. leadership which is entirely consistent with the protection and promotion of our own security and economic interests.

If regional stability is to be maintained, the United States must recognize the primacy of our security interests in the region. Without security, there can be neither economic prosperity nor political liberty. Without the United States' military guarantee there is unlikely to be security.

Therefore, Mr. Speaker, I urge the adoption of this resolution to reaffirm our commitment to Taiwanese democracy, as signal of our concern with a disturbing pattern in Chinese behavior and in recognition of our critical role in the region.

Mr. TORRICELLI. Mr. Speaker, I would like to commend my colleagues on both sides of the aisle who have worked so hard to bring this important and timely resolution so quickly to the floor of the House of Representatives.

The recent missile maneuvers, including the use of live-fire ammunition, by the People's Republic of China off the coast of Taiwan has called for an immediate and unequivocal American response. This resolution, developed with strong bipartisan support and input, represent that response.

It is said that in history, great conflicts begin more often from miscalculation than purposeful design. Even in our own time, it is said that the Korean war may have begun by the unfortunate statement of Mr. Avenuees that the defense perimeter of the United States began in the Sea of Japan, and not the 38th parallel.

A few years ago the United States Ambassador to Iraq suggested to Saddam Hussein that in a dispute between Kuwait and Iraq, the United States would regard the matter as an internal problem in the Arab world.

Today in the straits of Taiwan a foundation may be being laid for a similar misunderstanding. That is why this resolution is so important. This strong declaration of congressional policy, coupled with the recent decision by President Clinton to send naval wargroups into the region of the Taiwan Straits will send a clear message about our policy to the Chinese.

House Concurrent Resolution 148 condemns the recent military exercises off the coast of Taiwan and reiterates that the future relationship of Taiwan and the mainland must be decided by peaceful means. Finally it states that the United States, in accordance with the Taiwan Relations Act and the constitutional process of the United States, should assist in the defense of Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China.

This resolution is in accordance with American policy as laid out in the Taiwan Relations Act and is supportive of actions already taken by the Clinton administration.

As one of the principal authors of this resolution, I would again like to thank all my colleagues on both sides of the aisle who made this resolution possible.

Mr. LANTOS. Mr. Speaker, I rise today in strong support of the resolution we are considering today—House Concurrent Resolution 148—which was introduced by my friend and colleague from California, Mr. COX. I am pleased to be the first Democratic cosponsor of this bill. I want to emphasize, Mr. Speaker, that our resolution is a profoundly bipartisan resolution. It reflects the concerns and interests of the vast majority of the Members of this body of both political parties.

I would like to put this move on our part into perspective. We do not all agree on all aspects of United States-China policy, but we all agree that this saber-rattling by the "Bullies of Beijing" is preposterous, uncalled for, and profoundly destabilizing for the whole Pacific area. It is uncalled for, it is unjustified, and it is in response to only one act which should be sacred to all Americans—the upcoming free and open and democratic elections that will take place in Taiwan in a couple of days.

Mr. Speaker, this sabre-rattling is a deliberate and boldfaced attempt to intimidate the people and the leadership of Taiwan in the crudest possible way—by firing missiles and by holding military maneuvers near Taiwan. The purpose is to intimidate Taiwan from taking this history-making step of holding an open and free and democratic election.

That is what this saber-rattling is all about. It exposes nakedly the contrast between the free and open and democratic elections that will take place in Taiwan in just a few days and the dictatorial and oppressive police state that rules the mainland of China.

Mr. Speaker, I think it is important to realize that there are reasons why we got to where we are today in the strained relationship with the People's Republic of China—to the point that China is engaging in bullying tactics against Taiwan and the United States is sending a second aircraft carrier task force to that part of the world.

In my judgment one of the principal reasons was the de-linking of human rights from most-favored-nation treatment of the People's Republic. I was one of the leaders and continue to be one of the leaders in the House of the group that feels that most-favored-nation treatment should not be extended to the People's Republic of China, which violates the human rights of its own people and the people of Tibet.

Not all of my colleagues will vote to deny MFN to China when the President sends up the official waiver as is required in the next few months. But I predict that a majority of us in the Congress will. And for the first time in a long time MFN will be denied by the House of Representatives to China.

The human rights considerations alone justify revoking MFN status from China. But, unfortunately, Mr. Speaker, there are numerous additional reasons for not granting China favored trading conditions. We should not extend MFN trade status to countries—like the People's Republic of China—which sell to rogue regimes—like Iran—technology which can contribute to the development of weapons of mass destruction or which sells missiles or the technology to develop missiles which can deliver weapons of mass destruction. We should not extend MFN status to a country which routinely takes advantage of our intellectual property rights and pirates the work of American citizens and American firms.

I also think it is important to realize that this bullying sabre-rattling against Taiwan and its free elections is just the most recent manifestation of official Chinese disregard of rational and civilized acts that ought to govern relations between countries. I am thinking in particular of the gracious invitation by a great American university. Cornell University, to one of its most distinguished alumni, President Lee Teng-hui to visit his own alma mater.

You may recall there was a great deal of concern on the part of the administration when I introduced a resolution simply expressing the sense of the Congress that President Lee should be granted a visa to visit the United States in order to visit Cornell University. That resolution, which I introduced, passed the House unanimously and passed the Senate almost unanimously. The administration recognized the strength of the views of the Members of Congress and of the American people and President Lee made a most successful visit to Cornell.

It is outrageous that the Chinese Government has taken this visit of President Lee to the United States as a reason for recalling its ambassador to the United States and carrying out policies of belligerence against Taiwan and the United States.

Finally, let me just say, Mr. Speaker, that the appalling behavior of the Chinese Government that we are witnessing in the Taiwan Strait today is the precise reason why 2 years ago I introduced a resolution expressing the sense of the House that the Olympic games should not be held in Beijing in the year 2000. It was the well-grounded concern that China was capable of precisely this pattern of irresponsible and reprehensible international action. Just imagine holding the Olympics games in a country which is intimidating its neighbor by firing missiles near its borders. That action completely violates the spirit and meaning of the Olympic games, and I am delighted that the vast majority of my colleagues in the House agreed with that resolution. The International Olympic Committee responsibly decided that Beijing should not be the venue of the Olympics in the year 2000.

Mr. Speaker, we all earnestly hope that sanity will prevail in Beijing, that this saber-rattling will stop. But I think it is very important to eliminate all ambiguity. It is simply unacceptable on the basis of our agreements with both China and Taiwan to have any change in their relationship attempted or produced by military force. We are ready to accept anything that the people of Taiwan and China freely and democratically agree to, but we are not prepared to accept decisions that are forced by the firing of missiles from China against Taiwan.

The resolution we are considering here today makes this point. Our resolution places the Congress on record to reaffirm our commitment that international relations with Taiwan should be conducted only by peaceful means and that the threat of military or economic coercion should not be the basis for international decisions. The resolution calls upon the People's Republic of China to live up to its commitment to work for the peaceful resolution of any disagreements with Taiwan and desist from military actions designed to intimidate Taiwan.

This resolution also reaffirms the commitment of the United States to resist any resort to force or other forms of coercion by other countries that might jeopardize the security, or the social or economic system of the people on Taiwan. We also affirm our support for the United States to maintain a naval presence sufficient to keep open the sea lanes in and near the Taiwan Strait and we express our view that the United States should assist in defending the people of Taiwan against violation, missile attack, or blockade by the People's Republic of China.

Mr. Speaker, I strongly urge my colleagues to support this resolution.

Mr. ORTIZ. Mr. Speaker, I rise today on behalf of the Chinese citizens residing in the Republic of China—Taiwan. I firmly believe that the aggressive and hostile acts by the People's Republic of China against Taiwan must stop. The Taiwan Relations Act of 1979 clearly establishes that the United States of America supports the right of Taiwan to remain autonomous from the authorities in Beijing.

Since the Chinese civil war in 1945, when the Communist took control of most of China, the former leaders of China have taken refuge on the Island of Formosa now called Taiwan. This civil war has not been completely concluded and the leaders in both Beijing and Taiwan claim to be the legitimate leaders of the entire country. The United States supports the right of self-determination for the Chinese citizens residing in both mainland China and Taiwan.

Over the years, the United States has developed relationships with the Chinese leaders in Taiwan and Beijing. The United States does not support, nor will we permit, either party to use force, or intimidation, to impose its will on the other, or to force reunification at the point of a gun. Beijing's saber rattling at this time is particularly offensive since democratic Taiwan is currently in the middle of an election.

I fully support this sense of Congress resolution which states that the Chinese leaders in Beijing must live up to their commitment to work for a peaceful resolution of any disagreements with their counterparts in Taiwan and to immediately cease and desist from any and all hostile acts designed to intimidate the residents of Taiwan. I hope and pray that the leaders in Beijing will abide by the agreements that they have made with the United States to resolve any disagreements in a peaceful manner.

However, as a last resort, I fully support the provisions of this resolution which calls for the United States to support Taiwan in its efforts to defend itself against any hostile or aggressive military threats from Beijing. I applaud the President and our military leaders for their commitment to a higher visibility for the United States presence in the region.

I am confident that the Chinese citizens residing in both mainland China and Taiwan want to see this dispute resolved peacefully. I can only hope that leaders in Beijing will abide by the desires of the vast majority of their citizens.

Mr. FALEOMAVAEGA. Mr. Speaker, I am proud to be an original cosponsor of House Concurrent Resolution 148, legislation stating the House's support for U.S. military intervention to protect Taiwan against threatened military aggression by the People's Republic of China [PRC]. I would strongly urge our colleagues to support this vitally needed measure.

Mr. Speaker, I think we all can all agree that there is no matter more urgent in the world than the events unfolding now in the Taiwan Strait. Deterring conflict in the Taiwan Strait must and should be the No. 1 priority of our Nation.

I want to commend the chairman of the House International Relations Committee, the Honorable BEN GILMAN; the chairman of the House International Relations Subcommittee on Asia-Pacific Affairs, the Honorable DOUG BEREUTER; and the ranking Democratic members of the House International Relations Subcommittee, the Honorable TOM LANTOS and ROBERT TORRICELLI; and Representative COX, the author of House Concurrent Resolution 148, for their leadership in forging the 83 member bipartisan coalition, that through the introduction of the resolution on March 7, 1996, spoke unequivocally and with strength as to America's commitment to protect democracy, ensure freedom, and preserve peace in Taiwan.

Mr. Speaker, I am proud to be an original cosponsor of this legislation, which sends a clear message that America will not stand idly by while China commits its military forces in an attempt to intimidate and instill fear in the people and Government of Taiwan.

Moreover, I cannot more strongly applaud and support the actions taken by the administration recently. Stationing the USS *Independence* aircraft carrier group off Taiwan, with the USS *Nimitz* carrier group to arrive shortly, has sent a clear message to China that the Government and people of the United States of America will not tolerate a military attack or missile-enforced blockade of Taiwan by the PRC.

The decisive action by the administration was no doubt prompted in part by congressional action calling for immediate United States intervention to defuse the hostile environment created by Beijing's angry rhetoric, missile tests, and military exercises in the Taiwan Strait.

China's reckless efforts are intended to influence the outcome of the democratic national elections now pending in Taiwan. As you know, Mr. Speaker, the March 23d election is to be the first democratic election of Taiwan's president.

China's threatened use of force contravenes the PRC's commitment under the 1979 and 1982 joint communiques to resolve Taiwan's status by peaceful means. The United States-China Joint Communiques and the Taiwan Relations Act—which govern the trilateral dynamic in the Taiwan Strait—fundamentally stress that force will not be used to resolve the Taiwan question.

Mr. Speaker, when China's recent aggressive actions evidenced their willingness to violate the principle of Taiwan's peaceful resolution—threatening the stability of the entire Asia-Pacific region—the United States stepped forward because no other country could do what we did in drawing the line with China.

After discussions with ambassadors from several nations in the region, I think it safe to say that much, if not all, of the Asia-Pacific is extremely grateful for America's bold and decisive leadership in preserving stability in the region. Although their governments may not have issued official statements to that effect, I believe the sentiment is clearly there supporting America's intervention.

Mr. Chairman, although I am a Vietnam veteran, I can assure you I am no warmonger. Having fought on the battlefield for America, I weigh very heavily and carefully any commitment of U.S. Military Forces. Having been there myself, I do not want our servicemen and servicewomen put in harm's way unnecessarily.

Although much attention and criticism has been directed against Beijing for the crisis in the strait, certainly Taipei deserves its share of the blame for contributing to the unnecessary escalation of tensions with China, which now threaten our forces in the area.

For years, United States administrations, both Republican and Democratic, have unequivocally supported the "One China" policy—acknowledging that there is only one China whose government is in Beijing, and that Taiwan is part of China. Peace in the Taiwan strait has been the result.

Taiwan's actions over recent years, however, have given rise to the very real perception in Beijing and the world that this premise is being challenged—that Taiwan's independence is being sought.

While I support the issuance of the Visa for Taiwan's President Lee to speak at his alma mater, Cornell University, many believe that he overplayed his hand with the media, treating his visit to the United States as that of a head of state. Similarly, President Lee's trips to other Asia-Pacific nations have been accompanied by great fanfare. Against this background has been Taiwan's campaign for United Nation's membership, which has materially altered the PRC's perception of Taiwan's motives and conduct.

While the PRC's bellicose actions are to be condemned, I can understand and appreciate Beijing's anxiety and fear that a recognized province of China may simply choose to secede while the world watches. Taiwan's aggressive pursuit of independence has gone way beyond everyone's expectations.

Mr. Chairman, let us hope that with the intervention of United States Military Forces in the Taiwan Strait that this will be a stabilizing factor for peace—allowing cooler heads to prevail.

Mr. Speaker, no one wants a war involving China, Taiwan, and America. It is a conflict where everyone comes out a loser, and would fundamentally destroy the promise of prosperity for the entire Asia-Pacific region in the Pacific Century.

The legislation before the House, H.Con.Res. 148, expresses the feeling of the House of Representatives that the United States should commit itself to protect Taiwan in the event of an unprovoked war or conflict with the PRC.

Mr. Speaker, United States intervention is clearly a stabilizing factor promoting peace in the Taiwan Strait and I would strongly urge our colleagues to adopt unanimously this measure. China must know unequivocally that the American people stand united behind Taiwan's democracy, and that we will do whatever is necessary to ensure that the question of Taiwan's future will be resolved through peace, not war.

Mr. Speaker, H.Con.Res. 148 sends that message directly to Beijing, as well as cautioning Taipei against independence initiatives that are destabilizing, and I would strongly urge our colleagues to adopt this well-crafted measure.

Mr. BERMAN. Mr. Speaker, I rise in support of this resolution. I wish to congratulate Mr. COX both for introducing it and for his willingness to perfect it further in committee.

I share the concern that we send a strong message to both sides of the Taiwan Strait that differences be solved peacefully.

Efforts by the People's Republic of China in recent days to intimidate the Taiwanese voters in their presidential elections, I think, have boomeranged against China.

Not only have these bellicose moves helped President Lee in his election race but a recent poll indicates that support for reunification with China has dropped to 16 percent from 20 percent in July when the missile tests began.

The military exercises have unsettled the entire Asian region, calling into question China's interest in regional peace and stability.

I hope that China will soften considerably its current hardline position toward Taiwan. I note that President Lee has already offered an olive branch, calling recently for more trust and personal contact between China and Taiwan.

A substantial basis exists for a strong relationship across the Strait. Recent official economic figures show a 9-percent growth in Taiwanese investment in China in January and February. After the Taiwanese election, I hope more concrete steps will be taken by both sides to strengthen their economic and other contracts.

Finally, the Clinton administration deserves to be congratulated for the strong and forceful position it has taken. Characterizing the missile tests as irresponsible and reckless, the administration has dispatched two carrier battle groups to the region. We have a clear interest in securing peace and stability in Asia and protecting the right of passage in international waters. That is the same message we are delivering to both China and Taiwan in this resolution.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore.

The SPEAKER pro tempore (Mr. HUTCHINSON).

The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 148, as amended.

The question was taken.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes; and

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

HOUSE OF REPRESENTATIVES ADMINISTRATIVE REFORM TECHNICAL CORRECTIONS ACT

Mr. EHLERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2739) to provide for representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "House of Representatives Administrative Reform Technical Corrections Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS RELATING TO ALLOWANCES AND ACCOUNTS IN THE HOUSE OF REPRESENTATIVES AND OTHER ADMINISTRATIVE MATTERS

Sec. 101. Representational allowance for Members of House of Representatives.
Sec. 102. Adjustment of House of Representatives allowances by Committee on House Oversight.
Sec. 103. Limitation on allowance authority of Committee on House Oversight.
Sec. 104. Clerk hire employees of Members of House of Representatives.
Sec. 105. Payments from applicable accounts of House of Representatives.
Sec. 106. Report of disbursements for House of Representatives.
Sec. 107. Cafeteria plan provision.
Sec. 108. Annotated United States Code for Members of House of Representatives to be paid for from Members' Representational Allowance.
Sec. 109. Capitol Police citation release.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS RELATING TO ADMINISTRATIVE REFORMS IN THE HOUSE OF REPRESENTATIVES

Sec. 201. Provisions relating to election of Representatives.
Sec. 202. Provisions relating to organization of Congress.
Sec. 203. Provisions relating to compensation and allowances of Members.
Sec. 204. Provisions relating to officers and employees of House of Representatives.
Sec. 205. Provisions relating to Library of Congress.
Sec. 206. Provisions relating to congressional and committee procedure; investigations.
Sec. 207. Provisions relating to Office of Law Revision Counsel.
Sec. 208. Provisions relating to Legislative Classification Office.
Sec. 209. Provisions relating to classification of employees of House of Representatives.
Sec. 210. Provisions relating to payroll administration in House of Representatives.
Sec. 211. Provisions relating to contested elections.
Sec. 212. Provisions relating to Joint Committee on Congressional Operations.
Sec. 213. Provisions relating to Congressional Budget Office.
Sec. 214. Provisions relating to the States.
Sec. 215. Provisions relating to Government organization and employees.
Sec. 216. Provisions codified in appendices to title 5, United States Code.
Sec. 217. Provisions relating to commerce and trade.
Sec. 218. Provisions relating to foreign relations and intercourse.
Sec. 219. Provisions relating to money and finance.
Sec. 220. Provisions relating to Postal Service.
Sec. 221. Provisions relating to public buildings, property, and works.
Sec. 222. Provisions relating to the public health and welfare.
Sec. 223. Provisions relating to public printing and documents.
Sec. 224. Provisions relating to territories and insular possessions.
Sec. 225. Miscellaneous uncodified provisions relating to House of Representatives.

TITLE I—PROVISIONS RELATING TO ALLOWANCES AND ACCOUNTS IN THE HOUSE OF REPRESENTATIVES AND OTHER ADMINISTRATIVE MATTERS

SEC. 101. REPRESENTATIONAL ALLOWANCE FOR MEMBERS OF HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—There is established for the House of Representatives a single allowance, to be known as the "Members' Representational Allowance", which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.

(b) MERGER.—The Clerk Hire Allowance, the Official Expenses Allowance, and the Official Mail Allowance, as in effect on the day before the effective date of this section, are merged into the Members' Representational Allowance.

(c) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(d) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(e) EFFECTIVE DATE.—This section shall take effect on September 1, 1995 and shall apply with respect to official and representational duties carried out on or after that date.

SEC. 102. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

House Resolution 457, Ninety-second Congress, agreed to July 21, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 57), is amended to read as follows:

"SECTION 1. ADJUSTMENT OF HOUSE OF REPRESENTATIVES ALLOWANCES BY COMMITTEE ON HOUSE OVERSIGHT.

"(a) IN GENERAL.—Subject to the provision of law specified in subsection (b), the Committee on House Oversight of the House of Representatives may, by order of the Committee, fix and adjust the amounts, terms, and conditions of, and other matters relating to, allowances of the House of Representatives within the following categories:

"(1) For Members of the House of Representatives, the Members' Representational Allowance, including all aspects of the Official Mail Allowance within the jurisdiction of the Committee under section 311 of the Legislative Branch Appropriations Act, 1991.

"(2) For committees, the Speaker, the majority and minority leaders, the Clerk, the Sergeant at Arms, and the Chief Administrative Officer, allowances for official mail (including all aspects of the Official Mail Allowance within the jurisdiction of the Committee under section 311 of the Legislative Branch Appropriations Act, 1991), stationery, and telephone and telegraph and other communications.

"(b) PROVISION SPECIFIED.—The provision of law referred to in subsection (a) is House Resolution 1372, Ninety-fourth Congress, agreed to July 1, 1976, as enacted into permanent law by section 101 of the Legislative Branch Appropriation Act, 1977 (2 U.S.C. 57a).

"(c) DEFINITION.—As used in this section, the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress.".

SEC. 103. LIMITATION ON ALLOWANCE AUTHORITY OF COMMITTEE ON HOUSE OVERSIGHT.

House Resolution 1372, Ninety-fourth Congress, agreed to July 1, 1976, as enacted into permanent law by section 101 of the Legislative

Branch Appropriation Act, 1977 (2 U.S.C. 57a), is amended to read as follows:

"SECTION 1. LIMITATION ON ALLOWANCE AUTHORITY OF COMMITTEE ON HOUSE OVERSIGHT.

"(a) IN GENERAL.—An order under the provision of law specified in subsection (c) may fix or adjust the allowances of the House of Representatives only by reason of—

"(1) a change in the price of materials, services, or office space;

"(2) a technological change or other improvement in office equipment; or

"(3) an increase under section 5303 of title 5, United States Code, in rates of pay under the General Schedule.

"(b) RESOLUTION REQUIREMENT.—In the case of reasons other than the reasons specified in paragraph (1), (2), or (3) of subsection (a), the fixing and adjustment of the allowances of the House of Representatives in the categories described in the provision of law specified in subsection (c) may be carried out only by resolution of the House of Representatives.

"(c) PROVISION SPECIFIED.—The provision of law referred to in subsections (a) and (b) is House Resolution 457, Ninety-second Congress, agreed to July 21, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 57).".

SEC. 104. CLERK HIRE EMPLOYEES OF MEMBERS OF HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Under the Members' Representational Allowance, each Member of the House of Representatives may employ not more than 18 permanent clerk hire employees and a total of not more than 4 additional clerk hire employees in the following categories:

(1) Interns.

(2) Part-time employees.

(3) Shared employees.

(4) Temporary employees.

(5) Employees on leave without pay.

(b) BENEFIT EXCLUSION.—For purposes of this section, interns and temporary employees shall be excluded from the operation of the following provisions of title 5, United States Code:

(1) Chapter 84 (relating to the Federal Employees' Retirement System).

(2) Chapter 87 (relating to life insurance).

(3) Chapter 89 (relating to health insurance).

(c) DEFINITIONS.—As used in this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) the term "intern" means, with respect to a Member of the House of Representatives, an individual who serves in the office of the Member in the District of Columbia for not more than 120 days in a 12-month period and whose service is primarily for the educational experience of the individual;

(3) the term "part-time employee" means, with respect to a Member of the House of Representatives, an individual who is employed by the Member and whose normally assigned work schedule is not more than the equivalent of 15 full working days per month;

(4) the term "temporary employee" means, with respect to a Member of the House of Representatives, an individual who is employed for a specific purpose or task and who is employed for not more than 90 days in a 12-month period, except that the term of such employment may be extended with the written approval of the Committee on House Oversight; and

(5) the term "shared employee" means an employee who is paid by more than one employing authority of the House of Representatives.

(d) REGULATIONS.—The Committee on House Oversight shall have authority to prescribe regulations to carry out this section.

(e) CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The first section of the Joint Resolution entitled "Joint resolution providing for pay to clerks to Members of Congress and Delegates", approved January 25, 1923 (2 U.S.C. 92).

(2) House Resolution 359, Ninety-sixth Congress, agreed to July 20, 1979, as enacted into permanent law by the bill H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed by the House of Representatives on July 21, 1980, and enacted into permanent law by section 101(c) of Public Law 96–536 (2 U.S.C. 92 note).

(3) The first section of House Resolution 357, Ninety-first Congress, agreed to June 25, 1969, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1970 (2 U.S.C. 92 note).

SEC. 105. PAYMENTS FROM APPLICABLE ACCOUNTS OF HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—No payment may be made from the applicable accounts of the House of Representatives (as determined by the Committee on House Oversight of the House of Representatives), unless sanctioned by that Committee. Payments on vouchers approved in the manner directed by that Committee shall be deemed, held, and taken, and are declared to be conclusive upon all the departments and officers of the Government.

(b) DEFINITIONS.—As used in this section—

(1) the term "applicable accounts of the House of Representatives" means accounts for salaries and expenses of committees (other than the Committee on Appropriations), the computer support organization of the House of Representatives, and allowances and expenses of Members of the House of Representatives, officers of the House of Representatives, and administrative and support offices of the House of Representatives; and

(2) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(c) CONFORMING AMENDMENTS.—The paragraph beginning "Hereafter" under the heading "UNDER LEGISLATIVE." and the subheading "HOUSE OF REPRESENTATIVES." in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes", approved October 2, 1888 (2 U.S.C. 95), is amended—

(1) in the first sentence, by striking out ", or from the contingent fund" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence—

(A) by striking out "made upon vouchers approved by the Committee on House Administration of the House of Representatives, and payments"; and

(B) in the proviso, by striking out "funds" and all that follows through the end of the sentence and inserting in lieu thereof "fund as additional salary or compensation to any officer or employee of the Senate.".

SEC. 106. REPORT OF DISBURSEMENTS FOR HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Not later than 60 days after the last day of each semiannual period, the Chief Administrative Officer of the House of Representatives shall submit to the House of Representatives, with respect to that period, a detailed, itemized report of the disbursements for the operations of the House of Representatives.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) the name of each person who receives a payment from the House of Representatives;

(2) the quantity and price of any item furnished to the House of Representatives;

(3) a description of any service rendered to the House of Representatives, together with a statement of the time required for the service, and the name, title, and amount paid to each person who renders the service;

(4) a statement of all amounts appropriated to, or received, or expended by the House of Representatives, and any unexpended balances of such amounts;

(5) the information submitted to the Comptroller General under section 3523(a) of title 31, United States Code; and

(6) such additional information as may be required by regulation of the Committee on House Oversight of the House of Representatives.

(c) EXCLUSION.—Notwithstanding subsection (b), if a voucher is for payment to an individual for attendance as a witness before a committee of the Congress in executive session, the report for the semiannual period in which the appearance occurs shall show only the date of payment, voucher number, and amount paid. Any information excluded from a report under the preceding sentence shall be included in the report for the next period.

(d) HOUSE DOCUMENT.—Each report under this section shall be printed as a House document.

(e) CONFORMING PROVISION.—The provisions of—

(1) sections 60, 61, 62, and 63 of the Revised Statutes of the United States (2 U.S.C. 102, 103, and 104); and

(2) section 105(a) of the Legislative Branch Appropriation Act, 1965 (2 U.S.C. 104a);

that require submission and printing of statements and reports are not applicable to the House of Representatives.

(f) EFFECTIVE DATE.—This section shall apply to the semiannual periods of January 1 through June 30 and July 1 through December 31 of each year, beginning with the semiannual period in which this section is enacted.

SEC. 107. CAFETERIA PLAN PROVISION.

(a) IN GENERAL.—There is authorized to be established in the House of Representatives a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986) for the benefit of individuals whose pay is disbursed by the Chief Administrative Officer of the House of Representatives.

(b) ACCOUNT.—There is established in the Treasury an account which shall be available for the payment of benefits and other expenses of the operation of the plan referred to in subsection (a). The account shall consist of—

(1) amounts withheld from the pay of participants in the plan; and

(2) such other amounts as may be received with respect to the plan.

(c) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations relating to the plan referred to in subsection (a), including regulations defining the nature and extent of benefits under the plan.

(d) EFFECTIVE DATE.—This section shall take effect on January 1, 1996.

SEC. 108. ANNOTATED UNITED STATES CODE FOR MEMBERS OF HOUSE OF REPRESENTATIVES TO BE PAID FOR FROM MEMBERS' REPRESENTATIONAL ALLOWANCE.

(a) IN GENERAL.—The Clerk of the House of Representatives shall, at the request of a Member of the House of Representatives, furnish to the Member, for official use only, one set of a privately published annotated version of the United States Code, including supplements and pocket parts. The furnishing of a set of the United States Code under this section shall be in lieu of any distribution under section 212 of title 1, United States Code, and shall be paid for from the Members' Representational Allowance.

(b) DEFINITION.—As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(c) REGULATIONS.—The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

(d) CONFORMING AMENDMENT.—House Resolution 506, Ninetieth Congress, agreed to August 21, 1967, as enacted into permanent law by chapter VIII of the Second Supplemental Appropriation Act, 1968 (2 U.S.C. 54), is repealed.

SEC. 109. CAPITOL POLICE CITATION RELEASE.

(a) IN GENERAL.—The Chief of the Capitol Police, with the approval of the Capitol Police Board, may designate a member of the Capitol Police to have responsibility for citation release.

(b) AUTHORITY.—(1) In the same manner as provided for with respect to an official of the Metropolitan Police Department of the District of Columbia under section 23–1110(a) of the District of Columbia Code, the Superior Court of the District of Columbia shall have the authority to appoint the member of the Capitol Police designated under subsection (a) of this section to take bail or collateral from persons charged with offenses triable in the Superior Court of the District of Columbia. Pursuant to that authority—

(A) the citation power described in subsection (b) of section 23–1110 of the District of Columbia Code shall be exercised by such member of the Capitol Police in the same manner as by an official of the Metropolitan Police Department; and

(B) paragraph (4) of subsection (b) of section 23–1110 of the District of Columbia Code, relating to failure to appear, shall apply with respect to citations under subparagraph (A) of this paragraph.

(2) The United States District Court for the District of Columbia shall have the power to authorize the member of the Capitol Police referred to in subsection (a) of this section to take bond from persons arrested upon writs and process from that court in criminal cases in the same manner as provided for with respect to an official of the Metropolitan Police Department of the District of Columbia under the third sentence of section 23–1110(a) of the District of Columbia Code.

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS RELATING TO ADMINISTRATIVE REFORMS IN THE HOUSE OF REPRESENTATIVES

SEC. 201. PROVISIONS RELATING TO ELECTION OF REPRESENTATIVES.

The provisions of law relating to election of Representatives, as codified in chapter 1 of title 2, United States Code, are amended as follows:

The third sentence of section 22(b) of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress", approved June 28, 1929 (2 U.S.C. 2a(b)), is amended by striking out the semicolon after "Representatives" the first place it appears and all that follows through the end of the sentence and inserting in lieu thereof a period.

SEC. 202. PROVISIONS RELATING TO ORGANIZATION OF CONGRESS.

The provisions of law relating to organization of Congress, as codified in chapter 2 of title 2, United States Code, are amended as follows:

(1) Section 204(a) of the District of Columbia Delegate Act (2 U.S.C. 25b) is repealed.

(2) Section 33 of the Revised Statutes of the United States (2 U.S.C. 26, third sentence) is repealed.

(3) Section 2(c) of Public Law 94–551 (2 U.S.C. 28c(c)) is amended—

(A) in paragraph (2), by striking out "Representives" and inserting in lieu thereof "Representatives"; and

(B) in paragraph (5), by striking out ", to the Sergeant" and all that follows through the end of the paragraph and inserting in lieu thereof "and to the Sergeant at Arms of the House of Representatives, each two sets;".

(4) Section 202 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title 1 of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a), is amended—

(A) in subsection (b)(2), by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight"; and

(B) in subsection (c), by striking out "contingent fund of the House is" and inserting in lieu thereof "applicable accounts of the House of Representatives are".

SEC. 203. PROVISIONS RELATING TO COMPENSATION AND ALLOWANCES OF MEMBERS.

The provisions of law relating to compensation and allowances of Members, as codified in chapter 3 of title 2, United States Code, are amended as follows:

(1) Subsection (e) of the first section of the Act entitled "An Act to increase rates of compensation of the President, Vice President, and the Speaker of the House of Representatives", approved January 19, 1949 (2 U.S.C. 31b), is amended by striking out "(which shall be in lieu of the allowance provided by section 601(b) of the Legislative Reorganization Act of 1946, as amended)".

(2) Section 2 of House Resolution 1238, Ninety-first Congress, agreed to December 23, 1970, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (2 U.S.C. 31b–2), is amended—

(A) by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) by striking out "base allowance" and all that follows through "Member of the House" and inserting in lieu thereof "Members' Representational Allowance".

(3) The first sentence of section 5 of House Resolution 1238, Ninety-first Congress, agreed to December 22, 1970 (as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971, and supplemented by the Act entitled "An Act relating to former Speakers of the House of Representatives" (88 Stat. 1723)) (2 U.S.C. 31b–5), is amended by striking out "to enable the Clerk of the House to pay" and inserting in lieu thereof "for payment of".

(4) Sections 49 and 50 of the Revised Statutes of the United States (2 U.S.C. 38) are repealed.

(5) Section 105 of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 38a) is amended—

(A) in the first undesignated paragraph, by striking out "(including amounts held in the trust fund account in the office of the Sergeant at Arms)"; and

(B) in the second undesignated paragraph, by striking out "Sergeant at Arms, and received by the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives and received by the Chief Administrative Officer".

(6) The proviso in the first paragraph under the heading "LEGISLATIVE BRANCH" and the subheading "HOUSE OF REPRESENTATIVES" in chapter I of the Third Supplemental Appropriation Act, 1952 (2 U.S.C. 38b; 2 U.S.C. 125a) is amended by striking out "contingent fund of the House of Representatives or" and inserting in lieu thereof "applicable accounts of the House of Representatives or the contingent fund".

(7) Section 40 of the Revised Statutes of the United States (2 U.S.C. 39) is amended by striking out "Sergeant-at-Arms of the House" and inserting in lieu thereof "the Chief Administrative Officer of the House of Representatives (upon certification by the Clerk of the House of Representatives)".

(8) The proviso in the last undesignated paragraph under the center heading "LEGISLATIVE ESTABLISHMENT" and the center subheading "HOUSE OF REPRESENTATIVES" in the Deficiency Appropriation Act, fiscal year 1934 (2 U.S.C. 40a) is amended—

(A) by striking out "Sergeant at Arms of the House" the first place it appears and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives"; and

(B) by striking out "Sergeant at Arms of the House shall be paid to the Clerk of the House and" inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall be".

(9)(A) Section 43 of the Revised Statutes of the United States (2 U.S.C. 41) is repealed.

(B) Section 302(c) of House Resolution 287, Ninety-fifth Congress, agreed to March 2, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 41 note), is repealed.

(10) The first section of House Resolution 420, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 42), is repealed.

(11) Section 44 of the Revised Statutes of the United States (2 U.S.C. 42 note) is repealed.

(12)(A) The provisions of law specified in subparagraph (B), codified as sections 42c, 42c note, and 42d of title 2, United States Code, are repealed.

(B) The provisions of law referred to in subparagraph (A) are—

(i) the Act entitled "An Act to provide airmail and special delivery postage stamps for Members of the House of Representatives on the basis of regular sessions of Congress, and for other purposes", approved August 27, 1958;

(ii) House Resolution 532, Eighty-eighth Congress, agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965; and

(iii) House Resolution 1003, Ninetieth Congress, agreed to December 14, 1967, as enacted into permanent law by chapter VIII of title I of the Second Supplemental Appropriation Act, 1968.

(13) The last paragraph under the heading "SENATE" and the subheading "ADMINISTRATIVE PROVISIONS" in the first section of the Legislative Branch Appropriation Act, 1959 (2 U.S.C. 43b) is repealed.

(14) Section 2 of Public Law 89–147 (2 U.S.C. 43b–1) is repealed.

(15) Section 2 of House Resolution 10, Ninety-fourth Congress, agreed to January 14, 1975, as enacted into permanent law by section 201 of the Legislative Branch Appropriation Act, 1976 (2 U.S.C. 43b–3), is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(16)(A) The provisions of law specified in subparagraph (B), codified as section 46b of title 2, United States Code, are amended, repealed, or affected as provided in that subparagraph.

(B) The amendments, repeals, and effects referred to in subparagraph (A) are as follows:

(i) The paragraph beginning "Stationery" under the heading "HOUSE OF REPRESENTATIVES" and the subheading "CONTINGENT EXPENSES OF THE HOUSE" in the Legislative Appropriation Act, 1955, is amended by striking out "(which hereafter shall be $1,200 per regular session)".

(ii) That portion of the paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheading "STATIONERY (REVOLVING FUND)" in the first section of the Legislative

Branch Appropriation Act, 1961, that has been interpreted as increasing the stationery allowance from $1,200 to $1,800 shall have no further force or effect.

(iii) House Resolution 533, Eighty-eighth Congress, agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965, is repealed.

(iv) House Resolution 1029, Eighty-ninth Congress, agreed to October 5, 1966, as continued by House Resolution 112, Ninetieth Congress, agreed to March 8, 1967, as enacted into permanent law by chapter VIII of the Second Supplemental Appropriation Act, 1967, is repealed.

(17) The Act entitled "An Act to provide for a prorated stationery allowance in the case of a Member of the House of Representatives elected for a portion of a term", approved February 27, 1956 (2 U.S.C. 46b–2), is repealed.

(18)(A) The first section of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949 (2 U.S.C. 46f) is repealed.

(B)(i) The provisions of law specified in clause (ii), codified as section 46g of title 2, United States Code, are repealed.

(ii) The provisions of law referred to in clause (i) are—

(I) section 2 of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949;

(II) House Resolution 735, Eighty-seventh Congress, agreed to July 25, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1964;

(III) House Resolution 531, Eighty-eighth Congress agreed to October 2, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965; and

(IV) House Resolution 901, Eighty-Ninth Congress, agreed to June 29, 1966, as enacted into permanent law by chapter VI of the Supplemental Appropriation Act, 1967.

(C) Section 6 of the Act entitled "An Act relating to telephone and telegraph service and clerk hire for Members of the House of Representatives", approved June 23, 1949 (2 U.S.C. 46i) is repealed.

(19) The first section of House Resolution 418, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 46g–1), is repealed.

(20)(A) Section 2 of House Resolution 418, Ninety-second Congress, agreed to May 18, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (2 U.S.C. 56), is repealed.

(B) The section designation and subsections (a), (b), and (d) of section 302 of House Resolution 287, Ninety-fifth Congress, agreed to March 2, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 56 note, 2 U.S.C. 122a note), are repealed.

(21)(A) The second undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), is amended by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) The first undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

(C) The second undesignated paragraph of the first section of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(a)), as amended by subparagraph (A), is further amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(D) Section 2(1) of House Resolution 1297, Ninety-fifth Congress, agreed to August 16, 1978, as enacted into permanent law by section 111(1) of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 59d(b)(1)), is amended to read as follows:

"(1) the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and".

(22)(A) Section 311(a)(3) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e(a)(3)) is amended by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) Section 311 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59e) is amended—

(i) in the matter before paragraph (1) in subsection (a), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(ii) in subsection (a)(3), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(iii) in subsection (b), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(iv) in subsection (e)(1)(A), by striking out "House Administration" and inserting in lieu thereof "House Oversight";

(v) in subsection (e)(2)(A), by striking out "only";

(vi) in subsection (e)(3)(A), by striking out "Official Expenses Allowance and the Clerk Hire Allowance" and inserting in lieu thereof "Members' Representational Allowance"; and

(vii) in subsection (e)(4), by striking out "Official Expenses Allowance" and inserting in lieu thereof "Members' Representational Allowance".

SEC. 204. PROVISIONS RELATING TO OFFICERS AND EMPLOYEES OF HOUSE OF REPRESENTATIVES.

The provisions of law relating to officers and employees of the House of Representatives, as codified in chapter 4 of title 2, United States Code, are amended as follows:

(1) Section 5 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2) is amended—

(A) in the matter before paragraph (1) in subsection (a), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives";

(B) in subsection (a)(1)(A), by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer";

(C) in subsection (a)(1)(B), by striking out ", including" and all that follows through the end of clause (ii) and inserting in lieu thereof a semicolon;

(D) in the matter following subparagraph (B) in subsection (a)(1), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(E) in subsection (a)(2), by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer";

(F) in subsection (b), by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer"; and

(G) in subsection (d), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer".

(2) Paragraph (1) of subsection (d) of section 311 of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a–2a(1)) is amended, in the matter before subparagraph (A), by striking out "Clerk of the House of Representatives" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(3) The first section and section 2 of the Joint Resolution entitled "Joint resolution authorizing the payment of salaries of the officers and employees of Congress for December on the 20th day of that month each year", approved May 21, 1937 (2 U.S.C. 60d and 60e), are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(4) The first section of House Resolution 732, Ninety-fourth Congress, agreed to November 4, 1975, as enacted into permanent law by section 101 of the Legislative Branch Appropriation Act, 1977 (2 U.S.C. 60e–1a), is amended—

(A) in the first sentence of subsection (a), by striking out "Clerk" the first place it appears and all that follows through "provisions of" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall, in accordance with";

(B) in the second sentence of subsection (a), by striking out "provide that—" and all that follows through "shall withhold" and inserting in lieu thereof "provide that the Chief Administrative Officer shall withhold";

(C) in subsection (b), by striking out "Clerk or the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer";

(D) in subsection (c)(1), by striking out "Clerk and the Sergeant at Arms" and inserting in lieu thereof "Chief Administrative Officer";

(E) in subsection (c)(2), by striking out "Clerk or the Sergeant at Arms, as the case may be," each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(F) in subsections (d) and (e), by striking out "Clerk or the Sergeant at Arms" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(5)(A) The first section of House Resolution 12, Ninety-fifth Congress, agreed to August 5, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60e–1c), is amended—

(i) in subsection (a), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(ii) in subsection (b) and subsection (d), by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) Section 2 of House Resolution 12, Ninety-fifth Congress, agreed to August 5, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60e–1d), is amended—

(i) in paragraph (1), by adding "and" after the semicolon at the end;

(ii) by striking out paragraph (2);

(iii) in paragraph (3), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives"; and

(iv) by redesignating paragraph (3), as amended by clause (iii), as paragraph (2).

(6) Subsection (b) of the first section of House Resolution 420, Ninety-third Congress, agreed to September 18, 1973, as enacted into permanent law by chapter VI of the Supplemental Appropriations Act, 1974 (2 U.S.C. 60g–2(b)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(7) The first section of House Resolution 420, Ninety-third Congress, agreed to September 18, 1973, as enacted into permanent law by chapter VI of the Supplemental Appropriations Act, 1974 (2 U.S.C. 60g–2), is amended—

(A) in the third sentence of subsection (a), by striking out "contingent fund of the House"

and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) in subsection (c), by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(8) Section 310(a) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j–2) is amended—

(A) by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(B) by striking out "SEC. 310. (a)" and inserting in lieu thereof "SEC. 310.".

(9) Section 105 of the Legislative Branch Appropriation Act, 1968 is amended by striking out subsection (j) (2 U.S.C. 61–1(g)).

(10)(A) Subsections (f), (i)(1), and (i)(3) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(f), (i)(1), and (i)(3)) are each amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(B) Subsection (i)(1) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)(1)), as amended by subparagraph (A), is further amended—

(i) by striking out "contingent funds of the respective Houses pursuant to resolutions, which" and inserting in lieu thereof "contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions which, in the case of the Senate,"; and

(ii) by striking out "such respective Houses" and inserting in lieu thereof "the appropriate House".

(11) Subsection (j)(1) of section 202 of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(j)(1)) is amended—

(A) in the first sentence, by striking out "Committee on House Administration" and all that follows through "respective Houses" and inserting in lieu thereof "committee involved in the case of standing committees of the House of Representatives, and within the limits of funds made available from the contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions, which, in the case of the Senate, shall specify the maximum amounts which may be used for such purpose, approved by the appropriate House"; and

(B) in the second sentence, by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(12) The paragraph beginning "The appropriation for committee employees" under the heading "HOUSE OF REPRESENTATIVES" and the subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1948 (2 U.S.C. 72b) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(13) The last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1948 (2 U.S.C. 72c) is repealed.

(14) The first section of House Resolution 487, Eighty-seventh Congress, agreed to January 10, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 74–1), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(15)(A) Subsection (b) of the first section of House Resolution 393, Ninety-fifth Congress, as enacted into permanent law by section 115 of the legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a–3), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(B) Section 2 of House Resolution 393, Ninety-fifth Congress, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a–4), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(16) Section 112 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 74a–5 and 2 U.S.C. 333a) is amended by striking out "sections 74(a)–4 and 333 of title 2, United States Code," and inserting in lieu thereof "section 2 of House Resolution 393, Ninety-fifth Congress, agreed to March 31, 1977, as enacted into permanent law by section 115 of the Congressional Operations Appropriation Act, 1978, and section 473 of the Legislative Reorganization Act of 1970,".

(17) Section 101 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 74a–6) is repealed.

(18) Section 244 of the Legislative Reorganization Act of 1946 (2 U.S.C. 74b) is amended—

(A) by striking out "and the Clerk of the House are" and inserting in lieu thereof "is"; and

(B) by striking out "their respective jurisdictions" and inserting in lieu thereof "the jurisdiction of the Secretary".

(19) Section 7 of the Legislative Branch Appropriation Act, 1943 (2 U.S.C. 75a) is amended—

(A) in the first sentence—

(i) by striking out "Clerk of the House of Representatives, the accounts of such Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the accounts of the Chief Administrative Officer"; and

(ii) by striking out "new Clerk of the House of Representatives shall have been elected and qualified" and inserting in lieu thereof "new Chief Administrative Officer shall have been appointed";

(B) in the second sentence—

(i) by striking out ", audited,";

(ii) by striking out "former Clerk of the House of Representatives" and inserting in lieu thereof "former Chief Administrative Officer"; and

(iii) by striking out "such former Clerk" and inserting in lieu thereof "the former Chief Administrative Officer";

(C) in the third sentence—

(i) by striking out "The former Clerk" and inserting in lieu thereof "The former Chief Administrative Officer"; and

(ii) by striking out "such former Clerk" and inserting in lieu thereof "the former Chief Administrative Officer"; and

(D) by adding at the end the following new sentence: "The accounts and payments referred to in the second sentence shall be audited by the Inspector General of the House of Representatives.".

(20) Section 208(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 75a–1(a)) is amended by striking out "Doorkeeper, Postmaster," each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(21) Section 73 of the Revised Statutes of the United States (2 U.S.C. 76) is repealed.

(22)(A) The first section of House Resolution 8, Ninety-fifth Congress, agreed to January 4, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 76–1), is amended—

(i) in paragraph (1), by striking out the comma after "1976" and inserting in lieu thereof "; and";

(ii) in paragraph (2), by striking out ", and" after "91–510" and inserting in lieu thereof a period; and

(iii) by striking out paragraph (3).

(B)(i) The provisions of law specified in clause (ii), codified in section 76–1 note of title 2, United States Code, are repealed or amended as provided in that clause.

(ii) The repeals and amendments clause (i) are as follows:

(I) House Resolution 909, Eighty-ninth Congress, agreed to September 8, 1966, as enacted into permanent law by chapter VI of the Supplemental Appropriation Act, 1967, is repealed.

(II) Subsection (a) of the first section of House Resolution 890, Ninety-second Congress, agreed to October 4, 1972, as enacted into permanent law by the paragraph under the heading "LEGISLATIVE BRANCH" and the subheadings "HOUSE OF REPRESENTATIVES" and "ADMINISTRATIVE PROVISION", in chapter V of the Supplemental Appropriations Act, 1973, is amended by striking out "the Doorkeeper,".

(23) House Resolution 560, Eighty-seventh Congress, agreed to March 27, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 76a), is repealed.

(24) Section 2 of House Resolution 603, Eighty-seventh Congress, agreed to April 16, 1962, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1964 (2 U.S.C. 76b), is repealed.

(25) The Act entitled "An Act defining certain duties of the Sergeant-at-Arms of the House of Representatives, and for other purposes", approved October 1, 1890, is amended—

(A) in the first section (2 U.S.C. 78), by striking out ", keep the" and all that follows through "by law"; and

(B) in section 3 (2 U.S.C. 80), by striking out "Sergeant-at-Arms" and inserting in lieu thereof "Chief Administrative Officer".

(26) The next to the last undesignated paragraph under the center heading "LEGISLATIVE" and the center subheading "HOUSE OF REPRESENTATIVES", in the first section of the Second Deficiency Act, fiscal year, 1928 (2 U.S.C. 80a), is amended by striking out "Sergeant-at-Arms of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(27) The Joint Resolution entitled "Joint resolution to provide for on-the-spot audits by the General Accounting Office of the fiscal records of the Office of the Sergeant at Arms of the House of Representatives", approved July 26, 1949 (2 U.S.C. 81a), is repealed.

(28) House Resolution 465, Eighty-fourth Congress, agreed to April 11, 1956, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 81b), is repealed.

(29) House Resolution 144, Eighty-fifth Congress, agreed to February 7, 1957, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1958 (2 U.S.C. 81c), is repealed.

(30) Section 7 of the Act entitled "An Act defining certain duties of the Sergeant-at-Arms of the House of Representatives, and for other purposes", approved October 1, 1890 (2 U.S.C. 84), is repealed.

(31) House Resolution 6, Ninety-eighth Congress, agreed to January 3, 1983, as enacted into permanent law by section 110 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 84–1), is repealed.

(32) House Resolution 1495, Ninety-fourth Congress, agreed to September 30, 1976, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 84a–1), is repealed.

(33) The eighth, ninth, tenth, eleventh, thirteenth, and fourteenth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in

the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 85, 86, 87, 88, 90, and 91), are repealed.

(34)(A) Section 243 of Legislative Reorganization Act of 1946 (2 U.S.C. 88a) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1946 is amended, in the matter relating to part 3 of title II (60 Stat. 813), by striking out the item relating to section 243.

(C) Section 492(i) of the Legislative Reorganization Act of 1970 (40 U.S.C. 184a(i)) is amended by striking out "section 243" and all that follows through "or".

(35)(A) The provisions of law specified in subparagraph (B), codified as section 88b of title 2, United States Code, are amended or repealed as provided in that subparagraph.

(B) The amendments and repeals referred to in subparagraph (A) are as follows:

(i) The proviso in the paragraph beginning under the center heading "LEGISLATIVE" and the center subheading "EDUCATION OF SENATE AND HOUSE PAGES" in title I of the Act entitled "An Act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes", approved March 22, 1947, is amended—

(I) by striking out "congressional" and inserting in lieu thereof "Senate"; and

(II) by striking out "and the Clerk of the House of Representatives".

(ii) House Resolution 279, Ninety-eighth Congress, agreed to July 21, 1983, as enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1985, is repealed.

(36) Section 491 of the Legislative Reorganization Act of 1970 (2 U.S.C. 88b–1) is amended—

(A) in subsection (a)(1), by striking out "a period of not less than two months" and inserting in lieu thereof "the period specified in writing at the time of the appointment"; and

(B) in subsection (b), by striking out "; or" at the end of paragraph (2) and all that follows through the end of the subsection and inserting in lieu thereof a period.

(37) Section 2(a)(2) of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97–377 (2 U.S.C. 88b–3(a)(2)), is amended by striking out ", Doorkeeper, and" and inserting in lieu thereof "and the".

(38) House Resolution 64, Ninety-eighth Congress, agreed to February 8, 1983, as enacted into permanent law by section 110 of the Congressional Operations Appropriation Act, 1984 (2 U.S.C. 88b–5), is amended—

(A) in the first sentence of section 2, by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives";

(B) in the second sentence of section 2, by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, as determined by the Clerk of the House of Representatives,";

(C) by striking out section 3; and

(D) by redesignating section 4 as section 3.

(39) Section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) repealed.

(40) House Resolution 234, Ninety-eighth Congress, agreed to June 29, 1983, as enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1985 (2 U.S.C. 88c–1 et seq.) is amended—

(A) by striking out the first section;

(B) in section 2, by striking out "terms of the academic year plus a" and inserting in lieu thereof "semesters of the academic year, plus a non-academic";

(C) in section 3(a)(1)(B), by striking out "term or two full terms" and inserting in lieu thereof "semester or two full semesters";

(D) in section 3 (b)(1), by striking out "but no appointment to fill that vacancy shall be for a period of less than two months" and inserting in lieu thereof "except that no appointment may be made under this paragraph for service to begin on or after October 1 with respect to the first semester or on or after March 1 with respect to the second semester";

(E) in section 3(b)(2), by striking out "terms" and inserting in lieu thereof "semesters or terms, as the case may be,"; and

(F) in section 4(1), by striking out "terms" and inserting in lieu thereof "semesters".

(41) The twelfth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 89), is amended by striking out "Doorkeeper, and Postmaster" and inserting in lieu thereof "and Chief Administrative Officer".

(42)(A) The first sentence of the first section of the Act entitled "An Act to authorize the Clerk of the House of Representatives to withhold certain amounts due employees of the House of Representatives", approved July 2, 1958 (2 U.S.C. 89a), is amended by striking out ", or to the trust fund" and all that follows through the end of the sentence and inserting in lieu thereof the following:

"and fails to pay the indebtedness, the chairman of the committee or the elected officer of the House of Representatives that has jurisdiction over the activity under which the indebtedness arises may certify to the Chief Administrative Officer of the House of Representatives the amount of the indebtedness.".

(B) The second and fourth sentences of such first section are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(43) Section 2 of House Resolution 294, Eighty-eighth Congress, agreed to August 14, 1964, as continued by House Resolution 7, Eighty-ninth Congress, agreed to January 4, 1965, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1966 (2 U.S.C. 92–1), is repealed.

(44) Section 2 and section 3 of House Resolution 804, Ninety-sixth Congress, agreed to October 2, 1980, as enacted into permanent law by the bill H.R. 4120, entitled the "Legislative Branch Appropriation Act, 1982", as reported in the House of Representatives on July 9, 1981, and enacted into permanent law by section 101(c) of Public Law 97–51 (2 U.S.C. 92b–2; 2 U.S.C. 92b–3), are each amended by striking out "House Administration" and inserting in lieu thereof "House Oversight of the House of Representatives".

(45) The proviso in the fifth paragraph under the heading "UNDER LEGISLATIVE." and the subheading "SENATE." in the first section of the Act entitled "An Act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June thirtieth, nineteen hundred and two, and for prior years, and for other purposes", approved February 14, 1902 (2 U.S.C. 95a), is amended by striking out "contingent expenses of the House of Representatives or" and inserting in lieu thereof "expenses of the House of Representatives or contingent expenses of".

(46) The fifth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved July 16, 1914 (2 U.S.C. 96), is repealed.

(47) Section 311 of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 96a) is repealed.

(48) The first paragraph after the paragraph with the side heading "OFFICE OF THE SPEAKER:" under the heading "LEGISLATIVE." and the subheading "HOUSE OF REPRESENTATIVES." in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes", approved March 2, 1895 (2 U.S.C. 97) is repealed.

(49) The first undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes", approved March 3, 1885 (2 U.S.C. 98), is repealed.

(50) The first undesignated paragraph after the paragraph with the side heading "OFFICE OF POSTMASTER:", under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes", approved March 3, 1891 (2 U.S.C. 99), is amended by striking out "; and hereafter" and all that follows through the end of the paragraph and inserting in lieu thereof a period.

(51) The second sentence of the fourth undesignated paragraph relating to contingent expenses, under the center heading "LEGISLATIVE." and the center subheading "HOUSE OF REPRESENTATIVES.", in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes", approved March 3, 1901 (2 U.S.C. 100), is repealed.

(52) Sections 60 and 61 of the Revised Statutes of the United States (2 U.S.C. 102) are repealed.

(53) The first sentence of the undesignated paragraph under the center heading "GENERAL PROVISION" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(54) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1965 (2 U.S.C. 104a(1)) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(55) Section 65 of the Revised Statutes of the United States (2 U.S.C. 106) is amended—

(A) by striking out "and Clerk of the House of Representatives"; and

(B) by striking out "and House of Representatives, respectively,".

(56) Section 68 of the Revised Statutes of the United States (2 U.S.C. 108) is amended by striking out "either the Secretary or the Clerk" and inserting in lieu thereof "the Secretary".

(57) Section 69 of the Revised Statutes of the United States (2 U.S.C. 109) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(58) The proviso in the last sentence of the fifth paragraph after the paragraph with the side heading "FOR CONTINGENT EXPENSES, NAMELY:" under the heading "LEGISLATIVE." and

the subheading "SENATE." in the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-eight, and for other purposes", approved March 3, 1887 (2 U.S.C. 112) is amended by striking out "or the Committee on Accounts of the House of Representatives respectively".

(59)(A) The first section of the Act entitled "An Act to provide certain equipment for use in the offices of Members, officers, and committees of the House of Representatives, and for other purposes", approved December 5, 1969 (2 U.S.C. 112e), is amended—

(i) in the first sentence of subsection (a), by striking out "Clerk of the House shall furnish electrical and mechanical" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives shall furnish"; and

(ii) in subsection (b), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(B) The first section of the Act entitled "An Act to provide certain equipment for use in the offices of Members, officers, and committees of the House of Representatives, and for other purposes", approved December 5, 1969 (2 U.S.C. 112e), as amended by subparagraph (A) is further amended—

(i) by striking out "House Administration" each place it appears and inserting in lieu there of "House Oversight";

(ii) in subsection (c), by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(iii) in subsection (d), by striking out the second sentence.

(60) Section 70 of the Revised Statutes of the United States (2 U.S.C. 113) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(61) Section 71 of the Revised Statutes of the United States (2 U.S.C. 114) is amended—

(A) by striking out "and the Clerk of the House of Representatives, respectively, are" and inserting in lieu thereof "is"; and

(B) by striking out "or from the journal of the House of Representatives,".

(62) The third undesignated paragraph under the center heading "MISCELLANEOUS" in the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the government for the fiscal year ending June thirtieth, eighteen hundred and eighty-three, and for other purposes", approved August 7, 1882 (2 U.S.C. 117), is amended —

(A) by striking out "Clerk and Doorkeeper of the House of Representatives and the"; and

(B) by striking out "direction" and all that follows through "cover" and inserting in lieu thereof "direction of the Committee on Rules and Administration of the Senate and cover".

(63)(A) Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as enacted by reference in identical form by section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e) is amended—

(i) in the first sentence of paragraph (1), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(ii) in the first sentence of paragraph (2), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(B) Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as enacted by reference in identical form by section 101(j) of Public Law 99–500 and Public Law 99–591) (2 U.S.C. 117e), as amended by subparagraph (A), is further amended—

(i) in paragraph (3), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(ii) in paragraph (4)(B), by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(64) Section 306 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 117f), is amended—

(A) in subsection (a), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in subsection (b)—

(i) by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(ii) by striking out "but not limited to Legislative Service Organizations,"; and

(iii) by striking out ": Provided, That" and all that follows through "House" and inserting in lieu thereof ", except that no amount charged to the Members' Representational Allowance".

(65) The second sentence of section 2 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1927, and for other purposes", approved May 13, 1926 (2 U.S.C. 119), is amended by striking out "Accounts" and inserting in lieu thereof "House Oversight".

(66)(A) The provisions of law specified in subparagraph (B), codified as section 122a of title 2, United States Code, are repealed.

(B) The provisions of law referred to in subparagraph (A) are—

(i) the nineteenth paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in title I of the Legislative Branch Appropriation Act, 1955; and

(ii) House Resolution 831, Eighty-eighth Congress, agreed to August 14, 1964, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1966.

(67) The first section and sections 2, 3, 4, 5, and 7 of House Resolution 687, Ninety-fifth Congress, agreed to September 20, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 122b, 122c, 122d, 122e, 122f, and 122g), are repealed.

(68) Section 105 of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 123b) is amended—

(A) in subsections (c), (d), (f), and (h) by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in the first sentence of subsection (g), by striking out "within the contingent fund of the House of Representatives".

(69) The second sentence of the second paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheading "ADMINISTRATIVE PROVISIONS" in the first section of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 124) is amended—

(A) by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(70)(A) The first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125) is amended by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(B) The first sentence of the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "CONTINGENT EXPENSES OF THE HOUSE" in the first section of the Legislative Branch Appropriation Act, 1955 (2 U.S.C. 125), as amended by subparagraph (A), is further amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

(71) Section 3 of Public Law 89–147 (2 U.S.C. 127a) is amended—

(A) in the first sentence, by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(B) in the last sentence, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(72) Subsection (b) of the first section of House Resolution 1047, Ninety-fifth Congress, agreed to April 4, 1978, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 130–1), is amended—

(A) in the first sentence, by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives"; and

(B) in the second sentence, by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(73) The first section of the Act entitled "An Act to preserve the benefits of the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees Health Benefits Act of 1959 for congressional employees receiving certain congressional staff fellowships", approved March 30, 1966 (2 U.S.C. 130a), is amended—

(A) by striking out "That, with respect" and inserting in lieu thereof "That (a) with respect";

(B) in paragraph (1) of subsection (a), as so redesignated by subparagraph (A), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer";

(C) by striking out "the purposes of—" and all that follows through "if the award" and inserting in lieu thereof the following: "the purposes of the provisions of law specified in subsection (b), if the award";

(D) by striking out "Clerk of the House of Representatives, as appropriate" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, as appropriate";

(E) by striking out "Clerk of the House by records" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives by records"; and

(F) by adding at the end the following new subsection:

"(b) The provisions of law referred to in subsection (a) are—

"(1) subchapter III (relating to civil service retirement) of chapter 83 of title 5, United States Code;

"(2) chapter 87 (relating to Federal employees group life insurance) of title 5, United States Code; and

"(3) chapter 89 (relating to Federal employees group health insurance) of title 5, United States Code.".

(74) Section 6(a)(1) of the Act entitled "An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia", approved December 19, 1970 (2 U.S.C. 130b(a)(1)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(75) Section 6(f) of the Act entitled "An Act to amend title 5, United States Code, to revise, clarify, and extend the provisions relating to court leave for employees of the United States and the District of Columbia", approved December 19, 1970 (2 U.S.C. 130b(f)), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(76) Subsection (a) and subsection (b) of section 3 of the Act entitled "An Act to authorize the waiver of claims of the United States arising out of erroneous payments of pay and allowances to certain officers and employees of the

legislative branch", approved July 25, 1974 (2 U.S.C. 130d(a) and (b)), are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 205. PROVISIONS RELATING TO LIBRARY OF CONGRESS.

The provisions of law relating to the Library of Congress, as codified in chapter 5 of title 2, United States Code, are amended as follows:

Section 223 of the Legislative Reorganization Act of 1946 (2 U.S.C. 132b) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 206. PROVISIONS RELATING TO CONGRESSIONAL AND COMMITTEE PROCEDURE; INVESTIGATIONS.

The provisions of law relating to congressional and committee procedure; investigations, as codified in chapter 6 of title 2, United States Code, are amended as follows:

(1) Section 136(c) of the Legislative Reorganization Act of 1946 (2 U.S.C. 190d(c)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) The fourth sentence of section 2 of the Act entitled "An Act to provide for taking testimony, to be used before Congress, in cases of private claims against the United States", approved February 3, 1879 (2 U.S.C. 190m) is amended by striking out "contingent fund of the branch of Congress appointing such committee." and inserting in lieu thereof the following: "contingent fund of the Senate, in the case of a committee of the Senate, or the applicable accounts of the House of Representatives, in the case of a committee of the House of Representatives.".

SEC. 207. PROVISIONS RELATING TO OFFICE OF LAW REVISION COUNSEL.

The provisions of law relating to the Office of the Law Revision Counsel, as codified in chapter 9A of title 2, United States Code, are amended as follows:

Section 205(h) of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 285g), is amended by striking out "contingent fund of the House" and inserting in lieu thereof "applicable accounts of the House of Representatives".

SEC. 208. PROVISIONS RELATING TO LEGISLATIVE CLASSIFICATION OFFICE.

The provisions of law relating to the Legislative Classification Office, as codified in chapter 9B of title 2, United States Code, are amended as follows:

Section 203 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 286 et seq.), is repealed.

SEC. 209. PROVISIONS RELATING TO CLASSIFICATION OF EMPLOYEES OF HOUSE OF REPRESENTATIVES.

The provisions of law relating to classification of employees of the House of Representatives, as codified in chapter 10 of title 2, United States Code, are amended as follows:

(1) Section 4(a)(1) of the House Employees Position Classification Act (2 U.S.C. 293(a)(1)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) Section 5(b)(1)(C) of the House Employees Position Classification Act (2 U.S.C. 294(b)(1)(C)) is amended by striking out "Doorkeeper" and inserting in lieu thereof "Chief Administrative Officer".

(3) The second sentence of section 11 of the House Employees Position Classification Act (2 U.S.C. 300) is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

SEC. 210. PROVISIONS RELATING TO PAYROLL ADMINISTRATION IN HOUSE OF REPRESENTATIVES.

The provisions of law relating to payroll administration in the House of Representatives, as codified in chapter 10A of title 2, United States Code, are amended as follows:

(1) Section 471 of the Legislative Reorganization Act of 1970 (2 U.S.C. 331) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2)(A) Section 472 of the Legislative Reorganization Act of 1970 (2 U.S.C. 332) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to part 7 of title IV (84 Stat. 1142), by striking out the item relating to section 472.

(3)(A) Section 474 of the Legislative Reorganization Act of 1970 (2 U.S.C. 334) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to part 7 of title IV (84 Stat. 1142), by striking out the item relating to section 474.

(4) Section 475(1) of the Legislative Reorganization Act of 1970 (2 U.S.C. 335(1)) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(5) Section 476 of the Legislative Reorganization Act of 1970 (2 U.S.C. 336) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

SEC. 211. PROVISIONS RELATING TO CONTESTED ELECTIONS.

The provisions of law relating to contested elections, as codified in chapter 12 of title 2, United States Code, are amended as follows:

(1) Section 2 of the Federal Contested Elections Act (2 U.S.C. 381) is amended—

(A) by redesignating subdivisions (a) through (i) as paragraphs (1) through (9), respectively;

(B) in the matter before paragraph (1), as so redesignated by subparagraph (A), by striking out "Act—" and inserting in lieu thereof "Act:";

(C) by indenting paragraphs (1) through (9), as so redesignated by subparagraph (A), two ems; and

(D) in paragraph (2), as so redesignated by subparagraph (A)—

(i) by striking out "(1) whose" and inserting in lieu thereof "(A) whose"; and

(ii) by striking out "or (2)" and inserting in lieu thereof "or (B)".

(2) Section 2 of the Federal Contested Elections Act (2 U.S.C. 381), as amended by paragraph (1), is further amended—

(A) in paragraph (1), by striking out "or Resident Commissioner" and all that follows through "but" and inserting in lieu thereof ", or Delegate or Resident Commissioner to, the Congress, but that term";

(B) in paragraph (2), as amended by paragraph (1) of this section—

(i) by striking out "House of Representatives of the United States" in subparagraph (A) and inserting in lieu thereof "office of Representative in, or Delegate or Resident Commissioner to, the Congress"; and

(ii) by striking out "House of Representatives" in subparagraph (B) and inserting in lieu thereof "office of Representative in, or Delegate or Resident Commissioner to, the Congress";

(C) in paragraph (3), by striking out "of the United States";

(D) in paragraph (4), by striking out "of the United States";

(E) in paragraph (5), by striking out "term" and all that follows through "offices" and inserting in lieu thereof "term 'Member of the House of Representatives' means an incumbent Representative in, or Delegate or Resident Commissioner to, the Congress, or an individual who has been elected to such office";

(F) in paragraph (6), by striking out "of the United States";

(G) in paragraph (7), by striking out "House Administration of the House of Representatives of the United States" and inserting in lieu thereof "House Oversight of the House of Representatives"; and

(H) in paragraph (8), by striking out "includes territory and" and inserting in lieu thereof "means a State of the United States and any territory or".

(3) Section 3 of the Federal Contested Elections Act (2 U.S.C. 382) is amended—

(A) in subsection (a), by striking out "to the House of Representatives"; and

(B) in subsection (c)—

(i) by striking out "or" after the semicolon at the end of paragraph (4); and

(ii) by inserting "or" after the semicolon at the end of paragraph (5).

(4) Section 17 of the Federal Contested Elections Act (2 U.S.C. 396) is amended by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

SEC. 212. PROVISIONS RELATING TO JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS.

The provisions of law relating to the Joint Committee on Government Operations, as codified in chapter 13 of title 2, United States Code, are amended as follows:

(1)(A) Part 1 of title IV of the Legislative Reorganization Act of 1970 (2 U.S.C. 411–417) is repealed.

(B) The table of contents of the Legislative Reorganization Act of 1970 is amended, in the matter relating to title IV (84 Stat. 1141), by striking out the matter relating to part 1.

(2) Section 206 of House Resolution 988, Ninety-third Congress, agreed to October 8, 1974, as enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 412a), is repealed.

SEC. 213. PROVISIONS RELATING TO CONGRESSIONAL BUDGET OFFICE.

The provisions of law relating to the Congressional Budget Office, as codified in chapter 17 of title 2, United States Code, are amended as follows:

Section 202(g) of the Congressional Budget Act of 1974 (2 U.S.C. 602(g)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 214. PROVISIONS RELATING TO THE STATES.

The provisions of law relating to the States, as codified under chapter 4 of title 4, United States Code, are amended as follows:

Section 307(b)(1) of the Legislative Branch Appropriations Act, 1988 (4 U.S.C. 105 note) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 215. PROVISIONS RELATING TO GOVERNMENT ORGANIZATION AND EMPLOYEES.

The provisions of law relating to Government organization and employees, enacted as title 5, United States Code, are amended as follows:

(1) Section 2107(5) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 3304(c)(1) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(3) Section 5306(a)(1)(A) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(4) Section 5334(c) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(5) Section 5515 of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(6) Section 5531(5) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(7) Subsections (c)(1), (c)(2), and (d)(5)(A) of section 5533 of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(8) Section 5537(a) of title 5, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(9) Section 5751 of title 5, United States Code, is amended by striking out "Clerk" both places it appears and inserting in lieu thereof "Chief Administrative Officer".

(10) Section 6322 of title 5, United States Code, is amended by striking out "Clerk" both places it appears and inserting in lieu thereof "Chief Administrative Officer".

(11) Section 8332(b) of title 5, United States Code, is amended in the fourth sentence in the matter following paragraph (16) by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(12)(A) The third sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives".

(B) Paragraph (1)(A) and paragraph (3) of section 8334(j) of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(13) Section 8402(c)(5) of title 5, United States Code, is amended—

(A) in the matter before subparagraph (A), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer"; and

(B) in subparagraph (B), by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(14) Paragraph (1)(A) and paragraph (3) of section 8422(e) of title 5, United States Code, are each amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(15) Section 8423(a)(3)(C) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, from the applicable accounts of the House of Representatives".

(16) The second sentence of section 8432(e) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts".

(17) The second sentence of section 8432a(c) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, the Clerk may pay from the contingent fund" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts".

(18) Subsection (b) of section 8708 of title 5, United States Code, is amended by striking out "Clerk" the first place it appears and all that follows through the end of the subsection and inserting in lieu thereof the following: "Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may contribute the sum required by subsection (a) of this section from the applicable accounts of the House of Representatives.".

(19) Section 8906(f)(3) of title 5, United States Code, is amended by striking out "Clerk of the House of Representatives, from the contingent fund of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives, from the applicable accounts of the House of Representatives".

SEC. 216. PROVISIONS CODIFIED IN APPENDICES TO TITLE 5, UNITED STATES CODE.

The provisions of law codified in appendices to title 5, United States Code, are amended as follows:

(1) Section 103(h)(1)(A)(i)(I) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(h)(1)(A)(i)(I)) is amended by striking out "Clerk" the second place it appears and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 109(13)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(13)(A)) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 217. PROVISIONS RELATING TO COMMERCE AND TRADE.

The provisions of law relating to commerce and trade, as codified in title 15, United States Code, are amended as follows:

The Joint Resolution entitled "Joint resolution to print the monthly publication entitled 'Economic Indicators'", approved June 23, 1949 (15 U.S.C. 1025), is amended by striking out "Doorkeeper" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 218. PROVISIONS RELATING TO FOREIGN RELATIONS AND INTERCOURSE.

The provisions of law relating to foreign relations and intercourse, as codified in title 22, United States Code, are amended as follows:

(1) The last sentence of section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c–1) is amended by striking out "Committee on House Administration" and inserting in lieu thereof "Clerk".

(2) The first sentence of subsection (b)(2) and the first sentence of subsection (b)(3)(A) of section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754) are each amended by striking out "Clerk" the second place it appears and inserting in lieu thereof "Chief Administrative Officer".

(3) Section 8(d)(2) of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3008(d)(2)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

SEC. 219. PROVISIONS RELATING TO MONEY AND FINANCE.

(a) USE OF VEHICLES AMENDMENT.—Section 802(d) of the Ethics Reform Act of 1989 (31 U.S.C. 1344 note) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(b) TITLE 31, UNITED STATES CODE, AMENDMENTS.—The provisions of law relating to money and finance, enacted as title 31, United States Code, are amended as follows:

(1) Section 1551(c)(2) of title 31, United States Code, is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 6102a(c) of title 31, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(3) Section 6203(a)(3) of title 31, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 220. PROVISIONS RELATING TO POSTAL SERVICE.

The provisions of law relating to the Postal Service, enacted as title 39, United States Code, are amended as follows:

(1) Paragraph (1) and paragraph (2) of subsection (e) of section 3216 of title 39, United States Code, are each amended by striking out "Clerk of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(2) Section 3216(e)(2) of title 39, United States Code, is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

SEC. 221. PROVISIONS RELATING TO PUBLIC BUILDINGS, PROPERTY, AND WORKS.

The provisions of law relating to public buildings, property, and works, as codified in title 40, United States Code, are amended as follows:

(1) The first section of House Resolution 291, Eighty-eighth Congress, agreed to June 18, 1963, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1965 (40 U.S.C. 166b–4), is amended—

(A) in the first sentence, by striking out "contingent fund" and inserting in lieu thereof "applicable accounts"; and

(B) by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(2) Section 1816 of the Revised Statutes of the United States (40 U.S.C. 170) is amended by striking out "Accounts of the House of Representatives, for the House" and inserting in lieu thereof "House Oversight of the House of Representatives, for the House of Representatives".

(3)(A) Subsections (a), (b), and (c) of section 2 of House Resolution 317, Ninety-second Congress, agreed to March 25, 1971, as enacted into permanent law by the paragraph under the heading "HOUSE OF REPRESENTATIVES" and the subheadings "CONTINGENT EXPENSES OF THE HOUSE" and "MISCELLANEOUS ITEMS" in the first section of the Legislative Branch Appropriation Act, 1972 (40 U.S.C. 174k(a), (b), and (c)), are each amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(B) Section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note) is repealed.

(4)(A) The proviso in the paragraph under the heading "ARCHITECT OF THE CAPITOL" and the subheading "HOUSE OFFICE BUILDINGS" in the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 175 note), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(B) The first section of House Resolution 208, Ninety-fourth Congress, agreed to February 24, 1975, as enacted into permanent law by section 201 of the Legislative Branch Appropriation Act, 1976 (40 U.S.C. 175 note), is amended—

(i) by striking out "House Administration" and inserting in lieu thereof "House Oversight of the House of Representatives"; and

(ii) by striking out "contingent fund" and inserting in lieu thereof "applicable accounts".

(5)(A) Section 312 of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g) is amended by striking out "Clerk" each place it appears and inserting in lieu thereof "Chief Administrative Officer".

(B) Section 312(a)(1)(A) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(a)(1)(A)) is amended by striking out "or the Sergeant at Arms of the House of Representatives".

(C) Section 312(d)(2) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(2)) is amended by striking out "with" and inserting in lieu thereof "With".

(6) Section 312 of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g) is amended—

(A) in subsection (b)(1)(A), by striking out "Minority Leader" and inserting in lieu thereof "minority leader";

(B) in subsection (c), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(C) in subsection (d)(1), by striking out "in the contingent fund of the House of Representatives".

(7) Section 801(b)(3) of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188a(b)(3)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(8) The second sentence of section 1001(a) of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188c(a)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(9)(A) Section 2(a) of House Resolution 661, Ninety-fifth Congress, agreed to July 29, 1977, as enacted into permanent law by section 111 of the Legislative Branch Appropriation Act, 1979 (40 U.S.C. 206 note), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(B) House Resolution 199, One Hundred Second Congress, agreed to August 1, 1991, as enacted into permanent law by section 102 of the Legislative Branch Appropriations Act, 1993 (40 U.S.C. 206 note), is amended by striking out "House Administration" each place it appears and inserting in lieu thereof "House Oversight".

(C) House Resolution 420, One Hundred First Congress, agreed to June 26, 1990, as enacted into permanent law by section 105 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 206 note), is amended—

(i) in section 2(1), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(ii) in section 3(2), by striking out "from the contingent fund of the House of Representatives or".

(10) Section 3(a)(1) of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (40 U.S.C. 206b(a)(1)), is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(11)(A) Section 3(d) of House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972 (40 U.S.C. 206b(d), is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(B)(i) The provisions of law specified in clause (ii) (40 U.S.C. 206b(g); 40 U.S.C. 206b note) are amended as provided in such clause.

(ii) House Resolution 449, Ninety-second Congress, agreed to June 2, 1971, as enacted into permanent law by chapter IV of the Supplemental Appropriations Act, 1972, is amended by striking out section 5. House Resolution 1309, Ninety-third Congress, agreed to October 10, 1974, as enacted into permanent law by chapter III of the Supplemental Appropriations Act, 1975, is amended by striking out section 3.

(12) Section 9C of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 207a) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(13) Section 9B(a) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 212a–3(a)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(14) Subsection (b)(1) and subsection (c) of section 3 of Public Law 98–392 (40 U.S.C. 214b(b)(1) and (c)) are each amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(15) Section 151(a) of Public Law 99–500 (100 Stat. 1783–352), enacted in identical form as section 151(a) of Public Law 99–591 (100 Stat. 3341–355), (40 U.S.C. 756b) is amended by striking out "Clerk" and inserting in lieu thereof "Chief Administrative Officer".

(16) The second sentence of section 301 of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 831) is amended by striking out "House Committee on House Administration" and inserting in lieu thereof "Committee on House Oversight of the House of Representatives".

(17) Section 441 of the Legislative Reorganization Act of 1970 (40 U.S.C. 851) is amended—

(A) in subsection (c)(1), subsection (c)(4), and subsection (h), by striking out "House Administration" and inserting in lieu thereof "House Oversight"; and

(B) by striking out subsection (j).

(18) Section 3(d) of Public Law 99–652 (40 U.S.C. 1003(b)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 222. PROVISIONS RELATING TO THE PUBLIC HEALTH AND WELFARE.

The provisions of law relating to the public health and welfare, as codified in title 42, United States Code, are amended as follows:

(1) Section 303d. of the Atomic Energy Act of 1954 (42 U.S.C. 2259(d)) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) Section 6004(a)(4) of the Solid Waste Disposal Act (42 U.S.C. 6964) is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 223. PROVISIONS RELATING TO PUBLIC PRINTING AND DOCUMENTS.

The provisions of law relating to public printing and documents, enacted as title 44, United States Code, are amended as follows:

(1) Section 101 of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(2) The third sentence of section 703 of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(3) Section 730 of title 44, United States Code, is amended by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and Sergeant at Arms".

(4)(A) Section 735 of title 44, United States Code, is amended—

*(i) in the section heading, by striking out "**Members of Congress**" and inserting in lieu thereof "**Senators**";*

(ii) by striking out "Member of Congress" and inserting in lieu thereof "Senator"; and

(iii) by striking out "and Clerk of the House of Representatives, respectively".

(B) The table of sections for chapter 7 of title 44, United States Code, is amended by striking out the item relating to section 735 and inserting in lieu thereof the following new item:

"735. Binding for Senators.".

(5) The second sentence of section 739 of title 44, United States Code, is amended by striking out "Doorkeeper" and inserting in lieu thereof "Clerk".

(6) The first sentence of section 740 of title 44, United States Code, is amended by striking out "Doorkeeper of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(7)(A) The first undesignated paragraph of section 906 of title 44, United States Code, is amended—

(i) in the fifth undesignated subdivision of the matter relating to furnishing of the bound edition of the Congressional Record, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms";

(ii) in the seventh undesignated subdivision of the matter relating to furnishing of the daily edition of the Congressional Record, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms"; and

(iii) in the eighth undesignated subdivision of the matter relating to furnishing of the daily edition of the Congressional Record, by striking out "Doorkeeper" and inserting in lieu thereof "Clerk".

(B) The third undesignated paragraph of section 906 of title 44, United States Code, is amended—

(i) in the fourth undesignated subdivision of the matter relating to furnishing of the Congressional Record in unstitched form, by striking out ", Sergeant at Arms, and Doorkeeper" and inserting in lieu thereof "and the Sergeant at Arms"; and

(ii) in the twelfth undesignated subdivision of the matter relating to furnishing of the Congressional Record in unstitched form—

(I) by striking out "to the Secretaries" and inserting in lieu thereof "and to the Secretaries"; and

(II) by striking out ", and to the Doorkeeper of the House of Representatives".

(8) Section 908 of title 44, United States Code, is amended by striking out "Sergeant at Arms of the House" and inserting in lieu thereof "Chief Administrative Officer of the House of Representatives".

(9) Section 2203(e) of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

(10) Section 3303a(c) of title 44, United States Code, is amended by striking out "House Administration" and inserting in lieu thereof "House Oversight".

SEC. 224. PROVISIONS RELATING TO TERRITORIES AND INSULAR POSSESSIONS.

The provisions of law relating to territories and insular possessions, as codified in title 48, United States Code, are amended as follows:

(1) The last undesignated paragraph after the center heading "MINTS AND ASSAY OFFICES." and the center subheading "GOVERNMENT IN THE TERRITORIES" in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and seven, and for other purposes", approved June 22, 1906 (48 U.S.C. 894), is amended by striking out "Sergeant-at-Arms" and inserting in lieu thereof "Chief Administrative Officer".

(2) Section 35 of the Organic Act of Guam (48 U.S.C. 1421k–1) is repealed.

(3) Section 15 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1596) is repealed.

(4) The last two provisos of section 5 of Public Law 92–271 (48 U.S.C. 1715 note) are repealed.

SEC. 225. MISCELLANEOUS UNCODIFIED PROVISIONS RELATING TO HOUSE OF REPRESENTATIVES.

The following miscellaneous uncodified provisions relating to the House of Representatives are amended as follows:

(1) The next to the last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheadings "ADMINISTRATIVE PROVISIONS" and "HOUSE BEAUTY SHOP" in the first section of the Legislative Branch Appropriation Act, 1970 (83 Stat.

347) is amended by striking out the last two sentences.

(2) The last undesignated paragraph under the center heading "HOUSE OF REPRESENTATIVES" and the center subheadings "ADMINISTRATIVE PROVISIONS" and "HOUSE BEAUTY SHOP" in the first section of the Legislative Branch Appropriation Act, 1970 (83 Stat. 347) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. EHLERS] and the gentleman from California [Mr. FAZIO] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on December 13, 1995, the Committee on House Oversight agreed to an amendment in the nature of a substitute to the bill H.R. 2739, the House of Representatives Administrative Reform Technical Corrections Act. This bill was made necessary by the historic reforms following the first Republican majority in over 40 years. One should not be surprised that considerable reforms were put in place at that time, after such a lengthy period of time out of power.

I would comment that the two amendments offered to the original bill are minor in nature. They do not basically affect the substance of the bill, and so the substance of the bill is basically that contained in the bill as originally introduced.

On January 4, 1995, the House adopted House rules which significantly restructured the internal administrative and legislative operations of the House. Two House officer positions, that of the Doorkeeper and the Postmaster, were abolished, and a new House officer, the Chief Administrative Officer, was created.

Based on the authority of the Committee on House Oversight under House rules, the committee directed that operational and financial responsibility for various House functions be assigned to the appropriate House officers. For example, the House Finance Office was assigned to the Chief Administrative Officer, and that has led to a complete restructuring of the Finance Office which is still ongoing, as well as changes in the House financial management system. The House Document Room, which was formerly assigned to the Doorkeeper, was assigned to the Clerk.

The committee then began the process of reviewing the statutes relating to the administrative and legislative operations of the House, and it soon became clear that there had never in the history of the House been a comprehensive revision of these statutes. Therefore, the committee began the process of cleaning out the cobwebs.

Many of the statutes technically in effect date back to the last century. For example, among the statutes repealed by this bill are the provisions relating to contracting for horses and wagons for the House. As someone who is intensely allergic to horses, I am pleased to see that section repealed.

The committee considered a total of 414 statutes, a very sizable amount. Of these, 65 will be repealed outright by this particular bill.

On August 3, 1995, the committee issued committee order No. 41 which created the Members' representational allowances or MRA. This committee order combined into the MRA the clerk hire allowance, the official expenses allowance, and the official mail allowance, as recommended by the auditing firm of Price-Waterhouse following the first-ever House audit. This makes all Members responsible and accountable for the expenditures in their office, and they have complete authority in the manner in which they allocate the funds within these various accounts which are now combined into one account.

Following creation of the Members' representational allowances, the committee adopted regulations for expenditures from the MRA. These regulations are collectively known as the Congressional Handbook. These regulations govern all expenditures from allowances provided to pay for clerk hire, official expenses, and official mail during the 104th Congress.

Since January 3, 1995, the committee has granted no exceptions to any of its regulations, and that is very important to note because under the potpourri of different regulations and statutes we had accumulated over the more than 200-year operation of the House, many were so cumbersome and unworkable that exceptions became the rule rather than the exception.

Under the administration of the current chairman of the House's Committee on Oversight, I note that the chairman, Mr. THOMAS, vowed that there would be no exceptions, and that the rules would be rewritten to take into account the changing nature of the House of Representatives and to ensure that no exceptions would be necessary. He has fulfilled his commitment on that count.

Generally, title I of the bill contains provisions relating to allowances and accounts in the House of Representatives and other administrative matters. Title II of the bill contains technical and conforming amendments and repeals relating to administrative reforms.

Mr. Speaker, I am pleased to present this bill to the House. I certainly recommend that it be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my friend, the gentleman from Michigan [Mr. EHLERS], who, by the way, is serving our committee and this House extremely well in a number of areas, has accurately described the history and purpose of the bill, and I have nothing further to add except that I hope the Senate will pass this bill as a matter of comity.

However, I would note that the Chief Administrative Officer has just submitted an overall increase in his budget requests for next year of 32 percent. Unfortunately, that does not address the cost shift to Members' representational allowances of some $12,000 to $15,000 per year resulting from the elimination and privatization of services previously provided by the CAO.

This bill does make permanent the in-house reforms of the Republican Contract With America. As a purely technical matter, that is appropriate. But all should be aware that these administrative reforms may ultimately bring additional costs to the taxpayer.

Many Members have expressed dissatisfaction about the deterioration of some services and about the incorrect or inconclusive information being provided by some of the CAO's operations. Others have questioned whether privatizing various functions and eliminating others will result in savings to the taxpayer or simply additional cost-shifting to Members' representational allowances.

We should all be open to an examination of these questions. In the end, we should be guided by whether our constituents will have a Federal legislature with sufficient resources to respond to them when they call. Otherwise taxpayers may end up paying more and getting less in service from their Member of Congress.

This bill will result in a statute which combines Member allowances and provides for more complete and timely public disclosure, both of which are, of course, admirable goals. This would be an appropriate time for an assessment of the impact of these administrative reforms on Members' resources, those that are needed to serve their constituents, especially as Government downsizes at all levels. Again, we should be wary that under the guise of reform we do not end up costing the taxpayer more money while hindering the ability of Members to fully perform their constitutional, legislative and representational functions.

Mr. Speaker, I reserve the balance of my time.

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Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in brief response to the comments of the gentleman from California [Mr. FAZIO], let me say I certainly appreciate his work, not only as the ranking member on the Committee on House Oversight, but also as the ranking member of the Subcommittee on Legislation of the Committee on Appropriations.

He made reference to some of the changes that we have made and the increased costs that may accrue, as well as perhaps the inability of Members to perform their functions as well as they should in responding their constituents. Let me assure the gentleman from California that I am certainly, as a member of the Committee on House Oversight, very sensitive to concerns about being able to serve the needs of our constituents.

Clearly, if any of the actions taken would in any way interfere with our ability to represent our constituents, I am sure the Committee on House Oversight would be willing to consider adjustments on that score. At the same time, I would point out that we have made many changes beyond those contained in this legislation.

I had not planned to discuss those here on the floor, but I think it is very important to recognize that there are many changes taking place with, in fact, with affect the budget in one way or another, but will have the net effect of aiding Members in representing their constituents.

Mr. Speaker, I would simply say that one area I am very familiar with is the area of computerization. In that case we are trying to, in some ways, centralize the computer operation and make it far more efficient, and enable members and staff to do much more in the House of Representatives at lower cost. This is going to result initially in some additional costs in the House information resources budget. It will also eventually result in lower costs in both the Members' budgets in HIR's budget.

I think, on balance, the changes are positive and that we will see an increase in the ability of the Members to represent their constituents more effectively, through the changes that are made. At the same time, there may be some temporary dislocations. If there are, we will certainly address those in the Committee on House Oversight.

Mr. Speaker, I thank the gentleman from California [Mr. FAZIO] for putting this on the record to make it clear to all Members present that there is no intent in any actions to impair Members' ability to serve. We are, I think, very successfully improving the efficiency of the House, cutting the overall budget by a substantial amount, and we believe that the people will be represented equally well at less cost under the system that is being developed.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will be very brief. I simply want to say that the gentleman from Michigan [Mr. EHLERS] has made a great contribution, particularly in the effort to further the computerization, the dignitization of this institution. I think we will all be better off as a result.

My concerns really are not in the area where increased expenditures will be required to bring about this communications revolution for the House of Representatives. It is really more the need to monitor carefully any additional costs that accrue to Members as a result of getting the same services that used to be provided by central agencies, now on a direct basis, often with the private sector, or others who are doing work on a contractual basis for the House of Representatives providing the services. Mr. Speaker, I think the gentleman from Michigan shows an openness to continue to review these matters, so that Members can continue to have at least as many resources to focus on the needs of their constituents.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EHLERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to reiterate the value to the House of Representatives of the bill that is before us. It cleans up over 200 years of statutes and regulations which have accumulated, will result in a much more efficient operation of the House of Representatives, and I ask all my colleagues to join me in voting for the final passage of this particular bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion offered by the gentleman from Michigan [Mr. EHLERS] that the House suspend the rules and pass the bill, H.R. 2739, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 384 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 384

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. General debate shall be confined to the bill and shall not exceed two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, modified by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No other amendment shall be in order except the amendments printed in part 2 of the report of the Committee on Rules and amendments en bloc described in section 2 of this resolution. Each amendment printed in part 2 of the report may be considered only in the order printed, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments made in order by this resolution are waived except those arising under section 425(a) of the Congressional Budget Act of 1974. The chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment. The chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. It shall be in order at any time for the chairman of the Committee on the Judiciary or a designee to offer amendments en bloc consisting of amendments printed in the report of the Committee on Rules accompanying this resolution that were not earlier disposed of or germane modifications of any such amendments. Amendments en block offered pursuant to this section shall be considered as read (except that modifications shall be reported), shall be debatable for twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. For the purpose of inclusion in such amendments en bloc, an amendment printed in the form of a motion to strike may be modified to the form of a germane perfecting amendment to the text originally proposed to be stricken. The original proponent of an amendment included in such amendments en bloc may insert a statement in the Congressional Record immediately before the disposition of the amendments en bloc.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DREIER] is recognized for 1 hour.

MODIFICATIONS TO CERTAIN AMENDMENTS PRINTED IN HOUSE REPORT 104–483

Mr. DREIER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 2202, pursuant to House Resolution 384, it shall be in order for the designated proponents of the amendments numbered 11, 12, and 13 in part 2 of House Report 104–483 to offer their amendments in modified forms to accommodate the changes in the amendment in the nature of a substitute recommended by the Committee on the Judiciary that are reflected in part 1 of that report, and effected by the adoption of the rule; and it shall be in order for the designated proponent of the amendment numbered 19 in part 2 of House Report 104–483 to offer his amendment in a modified form that strikes from title V all except section 522 of subtitle D.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON]. All time yielded is for the purposes of debate only.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, stopping the 300,000 illegal immigrants that stream across our border each year in pickup trucks and under barbed wire fences is the most important Federal law and order issue in generations. This is a modified closed rule providing for comprehensive consideration of H.R. 2202, legislation addressing two critical national issues: Getting control of illegal immigration, and improving our system of legal immigration.

Mr. Speaker, make no mistake, while H.R. 2202 is tough on those who enter this country illegally, it maintains and strengthens legal immigration, ensuring that immigrants remain a positive force for change, growth, and prosperity. This rule provides for 2 hours of general debate, equally divided between the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against the bill except those relating to unfunded Federal mandates.

I would note that the Congressional Budget Office has determined that the mandates in the bill are minimal and do not establish grounds for a point of order against the bill.

The rule makes in order the Committee on the Judiciary amendment in the nature of a substitute as modified by the amendment printed in part 1 of the report of the Committee on Rules. That amendment establishes a voluntary program to permit businesses to check the validity of Social Security numbers in order to help ensure that Federal laws regarding the employment of illegal immigrants are obeyed. The amendment in the nature of a substitute is considered as read.

The rules provides for the consideration of 32 amendments. Let me say that again, Mr. Speaker: 32 amendments have been made in order. That are printed in the report of the Committee on Rules. They shall be considered only in the order in which they are printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debated for the time specified in the report, shall not be subject to amendment unless specified in the committee report, and shall not be subject to a division of the question in the House or in the Committee of the Whole.

The rule waives all points of order against the amendments, other than those relating to the unfunded mandates issue.

Mr. Speaker, the rule allows the chairman of the Committee of the Whole to postpone votes during consideration of the bill, as well as to reduce to 5 minutes the time on a postponed question if it follows a 15-minute vote. The rule also permits the chairman of the Committee on the Judiciary or his designee to offer amendments en bloc or germane modifications thereof. Amendments offered en bloc shall be considered as read and shall be debatable for 20 minutes.

The issue of both legal and illegal immigration is one of the most contentious debates that we will have this year. This rule, while not an open rule, is fair and very balanced. It offers the House the opportunity to debate nearly all of the important and substantive issues surrounding both illegal and legal immigration reform. This debate will stretch over more than 2 days, and will highlight the important issues addressed by this well-crafted legislation.

The bill's principal author, the gentleman from Texas [Mr. SMITH], has worked long and hard ensuring that all parties truly interested in dealing with the overlapping issues of illegal and legal immigration have participated in a bipartisan process.

Mr. Speaker, illegal immigration has reached crisis proportions in my State of California. We deal daily with a flood of illegal immigrants who are coming across the border seeking government services, job opportunities, and family members. There is simply no question that the President, for all his rhetoric, has failed to make this a top priority. He opposed California's proposition 187. He vetoed legislation establishing that illegal immigrants are not entitled to Federal and State welfare services. He vetoed reimbursement to the States for the cost of incarcerating illegal immigrant felons, and his Justice Department has been woefully slow in disbursing to States the meager incarceration funds that were appropriated back in 1994.

Mr. Speaker, as Members well know, California will never support a President that is soft on illegal immigration. Illegal immigration might just be taking center stage in Washington today, but the issue is like an overnight sensation in Hollywood. This is a problem that has been building up for years and years. A decade ago my colleague, the gentleman from Glendale, CA [Mr. MOORHEAD], who is retiring after 24 years of highly distinguished service, offered amendments to strengthen the Border Patrol when Congress last addressed immigration reform.

Many Members of Congress, especially the Members from California, like Mr. KIM, Mr. BILBRAY, Mrs. SEASTRAND, Mr. RIGGS, Mr. GALLEGLY, and others, have worked for years to address illegal immigration in the comprehensive manner of H.R. 2202. Just as California suffers from more illegal immigration than any State, California is home to more legal immigrants and refugees than any other State. Those immigrants have brought tremendous benefits to our State. I am proud of the fact that H.R. 2202 will allow us to maintain one of the highest levels of legal immigration in 70 years. That in itself is a good and positive move, because this country was founded on legal immigration.

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Legal immigrants continue to provide the United States with a steady stream of hard-working, freedom-loving, patriotic new Americans. Legal immigrants bringing special skills to our workplace have been instrumental in placing American firms, especially many in California, on the cutting edge of high technology.

Mr. Speaker, as we look at the broad range of amendments that will be brought forward this week, we will first debate issues relating to illegal immigration. Then after addressing that issue, the House will address the different but related issue of legal immigration. We will clearly have an opportunity to debate nearly all controversial issues.

The gentleman from California [Mr. GALLEGLY], the chairman of the Speaker's task force on illegal immigration, will offer amendments to create a mandatory but clearly nonintrusive Social Security number verification program to reduce the employment lure for illegal immigration. He will also offer a very sensible amendment to clarify that States have the right to determine if local and State tax dollars will be used to give free education to illegal immigrants.

Mr. Speaker, the gentleman from Washington [Mr. TATE] and the gentlewoman from California [Mrs. SEASTRAND] will offer a commonsense amendment to clarify that if someone violates American laws and enters the country illegally, then they will no longer be eligible to later become a legal immigrant. Legal immigration should be reserved for those who respect our laws.

Mr. Speaker, finally we are certain to have lively debates regarding the creation of a tamper resistant Social Security card as well as an effort to eliminate the bill's voluntary system to verify the accuracy of Social Security numbers. The House bill will also be able to debate the legal immigration provisions of the bill.

Mr. Speaker, make no mistake, this bill establishes a very generous level of immigration by historical standards; however, it focuses legal immigration policy on reunifying nuclear families so that spouses and young children are reunited in strong families. This is a good and very important thing. Nevertheless, there is disagreement on these provisions and the House will decide this question.

The bipartisan amendment offered by the gentleman from Michigan [Mr. CHRYSLER] and the gentleman from California [Mr. BERMAN] and the gentleman from Kansas [Mr. BROWNBACK], which seeks to maintain the status quo on legal immigration, is in order under this rule. The amendment by the Committee on Agriculture to create a new guest worker program will also come before this House by the gentleman from California [Mr. POMBO] and others.

Mr. Speaker, the Committee on Rules has made in order 32 amendments, as I have said. This is a fair rule that will let the House deal responsibly with H.R. 2202 and send the legislation to the Senate in a timely manner. Immigration reform is important to our Nation's economic and social future, and I urge my colleagues to support this rule.

Mr. Speaker, I include the following material for the RECORD.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 15, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	59	61
Modified Closed [3]	49	47	24	25
Closed [4]	9	9	13	14
Total	104	100	96	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 15, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY, [Mr. SOLOMON] chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the vice chairman of the Committee on Rules for an excellent explanation of the rule. I thank my good friend from California, TONY BEILENSON, who is always more than reasonable, for letting me go out of order because of an emergency that is coming up that may expedite the procedures for the House for the next several days. It will inure to his benefit and to all the other Members.

Mr. Speaker, having said that, I do rise in support of this rule and the bill that it makes in order, the Immigration in the National Interest Act.

Mr. Speaker, just to put into perspective the problem we will be considering over the next 2 days, let me begin with a few facts.

No. 1: Nationwide more than one-quarter of all Federal prisoners are illegal aliens.

According to the Immigration and Naturalization Service, in 1980, the total foreign-born population in Federal prisons was 1,000 which was less than 4 percent of all inmates. In 1995, the foreign-born population in Federal prisons was 27,938, which constitutes 29 percent of all inmates. The result is an enormous extra expense to be picked up by the Federal taxpayers.

Fact No. 2: The U.S. welfare system is rapidly becoming a retirement home for the elderly of other countries. In 1994, nearly 738,000 noncitizen residents were receiving aid from the Supplemental Security Income program known as SSI. This is a 580-percent increase—up from 127,900 in 1982—in just 12 years.

The overwhelming majority of noncitizen SSI recipients are elderly. Most apply for welfare within 5 years of arriving in the United States. By way of comparison, the number of U.S.-born applying for SSI benefits has increased just 49 percent in the same period. Without reform, according to the Wall Street Journal, the total cost of SSI and Medicaid benefits for elderly noncitizen immigrants will amount to more than $328 billion over the next 10 years.

Fact No. 3: In the public hospitals of our largest State, California, 40 percent of the births are to illegal aliens. Since each newborn is automatically a citizen, he or she becomes eligible for all the benefits of citizenship.

Fact No. 4: There is a link between legal immigration and illegal immigration. According to the report of the Judiciary Committee on this bill, close to half of all illegal aliens come in on legal temporary visas, and never return home.

Fact No. 5: According to a Roper Poll in December of 1995, 83 percent of all Americans are in favor of reducing all immigration. Within these totals, 80 percent of African-Americans favor reducing all immigration and 67 percent of Hispanic-Americans favor reducing all immigration.

Mr. Speaker, these facts serve to point out the nature of the problem we are facing.

The poll numbers point the direction our constituents want us to go.

The bill which will be before the House over the next couple of days is a giant step toward solving the problems facing our Nation and I commend the members of the Judiciary Committee who did the work to put it together.

I would particularly like to commend the chairman of the Immigration and Claims Subcommittee, the gentleman from Texas, Mr. LAMAR SMITH, and his ranking minority member, the gentleman from Texas, Mr. JOHN BRYANT, for long hours spent on this legislation.

And I also owe thanks to the chairman of that full committee, the gentleman from Illinois, Mr. HENRY HYDE, and his ranking member, the gentleman from Michigan, Mr. CONYERS for perseverance under difficult circumstances.

Mr. Speaker, any rule that does not make in order every amendment requested is going to be unpopular with some. But given the need to finish the bill on the floor this week, the Rules Committee has come up with a reasonable solution. I ask for a "yes" vote on the motion for the previous question, and a "yes" vote on adoption of this balanced rule on the immigration bill.

Mr. DREIER. Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2202, the Immigration in the National Interest Act, which this modified closed rule makes in order, is one of the most important pieces of legislation we shall consider this year. There is no question that U.S. immigration policy needs to be revised and improved to respond to our national interests and this bill is a sensible and measured response to that critical challenge.

I, too, commend our colleagues from Texas, Mr. SMITH, the chairman of the Immigration Subcommittee, and the ranking member of the subcommittee, Mr. BRYANT, for their outstanding work in bringing this bipartisan bill to the floor. I would also like to point out the important work of my friend and fellow Californian, Mr. GALLEGLY, who chaired the Speaker's task force on immigration. As a member of that task force, I know how diligently Mr. GALLEGLY and the other members worked to help develop recommendations for the subcommittee.

Mr. Speaker, this bill would affect many aspects of life in the United States and a broad range of national issues and concerns, including the availability of jobs for skilled and unskilled American workers; the responsibility of businesses and corporations to obey the laws we have already enacted to prohibit the hiring of individuals who have entered the United States in violation of our border and our immigration laws; the serious stress that population growth fueled by immigration is creating for our country; and, most important, the kind of country we will leave to our children and grandchildren who will have to live with the consequences of our decisions in terms of how heavily populated the United States will become.

Because of the significance of this bill, we commend the Committee on Rules for allowing debate on 32 amendments. More than 100 amendments were submitted to the committee and for the most part, we think, the committee did a good job of making in order amendments that cover most of the important areas of disagreement in this wide-ranging piece of legislation. However, we do want our colleagues to know that we are disappointed that the rule did not make in order several important amendments. For that reason, after debate on the rule, Mr. Speaker, we shall move to defeat the previous question so that we may amend the rule to make the following three additional amendments in order:

An amendment that would delete the H-1B foreign temporary worker provisions in the bill and replace them with provisions that protect American workers; an amendment that would promote self-sufficiency for refugees and make the Federal Government, not the States or local communities, assume the cost for refugees; and an amendment that would increase civil penalties for already existing employer sanctions.

Mr. Speaker, one of those amendments in particular lies at the heart of this debate, the third amendment, the one that would increase the civil penalties for already existing employer sanctions.

The amendment's intent is to finally stop employers from knowingly hiring illegal immigrants by making the existing employer-sanction law truly effective and meaningful. While H.R. 2202 includes increased penalties for document fraud by immigrants, it does not include any increased penalties for employers who knowingly violate the law prohibiting the hiring of individuals who are here illegally.

Enhanced employer enforcement penalties have bipartisan support. They were advocated by the Speaker's congressional task force on immigration reform, by the late Congresswoman Barbara Jordan's U.S. Commission on Immigration Reform, and by the administration. They were included also in the immigration bill reported to the Senate Immigration Subcommittee.

These increased penalties are essential to reducing the incentive employers have for hiring illegal aliens and the lure of employment that brings illegal immigrants to this country. If we have learned anything at all from the failures of the 1986 immigration laws, it must be that weak sanctions are meaningless and will do little to prevent illegals from seeking jobs and employers from hiring illegals for those jobs.

The need for this amendment is underscored not only by the lack of any increased penalties on employers in the bill but also by the rule's self-executing provision that makes the Judiciary Committee's modest worker verification system voluntary instead of mandatory as the committee itself had recommended.

While the Gallegly amendment to restore the committee-reported language will be considered, it is obvious that if we think it is necessary to get tougher on employers who break the law by hiring illegals, we must also have the opportunity to consider an amendment increasing penalties on them.

In order to reduce the employment magnet for illegal immigrants, penalties for knowing violations of the law should be more than merely a nominal cost of doing business. In addition, while some illegal aliens obtain employment through the use of fraudulent documents, others are employed in the underground economy by businesses that do not even check documentation. Many of those businesses violate other labor standards as well.

The presence of unauthorized workers too fearful of deportation to complain about working conditions may be the very factor that enables those employers to break other labor laws. Thus, increased penalties and effective enforcement are critical not only to reducing illegal immigration but also to protecting the workers themselves from unfair labor practices.

Importantly, Mr. Speaker, this amendment would protect Americans from losing jobs to those who are here in violation of our laws and it would protect Americans from being paid less than they are worth because of low-wage competition.

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If we care at all about protecting jobs for Americans and improving their economic security, if we really believe that all Americans, those seeking jobs and those doing the hiring, should be held responsible for obeying the law, then we must defeat the previous question and allow a vote on that amendment.

Despite the absence of the opportunity to debate these amendments, as I said earlier, the rule would allow the House to debate a large number of amendments, 32 in total, on a wide range of issues. One of the most important issues, Mr. Speaker, the amendments will address is the bill's employment verification system, which was weakened significantly in the full Committee on the Judiciary and which, as I mentioned earlier, this rule, through its self-executing provision, will unfortunately weaken further by making it voluntary rather than mandatory.

To succeed in reducing illegal immigration, we must do two things; tighten control of our borders and remove to the greatest extent possible the incentives that encourage illegal immigration. The most powerful incentive of all, Mr. Speaker, is the opportunity to work in this country. When Congress enacted employer sanctions as part of the Immigration Reform and Control Act of 1986, we did so in recognition of the fact that, because immigrants come here primarily to find jobs, it is necessary to deter employers from hiring those who are not here legally.

What we failed to do at that time, however, was to provide a sound and dependable way for employers to determine whether or not a prospective employee is here legally. Without that, it is virtually impossible, as we have discovered, to enforce the employer sanction laws.

Our failure to establish a reliable means of enforcing the law has created other problems as well. The law has generated widespread discrimination against U.S. citizens and legal residents who may look or sound foreign and has created a huge mulitmillion-dollar underground industry, in counterfeit and fraudulent Social Security cards, green cards, voter registration cards, and the 26 other kinds of documents that can be used to demonstrate one's work eligibility under the current law.

H.R. 2202 wisely reduces that number, but it does not go far enough toward making employer sanctions enforceable. Establishing a dependable widescale and mandatory system for checking individuals' authorization to work in this country is the only way to solve those problems.

In fact, to crack down on the more than 50 percent of illegal immigrants who come here legally and overstay their visas and remain often permanently, improving employer sanctions is essential, because we cannot obviously stop those immigrants from settling here permanently simply by improving border control.

There will be three amendments dealing with employment verification that we would like to bring to our colleagues' attention. One is the McCollum amendment, which would provide for development of a counterfeit-proof Social Security card. Establishing such a card is, I believe, absolutely essential to making the prohibition on hiring illegal immigrants enforceable, and I believe it deserves our strong support.

The second is the Gallegly amendment, which would make the bill's telephone employment verification system mandatory in the States, where it will be tried on an experimental basis, restoring the provision to the form it was in when it was reported by the House Committee on the Judiciary. That amendment also deserves our strong support.

In the same vein, if I may say so, Mr. Speaker, the Chabot-Conyers amendment to eliminate entirely the verification system should be rejected if we are at all serious about doing something real about this very real problem of illegal immigration.

Mr. Speaker, in another major issue, perhaps the most important one to be considered in this debate, will be when to retain the bill's reductions in legal immigration. Our decision on that issue will occur whether we consider the Chrysler-Berman-Brownback amendment to strike the legal immigration sections of the bill. It is essential in the view of many of us that we reject that amendment. The limits on legal immigration in the bill go to the crucial question that up until now has been missing from this debate, which is how big do we want this country to be, how populated do we want the United States to be.

The population of this country, currently about 263 million, is growing so quickly that by the end of this decade, less than 4 years from now, our population will reach 275 million, more than double its present size at the end of World War II. Only during the 1950's, at the height of the so-called baby boom, were more people added to the Nation's population than are projected to be added during the 1990's.

The long-term picture is even more alarming. The U.S. Census Bureau conservatively projects our population will rise to 400 million by the year 2050, a more than 50 percent increase from today's level, the equivalent of adding more than 40 cities the size of Los Angeles to our population. That is by far the fastest growing growth rate projected for any industrialized country in the world. But many demographers, Mr. Speaker, believe it will even be much worse. The alternative Census Bureau projections agree if current trends continue, the Nation's population will more than double during this same time period and reach half a billion people by the middle of the next century, a little more than 50 years from now. The Census Bureau says one-third of the U.S. population growth is due to immigration, both legal and illegal. That is a misleading statistic; if U.S.-born children of recent immigrants are counted, immigration now accounts for more than 50 percent of recent growth in the United States.

Post-1970 immigrants and their descendants have been responsible for U.S. population increases of nearly 25 million, half the growth of those years. In other words, much of what demographers consider our natural growth rate is actually the result of our Nation's large number of immigrants. Those numbers have led the Census Bureau to forecast much higher population growth over the coming decades than in the past. As recently as 1990, the bureau assumed the population of the United States would peak about 45 years from now and then decline to and level off at about 300 million, about 300 million, Mr. Speaker, by the year 2050. But as a result of unexpected rates of immigration, the Census Bureau revised its figures just 2 years ago by adding another 92 million to the number of people projected for the year 2050. But that projection is probably much too low because the bureau assumes a net immigration rate of about 820,000 a year, at least 400,000 below today's annual level. And even with that conservative assumption about immigration, the Census Bureau estimates about 93 percent, 93 percent of the population growth by the year 2050 will result from immigration that has occurred since 1991.

The really frightening change in the Census Bureau's 1994 forecast is that it now assumes the population of this country will not level off a few decades from now as was thought would be the case and as recently as 1990, but will continue to grow unabated into the late 21st century.

Those of us who represent communities where large numbers of immigrants have settled have long felt the effects of our Nation's high rate of immigration, the highest in the world. Our communities are being overwhelmed by the burden of providing educational, health, and social services for the newcomers. With a population of half a billion or more, it will be extremely difficult to solve our most serious environmental problems, such as air and water pollution, water disposal, waste disposal and loss of our arable land. But the challenges of having our population double our current size will go far beyond dealing with simply environmental problems. With twice as many people, we can expect to have at least twice as much crime, twice as much congestion, twice as much poverty. We will also face demands for twice as many jobs, twice as many schools, twice as much food at a time when many of our communities are already straining now to educate, house, protect, provide services for the people we have right now, Mr. Speaker. How will they begin to cope with the needs and problems of twice as many people?

The legal immigration provisions of this bill constitute a relatively modest response to the enormous problems our children and grandchildren will face in the next century if we do not reduce the enormous number of new residents the United States accepts each year beginning now.

So I urge Members, Mr. Speaker, to reject the Chrysler-Berman-Brownback amendment when that proposal is offered.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my dear friend and Committee on Rules colleague, the gentleman from Sanibel, FL [Mr. GOSS], chairman of the Subcommittee on Legislative and Budget Process.

Mr. GOSS. Mr. Speaker, this is a fair and generous rule which allows for a broad debate on a massive subject. I congratulate Mr. SMITH for persevering in bringing H.R. 2202 to the floor—and I am proud to be a cosponsor. This is about the failure of the Federal Government to control our borders and the impact that failure has had on our society. Although I agree that the issues of illegal and legal immigration are distinct, I know that they are closely related. All immigration is out of control. We cannot consider either legal or illegal in a vacuum without looking at the other—a conclusion with which many Americans agree. In recent weeks the Wall Street Journal reported that 50 percent of Americans surveyed oppose any legal immigration. Such views are born of years of watching the system fail. Mr. Speaker, the problems of illegal immigration are readily definable. Today more than one quarter of all Federal prisoners are illegal immigrants; fraudulent employment and benefit documentation is rampant; and criminal aliens linger in our country at significant taxpayer expense. Well, H.R. 2202 doubles the number of Border Patrol agents; dedicates more resources to prosecuting illegal aliens; streamlines the rules for removal of illegal and criminal aliens; and strengthens penalties against those who disobey orders to leave. H.R. 2202 also clamps down on illegal aliens accessing public benefits. And it implements a program to address a major incentive of today's illegal immigration—the promise of jobs—by setting up a 1-800 number for employers to call and verify citizenship status. This provision does not—repeat, does not—create a "Big Brother is watching you" system with a new national identity card. And this provision is not an unfair burden on employers. In fact, employers who have tried it have given it rave reviews.

When it comes to legal immigration, there are also serious problems. Today there are approximately 1.1 million cases pending in the system, which can translate into a 40-year waiting period. Those who get caught up in this bureaucratic nightmare suffer from prolonged separation from their families and uncertainty about their futures. It's no surprise that they get frustrated and seek to jump the line. H.R. 2202 increases the percentage of immigrants admitted on the basis of needed skills and education. It places emphasis on core family units, favoring "nuclear family" admission over "extended family" admissions. And it guarantees a way for bona fide refugees to enter our country in an orderly manner.

Immigrants have contributed immeasurably to the greatness of this Nation. This legislation doesn't close the door—but it does seek to balance the generous nature of Americans with the reality of limited resources. That is a laudable result.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I take the well to regrettably indicate that I do not intend to vote for this rule, and I do intend to support the gentleman from California [Mr. BEILENSON] in his motion, because I think the Committee on Rules made a major mistake in deciding which amendments they were going to allow this House to vote on.

We have a very serious issue facing this country with respect to refugees, and I am talking about legal refugees, not illegal refugees. The problem is that the U.S. Government makes a foreign policy decision to allow thousands and thousands and thousands of refugees to come into this country and then it dumps the cost of educating and training and supporting those refugees onto local units of government.

Now, I think that ought to stop. So I offered an amendment before the Committee on Rules which would simply say that if the Federal Government is going to make a foreign policy decision to allow refugees into this country, that they then ought to pay for the cost of educating and training them and providing worker training and providing language training so that a foreign policy decision of the U.S. Government does not become an unfair burden on local taxpayers.

Now, Gov. Pete Wilson of California has been making this point strenuously for years with respect to immigrants. I think the point is equally correct with respect to refugees. So my amendment would have required that Uncle Sam pay for the costs of those refugees for the first 3 years rather than dumping it off on the local governments, and it would have required something which both the Bush administration and the Clinton administration tried to do but which they were blocked from doing by the court. And that is to require that, for the first year, those refugees be enrolled in intensive language training programs and job training programs so that they do not become long term burdens to local taxpayers.

□ 1645

I see absolutely nothing whatsoever wrong with that amendment, and I would point out this is not a new idea. Catholic Charities tested this approach in Chicago and they reduced the long-term percentage of refugees who remained on welfare by astounding percentages. They tried the same thing in San Diego and had similar very successful results. They tried it in Florida and also had very successful results.

So what the amendment would have tried to do is simply take a proposal which has already been tested at the local level in pilot projects and implement it, so that we require for any refugee that comes into this country for the first year, rather than marching them right into the local welfare office, as now occurs, that what you do is instead put them in a private program run by local PVO's to teach them job training and to teach them English. The long-term savings of that cannot be doubted. For the life of me, I do not understand any substantive reason why the Committee on Rules did not make that amendment in order.

We can talk all we want about cleaning up the immigration and refugee problems that this country faces, but until this Congress recognizes that they have absolutely no moral right to stick local property taxpayers with the cost of foreign policy decisions, this Congress is not living up to its job in dealing with major problems presented to local governments by actions of the Federal Government.

I do not see, for instance, why local school districts should be burdened with the inordinate cost of providing education and language training to legal refugees, rather than having the Federal Government meet the costs, since the Federal Government made the decision to require those costs to be incurred by somebody in the first place.

This is a case of the Federal Government, in my view, bugging out on its responsibilities to both the refugees they allow into this country and to the local communities and school districts who get hit with the consequences; and I think it is also a case in this instance of the Congress itself bugging out on its responsibilities to correct the situation, which is why I intend to support the amendment of the gentleman from California, if given that opportunity.

Mr. DREIER. Mr. Speaker, I am proud to yield 1½ minutes to the gentleman from California [Mr. HUNTER], a tireless advocate of border security, my classmate from El Cajon, CA.

Mr. HUNTER. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, let me join with him in thanking the gentleman from California [Mr. GALLEGLY] for his great work on helping to put together this package. If he is not here to offer his amendments, I know a number of us will be carrying the torch for him.

We also owe a great deal of thanks to the gentleman from Texas [Mr. SMITH] who had a very difficult job of putting together in a very statesmanlike way a package that involved not only a lot of figures and a lot of issues, but a lot of passions.

We have put together a package here, and I think we should pass this rule and pass this bill, that brings some degree of order to illegal immigration and to legal immigration.

The illegal immigration we deal with by adding Border Patrol, by forward deploying those Border Patrolmen to the border, by putting in roads, and by putting in a triple fence, that will make it more difficult for smugglers to move people across the southern border of the United States.

The legal immigration we bring some degree of order to by bringing in accountability. That means when people sponsor other people, immigrants, to come to this country, the sponsor has to give some fiscal accountability. That person cannot just come in and get on welfare and bog our system down to the degree of $28 billion a year which the present legal immigrants are costing the system.

So it is important that we deal with these two questions together. It is important that we bring order to illegal immigration and to legal immigration. The gentleman from Texas [Mr. SMITH] has done an excellent job of balancing these competing interests and giving us an excellent package. We should vote for the rule and for the bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, let me say two things: First, I am going to join the gentleman in supporting his motion so that we can get another shot at the rule. In general I would say that there are lots of amendments that were good amendments, fine amendments, in terms of improving and honing this bill, that were not allowed. In certain cases it seems that the most extreme amendments were allowed, but not those that would have moved the bill in a more moderate direction. I think that is regrettable. It looks a little bit political. I understand that we should not have politics in this Chamber, but it is a little too much.

The fact that our subcommittee chairman, Mr. BRYANT, only got one small amendment, the gentleman from California, Mr. BECERRA, who has strong views on this issue, some of which I disagree with, but he got no amendments at all, I find bothersome.

I want to speak specifically about the issue of asylum. I had an amendment with the gentleman from New Jersey [Mr. SMITH] and the gentleman from New York [Mr. GILMAN] which would have gone a long way toward resolving the asylum problem.

With asylum we face a very difficult issue. I think most Americans believe that that torch that shines so brightly in Madam Liberty's hand should remain lit; there are those that face persecution that we have to, we do not have to, but we ought to allow to come to America.

On the other hand, there is no secret that the asylum process was totally abused and that hundreds of thousands of people, literally, in the last decade, have used the asylum process, some on their own, some at the urging of smugglers, some at the urging of lawyers, to abuse it. They did not deserve asylum. But because the system worked in such a rinky-dinky, jerry-built way, they asked for it.

The amendment we proposed I think would have dealt with that issue in the right way. It would have been tougher than the present bill in eliminating all defensive asylum. In other words, the idea you come into this country, are here illegally or overstay your welcome, that you would no longer be allowed when the INS caught up with you and said you have to go home, to say "Wait a minute, I claim asylum." You have no right in my judgment if you believe in America to not come forward affirmatively.

On the other hand, the bill does make a step forward in saying that if you come forward affirmatively, you should have to do it in 180 days rather than 30 days. However, I have become convinced, and I was the original sponsor of the 30-day bill, that there are lots of people, or a good number of people, who truly deserve asylum, who cannot come forward in that period of time.

The amendment that we had proposed would have been tougher on defensive asylum, but let some of these deserving people come into the country. I regret it has not been allowed to be debated, because I think we had solved the problem in the most equitable way, and yet we are not allowing it, and that is one of the reasons I will support the gentleman's amendment to modify the rule and allow that amendments like this one, carefully thought out, reasonable, dealing with the abuses, but not cutting off immigration altogether, be allowed.

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Huntington Beach, CA [Mr. ROHRABACHER], my very good friend and the chairman of the Subcommittee on Energy and Environment.

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this rule, but with a major reservation. I had planned to offer an amendment which I feel is vital to stem the tide of illegal immigration pounding our Nation, but the Rules Committee did not make this amendment in order.

My amendment would have simply applied the employer telephone verification system in title IV of H.R. 2202 to Government agencies and require administrators of federally funded Government assistance programs to use the verification system to check the eligibility of applicants for public benefits.

As the bill stands now, only employers can use the telephone verification system to check on the eligibility of job applicants. Why shouldn't public agencies use the same verification system to check on the eligibility of applicants for federally funded benefits?

If the bill is left the way it is, it threatens to create a perverse incentive that makes it safer for illegal aliens to apply for welfare than to apply for jobs. This is insane. With our welfare system nearly stretched to the breaking point, why in the world are we making it easier for illegal aliens to get welfare than jobs?

We all know that a large number of illegal aliens use fake documents to get jobs. This is why we need a telephone verification system. But what everyone seems to be forgetting is that illegal aliens can use these same fake documents to get billions of dollars in public benefits.

I am glad to see that the Senate version of this bill does include a verification system which is to be used to verify a person's eligibility for both welfare and employment. Hopefully, the House conferees will agree to the Senate's provision. If we truly want to get serious about stemming the tide of illegal immigration, we must eliminate the magnets which draw them here.

There are free enterprisers who claim not to care if illegal aliens come here to work.

But there is a dynamic at play that needs consideration. Many illegal immigrants work at wages so low even the illegal immigrants wouldn't accept the job—if not for the health care, education and other benefits provided by the taxpayers.

Government benefits subsidize the exploitation on illegals. As it turns out American taxpayers and illegal aliens are being exploited by avaricious businessmen who are not offering a living wage. Correcting the error of providing benefits will help solve the job problem as well.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, historically our country has made few distinctions between legal immigrants and American citizens. Instead we have always drawn a clear line between legal immigrants and undocumented workers.

Our current debate, however, combines legal and illegal immigration and focuses mainly on the economic outcomes while neglecting our social, cultural and moral goals.

Too many people wrongly believe today that today's immigrants drain our economy and use far more welfare than native born Americans. Plain and simple, this is not true. Legal immigrants not only pay taxes and can be drafted in time of war, which are the main legal obligations of citizens, but they also start businesses, purchase goods and services, and create jobs, which is essential for the well-being of our economy.

We must address this issue in the rule and we should support the Chrysler-Berman amendment. If we are going to have immigration reform, legal immigration and reform, we should first of all promote the strength of families and their values through family reunification. We should also protect American workers from unfair competition while providing employers with appropriate access to international labor markets to promote our competitiveness. Third, we should promote naturalization to encourage full participation in the national community.

Instead, the bill as it is today drastically and unnecessarily restricts the ability of American citizens to reunite with family members, even clogs family members such as parents and some children. This bill fails to protect American workers in the legal immigration provisions. Last, it fails to recognize the role that naturalization can serve to advance the Nation's immigration policy.

But what really, really is the most dramatic and in a way hypocritical part of this proposal is the provision on guest workers. We have a new agricultural guest worker program. At the same time we are saying no to immigration, we are saying it is OK to bring guest workers into the country.

What this provision would do is it would increase illegal immigration, it would reduce work opportunities for American citizens and other legal residents, it would depress wages and work standards for U.S. farm workers, and it is not a sustainable solution to any labor shortage which might develop.

Mr. Speaker, this is an important bill because it strikes at the core of the men and women in this country. We are a Nation of immigrants. Let us do this bill right, let us do it humanely, let us try to be efficient about it. The first thing we should do is separate legal immigration and illegal immigration. They are two different parts of the issue, of our society, of our morals. And then let us also be consistent. Let us find ways to deal with deterring illegal immigration, finding ways to improve the legal immigration program, but not go ahead and start a guest worker program which is totally antithetical to what we are trying to do.

Historically, our Nation has made few distinctions between legal immigrants and American citizens. Instead we have always drawn a clear line between legal immigrants and undocumented aliens.

Our current debate, however, combines legal and illegal immigration and focuses mainly on the economic outcomes while neglecting our social, cultural, and moral goals.

Despite the fact that the majority of nonrefugee immigrants of working age use welfare far less than their American counterparts, and that the Federal Government spends less on immigrants than on citizens, this bill denies legal residents the same benefits as other Americans.

Too many people wrongly believe that today's immigrants drain our economy and use far more welfare than native-born Americans. Plain and simple, this is not true.

Legal immigrants not only pay taxes and can be drafted in time of war, which are the main legal obligations of citizens, but also start businesses, purchase goods and services, and create jobs, which is essential for the well-being of our economy.

The Immigration in the National Interest Act of 1995 treats legal and illegal immigration as if they were the same issue, places extreme income restrictions and eliminates family preference categories which will permanently keep American families apart.

Making good and fair policy requires clear separation of these two distinct parts of U.S. immigration policy.

□ 1700

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my good friend, the gentlewoman from Jacksonville, FL [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, a recent survey I conducted found that over 90 percent of my constituents who responded support some type of immigration reform. Since my district is in Florida, that is not surprising. Florida consistently ranks among the top five States of residence for illegal immigrants, and consistently high levels of immigration exact a heavy toll upon our State's taxpayers and infrastructure. Our citizens also pay the price for unchecked immigration in the form of health, education, and welfare benefits that are diverted from lawful citizens to illegal aliens.

The overwhelming support for immigration reform that characterizes my district is not unique to Florida, however. It is mirrored across the Nation. I am a cosponsor of this bill because I believe that Congress has an obligation to respond to the concerns of the American people and reform our immigration laws.

The problems caused by illegal immigration are obvious. But a poorly constructed legal immigration system is also contrary to our national interest. America cannot be both the land of opportunity and the land of welfare dependency, and current law encourages many legal immigrants to participate in welfare programs directly or to bring elderly family members to the United States to retire at the taxpayer's expense. Our immigration system should reward those who bring skills and initiative into this country, but it is not right to penalize our citizens by forcing them to pay benefits to people who have never contributed to the system.

Support for immigration reform cuts across all economic strata, as well as ethnic and social lines. Without compromising our commitment to opportunity and diversity, we must take the initiative and reform our immigration laws in such a way that they serve the needs of our lawful citizens. The Immigration in the National Interest Act provides this opportunity, and I urge my colleagues to support the rule and the bill.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, let me first acknowledge the work of the chairman of the subcommittee which I sit on, the gentleman from Texas [Mr. SMITH] for his work in trying to bring forward a bill on immigration.

Let me say that I am very disappointed in the rule today because, despite what we have constantly heard over the last 2 years from the new majority about having open rules, this is a very, very closed and restricted rule. Although we have about 32 amendments on the floor for debate, some for only 5 to 10 minutes, we had over 130 amendments that we wished to have heard, and unfortunately very few of those are now made in order.

This is also a very unfair bill. Despite the characterizations of this as a very fair bill, it is a very unfair bill for both American families and for American workers. Unfair for American families because the only choice American families have under this legislation to preserve their opportunity to bring in a spouse, a child, a brother or sister is to try to strike an entire portion of this bill. If we leave in that particular portion of the bill that deals with immigration of family members, what we will see is devastation for families trying to bring in their immediate family relatives.

For American workers, it is a devastating bill because it has no protection for American workers. In fact, on the contrary, what we see is a program that will allow up to 250,000 temporary foreign workers to be imported into this country to do the work that American workers are dying to be able to do. That is unfair to America's workers.

It is also unfair that this bill does nothing to try to enhance worker protections or the ability to enforce our current labor laws so that at the workplace we know that workers, American and those legally allowed to work in this country, are protected from abuse.

Everyone should strive for immigration reform. Talk to anyone. It makes no difference what poll we take or what poll we listen to. Everyone wants to see reform of our immigration laws. But it should be meaningful reform of our immigration laws. We should not be targeting legal immigrants because we have to attack the issue of illegal immigration.

Mr. Speaker, I would suggest to all the Members here to look closely at this legislation and vote with their heart and their mind. This is not a good bill. Vote against the rule.

Mr. DREIER. Mr. Speaker, I would remind my California colleague that we have made 32 amendments in order, which will allow for a full 2 days of debate looking at almost every aspect of this legislation.

Mr. Speaker, with that, I yield 1½ minutes to my very good friend, the gentleman from Roanoke, VA [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from California for yielding me this time.

I rise in strong support of this rule. I think it is a very fair rule. This legislation has been marked up very, very extensively in the Subcommittee on Immigration and Claims and in the full Committee on the Judiciary for weeks and weeks, and I think the legislation we brought forward is outstanding.

We have allowed nonetheless 32 separate opportunities to amend the bill, and I commend the Committee on Rules for their work and strongly support this rule. I also strongly support the underlying legislation.

I want to particularly call to my colleagues' attention an amendment that I strongly oppose, and that is the Chrysler-Berman-Brownback amendment that deals with what some are representing as splitting out the legal portion of this bill and only dealing with illegal immigration. The fact of the matter is this does not split the bill. In the Senate, they voted to split the bill and are actually moving two separate bills forward. But this amendment would not do that.

Mr. Speaker, what this amendment does is kill legal immigration reform because there is no provision anywhere to move forward with those provisions of the bill dealing with legal immigration. Therefore I would strongly urge the Members of the House to oppose that amendment when it comes up for consideration probably tomorrow.

I also would urge strong support for the amendment that I will be offering dealing with the H-2B program as a much more reasonable reform of the current H-2A program than to go with the Pombo amendment which sets up an entirely new program with 250,000 new nonimmigrants coming into the country. That is not good, and I would urge opposition to that and support for the rule.

Mr. BEILENSON. Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to the hard-working gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of the rule and this bill.

Mr. Speaker, my heritage is German, Irish, Polish, and even a little Bohemian, and my children are all of that plus Norwegian, and I appreciate America as a melting pot.

Our current immigration laws are broken and they must be fixed. One-quarter of all Federal prisoners are illegal aliens. Forty percent of all births in California's public hospitals are due to illegal aliens. In Los Angeles alone, 60 percent of all births in the county hospital are to women who are in this country illegally.

In the last 12 years, the number of immigrants applying for Social Security income has increased by 580 percent. These facts signal an immigration crisis in America. This bill is a bipartisan, reasonable bill that addresses serious flaws in the current law. The legislation doubles the number of border patrol agents, streamlines rules and procedures for removing illegal aliens and makes it tougher for illegal immigrants to fraudulently obtain jobs and take those jobs away from our citizens who need them.

Mr. Speaker, we must act quickly and decisively or the economic and social consequences for this country could be devastating. I urge my colleagues to support this bill and this rule.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentlewoman from Miami, FL [Ms. ROS-LEHTINEN], who is here on the floor with her very able assistant Patty.

Ms. ROS-LEHTINEN. Mr. Speaker, I am an immigrant to this country. I arrived here in 1960 as a refugee from a tyranny that still rules the country of my birth, Cuba.

Immigration is an issue that has caught this country by storm, and the problems created by a growing number of illegal immigrants as well as by the reality that we do not have control over our borders have spilled over and clouded our collective judgment on legal immigration. I would like to make four quick points today.

First, there is a genuine need to address the problems of illegal immigration. Second, placing a cap on legal refugees is not in the best interest of the United States. Third, the assault on the current distribution of Federal funds through targeted assistance will leave my home area of Dade County with an unfunded mandate of at least $16 million.

Finally, I would like to salute the provisions in the bill which emphasizes becoming a U.S. citizen. As a naturalized American, I know that this is the type of positive approach that we needed more of in this bill, a positive, not a punitive approach. That is the way to solve our immigration crisis.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. BRYANT], the ranking member of the subcommittee.

Mr. BRYANT of Texas. Mr. Speaker, I rise in opposition to the rule.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, to repeat, we appreciate the good work, the outstanding work, actually, of the Committee on the Judiciary in developing a thoughtful piece of legislation. It tries to deal with our immigration system which virtually everybody agrees is badly in need of reform.

We also appreciate the fairly good work of the Committee on Rules. We question only the fact that the Committee on Rules did not make in order several amendments which we think should have been made in order, and we urge our colleagues to defeat the previous question so that at least three of those amendments can be made in order.

We have mentioned them earlier. One of those amendments would replace the H-1B temporary-foreign temporary-worker provisions in the bill with provisions that protect American jobs. The second would promote self-sufficiency for refugees and make the Federal Government responsible for the full cost of refugees. That was the amendment spoken to earlier from the well by the gentleman from Wisconsin [Mr. OBEY].

The third one which I discussed at some length in my opening statement would hold businesses responsible for their hiring practices and for helping to protect jobs for Americans.

Mr. Speaker, as I said earlier, the intent of that amendment, which would increase civil penalties for already existing employer sanctions, is to finally stop employers from knowingly hiring immigrants who are here illegally. Increased penalties on employers have bipartisan support. They were advocated by our congressional task force on immigration, by the Jordan Immigration Commission, by the administration.

We have to take this opportunity, it seems to me, to strengthen the weak sanctions we approved 10 years ago. Penalties on employers who knowingly break the law have to be severe enough to deter them from coming to flout our immigration laws.

Mr. Speaker, if we are really serious about preventing illegals from seeking jobs and serious about employers from hiring illegals for those jobs which should be protected for Americans, we will pass this amendment.

Mr. Speaker, I include for the RECORD the text of the amendment that we are proposing, as follows:

AMENDMENT TO HOUSE RESOLUTION 384

After the period on page 5, line 13, insert the following:

"SEC. 3.—Notwithstanding any other provision in this resolution it shall be in order to consider the following amendments as if printed at the end of part 2 of the report to accompany this resolution as amendments No. 33, No. 34, and No. 35. Each amendment shall be debatable for 20 minutes."

NO. 33, TO BE OFFERED BY MR. BEILENSON OF CALIFORNIA

At the end of title IV, add the following new sections (and conform the table of contents accordingly);

SEC. 408. EMPLOYER SANCTIONS PENALTIES.

(a) INCREASED CIVIL MONEY PENALTIES FOR HIRING, RECRUITING, AND REFERRAL VIOLATIONS.—Section 274A(e)(4)(A) (8 U.S.C. 1324(e)(4)(A)) is amended—

(1) in clause (i), by striking "$250" and "$2,000" and inserting "$1,000" and "$3,000", respectively;

(2) in clause (ii), by striking "$2,000" and "$5,000" and inserting "$3,000" and "$8,000", respectively; and

(3) in clause (iii), by striking "$3,000" and "$10,000" and inserting "$8,000" and "$25,000", respectively.

(b) INCREASED CIVIL MONEY PENALTIES FOR PAPERWORK VIOLATIONS.—Section 274A(e)(5) (8 U.S.C. 1324a(e)(5)) is amended by striking "$100" and "$1,000" and inserting "$200" and "$5,000", respectively.

(c) INCREASED CRIMINAL PENALTIES FOR PATTERN OR PRACTICE VIOLATIONS.—Section 274A(f)(1) (8 U.S.C. 1324a(f)(1)) is amended by striking "$3,000" and "six months" and inserting "$7,000" and "two years", respectively.

SEC. 409. INCREASED PENALTIES FOR EMPLOYER SANCTIONS INVOLVING LABOR STANDARDS VIOLATIONS.

(a) EMPLOYER SANCTIONS.—Section 274A(e) (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

"(10) AUTHORITY FOR INCREASED PENALTIES.—

"(A) IN GENERAL.—The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act of 1993 (29 U.S.C. et seq.), pursuant to a final determination by a court of competent jurisdiction.

"(B) CONSULTATION.—The Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph.".

(b) ANTI-DISCRIMINATION.—Section 274B(g) (8 U.S.C. 1324b(g)) is amended by adding at the end the following new paragraph:

"(4) AUTHORITY FOR INCREASED PENALTIES.—

"(A) IN GENERAL.—The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violations of any of the following statutes:

"(i) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), pursuant to a final determination by a court of competent jurisdiction.

"(B) CONSULTATION.—The Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph."

(c) Section 274C(d) (8 U.S.C. 1324c(d) is amended by adding at the end the following new paragraph:

"(7) INCREASED PENALTIES.—

"(A) IN GENERAL.—The administrative law judge shall have the authority to require payment of a civil money penalty in an amount up to two times the level of the penalty prescribed by this subsection in any case where the employer has been found to have committed willful or repeated violence of any of the following statutes:

"(i) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(ii) The Migrant and Seasonal Agricultural Worker Protection Act, (29 U.S.C. 1801 et seq.), pursuant to a final determination by the Secretary of Labor or a court of competent jurisdiction.

"(iii) The Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), pursuant to a final determination by a court of competent jurisdiction.

"(B) CONSULTATION.—The Secretary of Labor and the Attorney General shall consult regarding the administration of the provisions of this paragraph."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 410. INCREASED CIVIL PENALTIES FOR UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274(g)(2)(B)(iv) (8 U.S.C. 1324(g)(2)(B)) is amended—

(1) in subclause (I), by striking "$250" and "$2,000" and inserting "$1,000" and "$3,000", respectively;

(2) in subclause (II), by striking "$2,000" and "$5,000" and inserting "$3,000" and "$8,000", respectively;

(3) in subclause (III), by striking "$3,000" and "$10,000" and inserting "$8,000" and "$25,000", respectively; and

(4) in subclause (IV), by striking "$100" and "$1,000" and inserting "$200" and "$5,000", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to unfair immigration-related employment practices occurring on or after the date of the enactment of this Act.

SEC. 411. RETENTION OF EMPLOYER SANCTIONS FINES FOR LAW ENFORCEMENT PURPOSES.

(a) IN GENERAL.—Section 286(c) (8 U.S.C. 1356(c) is amended by striking the period at the end and inserting the following: "and that all monies received during each fiscal year in payment of penalties under section 274A in excess of $5,000,000 shall be credited to the Immigration and Naturalization Service Salaries and Expenses appropriations account that funds activities and related expenses associated with enforcement of such section and shall remain available until expended.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1997.

SEC. 413. SUBPOENA AUTHORITY.

(a) IMMIGRATION OFFICER AUTHORITY.—

(1) EMPLOYER SANCTIONS CASES.—Section 274A(e)(2) (8 U.S.C. 1324(e)(2)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (3).".

(2) DOCUMENT FRAUD CASES.—Section 274C(d)(1) (8 U.S.C. 1324(A)(3)(2)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

(b) SECRETARY OF LABOR SUBPOENA AUTHORITY.—(1) The Immigration and Nationality Act is amended by inserting after section 293 the following new section:

"SUBPOENA AUTHORITY OF SECRETARY OF LABOR

"SEC. 294. IN GENERAL.—The Secretary of Labor may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing conducted in the enforcement of any immigration program for which the Secretary of Labor has been delegated enforcement authority under the Act. In such hearing, the Secretary of Labor may administer oaths, examine witnesses, and receive evidence. For the purpose of any such hearing or investigation, the authority contained in section 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary of Labor.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Subpoena authority of Secretary of Labor.".

NO. 34, TO BE OFFERED BY MR. OBEY OF WISCONSIN

At the end of subtitle B of title VIII insert the following new sections:

SEC. 837. EXPANSION OF PERIOD AND SCOPE OF RESPONSIBILITY OF SPONSORING AGENCY.

(a) SPONSORING AGENCY RESPONSIBLE FOR FIRST 12 MONTHS.—

(1) IN GENERAL.—Section 412(a)(7)(C) of the Immigration and Nationality Act (8 U.S.C. 1522(a)(7)(c)) is amended by adding at the end following: "Such responsibility shall extend over the 12-month period beginning with the first month in which such refugee has entered the United States and shall include responsibility for health insurance.".

(2) INCREASE IN GRANT AMOUNTS TO REFLECT ADDITIONAL RESPONSIBILITIES.—The grant amounts provided under section 412(a) of the Immigration and Nationality Act for refugees who enter the United States on or after October 1, 1996, shall be increased by such amount as may be necessary to permit sponsoring agencies to assume the additional responsibilities required under the amendment made by paragraph (1), including providing greater case management in order to facilitate refugees' promptly securing employment and assimilating into the community.

(b) LIMITATION ON REFUGEE CASH AND MEDICAL ASSISTANCE.—Section 412(e) of the Immigration and Nationality Act (8 U.S.C. 1522(e)) is amended by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of law, during the first 12 months of such 36-month period, during which the sponsoring agency is responsible under subsection (a)(7)(C) for meeting basic needs (including health insurance), only elderly and disabled refugees are eligible for any Federal or State program of cash or medical assistance.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to refugees who enter the United States on or after October 1, 1996.

SEC. 3. EDUCATIONAL IMPACT AID.

(a) IN GENERAL.—Section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary of Education is authorized to make grants, and enter into contracts, for payments to local educational agencies which are identified as being heavily and disproportionately impacted by groups of refugees that are historically dependent on welfare or otherwise historically more difficult to assimilate into the community.

"(B) The amount of payment to a local educational agency shall be based on the number of refugees served by the agency and the average per pupil costs in the State in which the agency is located.

"(C) Funds provided under this paragraph may be used to pay for educational services for refugees, including purposes described in section 7307 of the Elementary and Secondary Education Act of 1965.

"(D) The number of refugees shall be computed under this paragraph without regard to the period of time in which the refugees have been in the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning with fiscal year 1997.

NO. 35, TO BE OFFERED BY MR. BRYANT OF TEXAS

Amend section 806 to read as follows:

SEC. 806. CHANGES RELATING TO H–1B NONIMMIGRANTS.

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting "100 percent of" before "the actual wage level",

(B) in subclause (II), by inserting "100 percent of" before "the prevailing wage level", and

(C) by adding at the end the following: "is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and".

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) The employer—

"(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

"(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H–1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

"(ii) For purposes of this subparagraph, the term 'United States worker' means—

"(I) a citizen or national of the United States;

"(II) an alien lawfully admitted to the United States for permanent residence; and

"(III) an alien authorized to be so employed by this Act or by the Attorney General.

"(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.".

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

"(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

"(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

"(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment, whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.".

(4) DEPENDENCE ON H–1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Whether the employer is dependent on H–B workers, as defined in clause (ii) and in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

"(ii) For purposes of clause (i), an employer is 'dependent on H–1B workers' if the employer—

"(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

"(II) has at least 41 full-time equivalent employees who are employed in the United States, and employees nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

"(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.".

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H–1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.".

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

"(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.".

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H–1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

"(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H–1B workers unless the following conditions are met:

"(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

"(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

"(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

"(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to a civil penalty of $5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

"(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

"(C)(i) An employer who attests under paragraph (1)(G) to dependence on H–1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H–1B workers.

"(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

"(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees' participation in such a training program elsewhere.

"(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

"(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

"(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer's total number of employees in the specific employment in which the H–1B workers are employed which is represented by the number of H–1B workers.

"(iv) The Attorney General shall not approve petitions filed under section 204 or

214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

"(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

"(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

"(iii) Amounts are expended consistent with this clause if they are expended as follows:

"(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

"(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.".

(c) INCREASED PENALTIES FOR MISREPRESENTATION.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking "(1)(C) or (1)(D)" and inserting "(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)";

(2) in subparagraph (C)(i), by striking "$1,000" and inserting "$5,000";

(3) by amending subparagraph (C)(ii) to read as follows:

"(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

"(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

"(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

"(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II)."; and

(3) in subparagraph (D), by adding at the end the following: "If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.".

(d) LIMITATION ON PERIOD OF AUTHORIZED ADMISSION.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting "or section 101(a)(15)(H)(ii)(b)" after "section 101(a)(15)(H)(i)(b)"; and

(2) by striking "6 years" and inserting in lieu thereof "3 years".

(e) REQUIREMENT FOR RESIDENCE ABROAD.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting "who has a residence in a foreign country which he has no intention of abandoning," after "212(j)(2),".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, again I rise in strong support of this very fair and balanced rule. The issue of illegal immigration and legal immigration are among the most pressing that we will face in the 104th Congress. The Federal Government, through the legislative branch, is finally stepping up to the plate and acknowledging its responsibility to deal with the issue of illegal immigration, and we are calling for the very important reforms to legal immigration that the American people believe are essential.

I said the legislative branch because, unfortunately, this administration has failed time and time again to deal with the issue of illegal immigration. As we looked at questions like proposition 187 in California, it was designed to end the magnet of government services drawing people illegally across the border. President Clinton fought hard against proposition 187. Fortunately the voters of California overwhelmingly passed proposition 187.

When we look at the issue of the Federal Government reimbursing the States for the incarceration of illegal immigrant felons, what happened? President Clinton vetoed that legislation. When we look at a wide range of proposals, we have had to tackle this issue time and time again. Our friend down at 1600 Pennsylvania Avenue has stood in the way of our attempts to deal responsibly with this.

Mr. BEILENSON. Mr. Speaker, would my friend yield on that subject?

Mr. DREIER. Mr. Speaker, I am trying to give my closing remarks.

Mr. BEILENSON. They are the same as your opening remarks, I would say to my friend. I want to say this only in fairness. As the gentleman well knows, this is a bipartisan issue that many of us on both sides have been working hard together on. And I really think it is fair to point out that the gentleman's comment about the President, his position, is unfair and uncalled for.

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This is the first administration in history that has tried to help us do something about illegal immigration. Neither he, nor we, have been entirely successful.

Mr. DREIER. Reclaiming my time, Mr. Speaker, I am simply stating the facts on what this administration has done. The President vetoed the bill that called for funding for reimbursement to the States for the incarceration of illegals. The President opposed proposition 187.

Mr. BEILENSON. Mr. Speaker, I say to the gentleman, and that money is flowing to California.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from California [Mr. DREIER] declines to yield to the gentleman from California [Mr. BEILENSON].

Mr. DREIER. Mr. Speaker, I appreciate the very kind remarks from my friend from Los Angeles.

Mr. Speaker, I am stating the facts as to what this administration has done. The President stood here in his State of the Union message and said he is what my friend, the gentleman from California [Mr. BEILENSON] just said, the first President to stand up and deal with this issue. The fact of the matter is when he has had opportunities to deal with it he has not.

Yes, the legislative branch in a bipartisan way is recognizing the importance of this, and this rule allows us to bring forward bipartisan amendments and amendments the Democrats offer. We will have 32 amendments that will be considered.

Now it is my hope that we will be able to pass this quickly over the next couple of days, get an agreement with the Senate on this and get it to the President, so he can sign this legislation and so that he will be able to be exactly what my friend, the gentleman from California [Mr. BEILENSON], claims that he is. Unfortunately he has not been that up to this point, but we are going to give him a chance to do it.

Pass this rule, pass this very important legislation, so that we can turn the corner on these very important problems that we face.

Mr. Chairman, I rise in support of the rule on H.R. 2202, the Immigration in the National Interest Act.

Before the House begins debate on the immigration reform measure before us today, I wanted to set the stage for this debate and to put H.R. 2202 into a proper perspective.

For many years the American people have expressed frustration that its leaders in Congress have failed to enact tough policies which would eliminate the high levels of illegal entry into our country.

After the highly controversial amnesty of 1986 and today's feeling of deja vu all over again, the American people are demanding action.

Sensing this national frustration and recognizing that one of the most critical challenges facing the 104th Congress was the passage of comprehensive and effective immigration reform legislation, Speaker GINGRICH last year appointed me chairman of a Congressional Task Force on Immigration Reform.

This 54-member, bipartisan task force was asked by the Speaker to review existing laws and practices to determine the extent of needed reform and to provide a report with recommendations to him by June 1995.

To expedite our work, the task force was organized into 6 working groups focusing on the most crucial areas of immigration policy—border enforcement, workplace enforcement, public benefits, political asylum, deportation, and visa overstays. I want to again thank the chairs of those groups, Representatives ROYCE, DEAL, GOSS, MCCOLLUM, CONDIT, and GOODLATTE for all their hard work.

In order to obtain a first-hand understanding of the problem, the task force reviewed the record of the Immigration Reform and Control Act of 1986, received testimony and reports from a wide range of individuals and organizations and conducted 3 fact-finding missions to San Diego, New York, and Miami. With an estimated 4 million persons illegally crossing the border each year the issues of border enforcement and enhancement, political asylum, and refugees were explored at these major ports of entry. The insights we gained during these trips were critical to our efforts to find effective solutions to the problem of illegal immigration. I would like to thank all of the members who accompanied me on those visits.

Once the investigating and fact finding concluded the task force set out to produce a comprehensive and results oriented report.

On June 29, the task force presented to the Speaker its findings and recommendations.

Our Task Force concluded that the 1986 IRCA law had failed to deter illegal immigration; that the Federal Government did not provide the necessary resources to combat the problem; and that the incentives which bring people here illegally—employment, social welfare benefits, and free education—had to be seriously addressed or our success at ending this problem would be minimal.

Our Task Force made 100 separate recommendations ranging from ways to enhance and enforce existing policies such as additional border patrol agents and new barriers, to proposing enactment of new, but forceful laws regarding criminal incarceration and verification.

Mr. Chairman, we all know task forces come and task forces go and little is ever accomplished. We knew that our work to produce the report was just the beginning and that we had to translate our efforts into meaningful legislation.

Working closely with Immigration Subcommittee Chairman LAMAR SMITH, who deserves so much praise for his efforts, the task force was successful in including over 25 of our recommendations in H.R. 2202 when it was first introduced.

By the time H.R. 2202 emerged from the subcommittee and full Judiciary Committee markups, over 80 percent of our recommendations were incorporated into what I consider a forceful bill.

In conclusion my colleagues, America is often described as a land of immigrants. But it is also true that certain areas of this Nation have become a land of illegal immigrants. Despite the amnesty of 1986, it is estimated that between 4 and 6 million persons are in this country illegally with that number growing by 300,000 each year.

America is also referred to as the "land of opportunity." Again, that is true. But America is not the land of unlimited resources. The impact of illegal immigration is profound: It severely affects our Federal budget as well as those of our State and local governments. It contributes to high crime rates and is often linked to criminal activities such as narcotics trafficking. It displaces American workers. And most of all, it is in itself against the law.

My colleagues, the legislation before you today is the product of a very intense and comprehensive review of our current immigration crisis. And believe me, we are in a crisis.

The provisions of H.R. 2202 provide the legislative reforms and enforcement procedures necessary to accomplish our two principle objectives—discouraging and preventing illegal entry, and identifying, apprehending, and removing illegals already here.

I am proud of the work of the task force which I chaired which has become such an integral part of H.R. 2202. I urge all Members to support this bill—it is legislation which is absolutely needed.

Mr. Chairman, I include for the RECORD an Executive Summary of the Congressional Task Force on Immigration Reform.

MEMBERS OF THE CONGRESSIONAL TASK FORCE ON IMMIGRATION REFORM

Chairman: Elton Gallegly (R–CA).
Matt Salmon (R–AZ).
Bob Stump (R–AZ).
Duke Cunningham (R–CA).
Dana Rohrabacher (R–CA).
Bill Baker (R–CA).
Brian Bilbray (R–CA).
John Doolittle (R–CA).
Jane Harman (D–CA).
Stephen Horn (R–CA).
Jay Kim (R–CA).
Carlos Moorhead (R–CA).
George Radanovich (R–CA).
Andrea Seastrand (R–CA).
Porter Goss (R–FL).
Charles Canady (R–FL).
Cliff Stearns (R–FL).
Nathan Deal (R–GA).
Michael Flanagan (R–IL).
Dan Burton (R–IN).
Billy Tauzin (D–LA).
Barbara Vucanovich (R–NV).
Bill Martini (R–NJ).
Jim Saxton (R–NJ).
Charles Taylor (R–NC).
John Duncan (R–TN).
Bill Archer (R–TX).
Bob Goodlatte (R–VA).
John Shadegg (R–AZ).
Tony Beilenson (D–CA).
Gary Condit (D–CA).
Ed Royce (R–CA).
Howard Berman (D–CA).
Ken Calvert (R–CA).
David Dreier (R–CA).
Wally Herger (R–CA).
Duncan Hunter (R–CA).
Buck McKeon (R–CA).
Ron Packard (R–CA).
Frank Riggs (R–CA).
Christopher Shays (R–CT).
Karen Thurman (D–FL).
Bill McCollum (R–FL).
Mark Foley (R–FL).
Dennis Hastert (R–IL).
Thomas Ewing (R–IL).
Jan Meyers (R–KS).
Bill Emerson (R–MO).
Joe Skeen (R–NM).
Marge Roukema (R–NJ).
Susan Molinari (R–NY).
Frank Cremeans (R–OH).
Ed Bryant (R–TN).
Pete Geren (D–TX).

TASK FORCE MISSION AND ORGANIZATION

The Congressional Task Force on Immigration Reform was created by Speaker Newt Gingrich at the beginning of the 104th session of Congress. It has become apparent to many Americans that the federal government has failed in its efforts to enforce existing laws, to enact new laws or adopt effective policies to prevent illegal immigration.

Speaker Gingrich created the Task Force to find solutions to the on-going crisis of illegal immigration. Specifically, the Speaker charged the Task Force with stopping all illegal immigration at the border and finding the means to remove illegal aliens who are already in the United States.

Congressman Elton Gallegly (R–CA) was named Chairman of the Task Force, which is comprised of fifty four Members of Congress, both Republicans and Democrats. The Task Force was asked to provide a report to the Speaker and relevant congressional committees by June 30, 1995. Chairman Gallegly was asked by the Speaker to develop recommendations to end illegal entry and to encourage those residing in our country illegally to return to their homeland.

In preparing this report, the Task Force on Immigration Reform reviewed existing laws; committee reports; testimony before Committees of Congress; and various existing reports prepared by a wide-range of organizations and individuals. To enhance the expertise of the panel and obtain a first-hand view of the problem, the Task Force conducted fact-finding missions to San Diego, California; New York, New York; and Miami, Florida.

The Task Force was organized into six working groups to focus on the most crucial areas of immigration policy that need to be reformed: Border Enforcement, Chaired by Congressman Royce (R–CA); Workplace Enforcement, Chaired by Congressman Deal (R–GA); Public Benefits, Chaired by Congressman Goss (R–FL); Political Asylum, Chaired by Congressman McCollum (R–FL); Deportation, Chaired by Congressman Condit (D–CA); and Visa Overstays, Chaired by Congressman Goodlatte (R–VA). These working groups made specific recommendations to the entire Task Force.

This report represents the findings and recommendations agreed to by the members of the Immigration Reform Task Force, as requested by the Speaker. Members who were not in agreement with recommendation of the Task Force were invited to present dissenting views. They are included in Appendix II of this report. The recommendations contained within this report are to serve as the basis for administrative and legislative reform of immigration policy during the 104th Congress.

EXECUTIVE SUMMARY

Background

America is often described as a "land of immigrants". That is true, but it is also true that certain areas of the United States have become a land of illegal immigrants. The Immigration and Naturalization Service estimates there are over four million illegal aliens in the United States and the number is growing by 300,000 to 400,000 per year. These figures indicate a failure of the federal government to honor its constitutional obligation to secure the nation's borders. Only the federal government can pass, implement, and enforce immigration laws.

America is also often described as a "land of opportunity." While that is also true, our nation is not a nation of unlimited resources. The impact of illegal immigration is profound: it severely affects certain local, state and federal budgets; it increases the crime rate and threat to public safety; it displaces American workers; and it is linked to narcotics trafficking. But most of all, illegal immigration is in itself against the law.

This report discusses the various impacts of illegal immigration at federal, state and local levels. The Task Force finds that the Immigration Reform and Control Act of 1986 (IRCA), the last major attempt by Congress to deal with illegal immigration, has failed. Provisions to deter illegal entry and to identify, apprehend and deport individuals residing in the nation illegally have failed in large measure due to the lack of resources provided to INS to do its job and to do it well.

Recommendations

The recommendations of the Task Force provide the legislative reforms and enforcement procedures necessary to accomplish the two principal objectives identified by the Speaker—to prevent illegal entry and to identify, apprehend and remove illegal aliens already in this country. The Congressional Task Force on Immigration Reform is confident that if the recommendations set forth in this Report are implemented, the federal government can accomplish both of these goals and put an end to illegal immigration.

Preventing and Deterring Illegal Entry

Restoring credibility to our immigration policy must start with preventing illegal entry into the United States: Tightening security at the border and imposing severe consequences on those who attempt to illegally enter the country. Lax law enforcement efforts have had grave public safety, economic and social consequences on the U.S. side of the border while causing death and misery to illegal aliens attempting to cross into the United States.

The key recommendations by the Task Force to improve security at and between ports of entry include:

Merge Customs enforcement with INS enforcement at ports of entry to overcome management deficiencies and streamline operations.

Double the number of border patrol agents stationed at the border to 10,000 in three years.

Form a mobile border patrol response team so that INS is prepared and can respond to emergency situations.

Construct triple barrier fences and lighting at appropriate urban areas on the border to assistance law enforcement.

Expand pre-inspection in foreign airports to more easily deny entry to persons with fraudulent documents or criminal backgrounds.

In order to effectively deter illegal immigration, laws must be strengthened and enforced so there are consequences for individuals who attempt to enter the country illegally. The Task Force offers the following main recommendations in this area:

Impose a mandatory fine of no less than $50 and no more than $250 for aliens who attempt to enter the country illegally.

For illegal aliens caught re-entering the country twice within one year, the INS would have the ability to seize assets.

Mandatory prosecution and full sentencing of all illegal aliens caught re-entering the United States over 2 times.

Increase penalties for immigrant smuggling so that first offenses carry fines and a minimum of three years imprisonment, assessed on a per immigrant (rather than transaction) basis; a doubling of penalties for employers who knowingly use immigrant smugglers; and adding immigrant smuggling to the list of crimes punishable under current anti-racketeering laws (RICO).

The most powerful "pull" factors are access to jobs and public benefits. Taking away access to jobs and public benefits will deter future illegal entry while acting as an incentive for illegal aliens already in the country to return to their country of citizenship. Task Force recommendations in this area include:

Implement an aggressive campaign against fraudulent documents by creating an interstate database of birth and death records and standardizing birth certificates.

Increase criminal penalties for possession and production of fraudulent documents from five years to fifteen years.

Implement two pilot programs for worker verification: One pilot would provide for a computerized registry using INS and Social Security data and the other would provide for a tamper-proof social security card.

Increase penalties on businesses who hire illegal aliens.

Deny all federal public benefits to illegal aliens except emergency medical services.

Provide states with the ability to provide or deny public education for primary, secondary, and post-secondary education to illegal aliens.

Require illegal aliens who have received or are receiving public benefits or services illegally to pay back the full costs of these benefits and services, with penalties.

Allow states to notify INS of the presence of illegal aliens so that INS can apprehend and deport such individuals.

End birthright citizenship to children of illegal immigrants.

Removal of illegal aliens residing in the United States

The United States must have the will and capability to remove illegal immigrants. An important part of the Task Force's strategy involves the deportation and exclusion of illegal aliens, as well as reform of the political asylum process. INS must be equipped, both in terms of resources and legislative reforms, to detain and physically remove aliens who have forfeited the right to be in this country.

The key recommendations by the Task Force to exclude or deport aliens who are violating our laws are:

Increase INS detention space to at least 9,000 beds.

Use closed military bases for the detention of inadmissable or deportable aliens.

Provide for expedited exclusion at ports of entry to prevent the entry of illegal aliens.

Streamline deportation process to reduce time to process cases.

Keep deportation orders in force for deported aliens who re-enter the United States illegally to more efficiently use INS' limited resources.

Extend minimum deportation period from five to ten years for illegal aliens.

Designate aliens who enter without INS inspection as excludable, placing them in the same position as aliens who attempt to enter illegally at a port of entry.

Require detention of all criminal aliens.

Provide for Federal reimbursement to state and local governments for the costs of incarcerating criminal aliens.

Mandate INS to take custody of criminal aliens on probation and parole before they are released onto our streets.

Modify prisoner transfer treaty programs to save taxpayers' dollars.

Deport criminal aliens to the interior of their native country to prevent immediate re-entry.

Significantly increase resources to prosecute deported felons who illegally re-enter our country.

Develop computerized system to identify visa overstays to increase deportations of long-term violators.

Deny long-term visa overstays from receiving future visas.

Tighten visa issuance procedures in problem countries.

Eliminate consulate shopping for persons seeking visas to improve screening of visa applicants.

Restrict visa waiver program to countries with low visa overstay rates.

This strategy also includes long overdue political asylum reforms. Simply put, the abuse in this system has to be stopped. Persons with valid claims who are fleeing persecution abroad need to be processed and approved quickly. On the other hand, those with fraudulent applications need to be adjudicated and returned overseas without tying up our courts for years. Key recommendations are:

Provide procedures for expedited exclusion of persons claiming asylum.

Streamline present exclusion procedures and decrease length of asylum process.

Deny political asylum to alien terrorists.

Establish proactive interdiction programs to respond more effectively to immigration emergencies.

Mr. NADLER. Mr. Speaker, I rise in opposition to this closed rule.

I had filed two important amendments with the Rules Committee be made in order. Although these amendments have drawn bipartisan support in this House, and far reaching support from religious organizations, such as the U.S. Catholic Conference and major Jewish and Protestant organizations, the Rules Committee did not see fit to allow debate on either of them.

This decision is especially troubling because, unless these major flaws in this bill are corrected, this country will inevitably deport those fleeing persecution back into the hands of their oppressors.

The first amendment I proposed would have ensured that individuals subject to deportation as accused terrorists would have a reasonable opportunity to answer those charges, with appropriate due process. Under the bill as reported, an alien, including a permanent resident who may have resided in the United States for decades, accused of being a terrorist may be removed based on classified evidence that the accused may not review. In fact, the accused need not be provided with so much as a declassified summary of the information.

Moreover, the bill provides for a special panel of attorneys who would be appointed by the court and precleared to review the classified information, but who could not discuss that vital evidence with their clients. All such evidence would be reviewed by the court in camera and ex parte. While deporting alien terrorists must remain a high priority, experience demonstrates that there is no need to give the Attorney General the unchecked power to declare individuals as terrorists and deport them.

My amendment follows the approach taken by the Congress in enacting the Classified Information Procedures Act [CIPA], a statute that has worked well in criminal cases which have a higher burden of proof. In fact, the Judiciary Committee received no evidence that

CIPA had not worked well in practice. Under CIPA, if the Government believes some of the evidence is too sensitive to reveal, it may present the accused with a summary of the evidence that would provide the accused with the same ability to prepare a defense. If no such summary is possible, that information may not be used in the case.

Without this amendment, H.R. 2202 will establish the modern equivalent of the "Star Chamber" court, in which the accused could be deported without the opportunity to know the charges or evidence and with no realistic opportunity to answer those charges.

My second amendment would have modified the procedure for expedited exclusion of individuals arriving at the border without appropriate documents. The bill presumptively considers such individuals to be presumptively engaged in immigration fraud and allows their exclusion merely on the unreviewed judgment of an immigration officer and his or her supervisor. That false presumption actually gets the case backward. It is precisely those who are fleeing persecution who are least likely to receive proper travel papers, whether they are fleeing coercive population policies in China or religious persecution in Iran. Their fate should not be left to the unreviewed judgment of an immigration officer and his or her supervisor.

My amendment would have ensured that fraud is controlled without this Nation sending individuals who are truly fleeing persecution into the hands of their persecutors.

I believe that, while all Americans want us to do everything we can to ensure that our immigration laws are respected and enforced, they do not want us to violate individual rights in ways that would send innocent people back into the hands of repressive governments.

Many of our families arrived on these shores seeking a better life of freedom and justice. We violate that basic American birthright if we pass these draconian and unnecessary provisions. At the very least, this House deserves the opportunity to examine whether there is a better, more just way to achieve the important end of ensuring the strict enforcement of our immigration laws.

I urge the rejection of this closed rule.

Mr. BRYANT of Texas. Mr. Speaker, I am the ranking minority member on the Judiciary Committee's Subcommittee on Immigration. I am an original cosponsor of H.R. 2202, the Immigration in the National Interest Act. I have supported the bill and worked to improve it throughout the legislative process to date.

I did not expect to have every amendment I might have wanted to offer on the House floor to be made in order, so I only filed three. I told the members of the Rules Committee that I considered two to be crucial. Only one was made in order under this rule. Inexplicably, my amendment to protect American jobs for American workers was not.

While the H–1B language in H.R. 2202 makes some improvement, it does not go far enough. Under the bill skilled American workers still can be laid off and replaced with H–1B nonimmigrant foreign workers to do their jobs. It was contrary to good public policy when it was enacted—and I voted against it—and it is contrary to good public policy now.

My amendment will protect skilled U.S. workers from being laid off to benefit foreign workers. It will require employers to recruit U.S. workers who have the skills for these jobs. it will require employers to help train U.S. workers who want these jobs. And, it will give U.S. workers a better shot at getting those jobs. H.R. 2202 does none of this.

And, don't be fooled by assertions that my amendment will somehow cause America to lose its competitive edge, that we won't be able to get the best and the brightest brains from around the world. The Department of Labor reports that 50 percent of all H–1B workers brought in are physical and respiratory therapists and that most of the jobs taken by H–1B foreign workers pay less than $50,000.

Not one single American job should be jeopardized by U.S. immigration policy. I urge Members to vote "no" on the previous question so that my amendment to protect American workers can be considered by the full House of Representatives.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am in opposition to the rule for H.R. 2202, the Immigration in the National Interest Act of 1995. If passed, this bill will dramatically change the way that we deal with immigration in this country. I am concerned, therefore, because a number of very important amendments, specifically those relating to the bill's legal immigration provisions have been excluded from consideration.

H.R. 2202 attempts to do too much too fast. By combining the enforcement of illegal immigration and the reform of legal immigration in one bill, I fear that we are sending the wrong message to the American public. While I, like most Americans, believe that we must stem the tide of illegal immigration to this country, legal immigration serves important national interests.

Given the legal and administrative complexities of the reform challenge at hand, we must examine each component to the fullest extent. I am hopeful, therefore, that my colleagues will support the Crane-Dooley-Davis amendment, which would strike the parts of title V (subtitles A, B, and C) that would virtually prevent American citizens from sponsoring their adult children, siblings, and parents; reduce America's support for refugees; and place additional experience requirements that will complicate companies' ability to hire foreign scientists and engineers.

The current legal immigration system is specifically designed to strengthen families by reuniting close family members and fueling prosperity by attracting hardworking individuals. We must not abandon these principles. At a time when strong family bonds are more important than ever, restrictions, in family based immigration will hurt legal immigrant families in America.

It is disturbing to think that Government policy will keep such families, even parents and their children, apart just because a child is older than 21 years of age. Energetic young people, about to enter the work force, are exactly the type of new Americans that compliment the existing work force. Not only will they fuel our economy along with our existing population, but they will be here to care for their aging parents. Most Americans do not think that their children, at any age, are ever distant family members.

Similarly, barring entry of brothers and sisters of U.S. citizens because of the current backlog in that visa category is especially unfair to the citizens and their siblings who have followed the rules and waited patiently in line—some for 15 years or more.

H.R. 2202 imposes nearly insurmountable obstacles for U.S. citizens seeking to bring their own mothers and fathers to the United States. The legislation enables the U.S. Government to control and overrule the decisions of families by requiring that U.S. citizens purchase high levels of insurance for their parents and lowering the priority for the parents' visa category. This category will only receive visas if any are left over from other categories. The State Department projects that within 3 years after the law takes effect no visas will be available for parents.

In addition, H.R. 2202 will require citizens and legal residents to show that their income will be 200 percent above the poverty line in order to bring their parents, minor children, or spouses to the United States. More than 35 percent of Americans, over 91 million people, have incomes below 200 percent of the poverty line. The bill will have a devastating impact on American families who will be barred from living in the United States with their own husbands, wives, parents, and adult children.

Proposed restrictions in employment-based immigration will have a negative impact on the U.S. economy. It is crucial that the American workplace reflects the international character of its customers and responds to both domestic and international competitive pressures. Achieving such a work force requires looking beyond the U.S. labor market. Employees, researchers and professors possessing both innovative technical skills and multicultural competence ensures our economic viability in world markets.

Additionally, placing a cap on the number of refugees admitted to the United States ignores our leadership role in providing protection and safe harbor to those fleeing political and religious persecution. Strict levels of refugee admissions ignore the changing and urgent nature of refugee situations. U.S. policy should maintain the flexibility to respond appropriately to emergency situations.

I also have serious reservations about a national employment verification system which would tend to subject individuals to invasions of privacy and discrimination. Such a system would serve as an enormous administrative burden to the Nation's employers, especially small businesses. And even if such a system could be maintained with an error rate of only 1 percent—an impossibility since it would be based on INS and SSA data which have error rates of at least 30 percent—hundreds of thousands of Americans would be denied employment opportunities annually because, according to an error in the data base, they were not eligible to work. Therefore, I support the Chabot-Conyers amendment, which would strike the employment verification system from the bill.

Finally, H.R. 2202 would restrict immigrants' access to all Federal means-tested programs. This means that programs like child care, immunizations, the Head Start Program, battered spouse shelters, and Maternal and Child Health Care Programs will be out of reach for needy women and children. Compromising the health and education of women and children hurts all Americans. Children must not be made to suffer from the actions of their parents. Furthermore, it is not in our national interest to have a population of malnourished, nonimmunized, and uneducated children.

H.R. 2202 also proposes to reimburse hospitals that provide emergency services to undocumented immigrants only if the hospital turns in the names of the undocumented people it serves. If this proposal becomes law people will fear seeking emergency care. By discouraging sick and critically ill people from seeking help, this provision jeopardizes not only the health of those who are ill, but also risks the well-being of their families and their communities. In addition, the measure will force doctors, nurses, and hospital administrators to spend valuable time and resources being law enforcers and learning to interpret immigration documents and understand the minutia of immigration law.

In short, there are no easy solutions for the deep-seated problems facing our Nation. Scapegoating, however, is not the answer. The issue has never been should we deal with immigration but how. Although H.R. 2202 comes clothed in good intentions, I am afraid the legislation does not capture fully the Commission's work and effectively bring about a long, lasting solution.

Immigrants are not the cause of the widening gap between rich and poor, the deterioration of our public schools or the violence in our streets. Indeed, the causes of these problems are much more fundamental and it is time they were addressed. We as Americans, can handle them without resorting to left wing or right wing rhetoric. This is what the American people demand and it is what they deserve.

Mr. KLECZKA. Mr. Speaker, I am offering an amendment to H.R. 2202, the Immigration in the National Interest Act, as part of this en bloc amendment to correct an injustice done to the Polish community during the 1995 diversity visa process.

During the visa lottery, the State Department committed an error which resulted in 49,895 Poles being notified that they were eligible for visas. These individuals were not told that a maximum of 3,850 visas were available, or how many of their countrymen they were competing against. Thousands sent in the $130 fee, only to be denied a visa.

For all other nationalities, approximately two to four times as many applicants were notified as there were visas distributed. More than 12 times as many Poles were notified than the quantity of visas designated for this nationality.

The State Department's error was completely preventable and never should have occurred. Therefore, my amendment would require the Department of State to refund the $130 fee paid by the thousands of Polish applicants who did not receive a visa. In addition, the Department would be required to review and revise its procedures to ensure that this type of situation does not happen again—to Poles or anyone else.

Mr. Speaker, I hope my colleagues will join me in pursuing justice for the thousands of Poles who were the victims of this bureaucratic bungle. I urge a vote in support of this en bloc amendment.

Mr. BILBRAY. Mr. Speaker, as the House of Representatives begins debate on our comprehensive immigration bill today, I would like to focus on the human costs of our current immigration policy to highlight our most compelling argument for reform.

I grew up in San Diego County, with a friend who can actually see our neighbors across our border with Mexico from his own backyard, I brought a unique perspective from San Diego to Washington when elected to Congress.

Specifically, I was interested in educating Washington about its failed immigration policies, and the financial costs and human tragedies that these policies produced.

I would like to enter into the RECORD the following news articles from my hometown paper, The San Diego Union Tribune. These are headlines that me and my constituents see every day. The news stories are a common occurrence, appearing with the same predictable regularity as our weather reports.

Let me read you a few.

From March 29, 1995: "Fall kills border agent in foot chase."

From May 5, 1995: "Alien smugglers are packing cars for perilous treks."

From January 26, 1996: "Border crosser, told to pack no provisions, dies in mountains."

From February 22, 1996: "31 immigrants caught in stolen vehicles."

And just this morning: "Immigrant-document counterfeiting plant raided; 12 arrested."

Most illegals who enter our country are seeking a better life, however, this motivation leaves them vulnerable. In San Diego, illegals will literally risk life and limb running up I–5 during rush hour traffic.

Illegals crossing the Mexico border starve before losing their way, or die of exposure in the mountains. We hear constant reports of the horrific, filthy, inhumane conditions they endure at the hands of smugglers, or "coyotes."

Alien smugglers make money from their human cargo, and often entangle drug smuggling and other criminal activities in this enterprise. Illegal aliens are robbed and murdered; women and girls are brutally raped and abused by those involved in this insidious activity.

As someone who grew up on our border with Mexico, someone who has pulled the corpses of illegals who drowned trying to cross the Tijuana River, I would like to tell you that this country's immigration system is broken, as these tales of tragedy and loss illustrate.

I hope that our debate does not focus on intentions. Those who seek a better life in the United States should not be vilified.

However, we must remove the attractive nuisance of public benefits which are available to illegal immigrants; we must give employers a way to verify the legal status of new employees, we must eliminate the backlog of legal immigrants waiting to be granted access—those who wish to abide by our laws but are frustrated by the pace of assimilation, and thus inclined to break the law to enter the United States.

These are the distorted set of incentives that current immigration law has created.

These distorted incentives reward those who break our laws, and frustrate those who wish to abide by them.

Our current immigration system antagonizes and is contradictory to the very basis of the American dream. The American dream is based upon freedom and hard work.

However, if those who wish to be American citizens enter our country illegally, they cannot expect to enjoy the benefits of our freedom; they cannot legally work to support themselves and their families; therefore they cannot hope to leave a better future for their children.

I hope that my colleagues will join with me to reform our immigration laws to create a more compassionate system, and eliminate the incentives in our current laws which cause so much suffering.

Immigrant-Document Counterfeiting Plant Raided; 12 Arrested

(By Leonel Sanchez)

SAN YSIDRO.—U.S. Border Patrol agents brought down a one-stop illegal immigration service operating out of an apartment here yesterday, confiscating more than 3,000 fake documents.

Agents arrested 12 people at the apartment and seized material used to make phony immigration documents, including "several official Mexican and United States immigration seals and stamps," a Border Patrol spokesman said.

The noontime raid came as illegal border crossings in the San Diego area were on the increase. A phony legal U.S. residence card, also known as a "green card," can cost up to $500, Border Patrol spokesman Jim Pilkington said.

"Our agents disrupted a substantial and sophisticated false-document ring and dealt a serious blow to a very sophisticated organization," Pilkington said.

He said the investigation continues and more arrests are expected.

The raid followed a two-month investigation by agents assigned to "Operation Wildcat," which targets smugglers in San Ysidro.

Agents hit pay dirt when they executed a search warrant at an unidentified apartment near Interstate 5. They found eight men and women who had recently crossed the border illegally and were waiting to be transported north. Pilkington said they were to be deported.

The four others arrested at the apartment were U.S. citizens and legal U.S. residents. At least three of them are facing felony charges of immigrant smuggling and counterfeiting.

Agents initially reported finding only 200 phony documents in the apartment but later said they found many more in different places.

In all, they found 2,000 immigration documents, including Mexican passports; travel permits; border crossing, legal residency and work authorization cards; and California driver licenses.

Agents also seized $5,000, four cellular phones and special scissors, glue, "and numerous photographs" that were to be material to make fake documents.

Fall Kills Border Agent in Foot Chase

(By Leonel Sanchez)

A midnight dash after illegal immigrants cost a Border Patrol rookie his life yesterday. It was the first local death in the agency in 20 years.

The agent, Luis A. Santiago, 30, fell from a steep cliff while chasing a group of people near a dam in Otay Lakes.

"It was just a tragic accident that could have happened to any of our officers," said local Border Patrol Chief Johnny Williams. "It points to the dangers of doing this job."

Sheriff's and Border Patrol investigators said Santiago's death was accidental.

It comes at a time when the Border Patrol is cracking down on illegal immigration along San Diego County's border with Mexico, where more illegal crossings occur than anywhere else along the 2,000-mile international boundary. Part of that crackdown has included an unprecedented influx of rookie agents fresh from the agency's training academy in Georgia.

Santiago was among 279 new agents who have arrived here since the October start of Operation Gatekeeper.

The ex-military man had been on the force less than 10 months, the past six at the Chula Vista station. Agents at the station patrol the area east of Heritage Road, which in recent months has become the sector's hot spot for illegal crossings.

A concentration of agents to the west had shifted the illicit traffic in their direction.

At 12:40 a.m. yesterday, Santiago and three other agents—including a training officer—were patrolling a canyon area near Lower Otay Reservoir when they saw a group of 15 to 20 illegal border crossers.

The people scattered when they saw the agents approaching. Santiago raced up a canyon rim after some of them, leaving his fellow agents behind.

The area on top has grass that quickly gives way to loose rocks.

"That time of the morning, the grass is quite damp from dew and slippery," Williams said. "He tried to step around a rock and lost his foothold."

Santiago fell at least 100 feet down a hill with jagged rocks.

The other agents heard a scream and rushed to find him.

He was lying about 150 yards south of the dam. They immediately tried to resuscitate him.

Soon they were joined by paramedics. But they, too, were unable to revive him.

He died from head injuries, Border Patrol spokeswoman Ann Summers said.

Agents apprehended at least two illegal crossers in the canyon, but they could not be linked to the group that Santiago was chasing. They were expected to be deported.

Santiago was to have completed the 10-month training period next week and then would have been eligible to take a two-hour written and oral examination to become a permanent Border Patrol agent.

He lived in Chula Vista and is survived by family members in his native Puerto Rico.

Human rights activists have questioned whether the agency in its haste to deploy agents on the line rapidly, is allowing sufficient training time.

Border Patrol officials defended the training, saying safety is stressed at all times.

"No one is going to do anything to endanger their life or anybody else's life, not intentionally," Summers said.

New recruits spend four months at an academy in Glynco, Ga., where they undergo weapon training and study Spanish and immigration law.

Afterward, they are sent to one of the agency's sectors for an additional six months of training. They are teamed up with experienced agents and learn about the area's terrain, particularly the key paths used by the illegal crossers.

Santiago was the first agent in the sector to die in the line of duty since Glenn A. Phillips was killed in a vehicle accident on the border in July 1974.

And he was the second agent to die on the job this year along the southern border. An agent was killed in a vehicle accident while patrolling in south Texas, officials said.

The mood among agents in the San Diego sector was somber yesterday. It was in stark contrast to the previous day, when morale ran high as 45 new agents arrived.

The U.S. flag flew at half-staff at the sector's headquarters in San Ysidro, and agents wore black ribbons around their badges.

Agents usually worry more about confrontations with illegal crossers than about falling while running, said Brent Johnson, 33, who has been on the force eight years.

"You can prepare yourself for the confrontations, but there's little you can do to prevent an unforeseen accident," Johnson said.

Most of the serious injuries involve vehicle accidents on hilly and bumpy roads. Agents also pay a physical price while running after the crossers.

"Sometimes it's just a sprained ankle, a stubbed toe, a broken finger, scrapes and cuts," Summers said. "It's not uncommon for agents to get injured, seriously injured. We've been fairly lucky."

BORDER FUGITIVE PLUNGES TO DEATH

(By Stacy Finz)

Repeating a tragedy in the dark, a man trying to evade a U.S. Border Patrol agent plunged to his death and five other men were injured when they ran off a 120-foot cliff near Otay Lakes Dam Saturday night.

The cliff is about 50 yards from the place where a Border Patrol agent feel to his death last year while chasing illegal border crossers.

The FBI and the U.S. Attorney's Office are investigating Saturday's events because of reports that the agent may have fired his gun, panicking the group.

The agent, whose name has not been released, has denied firing his weapon. He has been assigned to administrative duty pending the outcome of the investigation.

Robert Walsh, the FBI special agent in charge of the San Diego office, said the agent's gun is being tested to determine whether it was fired.

At a press conference yesterday, Border Patrol Chief Johnny Williams said the agent was near Otay Lakes Dam when he spotted a group of 15 suspected illegal crossers and hid in the brush until they passed.

He began tailing the group, and then ordered them to stop, said Border Patrol spokesman Ron Henley.

Nine complied. Six broke into a run, Williams said.

Shortly thereafter, the agent heard cries and screams and found that the six men had fallen off a sheer cliff. Williams said.

"We see a lot of things in the course of our duty," said Henley, who helped give medical aid to the injured men. "But to see this was like seeing a herd of cattle that had just fallen off a cliff."

Henley said the men apparently didn't see the rugged drop, which is filled with boulders and jagged rocks. The incident happened about 9:40 p.m., according to the Border Patrol.

An agent also was injured in the rescue operation and was taken out of the area by helicopter.

Four of the injured men have been released from area hospitals and are being questioned, Williams said. They, and the nine men who surrendered, are being held on suspicion of entering this country illegally.

Officials would not release their names, but said they are men in their 20s and 30s who came from all parts of Mexico.

U.S. Attorney Alan Bersin said smugglers should be blamed for Saturday's death. Officials said they believe the 15 men paid a minimum of $300 each to a guide, who brought them to the isolated area, only about four miles from the border.

"The people who led these people here, and one man to his death, have to be dealt with," Bersin said. "As a matter of public safety we must stop the smuggling of human beings. These people are profiting off the misery of others' poverty."

Bersin praised agents for what he called bringing law back to the border. Regarding the investigation into whether the agent fired his gun, Bersin said: "Allegations are just allegations at this point."

Saturday night's incident was reminiscent of rookie Agent Luis Santiago's fall to his death last March, when he slipped from a cliff while chasing a group of suspected illegal crossers near the Lower Otay Reservoir. Santiago, 30, had raced up a canyon rim after them and plunged 100 feet down a hill with jagged rocks.

No warning signs have been erected since the first accident.

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31 IMMIGRANTS CAUGHT IN STOLEN VEHICLES

(By Maria C. Hunt)

Thirty-one illegal immigrants who caught a ride through the East County in stolen vehicles were captured by authorities in two separate operations early yesterday.

Those apprehended by the Border Patrol and other authorities were sent back to Mexico voluntarily after the incidents that began in Dulzura and Pine Valley.

While it is not uncommon for Border Patrol agents to capture that many in two hours, a spokesman said they usually don't see vehicles so crammed with people.

"The fact that they were all in stolen vehicles, that's unusual," said spokesman Mark Moody, "And they both came out of East County. That's where everything is taking place."

Border Patrol agents working near the pine Valley Road exit of Interstate 8 pulled behind a suspicious pickup truck and tried to get it to stop about 5 a.m. When the driver did not comply, the agents ended the pursuit for safety reasons. They had lost sight of the truck for a few minutes when they spotted a cloud of dust ahead.

The truck had left the road and hit a guard rail of the Pine Valley creek bridge, coming to rest on the other side of the barrier. About 13 people got out of the truck and waited while agents went down the embankment to chase a few people who had tried to hide in the brush.

When the agents returned, a sheriff's deputy helped them extinguish a fire that had started in the truck. None of the 17 people captured needed medical treatment, Moody said. Although most of the people in the truck, which had been reported stolen from San Diego, were captured, authorities were unable to identify the driver.

About an hour later, Border Patrol agents arrested 14 People who had been traveling in a double-horse trailer pulled by a pickup truck, said spokesman Jim Pilkington.

Shortly after the truck was stolen from the owner's front yard around 6 a.m., someone drove it through the Highway 94 checkpoint without stopping. Agents in a marked Border Patrol car tried to get the westbound truck to stop, but the driver kept going, so they ended the chase.

Undercover agents were following at a safe distance as the truck drove onto northbound Interstate 805 and pulled to the median near

Murray Ridge Road, Pilkington said. When the truck stopped, about 30 people spilled out of the trailer and truck and scattered across the freeway.

While 14 of those people were apprehended, the rest got away.

None was hit by cars and no collisions occurred.

Border Crosser, Told To Pack No Provisions, Dies in Mountains

(By Leonel Sanchez)

Alpine.—The medical examiner said José Luis Centeno died of natural causes.

But it was probably his ordeal in the East County mountains that killed the 35-year-old Mexican on Wednesday.

He was among a group of illegal border crossers whose smugglers told them not to pack any food or water because they would be hiking for only five hours, the Border Patrol said.

Centeno and a friend became separated from the group and spent four days wandering in the rugged mountains, where overnight temperatures dipped near freezing.

Border Patrol agents found the two men by the side of Japatul Road near Hidden Glen before dawn Wednesday.

Centeno was having difficulty breathing and went into cardiac arrest.

Paramedics tried to revive him, but he was pronounced dead an hour after being found.

His friend, Demetrio Moreno Esquivel, was interviewed later by the Mexican Consulate, but information on his whereabouts was not available yesterday.

Centeno died in a mountain area where agents from the Campo station are increasingly making arrests.

Campo agents made 2,735 arrests last month, compared with 853 in December 1994.

The Border Patrol's crackdown in the Imperial Beach area has deliberately pushed the illegal immigrant traffic east of the San Ysidro Port of Entry.

Thus, illegal border crossers are being forced to find new routes to enter the United States.

Some have paid the ultimate price.

On Saturday, a still unidentified illegal border crosser was killed when he and five others ran off a cliff near a dam near Otay Lakes while trying to elude a Border Patrol agent. A second man suffered head injuries and was in a coma yesterday at UCSD Medical Center.

In East County, agents said, they routinely find illegal border crossers who have been hiking for days to reach a point where they are picked up for their journey north.

Most carry food and water with them and do not suffer tragic consequences, said Jim Pilkington, a spokesman for the Border Patrol.

Alien Smugglers Are Packing Cars for Perilous Trek

(By Leonel Sanchez)

The weekend crash that killed three people and injured 16 in Jamul has highlighted a dangerous trend in the smuggling of illegal immigrants through East County.

Smugglers are recklessly crowding people into vehicles and taking them on perilous rides on windy mountain roads in Jamul, Dulzura, Tecate and Campo.

"They don't care how they pack them in. All they care about is the money," said U.S. Border Patrol spokeswoman Ann Summers.

The Jamul crash underscored the risks illegal immigrants take to get North.

Thirty-six people were crammed in the Ford van that struck a pickup truck Saturday night on state Route 94. The crash killed the pickup driver and two van riders.

Agents were not surprised by what happened.

They have been seeing large groups of illegal immigrants, sometimes up to 100, congregated in the desolate stretches in East County near the border.

Many cross on foot, jumping or going around the steel fence near the Tecate border crossing, then board a van or truck waiting nearby to take them to Los Angeles. They pay as much as $375 apiece.

In East County, state Route 94 has become the smugglers' preferred route to get to major roads and freeways, where they can blend into traffic.

From Tecate, state Route 94 leads to Jamacha, Otay Lakes, Honey Springs and Buckman Springs roads.

Guides familiar with the area's mountainous terrain are in heavy demand as are smugglers with access to large vehicles.

East County mountain residents are feeling the impact of the new traffic and are complaining to authorities.

Border Patrol officials have met with residents and are to meet again May 15 at the Dulzura Community Center.

"We've told them we're concerned about it too and are getting resources there to deal with the problem," Summers said.

Overtime pay has been approved for more agents to work in East County, she said.

Illegal crossings have risen there mostly because the U.S. Border Patrol has been effective in stopping illegal traffic farther west in the Imperial Beach-San Ysidro area.

Arrest records for the past seven months show the illegal crossing hot spots now are near Chula Vista, Brown Field, El Cajon and Campo.

Arrests in Imperial Beach were down 52 percent in April compared with the same month last year from 23,855 to 11,348, according to records.

Elsewhere in the 66-mile-wide sector, arrests continued to soar.

Arrests in Chula Vista, Brown Field and El Cajon rose 34 percent, 126 percent and 824 percent, respectively, in April compared with the same period last year.

* * * * *

Arrests were down from March, however, when 61,687 were made.

Immigration officials maintain that their strategy is working because the illegal traffic is shifting east to isolated areas where they are easier to apprehend.

Officials said they anticipated illegal crossings going up during the first quarter of the year because of seasonal labor patterns. The devaluation of the Mexican peso also has been a factor.

Would-be crossers are still arriving in Tijuana to probe the border there or hook up with a smuggler. Many now end up walking or riding to the border area in East County, said the CHP's Summers.

Some are trying to enter through the desert area near Calexico. In past summers, people have gotten lost there and died.

In East County, meanwhile, smugglers appear to be brazen and reckless in their attempt to move their human cargo north. Agents are foiling their trips near the border and as far north as Temecula.

In the past month, agents at that southern Riverside County check-point have intercepted five vehicles loaded with illegal immigrants, something that's relatively rare there.

The most recent happened hours apart Tuesday when agents found 97 illegal immigrants in two rental trucks. Agents found one of the trucks on the median of Interstate 15 with 38 people aboard.

In April, agents found a rental truck abandoned in De Luz Road in Fallbrook. Inside were 48 illegal immigrants. Three women who had fainted were treated for heat exhaustion and dehydration.

Mr. LIPINSKI. Mr. Speaker, today, I offer my amendment on behalf of approximately 800 Polish and Hungarian immigrants who legally entered this country between 1989 and 1991. My amendment will allow these 800 immigrants to adjust their status to permanent resident so that they one day may become full citizens of the United States.

This group of immigrants was paroled into the United States by the attorney general. Parole is a limbo status which gives them the right to live in the United States indefinitely, but denies them the opportunity to acquire permanent residency or citizenship. These immigrants have already endured much hardship and suffering. They came to the United States after living for years in refugees camps in Europe. All of the parolees were on the verge of gaining refugee status when U.S. refugee policy for those two nations changed. With the fall of communism in 1989, INS no longer accepted their refugee applications. In fairness to those who were far along in the application process, INS granted some of the applicants parole.

The parolees have now been living in the United States for more than 6 years. They are working and paying taxes. They have made new homes and adjusted to a new way of life. America is now their home.

Unfortunately, the parole status places strict limitations on these new lives. Without residency or citizenship, they lack some of the rights Americans take for granted. These include the ability to qualify for in-state resident tuition at public universities and the right to travel internationally at will. That's right, they have no international travel privileges which has prevented them from visiting families for years. They have missed both weddings and funerals.

INS predicted that the parolees would adjust their status through relatives in the United States who petition on their behalf through the family reunification program. Unfortunately, this has not happened. In many cases it is not possible to apply for adjustment through family members, and in other cases it could take many years. This is because U.S. immigration law allows permanent residents to petition only for their spouses and children. Citizens can additionally petition for siblings. Grandparents and cousins, regardless of status, can never petition.

Many of these parolees were brought here, however, by distant family members. Without passage of this amendment, these unlucky individuals will never be residents. Some of the parolees were brought by brothers and sisters, many of whom came as refugees and are not yet citizens. Under current law, a parolee would have to wait 5 years for his or her sibling to become a citizen, then another 9 years for a fourth preference petition to become current. It would take 14 years for this kind of parolee to become a resident. Then again, if the bill currently under debate passes, siblings will not be allowed to petition for other siblings and therefore, the parolees would be without an avenue to adjust their status.

Mr. Speaker, these 800 parolees have suffered much. Let's make their life a little easier and provide them with an opportunity to become full U.S. citizens. Please support my amendment.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device and there were—yeas 233, nays 152, not voting 46, as follows:

[Roll No. 68]

YEAS—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Houghton
Hunter
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Portman
Quillen
Quinn
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—152

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Coleman
Collins (MI)
Conyers
Coyne
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Evans
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lowey
Luther
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Neal
Oberstar
Obey
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thurman
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—46

Bishop
Bryant (TN)
Chrysler
Clay
Clyburn
Collins (IL)
Costello
Dellums
Durbin
Eshoo
Farr
Fawell
Filner
Flanagan
Gutierrez
Hayes
Hoke
Hostettler
Hoyer
Inglis
Johnston
Kennedy (MA)
Latham
Lightfoot
Lipinski
Maloney
Martini
Meehan
Moakley
Nadler
Olver
Peterson (FL)
Porter
Pryce
Radanovich
Rangel
Rush
Stokes
Talent
Thompson
Thornton
Torres
Torricelli
Walker
Waters
Waxman

□ 1736

The Clerk announced the following pair: On this vote:

Mr. Radanovich for, with Mr. Filner against.

Mr. PAYNE of Virginia changed his vote from "yea" to "nay."

Mrs. SEASTRAND changed her vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, on rollcall No. 68, I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. LIGHTFOOT. Mr. Speaker, I missed rollcall vote No. 68. I was unavoidably detained due to a late flight on my return from Iowa. Had I been present, I would have voted "yea" on rollcall vote No. 68.

PERSONAL EXPLANATION

Ms. ESHOO. Mr. Speaker, during rollcall vote No. 68 on the previous question to House Resolution 384, I was unavoidably detained because of a flight being late. Had I been present, I would have voted "nay."

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, during rollcall vote No. 68 on the previous question to House Resolution 384, I was on the same flight and detained. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. RIGGS). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Speaker, I understand there are two pending votes. Could. the Chair inform us as to the order in which those votes will be taken?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is correct, there are two remaining recorded votes, one that has been ordered, the other has been requested on legislation under suspension of the rules.

The Chair is prepared to state the order of voting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 2937, by the yeas and nays; and House Concurrent Resolution 148, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

REIMBURSEMENT OF FORMER WHITE HOUSE TRAVEL OFFICE EMPLOYEES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2937, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SMITH] that the House suspend the rules and pass the bill, H.R. 2937, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 350, nays 43, not voting 38, as follows:

[Roll No. 69]

YEAS—350

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Fields (TX)
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Quillen
Quinn
Rahall
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walsh
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—43

Baesler
Barr
Brownback
Campbell
Christensen
Coburn
Conyers
Cooley
Ensign
Gordon
Green
Gutknecht
Hall (TX)
Hastings (FL)
Jacobs
Kanjorski
Klug
Lincoln
Lofgren
McKinney
McNulty
Meek
Metcalf
Mollohan
Neumann
Orton
Owens
Ramstad
Royce
Sanford
Scarborough
Schroeder
Sensenbrenner
Shadegg
Stenholm
Tiahrt
Volkmer
Wamp
Waxman
White
Whitfield
Williams
Yates

NOT VOTING—38

Ackerman
Bishop
Bryant (TN)
Chrysler
Clay
Clyburn
Collins (IL)
Dellums
Durbin
Fawell
Filner
Flanagan
Gutierrez
Hayes
Hoke
Hostettler
Inglis
Johnston
Kennedy (MA)
Latham
Lipinski
Maloney
Meehan
Moakley
Murtha
Nadler
Peterson (FL)
Porter
Pryce
Radanovich
Rangel
Rush
Stokes
Thompson
Thornton
Torricelli
Walker
Waters

□ 1756

Messrs. ENSIGN, COOLEY, STENHOLM, and BROWNBACK changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill for the reimbursement of attorney fees and costs incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, on rollcall No. 69, I was unavoidably detained. Had I been present, I would have voted "yea."

□ 1800

SENSE OF CONGRESS REGARDING UNITED STATES SUPPORT OF TAIWAN

The SPEAKER pro tempore (Mr. RIGGS). The pending business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 148), as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 148), as amended.

The question was taken.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 369, noes 14, answered "present" 7, not voting 41, as follows:

[Roll No. 70]

AYES—369

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill

Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Fields (TX)
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Portman
Poshard
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Wynn
Young (AK)
Zeliff
Zimmer

NOES—14

Combest
Conyers
Danner
Houghton
Kanjorski
Matsui
McDermott
Minge
Pickett
Sawyer
Serrano
Watt (NC)
Yates
Young (FL)

ANSWERED "PRESENT"—7

Becerra
de la Garza
Kaptur
LaFalce
Mink
Skaggs
Woolsey

NOT VOTING—41

Ackerman
Bishop
Bryant (TN)
Chrysler
Clay
Clyburn
Collins (IL)
Dellums
Doolittle
Durbin
Fattah
Fawell
Filner
Flanagan
Gilchrest
Gutierrez
Hayes
Hoke
Hostettler
Inglis
Johnston
Kennedy (MA)
Lipinski
Maloney
Meehan
Moakley
Murtha
Nadler
Peterson (FL)
Porter
Pryce
Radanovich
Rangel
Rush
Stokes
Taylor (NC)
Thompson
Thornton
Torricelli
Walker
Waters

□ 1810

The Clerk announced the following pair:

On this vote:

Mr. Radanovich and Mr. Rangel for, with Mr. Dellums against.

Ms. KAPTUR changed her vote from "aye" to "present."

Mr. MINGE changed his vote from "present" to "no."

Ms. McKINNEY changed her vote from "no" to "aye."

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the concurrent resolution was amended so as to read: "A concurrent resolution expressing the sense of the Congress that the United States is committed to military stability in the Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. WATERS. Mr. Speaker, during votes on Tuesday, March 19, I was unavoidably detained in my congressional district attending to pressing business.

Had I been present for those votes, I would have voted "no" on ordering the previous question on House Resolution 384, "yes" on H.R. 2937, and "yes" on House Concurrent Resolution 148.

PERSONAL EXPLANATION

Mr. FAWELL. Mr. Speaker, due to the primary elections held today in Illinois I was unavoidably detained and missed several rollcall votes. I would like the RECORD to reflect that had I been present in the House, I would have voted in favor of House Resolution 384, rollcall vote 68, a resolution which provides for the consideration of H.R. 2202, the Immigration in the National Interest Act. House Resolution 384 makes in order 32 amendments which may be offered during consideration of H.R. 2202.

I would also have voted in favor of H.R. 2937 rollcall vote 69, a bill to authorize sufficient funds to reimburse former White House Travel Office employees for legal expenses resulting from the termination of their employment on May 19, 1993.

Last, I would also have voted in support of House Concurrent Resolution 148 rollcall vote 70, a resolution which expresses the sense of the Congress that the United States is committed to military stability in the Taiwan Straits and to the military defense of Taiwan. In addition, the resolution declares that the United States, in accordance with the Taiwan Relations Act, should assist Taiwan in defending itself against invasion, missile attack, or naval blockade by the People's Republic of China.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, earlier today I was unavoidably detained because the 1-hour flight from New York took 4. I consequently missed three rollcall votes. Had I been present for rollcall No. 68 on the previous question, I would have voted "no"; had I been present for rollcall No. 69 on the Travel Office Reimbursement, I would have voted "yes"; had I been present for rollcall No. 70, the Defense of Taiwan Resolution, I would have voted "yes."

PERSONAL EXPLANATION

Mr. CHRYSLER. Mr. Speaker, due to weather conditions, my plane could not land and I was unavoidably detained and did not cast my vote on rollcall votes numbered 68, 69, and 70.

Had I been present, I would have voted "yes" on rollcall vote 68, the rule on the Immigration in the National Interest Act of 1995; "yes" on rollcall vote 69, H.R. 2937, reimbursement of Former White House Travel Office employees; and "yes" on rollcall vote 70, House Concurrent Resolution 148, a sense of the congress regarding military stability in the Taiwan Strait and the defense of Taiwan."

IMMIGRATION IN THE NATIONAL INTEREST ACT

Mr. SPEAKER pro tempore. Pursuant to House Resolution 384 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2202.

☐ 1813

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 60 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 60 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I would like first to thank the chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE], for his generous support along the way. It is he who has been captain of the ship, and it is his steady hand at the helm who has brought us to these shores tonight.

☐ 1815

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I thank the distinguished chairman of the Subcommittee on Immigration for yielding me time, and I am pleased to speak here on this very important issue.

Mr. Chairman, immigration reform is one of the most important legislative priorities facing the 104th Congress. Today, undocumented aliens surreptitiously cross our border with impunity. Still others enter as nonimmigrants with temporary legal status, but often stay on indefinitely and illegally. The INS administrative and adjudicatory processes are a confusing, inefficient bureaucratic maze, resulting in crippling delays in decisionmaking. The easy availability of fraudulent documents frustrates honest employers, who seek to prevent the employment of persons not authorized to work in the United States. Unfortunately, the result of illicit job prospects only serves as a magnet to further illegal immigration. Clearly, we face a multifaceted breakdown of immigration law enforcement that requires our urgent attention.

The 104th Congress can make an unprecedented contribution to the prevention of illegal immigration as long as we have the will to act. H.R. 2202 provides for substantially enhanced border and interior enforcement, greater deterrence to immigration-related crimes, more effective mechanisms for denying employment to undocumented aliens, broader prohibitions on the receipt of public benefits by individuals lacking legal status, and expeditious removal of persons not legally present in the United States.

The Committee on the Judiciary, recognizing that issues involving illegal and legal migration are closely intertwined, approved a bill that takes a comprehensive approach to reforming immigration law. Today, we create unfulfillable expectations by accepting far more immigration applications than we can accommodate—resulting in backlogs numbering in the millions and waiting periods of many years. We simply need to give greater priority to unifying nuclear families, which is a priority of H.R. 2202.

In addressing family immigration, the Judiciary Committee recognized the need for changes in the bill as originally introduced. For example, the Committee adopted my amendment deleting an overly restrictive provision that would have denied family-based immigration opportunities to parents unless at least 50 percent of their sons and daughters resided in the United States.

During our markup, we also modified provisions of the bill on employment related immigration—removing potential impediments to international trade and protecting the access of American businesses to individuals with special qualifications who can help our economy. We recognized the critical importance of outstanding professors and researchers and multinational executives and managers by placing these two immigrant categories in a new high priority—second preference—exempt from time consuming labor certification requirements. We restored a national interest waiver of labor certification requirements and delineated specific criteria for its exercise. In addition to adopting these two amendments which I sponsored, the committee also substantially modified new experience requirements for immigrants in the skilled worker and professional categories and deleted a provision potentially reducing available visas up to 50 percent. The net result of these various changes is that American competitiveness in international markets will be fostered—encouraging job creation here at home.

Another noteworthy amendment to this bill restored a modified diversity immigrant program. Up to 27,000 numbers—roughly half the figure under current law—will be made available to nationals of countries that are not major sources of immigration to the United States but have high demand for diversity visas. The program will help to compensate for the fact that nationals of many countries—such as Ireland—generally have not been eligible to immigrate on the basis of family reunification.

This week we have the opportunity to pass legislation that will give us needed tools to address illegal immigration and facilitate a more realistic approach to legal immigration. Our final work product should include an employment verification mechanism, because America's businesses cannot effectively implement the bar against employing illegal aliens without some confirmation mechanism. H.R. 2202 appropriately gives expression to the utility of reviewing immigration levels periodically, but we need to adopt an amendment by the gentleman from Kansas [Mr. BROWNBACK] and the gentleman from Illinois [Mr. GUTIERREZ] that deletes language in the bill imposing a sunset on immigrant admissions in the absence of reauthorization because such a provision can create serious potential hardships for families and major disruptions for American businesses.

There are two other amendments I wish to comment on briefly at this time. An amendment by the gentleman from Florida [Mr. CANADY] will require that employment-based immigrants and diversity immigrants demonstrate English language speaking and reading ability. I plan to support it because I believe that our common language is an essential unifying force in this pluralistic society and a key to success in the American work force. An amendment by the gentleman from Wisconsin [Mr. KLECZKA] reimburses fees to Polish nationals who applied for the 1995 diversity immigrant program without being selected. Such recompense is entirely appropriate because the State Department erred in its handling of applications from nationals of Poland.

This omnibus immigration reform legislation, introduced by the gentleman from Texas, LAMAR SMITH, chairman of the Subcommittee on Immigration and Claims, makes major needed changes in the Immigration and Nationality Act. A number of the bill's provisions are consistent with recommendations made by the Congressional Task Force on Immigration Reform, chaired by the gentleman from California, ELTON GALLEGLY, as well as by the U.S. Commission on Immigration Reform, chaired by our former colleague, the late Barbara Jordan. I also note that the administration finds itself in agreement with significant portions of the bill before us. The extent of bipartisan interest in achieving immigration reform must not be overlooked as Members debate this legislation.

The Committee on the Judiciary, during a long markup on nine different days, improved provisions on both illegal and legal immigration. We favorably reported H.R. 2202 as amended by a recorded vote of 23 to 10.

Immigration reform is very high on the list of national concerns—underscoring the importance of our task this week. I fully recognize the complexity of this issue—socially, economically, and emotionally. These are problems that generate strongly held views. Nevertheless, I am confident that this House will debate these matters with civility, patience and good will. The 104th Congress can make a major contribution toward solving our nation's immigration problems and active consideration of H.R. 2202 represents a forward step in that direction.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, on the other side of the aisle from me is the ranking minority member of the Subcommittee on Immigration, my friend and colleague, the gentleman from Texas, [Mr. JOHN BRYANT]. He has been an equal partner in this effort to reform our immigration laws, and I want to thank him as well.

Mr. Chairman, we now begin consideration of immigration legislation that reduces crime, unites families, protects jobs, and eases the burden on taxpayers. A sovereign country has a profound responsibility to secure its borders, to know who enters for how long and why. Citizens rightfully expect Congress to put the national interest first.

In approving the Immigration in the National Interest Act, Congress will provide a better future for millions of Americans and for millions of others who live in foreign lands and have yet to come to America. This pro-family, pro-worker, pro-taxpayer bill reaffirms the dreams of a nation of immigrants that has chosen to govern itself by law.

Immigration reform of this scope has been enacted by only three Congresses this century. The consideration of this bill is a momentous time for us all.

As the debate goes forward, my hope is that the discussion on the House floor will mirror the high level of debate evident when the Committee on the Judiciary considered this legislation earlier this year. Even though there were disagreements over many issues, the complex and sensitive subject of immigration reform was dealt with rationally and with mutual respect for each others positions. This is not to say that feelings about immigration do not run high. But it would be just as unfair, for example, to call someone who wanted to reform immigration laws anti-immigrant as it would be to call someone who opposed immigration reform anti-American.

The Immigration in the National Interest Act addresses both illegal and legal immigration. As a bipartisan Commission on Immigration Reform and the administration also have concluded, both are broken and both must be fixed. To wait any longer would put us on the wrong side of the strong feelings of the American people, on the wrong side of common sense, and on the wrong side of our responsibility as legislators.

Illegal immigration forces us to confront the understandable desire of people to improve their economic situation. Illegal aliens are not the enemy. I have talked with them in detention facilities along our southern border. Most have good intentions. But we cannot allow the human faces to mask the very real crisis in illegal immigration.

For example, illegal aliens account for 40 percent of the births in the public hospitals of our largest State, California. These families then are eligible to plug into our very generous government benefit system. Hospitals around the country report more and more births to illegal aliens at greater and greater cost to the taxpayer.

I would like to refer now to a chart and draw my colleagues' attention to the one that is being put on the easel right now. Over one-quarter of all Federal prisoners are foreign born, up from just 4 percent in 1980. Most are illegal aliens that have been convicted of drug trafficking. Others, like those who bombed the World Trade Center in New York City or murdered the CIA employees in Virginia, have committed particularly heinous acts of violence. Illegal aliens are 10 times more likely than Americans as a whole to have been convicted of a Federal crime. Think about the cost to the criminal justice system, including incarceration. But most of all, think about the cost in pain and suffering to the innocent victims and their families.

Every 3 years enough illegal aliens currently enter the United States to populate a city the size of Dallas or Boston or San Francisco. Yet less than 1 percent of all illegal aliens are deported each year. Fraudulent documents that enable illegal aliens to become citizens can be bought for as little as $30. Half of the four million illegal aliens in the country today use fraudulent documents to wrongly obtain jobs and government benefits.

To remedy these problems, this legislation doubles the number of border patrol agents, increases interior enforcement, expedites the deportation of illegal aliens, and strengthens penalties. The goal is to reduce illegal immigration by at least half in 5 years.

As for legal immigration, the crisis is no less real. In its report to Congress, the Commission on Immigration Reform said, "Our current immigration system must undergo major reform to ensure that admission continue to serve our national interest."

Before citing why major reform is needed, let me acknowledge the obvious. Immigrants have helped make our country great. Most immigrants come to work, to produce, to contribute to our communities. My home State of Texas has thousands of legal immigrants from Mexico. The service station where I pump gas is operated by a couple originally from Iran. The cleaners where I take my shirts is owned by immigrants from Korea. My daughter's college roommate is from Israel. These are wonderful people and the kind of immigrants we want. To know them is to appreciate them.

As for those individuals in other countries who desire to come to our land of hope and opportunity, how could our hearts not go out to them? Still, America cannot absorb everyone who wants to journey here as much as our humanitarian instincts might argue otherwise. Immigration is not an entitlement. It is a distinct privilege to be conferred, keeping the interests of American families, workers, and taxpayers in mind.

Unfortunately, that is not the case with our immigration policy today. The huge backlogs and long waits for legal immigrants drive illegal immigration. When a brother or sister from the Philippines, for example, is told they have to wait 40 years to be admitted, it does not take long for them to find another way. Almost half of the illegal aliens in the country came in on a tourist visa, overstayed their visa, and then failed to return home. This flagrant abuse of the immigration system destroys its credibility.

Husbands and wives who are legal immigrants must wait up to 10 years to be united with their spouses and little children. This is inhumane and contrary to what we know is good for families. A record high 20 percent of all legal immigrants now are receiving cash and noncash welfare benefits.

The chart I refer to now shows that the number of immigrants applying for supplemental security income, which is a form of welfare, has increased 580 percent over 12 years. The cost of immigrants using just this one program plus Medicaid is $14 billion a year.

It is sometimes said that immigrants pay more in taxes than they get in welfare benefits. However, taxes go for more then just welfare. They go toward defense, highways, the national debt, and so on. Allocating their taxes to all Government programs, legal immigrants cost taxpayers a net $25 billion a year, according to economist George Borjas. His study also found that unlike a generation ago, today immigrant households are more likely to receive welfare than native households.

One-half of the decline in real wages among unskilled Americans results from competition with unskilled immigrants, according to the Bureau of Labor Statistics. Most adversely impacted are those in urban areas, particularly minorities. As the Urban Institute says, "Immigration reduces the weekly earnings of low-skilled African-American workers."

Significantly, wage levels in high immigration States, like California, Texas, New York, Florida, and Arizona, have declined compared to wages in other States, the Economic Policy Institute reports. Over half of all immigrants have few skills and little education. They often depress wages, take jobs away from the most vulnerable among us, and end up living off the taxpayer. Admitting so many low-skilled immigrants makes absolutely no sense.

Those who favor never-ending record levels of immigration simply are living in the abstract. But most Americans live in the real world. They know their children's classrooms are bulging. They see the crowded hospital emergency rooms. They sense the adverse impact of millions of unskilled immigrants on wages. They feel the strain of trying to pay more taxes and still make ends meet.

The Immigration in the National Interest Act fixes a broken immigration system. With millions of immigrants backlogged, priorities must be set.

I would like to point to the chart that shows to my colleagues that under this bill the number of extended family members is reduced in order to double the number of spouses and minor children admitted, which will cut their rate in half.

Greater priority is also given to admitting skilled immigrants, while the number of unskilled immigrants is decreased. Current law, which holds the sponsors of immigrants financially responsible for the new arrivals, is better enforced. This should reverse the trend toward increased welfare participation.

In short, this legislation implements the recommendations of the Commission on Immigration Reform, chaired by the late Barbara Jordan. Professor Jordan, if she was here tonight sitting in the gallery, I know she would be cheering us on. She also would approve of America's continued generosity toward immigrants. Under this bill an average of 700,000 immigrants will be admitted each year for the next 5 years. This is a higher level than at least 65 of the last 70 years.

Our approach to reducing illegal immigration and reforming legal immigration has attracted widespread support. Organizations as diverse as the National Federation of Independent Business, United We Stand America, the Washington Post, the Hispanic Business Round Table, and the Traditional Values Coalition all have endorsed our efforts.

Most importantly, the American people are demanding immigration reform. I would like to point out to my colleagues on this chart that the vast majority of Americans, including a majority of African-Americans and Hispanics, want us to better control immigration.

As we begin to consider immigration reform now, remember the hard-working families across America who worry about overcrowded schools, stagnant wages, drug-related crime, and heavier taxes. They are the ones who will bear the brunt if we do not fix a broken immigration system. Congress must act now to put the national interest first and secure our borders, protect lives, unite families, save jobs, and lighten the load on law-abiding taxpayers.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY] who served so ably as the chairman of the House Task Force on Immigration Reform.

☐ 1830

Mr. GALLEGLY. Mr. Chairman, I rise in strong support of H.R. 2202, the Immigration in the National Interest Act.

I first joined this body nearly 10 years ago, about the time I began talking about the need for the Federal Government to bring badly needed reforms to our Nation's immigration laws. Unfortunately, for many of those years I felt like I was talking to myself.

That is clearly no longer the case. Immigration reform is an issue on the minds of nearly all Americans, and nearly all express deep dissatisfaction with our current system and the strong desire for change. Today, we begin the historic debate that will deliver that change. I truly believe that the bill before us represents the most serious and comprehensive reform of our Nation's immigration law in modern times. It also closely follows the recommendations of both the Speaker's Task Force on Immigration Reform, which I chaired, and those of the Jordan Commission.

Mr. Chairman, the primary responsibilities of any sovereign nation are the protection of its borders and the enforcement of its laws. For too long, in the area of immigration policy, we in the Federal Government have shirked both duties. It may have taken a while, but policymakers in Washington finally seem ready to acknowledge the devastating effects of illegal immigration on our cities and towns.

Mr. Chairman, America is at its core a nation of immigrants. I firmly believe that this bill celebrates legal immigration by attacking illegal immigration. It restores some sense and reason to the laws that govern both legal and illegal immigration and ensures that those laws will be enforced.

Finally, I would like to congratulate my colleague, LAMAR SMITH, who chairs the Immigration and Claims Subcommittee, for putting his heart and soul into this legislation. I would also like to thank him for his spirit of cooperation, and for welcoming the input of myself and the other members of the task force in crafting this bill.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like the Chair to know that I would like to share the duties of managing this measure with the distinguished ranking minority member on the subcommittee, the gentleman from Texas [Mr. BRYANT].

Mr. Chairman, immigration policy is an important subject to African-Americans. We know much about the lack of immigration policy and the consequences, and I am happy to hear that somebody somewhere consulted African-Americans about immigration policy. I am not sure what it was they found out, but I would be happy to explain this in detail as we go throughout the debate. I have been in touch with these Americans for many years.

It is funny how we get these dichotomies. Some people that do not think much of our civil rights laws, who oppose the minimum wage, who do not have much concern about redlining, heaven forbid affirmative action be raised in dialogue. All of these kinds of questions that involve fair and equal opportunity seem to not apply when it comes to African-Americans, who were brought to this country against their will, but we have these great outpourings of sympathy along some of these similar lines when we are talking about bringing immigrants in. It is a curious set of beliefs that seem to dominate some of the people that are very anxious about this bill.

Mr. Chairman, I would like to begin our discussion by raising an issue about ID cards, which is an amendment that will be brought forward by the gentleman from Florida [Mr. MCCOLLUM] which requires, as I understand it, every single individual in the country to obtain a tamper-proof Social Security card. I guess it is a form of a national ID card, which raises a lot of questions. This card is brought on by the need of tracking people that are in the country illegally, and so we are talking about a one or two percentile of the American public that would be required to carry this kind of Social Security card. It might be called an internal passport, which is used in some countries, in some regimes.

Although there will be denials that this is not a national ID card, it is hard to figure out what it really is if everybody is going to be carrying it. There is no limitation on the use to which documents can be obtained such as a Social Security card, and there is little evidence, as I remember the hearings, to show that there would be any reduction of document fraud. As a matter of fact, the Social Security Deputy Commissioner testified that an improved Social Security card is only as good as the documents brought in to prove who they are in the first place. In other words, if a person gets a phony birth certificate, they can get a good Social Security card. So I am not sure what the logic is.

Now, Mr. Chairman, I know balancing the budget is still first in the hearts of the Members of the Congress, and I am here to suggest that the cost for this Social Security card has been costed out at around $6 billion. The annual personnel costs to administer the new system are estimated to be an additional $3.5 million annually. The business sector would be forced to incur significant cost to acquire machinery and software capable of reading the new cards, and there would be many hours required to operate the machinery and iron out the errors. This is to get 1 or 2 percent of the people in this country that are illegal. I suggest that this may be prohibitive and that perhaps we can find a more reasonable way to deal with this very serious problem.

Mr. Chairman, may I turn the Members' attention now to the part that has caused quite a bit of attention in this bill, and that is how we would deal with the welfare provisions of people who come in to the country, what the requirements might be to become sponsors. In one part of this bill, there is a requirement that a sponsor earn more than 200-percent of the Federal poverty income guideline to be able to execute an affidavit for a family member.

The 200-percent income requirement is discriminatory class action and would announce that immigration is only for those that can afford immigration. It would require a sponsor with a family of four to maintain an income in excess of $35,000 to qualify as a sponsor. That means that 91 million people in America would not be able to be a sponsor of a family member for immigration. We may want to consider that a little bit more carefully.

Mr. Chairman, I would also like Members to know about the verification system again. The employee verification system was discussed by the Social Security and the Immigration and Naturalization Service representatives who conceded that their computers do not have the capacity to read each other's data, which would completely foil their worthwhile objective. A recent study by the Immigration Service found a 28-percent error rate in the Social Security Administration's database. This verification requirement, therefore, creates huge possibilities for flawed information reaching employers, which would then deny American citizens and lawful permanent residents the opportunity to work. I hope that we examine this in the course of the time allotted us for this important program.

Mr. Chairman, there is another provision that I should bring to Members' minds. It is known as immigration for the rich. I do not know if Malcolm Forbes had anything to do with this or not, but it reserves 10,000 spots for those who are rich enough to spend, to start a multimillion-dollar business in the United States. In other words, if someone is rich enough, they would be able to get a place in line ahead of other immigrants who are waiting, that may not be able to cough up that kind of money.

There is a problem that we will need to go into about what about drug pushers and cartel kingpins, people escaping prosecution for their home country; in other words, overseas criminals who might have a million bucks and would like the idea of getting out of wherever it is they are coming from. I think we need to think through this very, very carefully.

Mr. Chairman, now comes one of my most unfavorite parts of this bill, and that is the notion that we could bring in foreign workers to displace American workers for any reason. Case in point, there is a newspaper strike in its 8th month in the city of Detroit. Knight-Ridder-Gannett have decided to bust the unions in the newspaper industry. They picked the wrong city, but that was their decision. The fact of the matter is that at the Canadian-Detroit border, they have begun picking up people coming in to work for Knight-Ridder and Gannett who are not American citizens, nor are they legal immigrants.

We are trying to find out, there is an investigation going on where they are hearing about they can get jobs by coming across international borders to gain employment in a company whose own employees are out on strike. I find that objectionable. I hope that we do not continue the practice.

☐ 1845

We also have a situation in the H-1B employers in which we find that they are bringing in even skilled workers. Example: Computer graduates from India who are displacing American-trained computer people. Serious problem, serious problem. I find this when unemployment is still outrageously high in the United States, particularly in urban centers where there are areas in which there is 40 percent unemployment easily. So I would like to discuss and look more carefully at the instances in which American businesses have brought in foreign skilled workers after having laid off skilled American workers simply because the foreign workers are more inexpensively available.

So this program that I refer to as the H-1B program has become a major means of circumventing the costs of paying skilled American workers or the costs of training them. That is in the bill; it is objectionable.

While we are on this subject, I would like to point out, too, there are a number of people on the Committee on the Judiciary who believe bringing people into this country has no effect on the employment rates of people in this country; like, for instance, the more people you bring in that take up jobs, the fewer jobs there are for people inside this country.

Mr. Chairman, it is almost like arithmetic. Bring more in, lose more jobs. Bring fewer in, more jobs are available. That is an immutable law of arithmetic that does not turn on policy about U.S. immigration reform.

I would like to make it clear that this particular measure, which has been pointed out by the Secretary of Labor, who has urged that the displacement of American workers through the use of the H-1B program must be faced, and to do this that program must be returned to its original purpose, to provide temporary assistance to domestic businesses to fill short-term, high-skill needs. There must be a flat prohibition against laying off American workers and replacing them with foreign workers. Is that provision in this bill?

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, first of all I would like to respond to some of the concerns that the gentleman from Michigan [Mr. CONYERS] shared with us. Now, the first was that he was worried about the 200-percent poverty rate level of income that we required of sponsors of immigrants coming into the country. Let me just say that that provision was in the Senate welfare reform bill that passed 87 to 12, with large majorities of both Republicans and Democrats supporting that welfare reform bill.

In addition to that, what this is trying to address is the crisis that we have in America today where we continue to admit people coming in under the sponsorship of individuals who are at the poverty level. So it should not surprise us that as a result of our current immigration law we have 20 percent of all legal immigrants, for instance, on welfare; it should not surprise us that the number of immigrants applying for supplemental security income, a form of welfare, has increased 580 percent over 12 years.

That is the crisis that we are trying to address by simply saying someone has to be solvent before they can sponsor an immigrant coming into the country, when they have to say they are going to be financially responsible for them.

Another concern mentioned by the gentleman from Michigan was in regard to the verification program. I just want to reassure him that it is a voluntary program that is going to be offered as a convenience to employers for

3 years. If it does not work, we will not continue it. But the important point here is that, according to the Social Security Administration, we have a 99.5-percent accuracy rate when all we are doing is checking the name and the Social Security number of someone to find out whether they are eligible to work. The whole point of the verification system, of course, is to reduce the fraudulent use of documents, protect jobs for American citizens and legal immigrants already in this country, and help reduce discrimination at the workplace.

The error rate that the gentleman mentioned was not an error rate. It is called a secondary verification rate, and sometimes it ranges from 17 to 20 percent, as was mentioned. But this is just simply showing that the system works. Those are the times when there was not a person with the right Social Security number, and in many instances those were illegal aliens who should not be employed in this country.

Last, the gentleman expressed concern or endorsed, which I liked, the free market approach to labor in this country, but I want to say to him that that is exactly why I drew up some of the figures I did about the unskilled in this country, when we continue to allow hundreds of thousands of individuals to gain entry to our country who do not have skills and do not have education. As the gentleman said, they are going to compete directly with our own citizens and own legal immigrants who are unskilled and uneducated, and that is why we see so often in the urban areas that wages are depressed and jobs are lost as a result.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. Sensenbrenner].

Mr. SENSENBRENNER. Mr. Chairman, immigration reform, unfortunately, is one of those hot button issues that politicians use for their own purposes. However, here on the floor of the House of Representatives, we should not be politicians, but rather we should be legislators. It seems to me, we should shoulder the responsibility the Constitution gives us to determine what our immigration policy should be and to enact the laws which implement such policy.

H.R. 2202 says our immigration policy should be "In the National Interest"—that immigration should benefit the country as a whole. According to the Roper poll in December 1995, 83 percent of those polled want a reduction in all immigration and 75 percent want illegal aliens removed. H.R. 2202 is a step in that direction.

President Clinton organized a Commission headed by the late Barbara Jordan to study our immigration policies, to see if the current system is working, and to make recommendations if it is not. H.R. 2202 contains over 80 percent of those recommendations—recommendations which include legal and illegal immigration.

The committee will be asked to vote later on to strike some of the sections on legal immigration because they, "don't belong in a bill about illegal immigration." This bill is not about legal or illegal immigration, it is about our national immigration policy—immigration in the national interest. A national interest which is impacted by both legal and illegal immigration.

Unless one supports no border or immigration control at all, then we have to make choices. This bill makes some of those choices. It chooses immediate family reunification—minor children and spouses—over extended family. It chooses skilled and educated workers over unskilled or uneducated, and reserves jobs at whatever level for those who are in this country legally.

And, most importantly, it makes the policy decision that people who are in this country illegally are breaking the law and should leave without protracted litigation that can go on for years. Let us remember almost half the illegal aliens in this country arrive legally.

To say that jobs, education, or taxpayer-financed programs should be for those who are in our country legally is not "anti-immigrant" or "isolationist." Rather it says that the Congress is finally serious about regaining control of our borders. Our first priority should be immigration policies in the Nation's interest not special interests.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

I want to commend the gentleman from Texas [Mr. Smith] for alleviating many of my concerns. I find we have some areas in agreement, and I am delighted to know about them as well.

But I would say that the gentleman is the first person that I have heard in a long time cite as a reason for supporting an amendment is that the other body approved of it. That usually gets the amendment in much deeper trouble than it might otherwise be in.

Now the commission, we are trying to check, and I know Barbara Jordan perhaps more intimately as a colleague than anyone here since I served with her on the Committee on the Judiciary, and I do not know if she would have supported a notion that we had to means test one's family member to bring them in and that they had to make 200 percent of the poverty level to get in. In other words, I do not think Barbara Jordan or myself would want to tell somebody that is making 1½ times the poverty level that they cannot bring their children in because they do not make enough money. That does not sound like Barbara Jordan to me.

Finally, the voluntary program that the gentleman referred to is voluntary to employers. It is not voluntary if someone is seeking a job in the place that the employer may decide to use it. So it is voluntary to some and involuntary to others.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the beginning of last year the gentleman from Texas [Mr. Smith], the chairman of the subcommittee, and I, in my capacity as ranking Democrat on the subcommittee, set about to write a commonsense immigration bill designated to address very real, very objectively provable problems with our immigration policy in the United States today. We set about to write a bill that did not involve Proposition 187 hysteria from the right and did not involve unnecessarily generous efforts to bring in lots of other people, perhaps coming from the left. We set about to write a bill that dealt with real problems. We set about to deal with problems such as this.

Legal immigration, and I am not talking about illegal immigration, I am talking about legal immigration under current law, resulted, between 1981 and 1985, in 2.8 million people entering the country legally. Ten years later, between 1991 and 1995, 5.3 million people entered the country legally, twice as many, and these figures do not include the 3.8 million backlog of relatives of these people who are now waiting to enter the country when their time comes.

Illegal immigration in 1994 also added to the totals. In that year 1,094,000 illegal immigrants were apprehended and deported.

□ 1900

How many succeeded in entering the country and stayed is not known, although most estimates agree it is about 300,000 people. The fact of the matter is, though, we have an enormous number of people coming into this county at a very rapid rate.

The basic question that we cannot ignore, and I appeal to those Republicans who are paying attention to certain businesses that are anxious to have more folks in here so they can get cheap laborers, and many Democrats who are concerned about the civil libertarian impact of this, who are concerned about being fair to people as we have always done on our side; I say we cannot responsibly avoid the bottom line conclusion that we have a huge number of people entering the country legally, and a smaller number but a large number entering the country illegally, and it is increasing our population very rapidly.

Perhaps the best speech in this debate has already been made on the rule, when the gentleman from California [Mr. Beilenson], a member of the Committee on Rules, observed that our current population of 263 million people is going to reach 275 million people in 4 years, more than double the size of the country at the end of the World War II.

The long-term picture of this population situation is even more alarming. Our Census Bureau conservatively projects, and I am reading from his speech, "that our population will rise to 400 million by the year 2050, more than a 50 percent increase from today's level, and the equivalent of adding 40 cities of the size of Los Angeles," and so on. In fact, those are conservative estimates. Many demographers indicate we will be at 500 billion people by the year 2050.

I would just suggest that not one Member of this body can responsibly stand on this floor and talk about how to have to balance the budget to protect future generations or how we have to maintain national security to protect future generations, and not at the same time recognize that we must manage the population growth of this country in a responsible way if we are going to protect future generations. That is simply too many people. It is a question of quantity, of low many come in here.

Neither the gentleman from Texas [Mr. SMITH], nor I harbor the slightest hard feelings toward those that have the courage and the gumption to leave home and come into this country. They are the kind of people with the get-up-and-go that we want. There is no question about that. The bottom line question, though, is how many people can we have come in here and still manage the country in a way that our economy will continue to promise in the future that people who are willing to work hard can get their foot on the bottom rung of the economic ladder and climb up into the middle class. We cannot do that with an unlimited number of people coming into the country year after year after year.

Mr. Chairman, are there things about this bill that I would like to change? Yes, there are. We have had disagreements. There are a number of things that I could criticize. I do not like the fact that we did not, in my opinion, address the H 1(b) problem mentioned by the gentleman from Michigan [Mr. CONYERS], in as effective a way as we might have. It is improved somewhat in the bill, but the fact of the matter is we could have done it much better.

We could have said we are not going to let any American jobs be given up in order to hire folks who are imported for the purpose of taking their jobs. That is what my amendment would have done. I offered it in the Committee on Rules and they refused to let us bring it to the floor. We will deal with that probably on the motion to recommit.

I do not like the diversity program. I opposed it in 1991 when it was put in and managed to get it cut in half in the current bill. I still say it is, in effect, a racist program. It is a designed to try to bring more white folks into the country because somebody does not like the number of Asians and Hispanics entering the country. I think it is wrong to have a program like that in the law at all, even if the bill cuts it in half. I have to say that, like we always do when many bills come up, we are going to have to go along with some things that we do not like in order to get a lot of things that I think we need.

I do not agree with the investor portion of the bill either. But we have to agree on a bill that will reduce the quantity of people coming into the country. That is what we are all about here tonight. Mr. Chairman, I strongly urge Republicans and Democrats alike not to vote to sever the legal immigration changes in this bill from the illegal immigration changes in this bill. If we do that we are voting to kill our attempts to reform legal immigration. It is just that simple.

Not a single person who is voting to sever this bill is coming forward saying, "if you sever it, we will bring it back to the floor. We will deal with it later." Not one of them wants to deal with the question of legal immigration. On the contrary, they want to kill it and eliminate it from the bill.

Think of what that would mean. After eliminating that from the bill, many people then will be left to march around the floor beating their breasts talking about how tough they are going to get on illegal immigration. But illegal immigration amounts to, we think, maybe 300,000 a year; legal immigration amounts to 1 million a year. That is where the big numbers are. We either deal with legal immigration or we admit that we are not going to be serious and not going to have enough courage to deal with the really central problem facing this country in terms of the number of people that are entering. Please do not vote to sever illegal and legal immigration.

Mr. Chairman, this bill was written to avoid the extremes. So far we have done that. If amendments that are offered, such as this foreign agriculture worker amendment, which neither the gentleman from Texas [Mr. SMITH] nor I support, were to succeed, I could not continue to support this bill. The fact of the matter is that it is an anachronism. It was a bad part of our law many years ago. We in 1986 tried to address that problem. We ended up with amnesty and a variety of other remedies to solve the problem. Here we are, right back with it again. Please vote against these extreme amendments. Let us try to keep this thing in the middle of the road.

I could speak a long time about all the things this bill does. There is not time in the general debate to do it. I will simply say this: I wish I could avoid having to deal with this subject. It is so sensitive, it is so subject to mischaracterization, it is so subject to misinformation of people, particularly folks that have strong views about the needs of their own ethnic communities, and so easy to imply that those of us who are trying to do something about the quantity of immigration generally somehow have hard feelings toward them.

That is not true. I think my record is strong enough over the years to make clear it is not true. It is not true of the gentleman from Texas [Mr. SMITH] either. I wish I could avoid the subject. But I will say this: If I did avoid it and I left this House, as I am going to do at the end of this year, I would look back on this year and know that I hid from a problem that was my responsibility to solve at a time when I had a chance to solve it.

I strongly urge my Democratic colleagues and my Republican colleagues as well to help us pass a constructive bill that deals with the question of the vast number of people that are coming into the country, the rapid increase in our population, and preserve a situation in which folks that are trying to get their foot on the bottom rung of the ladder can climb that ladder into the middle class without having to scramble and scrape and fight for jobs with folks that are just entering the country. That is really what we are all about here.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding, and for all his work on this bill. Mr. Chairman, the gentleman indicated it is very important to get the figures accurate. I agree. I just want to cite for the RECORD that I do not think his comments on the level of immigration during the first 5 years of the 1990's is any where near the accurate figure.

The Department of State, in a letter dated March 15, last Friday, responded to a series of questions that I asked, as follows. The first question was: "What was the average annual immigration level for the period 1992 to 1995?" The average annual immigration level, 1992 being the first year that the 1990 changes went into effect.

"By immigration level," I said in the question, "I mean the total of all legal immigration categories, including refugees."

The answer that the Department of State said was, "The annual average immigration level for the period 1992 to 1995, based on total immigrant admission figures, is about 801,000," not 1 million or 1¼ million, to come to a 5 million——

Mr. BRYANT of Texas. Mr. Chairman, if I may reclaim my time, I think what I said was between 1991 and 1995 we had about 5 million people coming into the country. The gentleman's figures does not seem to contradict that.

Mr. BERMAN. It does. It is substantially less than that. That would be an average of 1 million people a year. In 1991 it was under the old law, it was less. The new law, which went into effect in 1992, the average was 800,000. That is barely over 3 million for those 4 years. It is substantially less.

I just wanted to clarify the Record. That includes, Mr. Chairman, refugees as well as all the other legal immigration categories. What it does not include are about 50,000 legalization categories, which are people already in this country. I just wanted to indicate that the Department of State, which has the most accurate records on legal admissions, indicates the figure is significantly less than 1 million a year.

Mr. BRYANT of Texas. Of course, I would dispute that it is significantly less, even if those figures are accurate. We are working with figures that we have worked with throughout this debate that were brought to us by the Commission on Immigration that Barbara Jordan chaired.

The bottomline figure, however, still is the same. The number of people who are entering the country is enormous, and the biggest number of people entering the country are in the category of legal immigrants.

The gentleman is advocating, as a number of my friends are, and I wish they were not, that we sever legal immigration from illegal immigration, meaning that we leave out, if we take his figures for a minute, and we leave out the question of 800,000 a year, and I say a million, we leave out that question, but we get real tough here on 300,000 illegal immigrants that are entering the country.

I would just suggest that it makes no sense to omit legal immigration. If you are concerned about the rapid growth in our population, and I did point out that between 1981 and 1985 legal immigration was 2.8 million, and from 1991 to 1995 it was 5.3 million, about twice as much, and even by Mr. Berman's figures it would be a lot more, if not twice as much, the problem is the quantity of people. How can we not deal with legal immigration if we are going to look at the problem of quantity of people coming into the country? I say we have to.

Mr. SMITH of Texas. Mr. Chairman will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I just want to say to the gentleman that his figures are absolutely correct. I am reading from the chart put out by the INS called "Immigration to the United States, Fiscal Years through 1993." Of course, in 1993 we had 904,000 admitted; in 1992, 973,000 admitted; in 1991, 1.8 million; 1990, 1.5 million; 1989, over 1 million. The gentleman is correct, the average has been over 1 million a year.

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, those figures do not reflect legal admissions through the legal immigration system. The gentleman is lumping in the legalization program for people who are already here.

The Department of State administers the granting of visas for people to come into this country. Their figure is the accurate figure. It is about 800,000. I do not want to belabor this point. There is a lot I can say in response, but I will wait for my own time.

Mr. BRYANT of Texas. Mr. Chairman, I would just conclude by saying even if we took the gentleman from California's figures, my speech would be identical. I would not change a single sentence in it. We have to deal with this huge quantity of people. We have to deal with legal immigration. We cannot just talk about illegal immigrants and try to scapegoat them. We have to deal with legal immigrants as well.

I would point out the politically potent groups lobby in regard to the legal immigrant category. The less powerful groups speak for the illegal immigrant category. So we are being asked to leave out the biggest numbers, those of legal immigration, and just pound on the illegal immigrants. That is, in effect, what is going on here. Let us deal with this subject comprehensively, both legal and illegal. I urge Members to support this bill, to vote against the more extreme amendments that might be offered, and let us do what is in the interest of our country.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to strongly support H.R. 2202, the immigration bill before us. I have served on this subcommittee and worked with immigration for all the years I have been in Congress. I cannot think of any more important immigration legislation to pass than this bill.

Mr. Chairman, I can testify to the fact that the legal immigration provisions in here are exceedingly important and exceedingly generous, contrary to what we might hear some other people say. With the exception of the period of legalization or amnesty that occurred after the 1986 law, the 3.5 million people that this bill would allow to come into this country legally over the next 5 years would be the highest level of legal immigration over the last 70 years. So make no mistake about it, this is not a restrictionist proposal that has come out of the committee on legal immigration.

In fact, there are some good features about it, very important features. We have been skewing the legal immigration so much toward family reunification and so much toward preferences, such as allowing brothers and sisters in of those who are here legally, that we have not been taking in the traditional numbers of seed immigrants who have special talents and skills but do not have any relatives here whom we should, and whom historically this country has and upon whose hard work we have had the great melting pot and the great energy we have had to make this economy and this great free market Nation of ours. So I urge the legal immigration provisions be maintained in the bill and be adopted.

On the illegal side, the bill has great provisions in it to remedy defects with the asylum provisions. We have had people claiming political aslym wrongfully and fraudulently for years now, saying that they would be harmed by being sent back home for religious or political persecutions of some sort. As soon as they set foot in an airport they say the magic words and they get to stay here.

This is wrong. They should not. There should be a summary or expedited exclusion process to deal with those people, especially those who do not make a credible claim of asylum when they first set foot off the plane. This bill remedies the problem, and it sets some real time limits for applying for political asylum.

Last but not least, it deals with the big problem of illegal immigration overall. There are about 4 million illegals here today. We have granted legalization to about 1 million over the last 10 years. We have 4 million permanently residing in this country today, and we are adding 300,000 to 500,000 a year. That is too many to absorb and assimilate in the communities where they are settling. They are settling in very specific communities, and they are having negative social and cultural impacts on those communities.

The only way to solve the illegal immigration problem is to cut the magnet of jobs, which is the reason they are coming. About half are coming as visa overstays, so no matter how many Border Patrol you put on the border, you cannot stop the flow of illegals here. The only way to do that is to make employer sanctions work. That has been a provision in law since 1986, that says it is illegal for an employer to knowingly hire an illegal alien.

The reason that has not been working is because of fraudulent documents, because the employer has not been able and the Immigration Service has not been able to enforce that law. I am going to offer a very simple amendment here shortly that is going to go to that problem on the Social Security card, which will be one of the six cards, one of the six documents that we will have to choose from when you go to seek a job, to show that you are eligible for employment after this bill passes.

I think what we need to do is simply require the Social Security Administration to make the Social Security card, which is the most counterfeited document in the country, be as secure against counterfeiting as the $100 bill and as proofed against fraudulent use as the passport. It would go a long way to cutting down on fraud and it would make employer sanctions work.

Mr. BRYANT of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

□ 1915

Mr. BERMAN. First, Mr. Chairman, I want to say both to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration, and to the gentleman from Texas [Mr. BRYANT], the ranking Democrat, that we do have some strong differences on several aspects of this bill. But I think the debate undoubtedly during the next couple of days can get very heated on a subject which is very passionate. I just want to start out indicating that I have the greatest respect for both gentlemen from Texas. These are not Pat Buchanan clones sitting on the House floor that would seek to build walls around this country. Their proposal, while I think is much too drastic a cut in legal immigration, still recognizes legal immigration. I do not believe that it is motivated by racism or xenophobia, and I compliment both of them because they have become experts in the subject and believe sincerely in where they are coming from. We just have a fundamental difference.

The rates of immigration as a percentage of the American population now are far lower than they were at any time in the 19th or early 20th century, far lower than they were at that particular time. The bill before us, we will see charts undoubtedly during the debate which will talk about backlog visas and other visas to try and show that the cuts are not severe. The fact is the cuts in legal immigration are close to 30 to 40 percent. The backlog visas that are given for the first 5 years or so are essentially to legalize people who are already here, who are protected under family unity, who came in under the legalization program. These are people who within the next year or two, in any event, will be legalized through the normal legalization process because they will have naturalized and be able to bring in spouses and minor children.

The harshest part of this bill is it essentially ends, and I say that advisedly, it essentially ends the right of U.S. citizens to bring in adult children and parents. It also wipes out any right to bring in siblings notwithstanding the fact that there are so many people who have waited so patiently, who have followed the rules, who have accepted the appropriateness of following the law and waited in line. This just cuts them off at the knees and says, "We don't care."

Why do I say the gentleman from Texas undoubtedly will agree that his bill wipes out the right to bring in siblings and protects no one in the backlog so that a person who has been waiting 15 years to come into this country, if his number does not come up before the effective date of this law, will be wiped out? But he will argue with me about parents and adult children. But I think if one reads the bill, he will accept my view of why I say this bill effectively eliminates that right.

With respect to parents, initially the bill created no guarantee for parents, and the State Department came in to our subcommittee and said, and there has never been a bit of refutation of that, that the spilldown effect from spouses and minor children and the using of those slots would eliminate every parent from admission for the next 5 years.

So in full committee, the chairman of the subcommittee offered an amendment to create a floor of 25,000. But along with that floor, the bill contains provisions to say that that parent has to have come in where he has already secured a health insurance policy and a long-term care insurance policy.

I venture to say there are not 10 people in this House of Representatives that will have long-term health care insurance. Where you can possibly find it, except for being in Congress, which is not necessarily long-term insurance, but the fact is I do not know where you can find it, but if you can find it, the average cost of that kind of policy is $9,000 a year. With children, the exception to the flat ban on adult children is unmarried, never married, between the ages of 21 and 25, if they have been claimed as a tax deduction, for which there are only two countries in the world in which an American citizen is allowed to claim a tax deduction for supporting a child abroad, Canada and Mexico. This bill wipes out adult children.

There will be an amendment to correct this sponsored by the gentleman from Michigan [Mr. CHRYSLER], myself, the gentleman from Kansas [Mr. BROWNBACK], the gentleman from California [Mr. DOOLEY], the gentleman from Virginia [Mr. DAVIS], and the gentleman from Illinois [Mr. CRANE]. I urge the Members to look at that. Legal immigration is good for this country.

I also at some other point, if there is time left in general debate or later on in the amendments, want to speak to the Pombo amendment which as we sit here and trumpet how we are going to stop illegal immigration, and here I am joined by my colleagues from Texas, would create a massive loophole for a new agricultural guest worker program which would flood this country with foreign guest workers at a time when we have a massive surplus of farm labor creating just the kind of job displacement that both gentlemen from Texas have spoken about.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like first of all, before yielding to my colleague from California, to put in historical context a couple of statements that my friend from California [Mr. BERMAN] made. He mentioned the high immigration level at the early part of this century. In point of fact, in the current decade of the 1990's we will admit more immigrants than any other decade in this country's history. In fact there was a high level of immigration from about 1915 to 1924, but it was followed by 40 years of extremely low immigration levels. No one here is asking for that. In addition to that, of those individuals who came in in such great numbers at the turn of the century, about one-third returned to their home country rather than staying here permanently.

Also I am reminded of a quotation by John F. Kennedy, who wrote a book in 1958 entitled "A Nation of Immigrants." He said in arguing for a limit on legal immigration that the reason we should have a limit is because we no longer need settlers to discover virgin lands and we no longer have an economy growing at the rate as at the early part of the 20th century. When John Kennedy made that statement, legal immigration rates were one-fifth of what they are today.

Also in regard to the point my colleague made about the extended family members, what this bill does is to follow the recommendation of the Commission on Immigration Reform, which said when we have millions of people waiting to come in and the waits are decades long, we have to set priorities. The priority we chose and the priority other commissions have recommended is to put the interest of the close family members first. In other words, the reason we have reduced or eliminated the extended family members is to make more room for the close family members. If the choice is between admitting a 6-year-old daughter or a 60-year-old brother, we think the choice should be with the minor child. We make no apologies for that. We think that is in the best interests of the family and the best interests of the country.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I support the proposition that we not separate illegal immigration from legal immigration in this bill, but I think when we speak about them that it is very important to differentiate between the two.

I would like to speak primarily to the education problems that we have in the State of California, and Members can also relate them to their States, especially the border States. In California, we have over 800,000 illegals, kindergarten through 12th grade. Let us just take half of that. Take 400,000, half, so that the numbers cannot be disputed. It takes about $5,000 to educate a child per year. Take that times 400,000. That is $2 billion per year. Take a 10-year period, we are talking about $20 billion out of the coffers of Sacramento for our school systems.

Take the school meals program, 185 percent below poverty level times 400,000, at $1.90 a meal, that is $1.2 million a day for illegals in the California school system. That is just two meals. That is not three that they quality for.

The increased burden on the school systems of separate bilingual education and social services for the poor is billions of dollars out of Governor Wilson's budget. We have between 16 and 18,000 illegals in our California Federal prison system, in the California State prison system. It costs about $25,000 each to house them. We talk about sometimes building more prisons than we do schools. There would be a lot of room at the end of the prisons, maybe we could build more schools, if we did not have those illegal felons in our prison system.

I take a look at the burden on California hospitals. "20/20" and "60 Minutes" did a report, the problem was so bad in the border States, they did specials on TV where a large percentage, over 50 percent, of the children born in Los Angeles and California hospitals are illegal aliens. Those children then become American citizens and then are burdens on society.

I take a look at teacher strikes, classrooms that are not upgraded, and cut programs, and college programs, increased tuitions. We would have billions of dollars to spend if we could handle just the illegal situation.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS], who is a member of the Committee on the Judiciary.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I come to this debate with a tremendous prejudice which is born of the fact that I am a son of immigrants and the cousin of immigrants and the nephew of immigrants and distant relative to many immigrants. One would believe at the outset that I would be supporting any measure to retain the present system of legal immigration and allow all people who want to come to our Nation to safely arrive and begin to become American citizens. That prejudice I must set aside in the greater good of our country, and as a responsible public official, which I deem myself to be, I know that the time has come that we must do something about the total number of individuals who live in our country, or who will be coming into our country. So I am willing to set that prejudice aside for the time being for the purposes of this debate, not just for the time being but for a final conclusion of a bill that will do something about the sheer weight of numbers that we have of people in this country.

The other prejudice I have, I must confess, is in favor of the bill as it came out of the Committee on the Judiciary. Why am I prejudiced in favor of the bill? It does seek to do exactly what I feel must be done, namely, to corral the gigantic numbers that we can foresee as future residents of our country; to lasso that in so we can control it better is a proper policy target for the Congress of the United States. And so I come to the floor eager, prejudiced against trying to change anything that is in the bill, partly because the chairman of the subcommittee very graciously accommodated many of us when we attempted in committee and succeeded to negotiate with him ameliorative changes that came a long way toward meeting numbers of concerns.

So where are we? I am willing to set aside the prejudice that I have as a son of immigrants and I am willing to set aside the prejudice that I have that this is a bill that should be passed unchanged. I know that we have concerns. I have met some people in the corridors and in the offices all day today concerned about the unification features of the quotas, who are concerned about verification by employers, who are concerned about a great number of things. But one thing we must all agree, we should not allow the separation of the issues of legal and illegal immigration because we are dealing with one great number, and it is that number which we must fashion best for our Nation.

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Mr. BRYANT of Texas. Mr. Chairman, I yield 4½ minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, let me commence by doing the same thing I did during the debate on the rule, and that is, of course, to acknowledge the work of the chairman of the subcommittee, the gentleman from Texas [Mr. SMITH]. I will echo the words of the gentleman from California [Mr. BERMAN] in saying that I think Mr. SMITH worked as faithfully and as honestly as he could to try to craft a bill that could come to the floor and get the vote of every Member of this House, and I am proud to have been able to work with him.

I must, unfortunately, still say I oppose the bill for a number of reasons. I do not believe, unfortunately, that what we have before us is a bill that really does reform, in a meaningful way, legal immigration. And I believe that we have gone beyond the realm of reasonableness on the issue of illegal immigration. Let me touch on some of those matters.

First, as much as this Congress likes to talk about being family friendly and believing in family values, this bill will ultimately break up families. When you consider as distant relatives within this bill a child of a U.S. citizen or a parent of a U.S. citizen, or a brother or sister of a U.S. citizen, I think you have gone astray. But this bill does exactly that. When you tell a refugee, someone who has had to flee a country in fear of death, that they have a very limited time period within which to make that claim for refuge to the United States and that they lose all chance of being able to prove a claim that they are trying to escape death or persecution, we have lost the great meaning of the Statue of Liberty.

Then the bill tells American workers in two respects something very onerous: First, we are in this bill going to preserve and protect businesses, but workers, no—because there is great pressure right now for this bill to be amended to help businesses continue to be able to bring in foreign workers, especially those with substantial skills.

I do not object to that. But I do object to the fact that political pressure is probably going to help certain interests gain something in this bill while other interests—families, citizens trying to bring in their relatives, their children—will not gain anything.

But perhaps the most onerous provision in this bill is the one that says that growers in our agricultural sector can bring in upwards of 250,000 foreign temporary workers—import workers—just in the first year alone to do the work that we have thousands, if not millions, of Americans prepared to do who are unemployed a good portion of the year, but willing to do. That, I believe, is a sin against America's workers who are saying, "I am ready and willing to work." But we have before us a proposal in this bill that would say exactly that: Let us import at least 250,000 foreigners temporarily.

Then we have the issue of the problem of undocumented immigration. And we find in this bill that perhaps the greatest source of undocumented immigration, those who come into this country legally through some visa—a visitor's visa, a student visa—and then stay beyond their time, that they are permitted into the country and then become undocumented because their visas expire and they no longer have a right to be here. Those individuals can continue to come in, and we do nothing in this bill to try to prevent that.

Yet, we are being very harsh by telling a young child who probably had no say whatsoever in what his or her parent would do in coming over into this country, across the border, that that child will no longer be educated even though there is a Supreme Court decision saying children should not pay for the sins of their parents and they are entitled to be educated.

Who are the winners, and who are the losers? Well, I have mentioned a few. Let me mention a couple more. The Federal Treasury and the IRS, because in this bill we are telling legal immigrants they must pay taxes, abide by our laws, in fact, even pay the greatest sacrifice of serving this country in time of war, yet they will not be able to receive services provided by the Federal Government. Why? Well, because they are not yet citizens. So they cannot vote, and most of these folks probably do not give a lot of money to political campaigns. So there is no political risk in going after these folks. I think that is perhaps one of the most onerous things about this debate. That is the one issue that probably will get the fewest votes on behalf of immigrants, because, you know what, there is no support in this House for legal immigrants because there is no need to support someone who works hard, is law-abiding, church-going, starts up a business more often than a native-born U.S. citizen—the studies tell us that—works longer hours than most citizens do, is healthier than most citizens, has a longer life span than U.S. citizens—because they do not have some of the unhealthy habits that most citizens grow up with—but can't vote. Yet we are telling them pay your taxes and be ready to fight for this country in time of war, but yet if you should by some chance lose a job, you will not have access to the services U.S. citizens have. The only distinction you have compared to another American is you have not yet been able to become a U.S. citizen.

I think that is so egregious. I believe the Statue of Liberty and everything this country has stood for in its Constitution is being abrogated as we go this last step of telling folks who are legally here, we want your money but we do not want you to be able to take part fully in American life as those who reside in this country as citizens.

I would oppose this bill for that and a number of other reasons which I have not had an opportunity to discuss.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, just to correct a couple of facts of the gentleman from California [Mr. BECERRA]. The guest worker program is out of this bill. The gentleman from Texas [Mr. BRYANT] said it. The gentleman from Texas [Mr. SMITH] said it. There is no specter of some big corporation with campaign contributions driving this bill.

Second, minor children up to 21, children who are students up to 25 are allowed in this country. Do not talk about how we are keeping kids out, because someone is coming in to get a job.

I would like to debate the guest worker program. I do not think they are standing in line to get a job picking fruit in California. We have a shortage of people who want to work.

This bill is long overdue. I rise today in strong support of H.R. 2202, a bill that will take back our borders, save taxpayers billions, and protect jobs for American workers.

My home State of California is being hit hard by the effects of illegal immigration. Approximately one-half the estimated 3 million illegal aliens in the United States reside in California—200,000 new illegals enter California every year. Forty percent of all the births, as the gentleman from California [Mr. CUNNINGHAM] said, in southern California public hospitals are to illegal aliens. What is the price tag for this tidal wave? It is about $3 billion. Education, $1 billion. Emergency health care, $650 million. Imprisonment, anywhere from $350 million to $500 million for the 16,500 prisoners we have in our State prison system, enough to build 3 new prisons.

As we call on States to take greater responsibility for social programs, we must stop the endless flow of illegal migrants who come to this Nation to take unfair advantage of taxpayer-funded assistance. As a member of the task force on illegal immigration, I am committed to finding effective solutions to our illegal immigration crisis. H.R. 2202 has implemented the guidelines included in this task force report. I commend the chairman, the gentleman from Texas, Mr. LAMAR SMITH, and the ranking minority member, the gentleman from Texas, Mr. BRYANT, for their good work on this legislation.

H.R. 2202 will reduce the opportunity for illegal aliens to take American jobs. H.R. 2202 reduces from 29 to 6 the number of acceptable documents to establish employment eligibility. Further, worker eligibility verification pilot programs in California and other States will be implemented. Employers will be able to verify status of potential workers with a system as simple as a phone call.

The bill provides streamlined deportation guidelines, creates tracking systems to prevent visa overstays and enhances the Federal role in illegal alien document fraud and smuggling.

Mr. Chairman, H.R. 2202 will help reduce illegal immigration by up to 50 percent in 5 years. It doubles the number of border patrol agents over 5 years, increases funding for technologies that will let border forces hold the line against the stream of illegal immigration into California. Nationwide applications for welfare among immigrants have increased 580 percent in the last 14 years.

H.R. 2202 prevents illegal aliens from receiving public benefits, saving us $25 billion. It is clear that, as sound as these provisions are, the illegal immigration crisis in this Nation will not end unless we address core principles of illegal immigration. Do not allow them to split this vote. The bill eliminates billions spent on benefits that do nothing more than entice illegal aliens into the United States.

I ask for an "aye" vote.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this legislation.

I would first off like to congratulate the chairman of the Immigration Subcommittee, Congressman SMITH and Congressman ELTON GALLEGLY for their perseverance and diligence in seeing this legislation through. The gentleman from Texas has worked extremely hard to accommodate differing views and in doing so has crafted the kind of immigration reform legislation that this country so desperately needs. And Congressman GALLEGLY has put equal efforts and leadership in the bipartisan immigration task force on which I served.

H.R. 2202 is a tough bill, and it should be. And, it recognizes the most important truth to immigration—that legal and illegal immigration cannot be separated. Without addressing the deficiencies in our current legal immigration system, we will forever be unable to stem the flow of illegal immigration. Plain and simple.

I would also like to take this opportunity to commend our colleague from California, Congressman GALLEGLY, the chairman of the bipartisan task force on immigration reform. As a member of this task force, I had the privilege of working with him to investigate and propose solutions to our out of control illegal immigration problem which make up most of this bill's illegal immigration provisions.

This legislation could be known as the law is the law bill. No open borders.

As we all know too well, illegal immigration in this country is out of control. Every year an estimated 400,000 new illegal aliens appear throughout the country adding to the over 3.2 million already here. However, what many people do not realize is that only half of these illegal aliens enter at our borders. The other half comes from those who are legally admitted but who overstay temporary visas, namely student, tourist, and business visas. This is one of the main reason's that we must tackle the issues of illegal and legal immigration reform together.

Illegal immigration brings with it many costs to the taxpayer: The cost in jobs, the cost in welfare, health care, education, and other benefits, and the cost in street crime. New Jersey alone accounts for almost 5 percent of the Nation's illegal alien population. These

125,000 undocumented immigrants cost New Jersey taxpayers an estimated $160 million annually for public education, incarceration, and Medicaid services alone.

H.R. 2202 says enough is enough. Illegal aliens will no longer receive any of these benefits, except for certain emergency medical and nutrition services. Our Nation is faced with an almost $5 trillion debt and annual $200 million deficits. Our limited funds should be spent on law-abiding citizens and taxpayers. Period.

The bottom line is that for too long we have not been enforcing our own laws which prohibit illegal aliens from permanent entry into the United States nor have we made enough effort to address reforms to enforce these laws.

Well, H.R. 2202 finally takes the steps necessary to enforce these very laws. Among other things, this legislation strengthens control of our borders by: Increasing the amount of border patrol agents by 1,000 for the next 5 years, increasing the number of INS officials at ports of entry, acquiring sophisticated alien tracking equipment, issuing border crossing cards, and using closed military bases to detain illegal aliens. It also increases enforcement and penalties against alien smugglers and those engaged in document fraud.

Most importantly, this bill streamlines and expedites procedures for deporting and excluding illegal aliens. Persons making legitimate claims of asylum must get one hearing and one appeal—no more endless delays, appeals, and readjudication of immigration cases.

Under H.R. 2202, those who do not have proper documentation can be removed without further hearing or review. A second important reform requires aliens to apply for asylum within 30 days of arriving at a port of entry. If an alien applies for asylum and is found to have no credible fear of persecution, he can be removed without administrative review. Finally, an alien will undergo a single removal hearing taking place 10 days from his notification. He is entitled to one appeal only and, if he does not show up, then he can be removed.

But, I strongly believe that we must go even further than this. We must make it very clear to illegal aliens that they can't keep breaking our laws. That is why I will be joining my colleague from Washington, Congressman TATE, to support a one strike and your out system for illegal aliens who are caught and deported.

The bottom line is that we will never have the necessary money, resources, and manpower to end all illegal immigration. Illegal aliens are not only costing Americans in low-wage jobs, but they are costing the American taxpayer tens of billions of dollars in social services as well of tens of billions of dollars in enforcement and monitoring costs. This is money that should be going to improve the lives of American families—it should not be wasted on those who choose to break out laws. And, if they choose to break our laws, then they have to play by our rules. If you want to play the game of chance, then you have to be willing to pay the ultimate price. You can't come back again.

We have a commitment to all those people who are waiting months, years, some up to 10 years, to come to this country legally. Just as my grandparents waited legally to get in here, and just as my husband's parents waited legally to get in here, we must enforce the law.

At the same time, we must recognize that there is not enough room in the United States to continue an open-ended legal immigration policy when we are presently unable to assimilate those already here.

However, this country should not and will not deny its great tradition of the melting pot. No one will argue that immigrants have formed the backbone of our country. Immigrants from all over the world have helped make this great Nation what it is today. But, that does not mean that the current system is not in need of substantial reform. It is. No one would propose an open border policy, but that is in essence the practice today because our laws are so inadequate.

As many of you know, the problems with legal immigration date back to 1986 when Congress passed the Immigration Reform and Control Act. I voted against this legislation which gave lawful permanent resident status to 2.7 million illegal aliens. What this also did was afford them the benefit to petition for relatives under the family preference system. This has had the effect of pushing back many of those who had legally waited for their turn to enter the United States. They played by the rules but they still lost out.

In 1990, Congress enacted the first comprehensive reform of legal immigration since 1965. Family and employment-based preferences were separated and employment-based preferences almost tripled from 54,000 to 140,000. Moreover, there were no longer limits on family related categories for immediate relatives—spouses, unmarried minor children, and parents.

Consequently, we witnessed an annual influx of 700,000 legal immigrants until 1990 and an influx of almost 1 million legal immigrants every year since. Not only have States been unable to accommodate the huge numbers of legal immigrants coming to the United States in recent years, but more than 80 percent of them are low skilled and uneducated. Unfortunately, this is a problem that we cannot work around.

Therefore, we must reduce legal immigration to a level that our country can absorb while recognizing that the admission of certain groups of legal immigrants, particularly nuclear-family members and those with high skills/education, are in the best interest of American families, American businesses, and the American economy.

In New Jersey our foreign-born population reached 13.5 percent in 1994, our highest level since 1940. One can certainly recognize why the last surge in legal immigration took place 55 years ago—our country was becoming more and more industrialized, and many more jobs were to be found. But, in this current economic climate of corporate downsizing/mergers, technological advancement, and free trade, State's such as New Jersey cannot absorb large numbers of people from overseas.

If we set aside shear numbers and focus on the low skill/education level of many legal immigrants eligible to come to the United States, the impact is even greater. In the New York/New Jersey region 40 percent of foreign-born residents do not have high school diplomas, and 10 percent are unemployed, far greater than the 4.5 to 6.5 percent that the rest of the Nation has experienced the last few years. In New Jersey alone, 26 percent of all foreign-born residents are at the highest poverty level.

The low skills/education of many legal immigrants being admitted to the United States has devastating consequences. These individuals drain money from our social service system in the form of public benefits. In fact, they receive $25 billion more in benefits than they pay in taxes. An even more startling fact is that SSI for legal immigrants has increased by 580 percent in the past 12 years. We just cannot afford to continue to provide unlimited services when our own citizens are living below the poverty level, without health care, without jobs.

That is why, for the first time, H.R. 2202 would make a sponsor's affidavit of support for a legal alien legally binding. This means that a sponsor's income and resources must now be taken into account when determining a legal alien's eligibility for the most public benefits. No longer will a legal alien be able to come to the United States and live off of our welfare system without the sponsors being held accountable. If an alien ends up becoming a public charge, by receiving 12 months of welfare benefits within 7 years of arrival, he could be deported. And, prospective sponsors must show that they could support both themselves and the sponsored immigrant at a minimum of twice the poverty level.

The admission of low skill/educated legal aliens has also resulted in 50 percent decline in real wages for high school dropouts. With fewer low wage and service jobs available, high school dropouts already living in the United States are having to compete with legal immigrants—who might be willing to accept lower wages because the wages are still far better than what they would have received in their home country. Consequently, with more people looking for work, employers can lower wages and still know that their work will get done.

H.R. 2202 ends the low-skilled preference program in order to keep more low wage jobs available for those without/with only high school diplomas without expanding our welfare system. At the same time, this legislation also recognizes that highly skilled/educated foreigners are invaluable in making American companies more globally competitive, and that their contributions will only create more jobs for Americans in the future.

But, in order to make sure that employers are playing by the rules, there must be guidelines and enforcement mechanisms in place. While this legislation helps to protect American workers from being replaced by temporary foreign workers—the H-1B temporary visa program—it does not go far enough in making sure that employers don't hire illegal aliens/unauthorized workers to cut costs. Just as we require illegal and legal aliens to abide by the law, so too much employers.

The original legislation, as passed by the Judiciary Committee, contained a worker phone verification pilot program under which employers in the five States with the highest number of illegal aliens would be required to verify the eligibility of a prospective employee with their Social Security number. The purpose of the system was to make it easier for employers who continue to struggle understanding the employer enforcement requirements of the Immigration Reform and Control Act of 1986 [IRCA].

Under IRCA, employer sanctions are imposed on any employer who knowingly hires an illegal alien unauthorized to work in the United States. Employers are required to verify eligibility and identity by examining up to 29 documents and completing an INS I-9 form. In enforcing these measures, employers are allowed a good faith defense and are not liable for verifying the validity of any documents, but instead are only responsible for determining if the documents appear to be genuine.

However, increased numbers of fraudulent documents—Social Security cards, birth certificates, green cards, and work authorization cards—have made it difficult for employers to weed out illegal aliens. And, INS has been more concerned with sanctioning employers for paperwork violations, such as incorrectly completing I-9 forms, than with helping employers expose counterfeit documents and unauthorized/illegal workers.

Although H.R. 2202 importantly reduces the number of allowable documents from 29 to 6, significantly decreasing an employer's paperwork burden, it has changed the five State mandatory pilot program into an all-voluntary one. Opponents of the pilot claim that it will give the Federal Government the power to decide who works for whom. In addition, they fear that informational mistakes made by the computer system could either be used against an employer as evidence of hiring an illegal alien or could be used against a prospective employee as evidence of discrimination.

In fact, under this program, an employer is provided with a good faith defense shielding him from liability based on the confirmation number he receives after verifying an employee's social security number. And, if an employee is not offered a position because of faulty information which cannot be resolved within a 10-day period, than he is entitled to compensation under existing Federal law. Southern California has in place a similar pilot program that began with 220 employers. After 2,500 separate verifications and a 99.9 percent rate of effectiveness, it is now being used by almost 1,000 businesses.

That is why I will be supporting the Gallegly-Bilbray amendment to reinstate the mandatory pilot program. The purpose of the program is to make it easier for employers to verify the work eligibility of prospective employees. It will help to prevent confusion over documents, alleviate concerns about hiring someone who looks like he is illegal, and hold employers accountable for their hiring decisions. Without such a mandatory system, unscrupulous employers will continue to knowingly employ illegal aliens. And this is the end to the means for the 400,000 illegal aliens who enter our country every year. As long as the jobs are there, and someone is willing to hire them to do the work, they will always keep coming.

I deeply regret and am grieved to say that the business community is seeking low paid workers and feeding the immigration crisis. I implore the business community—make this good faith effort with us. Be part of the solution, not part of the problem.

Finally, because current law prevents us from denying one particular costly service to illegal aliens, public education, I will be supporting Congressman GALLEGLY's amendment giving States the option to deny public education to the children of illegal aliens. In 1982, the Supreme Court ruled that under the 14th amendment the children of illegal aliens cannot be denied a public elementary and secondary education. However, last November a Federal district judge in California ruled against Proposition 187 saying that only the Federal Government has the authority to regulate immigration.

Congressman GALLEGLY's amendment is consistent with this most recent ruling. Through congressional action, each State can decide whether or not it wants to divert resources away from educating the children of its hard-working taxpayers. In the case of New Jersey, this would mean having an additional $150 million available to improve public education for the State's children of citizens and legal permanent residents.

For all of the reasons mentioned, I hope all my colleagues will support this legislation. Congressman SMITH has made an extremely complex bill look easy. H.R. 2202 contains virtually all of the ingredients needed to fix the myriad problems of our current immigration system. These are common-sense reforms which recognize that, although substantial differences exist between legal and illegal immigration, they cannot be separated from one another.

Removing the legal immigration provisions would be like passing an anti-terrorism bill without the ability to designate groups as terrorist. Well, we have already done that, so let us not do it again. Do not take the teeth out of this bill.

Support all of H.R. 2202.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in strong support in H.R. 2202, the Immigration in the National Interest Act.

I am a strong supporter of both illegal and legal immigration reform and I am gratified to have the opportunity to debate this important matter on the floor of the House. But before I continue, I would be remiss if I did not commend LAMAR SMITH and JOHN BRYANT, chairman and ranking member of the Subcommittee on Immigration and Claims, for the leadership they have shown on this issue. Our Nation is in dire need of comprehensive immigration reform and I thank them for taking on this difficult task.

We are all aware of the tremendous strain that the massive inflow of illegal aliens is having on Texas and other border States. Illegal aliens and criminal aliens are having a significant impact on State services, such as health care, public safety, education, and criminal justice.

However, in addition to combating illegal immigration, I believe that we must also address legal immigration in a fair manner. I am not opposed to immigrants coming to America seeking a better life, for I am a descendent of Swedish immigrants. And while I believe that the majority of immigrants have made, and continue to make, significant contributions to our society, I oppose increasing immigration levels until we control the overwhelming number of illegal aliens coming into our country.

In order to combat and deter illegal immigration, H.R. 2202 steps up both border security and interior enforcement. Increased manpower, technology, equipment, and physical barriers will help to provide the Immigration and Naturalization Service [INS] with the tools they need to control our borders.

Additionally, the bill removes the incentives, such as jobs and public benefits, that encourage illegal immigration. This bill specifies that illegal aliens are denied public benefits, makes enforceable the grounds for denying entry or removing aliens who are or are likely to become a public charge, and makes those who agree to sponsor immigrants legally responsible to support them.

This bill also enhances enforcement and penalties against alien smuggling, document fraud, and passport and visa offenses, as well as, reforms rules and procedures to make it easier to remove illegal aliens from the United States.

In terms of enforcement, one of the most important things we can do is to create a worker verification system. H.R. 2202 includes a voluntary pilot program in five of the seven States with the highest populations of illegal aliens to test an employment eligibility confirmation system. During House consideration of this bill, Representative ELTON GALLEGLY will offer an amendment to make this pilot program mandatory. I believe this amendment is critical to making immigration reform successful and will vigorously support it. If we do not have some type of worker verification system in place we will never have a serious opportunity to combat illegal immigration.

In addition to worker verification, Representative BILL MCCOLLUM's amendment, which directs the Commissioner of the Social Security Administration to make necessary improvements in the Social Security card to secure it against counterfeiting and fraudulent use, will make great strides in eliminating the magnet that draws illegal immigrants to our country—jobs. I firmly believe that in order to control our illegal immigration problem we must secure identification documents against counterfeiting. Without worker verification and secure documentation, much of what we are proposing here today will be difficult to enforce. I urge my colleagues to support these vital amendments, and support this comprehensive reform package on final passage.

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Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, as citizens of the United States, we have always taken pride in the fact that we are a nation of laws and not of men. When any law is ignored or intentionally and openly violated, it undermines respect for this concept of a government of laws.

No area of Federal law has been more flagrantly violated than our immigration laws. As a result, almost every community in this Nation has felt the impact of these violations. The increased costs of indigent care in our hospitals and emergency rooms, and the rise in property taxes to pay for education costs and social benefits are but a few of the costs associated with the violations of our immigration laws.

At a time when we are struggling to provide health care, education, and social services to our own citizens, we cannot justify the depletion of our tax dollars for those who are illegally in our country. The public is correct in demanding that we act to stop these abuses. In my congressional district, Dalton and Whitfield County, GA have acted to form the first joint local-Federal task force on illegal immigration. But it is our job to act on this legislation, since the enforcement of immigration laws is the exclusive responsibility of the Federal Government.

I rise to support this bill. Our current system is broken and needs to be fixed. The double magnets of jobs and social benefits are drawing illegal immigrants at unprecedented levels. We must not continue to reward those who break our laws. To do so cheapens our citizenship, fosters disrespect for our laws, and undermines our system of government.

It is time to pass meaningful immigration reform. I urge Members to support H.R. 2202.

Mr. BRYANT of Texas. Mr. Chairman, I yield 4½ minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, today we take up a massive bill to radically alter our Nation's immigration laws in a way that is more responsive to hysteria and prejudice than to reason and fact.

Let there be no mistake: This Nation has every right and obligation to control our borders and to enforce our immigration laws. But absurd boondoggles, like building a giant fence, mindless cruelty, like sending legitimate refugees back to be murdered or tortured by their oppressors, and good old-fashioned Xenophobia, have nothing to do with legitimate protection of our borders.

Immigration has not destroyed this country. New arrivals have long contributed to the social fabric and economic vitality of our communities.

There are some things we should be doing to make life better for all Americans, like strengthening our worker protections laws, or cracking down on abuses of some of the employment-based visa programs. But the majority apparently has no interest in helping working people, only in setting people against each other.

At the very leagues we need to split this bill, as the Senate has done, and not mix legal with illegal immigration issues. That is a fundamentally important step to take so we can debate the issues properly.

I had planned to offer two amendments today which would have mitigated some of the most unfair, unjust, and downright un-American provisions of this bill. My amendments were good faith attempts to address the concerns that led the authors of this bill to write those provisions, but would have avoided some of the injustices those provisions will inevitably bring about. Unfortunately, the majority did not see fit to allow these amendments to be debated or voted upon on the House floor.

One of the these amendments would have changed the so-called expedited exclusion provision of this legislation. Under this bill, if someone comes to this country with improper documents, gets off at the airport without valid documents or with improper documents or no documents, he is to be examined on the spot by an immigration officer, by the fellow at the table, 10 minutes, 15 minutes, and that follow, who is expected to know in detail the political situation, the racial situation, the war or not situation in every country in the world, will decide on the spot whether he has established the right to asylum based on showing a legitimate fear of persecution if he goes back home, without an opportunity for a lawyer, perhaps not speaking English, without an opportunity to get witnesses, without an opportunity to collect documents, without any opportunity. The appeal from a negative decision would go to the supervisor on the spot, and then he would be sent right back.

Now, if you think about it, this is exactly backward. The people who are most in need of political asylum, who are most likely to be tortured or murdered if they are sent back, are the people who fled from a tyrannical foreign government, who fled under the guns of the East German border guards, or fled from the gestapo or the KGB or the Savak or whatever secret police there are in other countries around the world today.

They are precisely the people who are not going to have proper documents, duly stamped, notarized and cross-signed by the gestapo or the KGB or the Savak or by whatever secret police in a separate country. They are the ones we are going to be selecting here to send right back.

My amendment, which unfortunately is not going to be heard on the floor today, would have provided some basic due process, one hearing, one appeal, one opportunity, but a real opportunity for them to show the evidence and have an opportunity to show the reality if it is true they would be persecuted back home. Instead, we are negating that altogether for the most endangered people.

The second amendment would have said that the procedure for expelling, for deporting alien terrorists, people the prosecution believes are terrorists, would have had some basic due process.

Under this bill, as under a provision taken out of the terrorist bill, if someone is an alien, has been here 35 years, not a citizen, an alien, and the Government thinks he is a terrorist, there is a hearing before a judge. But you can use secret evidence. You can use secret evidence without any opportunity to reply, without a summary that gives him the opportunity to make as good a defense as if you did not. And if even that is too dangerous in the opinion of the prosecution, you can use the evidence even without a summary.

In other words, someone can be hauled before a court and say "We won't tell you what group you allegedly belong to, we won't tell you what we think you did, we won't tell you who is accusing you, we won't tell you what the evidence is, we won't tell you who the witnesses are; go defend yourself." Obviously unconstitutional, totally un-American.

At least we should have used the provisions of the Classified Intelligence Procedure Act, which gives basic due process to people we think are atomic spies or Mafia kingpins. That would have given some basic due process. Unfortunately, this was not permitted on the floor. This bill is full of such provisions.

I urge my colleagues to rethink and provide basic due process in any immigration or any other bill.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in support of this legislation on which the gentleman from Texas [Mr. SMITH] and many others have worked so hard. I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, it is true that we are a nation of immigrants, and we are all proud of that. Immigration has been a good thing for this country. But too much of any good thing can become harmful, even destructive. This is what is happening in our country today in regard to immigration. We are not controlling our borders and we are seeing many harmful effects from that.

One example is that today 25 percent of the inmates in our Federal prisons are foreign born, most of them illegal immigrants. This is a tremendous expense to our taxpayers.

Dr. Donald Huddle of Rice University, who has studied this issue perhaps as much or more than anyone, has estimated that immigrants now cost us at least $51 billion more each year than they contribute, $51 billion. With a national debt of over $5 trillion and our economy on such thin ice, this is a problem that threatens to overwhelm us.

This legislation simply responds to the very strong desire of the people we represent as any democratic legislative body should do. A recent nationwide Roper Poll with an extremely high sampling found that 83 percent of the American people want immigration greatly decreased. The same poll found that only 10 percent felt we should do less in removing illegal immigrants from our country. A columnist for the liberal magazine, the New York Republic, wrote recently that "Sooner or later, Americans must face reality. It is going to be painful. It is on the Statue of Liberty, 'Give me your huddled masses.' The trouble is the huddled masses need jobs."

Perhaps the most important thing this bill does, Mr. Chairman, is that it cuts off all sorts of welfare, Medicare and Medicaid benefits to illegal immigrants. Coming here legally to seek opportunity is one thing and can still be done by hundreds of thousands under this bill every year. But coming here illegally to gain welfare benefits is something else altogether and something which the American people want stopped. We are a nation of immigrants, but much more importantly we are a nation of laws. To immigrate here illegally is plain and simply wrong.

One last point, Mr. Chairman: If this bill passes to make our immigration policy more fair and reasonable, we will still be allowing more immigrants in. We will still have more immigration than any other nation in this world. If allowing in the highest number of immigrants of any country in the world is not good enough, then nothing we can do will ever really satisfy the people who oppose this legislation.

Mr. Chairman, I understand that extremely big business is against this bill but the American people are for it, and we should be too. We should pass this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my friend for yielding me time.

Mr. Speaker, H.R. 2202, the Immigration in the National Interest Act, includes many important provisions to help the United States get control of its borders: 5,000 new border patrol agents over 5 years, stricter penalties for alien smuggling and document fraud, prohibitions of public assistance, and procedural reforms that would make it easier to deport people who have abused our hospitality.

I commend the gentleman from Texas, Chairman SMITH, for his work on this and even when we disagree, he is always a very fine gentleman and its fair about that.

The bill also contains some controversial provisions that would sharply reduce both family-based and employment-based immigration. I frankly think we should concentrate our efforts on illegal immigrants, and I wish the bill had even gone further in that direction; for example, by taking steps toward getting control of the situation in which people come to the United States on short-term tourist or business visas and then overstay their visas, living and working in the United States as illegal immigrants.

On balance, I support many of the provisions of H.R. 2202, precisely because it takes strong steps in controlling illegal immigration. I do want to point out that I will be strongly supporting on the floor the Chrysler-Berman-Brownback amendment which will help keep the focus on stopping illegal immigration by separating these issues from the provisions controlling and concerning legal immigrants and visas and refugee. H.R. 2202 and the amendment that Mr. CHRYSLER hopes to offer would eliminate the small number of visas now allocated for brothers and sisters.

Just let me say I also, as chairman of the Subcommittee on International Operations and Human Rights, and we have jurisdiction over the refugee budget, will be offering my own amendment that would lift the cap of 50,000 refugees after the fiscal year 1997. We have held extensive hearings in my subcommittee on the refugee situation. I do believe that consultation process between the administration and the Congress ought to be the modality used, not a cap. I think that the world is getting more volatile, not less, and doing our fair share to relieve the pressure on true refugees, people who have a well-founded fear of persecution, we ought to not cap it, and continue the consultation process.

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Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, let me say that I rise in support of this legislation. Let me say I rise in support of it in no little way.

I happen to be one of the few Representatives that will have the privilege of serving on this floor that not only has experienced the border issues but actually was raised and lives on the border. Mr. Chairman, it is time that this Congress and these American States of America get sensitized to the fact of the absurdity of the situation we have allowed to occur along our frontiers.

Let me just sort of say very subtly to my colleagues here that Congress and only Congress has the authority to address the immigration policy. But as somebody who grew up on the Mexican border, I have had to live in my community with not only the crime, the destruction that has occurred from uncontrolled immigration and crime activity along the border, but also the human misery that is being imposed on the illegal immigrants. Our freeways are the scene of many people being slaughtered because smugglers are encouraging illegals to enter our country down the middle of freeways.

Mr. Chairman, the Tijuana River Valley has been filled with corpses. And I would have to say, sadly, I have been involved in the recovery of bodies in the Tijuana Valley of people who were promised a better life but only received a death sentence because this country says one thing and does the other thing about illegal immigration.

Mr. Chairman, I have seen what has happened to our society along the frontier to where not only in our country but in Mexico, nine police officers have been assassinated by the people who make their money smuggling illegal aliens. I have watched as we hear reports of not only agents but six illegals running off a 150-foot cliff because they thought they were chasing for a better life.

Mr. Chairman, I would say to my colleagues on either side of the aisle who think immigration reform is somehow a bad idea, come to my neighborhood. See what this Congress is doing to the citizens and to the immigrants along the border. Mr. Chairman, we have a responsibility to control illegal immigration, and this body does not have a right to walk away from it. I ask my colleagues to support this bill.

Mr. SMITH of Texas. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I would like to engage the gentleman in a colloquy.

Mr. Chairman, in H.R. 2202 under section 524 entitled, "Admission of Humanitarian Immigrants," it states, "The Attorney General shall, on a case-by-case basis and based on humanitarian concerns and the public interest, select aliens for the purpose of this subsection," unquote.

It is my understanding that in the interest of giving priority to reunification of nuclear families, this language could include exceptional cases involving sole surviving family members of American citizens, whether or not an individual meets the qualified family categories as set forth in this bill. The section I have referred to, for example, would allow any sole surviving member of an immediate family, including a parent, a sibling, child, or adult son or daughter over 21 years of age, a legal guardian or a charge of an American citizen or legal resident, to be admitted as a special humanitarian case. Am I correct in this assessment, Mr. Chairman?

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, that is correct. It is my intention to strongly urge that the Attorney General use a portion of annual humanitarian admissions for the purposes the gentleman has just mentioned.

Mr. DORNAN. Mr. Chairman, I rise in strong support of the manager's amendment and urge my colleagues to vote in favor of its passage. This amendment is particularly important to States such as my California, which are heavily impacted by criminal aliens. Although it is the responsibility of the Federal Government to enforce immigration policy, State and local governments incur significant costs relating to the incarceration of criminal aliens.

Unfortunately, many local governments heavily impacted by criminal aliens are not, as the 1994 crime bill intended, being financially compensated for these costs. In trying to meet the public safety needs of the community, these local communities are therefore being forced to bear this financial burden on their own.

Mr. Chairman, I am pleased, with the support of my colleagues, the gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. GALLEGLY], who worked so hard on this excellent bill. My provision has been included in this amendment to clarify the intent of the 1994 crime bill. It would simply ensure that all local governments have the opportunity to apply for the financial compensation they are entitled to for costs associated with incarcerating criminal aliens.

I also strongly support a provision in the amendment that would authorize a pilot project by the INS to identify illegal aliens among those incarcerated by the city of Anaheim and the County of Ventura. Under the proposed pilot program, an INS agent would be stationed in two local government jails to perform front-line documentation and appropriate questioning of criminally charged suspected illegal aliens. By helping to speed up the deportation process, I believe this program has the potential to be a significant benefit to the entire country. I support it strongly.

I rise in strong support of the manager's amendment, and urge my colleagues to vote in favor of its passage.

There are two provisions in this amendment that I believe are particularly important to States, such as California, which are heavily impacted by criminal aliens.

Although it is the responsibility of the Federal Government to enforce immigration policy, State and local governments incur significant costs relating to the incarceration of criminal aliens. And while the 1986 Immigration Reform and Control Act authorized States to receive Federal reimbursement of criminal alien incarceration costs, it was only recently that local governments received similar treatment. In fact, it was the 1994 crime bill that for the first time allowed so-called political subdivisions of a State to be reimbursed for costs associated with incarcerating criminal aliens. This was a very important gain in having the Federal Government recognize its responsibility for criminal aliens.

Unfortunately, many local governments heavily impacted by criminal aliens are not, as the 1994 crime bill intended, being financially compensated for these costs. In trying to meet the public safety needs of their community, these local communities, such as the cities of Santa Ana and Anaheim which are located in my district, are therefore being forced to bear this financial burden on their own.

I am pleased that with the support of our colleagues LAMAR SMITH and ELTON GALLEGLY, who have worked so hard on this bill, a provision has been included in this amendment to clarify the intent of the 1994 crime bill. It would simply ensure that all local governments, including counties, cities, as well as municipalities, have the opportunity to apply for the financial compensation they are entitled to for costs associated with incarcerating criminal aliens.

I also strongly support a provision in the amendment that would authorize a pilot project by the Immigration and Naturalization Service to identify illegal aliens among those incarcerated by the city of Anaheim and Ventura.

A recent 60-day survey conducted by the Anaheim Police Department, located in my district, found that 35 percent of the inmates sent to the Anaheim City Jail were unable to produce documentation that they were in the country legally. Under the proposed pilot program, an INS agent would be stationed in Anaheim's jail to perform front-line documentation and appropriate questioning of criminally charged suspected illegal aliens. This will enhance the relationship between INS officials and local law enforcement and help speed up the deportation process for criminal aliens. And I believe that, if successful, the program has the potential to be a significant benefit for the entire country.

Like the many other measures contained in the manager's amendment, these are critical provisions that deserve our support. I urge a "yes" vote on the manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HUNTER], a longstanding advocate of good secure fencing.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding time to me and also thank him for his leadership and statesmanship in putting together what has been a very difficult bill but nonetheless a very necessary bill, perhaps the most important piece of legislation we will pass this year.

Mr. Chairman, I have got the gentleman from California [Mr. BILBRAY], my friend, a fellow San Diegan, with me today. I am reminded that Mr. BILBRAY lives just a mile or two from the border, and I am going to talk about border control because that dimension of handling the illegal immigration problem is a very important dimension.

This bill doubles the number of Border Patrol. To gain control of a border, we need a couple of things. We need an impediment which in this case is going to be a triple fence that the committee is building. It is a fence that was designed by Sandia Laboratories and a $600,000 study that was done for the INS by the department of drug policy. It has been endorsed by Sylvester Reyes, the most successful Border Patrol Chief in the United States who successfully held the line in El Paso. This triple fence, along with forward deployed 10,000 Border Patrolmen, will help to cut off those 12 smugglers' corridors across the Southwest.

Each place where we have an urban population on each side of the border, whether it is San Diego, Tijuana or El Paso or Brownsville, TX, in Juarez or Matamoros, Mexico, we have hotbeds of smuggling that is taking place right now. This bill addresses border control and does it in a very, very effective manner.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, just for a quick compliment.

We do not get to do this in the course of the year too many times, but I went down to the border with the gentleman's assistance, had a 3- or 4-hour briefing, flew with the California Guard, went out to the observation post, and had a 5-hour hearing in Santa Ana the other day. Mr. Chairman, I am not kidding when I say that the gentleman from California [Mr. HUNTER] is so highly respected for what he has done year in and year out since 1980, over 16 years, that I cannot thank him enough for what he is doing for the whole country on this issue.

Mr. HUNTER. Mr. Chairman, I would like to give this gentleman more time. I thank the gentleman.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I would like to first congratulate the gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. GALLEGLY] for the tremendous job they have done in putting this legislation together.

I have been deeply involved in this issue for over 5 years now. While the Democrats controlled this body, we could not get a vote on the illegal immigration issue. We could not bring this Government to come to grips with this problem that was destroying the State of California and threatening to overwhelm the entire country. But in a democracy, if elected officials do not act, the people will.

What happened, there is no coincidence that proposition 187 out in California passed at the same time that the people kicked the Democratic majority out of control of the House of Representatives because they want action in their behalf. Who were we representing before? I mean, it was incredible. I could not figure out why people were voting the way they were. Whose interest was being represented?

Well, this is a new era in the House of Representatives. Every time we tried to do something before, the Democrats would say, oh these poor suffering people here and these poor suffering people here. We would have to apologize that we were trying to represent the interests of the American people. Well, that is not going to happen anymore. Yes, we are concerned. We care about other people. We care about the children of people who live in foreign countries. But that does not mean we are going to allow everybody in the world to bring their children here and break down our education system so our kids cannot get an education.

And yes, Mr. Chairman, some people may be deprived overseas, but we are not going to let criminals come into our society and commit crimes and not have our Government act upon it and see our jails being filled with illegal aliens. Yeah, we love older people from other countries. We love humanity, but we do not want senior citizens coming into America and draining all of the resources that we have saved up for our own citizens, for our own seniors so that our people will not have those programs to rely upon.

Yes, we care about sick people wherever they come from. We do not want sick people coming here from all over the world expecting to get free medical care and breaking down our system. We do not want sick people coming here from every corner of the world breaking down our health care system. That is what is happening in California.

The difference between this Congress and the last Congress is we are going to come to grips with this problem because we do care. We care about the American people, and we have no apologies for that.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

I am forced to respond forcefully to what the gentleman from California [Mr. ROHRABACHER] just said. Now, we have got a bill on the floor that is a bipartisan effort, and I think it would be helpful if we can try to keep it that way. The gentleman's comments with regard to when the Democrats were in control are completely in error, totally in error.

In 1986 this House acted for the first time with a Democratic majority in the House and Senate to make it against the law for American employers to hire somebody who is in the country illegally. That was a hard bill to pass. Not only the business community did not like it very much, but the immigrant advocate groups did not like it either. We did it.

It brought illegal immigration down for a period of years, but the counterfeiting has caused it to go back up again. That is why we have the bill out here now. We have passed legislation a number of times since then, as well, and the Clinton administration has taken a number of very dramatic initiatives to deal with the problem, including recommending this kind of legislation, including appointing the members of the committee.

Mr. Chairman, I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I too would like to echo what the gentleman from Texas is saying. My friend and colleague from California misrepresents the facts. In fact, as the gentleman from California [Mr. ROHRABACHER] knows, under the Democratic watch 2 years ago and with a Democratic President, for the first time in the history of this country we got a President who was willing to give moneys to States to reimburse them for the cost of incarceration of undocumented immigrant felons.

We, also, for the first time in more than a decade got an increased amount of funding for the INS to conduct border enforcement activities so they would not have to work with outdated equipment, with broken night scopes, all of the things that were being requested by the INS which certainly did not get fulfilled before the President, President Clinton, took office.

So certainly we have to acknowledge that there have been efforts, and hopefully we will recognize that they have been bipartisan efforts, not only by one particular party or another.

Mr. BRYANT of Texas. Mr. Chairman, let me say we are trying to get a bill passed out here, and the gentlemen are not helping us do that by starting this argument. But OK, go ahead.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I am just saying as somebody who spent 20 years in local government in a border community, I just heard that the Federal administration 2 years ago was out to reimburse for the cost of incarcerating criminal aliens. You know, all I got to say as somebody who had to run a criminal justice system for 2.6 million people, we did not see it. We did not see it.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I will explain it to the gentleman why he did not see it. In the 1986 Immigration Reform Control Act, I put an amendment in there that required 100-percent reimbursement to all border States and border communities for any immigration cost. The Reagan administration, year after year, proposed a gradual cutting of that, and unfortunately that took place; so we do not have that anymore.

Mr. Chairman, I would just think it would be best to conclude this by saying there has been an adequate effort in my view on both sides. If that statement is not good enough to move the debate forward, we can waste another 10 minutes out there jeopardizing passage for the bill having a needless argument.

Mr. BILBRAY. Mr. Chairman, if the gentleman will continue to yield, I am not trying to be argumentative.

Mr. BRYANT of Texas. Mr. Chairman, the gentleman has the time.

Mr. BILBRAY. I am just saying from personal experience, what is said and what has been done are two different things. I think the one thing that we want these Chambers to have is that dose of reality of what really is going on out there. I just have to say, there is a lot of talk about it in the last 2 years. But what has been said and what is actually happening as somebody who every week I go to the border and talk with immigration agents, please be aware as somebody who cares about proper immigration legislation.

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We got to make sure that the border finds out about it and that the administration is doing what is being said, and that is all I am asking.

Mr. BRYANT of Texas. Reclaiming my time, I would just say that this administration has taken some dramatic initiatives in that direction. This House, when the Democrats were in the majority, and I would not bring this up except the gentleman from California [Mr. ROHRABACHER] did, passed the only legislation we ever had—excuse me.

The CHAIRMAN. The Chair will point out that the gentleman from Texas [Mr. BRYANT] controls the time.

Mr. BRYANT of Texas. Mr. Chairman, I simply wish to reflect my view, the basis of the erroneous statements of the gentleman from California [Mr. ROHRABACHER].

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER], and then I am going to reclaim my time.

Mr. ROHRABACHER. Mr. Chairman, I thank the gentleman for yielding this time to me.

I guess, and am I taking it for granted that the gentleman is denying that the numerous attempts that I tried to make to get legislation on this floor concerning benefit packages going to illegal aliens, that I am just imagining that we tried to put these things through the system and were beaten down every time by the Democrats who controlled the process?

Mr. BRYANT of Texas. All I am saying to the gentleman from California [Mr. ROHRABACHER] is that I cannot say what happened with regard to the gentleman's initiatives. I know of the initiatives that were made in the past; I think they were good ones. Some things happened that I did not like. Some things——

Mr. ROHRABACHER. My remarks were aimed at benefit packages.

Mr. BRYANT of Texas. But the gentleman's characterization that this is a partisan issue that only he has dealt with is, in my view, just wrong.

Once again, Mr. Chairman, I reclaim my time.

The CHAIRMAN. The gentleman from Texas, [Mr. BRYANT], controls the time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I took this time; I wanted to talk about an amendment that I planned to offer, and I understand that the manager of the bill, the gentleman from Texas [Mr. SMITH], is going to incorporate it into an en bloc amendment, and I thank him for that. I have not had a chance to visit with him personally about it. He has been very busy. And I also thank the gentleman from Texas [Mr. BRYANT].

This amendment deals with legal residents that have had difficulty attaining and passing the citizenship test principally because of the language and residency requirements, but more importantly, Mr. Chairman, I just wanted to take a few minutes today to talk about something we are doing right, I think, in this Nation.

Most of us know we were locked in a Vietnam conflict for many years, and in the process of that the United States, through its intelligence agencies and others, joined forces with some of the tribes in Laos, the Hmong specifically, H-M-O-N-G, the Hmong, and they now reside, of course. And after that conflict was concluded, of course, and came to a bitter conclusion, they, many of them, had to flee their homeland because of fear of retribution and, in fact, retribution that did occur.

They often had fought in that conflict longer than U.S. military personnel, assisting U.S. military personnel, and many of them lost their lives. In fact, 10,000 to 20,000 Hmong lost their life in that conflict in Southeast Asia. In the process of losing their lives they saved many other lives.

But today there are many that are in the United States, have served in this capacity, but are having a great deal of difficulty, because historically the Hmong did not have a written language, and, as a consequence of the chaos, and so forth, and the rural nature of their culture, they were unable to gain a education. So the consequence today is that even though repeatedly, with a lot of tutorial help, they make an effort to pass the citizenship test; they are here as legal residents, of course; they are unable do so.

So what we are trying to do here is to extend this honor to them to gain citizenship. I think some have gained it on their own. Many are elderly; some are not. But there are the spouses that have lost their husbands.

In the past, of course, I think the history of our Nation is, if one serves in the U.S. military uniform, even though they are a Nam national, they are not a U.S. citizen, they can gain citizenship through that means. What we are trying to do here is to extend that opportunity to this small group, really today, for this specific purpose.

So I wanted to give some examples of types of persons that were involved and where they live. I was looking through this, and I realize that one of them lived near the Vento homestead on Burr Street in St. Paul, and someone that had fought for 15 years in this conflict, had fought, in fact, in the French conflict before that, and he wrote here, "I arrived in the United States on September 26, 1986, after 10 years in a refugee camp."

So the total service here in terms of conflict and military service to the United States, of course, was some 15 years, 10 years in refugee camp, and then has a very difficult time learning a new language and culture. But he is working as a janitor, and he would like to have, and he is going to be here for the rest of his life, and he is very supportive, obviously, of citizenship and the honor.

I think really in this case we do an honor by recognizing people that have done this type of service, and I go through this over and over again, but that there are many others.

I am just going to put some of these in the record. Here is another person that lives on Lafond Street or Avenue in St. Paul. He again fought for some 15 years, again was in a refugee camp, Lee Pao Xiong, and he has lived or came here in 1987, is a U.S. citizen.

So what we are trying to do is waive, because they spent time in refugee camps, to also waive the residency requirement. Not a large number of people, but a justice and a very good provision, and I really appreciate my colleague's support for the provision.

Mr. Chairman, I include the following material in the RECORD:

BIOGRAPHIES—MN HMONG VETS WHO ARE NOT CITIZENS

Wa Chi Thao, St. Paul, Minnesota; date of birth: 6/15/1950; place of birth: Xieng Khouang, Laos.

Military Service from 1961–1975 (14 years).

My commander was Yang Chong and my sergeant was Shong Leng Xiong. I also worked under General Vang Pao through these other leaders. The American General was Jerry. I don't remember his last name.

Injuries in combat: I was hit in the back by a bomb explosion.

Places of combat: San Sous near Vietiane; Mt. Pher Bia, where my wife died in combat;

Phon Sou; Thong Hai Hien, many people died and injured; Kham Houng Sat Chout Tham Lien; Moung Mount; Phon San. We rescued a down American pilot, but it was sad that both the pilots were died due to the crash. We however, recover their bodies and send home.

After 1975: I fight the communist with a group of my people call sky soldier to defend our families and ourselves.

Refugee camp: We finally made it to Nong Khai Refugee Camp on 1975 for 5 months then we went to Ban Vinai for almost 10 years.

United States: In January 1993, we came to the United States. The war had cause a great deal of depressing for me and my family. I was in camps for many years and thinking life is not worth of living. But now in the US I finally think life is worth of living.

I feel very happy here and I want to be a citizen of this great nation, but it very hard because I don't know English. I have served for the US for as a soldier for 14 years of my life. I want to be a citizen very much and I need the US government to support the Amendment H.R. 2202 as offered by Rep. Bruce Vento of Minnesota.

Lieutenant Lao Pao Xiong, 2917 18th Ave. S., Minneapolis, MN 55407;

Military Service from 4/19/60–5/15/75.

Date of birth: 8/16/45.

Place of birth: Phou Sam, Laos.

Injuries: Hit by a grenade to the right side.

Combat sites: Nam Kham; Xieng Khouang; Ban Soun; many other small sites as well.

My commanders was Youa Vang Lee and Chong Chue Yang.

After 1975: On June 26, 1975 my family came to Nong Khai Refugee Camp, then we were transferred from Nong Khai to Ban Vinai in 1979 and my family stayed there until 1988.

United States: I came to the U.S. on August 21, 1988. I want to become a citizen of the United States. I have worked for the U.S. for 15 years and lived many years in the refugee camps not knowing what to do. This country is my home now, I want to be a good citizen here. I need the government to support the Amendment H.R. 2202 as reported and offered by Rep. Bruce Vento of Minnesota. Without this bill my family have no hope of becoming citizen of U.S., which where our is and where we want to live until our last days on earth.

Commander Thong X. Thao, 1248 Margaret Ave., St. Paul, MN 55106.

Date of birth: 10–5–40.

Place of birth: Long Cheng, Xieng Khouang, Laos.

Years in secret war: 1961–1975.

Injuries in combat: Hit by a piece of grenade.

Combat sites: Phou Pha Loui; Lam Xieng—where I was injured; Long Cheng; Lam Phon Moung; Boune Loung.

After 1975: I went through Vietiane (capital of Laos) on 5–18–75 and arrived in Xieng Mai, Thailand on 5–19–75. I went to Nam Phong on 5–26–75 then to Ban Vinai Refugee Camp. On June 28, 1978, I went to Kong Thet for five months. I have been working since 1978 at many places. Right now, I work at Marsden as a janitor.

I want to be a citizen of the U.S. very much. I have been here for many years and I want to have the same rights as other citizens here do. I hope that you will support the Amendment to H.R. 2202 as offered by Rep. Bruce Vento of Minnesota. I need this bill to pass, so I can become a citizen. I have fought 14 years of my life for the United States. Learning the English language is something I want to do, but it is hard to learn. I highly support this amendment. I hope the U.S. government will support it too.

Sergeant Da Por Vang, 946 Burr St., St. Paul, MN 55101.

Soldier in secret war: I also fought with the French from 1934–50. In 1961, I began working with the US and General Vang Pao until 1975.

Battle sites: Xieng Khouang; Moua Loung; Nan Khan, Long Hae.

After 1975: I was a Sky Soldier-Chao Fa until 1983. I defended my family and my country although the support wasn't there anymore.

Refugee camp: I stayed in Ban Vinai for about 7 months and then I went to Chaing Khan for about 2 years.

United States: I arrived in the US on September 26, 1986. I am very old now. I cannot learn a new language and culture. Life is very hard and depressing. I have live almost a century.

I have no where else to go. I want to become a citizen of the US because my family is here. I want to live here for the rest of my life. I want the government to support the Amendment H.R. 2202, as reported and offered by Rep. Vento of Minnesota. I do not know English. Without this bill, I have no home, no country to belong to.

Major Lee Pao Xiong, 488 Lafond Ave, St. Paul, MN 55103.

Military service from 1961–1975.

Date of birth: 12/31/1946.

Place of birth: Xieng Khouang, Laos.

Injuries: A bullet to the left ankle all the way to the thigh.

Place of combat: Xieng Khouang; Boua Loung; Phon Savan.

I worked with General Van Pao. My commander is Moua, Gao and Shong Leng Xiong.

After 1975: I became a Choa Fa in Mt. Pher Bia until 1980. We fought to defend ourselves and families without any help from anyone.

Refugee camps: On October 1980, I arrived in Ban Vinai Refugee Camp. I lived there until 1986 then, I went to Chaing Khan.

United States: I came to the US on April 10, 1987. I want to become a citizen of the US, but it hard to learn English language now that I am old in age.

I want the government to support the Amendment to H.R. 2202, as reported and offered by Rep. Bruce Vento of Minnesota. I would like to become a citizen and participate and live in this country.

Bao Yang, 530 16th St. N., Wisconsin Rapdis, WI 54494.

Military Service from 1969–1975.

Date of birth: 1/2/1949.

Place of birth: Monang Lon He Xieng Khouang, Laos.

My husband was a soldier for the U.S. from 1969–1975. He died on 1/19/93.

After 1975: We lived in fear in Laos, moving from place to place until 1979. On April 1, 1979, we started to go on to Thailand. We came to Nong Knai Refugee Camps for four months, Then, we were transferred to Ban Vinai for 10 months.

United States: On May 2, 1980, we went to Kong Thet for 2 months. We came to the U.S. on July 25, 1980. We came directly to Edina, Minnesota.

I want to be a citizen of the United States. I want to live here for the rest of my life. It is my home now. My husband and many people in my family have work for the U.S. in the secret war in Laos. I want to be a citizen here and participate in the country.

I hope you will pass the Amendment H.R. 2202 as offered by Rep. Bruce Vento of Minnesota. I am doing this not for myself but my husband who does not fortunate enough to live to see this amendment pass. He worked many years for the U.S. please support this amendment, so we can have a country to belong to.

Sgt. Seng Thao, Minneapolis, Minnesota.

Military Service from 1968–5/15/1975.

Date of birth: 10/10/54.

Place of birth: Nam Qhuam-Vang Vieng, Laos.

When I begin training to be a soldier, I were only 14 years old.

Injuries in combat: bullet to the left shoulder; bullet through the right foot between 2 toes.

After 1975, I still had to defend my family, relatives, and my village until 1979. In 1979, my family took the voyage to Thailand. My family suffered great danger when we were taken to a concentration camp in Thailand. The people abused us and put us through so much suffering when they took everything that we had. They used knives and guns to make us give them everything that we had. We were finally taken to Ban Vinai Refugee Camp four days later and stayed there for 6 months, until we came to the United States.

In the United States: I came to the U.S. on May 21, 1980. I went to school for one year. School was hard to concentrate on, because the war I have no education background. English is hard to learn, especially if you have no basic education. Right now, I'm working at Riverview Packaging, Inc. in Minneapolis Minnesota.

Citizenship: I went to take my citizenship test on April 9, 1994. I passed only one test of the citizenship test. I would like to be a citizen of this great country here very much. I have lived in Minnesota here for all my life in the United States. I want my all family to be citizens of this great nation, because this is my home now.

I hope you will support the amendment to H.R. 2202, as Reported and Offered by Rep. Bruce Vento.

Captain Neng Mai Xiong, 761 Rose Ave. E., St. Paul, MN 55106.

Date of birth: 2–18–1944.

Place of birth: Sa Mang, Laos.

Years in the secret war: Stationed at Pho So (Site 57): 1/1960 to May 20, 1975. I was a radio operator.

Moung Phan, Site No. 236; Nong Chaing Na Seun, Site No. 214; Nam Yeu, Site No. 118 A; Xieng Lomg, Site No. 69 A; Sayaboury Lima, Site 23; Phon Haua Moui, Site 67; Hoi Phoui, Site 155.

Rank 1960–ADC, 1962–SGC—radio operator, 1970–1975—Commander, company 227B; Captain

Battle sites: Boua Loung, Site 32; Xieng Khouang, Site 75.

After 1975: I became a Sky Soldier-Chao Fa. I was taken into a work camp by the communist in 1979, my family got out of the communist training work camp and stayed at Kiao Nya until 1989. In 1989, I came to Vietiane, Capitol city of Laos and then got my passport to the United States.

Xia Shoua Thao, St. Paul, Minnesota.

Military Service from 1964–1975.

Date of birth: 2/1/47.

Place of birth: Vang Vieng, Laos.

I became a soldier when I was seventeen years old.

Injuries in combat: Injury to the upper left arm due to a bomb explosion.

Places of combat: 1965: Sala PhouKong; Tha Vieng, Xieng Khoung; Phousau, Hat Ban Phoun; Ban Tha; Maing Hien naKham; Phou Ka Xieng Khoung Thoug Hailtien; Phou Pa Sai Kham Gau, (Site 204).

After 1975: I was a leader to lead a group of Hmong soldiers to defend our village, our families, our homes.

Battle sites: Moung Pheeb; Ban Soun Na Seu; Phou Kham. For 3 years, we fought against the communist without any kind of government help.

Refugee camp: We defend ourselves for many years because we believe in freedom and democracy. After many years of fighting, we did somehow find our way to freedom. In 1984, we make it to Ban Vinai Refugee Camp in Thailand and stayed there until 1985 then transferred to Xeng Kham Refugee Camp for 3 months. On 10/85, we went to Pham Nat Nikhom.

United States: On April 28, 1987, my family came to the US. We arrived on April 29, 1987. I went to school for 9 months. It was very hard to learn a new language at an old age like me. I worked part-time at Dept. of Natural Resource as a janitor. I became very sick and could not work any more.

I want to be a citizen of the US because this is my permanent home now. I have served with and for the US for 11 years of my life. I can not pass the citizenship test because I do not know English well enough to pass the test. Please help me and my fellow people to support amendment H.R. 2202.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. COX], chairman of the policy committee.

Mr. COX of California. Mr. Chairman, I rise in support of the Immigration in the National Interest Act, and I want to congratulate the gentleman from Texas [Mr. SMITH], the chairman, for the work he has done in bringing this balanced bill to the floor.

In addition to my chairmanship of the policy committee, I am the vice chairman of the Speaker's task force on California, and our task force has made reform of illegal immigration, fighting illegal immigration, our No. 1 State priority here in the Congress. This bill answers that call.

In 1994, the voters of California sent a very loud message all the way here to Washington, DC, all the way to the floor of this Congress: Immigration, a Federal responsibility, needs to be looked after by the Federal Government. Illegal immigration, which affects California disproportionately; we have over half the illegal immigrants in America in our State, needs to be looked after.

Prop 187 was simple. It denied welfare and social service benefits to illegal aliens. This bill will fulfill that promise at the Federal level. This bill and amendments that Chairman SMITH has made in order on the floor will succeed in ensuring that the procedures for deporting people who are in the country illegally and who should be sent back to their own countries, that those procedures will be streamlined, that it will not take forever and a day to go through the judicial process for this purpose. It will add sufficient Border Patrol agents, 10,000 of them, so that we can actually enforce the law. It will end welfare dependency among illegal aliens by tightening the existing restrictions against receipt of benefits by illegal aliens and putting teeth into the sponsorship regulations that have been long on the books, but never enforced. This law will permit us to enforce them.

There is something else that the gentleman from Texas [Mr. SMITH], the chairman, has permitted to come to the floor in his manager's amendment that I think is going to be very, very important for us in southern California. Residents of Orange County were reminded of the costly delays in the current deportation process 6 months ago when Officer Tim Garcia of the Anaheim Police Force was shot and seriously wounded by an illegal alien with a criminal record. This was not an isolated instance in Anaheim. A recent 60-day survey indicates that 35 percent of all the inmates sent to the Anaheim jail are illegal aliens. The manager's amendment in this bill is going to correct this tragedy through the establishment of a 6-month project in Anaheim which will lead the way for the rest of the country. An INS agent will be stationed at the city of Anaheim's incarceration facilities to perform frontline documentation and appropriate questioning of criminally charged suspected illegal aliens.

This and other provisions to this bill make it a remarkable achievement. I want to congratulate the bipartisan leadership that has brought this bill to the floor. It is, in fact, a bipartisan effort, and it is long overdue.

Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The CHAIRMAN. The gentleman from California is recognized for 4½ minutes.

Mr. BECERRA. Mr. Chairman, I would like to spend the remainder of the time that we have on this side to engage the chairman of the subcommittee in a colloquy and also discuss some aspects of this bill that are of concern.

First, before we engage in the colloquy, I mention one of the principal areas of concern that is in the minds of a number of Members on both sides of the aisle, and that is, of course, the system that requires employers to conduct checks, verification processes, and I understand that the chairman has changed the bill so it no longer is a mandatory verification system, but now a voluntary system, voluntary for the employers, not voluntary for those who are seeking employment.

The concern, of course, is that there are some very glaring statistics that must be dealt with. I know the chairman had mentioned some of this in the past, but I think it bears reiterating.

First, people must understand that in this country, the size of this country, we have about 66 million job transactions that occur every year. That means either someone is hired or someone changes jobs 66 million times each year in this country.

Now we are told by the Social Security Administration and the INS that they are in the process of cleaning up their data bases that maintain records on most people in this country; INS, most people who have immigrated into this country. Yet, a recent quote from a Social Security Administration official in the Los Angeles Times said that we can expect any verification system employing the Social Security System's data base to have error rates of up to 20 percent in the first years, and by the time they worked out the glitches, a 5-percent error rate.

I must tell my colleagues that when we are told that there will be an error rate of perhaps as high or as low as 5 percent, and we are talking about 66 million job transactions in 1 year, that is well over 3 million people in this country who may be denied their livelihood. That is, to me, a dramatic introduction of a system at a government level that will intrude on the privacy and the protections that we, as Americans, have grown accustomed to having. That concerns me.

But let me focus on one particular aspect of the verification process that is of concern to me, and I must say that the gentleman from Texas [Mr. SMITH], the chairman of the subcommittee, was actually very supportive and helpful in getting a particular amendment I had in the subcommittee admitted into the bill, accepted into the bill. That was an amendment that makes sure that, to the degree that we have a verification system, we try to avoid discrimination. An employer who is not out there invidiously, trying to discriminate against people because of racial or ethnic hatred, but because it is a business practice for somebody to want to be able to make a profit and have skilled employees will take a look at some employees and say, "Well, you look American. You don't. Why should I go through the hassles of trying to verify your status if I can get a good, qualified American who is just as qualified?"

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We put into the bill, with the help of the chairman of the subcommittee, an amendment that said let us put in a checker system, a tester program, so we would have a system where someone could act as a qualified applicant for a job, go to the employer, present himself or herself and, although acting as a checker or tester, check to find out if this employer is automatically discriminating against some people who may look or sound foreign. We got that accepted in subcommittee. It stayed in the full committee. Now it is out. We had what I thought was good bipartisan compromise which now is out.

Mr. Chairman, I would like to engage the chairman in a colloquy as to why we see that particular tester provision stricken from the bill, which would help prevent discrimination against American citizens and those legally entitled to work in this country.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, let me respond to my friend, the gentleman from California, by saying first of all, I do distinguish the bill as it is currently written with a volunteer verification system from the mandatory verification system that we had at the phase of the subcommittee. It was for that reason we felt we could distinguish the two and take out the testers.

I want to say that the amendment that is going to be offered in the next day or two by the gentleman from California [Mr. GALLEGLY], to make the verification system mandatory does include the testers provisions, so that is more of a parallel. We had it mandatory in subcommittee, the testers are still in the amendment, making the verification system.

Mr. BECERRA. But the bill itself no longer has that tester section. It was taken out of the bill, before the bill was coming to the House.

Mr. SMITH of Texas. Mr. Chairman, the bill does not have it now. If the gentleman believes the gentleman from California, he can support the amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. GOODLATTE], to my knowledge the only Member who was a practicing immigration attorney before he came to this Chamber.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding time to me, and for his fine work on this bill.

Mr. Chairman, we are a nation of immigrants. My grandfather emigrated to this country from Germany in the early part of this century. My wife's parents both emigrated to this country from Ireland after World War II. I daresay there is not a person in this room who cannot go back but a few generations and find a member of their family who came to this country. It is an important principle. We remain a shining beacon of much hope for people around the world, and under the bill we will remain so.

However, Mr. Chairman, we have gone too far. We have a very serious problem that is out of control with regard to illegal immigration and we have a legal immigration problem in this country that is badly in need of reform. This bill goes in tremendous strides to taking care of that problem. It is vitally important that we keep both of those aspects together in this bill. Legal immigration and illegal immigration are related to each other in so many ways. It is vitally important that we keep both in mind as we work to reform this very important process.

Mr. Chairman, we do a number of things to crack down on illegal immigration, which the Immigration Service says now numbers more than 4 million people in this country without authorization. I would suggest that that estimate is very, very low, based upon my experience. This is a problem that covers every aspect of our country. This bill increases border enforcement agents, it increases barriers at the border, it increases penalties for alien smuggling, it increases penalties for document fraud, a serious problem with people who enter legally but then get fraudulent documents to remain here.

It has provisions to expedite the removal of deportable aliens. It has the authority for the Attorney General to designate to State and local governments the ability to assist in apprehending those who are illegally here. It has a very excellent employer verification program.

I will support the amendment that makes that mandatory on a trial basis in five of the seven States that have the largest problem with illegal immigration. This bill reforms our agricultural worker program, and it has restrictions on benefits to aliens. It is an outstanding bill. I encourage all Members of the House to support it.

Ms. HARMAN. Mr. Chairman, the people of my district have been sending a strong message since the day I first took office: Stop illegal immigration. I have been listening carefully. I was a member of the bipartisan House task force on immigration which made many of the recommendations on which H.R. 2202 is based. That's why I rise today in support of H.R. 2202, which will give the Federal Government the tools necessary to take control of illegal immigration.

The long history of this issue demonstrates that we cannot stop illegal immigration without firmer controls on our borders. The bill before us does so. It gives the Border Patrol the resources necessary to cut down illegal border crossings by adding 5,000 new agents by the end of the century. It also equips Border Patrol officers with the equipment and technology they need to stem the flow of illegal entrants and to outfox the increasingly sophisticated alien smuggling rings which bring thousands of illegal aliens to our country each year.

H.R. 2202 also gives the Immigration and Naturalization Service new tools to identify and deport the large proportion of illegal aliens who come here legally but brazenly overstay their visas in order to obtain American jobs.

But in order to truly address the issue of illegal immigration, we must also take a hard look at what entices citizens of other nations to skirt our laws and enter our country illicitly. An effective policy to deter illegal immigration must counter the attraction of American jobs and benefits. It must find ways to make it virtually impossible for anyone to come to the United States illegally and expect to earn an income.

This bill is an important first step in implementing such a policy. It is strong on workplace enforcement, levying heavy fines on those employers who prefer to hire cheap undocumented workers at the expense of American labor and in violation of the law. It also provides new eligibility verification programs and improved identification documents to keep undocumented workers from obtaining employment and to protect the vast majority of American businesses who would never willingly hire an undocumented worker. In addition, it creates new anticounterfeiting laws to crack down on those who would profit from attempts to skirt worker-verification laws.

Mr. Chairman, the strong curbs on illegal immigration that this bill would put in place are of critical importance to the people of my district, to southern California, and to the Nation.

I urge my colleagues to reject attempts to weigh this bill down with new guestworker programs and, as the daughter of immigrants, I strongly urge the House to reject poorly thoughtout caps on legal immigration.

We must act on illegal immigration, and we must act today. It's important to the success of our efforts that we do it the right way.

Mr. WELDON of Florida. Mr. Chairman, this bill benefits American families, workers, and taxpayers by reducing illegal immigration and reforming legal immigration. We live in a nation built upon the very principle of immigration and open borders. However, the generosity of this great Nation has been abused and those violating and abusing our laws have made a mockery of them.

Our Nation has always welcomed legal immigrants that contribute to our society, and nothing will change with this bill. H.R. 2202 will reign in problems that are spiraling out of control. As we debate this bill, illegal aliens comprise one-fourth of our Federal prison population. And 2 million illegal aliens—one-half of the estimated 4 million illegal aliens in the country—use fraudulent documents to illegally obtain jobs and benefits. These jobs and benefits come straight out of the taxpayers' pockets, costing them billions. This is simply unacceptable. Illegal aliens are draining our scarce national resources.

There has been much debate over the content of legal immigration reform in this bill. I feel strongly that we must keep legal immigration as a part of this measure, especially since much of the illegal immigration is driven by problems in the legal immigration system. The American people support legal immigration reform—in fact, a recent Teeter poll shows that people support a 5-year ban on illegal and legal immigration. Now, this bill does not ban legal immigration, but it does significantly reform it. We cannot ignore the wishes of the American people as we consider this important legislation. We have a responsibility to reform these laws and we must not shrink from it.

H.R. 2202 is supported by a diverse coalition of organization across the country and cuts across all political, religious, racial, and socioeconomic lines. We must not ignore this strong message from the American people. Support immigration reform and support H.R. 2202.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of this bill. As an American, I feel extremely proud to live in a society that serves as such a beacon of light to the world that millions of people are willing to risk everything to come and live here. But, as a society, we cannot have an immigration policy geared solely to the desires of those who wish to come here to better their lives. We must also take into account the needs and desires of the people who live here already, and develop an immigration policy that is geared toward what is best for America. After all, the number of people around the world who would like to move to America if they could, probably numbers in the hundreds of millions. We obviously can't let them all in.

In the last 30 years since the passage of the 1965 Immigration Act, more than 18 million legal immigrants have come to this country. This is 30 percent of all the immigration to the United States since the settlement of Jamestown in 1607. This great wave of immigration has occurred not when there was a vast, unoccupied continent to populate, but when our country was already the fourth (and now the third) most populated country in the world. China is No. 1, and India is No. 2. The Soviet Union, when it existed was No. 3.

There is a legitimate debate about what the Nation's needs are concerning immigration. However, there can be no doubt about what the desires of the American people are. An overwhelming majority—between 74 and 82 percent according to polls—of the American people want to see immigration significantly reduced. As elected leaders in a representative democracy, we have the obligation to take that degree of sentiment into account when forming policy.

So what are our Nation's needs concerning immigration? Is immigration really necessary? America certainly doesn't have the same need for immigration that it did in the 19th century, that of rolling back the frontier and supplying the labor force for a rapidly industrializing economy.

For the United States, immigration is not a necessity. Some say that they do the tough, less desirable jobs that Americans won't. But if the immigrants weren't here, does anyone really think we would simply let those jobs go undone?

Then there is the argument that we need foreign scientists and technicians to make up for the lack of Americans who have the necessary skills. Now one thing that comes immediately to mind is that Japan doesn't appear to have a lack of skilled engineers and scientists, despite no immigration. How much of this supposed shortfall could be fixed by tracking more American students into technical fields and fixing our educational system so that our students are actually taught science and math rather than self-esteem and multiculturalism? Finally, there are recent studies that indicate that there is actually an oversupply of engineers and scientists in the United States caused by immigration, and that computer professionals laid-off from defense contractors can't get new jobs because companies would rather hire immigrants for less.

We must recognize that our current immigration law is not geared toward skilled immigrants but rather toward what is called family reunification. Less than one-fifth of legal immigrants are admitted to this country for employment purposes, and the immigration reform legislation pending would not reduce employment-related immigration significantly. Under current law, an immigrant's chances of coming to America are much more likely to be based on who he knows rather than what he knows. Spouses, adult children, and siblings of immigrants all get preference over immigrants with skills and no relatives. There are some countries where the family preference backlog is 16 years, or more. In those countries, it's virtually impossible for an employment-based immigrant to get a visa. In fact, our family reunification policy allows a sibling to immigrate, go back to the old country to marry, and bring that spouse to this country, reunifying a family that was never disunited.

In closing, I would like to say that our decision on immigration should be based on what is likely to cause the least harm to our Nation if the decision we make turns out to be wrong, and how easy or difficult the mistake would be to correct. If we cut back on immigration too sharply, we would eventually discover that we were starting to experience a labor shortage. We would see that wages for certain kinds of jobs were increasing. And we could improve our educational facilities so that enough native-born Americans acquire the needed skills to fill the important ones. Besides, it's easy to let a few more immigrants in if we have to. But, if it turns out we are letting in too many immigrants, how will we deal with exploding public assistance rolls, ethnic strife, and environmental degradation? It won't be quite as easy to make people leave. Please join me in supporting H.R. 2202.

I would like to congratulate Mr. SMITH who has worked with everyone to develop a workable bill; and also Mr. GALLEGLY who has been working consistently during his 10 years in the House and is Chair of the task force on immigration.

Mr. BEREUTER. Mr. Chairman, as an original cosponsor of H.R. 2202, the Immigration in the National Interest Act, this Member rises in the strongest possible support of this important legislative proposal.

Mr. Chairman, the current U.S. immigration system is urgently in need of reform. It is inconsistent with the needs and capabilities of American society, and the citizens of this country know it first-hand. For the last 20 years, countless surveys taken on immigration reform have shown that the vast majority of Americans have consistently supported efforts to reform this country's antiquated immigration laws—95 percent of those who responded to a recent questionnaire sent to this Member's constituency agreed that border officials should be given more resources to crack down on illegal immigration.

While this Member fully realizes the contributions of legal immigration on this State and the Nation, he also agrees with the American people that serious immigration reform is needed. An immigration system that burdens public assistance programs and that allows illegal workers to enter the American job market is a system that cannot be supported by the American taxpayer or the American worker. Furthermore, Mr. Speaker, an immigration system with an official backlog of well over 1 million individuals seeking to legally gain citizenship in this country is a system that keeps families apart for undue lengths of time and encourages illegal immigration.

On the issue of refugee admissions, Mr. Chairman, this Member urges his colleagues not to be fooled by the alarmist rhetoric surrounding this debate.The refugee admissions provision of this act is consistent with the recommendations of the bipartisan U.S. Commission on Immigration Reform, chaired by the late distinguished Member from Texas, Ms. Barbara Jordan.

Moreover, contrary to what some people contend, the refugee levels in the bill are totally consistent with projected refugee levels. The Immigration in the National Interest Act sets refugee admissions at a target level of 75,000 for 1997 and 50,000 per year thereafter.

What H.R. 2202 does, Mr. Chairman, is very simply to restore the Congressional prerogative in establishing American refugee policy, including in the area of annual admission numbers. While the bill precludes unilateral increases by the executive branch in determining refugees admissions, it nevertheless gives the President sufficient flexibility to meet humanitarian emergencies by admitting additional refugees. The legislation underscores an important principle contained in the recommendations of the Immigration Commission: That is, that the United States cannot abandon its commitment to resettle refugees as a key element of the international system to protect the persecuted. H.R. 2202 honors that commitment, Mr. Chairman, in a compassionate and balanced manner.

This Member urges his colleagues to oppose any effort to diminish the legislative role in setting refugee admissions policy and to retain the refugee provisions in the bill. The Immigration in the National Interest Act will ensure that refugee admissions will be maintained at reasonable levels and that Congress will maintain its role in the admissions process.

This Member would like to offer the most enthusiastic commendations to the chairman of the subcommittee on Immigration and Claims, the distinguished gentleman from Texas [Mr. SMITH], for his steadfast efforts to bring comprehensive immigration reform legislation before the House and to see it enacted. Mr. Chairman, H.R, 2202 would take appropriate steps toward reforming U.S. immigration laws so that they reflect the interests and common sense of the American people.

Mr. STUMP. Mr. Chairman, as a strong advocate of immigration reform, I am extremely pleased that the House has turned its attention to an issue that has a growing impact on our lives and is very important to those we represent. Due to the hard work and perseverance of our colleague, Representative LAMAR SMITH, we are considering a sweeping bill that contains strong deterrents to illegal immigration, reduces legal immigration levels, and improves the priorities of legal immigration admission. This bill, the Immigration in the National Interest Act (H.R. 2202), takes an important step toward returning our immigration policies to their original intent: to serve our national interest and make America a better place for citizens and immigrants alike. I commend Representative SMITH for his willingness to confront this complex and emotionally charged issue.

As with any public policy debate, a thorough understanding of the subject's history is essential to thoughtful and productive discussion. This is particularly true with legal immigration. Unfortunately, those who oppose immigration reform frequently invoke the unjust argument that reform violates the tradition of immigration and disparages the contributions immigrants have made to our society. Such assertions irrationally and unfairly shift the immigration debate from immigration policy to immigrants themselves. Immigrants who come in this country legally are not to blame for the problems associated with immigration. The problems stem from a bad immigration policy that allows for unmanageable levels of immigrants. Under a well-regulated immigration system, immigrants can and will continue to make great contributions to our country.

Mr. Chairman, current immigration policy can hardly be called traditional. To the contrary, our current policy flouts immigration tradition. Before 1965, immigration numbers went through surges and lulls every few years. These lulls allowed for assimilation, enhancing the ability of immigrants to reach educational and economic parity with citizens. Since 1965, there have been no lulls, only a steep climb. From the founding of our Nation in 1776 until 1965, immigration traditionally averaged 230,000 people a year. Abruptly, in the 1970's and 1980's, immigration escalated above the traditional level of 230,000 to more than 500,000 a year. In the 1990's, immigration has been running around 1 million a year.

Largely to blame for this persistent swell in immigration is a series of ill-conceived amendments to our immigration laws, beginning in 1965. The most notable repercussions of the amendments are chain migration, huge backlogs of immigrants waiting to come to the United States, extended family reunification at the expense of nuclear families, and illegal immigration. The mass immigration fueled by these adverse changes to our immigration policy has resulted in overwhelmed public benefit programs, overcrowded schools, hospitals and prisons, and created undue job competition and language barriers. Moreover, our out-of-control immigration system places an enormous burden on American taxpayers. Recent analyses by the Center for Immigration Studies have concluded that immigrants cost us at least $30 billion per year. I strongly encourage my colleagues to keep these points in mind as we debate this bill.

As for illegal immigration, H.R. 2202 will help restore integrity to our borders and send a strong message to those who would defy our immigration laws that their actions will not be tolerated. I am particularly encouraged by the bill's provisions to reform asylum, increase border security, and eliminate the welfare magnet that draws aliens across the border illegally. In fact, I have sponsored legislation that mirrors these provisions. The only essential element I find missing from the bill is a provision to end automatic-birthright citizenship, and I look forward to future debate on this issue. Clearly, H.R. 2202 is the product of an extensive analysis of the defects in our laws that drive illegal immigration. It is my most sincere hope that as this bill moves through the legislative process, these provisions are not weakened.

While I support the bill's anti-illegal immigration components, I must admit that I am not as enthusiastic about its reforms of legal immigration. Without question, it is an improvement over our current system. However, by his own admission, Representative SMITH's bill will permit higher legal immigration levels than during 65 of the past 70 years, or more than 700,000 legal immigrants per year. This is just a modest cut from the 1994 legal immigration level of about 800,000. As the sponsor of legislation to place a limited, temporary moratorium on legal immigration that would reduce immigration to a more historic level, I cannot completely endorse the bill before us. I believe that the legal immigration levels in H.R. 2202 are too high to efficiently curb the country's immigration-related problems. In addition, the levels in the bill do not accurately reflect the views of most Americans who favor a more moderate flow of immigration. As an example, a recent Roper poll of people across the country showed that 70 percent of all respondents support a level of immigration below 300,000 per year. According to the poll, this view is supported by 52 percent of Hispanics, 73 percent of blacks, 72 percent of conservatives, 71 percent of moderates, 66 percent of liberals, 72 percent of Democrats, and 70 percent of Republicans. In view of this data and a host of similar immigration polls that are as compelling, H.R. 2202 does not completely respond to the public's concerns about immigration. Consequently, I will continue my efforts on behalf of lower, more manageable immigration levels.

Mr. Chairman, immigration is beneficial and practical only when it is governed by sensible, clearly defined goals that are suited to our Nation's interests and needs. Regrettably, our current system lacks such goals. I fear that if we allow our dysfunctional immigration policies to continue, the positive aspects of immigration will be forgotten and immigration will be viewed as chaotic and destructive to the well being of our country. I strongly urge my colleagues to support immigration reform.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 104-483, is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 2202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Immigration in the National Interest Act of 1995".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act, and

(2) amendments to a section or other provision are to such section or other provision as in effect on the date of the enactment of this Act and before any amendment made to such section or other provision elsewhere in this Act.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.

TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION THROUGH IMPROVED BORDER ENFORCEMENT, PILOT PROGRAMS, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Prosecution of aliens repeatedly reentering the United States unlawfully.
Sec. 107. Inservice training for the border patrol.

Subtitle B—Pilot Programs

Sec. 111. Pilot program on interior repatriation.
Sec. 112. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 113. Pilot program to collect records of departing passengers.

Subtitle C—Interior Enforcement

Sec. 121. Increase in personnel for interior enforcement.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for alien smuggling investigations.
Sec. 202. Racketeering offenses relating to alien smuggling.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of Assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New civil penalties for document fraud.
Sec. 213. New civil penalty for failure to present documents and for preparing immigration documents without authorization.
Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 216. Criminal penalties for false claim to citizenship.

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

Sec. 221. Criminal forfeiture for passport and visa related offenses.
Sec. 222. Subpoenas for bank records.
Sec. 223. Effective date.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 300. Overview of changes in removal procedures.
Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 321. Removal procedures for alien terrorists.

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"Sec. 501. Definitions.
"Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
"Sec. 503. Application for initiation of special removal proceeding.
"Sec. 504. Consideration of application.
"Sec. 505. Special removal hearings.
"Sec. 506. Consideration of classified information.
"Sec. 507. Appeals.
"Sec. 508. Detention and custody."
Sec. 322. Funding for detention and removal of alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

Sec. 331. Membership in terrorist organization as ground of inadmissibility.
Sec. 332. Denial of relief for alien terrorists.

Subtitle C—Deterring Transportation of Unlawful Aliens to the United States

Sec. 341. Definition of stowaway.
Sec. 342. List of alien and citizen passengers arriving.

Subtitle D—Additional Provisions

Sec. 351. Definition of conviction.
Sec. 352. Immigration judges and compensation.
Sec. 353. Rescission of lawful permanent resident status.
Sec. 354. Civil penalties for failure to depart.
Sec. 355. Clarification of district court jurisdiction.
Sec. 356. Use of retired Federal employees for institutional hearing program.
Sec. 357. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.
Sec. 358. Authorization of additional funds for removal of aliens.
Sec. 359. Application of additional civil penalties to enforcement.
Sec. 360. Prisoner transfer treaties.
Sec. 361. Criminal alien identification system.
Sec. 362. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 363. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 364. Confidentiality provision for certain alien battered spouses and children.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Sec. 401. Pilot program for voluntary use of employment eligibility confirmation process.
Sec. 402. Limiting liability for certain technical violations of paperwork requirements.
Sec. 403. Paperwork and other changes in the employer sanctions program.
Sec. 404. Strengthened enforcement of the employer sanctions provisions.
Sec. 405. Reports on earnings of aliens not authorized to work.
Sec. 406. Authorizing maintenance of certain information on aliens.
Sec. 407. Unfair immigration-related employment practices.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

Sec. 500. Overview of new legal immigration system.

Subtitle A—Worldwide Numerical Limits

Sec. 501. Worldwide numerical limitation on family-sponsored immigrants.
Sec. 502. Worldwide numerical limitation on employment-based immigrants.
Sec. 503. Worldwide numerical limitation on diversity immigrants.
Sec. 504. Establishment of numerical limitation on humanitarian immigrants.
Sec. 505. Requiring congressional review and reauthorization of worldwide levels every 5 years.

Subtitle B—Changes in Preference System

Sec. 511. Limitation of immediate relatives to spouses and children.
Sec. 512. Change in family-sponsored classification.
Sec. 513. Change in employment-based classification.
Sec. 514. Changes in diversity immigrant program.
Sec. 515. Authorization to require periodic confirmation of classification petitions.
Sec. 516. Changes in special immigrant status.
Sec. 517. Requirements for removal of conditional status of entrepreneurs.
Sec. 518. Adult disabled children.
Sec. 519. Miscellaneous conforming amendments.

Subtitle C—Refugees, Parole, and Humanitarian Admissions

Sec. 521. Changes in refugee annual admissions.
Sec. 522. Persecution for resistance to coercive population control methods.
Sec. 523. Parole available only on a case-by-case basis for humanitarian reasons or significant public benefit.
Sec. 524. Admission of humanitarian immigrants.

Subtitle D—Asylum Reform

Sec. 531. Asylum reform.
Sec. 532. Fixing numerical adjustments for asylees at 10,000 each year.
Sec. 533. Increased resources for reducing asylum application backlogs.

Subtitle E—General Effective Date; Transition Provisions

Sec. 551. General effective date.
Sec. 552. General transition for current classification petitions.
Sec. 553. Special transition for certain backlogged spouses and children of lawful permanent resident aliens.
Sec. 554. Special treatment of certain disadvantaged family first preference immigrants.
Sec. 555. Authorization of reimbursement of petitioners for eliminated family-sponsored categories.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

Sec. 600. Statements of national policy concerning welfare and immigration.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.
Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.
Sec. 603. General exceptions.
Sec. 604. Treatment of expenses subject to emergency medical services exception.
Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.
Sec. 606. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 607. Payment of public assistance benefits.
Sec. 608. Definitions.
Sec. 609. Regulations and effective dates.

PART 2—EARNED INCOME TAX CREDIT

Sec. 611. Earned income tax credit denied to individuals not authorized to be employed in the United States.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

Sec. 621. Ground for inadmissibility.
Sec. 622. Ground for deportability.

Subtitle C—Attribution of Income and Affidavits of Support

Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.
Sec. 632. Requirements for sponsor's affidavit of support.

TITLE VII—FACILITATION OF LEGAL ENTRY

Sec. 701. Additional land border inspectors; infrastructure improvements.
Sec. 702. Commuter lane pilot programs.
Sec. 703. Preinspection at foreign airports.
Sec. 704. Training of airline personnel in detection of fraudulent documents.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Amendments to the Immigration and Nationality Act

Sec. 801. Nonimmigrant status for spouses and children of members of the Armed Services.
Sec. 802. Amended definition of aggravated felony.
Sec. 803. Authority to determine visa processing procedures.
Sec. 804. Waiver authority concerning notice of denial of application for visas.
Sec. 805. Treatment of Canadian landed immigrants.
Sec. 806. Changes relating to H-1B nonimmigrants.
Sec. 807. Validity of period of visas.
Sec. 808. Limitation on adjustment of status of individuals not lawfully present in the United States.
Sec. 809. Limited access to certain confidential INS files.

Sec. 810. Change of nonimmigrant classification.

Subtitle B—Other Provisions

Sec. 831. Commission report on fraud associated with birth certificates.
Sec. 832. Uniform vital statistics.
Sec. 833. Communication between State and local government agencies, and the Immigration and Naturalization Service.
Sec. 834. Criminal alien reimbursement costs.
Sec. 835. Female genital mutilation.
Sec. 836. Designation of Portugal as a visa waiver pilot program country with probationary status.

Subtitle C—Technical Corrections

Sec. 851. Miscellaneous technical corrections.

TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION THROUGH IMPROVED BORDER ENFORCEMENT, PILOT PROGRAMS, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at Border

SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

(a) INCREASED NUMBER OF BORDER PATROL POSITIONS.—The number of border patrol agents shall be increased, for each fiscal year beginning with the fiscal year 1996 and ending with the fiscal year 2000, by 1,000 full-time equivalent positions above the number of equivalent positions as of September 30, 1994.

(b) INCREASE IN SUPPORT PERSONNEL.—The number of full-time support positions for personnel in support of border enforcement, investigation, detention and deportation, intelligence, information and records, legal proceedings, and management and administration in the Immigration and Naturalization Service shall be increased, beginning with fiscal year 1996, by 800 positions above the number of equivalent positions as of September 30, 1994.

(c) DEPLOYMENT OF NEW BORDER PATROL AGENTS.—The Attorney General shall, to the maximum extent practicable, ensure that the border patrol agents hired pursuant to subsection (a) shall—

(1) be deployed among the various Immigration and Naturalization Service sectors in proportion to the level of illegal crossing of the borders of the United States measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year, and

(2) be actively engaged in law enforcement activities related to such illegal crossings.

SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Immigration and Naturalization Service, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.—

(1) IN GENERAL.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection not to exceed $12,000,000. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) WAIVER.—The provisions of the Endangered Species Act of 1973 are waived to the extent the Attorney General determines necessary to assure expeditious construction of the barriers and roads under this section.

(d) FORWARD DEPLOYMENT.—

(1) IN GENERAL.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis.

(2) REPORT.—By not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the appropriate committees of Congress a report on the progress and effectiveness of such forward deployments.

SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and utilize, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

(a) IN GENERAL.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: "Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.".

(b) EFFECTIVE DATES.—

(1) Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 6 months after the date of the enactment of this Act.

(2) Clause (B) of such sentence shall apply to cards presented on or after 3 years after the date of the enactment of this Act.

(c) REPORT.—Not later than one year after the implementation of clause (A) of the sentence added by the amendment made by subsection (a) the Attorney General shall submit to Congress a report on the impact of such clause on border crossing activities.

SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least $50 and not more than $250 for each such entry (or attempted entry), or

"(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to illegal entries or attempts to enter occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REENTERING THE UNITED STATES UNLAWFULLY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to provide for detention and prosecution of each alien who commits an act that constitutes a violation of section 275(a) of the Immigration and Nationality Act if the alien has committed such an act on two previous occasions. Funds appropriated pursuant to this subsection are authorized to remain available until expended.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General should use available resources to assure detention and prosecution of aliens in the cases described in subsection (a).

SEC. 107. INSERVICE TRAINING FOR THE BORDER PATROL.

(a) REQUIREMENT.—Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General shall continue to provide for such programs (including intensive language training programs) of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom such personnel have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service include a description of steps taken to carry out paragraph (1).".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for fiscal year 1996 to carry out the inservice training described in section 103(e)(1) of the Immigration and Nationality Act. The funds appropriated pursuant to this subsection are authorized to remain available until expended.

Subtitle B—Pilot Programs

SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION.

(a) ESTABLISHMENT.—Not later than 120 days after the date of the enactment of this Act, the Attorney General, after consultation with the Secretary of State, shall establish a pilot program for up to 2 years which provides for methods to deter multiple illegal entries by aliens into the United States. The pilot program may include the development and use of interior repatriation, third country repatriation, and other disincentives for multiple illegal entries into the United States.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the pilot program under this section and whether the pilot program or any part thereof should be extended or made permanent.

SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases available because of actions under a base closure law as detention centers by the Immigration and Naturalization Service.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of

State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

(c) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DEPARTING PASSENGERS.

(a) ESTABLISHMENT.—The Commissioner of the Immigration and Naturalization Service shall, within 180 days after the date of the enactment of this Act, establish a pilot program in which officers of the Service collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States. The program shall be operated in as many airports of entry as is deemed appropriate, but at no less than 3 of the 5 airports of entry with the heaviest volume of incoming traffic from foreign territories.

(b) REPORT.—

(1) DEADLINE.—The Commissioner shall submit a report to Congress not later than 2 years after the date the pilot program is implemented under subsection (a).

(2) INFORMATION.—The report shall include the following information for each participating port of entry:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived at the port of entry as nonimmigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the pilot program or through other means, with an accounting by the alien's country of nationality and date of arrival in the United States.

(D) The estimated cost of establishing a national system to verify the departure from the United States of aliens admitted temporarily as nonimmigrants.

(3) RECOMMENDATIONS.—The report also shall include specific recommendations for implementation of the pilot program on a permanent basis.

(c) USE OF INFORMATION ON VISA OVERSTAYS.—Information on instances of visa overstay identified through the pilot program shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

Subtitle C—Interior Enforcement

SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR ENFORCEMENT.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of investigators and enforcement personnel of the Immigration and Naturalization Service who are deployed in the interior so that the number of such personnel is adequate properly to investigate violations of, and to enforce, immigration laws.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o)(1) a felony violation of section 1028 (relating to production of false identification documentation), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud or misuse of visas, permits, or other documents) of this title; or

"(2) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents)," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose)".

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) in subparagraph (B)(i), by inserting "or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain" after "subparagraph (A)(i)", and

(2) by adding at the end the following new subparagraph:

"(C) Any person who engages in any conspiracy to commit, or aids or abets the commission of, any of the acts described in—

"(i) subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

"(ii) clause (ii), (iii), or (iv) of subparagraph (A) shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.".

(b) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "or" at the end of clause (ii),

(B) by adding "or" at the end of clause (iii), and

(C) by inserting after clause (iii) the following:

"(iv) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,"; and

(2) by striking "be fined" and all that follows through the final period at the end and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned not less than 3 years or more than 10 years.".

(c) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs".

SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.

(a) IN GENERAL.—The number of Assistant United States Attorneys employed by the Department of Justice for the fiscal year 1996 shall be increased by 25 above the number of Assistant United States Attorneys that were authorized to be employed as of September 30, 1994.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be specially trained to be used for the prosecution of persons who bring into the United States or harbor illegal aliens, fraud, and other criminal statutes involving illegal aliens.

SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.

(a) IN GENERAL.—Title II is amended by adding at the end the following new section:

"UNDERCOVER INVESTIGATION AUTHORITY

"SEC. 294. (a) IN GENERAL.—With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States—

"(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

"(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

"(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

"(C) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

"(D) the third undesignated paragraph under the heading 'Miscellaneous' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

"(E) section 3648 of the Revised Statutes (31 U.S.C. 3324),

"(F) section 3741 of the Revised Statutes (41 U.S.C. 22), and

"(G) subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and

of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

"(b) DISPOSITION OF PROCEEDS NO LONGER REQUIRED.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) FINANCIAL AUDITS.—The Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority.".

Subtitle B—Deterrence of Document Fraud

SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(2) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(3) by redesignating paragraph (3) as paragraph (5); and

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and".

(b) CHANGES TO THE SENTENCING LEVELS.—Pursuant to section 944 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, relating to defendants convicted of violating, or conspiring to violate, sections 1546(a) and 1028(a) of title 18, United States Code. The basic offense level under section 2L2.1 of the United States Sentencing Guidelines shall be increased to—

(1) not less than offense level 15 if the offense involves 100 or more documents;

(2) not less than offense level 20 if the offense involves 1,000 or more documents, or if the documents were used to facilitate any other criminal activity described in section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(A)(i)(II)) or in section 101(a)(43) of such Act; and

(3) not less than offense level 25 if the offense involves—

(A) the provision of documents to a person known or suspected of engaging in a terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B));

(B) the provision of documents to facilitate a terrorist activity or to assist a person to engage in terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

(C) the provision of documents to persons involved in racketeering enterprises (described in section 1952(a) of title 18, United States Code).

SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", or"; and

(3) by adding at the end the following:

"(5) in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, to file, or to assist another in preparing or filing, documents which are falsely made for the purpose of satisfying a requirement of this Act.

For purposes of this section, the term 'falsely made' includes, with respect to a document or application, the preparation or provision of the document or application with knowledge or in reckless disregard of the fact that such document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a material fact pertaining to the document or application.".

(b) CONFORMING AMENDMENTS FOR CIVIL PENALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" both places it appears and inserting "each instance of a violation under subsection (a)".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to the preparation or filing of documents, and assistance in such preparation or filing, occurring on or after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT DOCUMENTS AND FOR PREPARING IMMIGRATION DOCUMENTS WITHOUT AUTHORIZATION.

(a) IN GENERAL.—Section 274C(a) (8 U.S.C. 1324c(a)), as amended by section 212(a), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a comma; and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry, or

"(7) to prepare or assist in the preparation and submission of immigration forms, petitions, and applications if the person or entity is not authorized to represent aliens, or to prepare or assist in the preparation and submission of such forms, petitions, and applications pursuant to regulations promulgated by the Attorney General."; and

(4) by adding at the end the following:

"The Attorney General may, in the discretion of the Attorney General, waive the penalties of this section with respect to an alien who knowingly violates paragraph (6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who board a common carrier on or after 30 days after the date of the enactment of this Act.

SEC. 214. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR ASYLUM AND FOR PREPARING CERTAIN POST-CONVICTION APPLICATIONS.

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—

"(1) If a person is required by law or regulation to disclose the fact that the person, on behalf of another person and for a fee or other remuneration, has prepared or assisted in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder, and the person knowingly and willfully fails to disclose, conceals, or covers up such fact, and the application was falsely made, the person shall—

"(A) be imprisoned for not less than 2 nor more than 5 years, fined in accordance with title 18, United States Code, or both, and

"(B) be prohibited from preparing or assisting in preparing, regardless of whether for a fee or other remuneration, any other such application for a period of at least 5 years and not more than 15 years.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for asylum pursuant to section 208, or the regulations promulgated thereunder, regardless of whether for a fee or other remuneration, in violation of paragraph (1)(B) shall be imprisoned for not less than 5 years or more than 15 years, fined in accordance with title 18, United States Code, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking "containing any such false statement" and inserting "which contains any such false statement or which fails to contain any reasonable basis in law or fact".

SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of paragraph (d) and inserting "; or", and

(2) by inserting after paragraph (d) the following:

"(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal benefit or service,

or to engage unlawfully in employment in the United States; or

"(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—".

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation.", and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 222. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 223. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCEDURES.

This subtitle amends the provisions of the Immigration and Nationality Act relating to procedures for inspection, exclusion, and deportation of aliens so as to provide for the following:

(1) EXPEDITED REMOVAL FOR UNDOCUMENTED ALIENS.—Aliens arriving without valid documents are subject to an expedited removal process, without an evidentiary hearing and subject to strictly limited judicial review.

(2) NO REWARD FOR ILLEGAL ENTRANTS OR VISA OVERSTAYERS.—Aliens who enter illegally or who overstay the period of authorized admission will have a greater burden of proof in removal proceedings and will face tougher standards for most discretionary immigration benefits, such as suspension of removal and work authorization.

(3) STRICTER STANDARDS TO ASSURE DETENTION OF ALIENS.—There are more stringent standards for the release of aliens (particularly aliens convicted of aggravated felonies) during and after removal proceedings.

(4) SIMPLIFIED, SINGLE REMOVAL PROCEEDING (IN PLACE OF SEPARATE EXCLUSION AND DEPORTATION PROCEEDINGS).—The procedures for exclusion and deportation are consolidated into a simpler, single procedure for removal of inadmissible and deportable aliens.

(5) STREAMLINED JUDICIAL REVIEW.—Judicial review is streamlined through removing a layer of review in exclusion cases, shortening the time period to file for review, and permitting the removal of inadmissible aliens pending the review.

(6) INCREASED PENALTIES TO ASSURE REMOVAL AND PREVENT FURTHER REENTRY.—Aliens who are ordered removed are subject to civil money penalties for failure to depart on time and if they seek reentry they are subject to immediate removal under the prior order.

(7) PROTECTION OF APPLICANTS FOR ASYLUM.—Throughout the process, the procedures protect those aliens who present credible claims for asylum by giving them an opportunity for a full hearing on their claims.

(8) REORGANIZATION.—The provisions of the Act are reorganized to provide a more logical progression from arrival and inspection through proceedings and removal.

SEC. 301. TREATING PERSONS PRESENT IN THE UNITED STATES WITHOUT AUTHORIZATION AS NOT ADMITTED.

(a) "ADMISSION" DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

"(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the entry of the alien into the United States after inspection and authorization by an immigration officer.

"(B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

"(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

"(i) has abandoned or relinquished that status,

"(ii) has engaged in illegal activity after having departed the United States,

"(iii) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,

"(iv) has been convicted of an aggravated felony, unless since such conviction the alien has been granted relief under section 240A(a), or

"(v) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.".

(b) INADMISSIBILITY OF ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

(1) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) PRESENT WITHOUT ADMISSION OR PAROLE.—

"(A) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

"(B) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Subparagraph (A) shall not apply to an alien who can demonstrate that—

"(i) the alien qualifies for immigrant status under subparagraphs (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

"(ii)(I) the alien has been battered or subject to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subject to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

"(iii) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.".

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of clauses (ii) and (iii) of section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III–A effective date (described in section 309(a)).

(c) REVISION TO GROUND OF INADMISSIBILITY FOR ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C. 1182(a)(6)) are amended to read as follows:

"(A) ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal is inadmissible.

"(ii) OTHER ALIENS.—Any alien not described in clause (i) who has been ordered removed under section 240 or any other provision of law and who again seeks admission within 10 years of the date of such removal (or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(iii) EXCEPTION.—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

"(B) ALIENS PRESENT UNLAWFULLY FOR MORE THAN 1 YEAR.—

"(i) IN GENERAL.—Any alien who was unlawfully present in the United States for an aggregate period totaling 1 year is inadmissible unless the alien has remained outside the United States for a period of 10 years.

"(ii) EXCEPTIONS.—

"(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(III) ALIENS WITH WORK AUTHORIZATION.—No period of time in which an alien is provided authorization to engage in employment in the United States (including such an authorization under section 244A(a)(1)(B)), or in which the alien is the spouse of such an alien, shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(IV) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien described in paragraph (9)(B).

"(iii) EXTENSION.—The Attorney General may extend the period of 1 year under clause (i) to a period of 15 months in the case of an alien who applies to the Attorney General (before the alien has been present unlawfully in the United States for a period totaling 1 year) and establishes to the satisfaction of the Attorney General that—

"(I) the alien is not inadmissible under clause (i) at the time of the application, and

"(II) the failure to extend such period would constitute an extreme hardship for the alien.

"(iv) WAIVER.—In the case of an alien who is the spouse, parent, or child of a United States citizen or the spouse or child of a permanent resident alien, the Attorney General may waive clause (i) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(v) NATIONAL INTEREST WAIVER.—The Attorney General may waive clause (i) if the Attorney General determines that such a waiver is necessary to substantially benefit—

"(I) the national security, national defense, or Federal, State, or local law enforcement;

"(II) health care, housing, or educational opportunities for an indigent or low-income population or in an underserved geographical area;

"(III) economic or employment opportunities for a specific industry or specific geographical area;

"(IV) the development of new technologies; or

"(V) environmental protection or the productive use of natural resources; and

the alien will engage in a specific undertaking to advance one or more of the interests identified in subclauses (I) through (V).".

(d) WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIENS.—Subsection (i) of section 212 is amended to read as follows:

"(i) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C)—

"(1) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen; or

"(2) in the case of an immigrant who is the spouse or son or daughter of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the lawfully resident spouse or parent of such an alien.".

(e) PROHIBITION ON ISSUANCE OF VISAS FOR FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID UNITED STATES TAXATION.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by subsection (b)(1), is amended by adding at the end the following:

"(D) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounced United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.".

(f) PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.—

(1) IN GENERAL.—Section 212(a)(1)(A) (8 U.S.C. 1182(a)(1)(A)) is amended—

(A) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(B) by inserting after clause (i) the following new clause:

"(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,".

(2) WAIVER.—Section 212(g) (8 U.S.C. 1182(g) is amended by striking ", or" at the end of paragraph (1) and all that follows and inserting a semicolon and the following:

"in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

"(2) subsection (a)(1)(A)(ii) in the case of any alien—

"(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination, or

"(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by 42 C.F.R. 34.2) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate; or

"(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996.

(g) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "in the United States" and inserting "in and admitted to the United States";

(2) in subsection (a)(1), by striking "EXCLUDABLE" each place it appears and inserting "INADMISSIBLE";

(3) in subsection (a)(1)(A), by striking "excludable" and inserting "inadmissible"; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

"(B) PRESENT IN VIOLATION OF LAW.—Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.".

SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).

Section 235 (8 U.S.C. 1225) is amended to read as follows:

"INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

"SEC. 235. (a) INSPECTION.—

"(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted, who arrives in the United States (whether or not at a designated port of arrival), or who is brought to the United States after having been interdicted in international or United States waters shall be deemed for purposes of this Act an applicant for admission.

"(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

"(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

"(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

"(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

"(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

"(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES.—

"(A) SCREENING.—If the examining immigration officer determines that an alien arriving in the United States (whether or not at a port of entry) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien—

"(i) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall order the alien removed from the United States without further hearing or review; or

"(ii) indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

"(B) ASYLUM INTERVIEWS.—

"(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (A)(ii).

"(ii) REFERRAL OF CERTAIN ALIENS.—If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.

"(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

"(I) IN GENERAL.—Subject to subclause (II), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

"(II) REVIEW OF DETERMINATION BY SUPERVISORY OFFICER.—The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum officer at the port of entry of a determination under subclause (I).

"(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(C) LIMITATION ON ADMINISTRATIVE REVIEW.—A removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the

Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii)(I).

"(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques, and

"(ii) is supervised by an officer who meets the condition described in clause (i).

"(2) INSPECTION OF OTHER ALIENS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a hearing under section 240.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

"(i) who is a crewman,

"(ii) to whom paragraph (1) applies, or

"(iii) who is a stowaway.

"(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a hearing under section 240.

"(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

"(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

"(A) order the alien removed, subject to review under paragraph (2);

"(B) report the order of removal to the Attorney General; and

"(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

"(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

"(B) If the Attorney General—

"(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

"(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security,

the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

"(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

"(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

"(d) AUTHORITY RELATING TO INSPECTIONS.—

"(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

"(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

"(A) to detain the alien on the vessel or at the airport of arrival, and

"(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

"(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.".

SEC. 303. APPREHENSION AND DETENTION OF ALIENS NOT LAWFULLY IN THE UNITED STATES (REVISED SECTION 236).

(a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is amended to read as follows:

"APPREHENSION AND DETENTION OF ALIENS NOT LAWFULLY IN THE UNITED STATES

"SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

"(1) may continue to detain the arrested alien; and

"(2) may release the alien on—

"(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

"(B) conditional parole; but

"(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) ALIENS CONVICTED OF AGGRAVATED FELONIES.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien convicted of an aggravated felony when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release the alien only if—

"(A) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding;

"(B) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding; or

"(C) the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation.

A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

"(d) IDENTIFICATION OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—(1) The Attorney General shall devise and implement a system—

"(A) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been removed.

"(2) The record under paragraph (1)(C) shall be made available—

"(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously removed alien seeking to reenter the United States, and

"(B) to officials of the Department of State for use in its automated visa lookout system.".

(b) INCREASE IN INS DETENTION FACILITIES.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds by fiscal year 1997.

SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).

(a) IN GENERAL.—Chapter 4 of title II is amended—

(1) by redesignating section 239 as section 234 and by moving such section to immediately follow section 233;

(2) by redesignating section 240 (8 U.S.C. 1230) as section 240C; and

(3) by inserting after section 238 the following new sections:

"INITIATION OF REMOVAL PROCEEDINGS

"SEC. 239. (a) NOTICE TO APPEAR.—

"(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) and (ii) a current list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 240.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

"(G)(i) The time and place at which the proceedings will be held.

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

"(B) EXCEPTION.—In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under paragraph (1)(F).

"(3) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 240. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

"(c) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

"(d) PROMPT INITIATION OF REMOVAL.—(1) In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

"(2) Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

"REMOVAL PROCEEDINGS

"SEC. 240. (a) PROCEEDING.—

"(1) IN GENERAL.—An immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.

"(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

"(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

"(b) CONDUCT OF PROCEEDING.—

"(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

"(2) FORM OF PROCEEDING.—

"(A) IN GENERAL.—The proceeding may take place—

"(i) in person,

"(ii) through video conference, or

"(iii) subject to subparagraph (B), through telephone conference.

"(B) CONSENT REQUIRED IN CERTAIN CASES.—An evidentiary hearing on the merits may only be conducted through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

"(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

"(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

"(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

"(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government, and

"(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

"(5) CONSEQUENCES OF FAILURE TO APPEAR.—

"(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

"(B) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under subparagraph (A) if the alien has failed to provide the address required under section 239(a)(1)(F).

"(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

"(ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 239(a) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in clause (i) or (ii) shall stay the removal of the alien pending disposition of the motion.

"(D) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 242 of an order entered in absentia under this paragraph shall (except in cases described in section 242(b)(5)) be confined to (i) the validity of the notice provided to the alien, (ii) the reasons for the alien's not attending the proceeding, and (iii) whether or not the alien is removable.

"(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

"(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(B) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

"(7) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—Any alien against whom a final order of removal is entered in absentia under this subsection and who, at the time of the notice described in paragraph (1) or (2) of section 239(a), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (e)(1)) to attend a proceeding under this section, shall not be eligible for relief under section 240A, 240B, 245, 248, or 249 for a period of 10 years after the date of the entry of the final order of removal.

"(c) DECISION AND BURDEN OF PROOF.—

"(1) DECISION.—

"(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

"(2) BURDEN ON ALIEN.—In the proceeding the alien has the burden of establishing—

"(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

"(B) by clear and convincing evidence, that the alien is lawfully present in the United States pursuant to a prior admission.

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

"(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

"(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

"(5) MOTIONS TO RECONSIDER.—

"(A) IN GENERAL.—The alien may file one motion to reconsider a decision that the alien is removable from the United States.

"(B) DEADLINE.—The motion must be filed within 30 days of the date of entry of a final administrative order of removal.

"(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

"(6) MOTIONS TO REOPEN.—

"(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

"(B) CONTENTS.—The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

"(C) DEADLINE.—

"(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

"(ii) ASYLUM.—There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 208 or 241(b)(3) and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

"(iii) FAILURE TO APPEAR.—A motion to reopen may be filed within 180 days after the date of the final order of removal if the order has been entered pursuant to subsection (b)(5) due to the alien's failure to appear for proceedings under this section and the alien establishes that the alien's failure to appear was because of exceptional circumstances beyond the control of the alien or because the alien did not receive the notice required under section 239(a)(2).

"(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

"(e) DEFINITIONS.—In this section and section 240A:

"(1) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

"(2) REMOVABLE.—The term 'removable' means—

"(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

"(B) in the case of an alien admitted to the United States, that the alien is deportable under section 237.

"CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

"SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(1) has been an alien lawfully admitted for permanent residence for not less than 5 years,

"(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

"(3) has not been convicted of an aggravated felony or felonies for which the alien has been sentenced, in the aggregate, to a term of imprisonment of at least 5 years.

"(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of not less than 7 years immediately preceding the date of such application;

"(B) has been a person of good moral character during such period;

"(C) has not been convicted of an aggravated felony; and

"(D) establishes that removal would result in extreme hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(A) has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

"(B) has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application;

"(C) has been a person of good moral character during such period;

"(D) is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraph (1)(G) or (2) through (4) of section 237(a), and has not been convicted of an aggravated felony; and

"(E) establishes that removal would result in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

"(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

"(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

"(1) An alien who entered the United States as a crewman subsequent to June 30, 1964.

"(2) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

"(3) An alien who—

"(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

"(B) is subject to the two-year foreign residence requirement of section 212(e), and

"(C) has not fulfilled that requirement or received a waiver thereof.

"(4) An alien who is inadmissible under section 212(a)(3) or deportable under subparagraph (B) or (D) of section 237(a)(4).

"(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

"(1) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a).

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any periods in the aggregate exceeding 180 days, unless the Attorney General finds that return could not be accomplished within that time period due to emergent reasons.

"(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

"(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(B) at the time of the alien's enlistment or induction was in the United States.

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

"(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

"(b) AT CONCLUSION OF PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

"(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days.

"(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(c) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to so depart after having been found inadmissible under section 212(a)(9).

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249.

"(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens.

"(f) APPEALS OF DENIALS.—An alien may appeal from denial of a request for an order of voluntary departure under subsection (b) in accordance with the procedures in section 242. Notwithstanding the pendency of such appeal, the alien shall be removable from the United States 60 days after entry of the order of removal. The alien's removal from the United States shall not moot the appeal.".

(b) REPEAL OF SECTION 212(c).—Section 212(c) (8 U.S.C. 1182(c)) is repealed.

SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).

(a) IN GENERAL.—Title II is further amended—

(1) by striking section 237 (8 U.S.C. 1227),

(2) by redesignating section 241 as section 237 and by moving such section to immediately follow section 236, and

(3) by inserting after section 240C (as redesignated by section 304(a)(2)) the following new section:

"DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

"SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period').

"(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

"(i) The date the order of removal becomes administratively final.

"(ii) If the removal order is judicially reviewed and such review serves to stay the removal of the alien, the date of the court's final order.

"(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

"(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

"(2) DETENTION AND RELEASE BY THE ATTORNEY GENERAL.—During the removal period, the Attorney General shall detain the alien. If there is insufficient detention space to detain the alien, the Attorney General shall make a specific finding to this effect and may release the alien on a bond containing such conditions as the Attorney General may prescribe.

"(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

"(A) to appear before an immigration officer periodically for identification;

"(B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;

"(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

"(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

"(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

"(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, and the alien shall be removed under the prior order at any time after the reentry.

"(6) INADMISSIBLE ALIENS.—An alien ordered removed who is inadmissible under section 212 may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

"(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

"(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

"(B) the removal of the alien is otherwise impracticable or contrary to the public interest.

"(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

"(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

"(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the alien boarded the vessel or aircraft on which the alien arrived in the United States.

"(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

"(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

"(i) The country of which the alien is a citizen, subject, or national.

"(ii) The country in which the alien was born.

"(iii) The country in which the alien has a residence.

"(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

"(2) OTHER ALIENS.—Subject to paragraph (3)—

"(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

"(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

"(ii) the Attorney General shall remove the alien to the country the alien so designates.

"(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

"(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

"(i) the alien fails to designate a country promptly;

"(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

"(iii) the government of the country is not willing to accept the alien into the country; or

"(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

"(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

"(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

"(ii) is not willing to accept the alien into the country.

"(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

"(i) The country from which the alien was admitted to the United States.

"(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

"(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

"(iv) The country in which the alien was born.

"(v) The country that had sovereignty over the alien's birthplace when the alien was born.

"(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

"(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

"(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

"(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

"(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

"(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

"(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

"(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

"(B) the alien is a stowaway—

"(i) who has been ordered removed in accordance with section 235(a)(1),

"(ii) who has requested asylum, and

"(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

"(2) STAY OF REMOVAL.—

"(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

"(i) immediate removal is not practicable or proper; or

"(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

"(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'—

"(i) the cost of maintenance of the alien; and

"(ii) a witness fee of $1 a day.

"(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

"(i) the alien's filing a bond of at least $500 with security approved by the Attorney General;

"(ii) condition that the alien appear when required as a witness and for removal; and

"(iii) other conditions the Attorney General may prescribe.

"(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), an owner of a vessel or aircraft bringing an alien to the United States shall pay the costs of detaining and maintaining the alien—

"(i) while the alien is detained under subsection (d)(1), and

"(ii) in the case of an alien who is a stowaway, while the alien is being detained pursuant to—

"(I) subsection (d)(2)(A) or (d)(2)(B)(i),

"(II) subsection (d)(2)(B)(ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

"(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

"(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

"(i) the alien is a crewmember;

"(ii) the alien has an immigrant visa;

"(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not later than 120 days after the date the visa or documentation was issued;

"(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

"(v)(I) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States or a reentry permit;

"(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

"(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

"(vi) the individual claims to be a national of the United States and has a United States passport.

"(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

"(1) REMOVAL AT TIME OF ARRIVAL.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States shall—

"(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

"(B) take the alien to the foreign country to which the alien is ordered removed.

"(2) ALIEN STOWAWAYS.—An owner, agent, master, commanding officer, charterer, or consignee of a vessel or aircraft arriving in the United States with an alien stowaway—

"(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

"(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

"(i) for medical treatment,

"(ii) for detention of the stowaway by the Attorney General, or

"(iii) for departure or removal of the stowaway; and

"(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if any travel documents necessary for departure or repatriation of the stowaway have been obtained and removal of the stowaway will not be unreasonably delayed.

"(3) REMOVAL UPON ORDER.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel, aircraft, or other transportation line shall comply with an order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be removed under this Act.

"(e) PAYMENT OF EXPENSES OF REMOVAL.—

"(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

"(A) pay the cost from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'; and

"(B) recover the amount of the cost in a civil action from the owner, agent, or consignee of the vessel or aircraft (if any) on which the alien arrived in the United States.

"(2) COSTS OF REMOVAL TO PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—In the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien to the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

"(A) THROUGH APPROPRIATION.—Except as provided in subparagraph (B), in the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien from the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(B) THROUGH OWNER.—

"(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

"(ii) ALIENS DESCRIBED.—An alien described in this clause is an alien who—

"(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date of admission based on a ground that existed before or at the time of admission, or

"(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

"(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

"(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

"(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

"(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

"(g) PLACES OF DETENTION.—

"(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

"(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) MODIFICATION OF AUTHORITY.—

(1) Section 241(i), as redesignated by section 306(a)(1), is amended—

(A) in paragraph (3)(A) by striking "felony and sentenced to a term of imprisonment" and inserting "felony or two or more misdemeanors", and

(B) by adding at the end the following new paragraph:

"(6) In this subsection, the term 'incarceration' includes imprisonment in a State or local prison or jail the time of which is counted towards completion of a sentence or the detention of an alien previously convicted of a felony or misdemeanor who has been arrested and is being held pending judicial action on new charges or pending transfer to Federal custody.".

(2) The amendments made by paragraph (1) shall apply beginning with fiscal year 1996.

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by striking "241(a)(5)(B)" each place it appears and inserting "237(a)(5)(B)".

SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SECTION 242).

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is amended—

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3); and

(2) by amending the remainder of section 242 to read as follows:

"JUDICIAL REVIEW OF ORDERS OF REMOVAL

"SEC. 242. (a) APPLICABLE PROVISIONS.—

"(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

"(2) LIMITATIONS ON REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(A) except as provided in subsection (f), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 235(b)(1),

"(B) a decision by the Attorney General to invoke the provisions of such section,

"(C) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

"(D) procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

"(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

"(b) REQUIREMENTS FOR ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

"(1) DEADLINE.—The petition for review must be filed not later than 30 days after the date of the final order of removal.

"(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(3) SERVICE.—

"(A) IN GENERAL.—The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Service in charge of the Service district in which the initial proceedings under section 240 were conducted.

"(B) STAY OF ORDER.—

"(i) IN GENERAL.—Except as provided in clause (ii), service of the petition on the officer or employee stays the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(ii) EXCEPTION.—If the alien has been convicted of an aggravated felony, or the alien has been ordered removed pursuant to a finding that the alien is inadmissible under section 212, service of the petition does not stay the removal unless the court orders otherwise.

"(4) DECISION.—Except as provided in paragraph (5)(B)—

"(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

"(B) the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole, and

"(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law.

"(5) TREATMENT OF NATIONALITY CLAIMS.—

"(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

"(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

"(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

"(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

"(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

"(i) no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

"(ii) a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

The defendant may have such nationality claim decided only as provided in this subparagraph.

"(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

"(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

"(8) CONSTRUCTION.—This subsection—

"(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

"(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

"(C) except as provided in paragraph (3), does not require the Attorney General to defer removal of the alien.

"(c) REQUIREMENTS FOR PETITION.—A petition for review or for habeas corpus of an order of removal shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

"(1) the alien has exhausted all administrative remedies available to the alien as of right, and

"(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(e) LIMITED REVIEW FOR NON-PERMANENT RESIDENTS CONVICTED OF AGGRAVATED FELONIES.—

"(1) IN GENERAL.—A petition for review filed by an alien against whom a final order of removal has been issued under section 238 may challenge only whether—

"(A) the alien is the alien described in the order,

"(B) the alien is an alien described in section 238(b)(2) and has been convicted after entry into the United States of an aggravated felony, and

"(C) proceedings against the alien complied with section 238(b)(4).

"(2) LIMITED JURISDICTION.—A court reviewing the petition has jurisdiction only to review the issues described in paragraph (1).

"(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

"(1) APPLICATION.—The provisions of this subsection apply with respect to judicial review of orders of removal effected under section 235(b)(1).

"(2) LIMITATIONS ON RELIEF.—Regardless of the nature of the action or claim and regardless of the identity of the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, or to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(3) LIMITATION TO HABEAS CORPUS.—Judicial review of any matter, cause, claim, or individual determination made or arising under or pertaining to section 235(b)(1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien,

"(B) whether the petitioner was ordered removed under such section, and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

"(4) DECISION.—In any case where the court determines that the petitioner—

"(A) is an alien who was not ordered removed under section 235(b)(1), or

"(B) has demonstrated by a preponderance of the evidence that the alien is a lawful permanent resident,

the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 240. Any alien who is provided a hearing under section 240 pursuant to this paragraph may thereafter obtain judicial review of any resulting final order of removal pursuant to subsection (a)(1).

"(5) SCOPE OF INQUIRY.—In determining whether an alien has been ordered removed under section 235(b)(1), the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.

"(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Immigration in the National Interest Act of 1995, other than with respect to the application of such provisions to an individual alien against whom proceedings under such chapter have been initiated.".

(b) REPEAL OF SECTION 106.—Section 106 (8 U.S.C. 1105a) is repealed.

SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED SECTION 243).

(a) IN GENERAL.—Section 243 (8 U.S.C. 1253) is amended to read as follows:

"PENALTIES RELATED TO REMOVAL

"SEC. 243. (a) PENALTY FOR FAILURE TO DEPART.—

"(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a), who—

"(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

"(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

"(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

"(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

"(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

"(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

"(A) the age, health, and period of detention of the alien;

"(B) the effect of the alien's release upon the national security and public peace or safety;

"(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

"(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

"(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

"(F) the eligibility of the alien for discretionary relief under the immigration laws.

"(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

"(1) CIVIL PENALTIES.—

"(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of $2,000 for each violation.

"(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

"(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

"(2) CLEARING VESSELS AND AIRCRAFT.—

"(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

"(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

"(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.".

SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by section 851(d)(1), is amended—

(1) by striking the item relating to section 106, and

(2) by striking the item relating to chapter 4 of title II and all that follows through the item relating to section 244A and inserting the following:

"CHAPTER 4—INSPECTION, APPREHENSION,
EXAMINATION, EXCLUSION, AND REMOVAL

"Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.
"Sec. 232. Detention of aliens for physical and mental examination.
"Sec. 233. Entry through or from foreign contiguous territory and adjacent islands; landing stations.

"Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.
"Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.
"Sec. 236. Apprehension and detention of aliens not lawfully in the United States.
"Sec. 237. General classes of deportable aliens.
"Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.
"Sec. 239. Initiation of removal proceedings.
"Sec. 240. Removal proceedings.
"Sec. 240A. Cancellation of removal; adjustment of status.
"Sec. 240B. Voluntary departure.
"Sec. 240C. Records of admission.
"Sec. 241. Detention and removal of aliens ordered removed.
"Sec. 242. Judicial review of orders of removal.
"Sec. 243. Penalties relating to removal.
"Sec. 244. Temporary protected status.

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(b) REORGANIZATION OF OTHER PROVISIONS.—Chapters 4 and 5 of title II are amended as follows:

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL".

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting "(a) DETENTION OF ALIENS.—" after "SEC. 232.", and

(B) by amending the section heading to read as follows:

"DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION".

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking "SEC. 234." and inserting the following: "(b) PHYSICAL AND MENTAL EXAMINATION.—", and

(C) by moving such provision to the end of section 232.

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

(5) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike "DEPORTATION" in its heading and insert "REMOVAL", and move the section to immediately follow section 237 (as redesignated by section 305(a)(2)).

(6) STRIKING SECTION 242B.—Strike section 242B (8 U.S.C. 1252b).

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 and redesignate section 244A as section 244.

(8) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5), was section 242A) is amended—

(A) in subsection (a)(1), by striking "section 242" and inserting "section 240";

(B) in subsection (a)(2), by striking "section 242(a)(2)" and inserting "section 236(c)"; and

(C) in subsection (b)(1), by striking "section 241(a)(2)(A)(iii)" and inserting "section 237(a)(2)(A)(iii)".

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232, as amended by section 308(b)(2), is further amended by adding at the end the following new subsection:

"(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.".

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1), is amended to read as follows:

"(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

"(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c), and

"(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.".

(3) CONTINGENT CONSIDERATION IN RELATION TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C. 1323(a)) is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following new paragraph:

"(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.".

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5), was section 242A(a)(1), is amended by adding at the end the following: "Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), as amended by section 851(b)(15), is amended by striking "and nothing in" and all that follows up to "shall".

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

(1) SECTION 212.—Section 212 (8 U.S.C. 1182(a)) is amended—

(A) in the heading, by striking "EXCLUDED FROM" and inserting "INELIGIBLE FOR";

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows "(a)" and inserting the following: "CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:";

(C) in subsection (a), by striking "is excludable" and inserting "is inadmissible" each place it appears;

(D) in subsections (a)(5)(C), (d)(1), (k), by striking "exclusion" and inserting "inadmissibility";

(E) in subsections (b), (d)(3), (h)(1)(A)(i), and (k), by striking "excludable" each place it appears and inserting "inadmissible";

(F) in subsection (b)(2), by striking "or ineligible for entry";

(G) in subsection (d)(7), by striking "excluded from" and inserting "denied"; and

(H) in subsection (h)(1)(B), by striking "exclusion" and inserting "denial of admission".

(2) SECTION 241.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(A) in subsection (a)(1)(H), by striking "excludable" and inserting "inadmissible";

(B) in subsection (a)(4)(C)(ii), by striking "excludability" and inserting "inadmissibility"; and

(C) in subsection (c), by striking "exclusion" and inserting "inadmissibility".

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking "excludability" and "excludable" each place each appears and inserting "inadmissibility" and "inadmissible", respectively:

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b)), 241(a)(1) (before redesignation by section 305(a)(2)), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

(B) Section 601(c) of the Immigration Act of 1990.

(C) Section 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(D) Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

(E) Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking "or expulsion" and inserting "expulsion, or removal".

(B) Section 102 (8 U.S.C. 1102) is amended by striking "exclusion or deportation" and inserting "removal".

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "been excluded or deported" and inserting "not been admitted or have been removed".

(D) Section 206 (8 U.S.C. 1156) is amended by striking "excluded from admission to the United States and deported" and inserting "denied admission to the United States and removed".

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking "exclusion" and inserting "inadmissibility".

(F) Section 217 (8 U.S.C. 1187) is amended by striking "excluded from admission" and inserting "denied admission at the time of arrival" each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking "exclude" and inserting "deny admission to".

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking "excluded by" and "the excluded classes" and inserting "inadmissible under" and "inadmissible classes", respectively.

(I)(i) Section 272 (8 U.S.C. 1322) is amended—

(I) by striking "EXCLUSION" in the heading and inserting "DENIAL OF ADMISSION",

(II) in subsection (a), by striking "excluding condition" and inserting "condition causing inadmissibility", and

(III) in subsection (c), by striking "excluding".

(ii) The item in the table of contents relating to such section is amended by striking "exclusion" and inserting "denial of admission".

(J) Section 276(a) (8 U.S.C. 1326) is amended—

(i) in paragraph (1), by striking "deported or excluded and deported" and inserting "denied admission or removed", and

(ii) in paragraph (2)(B), by striking "excluded and deported" and inserting "denied admission and removed".

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking "exclusion" each place it appears and inserting "removal".

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking "or expulsion" each place it appears and inserting "expulsion, or removal", and

(ii) in subsection (c), by striking "exclusion from" and inserting "denial of admission to".

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking "admitted to the United States, or excluded therefrom" each place it appears and inserting "admitted or denied admission to the United States".

(N) Section 291 (8 U.S.C. 1361) is amended by striking "subject to exclusion" and inserting "inadmissible" each place it appears.

(O) Section 292 (8 U.S.C. 1362) is amended by striking "exclusion or deportation" each place it appears and inserting "removal".

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking "exclusion" each place it appears and inserting "removal", and

(ii) in subsection (c), by striking "excluded from" and inserting "denied".

(Q) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "inadmissibility".

(R) Section 401(c) of the Refugee Act of 1980 is amended by striking "deportation or exclusion" and inserting "removal".

(S) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended—

(i) by striking "exclusion or deportation" each place it appears and inserting "removal", and

(ii) by striking "deportation or exclusion" each place it appears and inserting "removal".

(T) Section 4113(c) of title 18, United States Code, is amended by striking "exclusion and deportation" and inserting "removal".

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking "deportation" each place it appears and inserting "removal":

(A) Subparagraphs (A)(iii)(II), (A)(iv)(II), and (B)(iii)(II) of section 204(a)(1) (8 U.S.C. 1154(a)(1)).

(B) Section 212(d)(1) (8 U.S.C. 1182(d)(1)).

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)).

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 851(a)(3)(A).

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(a)(2).

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

(J) Section 263(a)(4) (8 U.S.C. 1303(a)(4)).

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 286(h)(2)(A)(v) (8 U.S.C. 1356(h)(2)(A)(v)).

(M) Section 291 (8 U.S.C. 1361).

(N) Section 318 (8 U.S.C. 1429).

(O) Section 130005(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(P) Section 4113(b) of title 18, United States Code.

(2) Each of the following is amended by striking "deported" each place it appears and inserting "removed":

(A) Section 212(d)(7) (8 U.S.C. 1182(d)(7)).

(B) Section 214(d) (8 U.S.C. 1184(d)).

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2).

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990.

(I) Section 4113 of title 18, United States Code.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting "or removed" after "deported" each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "suspension of deportation" and inserting "cancellation of removal".

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking "deportation is suspended" and inserting "removal is canceled".

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking "deportation against" and inserting "removal of".

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" each place each appears and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking "deportation against" and inserting "removal of".

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking "DEPORTATION" and "DEPORTATION" and inserting "REMOVAL" and "REMOVAL", respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking "deport" and inserting "remove", and

(B) in subsection (e), by striking "SUSPENSION OF DEPORTATION" and inserting "CANCELLATION OF REMOVAL".

(12) Section 254 (8 U.S.C. 1284) is amended by striking "deport" each place it appears and inserting "remove".

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking "DEPORTED" and inserting "REMOVED".

(B) The item in the table of contents relating to such section is amended by striking "deported" and inserting "removed".

(15) Section 318 (8 U.S.C. 1429) is amended by striking "suspending" and inserting "canceling".

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking "DEPORTATION" and inserting "REMOVAL".

(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "DEPORTATION" and inserting "REMOVAL".

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking "deported" and all that follows through "Deportation" and inserting "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking "deportation" and all that follows and inserting "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act.".

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking "entry" and inserting "admission" each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(H) Section 214(d) (8 U.S.C. 1184(d)).

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2).

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(O) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking "enter" and inserting "be admitted":

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking "enters" and inserting "is admitted to":

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4), is amended by striking "entry and inspection" and inserting "inspection and admission".

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking "at entry".

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking "that the entry", "given entry into", and "entering" and inserting "that the admission", "admitted to", and "admitted to".

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking "entry" and inserting "admission".

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 851(b)(14) but before redesignation

as section 238 by subsection (b)(5), are each amended by striking "106" and inserting "242".

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting "(as in effect before October 1, 1996)" after "106".

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "106(a)(1)" and inserting "242(b)(1)".

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking "236" and inserting "240".

(B) Section 4113(c) of title 18, United States Code, is amended by striking "1226 of title 8, United States Code" and inserting "240 of the Immigration and Nationality Act".

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking "237" and inserting "241".

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking "237(a)" and inserting "241(c)".

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking "237, 239, 243" and inserting "234, 243(c)(2)".

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking "242" and inserting "240".

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "242" and inserting "240".

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting "(as in effect before October 1, 1996)" after "242".

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking "section 1252(b) or section 1254(e) of title 8, United States Code," and inserting "section 240B of the Immigration and Nationality Act"; and

(II) in subsection (b), by striking "section 1252 of title 8, United States Code," and inserting "section 240 of the Immigration and Nationality Act".

(B) Section 130002(a) of Public Law 103–322, as amended by section 361(a), is amended by striking "242(a)(3)(A)" and inserting "236(d)".

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5), is amended by striking "242(b)" and inserting "240".

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "242(b)" and inserting "240".

(E) Section 1821(e) of title 28, United States Code, is amended by striking "242(b)" and inserting "240".

(F) Section 130007(a) of Public Law 103–322 is amended by striking "242(i)" and inserting "239(d)".

(G) Section 20301(c) of Public Law 103–322 is amended by striking "242(j)(5)" and "242(j)" and inserting "241(h)(5)" and "241(h)", respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking "242B" and inserting "240(b)(5)".

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking "242B(a)(4)" and inserting "239(a)(4)".

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking "243" and inserting "241".

(B)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking "243(g)" and "1253(g)"and inserting "243(d)" and "1253(d)" respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking "243(g)" and inserting "243(d)".

(iii) Section 903(b) of Public Law 100–204 is amended by striking "243(g)" and inserting "243(d)".

(C)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking "243(h)" and inserting "241(b)(3)".

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking "243(h)" and inserting "241(b)(3)".

(D)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignated as section 244 by section 308(b)(7), is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(E) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i) through (v) of section 208(b)(2)(A)".

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), are each amended by striking "244(a)" and inserting "240A(a)".

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(a)" and inserting "240A(a)".

(B) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(b)(2)" and inserting "240A(b)(2)".

(C) Section 364(a)(2) of this Act is amended by striking "244(a)(3)" and inserting "240A(a)(3)".

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking "chapter 5" and inserting "chapter 4".

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking "chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)" and inserting "chapter 4 of title II of the Immigration and Nationality Act".

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) Section 245(c)(6), as amended by section 332(d), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(B) Section 249(d), as amended by section 332(e), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(C) Section 276(b)(3), as inserted by section 321(b), is amended by striking "excluded" and "excludable" and inserting "removed" and "inadmissible", respectively.

(D) Section 505(c)(7), as added by section 321(a)(1), is amended by amending subparagraphs (B) through (D) to read as follows:

"(B) Withholding of removal under section 241(b)(3).

"(C) Cancellation of removal under section 240A.

"(D) Voluntary departure under section 240B.".

(E) Section 506(b)(2)(B), as added by section 321(a)(1), is amended by striking "deportation" and inserting "removal".

(F) Section 508(c)(2)(D), as added by section 321(a)(1), is amended by striking "exclusion because such alien is excludable" and inserting "removal because such alien is inadmissible".

(G) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 851(a)(6), is amended by striking "242A(a)(3)" and inserting "238(a)(3)".

SEC. 309. EFFECTIVE DATES; TRANSITION.

(a) IN GENERAL.—Except as provided in this section and section 301(f), this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the "title III–A effective date").

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation; and

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed.

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—Paragraphs (1) and

(2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued after the date of the enactment of this Act.

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1), in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term "inadmissible" is deemed to include a reference to the term "excludable", and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c)).

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 321. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"Sec. 501. Definitions.
"Sec. 502. Establishment of special removal court; panel of attorneys to assist with classified information.
"Sec. 503. Application for initiation of special removal proceeding.
"Sec. 504. Consideration of application.
"Sec. 505. Special removal hearings.
"Sec. 506. Consideration of classified information.
"Sec. 507. Appeals.
"Sec. 508. Detention and custody.",

and

(2) by adding at the end the following new title:

"TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

"DEFINITIONS

"SEC. 501. In this title:

"(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

"(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

"(4) The term 'special attorney' means an attorney who is on the panel established under section 502(e).

"(5) The term 'special removal court' means the court established under section 502(a).

"(6) The term 'special removal hearing' means a hearing under section 505.

"(7) The term 'special removal proceeding' means a proceeding under this title.

"ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFORMATION

"SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

"(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

"(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The special removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under section 506 in accordance with (and subject to the penalties under) this title.

"APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

"SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing of a written application described in subsection (b) with the special removal court seeking an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

"(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

"(1) The identity of the Department of Justice attorney making the application.

"(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

"(3) The identity of the alien for whom authorization for the special removal proceedings is sought.

"(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) the alien is an alien terrorist and is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II regarding the removal of aliens would pose a risk to the national security of the United States.

"(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

"(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

"CONSIDERATION OF APPLICATION

"SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

"(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien terrorist, and

"(2) adherence to the provisions of title II regarding the removal of the identified alien would pose a risk to the national security of the United States.

"(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

"(d) EXCLUSIVE PROVISIONS.—Whenever an order is issued under this section with respect to an alien—

"(1) the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, and

"(2) except as they are specifically referenced, no other provisions of this Act shall be applicable.

"SPECIAL REMOVAL HEARINGS

"SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(c) RIGHTS IN HEARING.—

"(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

"(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

"(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

"(4) EXAMINATION OF WITNESSES.—Except as provided in section 506, the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

"(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

"(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (e).

"(7) NO RIGHT TO ANCILLARY RELIEF.—In the hearing, the judge is not authorized to consider or provide for relief from removal based on any of the following:

"(A) Asylum under section 208.

"(B) Withholding of deportation under section 243(h).

"(C) Suspension of deportation under section 244(a).

"(D) Voluntary departure under section 244(e).

"(E) Adjustment of status under section 245.

"(F) Registry under section 249.

"(d) SUBPOENAS.—

"(1) REQUEST.—At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (e) and section 506, and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena.

"(2) PAYMENT FOR ATTENDANCE.—If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid from funds appropriated for the enforcement of title II.

"(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

"(4) WITNESS FEES.—A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States.

"(5) NO ACCESS TO CLASSIFIED INFORMATION.—Nothing in this subsection is intended to allow an alien to have access to classified information.

"(e) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(1) IN GENERAL.—When classified information has been summarized pursuant to section 506(b) or where a finding has been made under section 506(b)(5) that no summary is possible, classified information shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to such section. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.

"(2) TREATMENT OF ELECTRONIC SURVEILLANCE INFORMATION.—

"(A) USE OF ELECTRONIC SURVEILLANCE.—The Government is authorized to use in a special removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act.

"(B) NO DISCOVERY OF ELECTRONIC SURVEILLANCE INFORMATION.—An alien subject to removal under this title shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 or otherwise for national security purposes. Nor shall such alien have the right to seek suppression of evidence.

"(C) CERTAIN PROCEDURES NOT APPLICABLE.—The provisions and requirements of section 3504 of title 18, United States Code, shall not apply to procedures under this title.

"(3) RIGHTS OF UNITED STATES.—Nothing in this section shall prevent the United States from seeking protective orders and from asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and state secrets privileges.

"(f) INCLUSION OF CERTAIN EVIDENCE.—The Federal Rules of Evidence shall not apply to hearings under this section. Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under section 504 used to obtain the order for the hearing under this section.

"(g) ARGUMENTS.—Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(h) BURDEN OF PROOF.—In the hearing the Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because the alien is an alien terrorist. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and detained pending removal from the United States. If the alien was released pending the special removal hearing, the judge shall order the Attorney General to take the alien into custody.

"(i) WRITTEN ORDER.—At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.

"CONSIDERATION OF CLASSIFIED INFORMATION

"SEC. 506. (a) CONSIDERATION IN CAMERA AND EX PARTE.—In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider each item of classified information the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing and shall order the introduction of such information pursuant to section 505(e) if the judge determines the information to be relevant.

"(b) PREPARATION AND PROVISION OF WRITTEN SUMMARY.—

"(1) PREPARATION.—The Department of Justice shqll prepare a written summary of such classified information which does not pose a risk to national security.

"(2) CONDITIONS FOR APPROVAL BY JUDGE AND PROVISION TO ALIEN.—The judge shall approve the summary so long as the judge finds that the summary is sufficient—

"(A) to inform the alien of the general nature of the evidence that the alien is an alien terrorist, and

"(B) to permit the alien to prepare a defense against deportation.

The Department of Justice shall cause to be delivered to the alien a copy of the summary.

"(3) OPPORTUNITY FOR CORRECTION AND RESUBMITTAL.—If the judge does not approve the summary, the judge shall provide the Department a reasonable opportunity to correct the deficiencies identified by the court and to submit a revised summary.

"(4) CONDITIONS FOR TERMINATION OF PROCEEDINGS IF SUMMARY NOT APPROVED.—

"(A) IN GENERAL.—If, subsequent to the opportunity described in paragraph (3), the judge does not approve the summary, the judge shall terminate the special removal hearing unless the judge makes the findings described in subparagraph (B).

"(B) FINDINGS.—The findings described in this subparagraph are, with respect to an alien, that—

"(i) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

"(ii) the provision of the required summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.

"(5) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in paragraph (4)(B)—

"(A) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subsection (c) shall apply; and

"(B) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to section 505(e).

"(c) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(1) IN GENERAL.—The procedures described in this subsection are that the judge (under rules of the special removal court) shall designate a special attorney to assist the alien—

"(A) by reviewing in camera the classified information on behalf of the alien, and

"(B) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(2) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under paragraph (1)—

"(A) shall not disclose the information to the alien or to any other attorney representing the alien, and

"(B) who discloses such information in violation of subparagraph (A) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.

"APPEALS

"SEC. 507. (a) APPEALS OF DENIALS OF APPLICATIONS FOR ORDERS.—The Department of Justice may seek a review of the denial of an order sought in an application by the United States Court of Appeals for the District of Columbia Circuit by notice of appeal which must be filed within 20 days after the date of such denial. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear *the matter ex parte. In such a case the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.*

“(b) APPEALS OF DETERMINATIONS ABOUT SUMMARIES OF CLASSIFIED INFORMATION.—Either party may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

“(1) any determination by the judge pursuant to section 506(a)—

“(A) concerning whether an item of evidence may be introduced in camera and ex parte, or

“(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to section 506(b); or

“(2) the refusal of the court to make the findings permitted by section 506(b)(4)(B).

In any interlocutory appeal taken pursuant to this subsection, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal and the matter shall be heard ex parte.

“(c) APPEALS OF DECISION IN HEARING.—

“(1) IN GENERAL.—Subject to paragraph (2), the decision of the judge after a special removal hearing may be appealed by either the alien or the Department of Justice to the United States Court of Appeals for the District of Columbia Circuit by notice of appeal.

“(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

“(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 506(b)(4) and with respect to which the procedures described in section 506(c) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

“(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 506(c)(1) on behalf of the alien.

“(d) GENERAL PROVISIONS RELATING TO APPEALS.—

“(1) NOTICE.—A notice of appeal pursuant to subsection (b) or (c) (other than under subsection (c)(2)) must be filed within 20 days after the date of the order with respect to which the appeal is sought, during which time the order shall not be executed.

“(2) TRANSMITTAL OF RECORD.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c)—

“(A) the entire record shall be transmitted to the Court of Appeals, and

“(B) information received pursuant to section 505(e), and any portion of the judge's order that would reveal the substance or source of such information, shall be transmitted under seal.

“(3) EXPEDITED APPELLATE PROCEEDING.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

“(A) REVIEW.—The appeal or review shall be heard as expeditiously as practicable and the Court may dispense with full briefing and hear the matter solely on the record of the judge of the special removal court and on such briefs or motions as the Court may require to be filed by the parties.

“(B) DISPOSITION.—The Court shall uphold or reverse the judge's order within 60 days after the date of the issuance of the judge's final order.

“(4) STANDARD FOR REVIEW.—In an appeal or review to the Court of Appeals pursuant to subsection (b) or (c):

“(A) QUESTIONS OF LAW.—The Court of Appeals shall review all questions of law de novo.

“(B) QUESTIONS OF FACT.—(i) Subject to clause (ii), a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

“(ii) In the case of a review under subsection (c)(2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 506(b)(4), the Court of Appeals shall review questions of fact de novo.

“(e) CERTIORARI.—Following a decision by the Court of Appeals pursuant to subsection (b) or (c), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

“(f) APPEALS OF DETENTION ORDERS.—

“(1) IN GENERAL.— The provisions of sections 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom section 508(b)(1) applies. In applying the previous sentence—

“(A) for purposes of section 3145 of such title an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit, and

“(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

“(2) NO REVIEW OF CONTINUED DETENTION.—The determinations and actions of the Attorney General pursuant to section 508(c)(2)(C) shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates the alien's rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the United States Court of Appeals for the District of Columbia Circuit.

“DETENTION AND CUSTODY

“SEC. 508. (a) INITIAL CUSTODY.—

“(1) UPON FILING APPLICATION.—Subject to paragraph (2), the Attorney General may take into custody any alien with respect to whom an application under section 503 has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

“(2) SPECIAL RULES FOR PERMANENT RESIDENT ALIENS.—An alien lawfully admitted for permanent residence shall be entitled to a release hearing before the judge assigned to hear the special removal hearing. Such an alien shall be detained pending the special removal hearing, unless the alien demonstrates to the court that—

“(A) the alien, if released upon such terms and conditions as the court may prescribe (including the posting of any monetary amount), is not likely to flee, and

“(B) the alien's release will not endanger national security or the safety of any person or the community.

The judge may consider classified information submitted in camera and ex parte in making a determination under this paragraph.

“(3) RELEASE IF ORDER DENIED AND NO REVIEW SOUGHT.—

“(A) IN GENERAL.—Subject to subparagraph (B), if a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice does not seek review of such denial, the alien shall be released from custody.

“(B) APPLICATION OF REGULAR PROCEDURES.—Subparagraph (A) shall not prevent the arrest and detention of the alien pursuant to title II.

“(b) CONDITIONAL RELEASE IF ORDER DENIED AND REVIEW SOUGHT.—

“(1) IN GENERAL.—If a judge of the special removal court denies the order sought in an application with respect to an alien and the Department of Justice seeks review of such denial, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and clauses (i) through (xiv) of section 3142(c)(1)(B) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community.

“(2) NO RELEASE FOR CERTAIN ALIENS.—If the judge finds no such condition or combination of conditions, the alien shall remain in custody until the completion of any appeal authorized by this title.

“(c) CUSTODY AND RELEASE AFTER HEARING.—

“(1) RELEASE.—

“(A) IN GENERAL.—Subject to subparagraph (B), if the judge decides pursuant to section 505(i) that an alien should not be removed, the alien shall be released from custody.

“(B) CUSTODY PENDING APPEAL.—If the Attorney General takes an appeal from such decision, the alien shall remain in custody, subject to the provisions of section 3142 of title 18, United States Code.

“(2) CUSTODY AND REMOVAL.—

“(A) CUSTODY.—If the judge decides pursuant to section 505(i) that an alien shall be removed, the alien shall be detained pending the outcome of any appeal. After the conclusion of any judicial review thereof which affirms the removal order, the Attorney General shall retain the alien in custody and remove the alien to a country specified under subparagraph (B).

“(B) REMOVAL.—

“(i) IN GENERAL.—The removal of an alien shall be to any country which the alien shall designate if such designation does not, in the judgment of the Attorney General, in consultation with the Secretary of State, impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

“(ii) ALTERNATE COUNTRIES.—If the alien refuses to designate a country to which the alien wishes to be removed or if the Attorney General, in consultation with the Secretary of State, determines that removal of the alien to the country so designated would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be removed to any country willing to receive such alien.

“(C) CONTINUED DETENTION.—If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General, in coordination with the Secretary of State, shall make periodic efforts to reach agreement with other countries to accept such an alien and at least every 6 months shall provide to the attorney representing the alien at the special removal hearing a written report on the Attorney General's efforts. Any alien in custody pursuant to this subparagraph shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate.

“(D) FINGERPRINTING.—Before an alien is transported out of the United States pursuant to

this subsection, or pursuant to an order of exclusion because such alien is excludable under section 212(a)(3)(B), the alien shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b).

"(d) Continued Detention Pending Trial.—

"(1) Delay in removal.—Notwithstanding the provisions of subsection (c)(2), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any Federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) Maintenance of custody.—Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Subsequent removal.—Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (c)(2) concerning removal of the alien.

"(e) Application of Certain Provisions Relating to Escape of Prisoners.—For purposes of sections 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of a felony.

"(f) Rights of Aliens in Custody.—

"(1) Family and attorney visits.—An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of the alien's family, and to contact, retain, and communicate with an attorney.

"(2) Diplomatic contact.—An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefore. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.".

(b) Criminal Penalty for Reentry of Alien Terrorists.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; or", and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) who has been excluded from the United States pursuant to subsection 235(c) because the alien was excludable under subsection 212(a)(3)(B) or who has been removed from the United States pursuant to the provisions of title V, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence.".

(c) Elimination of Custody Review by Habeas Corpus.—Section 106(a) (8 U.S.C. 1105a(a)) is amended—

(1) by adding "and" at the end of paragraph (8),

(2) by striking "; and" at the end of paragraph (9) and inserting a period, and

(3) by striking paragraph (10).

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS GROUND OF INADMISSIBILITY.

(a) In General.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (I),

(B) in subclause (II), by inserting "engaged in or" after "believe,", and

(C) by inserting after subclause (II) the following:

"(III) is a representative of a terrorist organization, or

"(IV) is a member of a terrorist organization which the alien knows or should have known is a terrorist organization,"; and

(2) by adding at the end the following:

"(iv) Terrorist organization defined.—

"(I) Designation.—For purposes of this Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State, in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

"(II) Process.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record and may use classified information in making such a designation. Such information is not subject to disclosure so long as it remains classified, except that it may be disclosed to a court ex parte and in camera under subclause (III) for purposes of judicial review of such a designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this subclause.

"(III) Judicial review.—Any organization designated as a terrorist organization under the preceding provisions of this clause may, not later than 30 days after the date of the designation, seek judicial review thereof in the United States Court of Appeals for the District of Columbia Circuit. Such review shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information considered in making the designation. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under the previous sentence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law.

"(IV) Congressional removal authority.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization for purposes of this Act.

"(V) Sunset.—Subject to subclause (IV), the designation under this clause of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year-designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this clause for designation of the organization.

"(VI) Removal authority.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

"(v) Representative defined.—

"(I) In general.—In this subparagraph, the term 'representative' includes an officer, official, or spokesman of the organization and any person who directs, counsels, commands or induces the organization or its members to engage in terrorist activity.

"(II) Judicial review.—The determination under this subparagraph that an alien is a representative of a terrorist organization shall be subject to judicial review under section 706 of title 5, United States Code.".

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.

(a) Withholding of Deportation.—Subsection (h)(2) of section 243 (8 U.S.C. 1253), before amendment by section 307(a), is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) Suspension of Deportation.—Section 244(a) (8 U.S.C. 1254(a)), before amendment by section 308(b), is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) Voluntary Departure.—Section 244(e)(2) (8 U.S.C. 1254(e)(2)), before amendment by section 308(b), is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) Adjustment of Status.—Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) Registry.—Section 249(d) (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) Effective Date.—(1) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

(2) The amendments made by subsections (a) through (c) are subsequently superseded by the amendments made by subtitle A.

Subtitle C—Deterring Transportation of Unlawful Aliens to the United States

SEC. 341. DEFINITION OF STOWAWAY.

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding the following new paragraph:

"(47) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIVING.

(a) IN GENERAL.—Section 231(a) (8 U.S.C. 1221(a)) is amended—

(1) by amending the first sentence to read as follows: "In connection with the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having such person on board to deliver to the immigration officers at the port of arrival, or other place designated by the Attorney General, electronic, typewritten, or printed lists or manifests of the persons on board such vessel or aircraft.";

(2) in the second sentence, by striking "shall be prepared" and inserting "shall be prepared and submitted"; and

(3) by inserting after the second sentence the following sentence: "Such lists or manifests shall contain, but not be limited to, for each person transported, the person's full name, date of birth, gender, citizenship, travel document number (if applicable) and arriving flight number.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to vessels or aircraft arriving at ports of entry on or after such date (not later than 60 days after the date of the enactment of this Act) as the Attorney General shall specify.

Subtitle D—Additional Provisions

SEC. 351. DEFINITION OF CONVICTION.

(a) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 341(a), is amended by adding at the end the following new paragraph:

"(48) The term 'conviction' means a formal judgment of guilt entered by a court or, if adjudication of guilt has been withheld, where all of the following elements are present:

"(A) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt.

"(B) The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

"(C) A judgment or adjudication of guilt may be entered if the alien violates the terms of the probation or fails to comply with the requirements of the court's order, without availability of further proceedings regarding the alien's guilt or innocence of the original charge.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions entered before, on, or after the date of the enactment of this Act.

SEC. 352. IMMIGRATION JUDGES AND COMPENSATION.

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

"(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.".

(b) SUBSTITUTION FOR TERM "SPECIAL INQUIRY OFFICER".—The Immigration and Nationality Act is amended by striking "a special inquiry officer", "special inquiry officer", and "special inquiry officers" and inserting "an immigration judge", "immigration judge", and "immigration judges", respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b).

(4) Section 235 (8 U.S.C. 1225), before redesignation by section 308(b).

(5) Section 236 (8 U.S.C. 1226), before amendment by section 303.

(6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2).

(7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)), before amendment by section 306(a)(2).

(8) Section 292 (8 U.S.C. 1362).

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ-1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—

(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ-1	*70% of the next to highest rate of basic pay for the Senior Executive Service*
IJ-2	*80% of the next to highest rate of basic pay for the Senior Executive Service*
IJ-3	*90% of the next to highest rate of basic pay for the Senior Executive Service*
IJ-4	*92% of the next to highest rate of basic pay for the Senior Executive Service.*

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—

(A) Upon appointment, an immigration judge shall be paid at IJ-1, and shall be advanced to IJ-2 upon completion of 104 weeks of service, to IJ-3 upon completion of 104 weeks of service in the next lower rate, and to IJ-4 upon completion of 52 weeks of service in the next lower rate.

(B) The Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Judges serving on the Immigration Court as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge.

(d) EFFECTIVE DATES.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) Subsection (c) shall take effect 90 days after the date of the enactment of this Act.

SEC. 353. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: "Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a)).

SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

"(1) willfully fails or refuses to—

"(A) depart from the United States pursuant to the order,

"(B) make timely application in good faith for travel or other documents necessary for departure, or

"(C) present for removal at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

"Sec. 274D. Civil penalties for failure to depart.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a)).

SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDICTION.

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: "The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.", and

(2) by adding at the end the following new sentence: "Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

SEC. 356. USE OF RETIRED FEDERAL EMPLOYEES FOR INSTITUTIONAL HEARING PROGRAM.

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—For the purpose of performing duties in connection with supporting the enhanced Institutional Hearing Program, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time) who, by reason of separation from service on or before January 1, 1995, are receiving—

(1) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) annuities under any other retirement system for employees of the Federal Government; or

(3) retired or retainer pay as retired officers of regular components of the uniformed services.

(b) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(1) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed

under subsection (a) who is receiving an annuity described in subsection (a)(1)—

(A) such individual's annuity shall continue during the employment under subsection (a) and shall not be increased as a result of service performed during that employment;

(B) retirement deductions shall not be withheld from such individual's pay; and

(C) such individual's pay shall not be subject to any deduction based on the portion of such individual's annuity which is allocable to the period of employment.

(2) OTHER FEDERAL RETIREES.—The President shall apply the provisions of paragraph (1) to individuals who are receiving an annuity described in subsection (a)(2) and who are employed under subsection (a) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in subsection (a)(1) and who are employed under subsection (a).

(3) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under subsection (a).

SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330(b)) is amended to read as follows:

"(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

"(2) The amounts described in this paragraph are the following:

"(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

"(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

"(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title, including—

"(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

"(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

"(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).".

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking "271" and inserting "243(c), 271,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

SEC. 360. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(3) to eliminate any requirement of prisoner consent to such a transfer, and

(4) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.

In entering into such negotiations, the President may consider providing for appropriate compensation in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

(a) OPERATION AND PURPOSE.—Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.".

(b) IDENTIFICATION OF CRIMINAL ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—Upon the request of the governor or chief executive officer of any State, the Immigration and Naturalization Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

"(F) SUBJECT OF CIVIL PENALTY.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12)."; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(F)—

"(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation and who is otherwise admissible to the United States as a returning resident under section 211(b), and

"(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a),

if the violation under section 274C was committed solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and not another individual).".

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

"(C) DOCUMENT FRAUD.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

"(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if the alien's civil money penalty under section 274C was incurred solely to assist, aid, or support the alien's spouse, parent, son, or daughter (and no other individual).".

SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 364. CONFIDENTIALITY PROVISION FOR CERTAIN ALIEN BATTERED SPOUSES AND CHILDREN.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who uses, publishes, or permits information to be disclosed in violation of this section shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

(a) VOLUNTARY ELECTION TO PARTICIPATE IN PILOT PROGRAM CONFIRMATION MECHANISM.—

(1) IN GENERAL.—An employer (or a recruiter or referrer subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) may elect to participate in the pilot program for employment eligibility confirmation provided under this section (such program in this section referred to as the "pilot program"). Except as specifically provided in this section, the Attorney General is not authorized to require any entity to participate in the program under this section. The pilot program shall operate in at least 5 of the 7 States with the highest estimated population of unauthorized aliens.

(2) EFFECT OF ELECTION.—The following provisions apply in the case of an entity electing to participate in the pilot program:

(A) OBLIGATION TO USE CONFIRMATION MECHANISM.—The entity agrees to comply with the confirmation mechanism under subsection (c) to confirm employment eligibility under the pilot program for all individuals covered under the election in accordance with this section.

(B) BENEFIT OF REBUTTABLE PRESUMPTION.—

(i) IN GENERAL.—If the entity obtains confirmation of employment eligibility under the pilot program with respect to the hiring (or recruiting or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of an individual for employment in the United States, the entity has established a rebuttable presumption that the entity has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such hiring (or such recruiting or referral).

(ii) CONSTRUCTION.—Clause (i) shall not be construed as preventing an entity that has an election in effect under this section from establishing an affirmative defense under section 274A(a)(3) of the Immigration and Nationality Act if the entity complies with the requirements of section 274A(a)(1)(B) of such Act but fails to comply with the obligations under subparagraph (A).

(C) BENEFIT OF NOTICE BEFORE EMPLOYMENT-RELATED INSPECTIONS.—The Immigration and Naturalization Service, the Special Counsel for Immigration-Related Unfair Employment Practices, and any other agency authorized to inspect forms required to be retained under section 274A of the Immigration and Nationality Act or to search property for purposes of enforcing such section shall provide at least 3 days notice prior to such an inspection or search, except that such notice is not required if the inspection or search is conducted with an administrative or judicial subpoena or warrant or under exigent circumstances.

(3) GENERAL TERMS OF ELECTIONS.—

(A) IN GENERAL.—An election under paragraph (1) shall be in a form and manner and under such terms and conditions as the Attorney General shall specify and shall take effect as the Attorney General shall specify. Such an election shall apply (under such terms and conditions and as specified in the election) either to all hiring (and all recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) by the entity during the period in which the election is in effect or to hiring (or recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in one or more States or one or more places of such hiring (or such recruiting or referral, as the case may be) covered by the election. The Attorney General may not impose any fee as a condition of making an election or participation in the pilot program under this section.

(B) ACCEPTANCE OF ELECTIONS.—Except as otherwise provided in this paragraph, the Attorney General shall accept all elections made under paragraph (1). The Attorney General may establish a process under which entities seek to make elections in advance, in order to permit the Attorney General the opportunity to identify and develop appropriate resources to accommodate the demand for participation in the pilot program under this section.

(C) REJECTION OF ELECTIONS.—The Attorney General may reject an election by an entity under paragraph (1) because the Attorney General has determined that there are insufficient resources to provide services under the pilot program for the entity.

(D) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by an entity under paragraph (1) because the entity has substantially failed to comply with the obligations of the entity under the pilot program.

(E) RESCISSION OF ELECTION.—An entity may rescind an election made under this subsection in such form and manner as the Attorney General shall specify.

(b) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers whose recruiting or referring is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) in the development and implementation of the pilot program under this section, including the education of employers (and such recruiters and referrers) about the program.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot program under this section, including the voluntary nature of the program and the advantages to employers of making an election under subsection (a).

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service—

(A) to inform entities that seek information about the program of the voluntary nature of the program, and

(B) to assist entities in electing and participating in the pilot program, in complying with the requirements of section 274A of the Immigration and Nationality Act, and in facilitating identification of individuals authorized to be employed consistent with such section.

(c) CONFIRMATION PROCESS UNDER PILOT PROGRAM.—An entity that is participating in the pilot program agrees to conform to the following procedures in the case of a hiring (or recruiting or referral in the case of recruitment or referral that is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) of each individual covered under the program for employment in the United States:

(1) PROVISION OF ADDITIONAL INFORMATION.—The entity shall obtain from the individual (and the individual shall provide) and shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act—

(A) the individual's social security account number (if the individual has been issued such a number), and

(B) if the individual is an alien, such identification or authorization number established by the Service for the alien as the Attorney General shall specify.

(2) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The entity shall make an inquiry, under the confirmation mechanism established under subsection (d), to seek confirmation of the identity, applicable number (or numbers) described in section 274A(b)(2)(B) of the Immigration and Nationality Act, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the entity in good faith attempts to make an inquiry during such 3 working days and the confirmation mechanism has registered that not all inquiries were responded to during such time, the entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the presumption. If the confirmation mechanism is not responding to inquiries at all times during a day, the entity merely has to assert that the entity attempted to make the inquiry on that

day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(3) CONFIRMATION.—

(A) IN GENERAL.—If the entity receives an appropriate confirmation of such identity, applicable number or numbers, and work eligibility under the confirmation mechanism within the time period specified under subsection (d) after the time the confirmation inquiry was received, the entity shall record on the form used for purposes of section 274A(b)(1)(A) of the Immigration and Nationality Act an appropriate code indicating a confirmation of such identity, number or numbers, and work eligibility.

(B) FAILURE TO OBTAIN CONFIRMATION.—If the entity has made the inquiry described in paragraph (1) but has received a nonconfirmation within the time period specified—

(i) the presumption under subsection (a)(2)(B) shall not be considered to apply, and

(ii) if the entity nonetheless continues to employ (or recruits or refers, if such recruitment or referral is subject to section 274A(a)(1)(B)(ii) of the Immigration and Nationality Act) the individual for employment in the United States, the entity shall notify the Attorney General of such fact through the confirmation mechanism or in such other manner as the Attorney General may specify.

(C) CONSEQUENCES.—

(i) FAILURE TO NOTIFY.—If the entity fails to provide notice with respect to an individual as required under subparagraph (B)(ii), the failure is deemed to constitute a violation of section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to that individual.

(ii) CONTINUED EMPLOYMENT.—If the entity provides notice under subparagraph (B)(ii) with respect to an individual, the entity has the burden of proof, for purposes of applying section 274A(a)(1)(A) of the Immigration and Nationality Act with respect to such entity and individual, of establishing that the individual is not an unauthorized alien (as defined in section 274A(h)(3) of such Act).

(iii) NO APPLICATION TO CRIMINAL PENALTY.—Clauses (i) and (ii) shall not apply in any prosecution under section 274A(f)(1) of the Immigration and Nationality Act.

(d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMATION MECHANISM.—

(1) IN GENERAL.—The Attorney General shall establish a pilot program confirmation mechanism (in this section referred to as the "confirmation mechanism") through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

(A) responds to inquiries by electing entities, made at any time through a toll-free telephone line or other electronic media in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed, and

(B) maintains a record that such an inquiry was made and the confirmation provided (or not provided).

To the extent practicable, the Attorney General shall seek to establish such a mechanism using one or more nongovernmental entities. For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual's employment eligibility within 3 working days of the initial inquiry.

(2) EXPEDITED PROCEDURE IN CASE OF NONCONFIRMATION.—In connection with paragraph (1), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, expedited procedures that shall be used to confirm the validity of information used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through the confirmation mechanism.

(3) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

(A) to maximize the reliability of the confirmation process, and the ease of use by entities making elections under subsection (a) consistent with insulating and protecting the privacy and security of the underlying information, and

(B) to respond to all inquiries made by such entities on whether individuals are authorized to be employed registering all times when such response is not possible.

(4) CONFIRMATION PROCESS.—

(A) CONFIRMATION OF VALIDITY OF SOCIAL SECURITY ACCOUNT NUMBER.—As part of the confirmation mechanism, the Commissioner of Social Security, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which within the time period specified under paragraph (1), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

(B) CONFIRMATION OF ALIEN AUTHORIZATION.—As part of the confirmation mechanism, the Commissioner of the Service, in consultation with the entity responsible for administration of the mechanism, shall establish a reliable, secure method, which, within the time period specified under paragraph (1), compares the name and alien identification or authorization number (if any) described in subsection (c)(1)(B) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

(C) PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an expedited time period not to exceed 10 working days after the date of the tentative nonconfirmation within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under paragraph (2).

(D) UPDATING INFORMATION.—The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

(5) PROTECTIONS.—(A) In no case shall an employer terminate employment of an individual because of a failure of the individual to have work eligibility confirmed under this section, until after the end of the 10-working-day period in which a final confirmation or nonconfirmation is being sought under paragraph (4)(C). Nothing in this subparagraph shall apply to a termination of employment for any reason other than because of such a failure.

(B) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

(B) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

(6) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable under any law (including the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act of 1938, or the Age Discrimination in Employment Act of 1967) for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this subsection.

(7) MULTIPLE MECHANISMS PERMITTED.—Nothing in this subsection shall be construed as preventing the Attorney General from experimenting with different mechanisms for different entities.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—Each entity of the Federal Government that is subject to the requirements of section 274A of the Immigration and Nationality Act (including the Legislative and Executive Branches of the Federal Government) shall participate in the pilot program under this section and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g)(2)(B) of the Immigration and Nationality Act may require the subject of the order to participate in the pilot program and comply with the requirements of subsection (c).

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an entity is required under this subsection to participate in the pilot program and fails to comply with the requirements of subsection (c) with respect to an individual such failure shall be treated as a violation of section 274A(a)(1)(B) of the Immigration and Nationality Act with respect to that individual.

(f) PROGRAM INITIATION; REPORTS; TERMINATION.—

(1) INITIATION OF PROGRAM.—The Attorney General shall implement the pilot program in a manner that permits entities to have elections under subsection (a) made and in effect by not later than 1 year after the date of the enactment of this Act.

(2) REPORTS.—The Attorney General shall submit to Congress annual reports on the pilot program under this section at the end of each year in which the program is in effect. The last two such reports shall each include recommendations on whether or not the pilot program should be continued or modified and on benefits to employers and enforcement of section 274A of the Immigration and Nationality Act obtained from use of the pilot program.

(3) TERMINATION.—Unless the Congress otherwise provides, the Attorney General shall terminate the pilot program under this section at the end of the third year in which it is in effect under this section.

(g) CONSTRUCTION.—This section shall not affect the authority of the Attorney General under other law (including section 274A(d)(4) of the Immigration and Nationality Act) to conduct demonstration projects in relation to section 274A of such Act.

(h) LIMITATION ON USE OF THE CONFIRMATION PROCESS AND ANY RELATED MECHANISMS.—Notwithstanding any other provision of law, nothing in this section shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this section for any other purpose other than as provided for under the pilot program under this section.

SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(e)(1) (8 U.S.C. 1324a(e)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) under which a person or entity shall not be considered to have failed to comply with the requirements of subsection (b) based upon a technical or procedural failure to meet a requirement of such subsection in which there was a good faith attempt to comply with the requirement unless (i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure, (ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and (iii) the person or entity has not corrected the failure voluntarily within such period, except that this subparagraph shall not apply with respect to the engaging by any person or entity of a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING TO 6 THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clauses (ii) through (iv), and

(C) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by regulation by the Attorney General, if the document" and redesignating such clause as clause (ii); and

(2) by amending subparagraph (C) of paragraph (1) to read as follows:

"(C) SOCIAL SECURITY ACCOUNT NUMBER CARD AS EVIDENCE OF EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(B) and (3), if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is—

"(i) up to 5 years in the case of an individual who has presented documentation identifying the individual as a national of the United States or as an alien lawfully admitted for permanent residence; or

"(ii) up to 3 years (or, if less, the period of time that the individual is authorized to be employed in the United States) in the case of another individual.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an unauthorized alien, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an unauthorized alien.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an unauthorized alien.".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any Branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) Except as provided in this subsection, the amendments made by this section shall apply with respect to hiring (or recruiting or referring) occurring on or after such date (not later than 180 days after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendments made by subsections (a)(1) and (a)(2) shall apply with respect to the hiring (or recruiting or referring) occurring on or after such date (not later than 18 months after the date of the enactment of this Act) as the Attorney General shall designate.

(3) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(4) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(5) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under section 274A(e) of the Immigration and Nationality Act for such hiring occurring before such date.

(f) IMPLEMENTATION OF ELECTRONIC STORAGE OF I–9 FORMS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations which shall provide for the electronic storage of forms used in satisfaction of the requirements of section 274A(b)(3) of the Immigration and Nationality Act.

SEC. 404. STRENGTHENED ENFORCEMENT OF THE EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—The number of full-time equivalent positions in the Investigations Division within the Immigration and Naturalization Service of the Department of Justice beginning in fiscal year 1997 shall be increased by 500 positions above the number of full-time equivalent positions available to such Division as of September 30, 1995.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of the employer sanctions provisions contained in section 274A of the Immigration and Nationality Act.

SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate number of social security account numbers issued to aliens not authorized to be employed to which earnings were reported to the Social Security Administration in such fiscal year.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) REQUIRING CERTAIN REMEDIES IN UNFAIR IMMIGRATION-RELATED DISCRIMINATION ORDERS.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (A), by adding at the end the following: "Such order also shall require the person or entity to comply with the requirements of clauses (ii) and (vi) of subparagraph (B).";

(2) in subparagraph (B), by striking "Such an order" and inserting "Subject to the second sentence of subparagraph (A), such an order"; and

(3) in subparagraph (B)(vi), by inserting before the semicolon at the end the following: "and to certify the fact of such education".

(b) TREATMENT OF CERTAIN DOCUMENTARY PRACTICE AS EMPLOYMENT PRACTICES.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For" and inserting "(A) Subject to subparagraph (B), for", and

(2) by adding at the end the following new subparagraph:

"(B) A person or other entity—

"(i) may request a document proving a renewal of employment authorization when an individual has previously submitted a time-limited document to satisfy the requirements of section 274A(b)(1); or

"(ii) if possessing reason to believe that an individual presenting a document which reasonably appears on its face to be genuine is nonetheless an unauthorized alien, may (I) inform the individual of the question about the document's validity, and of such person or other entity's intention to verify the validity of such document, and (II) upon receiving confirmation that the individual is unauthorized to work, may dismiss the individual.

Nothing in this provision prohibits an individual from offering alternative documents that satisfy the requirements of section 274A(b)(1).".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the first day of the first month beginning at least 90 days after the date of the enactment of this Act.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

SEC. 500. OVERVIEW OF NEW LEGAL IMMIGRATION SYSTEM.

This title amends the legal immigration provisions of the Immigration and Nationality Act so as to provide for the following (beginning with fiscal year 1997):

(1) DIVISION OF IMMIGRATION AMONG 3 CATEGORIES.—There will be a worldwide level of immigration of approximately 562,000, divided among—

(A) family-sponsored immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 330,000,

(B) employment-based immigrants, with a worldwide annual numerical limitation of 135,000,

(C) diversity immigrants, with a worldwide annual numerical limitation of 27,000, and

(D) humanitarian immigrants, with a worldwide annual numerical limitation (after a transition) of approximately 70,000.

Congress is required to reevaluate and reauthorize these numbers every 5 years.

(2) FAMILY-SPONSORED IMMIGRANTS.—

(A) CATEGORIES.—Family-sponsored immigrants are (i) spouses and children of citizens, (ii) spouses and children of permanent resident aliens, (iii) parents of adult United States citizens if the parents meet certain insurance requirements, and (iv) sons or daughters of United States citizens or sons or daughters of permanent resident aliens who have never been married, are childless, but for the residence requirements would qualify as dependents for Federal income tax purposes, and are at least 21 but not more than 25 years of age.

(B) NUMERICAL LIMITATIONS.—

(i) There will be no direct numerical limit on admission of spouses and children of United States citizens.

(ii) The annual numerical limit on admission of spouses and children of permanent residents will not be below 85,000.

(iii) The annual numerical limit on admission of parents of United States citizens will not be below 25,000.

(3) EMPLOYMENT-BASED IMMIGRANTS.—Employment-based immigrants will fall within the following categories and numerical limitations:

(A) EXTRAORDINARY IMMIGRANTS.—First, aliens with extraordinary ability, up to 15,000 each year.

(B) OUTSTANDING PROFESSORS AND RESEARCHERS AND MULTINATIONAL EXECUTIVES.—Second, aliens who are outstanding professors and researchers or multinational executives or managers, up to 30,000 each year, plus any left from the previous category.

(C) PROFESSIONALS WITH ADVANCED DEGREES OR EXCEPTIONAL ABILITY ALIENS.—Third, aliens who are members of the professions holding advanced degrees or who have exceptional ability, up to 30,000 each year, plus any left from the previous categories.

(D) OTHER PROFESSIONALS AND SKILLED WORKERS.—Fourth, aliens who are skilled workers with at least 4 years of training and work experience or are professionals with a baccalaureate degree and at least 2 years' experience, up to 45,000 each year, plus any left from the previous categories.

(E) INVESTORS.—Fifth, aliens who are investing at least $1,000,000 in enterprises in the United States that will employ at least 10 workers, up to 10,000 each year (with a 2-year pilot program for those investing at least $500,000 in enterprises employing at least 5 workers).

(F) CERTAIN SPECIAL IMMIGRANTS.—Lastly, aliens who fall within certain classes of special immigrants (such as religious ministers, aliens who have worked for the Government abroad, certain long-term alien employees of international organizations, certain dependent juveniles, and certain long-term alien members of the Armed Forces), up to 5,000 each year.

(4) DIVERSITY IMMIGRANTS.—Diversity immigrants are chosen from the 10 countries in each region with the highest demand for diversity visas by random selection.

(5) HUMANITARIAN IMMIGRANTS.—Humanitarian immigrants will fall within the following categories and numerical limitations:

(A) REFUGEES.—Refugees, subject to a numerical limitation (after a transition and excluding emergency refugees) of 50,000 or such higher number as the Congress may provide by law.

(B) ASYLEES.—Aliens seeking asylum, subject to no numerical limitation in any year. As under current law, asylees may adjust to permanent residence status at a rate of up to 10,000 each year.

(C) OTHER HUMANITARIAN IMMIGRANTS.—Other immigrants who are of special humanitarian concern to the United States, up to 10,000 each year.

(6) TRANSITION.—

(A) ADDITIONAL VISA NUMBERS FOR SPOUSES AND MINOR, UNMARRIED CHILDREN OF PERMANENT RESIDENT ALIENS.—In order to reduce the current backlog for spouses and minor, unmarried children of lawful permanent residents, there will be at least an additional 50,000 immigrant visa numbers made available for these aliens for each of 5 fiscal years, with priority for spouses and children of aliens who did not participate in a legalization program.

(B) PHASE-DOWN IN NORMAL FLOW REFUGEE NUMERICAL LIMITATION.—The annual numerical limitation on non-emergency refugees (without specific approval of Congress) will be phased down to 75,000 in fiscal year 1997 and 50,000 in fiscal year 1998 and thereafter.

Subtitle A—Worldwide Numerical Limits

SEC. 501. WORLDWIDE NUMERICAL LIMITATION ON FAMILY-SPONSORED IMMIGRANTS.

(a) OVERVIEW.—

(1) The amendment made by subsection (b) provides for a worldwide level of family-sponsored immigrants of 330,000 less the number of spouses and children of citizens admitted in the previous year.

(2) However, there will be no limit on spouses and children of citizens, nor would the number of visas available to spouses and children of lawful permanent residents go below 85,000, nor would the number of visas available to parents of citizens go below 25,000.

(3) Any excess in family immigration above 330,000 would come from other unused visas and, if necessary, from future visa numbers.

(4) If there are any remaining family visas, these visas would be added to the visas made available to spouses and children of lawful permanent resident aliens.

(b) AMENDMENT.—Subsection (c) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide level of family-sponsored immigrants under this subsection (in this subsection referred to as the 'worldwide family level') for a fiscal year is 330,000.

"(2) REDUCTION FOR SPOUSES AND CHILDREN OF UNITED STATES CITIZENS AND CERTAIN OTHER FAMILY-RELATED IMMIGRANTS.—The worldwide family level for a fiscal year shall be reduced (but not below a number sufficient to provide for the minimum visa numbers described in paragraph (4)) by the number of aliens described in subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) FURTHER REDUCTION FOR ANY PREVIOUS EXCESS FAMILY IMMIGRATION.—

"(A) IN GENERAL.—If there are excess family admissions in a particular fiscal year (as determined under subparagraph (B)) beginning with fiscal year 1997, then for the following fiscal year the worldwide family level shall be reduced (but not below a number sufficient to provide for the minimum visa numbers described in paragraph (4)) by the net number of excess admissions in that particular fiscal year (as defined in subparagraph (C)).

"(B) DETERMINATION OF EXCESS FAMILY ADMISSIONS.—For purposes of subparagraph (A), there are excess family admissions in a fiscal year if—

"(i) the number of aliens who are issued immigrant visas or who otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence under section 203(a) or subsection (b)(2) in a fiscal year, exceeds

"(ii) 330,000, less the carryforward number of excess admissions for the previous fiscal year (as defined in subparagraph (D)).

For purposes of this subparagraph, immigrant visa numbers issued under section 553 of the Immigration in the National Interest Act of 1995 (relating to certain transition immigrants) shall not be counted under clause (i).

"(C) NET NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (A), the 'net number of excess admissions' for a fiscal year is—

"(i) the excess described in subparagraph (B) for the fiscal year, reduced (but not below zero) by

"(ii) the number (if any) by which the worldwide level under subsection (d) for the previous fiscal year exceeds the number of immigrants who are issued immigrant visas or who otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence under section 203(b) in that previous fiscal year.

"(D) CARRYFORWARD NUMBER OF EXCESS ADMISSIONS.—For purposes of subparagraph (B)(ii), the carryforward number of excess admissions for a particular fiscal year is the net number of excess admissions for the previous fiscal year (as defined in subparagraph (C)), reduced by the reductions effected under subparagraph (A) and paragraph (5) in visa numbers for the particular fiscal year.

"(4) NO REDUCTION IN NUMBER OF SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS OR PARENTS OF UNITED STATES CITIZENS.—

"(A) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENTS.—Any reductions in the worldwide family level for a fiscal year under paragraph (2) or (3) shall not reduce the number of visas available to spouses and children of lawful permanent residents below 85,000.

"(B) PARENTS OF UNITED STATES CITIZENS.—Any reductions in the worldwide family level for a fiscal year under paragraph (2) or (3) shall not reduce the number of visas available to parents of United States citizens below 25,000.

"(5) ADJUSTMENT IN CERTAIN EMPLOYMENT-BASED VISA NUMBERS IN CASE OF REMAINING EXCESS FAMILY ADMISSIONS.—

"(A) IN GENERAL.—If there is a remaining excess number of family admissions (as described in subparagraph (B)) in a fiscal year (beginning with fiscal year 1997) that is greater than zero, then for the following fiscal year there shall be reductions in immigrant visa numbers made available under subsection (d) and section 203(b)(4) by the lesser of—

"(i) the remaining excess number of family admissions (described in subparagraph (B)), or

"(ii) ½ of the maximum number of visa numbers that could (but for this paragraph) otherwise be made available under section 203(b)(5) in such following fiscal year.

"(B) REMAINING EXCESS NUMBER OF FAMILY ADMISSIONS DESCRIBED.—For purposes of subparagraph (A), the 'remaining excess number of

family admissions' in a fiscal year is the net number of excess admissions for the fiscal year (as defined in paragraph (3)(C)), reduced by the reduction (if any) effected under paragraph (3) in visa numbers for the succeeding fiscal year.".

SEC. 502. WORLDWIDE NUMERICAL LIMITATION ON EMPLOYMENT-BASED IMMIGRANTS.

Subsection (d) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is—

"(1) 135,000, minus

"(2) beginning with fiscal year 1998, the total of the reductions (if any) in visa numbers under section 203(a)(3)(C) made for the fiscal year pursuant to subsection (c)(5) and in visa numbers under this subsection for the fiscal year pursuant to section 203(a)(3)(B)(ii)(II).".

SEC. 503. WORLDWIDE NUMERICAL LIMITATION ON DIVERSITY IMMIGRANTS.

Subsection (e) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants is equal to 27,000 for each fiscal year.".

SEC. 504. ESTABLISHMENT OF NUMERICAL LIMITATION ON HUMANITARIAN IMMIGRANTS.

(a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(4) for fiscal years beginning with fiscal year 1997, humanitarian immigrants described in section 203(e) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(e)) in a number not to exceed in any fiscal year the number specified in subsection (f) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year."; and

(2) by adding at the end the following new subsection:

"(f) WORLDWIDE LEVEL OF HUMANITARIAN IMMIGRANTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the worldwide level of humanitarian immigrants (in this subsection referred to as the 'worldwide humanitarian level') under this subsection for a fiscal year is equal to 70,000.

"(2) REDUCTION FOR HUMANITARIAN IMMIGRANTS WHO ARE REFUGEES OR ASYLEES.—The worldwide humanitarian level for a fiscal year shall be reduced by the sum of—

"(A) 50,000, or, if less, the number of aliens who were admitted as refugees under section 207 in the previous fiscal year, and

"(B) the number of aliens who had been granted asylum whose status was adjusted in the previous fiscal year under section 209(b).

"(3) REDUCTION FOR PRIOR YEAR CANCELLATION OF REMOVAL AND REGISTRY.—The worldwide humanitarian level for a fiscal year shall be further reduced by the sum of—

"(A) the number of aliens whose removal was canceled and who were provided lawful permanent resident status in the previous fiscal year under section 240A, and

"(B) the number of aliens who were provided permanent resident status in the previous fiscal year under section 249.

"(4) LIMITATION.—In no case shall the worldwide humanitarian level for a fiscal year (taking into account any reductions under paragraphs (2) and (3)) exceed 10,000.".

(b) TRANSITION.—In determining the worldwide humanitarian level under section 201(f) of the Immigration and Nationality Act for fiscal year 1997, the reference in paragraph (3)(A) of such section to 'section 240A' is deemed a reference to 'section 244(a)'.

SEC. 505. REQUIRING CONGRESSIONAL REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS EVERY 5 YEARS.

Section 201 (8 U.S.C. 1151) is further amended by adding at the end the following new subsection:

"(g) REQUIREMENT FOR PERIODIC REVIEW AND REAUTHORIZATION OF WORLDWIDE LEVELS.—

"(1) CONGRESSIONAL REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall undertake during fiscal year 2004 (and each fifth fiscal year thereafter) a thorough review of the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

"(2) CONGRESSIONAL REAUTHORIZATION.—The Congress, after consideration of the reviews under paragraph (1) and by amendment to this section, shall specify the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.

"(3) SUNSET IN ABSENCE OF REAUTHORIZATION.—The worldwide levels specified under the previous provisions of this section are applicable only to fiscal years 1997 through 2005. Immigrant visa numbers for fiscal years after fiscal year 2005 that are subject to such levels are only authorized to the extent provided by amendment under paragraph (2) made to this section.".

Subtitle B—Changes in Preference System

SEC. 511. LIMITATION OF IMMEDIATE RELATIVES TO SPOUSES AND CHILDREN.

(a) RECLASSIFICATION.—Section 201(b)(2)(A) (8 U.S.C. 1151(b)(2)(A)) is amended—

(1) in clause (i)—

(A) by striking "IMMEDIATE RELATIVES.—" and all that follows through the end of the first sentence and inserting "An alien who is a spouse or child of a citizen of the United States.", and

(B) in the second sentence, by striking "an immediate relative" and inserting "a spouse of a citizen of the United States"; and

(2) in clause (ii), by striking "such an immediate relative" and inserting "a spouse of a citizen of the United States".

(b) PROTECTION OF CERTAIN CHILDREN FROM AGING OUT OF PREFERENCE STATUS.—

(1) IN GENERAL.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(i) For purposes of applying section 101(b)(1) in the case of issuance of an immigrant visa to, or admission or adjustment of status of, an alien under section 201(b)(2)(A), section 203(a)(1), or 203(e) as a child of a citizen of the United States or a permanent resident alien, the age of the alien shall be determined as of the date of the filing of the classification petition under section 204(a)(1) as such a child of a citizen of the United States or a permanent resident alien.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to immigrant visas issued on or after October 1, 1996.

SEC. 512. CHANGE IN FAMILY-SPONSORED CLASSIFICATION.

(a) IN GENERAL.—Section 203(a) (8 U.S.C. 1153(a)) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—Immigrants who are the spouses and children of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 85,000, plus any immigrant visas not used under paragraphs (2) and (3).

"(2) PARENTS OF UNITED STATES CITIZENS.—

"(A) IN GENERAL.—Immigrants who are the parents of an individual who is at least 21 years of age and a citizen of the United States shall be allocated visas in a number, which is not less than 25,000 and does not exceed the lesser of—

"(i) 45,000, or

"(ii) the number by which the worldwide level exceeds 85,000.

"(B) REFERENCE TO INSURANCE REQUIREMENT.—For requirement relating to insurance for parents, see section 212(a)(4)(D).

"(3) ADULT SONS AND DAUGHTERS.—

"(A) IN GENERAL.—Immigrants who are the qualifying adult sons or daughters (as defined in subparagraph (C)) of an individual who is (i) at least 21 years of age and (ii) either a citizen of the United States or an alien lawfully admitted for permanent residence shall be allocated visas according to the levels established in subparagraph (B).

"(B) ALLOCATION OF VISAS TO ADULT SONS AND DAUGHTERS OF UNITED STATES CITIZENS AND PERMANENT RESIDENT ALIENS.—

"(i) IN GENERAL.—Subject to clause (ii), any remaining visas shall be allocated under this paragraph in a number not to exceed the lesser of—

"(I) 5,000, or

"(II) the number by which the worldwide level exceeds the sum of 85,000 and the number of immigrant visas used under paragraph (2).

"(ii) ALLOCATION OF ADDITIONAL VISA NUMBERS.—

"(I) IN GENERAL.—If the demand for visa numbers under this paragraph exceeds the number (if any) available under clause (i) in any fiscal year, an additional number of visas shall be made available under this paragraph, but not to exceed 5,000 additional visas numbers in any fiscal year.

"(II) OFFSETTING REDUCTION IN THE LEVELS OF EMPLOYMENT-BASED VISAS.—If an additional number of visa numbers are made available under subclause (I) in a fiscal year, the number of visas made available under section 201(a)(2) and paragraphs (1) through (6) of subsection (b) in the fiscal year shall be reduced by a number equal to such additional number reduced by the amount (if any) by which 110,000 exceeds the number of immigrant visas used under paragraphs (1) and (2) of this subsection in the fiscal year. The reduction under each such paragraph of subsection (b) shall be in the same proportion to the total reduction as the ratio of the numerical limitation under each such paragraph specified under such subsection to the worldwide level of employment-based immigrants (as specified in section 201(d)).

"(C) QUALIFICATIONS.—For purposes of this paragraph, the term 'qualifying adult son or daughter' means an immigrant who, as of the date of approval of the classification petition under section 204(a)(1)—

"(i) is at least 21, but not more than 25 years of age,

"(ii) has never been married,

"(iii) is childless, and

"(iv) would qualify as a dependent of the petitioning individual for Federal income tax purposes, except that the immigrant does not meet the residence requirements.

"(D) THREE-YEAR CONDITIONAL REQUIREMENT.—

"(i) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien provided lawful permanent residence status on the basis of being a qualifying adult son or daughter shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this subparagraph.

"(ii) REQUIREMENTS OF NOTICE AND PETITIONING FOR REMOVAL OF CONDITIONAL STATUS.—The Attorney General shall establish, by regulation, procedures which incorporate the requirements of notice and petitioning for removal of conditional status similar to the requirements for removal of conditional status under section 216A.

"(iii) TERMINATION OF STATUS.—In the case of an alien with permanent resident status on a conditional basis under clause (i), the alien must demonstrate that the alien met the qualifications set forth in subparagraph (C) as of the date of approval of the classification petition under section 204(a). In the absence of such a demonstration by the alien, the alien's status shall be terminated.

"(iv) SPECIAL RULE.—In applying section 216A under this subparagraph, any reference to the 'second' anniversary in such section is deemed a reference to the 'third' anniversary.".

(b) INSURANCE REQUIREMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by adding at the end the following new subparagraph:

"(D) INSURANCE REQUIREMENTS FOR PARENTS.—

"(i) IN GENERAL.—Any alien who seeks admission as a parent under section 203(a)(2) is inadmissible unless the alien demonstrates at the time of issuance of the visa (and at the time of admission) to the satisfaction of the consular officer and the Attorney General that the alien—

"(I) will have coverage under an adequate health insurance policy (at least comparable to coverage provided under the medicare program under title XVIII of the Social Security Act), and

"(II) will have coverage with respect to long-term health needs (at least comparable to such coverage provided under the medicaid program under title XIX of such Act for the State in which either the alien intends to reside or in which the petitioner, on behalf of the alien under section 204(a)(1), resides),

throughout the period the individual is residing in the United States.

"(ii) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under clause (i), the Attorney General shall take into account the age of the parent and the likelihood of the parent securing health insurance coverage through employment.".

SEC. 513. CHANGE IN EMPLOYMENT-BASED CLASSIFICATION.

(a) IN GENERAL.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7);

(2) by striking paragraphs (1) through (5) and inserting the following:

"(1) ALIENS WITH EXTRAORDINARY ABILITY.—Visas shall first be made available in a number not to exceed 15,000 of such worldwide level to immigrants—

"(A) who have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through sufficient documentation,

"(B) who seek to be admitted into the United States to continue work in the area of extraordinary ability, and

"(C) whose admission into the United States will substantially benefit prospectively the United States.

"(2) ALIENS WHO ARE OUTSTANDING PROFESSORS AND RESEARCHERS OR MULTINATIONAL EXECUTIVES AND MANAGERS.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30,000 of such worldwide level, plus any visas not required for the class specified in paragraph (1), to immigrants who are aliens described in subparagraph (B) or (C).

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(3) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30,000 of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2), to immigrants who are aliens described in subparagraph (B).

"(B) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(i) IN GENERAL.—An alien is described in this subparagraph if the alien is a member of a profession holding an advanced degree or its equivalent or who because of exceptional ability in the sciences, arts, or business will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

"(ii) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under clause (i) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(iii) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under this subparagraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

"(iv) NATIONAL INTEREST WAIVER.—The Attorney General may waive the requirement under clause (iii) and the requirement under clause (i) that an alien's services be sought by an employer in the United States only if—

"(I) such a waiver is necessary to substantially benefit—

"(aa) the national security, national defense, or Federal, State, or local law enforcement;

"(bb) health care, housing, or educational opportunities for an indigent or low-income population or in an underserved geographical area;

"(cc) economic or employment opportunities for a specific industry or a specific geographical area;

"(dd) the development of new technologies; or

"(ee) environmental protection or the productive use of natural resources, and

"(II) the alien will engage in a specific undertaking to advance one or more of the interests under subclause (I).

"(4) SKILLED WORKERS AND PROFESSIONALS.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 45,000 of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3) to immigrants who are described in subparagraph (B) or (C).

"(B) SKILLED WORKERS.—An alien described in this subparagraph is an immigrant who is capable, at the time a petition is filed, of performing skilled labor (requiring at least 2 years of training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States, and who has a total of 4 years of training or experience (or both) with respect to such labor.

"(C) PROFESSIONALS.—

"(i) IN GENERAL.—An alien described in this subparagraph is an immigrant who holds a baccalaureate degree and is a member of the professions and, subject to clause (ii), has at least 2 years of experience in the profession after the receipt of the degree.

"(ii) SPECIAL RULE FOR LANGUAGE TEACHERS.—An alien who is a teacher and has (within the previous 5 years) at least 2 years of experience teaching a language (other than English) full-time at an accredited elementary or middle school may be classified and admitted as a professional under this subparagraph if the alien is seeking admission to teach such language full-time in an accredited elementary or middle school.

"(D) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under this paragraph until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

"(E) EXPERIENCE REQUIREMENT.—Any period of experience acquired as a nonimmigrant under section 101(a)(15)(E), 101(a)(15)(H)(i), or 101(a)(15)(L) may be used to fulfill a requirement for experience under this paragraph.

"(5) INVESTORS IN JOB CREATION.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 10,000 of such worldwide level less the reduction in visa numbers under this paragraph required to be effected under section 201(c)(5)(A) for the fiscal year involved, to immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

"(i) which the alien has established,

"(ii) in which the alien has invested (after the date of the enactment of the Immigration Act of 1990), or is actively in the process of investing, capital in an amount not less $1,000,000, and

"(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

"(B) PILOT PROGRAM.—For each of fiscal years 1997 and 1998, up to 2,000 visas otherwise made available under this paragraph shall be made available to immigrants who would be described in subparagraph (A) if '$500,000' were substituted for '$1,000,000' in subparagraph (A)(ii) and if 'for not fewer than 5' were substituted for 'for not fewer than 10' in subparagraph (A)(iii). By not later than April 1, 1998,

the Attorney General shall submit to Congress a report on the operation of this subparagraph and shall include in the report information describing the immigrants admitted under this paragraph and the enterprises they invest in and a recommendation on whether the pilot program under this subparagraph should be continued or modified.

"(6) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 5,000 of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) thereof), of which not more than 4,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii)."; and

(3) by adding at the end the following new paragraph:

"(8) NOT COUNTING WORK EXPERIENCE AS AN UNAUTHORIZED ALIEN.—For purposes of this subsection, work experience obtained in employment in the United States with respect to which the alien was an unauthorized alien (as defined in section 274A(h)(3)) shall not be taken into account.".

(b) CONDITIONAL STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS.—

(1) IN GENERAL.—Title II is amended by inserting after section 216A the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN FOREIGN LANGUAGE TEACHERS

"SEC. 216B. (a) IN GENERAL.—Subject to the succeeding provisions of this section, section 216A shall apply to an alien foreign language teacher (as defined in subsection (d)(1)) and to an alien spouse or alien child (as defined in subsection (d)(2)) in the same manner as such section applies to an alien entrepreneur and an alien spouse or alien child.

"(b) TIMING FOR PETITION.—

"(1) IN GENERAL.—In applying section 216A under subsection (a), any reference to a 'second anniversary of an alien's lawful admission for permanent residence' is deemed a reference to the end of the time period described in paragraph (2).

"(2) TIME PERIOD FOR DETERMINATION.—The time period described in this paragraph is 5 years less the period of experience, during the 5-year period ending on the date the alien foreign language teacher obtains permanent resident status, of teaching a language (other than English) full-time at an accredited elementary or middle school.

"(c) REQUIREMENT FOR TOTAL OF 5 YEARS' TEACHING EXPERIENCE.—In applying section 216A under subsection (a), the determination of the Attorney General under section 216A(b)(1) shall be whether (and the facts and information under section 216A(d)(1) shall demonstrate that) the alien has been employed on a substantially full-time basis as a foreign language teacher at an accredited elementary or middle school in the United States during the period since obtaining permanent residence status (instead of the determinations described in section 216A(b)(1) and of the facts and information described in section 216A(d)(1)).

"(d) DEFINITIONS.—In this section:

"(1) The term 'alien foreign language teacher' means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) under section 203(b)(4)(C)(ii) on the basis of less than 5 years' teaching experience.

"(2) The term 'alien spouse' and the term 'alien child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien foreign language teacher.".

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 216A the following:

"Sec. 216B. Conditional permanent resident status for certain foreign language teachers.".

SEC. 514. CHANGES IN DIVERSITY IMMIGRANT PROGRAM.

(a) APPLICATION ONLY TO 10 COUNTRIES WITH HIGHEST REGISTRANTS.—Section 203(c) (8 U.S.C. 1153(c)) is amended—

(1) in paragraph (1)(B)(ii), by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", and", and by adding at the end the following new subclause:

"(III) within each region, the 10 foreign states which had the highest number of registrants for the diversity immigrant program under this subsection for the period beginning October 1, 1994, and ending September 30, 1996, and which are not high-admission states."; and

(2) by adding at the end of paragraph (1)(E) the following new clause:

"(vi) TEN STATES ELIGIBLE IN EACH REGION.—Only natives of the 10 states identified for each region in subparagraph (B)(ii)(III) are eligible for diversity visas.".

(b) CHANGE IN DEFINITION OF REGION.—Section 203(c)(1)(F) (8 U.S.C. 1153(c)(1)(F)) is amended—

(1) by striking "Northern Ireland shall be treated as a separate foreign state,",

(2) by striking the comma after "foreign state",

(3) in clause (iv), by striking "(other than Mexico)",

(4) in clause (vi), by striking "Mexico,".

(c) ESTABLISHING JOB OFFER REQUIREMENT.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

"(2) REQUIREMENT OF JOB OFFER AND EDUCATION OR SKILLED WORKER.—An alien is not eligible for a visa under this subsection unless the alien—

"(A) has a job offer in the United States which has been verified;

"(B) has at least a high school education or its equivalent; and

"(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training.".

(d) ADDITIONAL PROVISIONS.—Section 203(c) (8 U.S.C. 1153) is further amended by adding at the end the following new paragraphs:

"(4) FEES.—Fees for the furnishing and verification of applications for visas under this subsection and for the issuance of visas under this subsection may be prescribed by the Secretary of State in such amounts as are adequate to compensate the Department of State for the costs of administering the diversity immigrant program. Any such fees collected may be deposited as an offsetting collection to the appropriate Department of State appropriation to recover the costs of such program and shall remain available for obligation until expended.

"(5) INELIGIBILITY OF ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.—An alien who is unlawfully present in the United States at the time of filing of an application, within 5 years prior to the filing of such application, or at any time subsequent to the filing of the application is ineligible for a visa under this subsection.".

SEC. 515. AUTHORIZATION TO REQUIRE PERIODIC CONFIRMATION OF CLASSIFICATION PETITIONS.

(a) IN GENERAL.—Section 204(b) (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2)(A) The Attorney General may provide that a petition approved with respect to an alien (and the priority date established with respect to the petition) shall expire after a period (specified by the Attorney General and of not less than 2 years) following the date of approval of the petition, unless the petitioner files with the Attorney General a form described in subparagraph (B).

"(B) The Attorney General shall specify the form to be used under this paragraph. Such form shall be designed—

"(i) to reconfirm the continued intention of the petitioner to seek admission of the alien based on the classification involved, and

"(ii) as may be provided by the Attorney General, to update the contents of the original classification petition.

"(C) The Attorney General may apply subparagraph (A) to one or more classes of classification petitions and for different periods of time for different classes of such petitions, as specified by the Attorney General.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall not apply to classification petitions filed before October 1, 1996.

(2) The Attorney General may apply such amendments to such classification petitions, but only in a manner so that no such petition expires under such amendments before October 1, 2000.

SEC. 516. CHANGES IN SPECIAL IMMIGRANT STATUS.

(a) REPEALING CERTAIN OBSOLETE PROVISIONS.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking subparagraphs (B), (E), (F), (G), and (H).

(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is further amended—

(1) by striking "or" at the end of subparagraph (J),

(2) by striking the period at the end of subparagraph (K) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

"(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North American Treaty Organization (NATO);

"(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO-6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the 'Protocol on the Status of International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

"(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the Immigration in the National Interest Act of 1995.".

(c) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)(i)", and

(2) by inserting "(or under analogous authority under paragraph (27)(L))" after "(27)(I)".

(d) EXTENSION OF SUNSET FOR RELIGIOUS WORKERS.—Section 101(a)(27)(C)(ii) (8 U.S.C. 1101(a)(27)(C)(ii)) is amended by striking "1997" and inserting "2005" each place it appears.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking "or (B)".

(2) Section 203(b)(4) (8 U.S.C. 1153(b)(4)) is amended by striking "or (B)".

(3) Section 214(l)(3) (8 U.S.C. 1184(l)(3)), as redesignated by section 851(a)(3)(A), is amended by striking ", who has not otherwise been accorded status under section 101(a)(27)(H),".

(4) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking "101(a)(27)(H), (I)," and inserting "101(a)(27)(I),".

(f) Effective Dates.—(1) Except as provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a) shall not apply to any alien with respect to whom an application for special immigrant status under a subparagraph repealed by such amendments has been filed by not later than September 30, 1996.

SEC. 517. REQUIREMENTS FOR REMOVAL OF CONDITIONAL STATUS OF ENTREPRENEURS.

(a) In General.—Section 216A(b) (8 U.S.C. 1186b(b)) is amended—

(1) by amending clause (ii) of paragraph (1)(B) to read as follows:

"(ii) subject to paragraph (3), the alien did not invest (and maintain investment of) the requisite capital, or did not employ the requisite number of employees, throughout substantially the entire period since the alien's admission; or", and

(2) by adding at the end the following new paragraph:

"(3) Exceptions.—

"(A) Good faith exception.—Paragraph (1)(B)(ii) shall not apply to an alien to the extent that the alien continues to attempt in good faith throughout the period since admission to invest (and maintain investment of) the requisite capital, and to employ the requisite number of employees, but was unable to do so due to circumstances for which the alien should not justly be held responsible.

"(B) Extension.—In the case of an alien to whom the exception under subparagraph (A) applies, the application period under subsection (d)(2) (and period for termination under paragraph (1)) shall be extended (for up to 3 additional years) by such additional period as may be necessary to enable the alien to have had the requisite capital and number of employees throughout a 2-year period. Such extension shall terminate at any time at which the Attorney General finds that the alien has not continued to attempt in good faith to invest such capital and employ such employees.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to aliens admitted on or after the date of the enactment of this Act.

SEC. 518. ADULT DISABLED CHILDREN.

Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amended—

(1) in subparagraph (E) by striking "or" at the end,

(2) in subparagraph (F) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(G) a child of a citizen or national of the United States or lawful permanent resident alien, regardless of age, who has never been married, and who has a severe mental or physical impairment, or combination of mental or physical impairments, which—

"(i) is likely to continue indefinitely; and

"(ii) causes substantially total inability to perform functions necessary for independent living, including but not necessarily limited to 3 or more of the following areas of major life activity—

"(I) self-care,

"(II) interpersonal communication,

"(III) learning,

"(IV) mobility, and

"(V) self-direction: Provided, That no child may be considered to be a child within the meaning of this subparagraph on the basis, in whole or in part, of any physical or mental impairment that is not being ameliorated through medical treatment to the maximum extent reasonably possible given the ability and resources of such child and the citizen, national, or lawful permanent resident alien who is the child's parent.".

SEC. 519. MISCELLANEOUS CONFORMING AMENDMENTS.

(a) Conforming Amendments Relating to Immediate Relatives.—

(1) Section 101(b)(1)(F) (8 U.S.C. 1101(b)(1)(F)) is amended by striking "as an immediate relative under section 201(b)" and inserting "as a child of a citizen of the United States".

(2) Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(A)(i), by striking "to an immediate relative status" and inserting "to status as the spouse or child of a citizen of the United States";

(B) in subsection (a)(1)(A)(iii), by striking "as an immediate relative" and inserting "as the spouse of a citizen of the United States";

(C) in subsection (a)(1)(iv), by striking "as an immediate relative" and inserting "as a child of a citizen of the United States";

(D) in subsection (b), by striking "an immediate relative specified in section 201(b)" and inserting "a spouse or child of a citizen of the United States under section 201(b)";

(E) in subsection (c), by striking "an immediate relative or preference" and inserting "a preferential";

(F) in subsection (e)—

(i) by striking "an immediate relative" and inserting "a spouse or child of a citizen of the United States", and

(ii) by striking "his" and "he" and inserting "the alien's" and "the alien", respectively; and

(G) in subsection (g), by striking "immediate relative status" and inserting "status as a spouse or child of a citizen of the United States or other".

(3) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) is amended by striking "an immediate relative" and inserting "a spouse, child, or parent of a citizen of the United States".

(4) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking "an immediate relative" and inserting "a spouse or child of a citizen of the United States".

(5) Section 216(g)(1)(A) (8 U.S.C. 1186a(g)(1)(A)) is amended by striking "an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States" and inserting "the spouse of a citizen of the United States (described in section 201(b))".

(6) Section 221(a) (8 U.S.C. 1201(a)) is amended by striking ", immediate relative,".

(7)(A) Section 224 (8 U.S.C. 1204) is amended—

(i) by amending the heading to read as follows:

"VISAS FOR SPOUSES AND CHILDREN OF CITIZENS AND SPECIAL IMMIGRANTS",

(ii) by striking "immediate relative" the first place it appears and inserting "a spouse or child of a citizen of the United States", and

(iii) by striking "immediate relative status" and inserting "status or status as a spouse or child of a citizen of the United States".

(B) The item in the table of contents relating to section 224 is amended to read as follows:

"Sec. 224. Visas for spouses and children of citizens and special immigrants.".

(8) Subsection (a)(1)(E)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking "an immediate relative" and inserting "a spouse, child, or parent of a citizen of the United States under section 201(b) or 203(a)(2)".

(9) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking "an immediate relative as defined in section 201(b)" and inserting "a spouse or child of a citizen of the United States under section 201(b) or a parent of a citizen under section 203(a)(2)" each place it appears.

(10) Section 291 (8 U.S.C. 1361) is amended by striking "immigrant, special immigrant, immediate relative" and inserting "immigrant status, special immigrant status, status as a spouse or child of a citizen of the United States".

(11) Section 401 of the Immigration Reform and Control Act of 1986 is amended by striking "immediate relatives" and inserting "spouses and children of citizens".

(b) Conforming Amendments for Other Family-Sponsored Immigrants.—

(1) Petitioning requirements.—Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)(A)(i), by striking "paragraph (1), (3), or (4)" and inserting "paragraph (2) or (3)";

(B) in subsection (a)(1)(B)(i), by striking "section 203(a)(2)" and inserting "paragraph (1) or (3) of section 203(a)(1)";

(C) in clauses (ii) and (iii) of subsection (a)(1)(B), by striking "203(a)(2)(A)" and inserting "203(a)(1)"; and

(D) in subsection (f)(1), by striking ", 203(a)(1), or 203(a)(3)" and inserting "or 203(a)(2)".

(2) Application of per country levels.—Section 202 (8 U.S.C. 1152) is amended—

(A) by amending paragraph (4) of subsection (a) to read as follows:

"(4) Special rules for spouses and children of lawful permanent resident aliens.—

"(A) 75 percent of 1st preference not subject to per country limitation.—Of the visa numbers made available under section 203(a) to immigrants described in paragraph (1) of that section in any fiscal year, 63,750 shall be issued without regard to the numerical limitation under paragraph (2).

"(B) Limiting pass down for certain countries subject to subsection (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(1) exceeds the maximum number of visas that may be made available to immigrants of the state or area under such section consistent with subsection (e) (determined without regard to this paragraph), in applying paragraph (2) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraph (1) of such section."; and

(B) in subsection (e)—

(i) in paragraph (1), by inserting before the semicolon the following: "(determined without regard to subsections (c)(4) and (d)(2) of section 201)",

(ii) in paragraph (2), by striking "paragraphs (1) through (4)" and inserting "paragraphs (1) and (2)", and

(iii) in the last sentence, by striking "203(a)(2)(A)" and inserting "203(a)(1)".

(3) Additional conforming amendments.—

(A) Subsection (d) of section 203 (8 U.S.C. 1153), before redesignation by section 524(a)(1), is amended by striking "(a)" and inserting "(a)(2)".

(B) Section 212(a)(6)(E)(ii) (8 U.S.C. 1182(a)(6)(E)(ii)) and subsection (a)(1)(E)(ii) of section 241 (8 U.S.C. 1251)), before redesignation as section 237 under section 305(a)(2), are each amended by striking "203(a)(2)" and inserting "203(a)(1)".

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by striking "immigrant under section 203(a) (other than paragraph (4) thereof)" and inserting "an immigrant under section 203(a)".

(D) Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C)) is amended by striking "203(a)(2)" and inserting "203(a)(1)".

(E) Section 2(c) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97–271) is amended—

(i) in paragraph (2), by inserting "or first or third family preference petitions" after "second preference petitions";

(ii) in paragraph (3)(A), by striking "or" at the end;

(iii) in paragraph (3)(B), by striking the period at the end and inserting "; or";

(iv) by adding at the end of paragraph (3) the following new subparagraph:

"(C) by virtue of a first or third family preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of a second family preference petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section."; and

(v) in paragraph (4), by striking "on or after such date)." and inserting the following: "on or after such date and before October 1, 1996). For purposes of this subsection, the terms 'first family preference petition', 'second family preference petition', and 'third family preference petition' mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(1), 203(a)(2), or 203(a)(3), respectively (as in effect on and after October 1, 1996).".

(c) Conforming Amendments Relating to Employment-Based Immigrants.—

(1) Treatment of special K immigrants.—Subparagraph (B) of section 203(b)(7) (8 U.S.C. 1153(b)(7)), as redesignated by section 513(a)(1), is amended—

(A) in clause (i), by striking "and (3) shall each be reduced by $\frac{1}{3}$" and inserting "(3), and (4) shall each be reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs) that were made available under each respective paragraph,", and

(B) in clause (iii), by striking "(3) of this subsection in the fiscal year shall be reduced by $\frac{1}{3}$" and inserting "(4) in the fiscal year reduced by the same proportion, as the proportion (of the visa numbers made available under all such paragraphs to natives of the foreign state) that were made available under each respective paragraph to such natives,".

(2) Conforming amendments relating to petitioning rights.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended—

(A) in subparagraph (C), by striking "203(b)(1)(A)" and inserting "203(b)(1)";

(B) in subparagraph (D), by striking "section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3)" and inserting "section 203(b)(2), 203(b)(3), or 203(b)(4)";

(C) in subparagraph (E)(i), by striking "203(b)(4)" and inserting "203(b)(6)"; and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (E), respectively, and by moving subparagraph (E) (as so redesignated) to precede subparagraph (F) (as so redesignated).

(3) Ground for inadmissibility.—Section 212(a)(5)(C) (8 U.S.C. 1182(a)(5)(C)) is amended by striking "(2) or (3)" and inserting "(3) or (4)".

(4) Other conforming amendments.—

(A) Section 202(e)(3) (8 U.S.C. 1152(e)(3)) is amended by striking "through (5)" and inserting "through (6)".

(B) Section 245(j)(3) (8 U.S.C. 1255(j)(3)), as added by section 130003(c)(1) Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) and as redesignated by section 851(a)(3)(A) of this Act, is amended by striking "203(b)(4)" and inserting "203(b)(6)".

(C) Section 154(b)(1)(B)(i) of the Immigration Act of 1990 is amended by striking "1991)" and inserting "1991, and before October 1, 1996) or under section 203(a), 203(b)(1), or 203(b)(2) (as in effect on and after October 1, 1996)".

(D) Section 206(a) of the Immigration Act of 1990 is amended by striking "203(b)(1)(C)" and inserting "203(b)(2)(C)".

(E) Section 2(d)(2)(A) of the Chinese Student Protection Act of 1992 (Public Law 102–404) is amended by striking "203(b)(3)(A)(i)" and inserting "203(b)(4)(B)".

(F) The Soviet Scientists Immigration Act of 1992 (Public Law 102–509) is amended—

(i) in sections 3 and 4(a), by striking "203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))" and inserting "203(b)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(B)(i))", and

(ii) in section 4(c), by striking "203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A))" and inserting "203(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2))".

(d) Repeal of Certain Outdated Provisions.—The following provisions of law are repealed:

(1) Section 9 of Public Law 94–571 (90 Stat. 2707).

(2) Section 19 of Public Law 97–116 (95 Stat. 1621).

Subtitle C—Refugees, Parole, and Humanitarian Admissions

SEC. 521. CHANGES IN REFUGEE ANNUAL ADMISSIONS.

(a) In General.—Paragraphs (1) and (2) of section 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

"(1) Except as provided in paragraph (2) and subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

"(2)(A) Except as provided in subparagraph (B), the number determined under paragraph (1) for a fiscal year may not exceed—

"(i) 75,000 in the case of fiscal year 1997, or

"(ii) 50,000 in the case of any succeeding fiscal year.

"(B) The number determined under paragraph (1) for a fiscal year may exceed the limit specified under subparagraph (A) if Congress enacts a law providing for a higher number.".

(b) Admissions in Emergency Refugee Situations and Timing of the Refugee Consultation Process.—

(1) Section 207(b) (8 U.S.C. 1157(b)) and section 207(d)(3)(B) (8 U.S.C. 1157(d)(3)(B)) are amended by striking "unforeseen".

(2) Section 207(d)(1) (8 U.S.C. 1157(d)(1)) is amended by striking "Before the start of each fiscal year" and inserting "Before June 1 of the preceding fiscal year".

(3) Section 207(e) (8 U.S.C. 1157(e)) is amended by adding at the end the following:

"Such discussions shall occur before July 1 of the fiscal year preceding the fiscal year of admissions, except that discussions relating to an emergency refugee situation shall occur not more than 30 days after the President proposes admissions in response to the emergency.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply beginning with fiscal year 1997.

SEC. 522. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) Definition of Refugee.—Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

(b) Numerical Limitation.—Section 207(a) (8 U.S.C. 1157(a)), as amended by section 532(b), is amended by adding at the end the following new paragraph:

"(4) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the last sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).".

SEC. 523. PAROLE AVAILABLE ONLY ON A CASE-BY-CASE BASIS FOR HUMANITARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.

(a) In General.—Paragraph (5) of section 212(d) (8 U.S.C. 1182(d)) is amended to read as follows:

"(5)(A) Subject to the provisions of this paragraph and section 214(f)(2), the Attorney General, in the sole discretion of the Attorney General, may on a case-by-case basis parole an alien into the United States temporarily, under such conditions as the Attorney General may prescribe, only—

"(i) for an urgent humanitarian reason (as described under subparagraph (B)); or

"(ii) for a reason deemed strictly in the public interest (as described under subparagraph (C)).

"(B) The Attorney General may parole an alien based on an urgent humanitarian reason described in this subparagraph only if—

"(i) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient time for the alien to be admitted through the normal visa process;

"(ii) the alien is needed in the United States in order to donate an organ or other tissue for transplant into a close family member; or

"(iii) the alien has a close family member in the United States whose death is imminent and the alien could not arrive in the United States in time to see such family member alive if the alien were to be admitted through the normal visa process.

"(C) The Attorney General may parole an alien based on a reason deemed strictly in the public interest described in this subparagraph only if—

"(i) the alien has assisted the United States Government in a matter, such as a criminal investigation, espionage, or other similar law enforcement activity, and either the alien's presence in the United States is required by the Government or the alien's life would be threatened if the alien were not permitted to come to the United States; or

"(ii) the alien is to be prosecuted in the United States for a crime.

"(D) The Attorney General may not use the parole authority under this paragraph to permit to come to the United States aliens who have applied for and have been found to be ineligible for refugee status or any alien to whom the provisions of this paragraph do not apply.

"(E) Parole of an alien under this paragraph shall not be considered an admission of the alien into the United states. When the purposes of the parole of an alien have been served, as determined by the Attorney General, the alien shall immediately return or be returned to the custody from which the alien was paroled and the alien shall be considered for admission to the United States on the same basis as other similarly situated applicants for admission.

"(F) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate describing the number and categories of aliens paroled into the United States under this paragraph. Each such report shall contain information and data concerning the number and categories of aliens paroled, the duration of parole, and the current status of aliens paroled during the preceding fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals paroled into the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 524. ADMISSION OF HUMANITARIAN IMMIGRANTS.

(a) IN GENERAL.—Section 203 (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and

(2) by inserting after subsection (c) the following new subsection:

"(d) HUMANITARIAN IMMIGRANTS.—

"(1) IN GENERAL.—Aliens subject to the worldwide humanitarian level specified in section 201(e) shall be allotted visas only if the aliens have been selected by the Attorney General under paragraph (2) as of special humanitarian concern to the United States.

"(2) SELECTION OF IMMIGRANTS.—

"(A) IN GENERAL.—The Attorney General shall, on a case-by-case basis and based on humanitarian concerns and the public interest, select aliens for purposes of this subsection.

"(B) RESTRICTION.—The Attorney General may not select an alien under this paragraph if the alien is a refugee (within the meaning of section 101(a)(42)) unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be admitted into the United States as a humanitarian immigrant under this subsection rather than as a refugee under section 207.

"(3) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the number of immigrant visas issued under this subsection and the individuals to whom the visas were issued.".

(b) PETITIONING.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following new subparagraph:

"(I) Any alien desiring to be provided an immigrant visa under section 203(d) may file a petition with the Attorney General for such classification, but only if the Attorney General has identified the alien as possibly qualifying for such a visa.".

(c) ORDER OF CONSIDERATION.—Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Immigrant visa numbers made available under subsection (d) (relating to humanitarian immigrants) shall be issued to eligible immigrants in an order specified by the Attorney General.".

(d) APPLICATION OF PER COUNTRY NUMERICAL LIMITATIONS.—Section 202(a) (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

"(5) PER COUNTRY LEVELS FOR HUMANITARIAN IMMIGRANTS.—The total number of immigrant visas made available to natives of any single foreign state or dependent area under section 203(d) in any fiscal year may not exceed 50 percent (in the case of a single foreign state) or 15 percent (in the case of a dependent area) of the total number of such visas made available under such subsection in that fiscal year.".

(e) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—Section 212(a) (8 U.S.C. 1182(a)) is amended—

(1) in paragraph (4), as amended by sections 621(a) and 512(b), by adding at the end the following new subparagraph:

"(E) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under subparagraph (A) in the case of an alien seeking admission as a humanitarian immigrant under section 203(d).";

(2) in paragraph (5)(C), by inserting before the period at the end the following: ", and shall not apply to immigrants seeking admissions as humanitarian immigrants under section 203(d)"; and

(3) in paragraph (7)(A), by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) WAIVER AUTHORIZED FOR HUMANITARIAN IMMIGRANTS.—The Attorney General, in the discretion of the Attorney General, may waive the ground of inadmissibility under clause (i) in the case of an alien seeking admission as a humanitarian immigrant under section 203(d).".

(f) CONFORMING AMENDMENT.—Section 216(g)(1) (8 U.S.C. 1186a(g)(1)) is amended by striking "203(d)" and inserting "203(e)".

Subtitle D—Asylum Reform

SEC. 531. ASYLUM REFORM.

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"ASYLUM

"SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—

"(1) IN GENERAL.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival), irrespective of such alien's status, may apply for asylum in accordance with this section.

"(2) EXCEPTIONS.—

"(A) SAFE THIRD COUNTRY.—Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

"(B) TIME LIMIT.—Paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 30 days after the alien's arrival in the United States.

"(C) PREVIOUS ASYLUM APPLICATIONS.—Paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

"(D) CHANGED CONDITIONS.—An application for asylum of an alien may be considered, notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General the existence of fundamentally changed circumstances which affect the applicant's eligibility for asylum.

"(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

"(b) CONDITIONS FOR GRANTING ASYLUM.—

"(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

"(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(vi) the alien was firmly resettled in another country prior to arriving in the United States.

"(B) SPECIAL RULES.—

"(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

"(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

"(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions under which an alien shall be ineligible for asylum under paragraph (1).

"(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

"(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

"(c) ASYLUM STATUS.—

"(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

"(A) shall not remove or return the alien to the alien's country of nationality or, in the case of a person having no nationality, the country of the alien's last habitual residence;

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

"(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

"(B) the alien meets a condition described in subsection (b)(2);

"(C) the alien may be removed, including pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

"(D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

"(E) the alien has acquired a new nationality and enjoys the protection of the country of his new nationality.

"(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien's removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

"(4) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review a determination of the Attorney General under paragraph (2).

"(d) ASYLUM PROCEDURE.—

"(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). An application for asylum shall not be considered unless the alien submits fingerprints and a photograph in a manner to be determined by regulation by the Attorney General.

"(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.

"(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

"(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

"(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

"(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

"(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

"(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

"(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum;

"(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

"(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

"(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

"(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

"(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

"(6) FRIVOLOUS APPLICATIONS.—

"(A) IN GENERAL.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(B) MATERIAL MISREPRESENTATIONS.—An application shall be considered to be frivolous if the Attorney General determines that the application contains a willful misrepresentation or concealment of a material fact.

"(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101–649) is amended by striking "208(b)" and inserting "208".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

SEC. 532. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES AT 10,000 EACH YEAR.

(a) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking "Not more than" and all that follows through "adjust" and inserting the following: "The Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, and in a number not to exceed 10,000 aliens in any fiscal year, may adjust".

(b) CONFORMING AMENDMENT.—Section 207(a) (8 U.S.C. 1157(a)) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1996.

SEC. 533. INCREASED RESOURCES FOR REDUCING ASYLUM APPLICATION BACKLOGS.

(a) AUTHORIZATION OF TEMPORARY EMPLOYMENT OF CERTAIN ANNUITANTS AND RETIREES.—

(1) IN GENERAL.—For the purpose of performing duties in connection with adjudicating applications for asylum pending as of the date of the enactment of this Act, the Attorney General may employ for a period not to exceed 24 months (beginning 3 months after the date of the enactment of this Act) not more than 300 individuals (at any one time) who, by reason of separation from service on or before January 1, 1995, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

(C) retired or retainer pay as retired officers of regular components of the uniformed services.

(2) NO REDUCTION IN ANNUITY OR RETIREMENT PAY OR REDETERMINATION OF PAY DURING TEMPORARY EMPLOYMENT.—

(A) RETIREES UNDER CIVIL SERVICE RETIREMENT SYSTEM AND FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—In the case of an individual employed under paragraph (1) who is receiving an annuity described in paragraph (1)(A)—

(i) such individual's annuity shall continue during the employment under paragraph (1) and shall not be increased as a result of service performed during that employment;

(ii) retirement deductions shall not be withheld from such individual's pay; and

(iii) such individual's pay shall not be subject to any deduction based on the portion of such individual's annuity which is allocable to the period of employment.

(B) OTHER FEDERAL RETIREES.—The President shall apply the provisions of subparagraph (A) to individuals who are receiving an annuity described in paragraph (1)(B) and who are employed under paragraph (1) in the same manner and to the same extent as such provisions apply to individuals who are receiving an annuity described in paragraph (1)(A) and who are employed under paragraph (1).

(C) RETIRED OFFICERS OF THE UNIFORM SERVICES.—The retired or retainer pay of a retired officer of a regular component of a uniformed service shall not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized under paragraph (1).

(b) PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a)(1).

(c) INCREASE IN ASYLUM OFFICERS.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

Subtitle E—General Effective Date; Transition Provisions

SEC. 551. GENERAL EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in subsection (b) or in this title, this title and the amendments made by this title shall take effect on October 1, 1996, and shall apply beginning with fiscal year 1997.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—Sections 523 and 554 shall take effect on the date of the enactment of this Act.

SEC. 552. GENERAL TRANSITION FOR CURRENT CLASSIFICATION PETITIONS.

(a) FAMILY-SPONSORED IMMIGRANTS.—

(1) IMMEDIATE RELATIVES.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for immediate relative status under section 201(b)(2)(A) of such Act (as in effect before such date) as a spouse or child of a United States citizen or as a parent of a United States citizen shall be deemed, as of such date, to be a petition filed under such section for status under section 201(b)(2)(A) (as such a spouse or child) or under section 203(a)(2), respectively, of such Act (as amended by this title).

(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENTS.—Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1996, for preference status under section 203(a)(2) of such Act as a spouse or child of an alien lawfully admitted for permanent residence shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(1) of such Act (as amended by this title).

(b) EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), any petition filed before October 1, 1996, and approved on any date, to accord status under section 203(b)(1)(A), 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), 203(b)(3)(A)(i), 203(b)(3)(A)(ii), 203(b)(4), 203(b)(5) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, on and after October 1, 1996 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(1), 203(b)(2)(B), 203(b)(2)(C), 203(b)(3), 203(b)(4)(B), 203(b)(4)(C), 203(b)(6), or 203(b)(5), respectively, of such Act (as in effect on and after such date). Nothing in this paragraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b) of such Act (as amended by section 513).

(2) TIME LIMITATION.—Paragraph (1) shall not apply more than two years after the date the priority date for issuance of a visa on the basis of such a petition has been reached.

(c) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1996, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(d) CONSTRUCTION.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97–116, section 2(c)(1) of Public Law 97–271, or section 202(e) of Public Law 99–603.

SEC. 553. SPECIAL TRANSITION FOR CERTAIN BACKLOGGED SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.

(a) IN GENERAL.—(1) In addition to any immigrant visa numbers otherwise available, immigrant visa numbers in a number not to exceed 50,000 (or, if greater, ⅕ of the number of aliens described in paragraph (2)) immigrant visa numbers shall be made available in each of fiscal years 1997 through 2001 for aliens who have petitions approved for classification under section 203(a)(1) of the Immigration and Nationality Act (as amended by this title) for the fiscal year.

(2) Aliens described in this paragraph are aliens, for whom petitions are pending as of the beginning of the fiscal year involved, with respect to whom the petitioning alien became an alien admitted for lawful permanent residence through the operation of section 210 or 245A of the Immigration and Nationality Act.

(b) ORDER.—(1) Subject to paragraph (2), visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(1) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(2) Visa numbers shall first be made available to aliens for whom the petitioning alien did not become an alien lawfully admitted for permanent residence through the operation of section 210 or 245A of the Immigration and Nationality Act.

(3) The per country numerical limitations of section 202 of such Act shall not apply with respect to visa numbers made available under this section, and visa numbers made available under this section shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b)).

(c) REPORT.—The Attorney General shall submit to Congress, by April 1, 2001, a report on the operation of this section and the extent to which this section will, by October 1, 2001, have resulted in visa numbers being available to immigrants described in paragraphs (1) and (2) of subsection (b) being available on a current basis.

SEC. 554. SPECIAL TREATMENT OF CERTAIN DISADVANTAGED FAMILY FIRST PREFERENCE IMMIGRANTS.

(a) DISREGARD OF PER COUNTRY LIMITS FOR LAST HALF OF FISCAL YEAR 1996.—The per country numerical limitations specified in section 202(a) of the Immigration and Nationality Act shall not apply to immigrant numbers made available under section 203(a)(1) of such Act (as in effect before the date of the enactment of this Act) on or after April 1, 1996, but only to the extent necessary to assure that the priority date for aliens classified under such section who are nationals of a country is not earlier than the priority date for aliens classified under section 203(a)(2)(B) of such Act for aliens who are nationals of that country.

(b) ADDITIONAL VISA NUMBERS POTENTIALLY AVAILABLE TO ASSURE EQUITABLE TREATMENT FOR UNMARRIED SONS AND DAUGHTERS OF UNITED STATES CITIZENS.—

(1) IN GENERAL.—In addition to any immigrant visa otherwise available, immigrant visa numbers shall be made available during fiscal year 1997 for disadvantaged family first preference aliens (as defined in paragraph (2)) and for spouses and children of such aliens who would otherwise be eligible to immigrant status under section 203(e) of the Immigration and Nationality Act in relation to such aliens if the aliens remained entitled to immigrant status under section 203(a) of such Act.

(2) DISADVANTAGED FAMILY FIRST PREFERENCE ALIEN DEFINED.—In this subsection, the term "disadvantaged family first preference alien" means an alien—

(A) with respect to whom a petition for classification under section 203(a)(1) of the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) was approved as of September 30, 1996, and

(B) whose priority date, as of September 30, 1996, under such classification was earlier than the priority date as of such date for aliens of the same nationality with respect to whom a petition for classification under section 203(a)(2)(B) of such Act (as in effect on such date) had been approved.

(3) DISREGARD OF PER COUNTRY NUMERICAL LIMITATIONS.—Additional visa numbers made available under this subsection shall not be taken into account for purposes of applying any numerical limitation applicable to the country under section 202 of such Act, and visa numbers made available under this subsection shall not be counted in determining whether there are excess family admissions in a fiscal year under section 201(c)(3)(B) of the Immigration and Nationality Act (as amended by section 501(b) of this Act).

SEC. 555. AUTHORIZATION OF REIMBURSEMENT OF PETITIONERS FOR ELIMINATED FAMILY-SPONSORED CATEGORIES.

(a) IN GENERAL.—Subject to the availability of appropriations, after the effective date of this title, the Attorney General shall establish a process to provide for the reimbursement to each petitioner of all fees paid to the United States, and which were required to be paid under the Immigration and Nationality Act, for a petition, which was not disapproved as of such date and for which a visa has not been issued, for a family-sponsored immigrant category which is eliminated by this title or the amendments made by this title. Any such process shall provide that such a petitioner shall present any required documentation or other proof of such claim, in person, to the Immigration and Naturalization Service.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) Where States are authorized to follow Federal eligibility rules for public assistance programs, the Congress strongly encourages the States to adopt the Federal eligibility rules.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUBLIC ASSISTANCE, CONTRACTS, AND LICENSES.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) FEDERAL ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility (or the amount of assistance) is based on financial need.

(2) FEDERAL CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license,

if the grant, contract, loan, or license is provided or funded by any Federal agency.

(b) STATE PROGRAMS.—Notwithstanding any other provision of law, except as provided in section 603, any alien who is not lawfully present in the United States shall not be eligible for any of the following:

(1) STATE ASSISTANCE PROGRAMS.—To receive any benefits under any program of assistance (not described in subsection (a)(1)) provided or funded, in whole or in part, by a State or political subdivision of a State for which eligibility (or the amount of assistance) is based on financial need.

(2) STATE CONTRACTS OR LICENSES.—To receive any grant, to enter into any contract or loan agreement, or to be issued (or have renewed) any professional or commercial license, if the grant, contract, loan, or license is provided or funded by any State agency.

(c) REQUIRING PROOF OF IDENTITY FOR FEDERAL CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC ASSISTANCE.—

(1) IN GENERAL.—In considering an application for a Federal contract, grant, loan, or license, or for public assistance under a program described in paragraph (2), a Federal agency shall require the applicant to provide proof of identity under paragraph (3) to be considered for such Federal contract, grant, loan, license, or public assistance.

(2) PUBLIC ASSISTANCE PROGRAMS COVERED.—The requirement of proof of identity under paragraph (1) shall apply to the following Federal public assistance programs:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

(B) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

(C) SOCIAL SERVICES BLOCK GRANT.—The program of block grants to States for social services under title XX of the Social Security Act.

(D) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

(E) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

(F) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

(3) DOCUMENTS THAT SHOW PROOF OF IDENTITY.—

(A) IN GENERAL.—Any one of the documents described in subparagraph (B) may be used as proof of identity under this subsection if the document is current and valid. No other document or documents shall be sufficient to prove identity.

(B) DOCUMENTS DESCRIBED.—The documents described in this subparagraph are the following:

(i) A United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

(ii) A resident alien card.

(iii) A State driver's license, if presented with the individual's social security account number card.

(iv) A State identity card, if presented with the individual's social security account number card.

(d) AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In considering an application for contracts, grants, loans, licenses, or public assistance under any State program, a State is authorized to require the applicant to provide proof of eligibility to be considered for such State contracts, grants, loans, licenses, or public assistance.

(e) EXCEPTION FOR BATTERED ALIENS.—

(1) EXCEPTION.—The limitations on eligibility for benefits under subsection (a) or (b) shall not apply to an alien if—

(A)(i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or

(ii) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty) or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to, and the alien did not actively participate in, such battery or cruelty; and

(B)(i) the alien has petitioned (or petitions within 45 days after the first application for assistance subject to the limitations under subsection (a) or (b)) for—

(I) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clauses (ii) or (iii) of section 204(a)(1)(B) of such Act, or

(III) cancellation of removal and adjustment of status pursuant to section 240A(b)(2) of such Act ; or

(ii) the alien is the beneficiary of a petition filed for status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of the Immigration and Nationality Act, or of a petition filed for classification pursuant to clause (i) of section 204(a)(1)(B) of such Act.

(2) TERMINATION OF EXCEPTION.—The exception under paragraph (1) shall terminate if no complete petition which sets forth a prima facie case is filed pursuant to the requirement of paragraph (1)(B) or (1)(C) or when an petition is denied.

SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no unemployment benefits shall be payable (in whole or in part) out of Federal funds to the extent the benefits are attributable to any employment of the alien in the United States for which the alien was not granted employment authorization pursuant to Federal law.

(b) PROCEDURES.—Entities responsible for providing unemployment benefits subject to the restrictions of this section shall make such inquiries as may be necessary to assure that recipients of such benefits are eligible consistent with this section.

SEC. 603. GENERAL EXCEPTIONS.

Sections 601 and 602 shall not apply to the following:

(1) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(3) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.

(4) FAMILY VIOLENCE SERVICES.—The provision of any services directly related to assisting the victims of domestic violence or child abuse.

(5) SCHOOL LUNCH ACT.—Programs carried out under the National School Lunch Act.

(6) CHILD NUTRITION ACT.—Programs of assistance under the Child Nutrition Act of 1966.

SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or local government that provides emergency medical services (as defined for purposes of section 603(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is entitled to receive payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the identity and immigration status of the individual has been verified with the Immigration and Naturalization Service in accordance with procedures established by the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall not apply to emergency medical services furnished before October 1, 1995.

SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL ALIENS FROM HOUSING ASSISTANCE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, the Committee on Banking of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980. The report shall contain statistics with respect to the number of aliens denied financial assistance under such section.

SEC. 606. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

No student shall be eligible for postsecondary Federal student financial assistance unless the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence and the Secretary of Education has verified such certification through an appropriate procedure determined by the Attorney General.

SEC. 607. PAYMENT OF PUBLIC ASSISTANCE BENEFITS.

In carrying out this part, the payment or provision of benefits (other than those described in section 603 under a program of assistance described in section 601(a)(1)) shall be made only through an individual or person who is not ineligible to receive such benefits under such program on the basis of immigration status pursuant to the requirements and limitations of this part.

SEC. 608. DEFINITIONS.

For purposes of this part:

(1) LAWFUL PRESENCE.—The determination of whether an alien is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. An alien shall not be considered to be lawfully present in the United States for purposes of this title merely because the alien may be considered to be permanently residing in the United States under

color of law for purposes of any particular program.

(2) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

SEC. 609. REGULATIONS AND EFFECTIVE DATES.

(a) REGULATIONS.—The Attorney General shall first issue regulations to carry out this part (other than section 605) by not later than 60 days after the date of the enactment of this Act. Such regulations shall take effect on an interim basis, pending change after opportunity for public comment.

(b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR PUBLIC BENEFITS.—(1) Except as provided in this subsection, section 601 shall apply to benefits provided, contracts or loan agreements entered into, and professional and commercial licenses issued (or renewed) on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 601(a)(2), may permit such section to be waived in the case of individuals for whom an application for the grant, contract, loan, or license is pending (or approved) as of a date that is on or before the effective date specified under paragraph (1).

(c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGIBILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as provided in this subsection, section 602 shall apply to unemployment benefits provided on or after such date as the Attorney General specifies in regulations under subsection (a). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) The Attorney General, in carrying out section 602, may permit such section to be waived in the case of an individual during a continuous period of unemployment for whom an application for unemployment benefits is pending as of a date that is on or before the effective date specified under paragraph (1).

(d) BROAD DISSEMINATION OF INFORMATION.—Before the effective dates specified in subsections (b) and (c), the Attorney General shall broadly disseminate information regarding the restrictions on eligibility established under this part.

PART 2—EARNED INCOME TAX CREDIT

SEC. 611. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income) is amended by adding at the end the following new subsection:

"(k) IDENTIFICATION NUMBERS.—For purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) an omission of a correct taxpayer identification number required under section 23 (relating to credit for families with younger children) or section 32 (relating to the earned income tax credit) to be included on a return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

SEC. 621. GROUND FOR INADMISSIBILITY.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(a), who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the alien's age, health, family status, assets, resources, financial status, education, skills, or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(B) NONIMMIGRANTS.—Any alien who seeks admission under a visa number issued under section 214, who cannot demonstrate to the consular officer at the time of application for the visa that the alien's age, health, family status, assets, resources, financial status, education, skills or a combination thereof, or an affidavit of support described in section 213A, or both, make it unlikely that the alien will become a public charge (as determined under section 241(a)(5)(B)) is inadmissible.

"(C) EMPLOYMENT-BASED IMMIGRANTS.—

"(i) IN GENERAL.—Any alien who seeks admission or adjustment of status under a visa number issued under paragraph (2) or (3) of section 203(b) who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that the immigrant has a valid offer of employment is inadmissible.

"(ii) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 632(f) a standard form for an affidavit of support, as the Attorney General shall specify.

(2) Section 212(a)(4)(C)(i) of the Immigration and Nationality Act, as amended by subsection (a), shall apply only to aliens seeking admission or adjustment of status under a visa number issued on or after October 1, 1996.

SEC. 622. GROUND FOR DEPORTABILITY.

(a) IN GENERAL.—Paragraph (5) of subsection (a) of section 241 (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2), is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, within 7 years after the date of entry or admission, becomes a public charge is deportable.

"(B) EXCEPTIONS.—(i) Subparagraph (A) shall not apply if the alien establishes that the alien has become a public charge from causes that arose after entry or admission. A condition that the alien knew (or had reason to know) existed at the time of entry or admission shall be deemed to be a cause that arose before entry or admission.

"(ii) The Attorney General, in the discretion of the Attorney General, may waive the application of subparagraph (A) in the case of an alien who is admitted as a refugee under section 207 or granted asylum under section 208.

"(C) INDIVIDUALS TREATED AS PUBLIC CHARGE.—

"(i) IN GENERAL.—For purposes of this title, an alien is deemed to be a 'public charge' if the alien receives benefits (other than benefits described in subparagraph (E)) under one or more of the public assistance programs described in subparagraph (D) for an aggregate period, except as provided in clauses (ii) and (iii), of at least 12 months within 7 years after the date of entry. The previous sentence shall not be construed as excluding any other bases for considering an alien to be a public charge, including bases in effect on the day before the date of the enactment of the Immigration in the National Interest Act of 1995. The Attorney General, in consultation with the Secretary of Health and Human Services, shall establish rules regarding the counting of health benefits described in subparagraph (D)(iv) for purposes of this subparagraph.

"(ii) DETERMINATION WITH RESPECT TO BATTERED WOMEN AND CHILDREN.—For purposes of a determination under clause (i) and except as provided in clause (iii), the aggregate period shall be 48 months within 7 years after the date of entry if the alien can demonstrate that (I) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the need for the public benefits received has a substantial connection to the battery or cruelty described in subclause (I) or (II).

"(iii) SPECIAL RULE FOR ONGOING BATTERY OR CRUELTY.—For purposes of a determination under clause (i), the aggregate period may exceed 48 months within 7 years after the date of entry if the alien can demonstrate that any battery or cruelty under clause (ii) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that the need for the benefits received has a substantial connection to such battery or cruelty.

"(D) PUBLIC ASSISTANCE PROGRAMS.—For purposes of subparagraph (B), the public assistance programs described in this subparagraph are the following (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):

"(i) SSI.—The supplemental security income program under title XVI of the Social Security Act, including State supplementary benefits programs referred to in such title.

"(ii) AFDC.—The program of aid to families with dependent children under part A or E of title IV of the Social Security Act.

"(iii) MEDICAID.—The program of medical assistance under title XIX of the Social Security Act.

"(iv) FOOD STAMPS.—The program under the Food Stamp Act of 1977.

"(v) STATE GENERAL CASH ASSISTANCE.—A program of general cash assistance of any State or political subdivision of a State.

"(vi) HOUSING ASSISTANCE.—Financial assistance as defined in section 214(b) of the Housing and Community Development Act of 1980.

"(E) CERTAIN ASSISTANCE EXCEPTED.—For purposes of subparagraph (B), an alien shall not be considered to be a public charge on the basis of receipt of any of the following benefits:

"(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

"(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(iii) SHORT-TERM EMERGENCY RELIEF.—The provision of non-cash, in-kind, short-term emergency relief.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect as of the first day of the first month beginning at least 30 days after the date of the enactment of this Act.

(2) In applying section 241(a)(5)(C) of the Immigration and Nationality Act (which is subsequently redesignated as section 237(a)(5)(C) of such Act), as amended by subsection (a), no receipt of benefits under a public assistance program before the effective date described in paragraph (1) shall be taken into account.

Subtitle C—Attribution of Income and Affidavits of Support

SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO FAMILY-SPONSORED IMMIGRANTS.

(a) FEDERAL PROGRAMS.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) PERIOD OF ATTRIBUTION.—

(1) PARENTS OF UNITED STATES CITIZENS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) of the Immigration and Nationality Act, as amended by section 512(a), until the alien is naturalized as a citizen of the United States.

(2) SPOUSES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until—

(A) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

(B) the alien is naturalized as a citizen of the United States,

whichever occurs first.

(3) MINOR CHILDREN OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) of 203(a)(1) of the Immigration and Nationality Act until the child attains the age of 21 years or, if earlier, the date the child is naturalized as a citizen of the United States.

(4) ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES ENDED IF SPONSORED ALIEN BECOMES ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(A) Notwithstanding any other provision of this section, subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection shall terminate if the alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the alien is able to prove to the satisfaction of the Attorney General that the alien so qualifies.

(B) The Attorney General shall ensure that appropriate information pursuant to subparagraph (A) is provided to the System for Alien Verification of Eligibility (SAVE).

(5) BATTERED WOMEN AND CHILDREN.—Notwithstanding any other provision of this section, subsections (a) and (c) shall not apply and the period of attribution of the income and resources of any individual under paragraphs (1) or (2) of subsection (a) or paragraph (1) shall not apply—

(A) for up to 48 months if the alien can demonstrate that (i) the alien has been battered or subject to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subject to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or extreme cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and need for the public benefits applied for has a substantial connection to the battery or cruelty described in clause (i) or (ii); and

(B) for more than 48 months if the alien can demonstrate that any battery or cruelty under subparagraph (A) is ongoing, has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service, and that need for such benefits has a substantial connection to such battery or cruelty.

(c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

(1) AUTHORITY.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any State means-tested public benefits program, the State or political subdivision that offers the program is authorized to provide that the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) PERIOD OF ATTRIBUTION.—The period of attribution of a sponsor's income and resources in determining the eligibility and amount of benefits for an alien under any State means-tested public benefits program pursuant to paragraph (1) may not exceed the Federal period of attribution with respect to the alien.

(d) MEANS-TESTED PROGRAM DEFINED.—In this section:

(1) The term "means-tested public benefits program" means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) The term "Federal means-tested public benefits program" means a means-tested public benefits program of (or contributed to by) the Federal Government.

(3) The term "State means-tested public benefits program" means a means-tested public benefits program that is not a Federal means-tested program.

SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not inadmissible as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) that is legally enforceable against the sponsor by the Federal Government and by any State (or any political subdivision of such State) that provides any means-tested public benefits program, subject to subsection (b)(4); and

"(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2)(A) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) until the alien is naturalized as a citizen of the United States.

"(B) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the spouse of a United States citizen or lawful permanent resident under section 201(b)(2) or 203(a)(2) until—

"(i) 7 years after the date the alien is lawfully admitted to the United States for permanent residence, or

"(ii) such time as the alien is naturalized as a citizen of the United States,

whichever occurs first.

"(C) An affidavit of support shall be enforceable with respect to benefits provided under any means-tested public benefits program for an alien who is admitted to the United States as the minor child of a United States citizen or lawful permanent resident under section 201(b)(2) or section 203(a)(2) until the child attains the age of 21 years.

"(D)(i) Notwithstanding any other provision of this subparagraph, a sponsor shall be relieved of any liability under an affidavit of support if the sponsored alien is employed for a period sufficient to qualify for old age benefits under title II of the Social Security Act and the sponsor or alien is able to prove to the satisfaction of the Attorney General that the alien so qualifies.

"(ii) The Attorney General shall ensure that appropriate information pursuant to clause (i) is

provided to the System for Alien Verification of Eligibility (SAVE).

“(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

“(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

“(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

“(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

“(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

“(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

“(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

“(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1) The sponsor of an alien shall notify the Federal Government and the State in which the sponsored alien is currently residing within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

“(2) Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

“(A) not less than \$250 or more than \$2,000, or

“(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than \$2,000 or more than \$5,000.

“(e) DEFINITIONS.—For the purposes of this section—

“(1) SPONSOR.—The term ‘sponsor’ means, with respect to an alien, an individual who—

“(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

“(B) is 18 years of age or over;

“(C) is domiciled in any State;

“(D) demonstrates, through presentation of a certified copy of a tax return or otherwise, (i) the means to maintain an annual income equal to at least 200 percent of the poverty level for the individual and the individual’s family (including the alien and any other aliens with respect to whom the individual is a sponsor), or (ii) for an individual who is on active duty (other than active duty for training) in the Armed Forces of the United States, the means to maintain an annual income equal to at least 100 percent of the poverty level for the individual and the individual’s family including the alien and any other aliens with respect to whom the individual is a sponsor); and

“(E) is petitioning for the admission of the alien under section 204 (or is an individual who accepts joint and several liability with the petitioner).

“(2) FEDERAL POVERTY LINE.—The term ‘Federal poverty line’ means the income official poverty line (as defined in section 673(2) of the Community Services Block Grant Act) that is applicable to a family of the size involved.

“(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term ‘means-tested public benefits program’ means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.”.

(b) REQUIREMENT OF AFFIDAVIT OF SUPPORT FROM EMPLOYMENT SPONSORS.—For requirement for affidavit of support from individuals who file classification petitions for a relative as an employment-based immigrant, see the amendment made by section 621(a).

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316 (8 U.S.C. 1427) is amended—

(1) in subsection (a), by striking “and” before “(3)”, and by inserting before the period at the end the following: “, and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (f)(3) of section 213A) administered by a Federal, State, or local agency and with respect to which amounts may be owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that may be owed to any such Federal, State, or local agency pursuant to such affidavit by the sponsor who executed such affidavit, except as provided in subsection (g)”; and

(2) by adding at the end the following new subsection:

“(g) Clause (4) of subsection (a) shall not apply to an applicant where the applicant can demonstrate that—

“(A) either—

“(i) the applicant has been battered or subject to extreme cruelty in the United States by a spouse or parent or by a member of the spouse or parent’s family residing in the same household as the applicant and the spouse or parent consented or acquiesced to such battery or cruelty, or

“(ii) the applicant’s child has been battered or subject to extreme cruelty in the United States by the applicant’s spouse or parent (without the active participation of the applicant in the battery or extreme cruelty), or by a member of the spouse or parent’s family residing in the same household as the applicant when the spouse or parent consented or acquiesced to and the applicant did not actively participate in such battery or cruelty;

“(B) such battery or cruelty has led to the issuance of an order of a judge or an administrative law judge or a prior determination of the Service; and

“(C) the need for the public benefits received as to which amounts are owing had a substantial connection to the battery or cruelty described in subparagraph (A).”.

(d) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

“Sec. 213A. Requirements for sponsor’s affidavit of support.”.

(e) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (f) of this section.

(f) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

TITLE VII—FACILITATION OF LEGAL ENTRY

SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRASTRUCTURE IMPROVEMENTS.

(a) INCREASED PERSONNEL.—

(1) IN GENERAL.—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and Secretary of the Treasury shall increase, by approximately equal numbers in each of the fiscal years 1996 and 1997, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes now in use, under construction, or construction of which has been authorized by Congress.

(2) DEPLOYMENT OF PERSONNEL.—The Attorney General and the Secretary of the Treasury shall, to the maximum extent practicable, ensure that the personnel hired pursuant to this subsection shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the number of land border crossings measured in each such sector during the preceding fiscal year.

(b) IMPROVED INFRASTRUCTURE.—

(1) IN GENERAL.—The Attorney General may, from time to time, in consultation with the Secretary of the Treasury, identify those physical improvements to the infrastructure of the international land borders of the United States necessary to expedite the inspection of persons and vehicles attempting to lawfully enter the United States in accordance with existing policies and procedures of the Immigration and Naturalization Service, the United States Customs Service, and the Drug Enforcement Agency.

(2) PRIORITIES.—Such improvements to the infrastructure of the land border of the United States shall be substantially completed and fully funded in those portions of the United States where the Attorney General, in consultation with the Committees on the Judiciary of the House of Representatives and the Senate, objectively determines the need to be greatest or most immediate before the Attorney General may obligate funds for construction of any improvement otherwise located.

SEC. 702. COMMUTER LANE PILOT PROGRAMS.

(a) MAKING LAND BORDER INSPECTION FEE PERMANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amended—

(1) in paragraph (1), by striking “a project” and inserting “projects”;

(2) in paragraph (1), by striking "Such project" and inserting "Such projects"; and

(3) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses".

SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—(1) Subject to paragraph (4), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of this section.

"(2) Not later than November 1, 1995, and each subsequent November 1, the Attorney General shall compile data identifying—

"(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years,

"(B) the number and nationality of such aliens arriving from each such foreign airport, and

"(C) the primary routes such aliens followed from their country of origin to the United States.

"(3) Subject to paragraph (4), not later than 4 years after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines based on the data compiled under paragraph (2) and such other information as may be available would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to those established prior to or pursuant to paragraph (1).

"(4) Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(2), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.".

(c) CLERICAL AMENDMENT.—The table of contents, as amended by section 308(a)(2), is further amended by inserting after the item relating to section 235 the following new item:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel regarding such detection" after "United States", and

(2) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1996.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Amendments to the Immigration and Nationality Act

SEC. 801. NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF MEMBERS OF THE ARMED SERVICES.

Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (R),

(2) by striking the period at the end of subparagraph (S) and inserting "; or", and

(3) by inserting after subparagraph (S) the following new subparagraph:

"(T) an alien who is the spouse or child of a another alien who is serving on active duty in the Armed Forces of the United States during the period in which the other alien is stationed in the United States.".

SEC. 802. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (N), by striking "of title 18, United States Code" and inserting "of this Act", and

(2) in subparagraph (O), by striking "which constitutes" and all that follows up to the semicolon at the end and inserting ", for the purpose of commercial advantage".

(b) EFFECTIVE DATE OF CONVICTION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 222(a) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended by adding at the end the following sentence: "Notwithstanding any other provision of law, the term applies for all purposes to convictions entered before, on, or after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

(a) IN GENERAL.—Section 202(a) (8 U.S.C. 1152(a)), as amended by section 524(d), is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (6)", and

(2) by adding at the end the following new paragraph:

"(6) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

(b) ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(g) In the case of an alien who has entered and remained in the United States beyond the authorized period of stay, the alien is not eligible to be admitted to the United States as a nonimmigrant on the basis of a visa issued other than in a consular office located in the country of the alien's nationality (or, if there is no office in such country, at such other consular office as the Secretary of State shall specify).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to visas issued before, on, or after the date of the enactment of this Act.

SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by inserting at the end the following paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens inadmissible under subsection (a)(2) or (a)(3).".

SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.

Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is amended—

(1) by striking "and residents" and inserting ", residents", and

(2) by striking "nationals," and inserting "nationals, and aliens who are granted permanent residence by the government of the foreign contiguous territory and who are residing in that territory".

SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.

(a) PROVISIONS RELATING TO WAGE DETERMINATIONS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraphs:

"(3) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), an employer shall not be required to have and document an objective system to determine the wages of workers.

"(4) For purposes of determining the actual wage level paid under paragraph (1)(A)(i)(I), a non-H–1B-dependent employer of more than 1,000 full-time equivalent employees in the United States may demonstrate that in determining the wages of H–1B nonimmigrants, it utilizes a compensation and benefits system that has been previously certified by the Secretary of Labor (and recertified at such intervals the Secretary of Labor may designate) to satisfy all of the following conditions:

"(A) The employer has a company-wide compensation policy for its full-time equivalent employees which ensures salary equity among employees similarly employed.

"(B) The employer has a company-wide benefits policy under which all full-time equivalent employees similarly employed are eligible for substantially the same benefits or under which some employees may accept higher pay, at least equal in value to the benefits, in lieu of benefits.

"(C) The compensation and benefits policy is communicated to all employees.

"(D) The employer has a human resources or compensation function that administers its compensation system.

"(E) The employer has established documentation for the job categories in question.

An employer's payment of wages consistent with a system which meets the conditions of subparagraphs (A) through (E) of this paragraph which has been certified by the Secretary of Labor pursuant to this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(I).

"(5) For purposes of determining the prevailing wage level paid under paragraph (1)(A)(i)(II), employers may provide a published survey, a State Employment Security Agency determination, a determination by an accepted private source, or any other legitimate source. The Secretary of Labor shall, not later than 180 days from the date of enactment of this paragraph, provide for acceptance of prevailing wage determinations not made by a State Employment Security Agency. The Secretary of Labor or the Secretary's designate must either accept such a non-State Employment Security Agency wage determination or issue a written decision rejecting the determination and detailing the legitimate reasons that the determination is not acceptable. If a detailed rejection is not issued within 45 days of the date of the Secretary's receipt of such determination, the determination will be deemed accepted. An employer's payment of wages consistent with a prevailing wage determination not rejected by the Secretary of Labor under this paragraph shall be deemed to satisfy the requirements of paragraph (1)(A)(i)(II).".

(b) INAPPLICABILITY OF CERTAIN REGULATIONS TO NON-H–1B-DEPENDENT EMPLOYERS.—

(1) DEFINITION OF H–1B-DEPENDENT EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by inserting after subparagraph (D) the following new subparagraphs:

"(E) In this subsection, the term 'H–1B-dependent employer' means an employer that—

"(i)(I) has fewer than 21 full-time equivalent employees who are employed in the United States, and (II) employs 4 or more H–1B nonimmigrants; or

"(ii)(I) has at least 21 but not more than 150 full-time equivalent employees who are employed in the United States, and (II) employs H–1B nonimmigrants in a number that is equal to at least 20 percent of the number of such full-time equivalent employees; or

"(iii)(I) has at least 151 full-time equivalent employees who are employed in the United States, and (II) employs H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer. Aliens employed under a petition for H–1B nonimmigrants shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b) under this subparagraph. In this subsection, the term 'non-H–1B-dependent employer' means an employer that is not an H–1B-dependent employer.

"(F)(i) An employer who is an H–1B-dependent employer as defined in subparagraph (E) can nevertheless be treated as a non-H–1B-dependent employer for five years on a probationary status if—

"(I) the employer has demonstrated to the satisfaction of the Secretary of Labor that it has developed a reasonable plan for reducing its use of H–1B nonimmigrants over a five-year period to the level of a non-H–1B-dependent employer, and

"(II) annual reviews of that plan by the Secretary of Labor indicate successful implementation of that plan.

If the employer has not met the requirements established in this clause, the probationary status ends and the employer shall be treated as an H–1B-dependent employer until such time as the employer can prove to the Secretary of Labor that it no longer is an H–1B-dependent employer as defined in subparagraph (E).

"(ii) The probationary program set out in clause (i) shall be effective for no longer than five years after the date of the enactment of this subparagraph.".

(2) LIMITING APPLICATION OF CERTAIN REQUIREMENTS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(6) In carrying out this subsection in the case of an employer that is a non-H–1B-dependent employer—

"(A) the employer is not required to post a notice at a worksite that was not listed on the application under paragraph (1) if the worksite is within the area of intended employment listed on such application for such nonimmigrant; and

"(B) if the employer has filed and had certified an application under paragraph (1) with respect to one or more H–1B nonimmigrants for one or more areas of employment—

"(i) the employer is not required to file and have certified an additional application under paragraph (1) with respect to such a nonimmigrant for an area of employment not listed in the previous application because the employer has placed one or more such nonimmigrants in such a nonlisted area so long as either (I) each such nonimmigrant is not placed in such nonlisted areas for a period exceeding 45 workdays in any 12-month period and not to exceed 90 workdays in any 36-month period, or (II) each such nonimmigrant's principal place of employment has not changed to a nonlisted area, and

"(ii) the employer is not required to pay per diem and transportation costs at any specified rates for work performed in such a nonlisted area.".

(3) LIMITATION ON AUTHORITY TO INITIATE COMPLAINTS AND CONDUCT INVESTIGATIONS FOR NON-H–1B-DEPENDENT EMPLOYERS.—Section 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amended—

(A) in the second sentence, by inserting before the period at the end the following: ", except that the Secretary may only file such a complaint in the case of an H–1B-dependent employer (as defined in subparagraph (E)) or when conducting an annual review of a plan pursuant to subparagraph (F)(i) if there appears to be a violation of an attestation or a misrepresentation of a material fact in an application", and

(B) by inserting after the second sentence the following new sentence: "No investigation or hearing shall be conducted with respect to a non-H–1B-dependent employer except in response to a complaint filed under the previous sentence.".

(c) NO DISPLACEMENT OF AMERICAN WORKERS PERMITTED.—(1) Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) If the employer, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has laid off or lays off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the nonimmigrant is sought or is employed, the employer will pay a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the employer reduced the wage of any such laid off individual during such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

"(ii) Except as provided in clause (iii), in the case of an H–1B-dependent employer which employs an H–1B nonimmigrant, the employer shall not place the nonimmigrant with another employer where—

"(I) the nonimmigrant performs his or her duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer, and

"(II) there are indicia of an employment relationship between the nonimmigrant and such other employer.

"(iii) Clause (ii) shall not apply to an employer's placement of an H–1B nonimmigrant with another employer if—

"(I) the other employer has executed an attestation that it, within the period beginning 6 months before and ending 90 days following the date of filing of the application or during the 90 days immediately preceding and following the date of filing of any visa petition supported by the application, has not laid off and will not lay off any protected individual with substantially equivalent qualifications and experience in the specific employment as to which the H–1B nonimmigrant is being sought or is employed, or

"(II) the employer pays a wage to the nonimmigrant that is at least 110 percent of the arithmetic mean of the last wage earned by all such laid off individuals (or, if greater, at least 110 percent of the arithmetic mean of the highest wage earned by all such laid off individuals within the most recent year if the other employer reduced the wage of any such laid off individual during such year other than in accordance with a general company-wide reduction of wages for substantially all employees).

"(iv) For purposes of this subparagraph, the term 'laid off', with respect to an individual—

"(I) refers to the individual's loss of employment, other than a discharge for inadequate performance, cause, voluntary departure, or retirement, and

"(II) does not include any situation in which the individual involved is offered, as an alternative to such loss of employment, a similar job opportunity with the same employer (or with the H–1B-dependent employer described in clause (ii)) carrying equivalent or higher compensation and benefits as the position from which the employee was laid off, regardless of whether or not the employee accepts the offer.

"(v) For purposes of this subparagraph, the term 'protected individual' means an individual who—

"(I) is a citizen or national of the United States, or

"(II) is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208.".

(2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (b)(1), is amended by adding at the end the following new subparagraph:

"(G) Under regulations of the Secretary, the previous provisions of this paragraph shall apply to complaints respecting a failure of an other employer to comply with an attestation described in paragraph (1)(E)(iii)(I) in the same manner that they apply to complaints with respect to a failure to comply with a condition described in paragraph (1)(E)(i).".

(3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended by inserting "or (1)(E)" after "(1)(B)".

(d) INCREASED PENALTIES.—Section 212(n)(2) is amended—

(1) in subparagraph (C)(i), by striking "$1,000" and inserting "$5,000";

(2) by amending subparagraph (C)(ii) to read as follows:

"(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

"(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

"(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

"(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II)."; and

(3) in subparagraph (D), by adding at the end the following: "If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose on the employer a civil monetary penalty in an amount equalling twice the amount of backpay.".

(e) COMPUTATION OF PREVAILING WAGE LEVEL.—Section 212(n) (8 U.S.C. 1182(n)), as amended by subsections (a) and (b)(2), is further amended by adding at the end the following new paragraph:

"(7) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of paragraph (1)(A)(i)(II) and subsection (a)(5)(A) in the case of an employee of (A) an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity, or (B) a nonprofit scientific research organization, the prevailing wage level shall only take into account employees at such institutions and entities in the area of employment.".

(f) CONFORMING AMENDMENTS.—Section 212(n) (8 U.S.C. 1182(n)) is further amended—

(1) in the matter in paragraph (1) before subparagraph (A), by inserting "(in this subsection referred to as an 'H-1B nonimmigrant')" after "101(a)(15)(H)(i)(b)"; and

(2) in paragraph (1)(A), by striking "nonimmigrant described in section 101(a)(15)(H)(i)(b)" and inserting "H-1B nonimmigrant".

(g) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed with the Secretary of Labor on or after 30 days after the date of the enactment of this Act.

(2) The amendments made by subsection (b)(3) shall apply to complaints filed, and to investigations or hearings initiated, on or after January 19, 1995.

SEC. 807. VALIDITY OF PERIOD OF VISAS.

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking "four months" and inserting "six months".

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: "; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States".

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i)(1) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended by striking all that follows "equalling" through "application," and inserting "$2,500".

(b) ELIMINATION OF LIMITATION.—Section 212 (8 U.S.C. 1182) is amended by striking subsection (o).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for adjustment of status filed after September 30, 1996.

SEC. 809. LIMITED ACCESS TO CERTAIN CONFIDENTIAL INS FILES.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "Neither" and inserting "(A) Except as provided in this paragraph, neither";

(3) by redesignating the last sentence as subparagraph (D);

(4) by striking the semicolon and inserting a period;

(5) by striking "except that the" and inserting the following:

"(B) The";

(6) by inserting after subparagraph (B), as created by the amendment made by paragraph (5), the following:

"(C) The Attorney General may authorize an application for, a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien under this section to be used—

"(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant."; and

(7) by adding at the end the following new subparagraph:

"(E) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

"(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work) but only for purposes of a determination of whether the applicant is eligible for relief from deportation or removal and not otherwise.

"(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

"(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.

"(iv) The date or disposition of the application.".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as permitted under paragraph (6)(B)" after "consent of the alien"; and

(2) in paragraph (6)—

(A) in subparagraph (A), by striking the period at the end and inserting a comma,

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively,

(C) by striking "Neither" and inserting "(A) Except as provided in subparagraph (B), neither",

(D) by striking "Anyone" and inserting the following:

"(C) Anyone",

(E) by inserting after the first sentence the following:

"(B) The Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or

"(ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.", and

(F) by adding at the end the following new subparagraph:

"(D) Nothing in this paragraph shall preclude the release for immigration enforcement purposes of the following information contained in files or records of the Service pertaining to the application:

"(i) The immigration status of the applicant on any given date after the date of filing the application (including whether the applicant was authorized to work).

"(ii) The date of the applicant's adjustment (if any) to the status of an alien lawfully admitted for permanent residence.

"(iii) Information concerning whether the applicant has been convicted of a crime occurring after the date of filing the application.

"(iv) The date or disposition of the application.".

SEC. 810. CHANGE OF NONIMMIGRANT CLASSIFICATION.

Section 248 (8 U.S.C. 1258) is amended by inserting at the end the following:

"Any alien whose status is changed under this section may apply to the Secretary of State for a visa without having to leave the United States and apply at the visa office.".

Subtitle B—Other Provisions

SEC. 831. COMMISSION REPORT ON FRAUD ASSOCIATED WITH BIRTH CERTIFICATES.

Section 141 of the Immigration Act of 1990 is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(3) transmit to Congress, not later than January 1, 1997, a report containing recommendations (consistent with subsection (c)(3)) of methods of reducing or eliminating the fraudulent use of birth certificates for the purpose of obtaining other identity documents that may be used in securing immigration, employment, or other benefits."; and

(2) by adding at the end of subsection (c), the following new paragraph:

"(3) FOR REPORT ON REDUCING BIRTH CERTIFICATE FRAUD.—In the report described in subsection (b)(3), the Commission shall consider and analyze the feasibility of—

"(A) establishing national standards for counterfeit-resistant birth certificates, and

"(B) limiting the issuance of official copies of a birth certificate of an individual to anyone other than the individual or others acting on behalf of the individual.".

SEC. 832. UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with the State agency responsible for registration and certification of births and deaths and, within 2 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens of an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall issue a written report to Congress with recommendations on how the pilot program could effectively be instituted as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1996 and for subsequent fiscal years such sums as may be necessary to carry out this section.

SEC. 833. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES, AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit, or in any way restrict, any government entity or any official within its jurisdiction from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States. Notwithstanding any other provision of Federal, State, or local law (and excepting the attorney-client privilege), no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 834. CRIMINAL ALIEN REIMBURSEMENT COSTS.

Amounts appropriated to carry out section 501 of the Immigration and Reform Act of 1986 for fiscal year 1995 shall be available to carry out section 242(j) of the Immigration and Nationality Act in that fiscal year with respect to undocumented criminal aliens incarcerated under the authority of political subdivisions of a State.

SEC. 835. FEMALE GENITAL MUTILATION.

(a) INFORMATION REGARDING FEMALE GENITAL MUTILATION.—The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) LIMITATION.—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) DEFINITION.—For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

SEC. 836. DESIGNATION OF PORTUGAL AS A VISA WAIVER PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.

Notwithstanding any other provision of law, Portugal is designated as a visa waiver pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act for each of the fiscal years 1996, 1997, and 1998.

Subtitle C—Technical Corrections

SEC. 851. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PUBLIC LAW 103–322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as "VCCLEA") is amended by inserting "United States Code," after "title 18,".

(2) Section 130003(b)(3) of VCCLEA is amended by striking "Naturalization" and inserting "Nationality".

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), added by section 220(b) of the Immigration and Nationality Technical Amendments Act of 1994 (Public Law 103–416, 108 Stat. 4319), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking "214(j)" and inserting "214(k)".

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2), is amended by striking "245(i)" and inserting "245(j)".

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking "paragraphs (1) or (2)" and inserting "paragraph (1) or (2)".

(6) Section 130007(a) of VCCLEA is amended by striking "242A(d)" and inserting "242A(a)(3)".

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as "INTCA") is amended—

(A) by striking "APPLICATION" and all that follows through "This" and inserting "APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This";

(B) by striking "any residency or other retention requirements for" and inserting "the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States"; and

(C) by striking "as in effect" and all that follows through the end and inserting "to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.".

(2) Section 102 of INTCA is amended by adding at the end the following new subsection:

"(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.".

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after "nationality".

(4) Section 207(2) of INTCA is amended by inserting a comma after "specified".

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(A) in subparagraph (K)(ii), by striking the comma after "1588", and

(B) in subparagraph (O), by striking "suspicion" and inserting "suspension".

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking "remain" and inserting "remains".

(7) Section 209(a)(1) of INTCA is amended by striking "$3000" and inserting "$3,000".

(8) Section 209(b) of INTCA is amended by striking "subsection" and inserting "section".

(9) Section 217(f) (8 U.S.C. 1187(f)), as amended by section 210 of INTCA, is amended by adding a period at the end.

(10) Section 219(cc) of INTCA is amended by striking " 'year 1993 the first place it appears' " and inserting " 'year 1993' the first place it appears".

(11) Section 219(ee) of INTCA is amended by adding at the end the following new paragraph:

"(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.".

(12) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting "the" before "Fund" each place it appears.

(13) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking "disasters." and inserting "disasters,", and

(C) by striking "The official" and inserting "the official".

(14) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5), is amended by redesignating subsection (d) as subsection (c).

(15) Section 225 of INTCA is amended—

(A) by striking "section 242(i)" and inserting "sections 242(i) and 242A", and

(B) by inserting ", 1252a" after "1252(i)".

(16) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) are each amended by striking ", 210A,".

(B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking ", 210A,".

(d) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a), the item in the table of contents relating to section 242A is amended to read as follows:

"Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.".

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking ", 321, and 322" and inserting "and 321".

(3) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking "section 101(3) of the Federal Aviation Act of 1958" and inserting "section 40102(a)(2) of title 49, United States Code"; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking "section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)" and inserting "section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code".

(4) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after "expended".

(5) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) by striking "and" at the end of clause (iv),

(B) by moving clauses (v) and (vi) 2 ems to the left,

(C) by striking "; and" in clauses (v) and (vi) and inserting "and for",

(D) by striking the colons in clauses (v) and (vi), and

(E) by striking the period at the end of clause (v) and inserting "; and".

(6) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after "is authorized" in paragraph (3) and after "The Secretary" in paragraph (4).

(e) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking "an an" and inserting "of an".

(f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking "this section" and inserting "such section".

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left, and

(B) in subsection (g), by striking "(g)" and all that follows through "shall" and inserting "(g) Subsections (d) and (e) shall".

The CHAIRMAN. No other amendments are in order except the amendments printed in part 2 of the report and pursuant to the order of the House of today and amendments en bloc described in section 2 of House Resolution 384. Amendments printed in part 2 of the report shall be considered in the order printed, may be offered only by a member designated in the report, shall be considered read, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question. Debate time for each amendment shall be equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

It shall be in order at any time for the chairman of the Committee on the Judiciary or a designee to offer amendments en bloc consisting of amendments printed in the report not earlier disposed of or germane modifications of such amendments.

The amendments en bloc shall be considered read (except that modifications shall be reported), shall not be subject to amendment or to a demand for a division of the question, and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees.

The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas:

In section 1(a), strike "1995" and insert "1996" and conform subsequent references throughout the bill accordingly.

[TITLE I AMENDMENTS:]

In section 102(d)(1), add at the end the following: "The previous sentence shall not apply to border patrol agents located at checkpoints.".

In section 104(b)(1), strike "6 months" and insert "18 months".

At the end of section 112(a), relating to a pilot program for the use of closed military bases, add the following new sentence: "In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.".

[TITLE II AMENDMENTS]

In section 204(a), strike "fiscal year 1996" and insert "fiscal year 1997" and strike "1994" and insert "1996".

Amend subsection (b) of section 204 to read as follows:

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

[TITLE III AMENDMENTS]

In section 301(a), in proposed paragraph (13)(A), insert "lawful" before "entry".

In section 301(c), amend subclause (V) of proposed subparagraph (B)(ii) to read as follows:

"(V) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (9)(B) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States ' in clause (iii) of that paragraph.

In section 301, add at the end the following new subsection:

(h) WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: "No waiver shall be granted under this subsection to an immigrant who previously has been admitted to the United States unless that alien has fulfilled the time in status and continuous residence requirements of section 212(c). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.".

*In section 304(a)(3), in the new section 240A of the Immigration and Nationality Act, add at the end the following new subsection:

"(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Immigration in the National Interest Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

In section 305(a)(3), amend paragraph (4) of section 241(a) of the Immigration and Nationality Act (inserted by such section) to read as follows:

"(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

"(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

"(B) EXCEPTION FOR REMOVAL OF NONVIOLENT OFFERNDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

"(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

"(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense, (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

"(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).".

In section 305(a)(3), in new section 241(b) of the Immigration and Nationality Act, add at the end the following new paragraph:

"(3) RESTRICTION ON REMOVAL TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

"(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

"(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

"(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

In section 305(a), in new section 241(d)(2), strike "any travel documents necessary for departure or repatriation of the stowaway have been obtained" and insert "the requester has obtained any travel documents necessary for departure or repatriation of the stowaway".

In section 305, redesignate subsection (c) as subsection (d) and insert after subsection (b) the following new section:

(c) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b), is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by adding "or" at the end of paragraph (3), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.".

At the end of section 306, add the following new subsection:

(c) TREATMENT OF POLITICAL SUBDIVISIONS.—Effective as of the date of the enactment of this Act, section 242(j), before being redesignated and moved under subsection (a)(1), is amended by adding at the end the following new paragraph:

"(6) For purposes of this subsection, the term 'political subdivision' includes a county, city, municipality, or other similar subdivision recognized under State law.".

In section 308(g)(10), add at the end the following:

(H) Section 212(h), as amended by section 301(h), is amended by striking "section 212(c)" and inserting "paragraphs (1) and (2) of section 240A(a)".

In section 309(a), insert ", 301(h), or 306(c)" after "301(f)".

*In section 309(c), add at the end the following new paragraph:

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

After section 342, insert the following new section (and conform the table of contents accordingly):

SEC. 343. PROVISIONS RELATING TO CONTRACTS WITH TRANSPORTATION LINES.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b), is amended—

(1) in the heading, by striking "CONTIGUOUS", and

(2) by striking "contiguous" each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting " or railroad train" after "aircraft".

In section 308(a)(2), in the item inserted relating to section 233, strike "contiguous".

Strike section 356 and insert the following (and conform the table of contents accordingly):

SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERTAION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General may conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify unlawful aliens, and

(B) in the case of an individual identified as an unlawful alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

In section 359(a), strike the quotation marks at the end of the matter inserted and insert the following:

"(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives amd the Senate in accordance with section 605 of Public Law 103–317.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

[TITLE V AMENDMENTS]

At the end of section 512, add the following new subsection:

(c) PERMITTING PERFORMANCE BOND IN LIEU OF INSURANCE.—Section 213 (8 U.S.C. 1183) is amended—

(1) by inserting "(a)" after "213.", and

(2) by adding at the end the following new subsection:

"(b)(1) IN GENERAL.—An alien excludable under paragraph (4)(D) of section 212(a) may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper performance bond approved by the Attorney General and furnished either by the alien or by any individual executing an affidavit of support for the alien pursuant to section 213A if the alien demonstrates that the alien, despite reasonable attempts, has been unable to secure insurance described in section 212(a)(4)(D)(i). Such performance bond shall be in such amount and containing such conditions (including conditions similar to those specified for bonds and undertakings under subsection (a)) as the Attorney General may prescribe and shall cover all costs which would otherwise be covered under such insurance.

"(2) MECHANISM FOR CREATING BOND.—The Attorney General shall create a mechanism for establishing a suitable and proper performance bond as set forth in paragraph (1). The use of such bond for the purpose of satisfying the provisions of this subsection shall be at the discretion of the Attorney General.".

In section 513(a)(2), in the paragraph (4)(E) inserted by such section, strike "or 101(a)(15)(L)" and insert "101(a)(15)(L), 101(a)(15)(O), or 101(a)(15)(P)".

In section 524(a)(2), in the subsection (d)(2) inserted by such section, add at the end the following:

"(C) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States or adjustment of status under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this subparagraph in the previous fiscal year and a summary of the reasons for granting such waivers.

Strike subsection (d) of section 524 (relating to application of per country numerical limitation for humanitarian immigrants), and insert the following:

(d) SPECIAL RULES IN CASE OF ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(k) For purposes of subsection (a), an alien who is in the United States and is identified by the Attorney General under section 204(a)(1)(I) may be treated as having been paroled into the United States.".

Strike subsection (e) of section 524 (relating to waiver of certain grounds of inadmissibility), and redesignate the succeeding subsection accordingly.

Amend section 533 to read as follows (and conform the table of contents accordingly):

SEC. 533. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

[TITLE VI AMENDMENT]

In section 600, amend paragraph (7) to read as follows:

(7) With respect to the State authority to make determinations concerning the eligibility of aliens for public benefits, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy.

In section 601(c)(2), strike "programs:" and insert "programs (and include any successor to such a program as identified by the Attorney General in consultation with other appropriate officials):".

In section 603, amend paragraph (2) to read as follows:

(2) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are actually caused by a communicable disease.

In section 603(5), insert "(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)" after "National School Lunch Act".

In section 603(6), insert "(and any successor to such a program as identified by the Attorney General in consultation with other appropriate officials)" after "1966".

At the end of section 603, add the following new paragraph:

(7) HEAD START PROGRAM.—Benefits under the Head Start Act.

At the end of subtitle A of title VI of the bill, insert the following new part (and conform the table of contents accordingly):

PART 3—HOUSING ASSISTANCE

SEC. 615. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by inserting after the period at the end the following new sentence: "Financial assistance continued under this subparagraph for a family may be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and this section."; and

(3) in subparagraph (B), by striking "6-month period" and all that follows through "affordable housing" and inserting "single 3-month period".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act, including any renewal of any deferral initially granted before such date of enactment, except that a public housing agency or other entity referred to in such section 214(c)(1)(B) may not renew, after such date of enactment, any deferral which was granted under such section before such date and has been effective for at least 3 months on and after such date.

SEC. 616. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or to be" after "being";

(2) in paragraph (1)(A), by inserting at the end the following new sentences: "If the declaration states that the individual is not a citizen or national of the United States, the declaration shall be verified by the Immigration and Naturalization Service. If the declaration states that the individual is a citizen or national of the United States, the Secretary shall request verification of the declaration by requiring presentation of documentation the Secretary considers appropriate, including a social security card, certificate of birth, driver's license, or other documentation.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance"; and

(B) by inserting at the end the following new sentence:

"In the case of an individual applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

"(ii) in the case of any individual who is already receiving assistance, may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such 30-day period has expired, and

"(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual's immigration status until such 30-day period has expired; and";

(C) in subparagraph (B), by striking clause (ii) and inserting the following new clause:

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual who is already receiving assistance, delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual's immigration status, and";

(5) in paragraph (5), by striking all that follows "satisfactory immigration status" and inserting the following: ", the Secretary shall—

"(A) deny the individual's application for financial assistance or terminate the individual's eligibility for financial assistance, as the case may be; and

"(B) provide the individual with written notice of the determination under this paragraph."; and

(6) by striking paragraph (6) and inserting the following new paragraph:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit assisted).".

SEC. 617. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e)(4) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is amended—

(1) in paragraph (2), by inserting "or" at the end;

(2) in paragraph (3), by striking ", or" at the end and inserting a period; and

(3) by striking paragraph (4).

SEC. 618. REGULATIONS.

(a) ISSUANCE.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this part. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501–AA63 (Docket No. R-95-1409; FR-2383-F-050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824–14861), shall not apply after the expiration of such period.

In section 621(a), in amended paragraph (4)(A), strike "thereof, or" and insert "thereof, and" and strike "or both,".

In section 621(a), in paragraph (4), strike subparagraph (B) and strike clause (i) of subparagraph (C) and redesignate subparagraph (C)(ii) as subparagraph (B).

Amend subsection (a) of section 631 to read as follows:

(a) FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law (except as provided in paragraph (2)), in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in subsection (d)) the income and resources of the alien shall be deemed to include—

(A) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as inserted by section 632(a)) in behalf of such alien, and

(B) the income and resources of the spouse (if any) of the individual.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following:

(A) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

(B) The provision of short-term, non-cash, in kind emergency relief.

(C) Benefits under the National School Lunch Act.

(D) Assistance under the Child Nutrition Act of 1966.

(E) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(F) The provision of services directly related to assisting the victims of domestic violence or child abuse.

(G) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(H) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

(I) Benefits under the Head Start Act.

In section 631(b), amend paragraph (1) to read as follows:

(1) PARENTS OF UNITED STATES CITIZENS AND ADULT SONS AND DAUGHTERS OF CITIZENS AND PERMANENT RESIDENTS.—Subsection (a) shall apply with respect to an alien who is admitted to the United States as the parent of a United States citizen under section 203(a)(2) of the Immigration and Nationality Act, as amended by section 512(a), or as the son or daughter of a citizen or lawful permanent resident under section 203(a)(3) of such Act, until the alien is naturalized as a citizen of the United States.

In section 631(b)(4)(A), strike "if the alien" and all that follows and insert "if the alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.".

In section 632(a), in new section 213A(a)(2)(D)(i), strike "if the sponsored alien" and all that follows and insert the following: "if the sponsored alien is able to prove to the satisfaction of the Attorney General that the alien has been employed for 40 qualifying quarters of coverage as defined under title II of the Social Security Act and the alien did not receive any benefit under a means-tested public benefits program of (or contributed to by) the Federal Government during any such quarter.".

In section 632(a), amend paragraph (3) of the section 213A of the Immigration and Nationality Act inserted by such section, to read as follows:

"(3) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

"(B) EXCEPTIONS.—Such term does not include the following benefits:

"(i) Medical assistance provided for emergency medical services under title XIX of the Social Security Act.

"(ii) The provision of short-term, non-cash, in kind emergency relief.

"(iii) Benefits under the National School Lunch Act.

"(iv) Assistance under the Child Nutrition Act of 1966.

"(v) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

"(vi) The provision of services directly related to assisting the victims of domestic violence or child abuse.

"(vii) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

"(viii) Benefits under means-tested programs under the Elementary and Secondary Education Act of 1965.

"(ix) Benefits under the Head Start Act.".

In section 632(a), in new section 213A(e)(1)(D), strike "a tax return or otherwise" and insert "an individual's Federal income tax returns for the individual's most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are accurate copies of such returns".

In section 632(a), in new section 213A(e)(1)(E), insert "who is a United States citizen and" after "(or is an individual".

After section 632, insert the following new sections (and conform the table of contents accordingly):

SEC. 633. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted under the Immigration and Nationality Act, otherwise eligible for student financial assistance under this title, and for whom an affidavit of support has been provided under section 213A of such Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under such section or by another credit-worthy individual who is a citizen or national of the United States.".

SEC. 634. STATUTORY CONTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

[TITLE VIII AMENDMENTS]

After section 810, insert the following new sections (and conform the table of contents accordingly):

SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

(a) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)), as amended by section 301(b)(1), is amended—

(1) by redesignating paragraph (10) as paragraph (11), and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health careworker, other than a physician, is inadmissible unless the consular officer receives a certification from the Commission on Graduates of Foreign Nursing Schools or a certificate from an equivalent independent credentialing organization approved by the Secretary of Labor verifying that—

"(A) the alien's education, training, or experience meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application and is comparable to that required for an American practitioner of the same type;

"(B) any foreign license submitted by the alien is authentic and unencumbered;

"(C) the alien must have the ability to read, write, and speak the English language at a level required for standard business communication, as demonstrated by the alien's score on one or more standardized tests; and

"(D) if the alien is a registered nurse, the alien has passed an examination testing both nursing skills and English language proficiency.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens entering the United States more than 180 days after the date of the enactment of this Act.

Amend section 834 to read as follows (and conform the table of contents accordingly):

SEC. 834. REGULATIONS REGARDING HABITUAL RESIDENCE.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of the Immigration and Naturalization Service shall issue regulations governing rights of "habitual residence" in the United States under the terms of Compacts of Free Association (Public Law 99–239, Public Law 99–658, and Public Law 101–219).

After section 121, insert the following:

SEC. 122. ACCEPTANCE OF STATE SERVICES TO CARRY OUT DEPORTATION FUNCTIONS.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer, or any other officer of the Department of Justice, under this Act in relation to deportation of aliens in the United States (including investigation, apprehension, detention, presentation of evidence on behalf of the United States in administrative proceedings to determine the deportability of any alien, conduct of such proceedings, or removal of aliens with respect to whom a final order of deportation has been rendered) may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

"(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function.

"(3) In performing a function under this subsection an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

"(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

"(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the individual, and the position of the agent of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

"(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

"(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code, (relating to tort claims).

"(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

"(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

"(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

"(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting a suspicion that a particular alien is not lawfully present in the United States or

"(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.".

In section 308(e)(1), insert after the colon the following (and redesignate subparagraphs (A) through (P) as subparagraphs (B) through (Q), respectively):

(A) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

In section 523, make the following amendments:

(1) in section 212(d)(5)(C)(i), remove "or";

(2) in section 212(d)(5)(C)(ii), remove the "." and add "or";

(3) add at the end the following:

"(iii) the alien has filed an application to adjust status to that of an immigrant under section 203, and must travel outside the United States for emergent business or family reasons."

Strike section 611 (and conform the table of contents accordingly).

In section 531, in paragraph (3) of section 208(d), insert at the end of the first sentence the following sentence:

"Such fees shall not exceed the Attorney General's costs in adjudicating the applications."

In section 701, make the following amendments:

On page 328, line 24 delete: "and Secretary of the Treasury".

Page 329, line 4 delete: "and the United States Customs Service".

Page 329, line 10 delete: "and the Secretary of the Treasury".

Page 329, line 19 to 20 delete: ", in consultation with the Secretary of The Treasury.".

Page 329, line 23 insert after "inspection": "by the Immigration and Naturalization Service".

Page 330, line 1 to 2 delete: ", the United States Customs Service,".

In section 531, amend section 208(a)(2)(B) of the Immigration and Nationality Act (as amended by such section) by striking "30 days" and inserting "180 days".

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. SMITH] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank my colleague, the gentleman from Texas, for his help on the manager's amendment. His amendment is included in it.

Mr. Chairman, this amendment makes a number of technical and conforming changes to the underlying attacks of H.R. 2202, and in addition it includes several amendments that were proposed by several of my colleagues; specifically, the gentleman from California, Mr. COX, the gentlemen from Florida, Mr. FOLEY and Mr. MCCOLLUM, and the gentlemen from California, Mr. DORNAN, Mr. GALLEGLY, and Mr. CAMPBELL, were each responsible for significant portions of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 10 minutes.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment is a situation in which the majority giveth and the majority taketh away, to some extent. Three of the provisions in the amendment are in our view good, and helpful; in particular, the one that does not disqualify people with children who are here whose parents are illegal aliens from participating in Head Start, because our effort, of course, is to keep every child in school and to get every child educated, no matter what their status.

The other changes, however, raise some questions. I think they raise some questions which should have been the subject to hearings in committee. For example, the proposal that the Attorney General be given authority to deputize State and local law enforcement officers to even conduct deportation proceedings raises some very serious questions with regard to workability and with regard to perhaps constitutionality. I am not sure we want them to be conducting deportation proceedings.

The third proposal that is in the amendment which raises questions as well, and I think some very practical ones, suggests that the law would read that a person who is eligible for housing assistance and knowingly permits someone not eligible to use their housing would then face a 2-year termination of their housing assistance.

While none of us want to encourage anyone who is not eligible to be able to use public housing, the possibility for accidentally having someone in your home for a period of time who is not eligible, there are just an unlimited number of possibilities. Also, what does "use" mean? Does that mean overnight? Does that mean an evening of dinner? What does that mean? The consequences are enormous. The potential for being able to accidentally have this happen to you are enormous. I am surprised that the majority would bring that kind of a provision forward. I would hope to modify it substantially in conference if this amendment were to be adopted and stay in the bill all the way.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I too must rise in opposition to this particular amendment and acknowledge that there are some changes that are made in the amendment, the manager's amendment, which I think improve the bill. I thank the gentleman for making some of those changes. Unfortunately, some of the changes made were matters that were never even discussed in committee, and which many of us on this side of the aisle never had a chance to really examine until just recently.

It is unfortunate, because we are talking about making some major changes in immigration policy and law, and it would be a shame, I believe, to break from what is currently a bipartisan effort; although I still am still opposed to the bill, there is a bipartisan effort to try to do this. I think it is unfortunate in that there are various provisions in this particular amendment that I think go beyond the scope of real reform.

The gentleman from Texas [Mr. BRYANT] mentioned that we talk now in this particular amendment of terminating Federal housing assistance to someone who is eligible to receive it, based on a particular criteria which may cause these eligible recipients of Federal assistance from being denied, accidentally or not, some assistance.

I think before we take steps that would get us to that point, we should have had opportunity to have had input, have had some hearings to find out if in fact this is the way to go. I would say it is not, but certainly I would be willing to consider this as something that might be possible if in fact we were told by the experts that we would not be denying those lawfully entitled to housing assistance that assistance, and that we would not end up causing discrimination in the process of trying to somehow decipher who is and who is not going to fall under the umbrella of this particular provision within the amendment.

I would also mention that this amendment broaches an area which has been one of great delicacy for quite some time; that is, the law enforcement powers of the Federal Government and when we should extend those to the States and local governments.

Mr. Chairman, we have on many occasions rightfully been very circumspect in allowing someone other than the Federal Government to enforce or administer the laws of the Federal Government, because you never know when it get out of your own hands how it will be done. There is a great concern, and I know it was expressed in the terrorism bill, that we were going too far in deputizing State and local law enforcement agencies in what they could and could not do, and what that might mean.

Mr. Chairman, this particular amendment allows the Attorney General, at the Attorney General's discretion, to enter into agreements with States to allow State law enforcement officials to perform deportation duties, those things that are conducted currently by immigration officials.

I would say that when you start allowing local law enforcement to go out there and seek out people who may be undocumented, or who may have questionable immigration status, what you are doing is asking them to perform the work of immigration or Border Patrol officers. If they are going to go through the whole training that a Border Patrol officer goes through, that is something different, and perhaps we could discuss it then, but I see nothing in this amendment that would provide for that. I see no monies in the amendment to provide for that, and what it does for me is cause a great deal of concern that what we are doing is extending the reach of the Federal Government, without extending the protections that should be there with it.

For those reasons, Mr. Chairman, I believe that we should be opposing this particular amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I rise in support of the inclusion of the amendment of the gentleman from Texas [Mr. SMITH] in the manager's amendment, the inclusion of provisions that will help us make sure that our law really means what it says; that is, that you cannot come into this country illegally, but you must follow the rules in the process.

Mr. Chairman, if the Federal Government has a law that requires an honest procedure for admission into the country, and people violate it willfully, once they are successful in doing so, once they make it across the border, they are not subject to any realistic threat of enforcement of the law if there is no realistic prospect of deportation. We are going to have ever worsening problems of illegal immigration, and with millions, millions of lawbreakers in this respect, millions of people crossing our borders illegally, it is quickly becoming beyond the capacity of the INS to keep up. There is not any realistic threat of enforcement, because they simply are not doing the job.

Mr. Chairman, if the Federal Government were in charge of prosecuting all murders, rapes, robberies, or what have you in America, we would have a big bottleneck, and nobody would ever get prosecuted for anything, but we have a marvelous system for dealing with that problem. All the important laws in America are enforced by our police, are enforced in our State courts.

The amendment included in the manager's amendment would permit the Attorney General of the United States to deputize States who elect and who are willing to use their own resources to assist in the enforcement of these Federal laws. Only when we do that, only when we expand the number of personnel who are involved in picking up people in violation of the law, only when we expand the court facilities that we have to process deportation matters, are we going to have a realistic threat of enforcement of the law.

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That is why this amendment is so important. I note in response to my colleague from California's concerns that the Attorney General will enter into agreements with States requiring ongoing Federal supervision of these efforts so that everything will be conducted under the watch of the INS and the Attorney General in conformity with Federal standards. I think this is a very wise and sound amendment, and I congratulate the gentleman from Texas [Mr. SMITH] for including it in his manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. I thank the gentleman from Texas for yielding me the time.

Mr. Chairman, I would like to commend the gentleman from California [Mr. COX] for the amendment that he offered and the gentleman from Texas for including it in his manager's amendment. I think it is a very, very important part of the bill.

A few years ago when I was practicing law, I represented a client whose family was being harassed by an individual who was unlawfully in the United States and who also was engaged in unlawful, unauthorized employment in the United States as well. After a great deal of effort we finally got through to a representative of the Immigration Service who had authority to act on this and requested that they send an investigator down to Roanoke, VA, 240 miles from the office here in Washington, to investigate this. We assured them that we had very substantial evidence to indicate this individual was in the country without authorization. The individual said that there was absolutely nothing they could do. There was simply no money in the budget to send somebody down to Roanoke, VA to make this investigation. When we pressed him harder, he finally said,

> Look, I can go right outside the door on the street in front of our building and find 5 people who are in a similar status, who have overstayed their visas, are not authorized in the country. We simply don't have the manpower and resources to take this action and

to apprehend people who are not here legally.

This provision in the bill would enable the Attorney General to designate local law enforcement authorities in Roanoke, VA and everywhere else in the country to be able to step in and assist in dealing with what is a very, very difficult problem for the understaffed, undermanned Immigration Service to handle.

I commend the gentleman for including this in the bill and strongly urge support for the manager's amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 4 minutes.

Mr. BECERRA. Mr. Chairman, let me mention one other provision within this amendment that does cause some concern, and that is a change again that was made to what came out of committee, the Committee on the Judiciary, in the immigration bill. That is a change that would permit someone who was sponsoring an immigrant coming into this country, and in the process of trying to meet the income threshold required to be able to sponsor, we provided for the case where there might be a joint sponsorship, so that if one wanted to come into this country and we had sponsors who were willing to obligate themselves to provide the support necessary for this immigrant to come into the country, that that would make it possible for this individual, this immigrant, to make it into the country.

The change that is being made in this amendment would no longer allow individuals to be able to be jointly sponsoring an immigrant that wishes to come into this country, as a family member of otherwise. It makes it a requirement that the joint sponsor be a citizen.

In and of itself, that is not bad. But if you have the case where you have a lawful, permanent resident who may have been in this country 25 years, is awaiting the INS to process an application to be a citizen and there is a spouse, or a child, or a parent of a citizen that wishes to come in, we have a situation now where that legal immigrant, who is financially capable of sponsoring that individual and a lawful permanent resident who is not only financially able to sponsor or help jointly sponsor this immigrant that wishes to come in but is also preparing to become a U.S. citizen himself or herself, is now no longer qualified under this new change to be able to be a joint sponsor to allow this immigrant to come in.

I do not understand the rationale for it. It would have been, I think, preferable had we had an opportunity in committee to discuss this, especially since in committee, both subcommittee and full committee, we had the opportunities to do the changes and provide for certain aspects of sponsorship. Yet here we find all of a sudden that out of committee and onto the House floor the bill looks different. The manager's amendment is now making additional changes which we did not have a chance to debate in committee. I think it is unfortunate because what we will do in the cases of very worthy individuals who are seeking to provide sponsorship, the financial obligation to have someone come into this country under family-based unification, that now that will no longer be possible.

I do not understand the rationale for it and perhaps before the debate is over we will hear it. But to me it seems unfortunate that we are making changes that did not get the light of day and we are being told that this is meaningful reform. This is just another reason why I believe that ultimately this is going to be a bill that will be difficult for at least this Member of Congress to support, but certainly on the manager's amendment there are sufficient reasons to object to the bill.

Having said that, I would urge Members to oppose this particular manager's amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise in favor of the amendment and point out to my colleagues that the concern that was previously stated about the participation of States or local government in the issue of immigration control as being somehow a new radical idea just is not reflected in reality. Especially the gentleman from California. my colleague from California, must obviously be aware that the State of California at this time participates in immigration control through the participation of the National Guard of the State of California, who actually not only does observation and enforcement along the border for the INS but also does transportation and transport and processing for the Federal Government.

And so this local-Federal cooperative effort on immigration control is not something new that is in this bill. It basically is a reflection of reality, that there are certain situations out there that we need to do in cooperation with States and local government.

Mr. Chairman, let me make this point quite strong, and I want to say it to both sides of the aisle. There are people who believe that the Federal Government ought to be involved in law enforcement across the aisle in this country, across the board. There are those who believe the Federal Government should be involved in education across the board in this country. Their opinion is their opinion. They have the right to that opinion. But let me remind everybody here that it does not take an act of Congress for a school board to elect a teacher. It does not take an act of Congress for a city to hire a police officer. But, Mr. Chairman, it takes an act of Congress for local government and the States to cooperate with us on immigration control. It takes an act of Congress to address these issues that are before us in these amendments.

So as we run around with a lot of issues of a lot of things we would like to do, that are nice to do, immigration control and management is something that only this body has the right to do as determined by the Constitution, as declared by the Supreme Court.

So I would ask my colleagues, rather than finding the excuses to sort of walk away and side slip off this issue, to recognize that they want to justify being involved in all these other issues that are nice to do, but they recognize that the Constitution and the Supreme Court has ruled only Congress has the right to address these issues. Local participation in immigration control can only be delegated by the Congress of the United States. The city and the State and the school board cannot determine those things. If you do not want to have the guts to stand up and say, we want to cooperate with local government, to delegate this right and this responsibility and these authorities, then you should not be in this House or in the other house that believes in the Constitution, because this is a responsibility, Mr. Chairman, that we cannot give up, that we must accept.

Mr. GALLEGLY. Mr. Chairman, I rise in support of the manager's amendment. I want to especially thank the chairman of the subcommittee for including two of my amendments in this text.

My first amendment would expand a criminal alien identification system pilot program to include Ventura County. This program will help INS officers to identify whether persons arrested are illegal aliens or previously convicted criminal aliens and will help speed deportation.

My second amendment addresses the ability of illegal aliens to receive Federal housing assistance despite the fact that HUD housing law expressly prohibits illegal aliens from receiving this assistance.

My amendment would tighten existing HUD law and regulations by closing waiting list loopholes, would require verification of eligibility, would prorate assistance for families of mixed eligibility and would suspend assistance if a family knowingly permits other non-eligible tenants to use the assistance.

I want to thank Housing Subcommittee Chairman LAZIO and ranking member KENNEDY and their staffs for their assistance. I also want to express my appreciation to HUD for their constructive input and their support.

I urge passage of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was agreed to.

AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer amendments en bloc pursuant to the authority granted in the rule, consisting of No. 2 Traficant; No. 11 Cardin, as modified, No. 25 Lipinski; No. 26 Farr, No. 27 Traficant; No. 29 Vento; No. 30 Waldholtz; No. 31 Kleczka; and No. 32 Dreier, and I ask unanimous consent that the modification to amendment No. 11 be considered as read and printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendments en bloc, as modified.

The text of the amendments en bloc, as modified, is as follows:

Amendments en bloc, as modified, offered by Mr. SMITH of Texas, consisting of No. 2 Traficant; No. 11 Cardin, as modified; No. 25 Lipinski; No. 26 Farr, No. 27 Traficant; No. 29 Vento; No. 30 Waldholtz; No. 31 Kleczka; and No. 32 Dreier:

AMENDMENT NO. 2 OFFERED BY MR. TRAFICANT

At the end of subtitle A of title I insert the following new section:

SEC. 108. REPORT.

The Attorney General, in consultation with the Secretary of State and the Secretary of Defense, shall contract with the Comptroller General to track, monitor, and evaluate the Administration's border strategy to deter illegal entry, more commonly referred to as prevention through deterrence. To determine the efficacy of the Administration's strategy and related efforts, the Comptroller General shall submit to Congress a report of its findings within one year after the date of the enactment of this Act and, for every year thereafter, up to and including fiscal year 2000. Such a report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry. Such a report shall also include recommendations to improve and increase border security at both the border and ports-of-entry.

AMENDMENT NO. 11 OFFERED BY MR. CARDIN, AS MODIFIED:

At the end of section 404 the following new subsection:

(c) PRIORITY FOR WORKSITE ENFORCEMENT.—

(1) IN GENERAL.—In addition to its efforts on border control and easing the worker verification process, the Attorney General shall make worksite enforcement of employer sanctions a top priority of the Immigration and Naturalization Service.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on any additional authority or resources needed—

(A) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(B) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such Order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

AMENDMENT NO. 25 OFFERED BY MR. LIPINSKI:

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary, and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

AMENDMENT NO. 26 OFFERED BY MR. FARR OF CALIFORNIA

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. SUPPORT OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of 5 consecutive years (beginning with 1996), to the Immigration and Naturalization Service or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance (under section 337(a) of the Immigration and Nationality Act) on a business day around the 4th of July for approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and on the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General should consider changing the sites selected from year to year.

(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount that may be made available under this section with respect to any single site for a site for a year shall not exceed $5,000.

(2) USE.—Funds provided under this section may only be used to cover expenses incurred carrying out symbolic swearing-in ceremonies at the demonstration sites, including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses),

(B) local outreach,

(C) rental of space, and

(D) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities (including funds in the Immigration Examination Fee Account, under section 286(n) of the Immigration and Nationality Act) shall be available under this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

(e) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

AMENDMENT NO. 27 OFFERED BY MR. TRAFICANT:

After section 836, insert the following new section (and conform the table of contents accordingly):

SEC. 837. SENSE OF CONGRESS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

AMENDMENT NO. 29 OFFERED BY MR. VENTO:

At the end of subtitle B of the VIII add the following new section:

SEC. 837. TREATMENT OF CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.

(a) WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL GUERRILLA UNITS IN LAOS.—The requirement of paragraph (1) of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) shall not apply to the naturalization of any person who—

(1) served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, or

(2) is the spouse or widow of a person described in paragraph (1).

(b) NATURALIZATION THROUGH SERVICE IN A SPECIAL GUERRILLA UNIT IN LAOS.—

(1) IN GENERAL.—The first sentence of subsection (a) and subsection (b) (other than paragraph (3)) of section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) shall apply to an alien who served with a special guerrilla unit operating from a base in Laos in support of the United States at any time during the period beginning February 28, 1961, and ending September 18, 1978, in the same manner as they apply to an alien who has served honorably in an active-duty status in the military forces of the United States during the period of the Vietnam hostilities.

(2) PROOF.—The Immigration and Naturalization Service shall verify an alien's service with a guerrilla unit described in paragraph (1) through—

(A) review of refugee processing documentation for the alien,

(B) the affidavit of the alien's superior officer,

(C) original documents,

(D) two affidavits from persons who were also serving with such a special guerrilla unit and who personally knew of the alien's service, or

(E) other appropriate proof.

The Service shall liberally construe the provisions of this subsection to take into account the difficulties inherent in proving service in such a guerrilla unit.

AMENDMENT NO. 30 OFFERED BY MRS. WALDHOLTZ:

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service of the Department of Justice should include that it is the responsibility of the Service to detect, apprehend, and remove those noncitizens whose entry was illegal, whether undocumented or fraudulent, and those found to have violated the conditions of their stay, particularly those involved in drug trafficking or other criminal activity.

AMENDMENT NO. 31 OFFERED BY MR. KLECZKA:

At the end of subtitle B of title VIII insert the following new section:

SEC. 837. AUTHORIZATION OF REIMBURSEMENT OF CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.

(a) IN GENERAL.—After the date of enactment of this Act, the Secretary of State, in consultation with the Commissioner of the Immigration and Naturalization Service, shall establish a process to provide for the reimbursement of all fees to each national of Poland (other than a national illegally residing in the United States) who was an applicant for the diversity immigrant program for 1995 under section 203(c) of the Immigration and Nationality Act who did not receive such a visa.

(b) FUNDING.—The Secretary of State shall use such funds as may be available at the discretion of the Secretary to carry out the purpose of this section.

(c) REVIEW.—The Secretary of State shall review the procedures of the Department of State regarding the administration of the diversity immigrant program to ensure that the erroneous notification which occurred with respect to the 1995 diversity immigrant program for Polish residents does not recur.

AMENDMENT NO. 32 OFFERED BY MR. DREIER:

After section 836, insert the following:

SEC. 837. SENSE OF THE CONGRESS WITH RESPECT TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Congress finds as follows:

(1) Of the $130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program (SCAAP), the Department of Justice disbursed the first $43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining $87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(2) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included $66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(2) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. BECERRA. Mr. Chairman, reserving the right to object, I was wondering if we could just take a moment to just go quickly through the amendments.

I do not wish to have all the amendments discussed. I just want to make sure I know which amendments are being consolidated in the en bloc amendments. If I could just take a moment to pull out my list of the amendments, I would just like to make sure, if the gentleman would run through those.

Mr. SMITH of Texas. If the gentleman will yield, as I understand the gentleman, he was asking for a description——

The CHAIRMAN. The gentleman will suspend.

The gentleman from California reserves the right to object to the reading of the modifications?

Mr. BECERRA. To the reading of the modifications, no, but to the consolidation of various amendments en bloc, I am reserving the right to object.

The CHAIRMAN. The gentleman is not correct.

The amendments are offered en bloc pursuant to the rule. However, the modifications have to be read, and there was one modification.

PARLIAMENTARY INQUIRY

Mr. BECERRA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BECERRA. Mr. Chairman, are we in the process of consolidating amendments en bloc, which the rule provides?

The CHAIRMAN. Yes, under section 2 of House Resolution 384.

Mr. BECERRA. Further parliamentary inquiry. Is it then, based on the rule that was passed earlier, the prerogative of an individual who wishes to object only to object to the dispensing of the reading of those particular amendments?

The CHAIRMAN. No, just to germane modifications.

Mr. BECERRA. If the Chair would indulge me in explaining what the Chair means.

The CHAIRMAN. The rule makes in order amendments en bloc and dispenses with the reading. But the rule does not dispense with the reading of germane modifications, and there is one modification.

Mr. BECERRA. Mr. Chairman, I understand that the changes being made are purely technical, in the modification.

Mr. Chairman, I am being advised that the changes are technical in nature in the modification.

I would accept the representations that are made.

Mr. Chairman, for those reasons, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] and the gentleman from Texas [Mr. BRYANT] each will control 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

□ 2100

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding this time to me.

I just want to again offer my support for this amendment en bloc, which includes amendment 29 which I spoke on earlier. I anticipated we would be moving expeditiously at this point. I do not want to delay things. I do appreciate the gentleman's work and that of the gentleman from Texas [Mr. BRYANT] on this.

I do not see anything controversial in this amendment, as I peruse it. My learned colleagues here, who have spent time in the committee, may find some basis, but this amendment, insofar as amendment 29, is an important amendment to us. I very much appreciate the inclusion of this and the consideration under this expedited procedure.

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me this time.

I will not be opposing the amendment so much as asking some questions and perhaps maybe some clarification. A couple of the amendments are of interest to me because, for example, the Lipinski amendment would adjust the status of approximately 800 Poles and Hungarians from parolee to permanent resident status.

Now, I do not question whether that is something that is worthwhile or not. I just am wondering why we do it for some groups and not others, and it seems to me that this legislation, I hope, is going to be meaningful reform.

We have another amendment that is part of the en bloc, which I see here would require the Department of State to refund fees to Poles who were erroneously notified of their eligibility for visas but did not receive a visa. If I recall correctly, I had an amendment very similar to this, but it did not apply just to Poles, it applied to anyone who applied for a visa. But as a result of the elimination of categories of immigrants in the bill, there were a number of people who should be refunded moneys by the State Department for fees paid for something they would no longer receive, and that is an opportunity to have an immigrant emigrate to this country.

If I can try to simplify what I am saying, right now, in order for someone to emigrate into this country, a fee must be paid typically by the sponsor of the immigrant, someone who says I will state here that I will be responsible for this immigrant to make sure that this person does not become a public charge as he or she wishes to enter this country; I will pay a fee to have the application for admission processed.

As a result of H.R. 2202, various categories of individuals will no longer qualify for visas, siblings of U.S. citizens. For example, adult children of U.S. citizens can no longer come into the country in most cases. Yet fees were paid by U.S. citizens to get these folks, their relatives, to come into the country.

Now as I understand it, that is no longer part of the legislation we are considering. Yet, in the case of one of these en bloc amendments, we will be reimbursing fees paid by some individuals even though what we are doing in this bill is saying that they no longer qualify or because they no longer qualify for admission as immigrants in this case.

We are doing this for the Poles that are mentioned in this particular amendment. Again I have no problems in doing so, because I think it is only fair that if somebody paid a fee and now the service the fee is meant to provide can no longer be rendered, then someone should get that fee reimbursed.

But it is not just Poles who have paid a fee, that should be reimbursed. It seems to me that anyone who has paid for something is entitled to either receive the service or get the money reimbursed, and I would have that reservation.

I would still support all of the amendments, including those that I just mentioned, but I would have the reservation. It seems we should be doing this on an equal and fair basis and not in some particular cases.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I might consume.

I just wanted to respond to my friend from California to say there is in the bill a mechanism to reimburse individuals who are not admitted to this country. But furthermore, I want to say in regard to the amendment he was referring to, I would distinguish this amendment from the overall group of individuals who might not be admitted by saying that this amendment is specifically to reimburse individuals who were given an erroneous notification by the State Department.

So in this case the State Department made a mistake, and we are simply trying to rectify that. This is a very narrow instance of where we need to bring some equity to bear.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Utah [Mrs. WALDHOLTZ].

Ms. WALDHOLTZ. Mr. Chairman, included in the en bloc amendment offered by Chairman SMITH is an amendment I offered that will express the sense of Congress that the mission statement of the Immigration and Naturalization Service should include a provision that the INS has the responsibility to detect, apprehend, and deport illegal aliens, particularly those involved in drug trafficking or other criminal activity.

Like many other communities around the Nation, the people in my district are having a critical problem with illegal aliens dealing in drugs, that are involved in criminal activities, especially drug trafficking.

In 1995 alone, Salt Lake City police arrested over 3,600 people for felony-level narcotic violations, of which 80 percent were illegal aliens. Because of the lack of sufficient funding and staffing, the local INS office has been unable to handle this volume of cases and has had to focus almost exclusively on the worst offenders.

I would like to submit for the RECORD a letter sent to me by Captain Roy Wasden of the Salt Lake Police Department that outlines the difficulties that the police are having dealing with this problem.

In a drug sweep early this year, Salt Lake police arrested 193 people for felony narcotic violations, of which 156 were illegal aliens. The INS tried to help Salt Lake police process the illegal aliens, but they did not have enough staff and ran out of funds. As a result the suspects were back on the streets.

Sadly, that action had a tragic result. One of the illegal aliens arrested and released, later shot and killed Diane Purper, a mother of five, over a minor traffic dispute. Since the killer had been arrested four times prior to this shooting, perhaps this tragedy could have been avoided if the INS would have had the manpower to do their job and deport this individual after his first arrest.

As the INS works to detect, apprehend, and deport illegal aliens, a much grater emphasis should be given to arresting and deporting criminal illegal aliens. I urge my colleagues to support this amendment so that the INS can have a clear mandate from the House that we must rid our communities of these criminal elements.

SALT LAKE CITY CORP.
POLICE DEPARTMENT,
Salt Lake City, UT, March 1, 1996.

Hon. ENID GREENE-WALDHOLTZ,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN: In the spring of 1994 the Salt Lake City Police Department began to see that a large number of undocumented aliens were involved in crimes in the Salt Lake area. The largest problem existed in the drug arena. Officers started a strong order maintenance effort in the areas of the city that were plagued by open air drug markets. In this initial effort all violations of the law were challenged. Officers were making thousands of stops and arrests for minor violations such as littering, trespassing, jay walking, open container, etc. In an effort to gauge the magnitude of the undocumented alien problem officers tried to determine the number of persons they encountered that were undocumented aliens. During the approximate time frame of May to November 1994 we found that in about 7,000 contacts around 6,000 persons told the officers that they were undocumented aliens (85%). This is consistent with what we have found during the past 18 months as we have made major efforts to arrest drug dealers.

During 1995 our records indicate that we made 3,652 arrests for felony level narcotics violations. Of those arrests, 2,922 were undocumented aliens (80%). The local I.N.S. Office could not even begin to deal with this volume and had to focus their efforts on only the most egregious offenders. During 1995 there were a record number of homicides (27) committed in Salt Lake City. Of these homicides 11 were directly related to the drug trade (41%). Of the 27 homicides, 14 of the victims were undocumented aliens (52%) and 8 of the suspects were undocumented aliens (30%). These statistics clearly show that criminal undocumented aliens are violent and dangerous to our community.

This year we have conducted one drug operation in the city that netted 193 felony narcotic arrests with 156 of those arrests being undocumented aliens (81%). I.N.S. attempted to assist but ran out of funds and staffing. Virtually all of the suspects from these arrests were released from jail with their promise to appear in court (history indicates they do not appear in court). They are back on the street dealing drugs as I write this document. It was one of these drug dealers that shot and killed a mother of 5 over a traffic dispute. He is still at large and had been arrested 4 times prior to committing the homicide.

Salt Lake City, Salt Lake County and the State of Utah are at a crisis point. Despite thousands of arrests, strong enforcement efforts and the City's unceasing efforts the numbers of criminal aliens are increasing. I believe the word is out that State of Utah and Salt Lake City in particular are prime markets where there is no consequence for criminal behavior. We must have more assistance in dealing with criminal undocumented aliens.

Thank you for your attention to and attendance in this very important matter. Please feel free to contact me for any questions or assistance. I can be reached at (801) 799-3115.

Sincerely,

ROY W. WASDEN, CAPTAIN,
Pioneer Patrol Division.

Mr. CARDIN. Mr. Chairman, I rise in strong support of amendment No. 11 to H.R. 2202, included in the en bloc amendment currently under consideration. The amendment is straightforward; it strengthens enforcement of employer sanctions.

Despite the rhetoric on the issue, border enforcement will not solve the illegal immigration problem. The lure of high wages and plentiful job opportunities attracts thousands of illegal immigrants each year. If illegal workers could not secure employment, they would go home and fewer unauthorized aliens would attempt to enter the United States illegally.

We must reduce the job magnet. We can do this by deterring employers who hire illegal immigrants in order to obtain an unfair competitive advantage over law-abiding employers. Those employers who do not abide by the law, pay lower wages, given no benefits, pay no taxes, and thereby, suppress wages and working conditions for our country's legal workers.

In 1986, Congress, enacted the Immigration Reform and Control Act (IRCA) prohibiting the employment of unauthorized aliens. Although the intent of Congress was clear, the INS admits, "this law was not properly enforced, except immediately after passage of the Act, because the Federal Government until recently lacked the resources . . . [and] has not made employer sanctions a sufficiently high priority."

The President should be commended for his efforts in this area. Not only has worksite enforcement become a high priority of his Administration, on February 13, 1996, the President issued an Executive Order, stating that "in procuring goods, . . . contracting agencies should not contract with employers that have not compiled with section 274A of the IRCA . . . prohibiting the unlawful employment of aliens."

Amendment No. 11 to H.R. 2202 would ensure that section 274A of the IRAC, and the Executive Order, can be enforced properly. The amendment states that worksite enforcement should be a high priority for the Immigration and naturalization Service. In addition, it requires the Attorney General to report to Congress whether there are any additional authorities or resources needed to enforce: the Immigration Reform and Control Act's employer sanctions; the Presidential Executive Order which states that employers who hire illegal immigrants are denied Federal contracts; and an expansion of the Executive Order so that employers who hire illegal immigrants are denied all federally subsidized assistance programs.

I urge my colleagues to support the en bloc amendment so that sanctions become a reality for those employers who break the law.

Mr. BRYANT of Texas. Mr. Chairman, I would say that the minority has no objection to this amendment, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. SMITH].

The amendments en bloc, as modified, were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part II of House Report 104-483.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON:

Amend subsection (b) of section 102 to read as follows:

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $110,000,000. Amounts appropriated under this subsection are authorized to remain available until expended.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. BEILENSON] will be recognized for 5 minutes, and the gentleman from California [Mr. HUNTER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would replace the bill's requirement for the construction of 14 miles of triple fencing along the San Diego border with an authorization for the installation of additional physical barriers in all areas of high illegal entry into the United States.

As a cosponsor of H.R. 2202, I agree completely with my many colleagues who support the need to better reinforce physical barriers along the border to deter illegal immigration. But this particular barrier—a triple fence—is one which is opposed by the very law enforcement officials who will be responsible for patrolling it.

The San Diego triple fence is opposed by the Border Patrol, by the Department of Justice, and by the union representing Border Patrol agents in the San Diego area, largely because—in their opinion—the fence would subject Border Patrol agents to unnecessary danger, and would merely shift the illegal entry problem to other areas of the 1,500-mile United States-Mexico border.

Douglas Kruhm, the Chief of the U.S. Border Patrol, who is a uniformed agent who worked his way up through the ranks, explained the Border Patrol's opposition to the triple fence in a letter to the Judiciary Committee, in which he said:

> This proposal threatens to endanger the physical safety of Border Patrol agents . . . by enclosing them in areas without easy escape routes, and [it] will reduce our ability to prevent illegal entry along the border . . . In our view, the deployment of personnel, physical barriers, technology, and operational judgments are decisions best left to the border patrol agents who are responsible for the day-to-day operation at the ground level.

The Border Patrol agents' union echoed this position in a recent statement, when they said that "there is no support from U.S. Border Patrol Agents in the field for the three-tiered fence. We see it as a dangerous situation."

And in a letter to the Speaker of the House, the Department of Justice made this plea:

> We request that the House defer to the experience of those in the Border Patrol who are responsible for the safety of the Patrol's men and women and strike this section from the bill.

The triple fence proposal was developed 5 years ago by Sandia National Laboratories, a weapons laboratory that was asked by the Bush administration to do a study on drug traffic. Without considering the practicality or danger to Border Patrol personnel of such a fence, Sandia concluded that a triple fence would more effectively prevent illegal crossing than the existing single fence.

While their conclusions may be valid in theory, they make no sense to those who have experienced the reality of patrolling a 1,500 mile border. Sandia's experience with triple fencing is in settings where the authorities can control both sides of it—like surrounding a secure national laboratory or a prison—which is quite different from the United States-Mexico border. In addition, much has changed since Sandia issued its report—there are more agents, more sensors, more single fencing, more night scopes and other technology on the border, all of which were not evaluated by Sandia and have proven to be enormously effective in deterring illegal immigration.

Some supporters of the triple fence say that it is supported by Silvestre Reyes, the former head of the El Paso Border Patrol, whose "Operation Hold the Line" cut the number of illegal crossing from 8,000 to a few hundred a day. But the fact is that, while Mr. Reyes agrees that fences, when supported by adequate staffing, can help to deter illegal immigrants, he opposes the triple fence proposal for the same reasons voiced by other agents.

Finally, even if a triple fence were a good idea, the $12 million authorized in the bill is inadequate to fund a 14 mile triple fence. Depending on the cost of land acquisition and the type of fence used, and assuming there is no road construction involved, the total cost will range from $87 million to $110 million, according to estimates made by the Department of Justice in conjunction with the Department of Defense.

This amendment before us would strike the triple fence requirement and replace it with a new subsection that authorizes a $110 million appropriation for the Immigration and Naturalization Service [INS] to install additional physical barriers and roads—including the removal of obstacles to detection of illegal entrants—anywhere along the border where improvements are needed. This approach would ensure that Congress is not requiring the INS to construct a barrier that it does not have sufficient funds to build. And, more importantly, by deferring to the expertise and experience of border enforcement personnel on the type of barriers that would be most useful, it would ensure that taxpayer dollars will be spent wisely and effectively.

Finally, Mr. Chairman, I think an editorial in the San Diego Union-Tribune said it best when it said, "If the—triple fence—were free, it would be a lousy idea. The fact that it could cost as much as $110 million * * * makes it an extraordinarily bad idea." The same newspaper wisely urged that rather than trying to micromanage how the Border Patrol does it job in the San Diego sector, Congress should give the agency the financial support it needs to stem the flow of illegals as it sees fit.

Mr. Speaker, instead of jeopardizing the safety of our Border Patrol agents and merely shifting the problem of illegal crossings away from 14 miles of the San Diego border, we need to put our resources where they can do the most good—as determined by the officers on the line. Only then will we have a demonstrable impact on stopping illegal immigration into this country.

I urge my colleagues to support this amendment.

□ 2115

Mr. Chairman, instead of jeopardizing the safety of our Border Patrol agents and merely shifting the problem of illegal crossings away from the 14 miles of the San Diego border, we need to put our resources where they will do the most good as determined by the professionals on the line. Only then will we have a demonstrable impact on stopping illegal entry into the country.

I urge my colleagues to support this amendment.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I can understand now why the amendment was offered, because there are a number of mistakes with respect to the facts. The gentleman mentioned that Chief Reyes, Silvester Reyes, who is by far the most famous Border Patrol chief in this country because he actually did something in terms of stemming the tide and holding the line in El Paso, was represented by a San Diego Union editorial writer as being opposed to the fence.

After he testified before the Subcommittee on Immigration and Claims of the Committee on the Judiciary, he stated that, if you had sufficient agencies and you had a triple fence, you could indeed stop illegal immigration. When I sent the editorial that the gentleman just read and another editorial to Silvester Reyes, he responded with a corrective letter to the newspaper admonishing them not to misrepresent his position.

His position just a couple of days ago was this: As a former chief of the El Paso Border Patrol sector, I testified last year before Congress on our efforts to control illegal immigration in the El Paso area. I might add that he testified with Mrs. Meissner, head of the INS, who opposed the fence, sitting right next to him and glaring at him as he testified. He said: Representative DUNCAN HUNTER asked me if triple fencing along the border and additional staffing would provide us with the proper resources to control illegal immigration. I replied that it would.

Mr. Chairman, now, that is the word from Silvester Reyes. We can cable him, we can pass him on the street, we can phone him, but he has repudiated the statement by the San Diego Union that he really did not mean it when he said that the border fence would stop illegal immigration if it was erected and if it had sufficient staffing.

Now, the gentleman has talked about safety. I have had a number of Border Patrol agents to my town meetings, and they like the triple fence and the INS, which has tried to scare its agents, has not told them about the provision in this lengthy Sandia analysis that engineers the fence, which is dedicated to safety, and it said we are going to do a number of things for safety. It said we are going to make sure that the cars are armored that go in between. We are going to give them plenty of turn-around room. And most importantly, we are going to have safety gates that they can exit from on a moment's notice and that backup can proceed into if they are in-between these fences.

Mr. Chairman, the border is still out of control, despite the resources that we voted in this Congress. We need to have a secure barrier. The most famous and most knowledgeable and I think one of the Border Patrol chiefs with the best safety record supports this fence. We need to build it. It is in the bill.

I would ask all Members to support it.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I would like to commend the gentleman from California [Mr. HUNTER] because I think this body ought to recognize that the gentleman not only had the foresight but he also had the intestinal fortitude to address an issue that was ignored too long.

We remember when this man was ridiculed because he talked about taking surplus matte and basically free welding classes being given to the National Guard to weld up a structure along the border. And everybody laughed at the gentleman from California [Mr. HUNTER] and said it was outrageous, that it was not going to do any good. Well, let me say as somebody that not only lives down there but as somebody whose teenage daughter goes down to feed the horses within a half a mile of the border where Mr. HUNTER's fence went up, I say to the gentleman, Mr. HUNTER, thank you for having the guts to do what no one else dared to do. And I would say to my colleague, I know his concerns.

Mr. Chairman, I just finished this weekend talking with some agents. Their concern is that they not be required to work within the perimeter but to be allowed operational latitude. I would ask the gentleman make sure that this administration gives the operational latitude. But this administration stopped this fence, refused to recognize the benefits of the fence.

Frankly, I have got to go with a winning team, somebody who has credibility along the border. And in all fairness, this is a man who knows the border, has been successful, has had the guts to move forward and be ahead of the rest of the Congress on this issue. And I say to my colleague that there are those that may be concerned, but his experience, his success leaves me to say I have supported him along the border on this issue and I will take the heat.

Mr. Chairman, I would ask those of my colleagues to come visit the border and tell me that it is not a safer place because this man stood up years ago and said that physical structures are part, not all, but part of the answer. I thank my colleague for giving us this fence.

Mr. HUNTER. Mr. Chairman, I thank the gentleman from California [Mr. BILBRAY].

Mr. LAUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to my friend, the gentleman from Texas.

Mr. LAUGHLIN. Mr. Chairman, I am a non-Californian who is going to speak on this amendment, and I have to confess my knowledge of it comes as a result of Army Reserve duty. I was assigned as an Army reservist to work with the Army Reserve units building the first perimeter fence from the steel matte from landing mats that were used in Vietnam that had been in storage for many years.

What I learned by this is it was not just stopping illegal immigrants. It was safety for the officers, safety for people. The rapes, the robberies, the drug sales, and the murders went down because of the fence. So I urge opposition to the amendment.

Mr. HUNTER. I thank the gentleman.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BEILENSON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from California [Mr. BEILENSON] will be postponed.

It is now in order to consider amendment No. 4 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. McCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part 2 amendment number 4 offered by Mr. McCOLLUM: After section 216, insert the following new section (and conform the table of contents accordingly):

SEC. 217. PROTECTING THE INTEGRITY OF THE SOCIAL SECURITY ACCOUNT NUMBER CARD.

(a) IMPROVEMENTS TO CARD.—

(1) IN GENERAL.—For purposes of carrying out section 274A of the Immigration and Nationality Act, the Commissioner of Social Security (in this section referred to as the "Commissioner") shall make such improvements to the physical design, technical specifications, and materials of the social security account number card as are necessary to ensure that it is a genuine official document and that it offers the best possible security against counterfeiting, forgery, alteration, and misuse.

(2) PERFORMANCE STANDARDS.—In making the improvements required in paragraph (1), the Commissioner shall—

(A) make the card as secure against counterfeiting as the 100 dollar Federal Reserve note, with a rate of counterfeit detection comparable to the 100 dollar Federal Reserve note, and

(B) make the card as secure against fraudulent use as a United States passport.

(3) REFERENCE.—In this section, the term "secured social security account number card" means a social security account number card issued in accordance with the requirements of this subsection.

(4) EFFECTIVE DATE.—All social security account number cards issued after January 1, 1999, whether new or replacement, shall be secured social security account number cards.

(b) USE FOR EMPLOYMENT VERIFICATION.—Beginning on January 1, 2006, a document described in section 274A(b)(1)(C) of the Immigration and Nationality Act is a secured social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

(c) NOT A NATIONAL IDENTIFICATION CARD.—Cards issued pursuant to this section shall not be required to be carried upon one's person, and nothing in this section shall be construed as authorizing the establishment of a national identification card.

(d) NO NEW DATABASES.—Nothing in this section shall be construed as authorizing the establishment of any new databases.

(e) EDUCATION CAMPAIGN.—The Commissioner of Immigration and Naturalization, in consultation with the Commissioner of Social Security, shall conduct a comprehensive campaign to educate employers about the security features of the secured social security card and how to detect counterfeit or fraudulently used social security account number cards.

(f) ANNUAL REPORTS.—The Commissioner of Social Security shall submit to Congress by July 1 of each year a report on—

(1) the progress and status of developing a secured social security account number card under this section,

(2) the incidence of counterfeit production and fraudulent use of social security account number cards, and

(3) the steps being taken to detect and prevent such counterfeiting and fraud.

(g) GAO ANNUAL AUDITS.—The Comptroller General shall perform an annual audit, the results of which are to be presented to the Congress by January 1 of each year, on the performance of the Social Security Administration in meeting the requirements in subsection (a).

(h) EXPENSES.—No costs incurred in developing and issuing cards under this section that are above the costs that would have been incurred for cards issued in the absence of this section shall be paid for out of any Trust Fund established under the Social Security Act. There are authorized to be appropriated such sums as may be necessary to carry out this section.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

I want to explain this amendment to everybody so they clearly understand what it is. It is a requirement so that the Social Security Administration move over the next few years to make a Social Security card as counterfeit-proof as the $100 bill that is out now, and as free and protected from fraudulent use as the passport. I would submit that this is something that is long overdue. It is not very complicated. It is not a national ID card. There is no new use. There are no fingerprints. There are no retina scans. There are no magnetic strips. This is a simple improvement in the existing paper that is out there which is absolutely essential if we are going to control illegal immigration in this country and make employer sanctions work.

We have today in the Nation about 4 million illegals present in this country. We legalized a few years ago about 1 million in the legalization process that I opposed in the 1986 law. Well, since then we have gotten 4 million more, we are adding about 300,000 to 500,000 illegals a year to this country, and in that process we cannot absorb and assimilate all of them coming in that rapidly and settling in the communities where they are settling and having the impacts that they are having. We are seeing our cultural, our social and our economic costs skyrocket in those communities, and that is why we are here tonight addressing the illegal immigration portion of this bill.

Well, how do we stop that? What is causing people to come? Well, I would submit the reason people are coming here to this country is something we have known for a long time, jobs, to get a job. The only way that we are going to stop people from coming here is by cutting off the magnet of jobs. No matter how many Border Patrol we put up on the border, and I am all for doing that, we will never completely stop it. Plus, about 50 percent or so of those who come here or were here illegally are visa overstays. They never crossed the border illegally in that sense, anyway, but they are here illegally.

Mr. Chairman, the way we have to make this work is to make an act provision from 1986, the current law, operable. It is now against the law for an employer to knowingly hire an illegal alien. It has been for 10 years. The problem is document fraud. The problem is we cannot enforce employer sanctions because we have today some 29 documents that may be used when somebody goes to get a job to prove they are eligible to get that job. The employer has to check an I–9 form off and look for some combination of those documents. One of those documents is the Social Security card.

Under this bill, we reduce the number of documents that we may use when we go to seek a job from 29 down to 6. One of those documents remains the Social Security card which today is the most counterfeited, most fraudulently used official document of the United States.

We can buy a counterfeited Social Security card of the so-called newer variety on the streets of Los Angeles for $30 or $40. It is a very common thing as long as that is the case. As long as counterfeiting of the Social Security card can be that easy, we can never make employer sanctions work. We can never stop employers hiring illegal aliens because they do not know who they are and they get documents that are fraudulent. And we can never then control illegal immigration coming into this country. That is not the end-all, be-all, but making the Social Security card more secure and more tamper resistent is critical to being able to ever do this, and that is what my amendment does.

Mr. Chairman, it is the simple amendment that I am offering tonight that would get at that problem. Again it would require the Social Security Administration over the next 3 years to go to a card that is as counterfeit-proof as the $100 bill and as resistant to fraudulent use as the passport. It would require it for new issues. It would not require everybody to get one of these cards. It would not have any new use, no new data bank, no fingerprints, no national ID of any sort.

By the year 2006, under this amendment, nobody would be able to use a Social Security card that was not of the new variety in order to prove their eligibility, but there are other documents that would still be around besides a Social Security card they could use. So some of them will go back after that and seek the use of the Social Security card. Maybe they will want a new one. But I would submit by that time things will be pretty well taxed away.

Last comment, Social Security Administration apparently thinks this is going to cost billions of dollars to implement, but the Congressional Budget Office says that it would average about $51 million a year over the next 10 years. I think after that it would go down in cost, not up, since about half the cards will already be new, and fewer and fewer people would be seeking to have new cards at that particular point.

So I would encourage my colleagues to adopt this amendment. It is the most important immigration amendment I think I have ever offered, and I have been around this body offering immigration amendments for a long time.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana [Mr. JACOBS] is recognized for 15 minutes in opposition to the amendment.

Mr. JACOBS. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BUNNING], the Hall of Famer.

Mr. BUNNING of Kentucky. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I include for the RECORD a letter from Shirley Chater, the head of the Social Security Administration, in direct opposition to this amendment.

The letter referred to is as follows:

SOCIAL SECURITY,
Washington, DC, March 19, 1996.

HON. JIM BUNNING,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BUNNING: I am writing today to state the Administration's concerns regarding an amendment to H.R. 2202, the Immigration in the National Interest Act of 1995, which will be offered by Representative Bill McCollum (R., FL). Mr. McCollum's amendment would require the Social Security Administration to improve the physical design, technical specifications, and materials used in the Social Security card, to ensure that it is a genuine official document, and that it is secure against counterfeiting, forgery, alteration and misuse. Beginning in 1999, all new and replacement Social Security cards would need to contain these features. We are opposed to the adoption of this amendment.

In making these improvements, the amendment would require SSA to use two performance standards. The first would be to ensure that new and replacement Social Security cards would be as secure against counterfeiting as the $100 Federal reserve note. The second performance standard would require SSA to make the Social Security card as secure against fraudulent use as a United States passport.

The current Social Security card that is issued by SSA is already counterfeit-resistant. The current card includes most of the features that have recently been incorporated in the newly redesigned $100 bill, such as small disks that can be seen with the eye, but that cannot be reproduced by color photocopiers. In addition, the current card is printed on banknote-quality paper that has a blue marbleized background with raised printing that can be felt by running one's fingers across the card.

While the McCollum amendment's requirements are non-specific, it appears that, at a minimum, SSA would be required to place an individual's photograph on each Social Security card, effectively turning it into a photo-identification document similar to the U.S. passport. It is not clear what other features might be required.

We are opposed to this amendment because it changes the basic nature of the Social Security card. The card is intended to enable employees and employers to assure that wages paid to an individual are properly recorded to the employee's Social Security earnings record. Throughout its history, the card has never contained any identifying information other than the name of the individual to whom the number has been assigned. Many editions of the card have expressly stated that the card was not intended for identification.

This has assured that the Social Security card did not become a de facto national identity card. Mr. McCollum's amendment includes language stating that the new card would not be a National identification card. However, to the extent that an individual's Social Security card has information of identity, the practical effect is to establish that card as a National identification document. The Administration is opposed to the establishment, both de jure and de facto, of the Social Security card as a National identification document.

The Administration is also concerned that a de facto National identification card, such as the upgraded Social Security card, has the potential for becoming a source of harassment for citizens and non-citizens who appear or sound "foreign." Such individuals could be subject to discriminatory status checks by law enforcement officials, banks, merchants, schools, landlords, and others who might ask for an individual's Social Security identification card. We are opposed to jeopardizing the civil rights of such individuals and urge the Members of the House to oppose the McCollum amendment from this perspective as well.

Moreover, we believe that the additional workload associated with placing a photograph and other additional features on all new and replacement Social Security cards would adversely affect SSA's ability to handle its core mission, which is to administer the Social Security program. In that regard, I would note that the current Social Security card is entirely satisfactory from the perspective of fulfilling its role in the administration of the Social Security program.

Any implementation of the McCollum amendment, should it be enacted, would have a substantial fiscal and personnel impact. We estimate that placing photographs on Social Security cards would increase SSA's administrative needs by as much as $450 million annually. Over 5 years, this would result in additional administrative spending by SSA of as much as $2.25 billion. If the effect of the McCollum amendment is to replace all Social Security cards currently in use, the cost would be $3 to $6 billion, depending on the features required.

Finally, this workload would increase SSA's staffing needs by an estimated 5,700 work years annually. This would be a 10 percent increase in SSA's projected authorized staffing for 1999. The amendment would adversely affect SSA's core mission because it would establish a costly new work load that would significantly increase SSA's staffing needs. As you know, the Congress in 1994 passed crime legislation calling for a reduction in overall Federal staffing by 272,000 work years. SSA's projected share of this reduction is about 4,500 work years. To assure that these work year savings were realized, the crime bill placed a ceiling on all Federal employment. This, coupled with the freeze that has been imposed on the domestic discretionary spending cap, which includes SSA's administrative budget, makes it highly unlikely that SSA will be provided with the additional resources required for placing photographs on Social Security cards.

If SSA did not have authority to employ additional staff, the only other alternative available to the agency would be to defer or discontinue other work loads associated with the administration of the Social Security program. We believe that this possibility could pose a grave threat to SSA's ability to carry out the essential tasks associated with assuring that benefits are paid to those who apply for them as soon as possible.

The Office of Management and Budget has advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

SHIRLEY S. CHATER,
Commissioner of Social Security.

Mr. Chairman, let me say at the onset that all aspects of the Social Security number fall solely under the jurisdiction of the Ways and Means Committee, specifically, the Social Security Subcommittee, of which I am chairman.

The McCollum amendment would expand the use of the Social Security card for immigration control purposes without a fair hearing before the Ways and Means Committee.

The McCollum amendment would require the Social Security Administration to issue new and replacement Social Security number cards beginning in 1999 that are as secure against counterfeiting as the $100 Federal Reserve note, and as secure against fraudulent use as a U.S. passport. That means you have to have your picture on it.

This radically changes the purpose of the Social Security card from a wage reporting document to an immigration control national identification card.

The Social Security Administration has already incorporated a series of security features designed to secure Social Security cards against counterfeiting or tampering. These include very similar technologies that were used in the recently issued $100 Federal Reserve note.

But, by implication, the McCollum amendment goes beyond this and requires that future Social Security cards have a photo I.D., one of the main features of the U.S. passport. The overall impact could result in the Social Security Administration having to replace up to 200 million cards by the year 2006, at a cost to the Social Security Administration of 3 to 6 billion dollars, depending on what you add to them.

To put this in perspective, the entire annual administrative budget for processing applications and paying monthly Social Security benefits to all 43 million eligible Americans is $3 billion.

□ 2130

Although Social Security benefit payments are off budget, SSA administrative expenses are subject to the domestic discretionary cap, and funds are already insufficient to enable SSA to carry out its mission or processing disability claims on time, or conducting the continuing disability reviews required by law.

Furthermore, SSA staffing is subject to a ceiling, and is scheduled for reduction by 4,500 positions by 1999, even though the number of those receiving Social Security benefits is projected to increase by 3 million in the same period.

While the McCollum amendment would authorize the appropriation from general revenues to carry out the new duties required, it is impossible to determine what the Appropriations Committee will fund from year to year.

In short, spending caps are tight and are projected to get tighter, and requiring SSA to assume duties outside its mission would cause further deterioration of the Social Security services it is required to provide.

The current tamper-resistant Social Security card currently issued enables SSA to credit wages and fulfill its mission administering the Social Security programs.

While I strongly support appropriate measures to curb illegal immigration and employment, I must oppose any proposals that would change the issuance or purpose of the current Social Security card without thorough examination and debate by the Committee on Ways and Means.

Most Social Security cards belong to law-abiding citizens. According to SSA, unless a totally fool-proof method is discovered to prevent fraudulent documents from being used to obtain Social Security cards, the result of reissuing these cards would be inconveniences to law-abiding citizens, rather than the added immigration control benefits intended by this amendment.

I urge my colleagues to oppose the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself 1 minute to respond.

Mr. Chairman, I just simply want to comment on my good friend and colleague's comments on this. I do not doubt his sincerity, and I do not doubt the sincerity of the Social Security Administration. But some of the things that they are putting out just does not jibe with my amendment.

One of them is, there is no new use by my amendment for the Social Security card from existing law. The Social Security card, whether we like it or not, is today utilized as one of the documents to show a person is eligible to get a job. It is also utilized in welfare. It is utilized in a lot of other places. I add not one new use to the Social Security card.

Second, through the year 2006 at least there is no real new cost to issuing cards because the Social Security Administration regularly issues new cards anyway, and reissues cards upon request, and there would be no additional demand on them, at least through that period of time, and the cost, as the CBO [Congressional Budget Office] has indicated, is very minimal to make this transition to what would equivalently be like the passports which has paper like this, that has all kinds of codes and inking and special designs in it, which today is simply not a part of the Social Security card.

I wish I could agree with the gentleman that the Social Security card, as my colleagues know, is already tamper-proof, but it is not. It is the most fraudulently used card today in America, it is rampant with counterfeiting, and that is why INS and others have so much trouble with it.

I do not wish to expand in any way, and I do not believe the costs I am imposing in any way, impinges in the way that the Social Security Administration wants, and neither does the Congressional Budget Office.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I rise in strong support of the McCollum amendment.

When Congress enacted employer sanctions as part of the 1986 Immigration Reform and Control Act, we did so in recognition of the fact that the primary reason immigrants come to the United States is to find jobs, and that we cannot possibly stop illegal immigration unless we stop employers from hiring illegal immigrants.

Unfortunately, however, we made the employer sanctions law virtually impossible to enforce, because we failed to provide a sound and dependable way for employers to determine whether or not a prospective employee is here in the United States legally.

Right now, a person can use any of 29 documents to demonstrate work eligibility. That has given rise to a huge, multimillion-dollar industry in counterfeit Social Security cards, and other documents, that are easy to forge.

It has also put employers in the position of trying to determine whether or not work authorization documents are authentic. Many employers, not wanting to take on that responsibility simply avoid hiring employees who look or sound foreign, causing widespread discrimination against U.S. citizens and legal residents.

H.R. 2202 wisely reduces the number of documents a job seeker can use to prove employment authorization, but it does nothing to make one of those key remaining documents—Social Security cards—counterfeit-resistant. That is a major flaw in this bill that this amendment would correct.

I would like to point out that using Social Security for proof of work eligibility does not pose any greater threat to privacy than already exists. All workers must already provide a Social Security number upon taking employment. This proposal would simply help ensure that the Social Security care a prospective employee shows to an employer is not fraudulent.

No matter how many other ways we attempt to curb illegal immigration, we will not succeed unless we have a realistic way of stopping illegal immigrants from getting jobs in this country. If Social Security cards are going to be one of the primary documents prospective employees use to prove employment eligibility—as this bill provides for—it is absolutely essential that we ensure that those cards cannot be easily forged, as they can be right now.

Mr. Chairman, this amendment would provide one of the most effective tools possible to fight illegal immigration. If we are really serious about stopping illegal immigration, we must ensure that the documentation workers use to obtain jobs is authentic. I urge Members to vote "yes" on the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. JACOBS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it has been said that we need a reliable source to identify illegal immigrants, or legal immigrants or legal people, citizens. So the question arises: Just how reliable would a Social Security card with a picture on it be? And the answer lies in an old Volkswagen ad on a snowy day, when a guy gets up real dark and early, gets in a Volkswagen, tools along, goes to a barn and pulls out a snow plow and they said, "Do you ever wonder how the guy who drives the snow plow gets to the snow plow in the morning?"

Now, how does one get to a Social Security card if one is not born in the United States? Submit a birth certificate. How difficult is it to fake a birth certificate? Or do we want to amend this now and require pictures on birth certificates?

The law would require that a baby submit a picture, I guess. Here we got a 3-day-old baby in the hospital, and they motor on down to the Federal building, take a shot of the baby and, as my colleagues know, people will not always look the same after 20 years or so as they do 2 or 3 days after they are born.

What would we do with Mrs. Clinton? I mean, she might look one way one day and another way another day. So how reliable is it ultimately going to be?

As a matter of fact, my own judgment is that we have had this over the years. This is about $3 billion worth of wishful thinking.

Now, let us try another one. Two hundred million mug shots on file here in the Federal Government. Well, that makes the original terrorism bill that everybody was up in arms about look like a tinker toy set. It is a noble purpose, but I do not really think that it would accomplish its purpose after we finish bankrupting the Federal Government by blowing $3 billion on it.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Florida [Mr. McCOLLUM] for yielding me the time, and I rise in support of this amendment.

Mr. Chairman, I think it is important that we make clear what this does not do. First of all, it is not a national ID card, as some have suggested. One would not have to carry it with them. They would not use it in any way different than they use their Social Security card right now, which is if someone presents it at the time they enroll with an employer for employment purposes.

There is no new use called for for the Social Security card or Social Security number. There is no new data base here. There is nothing involved here other than the information that the Social Security Administration uses right now, and yet it ends a substantial amount of bureaucracy.

Mr. Chairman, it is going to be the step toward curing the problem of dealing with whether or not, when somebody presents, they are using somebody else's Social Security number, and all manner of havoc can be caused when somebody takes somebody else's identity and uses that Social Security number. It costs the taxpayer money if we add to somebody else's record in terms of how much Social Security benefits have been paid. It can have a devastating impact on somebody if that takes place.

The bill does not require that a photograph be put on the card. The Congressional Budget Office says that it does not cost $3 to $6 billion. It costs $51 million, according to the Congressional Budget Office, our own agency, and we need this, and I am afraid I do not have the time to yield.

I support the amendment.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. JACOBS. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Chairman, as my colleagues know, I think it is time we took a look at this thing. The purpose of the Social Security Administration is to provide benefits to seniors, not to police the borders.

This card that we are talking about here costs about $10.54 to make. A card like my colleagues are talking about, if it is like a passport, is $60. Taxpayers pay for a passport. They do not pay for this except through payroll tax deductions.

Let me just read for my colleagues what the Social Security Administration says this is today. The current Social Security card is already counterfeit resistant, contains most of the features that have been incorporated in the newly redesigned $100 bill, such as small disks that can be seen with the eye, cannot be reproduced by color photographs. In addition, the current card is printed on banknote-quality card paper that has blue marbleized background with raised printing that can be felt by running one's fingers across the card.

It seems to me that maybe we are not looking at the Social Security cards when we hire people or when we ask people, "Are you a legal immigrant?"

Now I think it is time that we got down to brass tacks and said Americans do not want, do not need, and do not deserve a Federal identification card.

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of the McCollum amendment. This is not a national identification card; nothing could be further from the truth to make this argument.

We have to look and, first off, answer a simple question: Do we have an illegal immigration problem? The answer usually comes back, yes, we do. If we do, then we have to use all of the tools available to us to help solve the problem.

We currently have the technology to make identification cards highly resistant to counterfeiting. I do not know why we do not use it. Frankly, I believe we need to look beyond the Social Security card, as the previous speaker just mentioned, and apply this same technology that we have available to birth certificates and the other documents used to verify one's status in our country.

I think that would be committing the resources to the problem that we need to have in this country if we are, in fact, going to solve the problem. The Congressional Budget Office has scored the McCollum amendment at an annual average cost of approximately $51 million over the next 10 years.

Mr. Chairman, I yield to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Chairman, I believe that scoring was on a different McCollum amendment, not the present one being offered.

Mr. STENHOLM. It is my information, according to the CBO, this is the amendment that we are talking about today.

Mr. BUNNING of Kentucky. It is on the original McCollum amendment; it is not on this one.

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Mr. STENHOLM. I believe it is in fact the amendment that we are considering today, Mr. Chairman. Also, we have heard a lot of other, I believe, well-intended but misinformed information concerning the cost of the technology that we are talking about on the particular card. We will be glad to provide the additional information as to the true cost of the technology involved in making this as counterfeit-proof as possible. Nothing is totally, counterfeit-proof, that is not technologically possible, but we can do a lot better job. I do not understand how my colleagues can argue that we should not do the best we possibly can in solving the problem.

Mr. JACOBS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman from Texas said we ought to do the same thing with birth certificates. There goes another $3 billion, for my fiscally conservative friend. If it were worth $3 billion, I would be the first one to say yes, but we are a little short of change here in the Federal Government right now. If we buy $3 billion worth of wishful thinking, we have not exactly made a good bargain. It will not work.

There are not very many people in this country that want their pictures on file with the Social Security system, or any other part of the Federal Government. We can say it is not a national ID card, and we can say if it quacks it is not a duck, but it has a lot of the earmarks of a national identification card. I, for one, do not want my picture on file in the Federal Government. I do not want that many people to find out how ugly I am.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I will be brief, because I believe the arguments have been made in this particular debate very well by those who are opposing the amendment.

Mr. Chairman, let me just say that it seems odd to me, at a time when we are talking about having the Federal Government downsize and devolve and allow us to have more control locally over what happens, that we have an initiative that would create a big Government enterprise. It would ask that the Social Security Administration do with the data base it has created over the last several decades what it was never meant to do, and that is, act as an identifier program. Never was the Social Security Administration told that the Social Security number would be used to check status. Yet, as we have seen and has been admitted by Members on both sides of the aisle, that is exactly what we see.

The Social Security card is used for all sorts of purposes. Yet, we are told by the Social Security Administration that fully 60 percent of all the people who currently hold a Social Security card never had to prove that they were U.S. citizens, or whether they were here legally in this country. So we are talking about 60 percent of all the cards that we have issued out there that have no verification behind them. That will have to be provided, insurances would have to be provided, and we have to provide the money to do that. Where is the money? It is not there.

Mr. McCOLLUM. Mr. Chairman, I understand I have the right to close.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is correct.

Mr. JACOBS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Chairman, I would like to point out one thing about the Social Security Administration and their ability to deliver the services that they are now required to deliver. We have a program in Social Security called SSDI, or Social Security disability insurance. Because of lack of funds in the Social Security Administration's administrative budget, there is presently a backlog of a half million people waiting a year or more to qualify for Social Security disability. I know there are an awful lot of Members who hear from constituents who are having trouble getting on SSDI because the Social Security Administration's administrative budget is inadequate to process claims on time.

On the back end of SSDI, there is a backlog of 1.7 million people on disability that are overdue for continuing disability reviews. CDR's are not being done because the Social Security Administration does not have enough money in its administrative budget now to do those reviews in a timely fashion.

Mr. Chairman, if we could get just a little more money into the Social Security Administration's administrative budget, we could literally save billions of dollars. We have a GAO study that showed we can save $6 in benefits for every $1 we spend on continuing disability reviews. The point I am trying to make is that SSA cannot handle the functions that they are required to do now with the administrative budget that they have, without adding the additional burden the McCollum amendment would impose on SSA.

Mr. McCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me, salute him for his work on this, and rise in support of the amendment.

First of all, the Social Security card is used from one end of America to the other as an identification card right now. Who are we kidding. If my colleagues want to pass a law and say it should not be, I would ask the chairman and the distinguished minority member of the Social Security Subcommittee to pass that law. But let us admit the trust; everywhere people go they are asked for a Social Security card. In fact, one way to prove you are a bona fide person who can have a job is to ask for a driver's license and a Social Security card.

Mr. Chairman, this is an antifraud amendment. All over where we go people say, "Why can you not stop illegal immigrants or others from coming here" The No. 1 answer we give our constituents is that when they come here they can get jobs, get benefits, against the law because of fraud. Here the Gentleman from Florida [Mr. MCCOLLUM] has put together the most effective antifraud measure we can find, without it changing the actions of the Government one bit, and we find all this opposition.

Mr. Chairman, what I worry about is that this bill, which started out with good intentions, whether Members agree with it or disagree with it, is going to end up being the same kind of thing that the public gets angry with us on: We say we are doing something and we do nothing, because every time someone makes a rational and small proposal to get something done, people say, "What about this hypothetical, that hypothetical," et cetera?

Mr. Chairman, I urge support of this amendment. If Members believe they want to stop fraud and immigration, they have no choice but to support this amendment.

Mr. JACOBS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, yes, do nothing. Which would we rather do? Do nothing for nothing, or do nothing for $3 billion? Because that is what this comes up to. Now they say, "We will plug the loophole. We will just put pictures on birth certificates." States issue birth certificates. Now go out and get the 50 States to issue birth certificates with pictures on them. We do not have jurisdiction to do that. This is flawed. It will not work.

Finally, we have heard all evening long on this amendment that it is either a nickel ninety-eight or it is $3 billion. They say, "Well, the Congressional Budget Office," which the gentleman from Florida, [Mr. MCCOLLUM], never had much faith in the past as I recall, says it hardly amounts to anything. He said the Social Security Administration can do it for peanuts, which is a bad taste in my mouth from the other day, by the way. However, the proponents of this amendment say that it will cost the Social Security Administration far less than $3 billion. The Social Security Administration says it will cost the Social Security Administration $3 billion.

I say to my friend, the gentleman from New York, even though we are in dire straits financially in this Government, I think the cause is worthy. If I thought it would be effective, I would probably be advocating it. I do not think it is effective. I think it fits right into that old show tune, "I Got Plenty of Nothing," and in this case it would be about $3 billion worth of nothing, and that we clearly cannot afford.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to clarify something. I had the Social Security Administration folks in my office a week ago this last Friday. I listened to what they had to say. I batted around a number of ideas with them, including the possibility of renewing the Social Security card every 10 years. They told me how expensive and difficult that would be; what it would be like if we required hardening and doing a lot of other things.

Then I presented to them the passport and the $100 bill concept. They said "Look, the cost is not in creating the new card, the cost is in if you force us to reissue it to everybody." So I developed an amendment that does not require them to issue a new card to everybody or to reissue something every 10 years, or to reissue at all. I simply have an amendment out here to prevent fraud, as the gentleman from New York said, with the existing Social Security card, where we take it and make the single piece of paper that is not 24 pages long like the passport, that the gentleman from Texas [Mr. SAM JOHNSON] was referring to, so it does not cost anything near $60 apiece; one page, just do the type of threading, coloring, and inking this passport does, and the threading, coloring, and inking that the $100 bill does. It does not require them to do a picture or anything else, it would just make this more secure.

I said, "This is not going to cost very much," and CBO said, "Yes, it will not cost a whole lot to do this." I think it is the lease we can do if we are going to do the steps that are required to stop illegal immigration from coming into this country. That is what the McCollum amendment is all about, the key to making it work, a key to making employer sanctions work being the key to making it truly meaningful.

When we say, as the law now says, it is illegal to knowingly hire an illegal alien, and when you go to get a job, one, not the only, but one of the documents you may produce in conjunction with the driver's license is the Social Security card. We must make it tamper-resistent. We must make it at least as counterfeit-proof as the $100 bill.

I urge the adoption of the McCollum amendment for the sake of saving us from the illegal alien overrun we have.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BUNNING of Kentucky. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] will be postponed.

It is now in order to consider amendment No. 5 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. TATE

Mr. TATE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TATE: In section 301(c) of the bill (relating to revision to ground of inadmissibility for illegal entrants and immigration violators), in subparagraph (A) of section 212(a)(6) of the Immigration and Nationality Act as proposed to be amended by such section of the bill insert after clause (ii) the following clauses, and redesignate clause (iii) accordingly:

"(iii) ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien who had the intent to illegally enter the United States and who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission is inadmissible.

"(iv) OTHER ALIENS WHO HAD THE INTENT TO ILLEGALLY ENTER.—Any alien not described in clause (i) who had the intent to illegally enter the United States and who has been ordered removed under section 240 or any other provision of law and who again seeks admission is inadmissible.

In redesignated clause (v) (as redesignated by this provision), strike "(i) and (ii)" and insert "(i) through (iv)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Washington [Mr. TATE] and the gentleman from Texas [Mr. BRYANT] each will control 15 minutes.

The Chair recognizes the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first and foremost, I would like to thank the chairman of the committee, the gentleman from Texas [Mr. SMITH], for his tireless efforts on this issue. It is a volatile and tough issue, and I appreciate his efforts.

Mr. Chairman, this amendment is designed to bring honesty and integrity back to our administration system. But what most Americans are not aware of is that those that come to this country and intentionally violate our immigration laws are still eligible for legal immigration and temporary visa benefits in future years. We have created a revolving door, so to speak.

Mr. Chairman, our Forefathers, with great foresight, created a system to make this the strongest, most prosperous country in the world by allowing people from all countries to come to our great Nation. However, many take advantage of this open door policy. Even if one is caught and deported, they can still in the future apply for a student visa or a green card. This is not what America is all about.

Mr. Chairman, illegals enter at the expense of those that play by the rules, and there is no incentive to comply. There is not much differentiation between a criminal, someone who has broken the law in this country, and those that are law-abiding citizens.

Mr. Chairman, my amendment will go after those that intentionally break our laws, our immigration laws. We should not reward them with a temporary visa or an immigrant visa in the future. Our current laws send the wrong message, Mr. Chairman, to would-be illegal immigrants that there are no real penalties for breaking our laws.

Let me give a couple of examples. In recent meetings as of last year with my local policemen and women in the city of Tacoma out in Washington State, I was shocked and taken aback to discover that a majority of their time investigating narcotics claims is dealing directly with non-citizens of the United States.

I was also surprised to realize that the Seattle Police Department spent an inordinate amount of time investigating international organized crime networks in our area. It is no wonder that those who break our laws to enter this country do not think twice many times of breaking our laws once they get here as well. They are using our resources, those resources that could be spent more wisely in our community.

A recent preliminary estimate by the Congressional Budget Office states that this amendment will add no additional cost. In fact, I believe it will save money in the long run. My amendment is to restore a strong sense of law and order in regards to immigration, to restore that strong sense of pride and accomplishment for those who play by the rules and to punish those that violate our laws for selfish gain.

This particular amendment has been endorsed by the Americans for Tax Reform, the Federation of Americans for Immigration Reform, and an organization in my State that represents over 90 percent of the police officers, an organization entitled "COPS."

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This amendment is a one-strike, commonsense provision. It provides incentives for people to obey our laws, not to reward those that break our laws. There is a right way, Mr. Chairman, and a wrong way to enter this country. We need to reward those that enter the right way.

Mr. Chairman, I believe my amendment will serve to strengthen H.R. 2202, the Immigration in the National Interest Act, and bring honesty and integrity back to United States immigration law.

Most American don't know it, but any individual who enters the United States illegally and is deported, is still eligible for legal immigration or a temporary visa in future years. The United States border has become a revolving door for illegal immigrants. It's time we shut that revolving door forever.

From the time of our forefathers, United States immigration policy has provided the opportunity for millions of people to come to America to help us build the strongest, most prosperous democracy in the world. In more recent years, however, many have begun to take advantage of our open door policy and our generosity. Today, some believe that immigration to the United States is a right instead of a privilege.

Every year, 300,000 people enter this country illegally—breaking our laws and betraying our openness. The U.S. Immigration and Naturalization Service estimates that 3.8 million people currently live in this country illegally. Even if these illegal immigrants are caught and deported, any one of them can later apply for a student visa or a green card without penalty. This is not what America is all about.

Illegal immigrants come to the United States at the expense of those who choose to play by the rules and come to America legally. While millions or honest people wait years for their applications to be processed so they can join their relatives who have legally immigrated to the United States, hundreds of thousands sneak across our borders in the dark of night without conscience. There is no incentive to comply with our immigration law because we do not differentiate between these criminals and law-abiding individuals.

My amendment will put an end to this madness by taking a strong step in the right direction.

According to my amendment, if an individual breaks our immigration laws by intentionally entering the United States illegally, he or she will never be rewarded with any kind of temporary or immigrant visa. Not 1 year later, not 20 years later, never—one strike you're out.

We must use our scarce immigration resources wisely instead of wasting them on people who have no respect for the privilege bestowed upon them by American citizens.

This is a commonsense approach to a problem that has plagued America for decades. Our current law sends the wrong message to would-be illegal immigrants—you won't be penalized for breaking United States law. It is no wonder that so many illegal immigrants are drawn to crime once they reach our country. Police organizations in my home state believe that illegal aliens have a significant impact on crime.

According to the U.S. Attorney for western Washington, illegal aliens in the Puget Sound region are involved in bank fraud, credit fraud, check kiting, false marriages, assault, extortion, and drug dealing. The Tacoma Police Department reports that illegal aliens account for a large percentage of narcotics related crime in its jurisdiction, while the Seattle Police Department reports illegal aliens are involved in international organized crime rings and ethnic street gangs. The Governor's office recently released statistics showing that illegal aliens account for 14 percent of Washington State's prison population. My colleagues have assured me that there are similar problems in their States. Clearly, these are not the caliber of people that deserve legal immigration benefits from U.S. taxpayers.

That is why I am working to enact this reasonable change to American immigration law. Simply said, if you don't obey immigration laws, you will not get a green card. Illegal immigrants will be illegal forever.

My amendment will deter immigration at no cost to the American taxpayers. A preliminary/informal cost estimate from the Congressional Budget Office finds that my amendment will not significantly affect the Immigration and Naturalization Service's workload, and therefore, will result in no significant costs to the Federal Government.

Some Members have expressed a concern that my amendment will inadvertently apply to individuals who enter the United States legally on a temporary visa and stay on once that visa has expired. I can assure you, Mr. Speaker, that my amendment does not apply to visa overstayers. I have consulted with legislative counsel and counsel and the Judiciary Subcommittee on Immigration and Claims. They agree that because my amendment applies only to individuals who intentionally entered the United States illegally, it will not affect visa overstayers. The burden of intent will be very difficult to prove in the case of an individual who legally entered the United States.

Others have asked whether my bill will permanently bar minor children who enter the United States illegally with their parents or another adult from future legal immigration benefits. The answer is no. My bill only applies to people who had the intent to cross our border illegally. According to common law, children age 7 and under are incapable of possessing criminal intent, while children 7 to 14 can be found to have criminal intent but such intent is very difficult to prove.

Mr. Chairman, my amendment is sound immigration policy that will return a strong sense of law and order to U.S. immigration law. It will give those who play by the rules and follow our immigration laws a sense of pride and accomplishment and will punish those who, with no regard for their fellow man, choose to violate our laws for their own selfish gain. We must return honesty and integrity to American immigration law.

My amendment has been endorsed by the Federation for American Immigration Reform, Eagle Forum, Americans for Tax Reform, the Carrying Capacity Network, Washington State Citizens for Immigration Control, and the Washington State Council of Police Officers. These organizations all agree that we must impose strong penalties against illegal immigrants in order to deter future illegal immigration and to bring common sense back to U.S. immigration law.

I urge my colleagues to support my amendment and return common sense to U.S. immigration law.

Mr. Chairman, before I reserve the balance of my time, I would like to enter into a brief colloquy with the chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. TATE. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask the gentleman this question. It is my understanding that your amendment is designed to deny immigration benefits to individuals who intentionally enter the United States illegally, is that correct?

Mr. TATE. Yes, that is correct. My amendment applies only to those individuals who knowingly and intentionally enter the United States illegally. It is intended to apply to those who enter the United States with fraudulent documents, knowingly fraudulent, those who enter with no documents and those who purposely avoid Federal officials by sneaking across the border without inspection. It is not intended to apply to individuals who in good faith present themselves at the border for inspection with a visa or other documentation required by Federal law to enter the United States and whose legal admission is denied because the Federal immigration officials determined that the applicant's reasons for entering the United States do not reasonably fall within the scope and the purpose of the stated reason for entry with a visa or other documentation.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to this amendment. I think it is a case of just one-upping a provision that is already in the bill. It makes it a much stronger penalty than current law with regard to people that try to come into the country illegally. I am fearful that it is this kind of sort of piling-on amendment that is going to make this bill tough for everybody to support, many of the people who are supporting it.

First let us just apply some common sense to it. Let me tell what the bill does. The bill says already that you can exclude people from 5 years to 10 years depending on the category they are in if they come into the country illegally and are ordered removed. We have already got a stiff penalty in the bill. That is an increase over the current law. It also proposes in the bill a new 10-year bar on any alien unlawfully present in the country for an aggregate period of 1 year. That is a pretty tough penalty in my view. This amendment just goes further and says they are going to be excluded permanently if they come into the country illegally one time.

Let me just point something out. It is going to have no deterrent value because the vast majority of the people that come into the country illegally are going to have no idea that is in the law, so it is not going to stop anybody from coming. Other provisions in the law I think will, but this one will not.

Second, it is going to no doubt lead to a variety of very cruel situations where somebody comes into the country illegally to see members of their family, and I do not condone that, of course, but the fact of the matter is we are going to have situations where people like that later on as a member of a family are going to be eligible to come in in some fashion or apply to come in in some fashion, and I think it is wrong to put something in the law that is not going to deter anything, but lead to what very likely would be an inadvertent family tragedy.

They can come back and say the Attorney General has the discretion to waive the application of the law and give consent to come in, anyway. How many people are going to have the wherewithal to apply for that kind of special treatment from the Attorney General of the United States? I do not think very many at all.

We have already got a tough provision in the bill. It is a 5- to 10-year ban. It is a 10-year ban if you stay in the country illegally for a year. That is a much harsher provision than we have in the current law an it is sufficient. The Tate amendment just goes too far. One strike is not enough for anybody.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in strong support of this amendment. Since the dawn of our Nation, immigrants have been the backbone of growth, creativity, and opportunity for America. I know these truths to be self-evident because I am the granddaughter of Polish immigrants. We must remember the distinction between legal and illegal entry into America. Hundreds of thousands of people enter this country legally every year and contribute a great deal to our society. However, hundreds of thousands more scoff at our laws by sneaking across our borders. I know firsthand. I have watched them. They overstay their visitor visas and they abuse our legal immigration system. Our current immigration laws send the wrong message to individuals that would break our laws: "If at first you don't succeed, try, try again to receive the fruits of our society."

This amendment is going to bring honesty and integrity back to the U.S. immigration laws. Simply put, "If you don't play by the rules, then you don't get to play at all. No more warnings, no more slaps on the wrist. When we catch you, you're gone."

Never again will those who break the law be rewarded with a temporary or immigrant visa. No longer will they be able to enjoy the benefits of our hard-working citizens and the ones they are entitled to. Not 1 year later, not 10 years later. "One strike and you're out."

This amendment will return a strong sense of law and order to the U.S. immigration law. It will give those who choose to play by the rules a sense of dignity. If we are to remain true to our heritage, we must ensure that immigration is once again seen as a noble experience that enriches America both economically and socially rather than be demeaned by criminality and deceit. That means denying the benefits of our society to those who break our immigration laws while rewarding the honesty and patience of hundreds of thousands of others with the opportunity to obtain their goal, a chance to live the American dream.

Mr. Chairman. I urge my colleagues to support this amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. I thank the gentleman for yielding me the time.

Mr. Chairman, let me say that I would agree with the remarks of the gentleman from Texas in opposing this particular amendment. We currently have in existing law prohibitions, civil penalties, criminal penalties as well, jail terms that would be served by someone who was in the country without documentation. We also have under current law provisions that would cause the deportation and exclusion of an individual from this country for many years.

Under this bill that we have before us, the penalty is increased even more as the gentleman from Texas mentioned, up to 10 years, you would be banned from being able to come into this country if you are caught without documents.

Mr. Chairman, this bill goes the final step and says, "If we catch you, you can never return." It takes into account not one bit what the circumstances may have been for that individual who was in the country.

If that individual happened to be here and had a great deal of family here and made the mistake of trying to come in here without documents, let us make the person pay a price. But to forever banish that individual from seeing a family member in this country I think is extremely harsh.

Ten years is very severe punishment to serve and that is already in the bill. But let me mention something that most Members probably are not aware of that this amendment does not do.

Here we have again an amendment that treats classes of people differently. If you happen to be here through a visitor's visa or a student visa, you have come into this country legally. You entered with proper documentation and the authority of this country to be here. If you overstay the tenure of that visa, whatever the term may be, then you have now become undocumented because you no longer have a right to be in this country. Yet this particular amendment does not address that problem.

Is it a big problem? More than 50 percent of all the people that are in this country as undocumented come into this country legally. They they overstay their visas and do not return, and then they become undocumented individuals. Yet this amendment would do nothing to those individuals who have come into the country under legal means, yet overstayed and are now undocumented.

Here again we seem to see an amendment that attacks the issue with a very small perspective, with blinders, and says only to those who have crossed a border, and certainly the focus is on the southern border, and certainly it is in regard to people who look like they come from across the southern border, and its says to those individuals, "Forever more you will be denied access to this country." Admittedly, you committed a wrong, and everyone should admit that, and that person should be punished, not only with deportation but with punishment that would require that person not be able to come into this country for a time. But this amendment goes well beyond and says never again will you set foot in this country regardless of how compelling your case is to perhaps at some point come back. At the same time while it is doing this as dramatically to this one individual, this immigrant, in denying him or her access, it says to fully 50 percent or more of those who are undocumented into this country, that they do not have to worry about this amendment because it will not apply. I think that is not only unfair treatment but unwise policy.

I would urge Members to reject this amendment and vote against it.

Mr. TATE. Mr. Chairman, I yield myself 30 seconds to respond.

A couple of points. This amendment is directed at intent, the intent to knowingly come into the United States and breaking our laws of immigration. If the gentleman does have concerns in other areas of illegal immigration, I would like to join with him to address some of those issues. This amendment is specifically on those whose intent is to violate our immigration laws.

Mr. Chairman, with that I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman from Washington [Mr. TATE], the author of this common sense amendment, for yielding me the time.

I do say this is common sense, which is what many Americans believe that we in Washington do not seem to have. But, something tells me that this is also one of those if-the-American-people-only-knew issues. What would the American people think if they knew that aliens could wantonly violate U.S. law by crossing the border illegally and then be welcomed with open arms just a few years later?

We have heard throughout this debate that people in other lands see the United States as a land of promise. Let me suggest a play on words. This is a land of promise, and if we pass this amendment, we will be saying, "If you attempt to cross our border, we promise you will never be allowed to come here again." This will be a deterrent I do not know what the opponents are speaking of. This will be a common-sense deterrent way to get control over our borders.

The files of my district office, and I suspect they are the same as yours, are filled with cases of people who are working within the INS system to come to America. They filled out the paperwork, in some cases several times. They have played by the rules and waited their turn. Yet the continuing flood of illegal immigration is unfair to them. It is a disincentive to play by the rules and, I might add, a strong disincentive to all our forebears who played by the rules and came through Ellis Island, whatever way that was at that time. Indeed, millions of Americans today work within our system and are outraged, I hear this at the beauty parlor every week, outraged by the thousands of people who sneak across our borders in the dead of night when they and their parents before them waited 1, 2, 5 years to get in.

Mr. Chairman, the one-strike-and-you're-out amendment will attach a real penalty to those who have crossed our borders illegally. It is a common sense measure and it will prove to be a very effective deterrent.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

This is a press release, OK? This is not an amendment. This is a press release. So you folks can write letters home and say, "Oh, boy, I got tough on illegal immigration." This bill gets tough on illegal immigration. Unfortunately, I guess the situation is that some do not feel that by cosponsoring the bill or voting for it they are going to get enough of a zing out of the press release when it gets back home again.

□ 2215

The fact of the matter is you are putting these people that will never even know what our law is and wander into the country, come to the country on purpose trying to make a better life for themselves in the same situation in which we put international terrorists. It is perfectly ridiculous to say we are going to have a permanent ban on somebody who is totally ignorant of our laws and comes into our country illegally. The bill puts a 10-year probation on some and 5 years on others. It is based on a lengthy study by the commission that was chaired by Barbara Jordan and by the previous commission that came out of the 1986 bill. This amendment is not based on any study. I think on the face of it, obviously it is not going to have any impact. Do not pile on this bill and make it impossible to pass, for goodness sakes. There is no point in putting these folks in the same category that you put an international terrorist. There is no logical person that thinks that a jobless person who is desperately looking for a job as a waiter and comes across the border is going to know in advance he is going to be permanently barred from the United States if he does that. There is no way to argue that. I just simply urge you guys not to take everything to extremes. You are going to get a good enough press release by voting for the bill. Do not mess the bill up with something like this.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield myself 1 minute to respond.

The press release argument is, let us face it, is a bogus argument. What this comes down to is common sense. That is what we are looking at. There is a right way to come to America and a wrong way. It is unfair to those that stand in line, that go through the bureaucracy, that do it the right way, to find out that there is someone standing maybe in front of them that came here previously.

Once again, this comes back to the issue of intent. There is a wrong way and a right way. We have got to continually come back to that. It is unfair to those that play by the rules to see someone next to them that does not.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Mr. Chairman, I first want to commend the two gentlemen from Texas, Mr. SMITH and Mr. BRYANT, for their hard work on this very important bill.

I rise in support of H.R. 2202 and this amendment which will bring back honesty and integrity to the U.S. immigration laws. From the earliest days of our Nation, the U.S. immigration policy has provided opportunity for millions of people to come to America and to help us build the strongest and most prosperous democracy in the world. However, many people have begun to take advantage of our open-door policy and our generosity. I represent 22 Texas counties and many of the judges, the county judges in those 22 counties, tell me they spend substantially over 50 percent of their indigent funds on indigent illegal aliens and not indigent American citizens.

Currently, illegal aliens who are deported can turn around and apply for legal immigration or a temporary visa 1 year later, and this amendment will correct that egregious policy.

Immigration to the United States is not a right. It is a privilege. If immigrants do not choose to play by the rules, then they should not be allowed to immigrate to the United States. This is a simple commonsense approach to immigration reform. Simply put, if you break our immigration laws, you can never be rewarded with the right to immigrate or enter the United States.

People in my district constantly say to me, "GREG, why cannot the U.S. Congress apply some common sense to the laws it passes?" This bill makes common sense. And to the gentleman from Dallas, my good friend Mr. BRYANT, I would say this is a deterrent, and word does spread among the community of those who are considering illegal entry. And while you may disagree, those of us that support this amendment feel like it will be a deterrent.

So if you entered the United States illegally, you forfeit the right to ever become a U.S. citizen. That is common sense, Mr. Chairman. Let us pass this amendment. Let us reward those who play by the rules in how they enter our country, and let us punish those who enter illegally.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would just like for you guys, just stop and think about something. You have got a guy desperate for a job, he has got a serious short-term need, there is an American employer lured him over there. He is young, crosses the border to get the job. The result is he finds out when he grows older, he is permanently barred for the rest of his life from being able to apply for legal entry into the United States.

It does not make any sense at all. Tomorrow, I dare say, every single Member is going to have a press release in the mail back to hometown newspapers about how tough you got on illegal immigration, when, in fact, after 10 or 12 years studying it, nobody has ever said a permanent bar could be communicated back to the population and would have any deterrent value whatsoever.

Why go to extremes? We have a 10-year bar in the bill now. We have a 5-year bar for some categories. Why must you put these people in the category of being like the international terrorists, for goodness sake. If it is such a bad thing, why do you have a waiver in here to let the Attorney General waive this ban?

If these people deserve to be banned for life for crossing the border, why would you let the Attorney General ever waive that ban.

I will yield to the gentleman from Washington for his answer.

Mr. TATE. I thank the gentleman for allowing me some time.

A couple of points in your example. The poor gentleman that was lured across the border would not fall under this, because, if you look specifically in the bill, it talks about intent, not someone who has had the issue misrepresented to them that was lured across the border. It deals with intent to knowingly come across.

Mr. BRYANT of Texas. Reclaiming my time, we are talking about a situation in which a business on the other side of the border which was offering jobs, and the guy says, well, I know I do not have any papers, I am going to cross anyway and get that job because I need the money. That is what I am talking about. That would purely manifest intent.

Mr. TATE. Mr. Chairman, it comes back, there is a right way and a wrong way to come across the border, and the ends do not justify the means. Once again, that is taking the jobs away from working Americans when someone comes across the border the wrong way. Once again, it is a privilege to come into this country.

Mr. BRYANT of Texas. Reclaiming my time, I think everybody agrees with that. That is kind of a platitude. We are talking about the difference of a 10-year ban and lifetime ban. Why would you stick anybody with a lifetime ban, for goodness sake?

Mr. TATE. Once again, with the limited Federal resources we have in this country, with my own example in Tacoma, WA, all the resources our taxpayers pay to the local police departments, and substantial amount of time spent investigating narcotics claims in the city of Tacoma, WA, not a border town, along our southern border or our northern border, a town like Tacoma, WA, where they are spending those resources, those taxpayers have a right to ensure those dollars are being used properly.

Mr. BRYANT of Texas. Reclaiming my time, let us talk about immigration. So a Canadian wanders across the border at a young age and wants to get a job and goes back again and finds out 20 years later, when he goes to apply to come here legally, maybe he has got a job, maybe married to an American, he cannot come for the rest of his life because he came across the border into Washington State when he was a young man. Is that not a curious result? For the rest of his life, he is permanently banned. Is that not a curious result?

Mr. TATE. Once again, I reflect back to my earlier statements. That it is not unreasonable to expect someone that would come to this country, when there are people waiting to come here, that they should be able to jump ahead in line, and the people, I think, of this country would be outraged to find out we have very few laws on the books.

Mr. BRYANT of Texas. Suppose a person gets married. You mean, they cannot come in the country with their new wife because at a young age they crossed the border illegally, for the rest of their life they cannot come across and live with their spouse.

Mr. TATE. Our current law, as you know and I know, currently provides preference to spouses to come to this country. In fact, they get priority.

Mr. BRYANT of Texas. This is a permanent ban in your amendment.

Mr. TATE. There is a right way and a wrong way to come to America.

Mr. BRYANT of Texas. Reclaiming my time, let us get this pinned down. Is it or is it not the case that your amendment would say that a person who crossed the border at an early age and later in life married an American citizen, could not come in the country to live with his American citizen spouse because the Tate amendment said the rest of his life he is banned. Is not that what it means? That is what it means.

Mr. Chairman, I reserve the balance of my time.

Mr. TATE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, several issues that I would like to address once again. What we are talking about here is eliminating fraud in our system to ensure that those that come across the border have played by the rules. What frustrates Americans, as the gentlewoman from New Jersey stated, is there are people that come to our country many times that do not play by those rules. We are trying to bring honesty and integrity back to the system. What has made this country great, as I stated in my opening remarks, is it has been open to people from all walks of life, from all backgrounds, that have made this country the great country that is.

But many people find it interesting that we do not have laws on the books to deal with those that come back come to our country illegally and come back years later and are still qualified and may be ahead in line. Once again, we need incentives in our system to encourage people to comply with our laws.

My amendment is just common sense, says one strike and you are out proposal, that is not going to cost the taxpayers more money. It is, in fact, going to save money. It will reward people that come here the right way and that they should not be trampled on by those that come here the wrong way.

Mr. Chairman, I yield back the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the only reason I would make a big issue in this debate out of this is because I want to deter Members from supporting amendments that make this bill so extreme that it is no longer tenable.

Look, a guy, let us just take a guy, for example, it could be a woman, too, comes into the country at a young age, crosses the border in search of a better life or adventure, whatever, gets caught, gets deported, many years later he marries somebody who is an American citizen.

Under the Tate amendment that person can never for the rest of his life enter this country. He cannot come here and live with his wife or if it is a woman, her husband. This is a ridiculous result. That is not going to deter anybody from coming here illegally. The bill already increases the penalty for coming illegally. You can be banned for 5 years in one category, 10 years in the other. That is enough.

We did a lot of work on this bill; we considered it a very, I think, careful way. We took our time with it. It is based on a lot of study and a lot of work by a lot of experts. These sort of ad hoc ideas that sound great when you send it back home in the newspaper, but have enormously negative consequences on a lot of people and do not deter any bad actions should not be in this bill.

I urge Members to vote against the Tate amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. TATE].

The amendment was agreed to.

Mr. GOODLATTE. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. TAYLOR of North Carolina) having assumed the chair, Mr. BONILLA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, had come to no resolution thereon.

□ 2230

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE STUDENT LOAN PROGRAM AND THE DEPARTMENT OF EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

Mr. GRAHAM. Mr. Speaker, I would like to take this opportunity to bring up a subject that is on many people's minds and affects every Member of this body, and that is the student loan program and the Department of Education's mishandling of almost 1 million student loan financial aid applications. I have got behind me here an article in last week's Chronicle of Higher Education. The article is titled, "Sorting Out a Foul-up in Student Loans." The foul-up is that 900,000 financial aid applications that should have already been processed by the Department of Education are in a bureaucratic backlog caused by the irresponsible mismanagement of the student loan program.

Before we go any further, I think it is important to note the way the student loan program works. Most student loans are guaranteed by the Federal Government, and the money comes from a private banking institution. The banks will be reimbursed in the event of a default, 98 cents on the dollar. We are trying to streamline that process to have more risk being shared by the private sector. But believe it or not, there is a move afoot to replace private-sector capital, private-sector enterprise and have the Federal Government become the sole lending agency for student loans in this country. Can you imagine the Department of Education becoming the third largest consumer loan entity in the United States?

Now, what this means is that there is a move afoot by this administration to replace the private sector totally where we share risk with the private sector. The Federal Government cosigns these notes and in the event of a default, the private sector absorbs part of the loan default and the Federal Government absorbs the largest part. But the direct lending program advocated by the administration would totally take the private sector out. The Department of Education would become the third largest consumer loan institution in America.

You would have bureaucrats at the Department of Education become bankers. They would lend the money. They would collect the money in theory and it would be a disaster. It would be a disaster for the taxpayer. It would be a disaster for the students because the very same group that would be in the banking business is the very same group that is trying to process applications for loans that would be approved by the private sector. The state of that situation is that 900,000 student loan applications are backlogged and the Department of Education is trying to blame it on the snow and the shutdown of the government for 21 days. Both of them are just flat false reasons.

The truth is that it is a very bureaucratic, very ineffective system that they have in place to process these loans. The last thing in the world we need to do is to extend their power, not only let them process the applications but lend and collect the money. That would be disastrous for the American taxpayer.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, it is very interesting. The Secretary of education has moved this into the political arena and has identified the government shutdown, the weather as being reasons why they have this tremendous backlog. In reality, the reason for this backlog is last fall the department was late in developing the new forms. They had some severe computer start-up problems. The Secretary of Education had the authority, actually had the responsibility to keep the people working who worked on the student loan program during the government shutdown but decided not to have those people employed and to furlough them even though they are on permanent appropriations.

As oversight chairman, we challenged that decision by the Secretary of Education. The OMB came back and instructed the Secretary of Education that their application of government rules and regulations was being applied inappropriately, that these people should be at work, and so now to come back and put the blame on Congress is totally inappropriate.

I think the gentleman brings out another good point here because we had a hearing today. We had a hearing on the Corporation for National Service. The same thing that is going on with the student loan program is going on with the Corporation for National Service, the student loan program is mismanaged, mismanagement of financial resources. Corporation for National Service, $500 million per year of taxpayers' spending, the books for 1994, the books for 1995 are not auditable. This is not just student loans, this is a pattern of mismanagement of tax dollars throughout a number of different agencies through the Federal bureaucracy.

I thank the gentleman for yielding.

BRIDGEHAMPTON KILLER BEES WIN NEW YORK STATE CLASS D BOYS BASKETBALL CHAMPIONSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. FORBES] is recognized for 5 minutes.

Mr. FORBES. Mr. Speaker, I rise today to pay a special tribute and to congratulate the championship Bridgehampton Killer Bees for winning the New York State Class D boys basketball championship. It is indeed a momentous occasion for all of us on eastern Long Island. This is the sixth time in 19 years, Mr. Speaker, that our beloved Killer Bees of Bridgehampton High School are the New York State Class D boys varsity basketball champions.

There is tremendous pride throughout eastern Long Island as we listened over eastern Long Island radio WLNG as the Killer Bees, led by their coach Carl Johnson, went on to victory. It is the same Carl Johnson, by the way, as coach but formerly as a player who himself participated in three State titles from 1979 until 1980 as a player in Bridgehampton. The Killer Bees earned the 1996 title by defeating West Canada Valley 51–37 last Saturday evening March 16 at the Glens Falls Civic Center in Glens Falls, NY.

The six State championships are the most ever by a New York school, and coach Johnson is the only person in State history, Mr. Speaker, to win a scholastic basketball title as both a player and a coach. While all class D schools have small enrollments, Mr. Speaker, with just 43 students, Bridgehampton High School is the smallest on Long Island and the third smallest in the State of New York. But they well may be the mightiest. But as coach Johnson proved, the only true measure is that of his players' heart and determination.

Unlike larger schools with a larger pool of eager young athletes, to build his championship 15-player squad, coach Johnson drew from a talented pool of just 18 young men at Bridgehampton High School. The Killer Bees were led by seniors Terrell Hopson, Nick Thomas and Nathaniel Dent and juniors Fred Welch and Javed Khan. Among Bridgehampton's top underclassmen is sophomore Maurice Manning who is the team's top scorer and the most valuable player in the State Class D tournament.

Other sophomores include Charles Furman, William Walker, Louis Myrick, Matthew White, and Marcos Harding. Freshman players are Ronald White, Kareem Coffey, Daniel Muller and Jemille Charlton. Carl Johnson's top assistant coach is Bobby Hopson, and Bridgehamption's athletic director is Mary Anne Jules.

Mr. Speaker, Bridgehampton finished the season with a 20–4 record. Besides the New York State title, the Killer Bees also earned the Suffolk County Class C–D championship. They went on to defeat Valhalla in Westchester County by 67–55 in the regional finals and then Bridgehampton went on to defeat Hermon-DeKalb 69–23 in the State semifinals. The top high school Class D boys basketball team in New York, our own Bridgehampton High School, was supported all season by a legion of truly loyal fans, just about the best basketball fans in the State.

According to one news report, a contingent of 50 hometown boosters followed their team for the 6-hour journey 350 miles from Long Island's South fork to Glens Falls, home of this House's chairman of the House Committee on Rules, JERRY SOLOMON. At Glens Falls New York State's high school basketball tournament was held last Saturday evening. We got to listen over the radio as Bridgehampton was victorious.

When the coaches and players returned home, Mr. Speaker, hundreds of their neighbors were waiting at the local high school to cheer their conquering heroes, and thousands, as I said, followed the action on local radio station WLNG. With multiple championships garnered on the basketball hardwood with only minimal resources, Bridgehamption High School's success has caught the attention of renowned academics John Katzenbach and Douglas Smith who profiled the Killer Bees in their 1992 book, the Wisdom of Teams, published by Harvard Business School Press.

Congratulations to all the Killer Bees. May you bring back many more State titles to our neighbors here on Eastern Long Island and throughout Suffolk County.

[From the Long Island Newsday, March 18, 1996]

HAIL, BEES!

(By Samson Mulugeta and Jordan Rau)

Marian Ashman had seen them all. For 63 years, she'd followed the Bridgehampton

Killer Bees. She'd seen the best players on five championship teams. But on Saturday night after traveling 350 miles to upstate Glens Falls, she saw her team win the state championship for the first time.

As the buzzer sounded with the score of 51–37, Ashman jumped from her seat screaming, her left arm shooting into the air.

"When I think about the whole New York state, I start thinking about it and I start crying," said Ashman, 71, as she watched the players pile off the bus yesterday for a victory celebration at the high school.

The team, which captured its record sixth state Class D title, arrived in the East End village escorted by a honking procession of fire trucks and cars.

As they turned into the high school parking lot, team members were greeted by hundreds of cheering fans, who had been waiting most of the afternoon for their arrival.

Senior Nick Thomas, the first off the bus, held the plaque over his head, Stanley Cup-style. As the players stepped off the bus they were engulfed by the chanting crowd and were hugged by family and friends.

Thomas said the team wasn't sure what would await them. "We didn't really know it was going to happen," he said at a reception in the school, where the community feasted on chicken, macaroni salad, cakes and soft drinks. "Being that our fans are who they are, we knew they would show some kind of appreciation. It's a great feeling to experience."

Younger fans played pickup games in the school gym while waiting for the champions to arrive. Some said they looked forward to having their chance to play for the school.

"This is so exciting, they hadn't done it in 10 years," said Chris Ranum, a 12-year-old on the junior high basketball team. "I just want to play on the team, we can take it every year up to the state championship."

The Killer Bees captured the championship by defeating West Canada Valley of Newport, 51–37, to win the title for schools with enrollments of less than 200. Bridgehampton, the third smallest high school in the state, has an enrollment of 43, and 15 of the 18 boys in the school are on the team.

It was the team's first trip to the state tournament since 1991. The team won three straight state titles from 1978 to 1980, and earned its previous state championship in 1986.

Despite its status as the Little School That Could—or maybe because of its small size—the Killer Bees had devoted fans. Forty-nine of them boarded a bus in the village Saturday morning for the six-hour trip upstate.

Paul Fishburne, 46, said he had to be there to cheer on the boys.

"You've got to be crazy to go on this trip but it's worth it," he said.

For Lamont Avery, who turned 43 Saturday, it was a birthday trip.

"I haven't been off Long Island for two years," he said.

For Curtis Ellis, the Bridgehampton basketball tradition is a family affair. Ellis played on championship teams in the early 1970s. Now his son, Terrell Hopson, is repeating the cycle.

"From generation to generation, it goes on," said Ellis, 42. "You could say the Bridgehampton Child Care Center is our farm system. Every kid who goes there starts playing as soon as they can walk and they grow up listening about the legends."

The Killer Bees perform so consistently well with minimal resources that management gurus John Katzenbach and Douglas Smith profiled them in their 1992 book, "The Wisdom of Teams," published by Harvard Business School Press.

"Here's a team whose members very seldom reach 6 feet and for the most part has no superstar players," said Henry Letcher, a teacher at Bridgehampton High School who helped organize the bus trip.

"But they defy expectations just because they play unselfishly," Letcher said. "They work so hard and are so focused on their goals."

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

[Ms. ROS-LEHTINEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

UNEMPLOYMENT SHOULD BE LOWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, during the last 3 years, more than 1½ million people have lost their jobs due to major corporate downsizing, 1½ million. This was before AT&T announced a reduction of 40,000 jobs, and Ford Motor Co., 6,000 jobs, and on and on. Nor does it count many thousands of employees who have lost their jobs in very small businesses which have closed due to NAFTA, GATT, and other weak trade policies.

We had a trade deficit of $153 billion last year, Mr. Speaker. Most economists say that we lose at least 20,000 jobs for each $1 billion. That means we lost over 3 million jobs last year due to imports, 3 million jobs lost to other countries. We simply cannot keep letting this happen every year. We do not want a trade war, Mr. Speaker, but we seem to be in one now and we seem to be losing.

We have thousands and thousands of college graduates who cannot find jobs in the fields for which they trained, so they are taking jobs as waiters and waitresses. And certainly this is honorable employment but not what they had hoped and dreamed and worked for. Or they are going to law school or medical school, fields in which there are already huge surpluses.

Our unemployment rate is relatively low. We wish it was lower. But while unemployment is fairly low, our underemployment rate is terrible.

□ 2245

If we are ever going to do anything about this horrendous under employment, we have to turn this Nation around. We have to show more concern for our own people. We should not be against anybody, but at the same time we need to put our own people and our own Nation first, even if we get called names by the liberal elitists and others who worry about being politically correct more than they worry about anything else.

Over riding all of these other problems, Mr. Speaker, is our national debt over $5 trillion. I think, Mr. Speaker, that the reason we are not more concerned about this national debt is that many people do not fully realize how harmful it is to them. Almost every economist tells us that this national debt is really holding this country back economically and that it puts our economy on a very shaky footing.

Times are good now for some people, Mr. Speaker, but they could and should be good for everyone. People making $5 or $6 an hour could be making $15 or $20 an hour, or more, if our Federal Government was under control from a spending, taxing, and particularly from a regulatory standpoint.

President Clinton, when he was campaigning in 1992, said he could balance the budget in 5 years. Now, in 1996, he reluctantly says 7 years from now is the best we can do. And the truth is that almost no one believes we will really do it even then.

The American people should be upset by this. They should be angry. But far too many think everything is all right because the stock market is booming. But could this be the lull before the storm? It will be unless we start doing what is right.

The right thing to do, Mr. Speaker, is to balance our budget this year, not 7 years from now. The right thing to do is to lower taxes on working families. The average person pays half of his or her income in taxes now, counting taxes of all types: Federal, State and local, sales, property, income, gas, excise, Social Security, and on and on.

The right thing to do is to drastically downsize our Government and decrease its costs. Right now only Government bureaucrats and fat cat Government contractors are benefiting. The few are benefiting at the expense of the many.

The right thing to do is to let our own people keep more of their own money so more families could stay together. The kindest, most compassionate thing we could do for our children is to create another high-sounding Government program, but the kindest, most compassionate thing to do would be to let parents keep more of their own money so they can do more good things for their own children. The question is, do we want to spend the money on the bureaucrats and their unbelievable administrative costs, or do we want to spend the money on our children? Even our crime rate, Mr. Speaker, would go down if we could downsize our Government and decrease its cost.

I spent 7½ years as a criminal court judge before coming to Congress. Every study, every single one, shows that almost all felony crimes are committed by men who come from father-absent households. Most marriages; one recent study said 59 percent of all marriages break up over finances.

In 1950 the Federal Government took 2 percent in taxes from the average family. State and local governments took a similar amount. Today the Federal Government takes almost 25 percent, and State and local governments a similar amount. Is it any wonder then, Mr. Speaker, that families do not have what they need to stay together and that our crime rate and many other problems grow worse?

We can do much better, Mr. Speaker, much better, and almost all our problems would be much less serious if we get our Government under control and let the people take control of this Nation once again.

THE MYTH OF THE MAGIC BUREAUCRAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 5 minutes.

Mr. HOEKSTRA. Tonight I want to talk a little bit about actually building off the comments of my colleague about the need to downsize Government. I think we, as a Nation, have kind of become afflicted with what I call the myth of the magic bureaucrat. What is the magic bureaucrat, or what is the myth of the magic bureaucrat? The myth of the magic bureaucrat is the widely accepted belief that Government bureaucrats spending taxpayer money can solve all of our Nation's problems. More importantly, the description says that a magic bureaucrat is more able to spend our money more effectively than what the taxpayer can.

Why is this a myth? The magic bureaucrat is a myth because it is popular and it is a widely held belief, but it is fundamentally untrue and unsustainable by objective reality.

Who believes this myth? Mr. Speaker, I believe that the President and many other policy-makers in Washington believe this myth. What does a magic bureaucrat do? A magic bureaucrat creates illusions like David Copperfield and the great Houdini.

Tonight we want to just talk about two of these great illusions that have been created by the magic bureaucrat.

Mr. Speaker, we had hearings on one of these today at the oversight subcommittee. Bureaucrats at the corporation for national service, they are trying to convince the committee, they are trying to convince the American people, that a Federal corporation can do a better job of volunteerism and community service than actual volunteers in the community and actual nonprofit organizations that have been a heritage of this Nation for as long as we have been in existence.

That is the myth, that they can do it better. The reality is they cannot do volunteerism, they cannot do community service. As a matter of fact, what we pointed out in the hearing today is they cannot even keep the books straight.

A second myth is one that has been perpetuated or is being developed by the bureaucrats at the Department of Education, and that is that the Department of Education can do Federal loans or student loans more effectively than the private sector. We have a colleague here who would like to just describe that illusion for us.

Mr. GRAHAM. Mr. Speaker, I thank the gentleman for yielding. The facts are as follows:

There are 900,000 financial aid applications that are backlogged, and the article, Chronicle of Higher Education, the article entitled "Sorting Out a Foul Up In Student Aid" says the following. Student aid experts say their backlog of 900,000 financial aid applications was caused by mismanagement of the Department of Education and that it calls into question the department's ability to manage the student aid system.

I congratulate the gentleman for having oversight hearings in this whole area of the Government trying to do for the private sector what we know the private sector can do best, volunteering and run a program of lending money. If the administration has its way, the student loan portfolio will be turned over to the Federal Government through the Department of Education, and they will not only process the applications, they will become bankers collecting the money for the taxpayer, lending the money as a bank would do. I suggest to you, Mr. HOEKSTRA, that would be a disastrous event, that they have a 900,000 backlog in just processing applications.

Can you imagine if they also lent the money and had to collect the money?

And their excuse for a 900,000 backlog is it snowed and the Government shut down 21 days. Both are false. The private sector gets up and goes to work when it snows because they are in it as a way of making their living. The Government shutdown did not effect the ability to process these loans because contractors are the main source of doing the processing. It just shows how inefficient the magic bureaucrats are, and, when analyzed against the facts, they do not do very well.

Mr. HOEKSTRA. These are just 2 examples: The Corporation for National Service, the direct lending program. There are many more. Bureaucrats at the Commerce Department know another myth is that the bureaucrats at the Commerce Department know how to create high-skilled, high-paying jobs better than American entrepreneurs, that bureaucrats at the Department of Education know better than parents, and teachers, and local schools how to run a tutoring or mentoring program in their local community.

The bottom line is who pays for these magic shows? It is the American people. It is you and I. How much have we spent? Trillions.

The real question that the American people have to ask is can we afford any more of these shows. You be the judge.

I yield to the gentleman.

Mr. GRAHAM. While you are conducting hearings, there is another area that I would like you to look into that I have asked the GAO to investigate, and that is that there are millions of dollars of unreconciled money responsible by the Department of Education. We need to find out where the money is at.

Mr. HOEKSTRA. I thank the gentleman for his suggestion. We will pursue that.

DETERMINING WHO IS ELIGIBLE TO WORK LEGALLY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, few current events affect our Nation so dramatically as does the record-breaking number of illegal aliens entering our country year after year. Illegal immigration is a national crisis. Although my State of California bears the brunt of this problem, illegal immigration is a national dilemma. It affects every hard-working, taxpaying citizen of our country.

Tomorrow, with several of my colleagues, I am going to be offering an amendment to the immigration bill, H.R. 2202. Our amendment would call for a mandatory pilot program in five of the seven States most impacted by illegal immigration. It would require that employers call a 1-800 number to check the eligibility to work of a newly hired employee. This amendment simply puts back into the bill the original language that was passed by the House Committee on the Judiciary.

The requirement that illegal aliens be verified for work eligibility is crucial to true immigration reform. Contrary to much misinformation, this amendment does not, and I repeat, does not, establish a national ID card or even a system by which a worker can be tracked throughout their career. In fact, this amendment does none of the following:

It does not require any new data to be supplied by the employee.

It does not require any new personal information of the employee.

It does not create a new Government data base.

It cannot be expanded into a national program without a specific vote by Congress.

Now those of you that know me and have followed my voting record are well aware that I am very much opposed to any more Government intrusion into our lives. I have stated time and time again that I am opposed to any sort of tracking system or national ID card, and I firmly hold these beliefs.

This amendment would simply use information that is already required by the Social Security Administration. The opportunity to work in the United States has acted like a magnet, drawing hundreds and thousands to this country. Unfortunately, many of those who have come to this country seeking employment have skirted our legal immigration system and have made a mockery of our current laws.

This amendment is about jobs, American jobs. Those that come to this country illegally should not be granted the opportunity to take the jobs of American workers, and recent studies demonstrate that illegal aliens often take jobs that could otherwise be filled by American workers. Our amendment allows an easy, reliable enforcement mechanism for verifying worker eligibility.

Now for the past decade employers have been prohibited from knowingly hiring illegal aliens. To verify new hires, current law requires employers to check the identity and work eligibility documents of all new employees. The system, the current one for verifying worker eligibility, has been a complete failure. Not only has the current system failed to discourage legal aliens from seeking jobs in America, but it also has turned employers into de facto INS agents, and without the means to effectively determine a worker's eligibility, employers have had to face a double-edged sword. If they hire an illegal alien to work for them, well, employers are faced with civil penalties imposed by the Federal Government. If they question a prospective employee about their eligibility, employers face the possibility of a lawsuit charging discrimination.

Further adding to this dilemma, the easy availability of counterfeit documents has made verification of authentic documents a joke. In southern California alone, Federal agencies, 2.5 million fraudulent documents from 1989 to 1992.

Now the amendment we are offering will correct this problem. Employers would simply make a toll free inquiry through telephones or electronic means to match new employee's names, Social Security and alien identification numbers against existing Social Security Administration and INS data. This type of verification would be easy, effective since employers would already have to check for every new employee that they hire. Employers would not be tempted to hire only those who look for sound American. In addition, this type of verification would take the onus off the employer to determine who is eligible to work legally.

Now I have talked to business men and women and constituents of my district, and there is overwhelming support for this amendment. It is an effective tool. In fact, in southern California there has been a program that has been tested over the past year by 220 employers with more than 88,000 workers.

□ 2300

In more than 25 separate verifications, 99.9 percent were satisfactorily resolved within a 5- to 10-day period. So, because of this, I just would urge my colleagues to look at this amendment, and I hope that they will support this amendment tomorrow.

THE NEED TO SPEED UP THE PROCESS OF FDA REFORM

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 30 minutes as the designee of the majority leader.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to discuss with my colleagues some very important issues that will be facing the 104th Congress in this second session. Mr. Speaker, I speak of FDA reform, Food and Drug Administration reform.

We know that many Americans are waiting for the approval of drugs or medical devices, because FDA has been so far mired down in overregulation and delay. I believe that it is a bipartisan effort that we are undertaking here in the House to make sure we speed up the approval of medical devices and pharmaceuticals. The legislation which I have introduced, H.R. 1995 and H.R. 2290, will in fact address for the biotech and the pharmaceutical fields speeding up those processes of FDA reform, which we think is legislation whose time has arrived.

Mr. Speaker, I am pleased to note that the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, has appointed a fellow Pennsylvanian, Mr. GREENWOOD, to head up the FDA reform effort. With him working on this effort will in fact be the gentleman from Texas [Mr. BARTON], the gentleman from Wisconsin [Mr. KLUG], and the gentleman from North Carolina [Mr. BURR], in fact working not only on medical devices, but pharmaceuticals and foods as well.

Mr. Speaker, I can tell the Members from testimony in my town and my county seat in Norristown, PA, that we had just in June 1995 many witnesses, patients, doctors, hospitals, discussing the need for speeding up the approval process for FDA in drugs and medical devices. We had patients with ALS, with AIDS, with cancer, with epilepsy, to name a few.

In each of these cases, the patients have said that while they are waiting for a cure or they are waiting for a vaccine to help extend their lives, to improve the quality of those lives, to extend the years of those lives, they need to have the Congress, working with the White House, make sure we do what we can, working with the FDA, to make sure that we speed up the process.

Mr. Speaker, we all know that the main job of the Food and Drug Administration is to protect us, to look out to make sure that drugs are not only safe but they are efficacious, that they are effective, for what they were intended. I know in my travels in Montgomery County and in parts of Delaware Valley, PA, and in other parts of the country, we need to make sure that we work together in a teamwork fashion to make the kinds of innovations in FDA, working with the agency, to make sure that we can speed up the process, whether it is from a personnel point of view, allowing us to use outside companies for the testing, or working with international harmonization, whereby we allow some of the clinical trials and testings from other countries whose results we can verify as being accurate, we can apply that understanding and that research to speed up the process for the approval.

Mr. Speaker, we are a long way in this process already by the fact that many bills have been filed, and I was pleased to work with my colleagues to introduce the bills that I have thus far in Congress.

But beyond the health care benefits of living longer and living better, Mr. Speaker, I wish to bring to the attention of my colleagues that there are many jobs now in the pharmaceutical, biotech, and FDA field for which we need to make sure we keep the process moving and to speed up the FDA reform, because, Mr. Speaker, if we do not speed up the process and we do not make the accurate and appropriate reforms, not only will the discoveries go overseas about medical devices and drugs, but the jobs will go overseas as well. America has worked too hard, done too much right, and been too creative and been too smart in their approach to the discoveries of these important drugs and medical devices to let it slip through our fingers now.

By working together, the Congress and the White House, the private and the public sector, patients and hospitals, we can, in fact, have FDA reform achieved in this Congress, in this session, which will improve the quality of life for our constituents, and make sure we keep the jobs here as well, to improve America and to improve our communities.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. STOKES (at the request of Mr. GEPHARDT), for today through Friday, March 29, on account of medical reasons.

Mr. JOHNSTON of Florida (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mr. WALKER (at the request of Mr. ARMEY), for today, on account of personal reasons.

Mr. RADANOVICH (at the request of Mr. ARMEY), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BRYANT of Texas) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GORDON, for 5 minutes, today.

(The following Members (at the request of Mr. TATE) to revise and extend their remarks and include extraneous material:)

Mr. GRAHAM, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, today.

Mr. CHRISTENSEN, for 5 minutes, on March 20.

Mr. FORBES, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. SHAYS, for 5 minutes each day, on March 19 and 20.

Mr. HOEKSTRA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BRYANT of Texas) and to include extraneous matter:)

Mrs. MEEK of Florida.

Ms. PELOSI.

Mr. STOKES.

Mr. ACKERMAN.

Mr. LANTOS, in two instances.

Mrs. KENNELLY.

Mr. FROST.

Mr. HAMILTON.

Mr. TOWNS.

Mr. NEAL of Massachusetts.

Mr. BERMAN.

Mr. PASTOR.

Mr. SABO.

Mr. WATERS.

Mr. DEUTSCH.

Mr. ORTIZ.

(The following Members (at the request of Mr. TATE) and to include extraneous matter:)

Mrs. VUCANOVICH.

Mr. MCINTOSH.

Mr. BAKER of California.

Mr. COMBEST.

Mr. PACKARD.

Mr. NETHERCUTT.

Mr. GOODLING in two instances.

Mr. CHRISTENSEN.

Mr. GINGRICH.

Mr. GILMAN.

Mr. FAWELL.

Mr. WELDON of Florida.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which were thereupon signed by the Speaker:

H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following day present to the President, for his approval, a bill and joint resolution of the House of the following titles:

On March 15, 1996:

H.R. 2036. An act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. FOX of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 4 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 20, 1996, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2258. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the quarterly reports in accordance with sections 36(a) and 26(b) of the Arms Export Control Act, the March 24, 1979 report by the Committee on Foreign Affairs, and the seventh report by the Committee on Government Operations for the first quarter of fiscal year 1996, October 1, 1995—December 31, 1995, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

2259. A letter from the Assistant Secretary, Department of the Treasury, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2260. A letter from the Director of Communications, Department of Agriculture, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2261. A letter from the Archivist of the United States, National Archives, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

2262. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(a); to the Committee on Government Reform and Oversight.

2263. A letter from the Acting Chairman, U.S. Commodity Futures Trading Commission, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(b); to the Committee on Government Reform and Oversight.

2264. A letter from the President, National Park Foundation, transmitting the Foundation's annual report for fiscal year 1995, pursuant to 16 U.S.C. 19n and 19dd(f); to the Committee on Resources.

2265. A letter from the Secretary of Agriculture, transmitting the Department's report entitled "Southeast Alaska Public Lands Information Center, Hydaburg Branch" report to Congress, April 1995, pursuant to Public Law 99–664, section 11(f) (100 Stat. 4309); to the Committee on Resources.

2266. A letter from the Assistant Attorney General, Department of Justice, transmitting the 1994 annual report on the activities and operations of the Department's Public Integrity Section, Criminal Division, pursuant to 28 U.S.C. 529; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLINGER: Committee on Government Reform and Oversight. National Drug Policy: A Review of the Status of the Drug War (Rept. 104–486). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself, Mr. BERMAN, Mr. GEJDENSON, Mr. BURTON of Indiana, Mr. KING, Mr. SHAW, and Mr. FORBES):

H.R. 3107. A bill to impose sanctions on persons exporting certain goods or technology that would enhance Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BENTSEN (for himself and Ms. LOFGREN):

H.R. 3108. A bill to permit the construction of flood control projects by non-Federal interests; to the Committee on Transportation and Infrastructure.

By Mr. GEJDENSON:

H.R. 3109. A bill to amend the Export Administration Act of 1979 with respect to exports to terrorist countries; to the Committee on International Relations.

By Mr. GREENWOOD:

H.R. 3110. A bill to amend title II of the Social Security Act to provide for disclosure by the Social Security Administration of Social Security account numbers and other records pursuant to judgments, decrees, or orders issued by courts of competent jurisdiction; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 3111. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of frequent flyer mileage awards; to the Committee on Ways and Means.

By Mr. PALLONE (for himself and Mr. FRANKS of New Jersey):

H.R. 3112. A bill to amend the Water Resources Development Act of 1992 relating to sediments decontamination technology; to the Committee on Transportation and Infrastructure.

By Mr. PALLONE (for himself and Mr. FRANKS of New Jersey):

H.R. 3113. A bill to amend the Water Resources Development Act of 1986 relating to cost sharing for creation of dredged material disposal areas, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mrs. ROUKEMA (for herself, Mr. PETRI, Mr. MCKEON, Mr. KNOLLENBERG, Mr. CHRISTENSEN, Mr. POMEROY, Mrs. KENNELLY, Mr. ANDREWS, Mr. KILDEE, Mr. MILLER of California, and Mr. PAYNE of New Jersey):

H.R. 3114. A bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. SCHROEDER (for herself, Mr. KENNEDY of Massachusetts, Mr. DELLUMS, Mr. SERRANO, Mr. ACKERMAN, and Mr. MARKEY):

H.R. 3115. A bill to amend the Federal Food, Drug, and Cosmetic Act to require ingredient labeling for malt beverages, wine, and distilled spirits, and for other purposes; to the Committee on Commerce.

By Mr. TRAFICANT:

H.R. 3116. A bill to provide for the phaseout of existing private sector development enterprise funds for foreign countries and to prohibit the establishment of, or the support for, new private sector development enterprise funds, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RIGGS (for himself, Mr. BREWSTER, Mr. METCALF, Mrs. CHENOWETH, Mr. COBURN, Mr. HANCOCK, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. DUNCAN, and Mr. COOLEY):

H.J. Res. 164. Joint resolution proposing an amendment to the Constitution of the United States to provide 8-year terms of offices for judges of Federal courts other than the Supreme Court; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 52: Mr. FAZIO of California.

H.R. 218: Mr. HOSTETTLER, Mr. EHRLICH, and Mr. CLEMENT.

H.R. 462: Mr. WILLIAMS.

H.R. 528: Mr. HAYWORTH.

H.R. 784: Mr. ROBERTS and Mr. YOUNG of Alaska.

H.R. 822: Mr. CAMP and Mr. NEUMANN.

H.R. 910: Mr. JEFFERSON and Mrs. CLAYTON.

H.R. 957: Mr. WELDON of Florida.

H.R. 972: Mr. CRAMER and Mr. CHRISTENSEN.

H.R. 973: Mr. BONIOR.

H.R. 1023: Mr. GONZALEZ, Ms. WOOLSEY, and Mr. FAZIO of California.

H.R. 1078: Mr. VENTO.

H.R. 1148: Mr. SANDERS.

H.R. 1179: Mr. LEWIS of Georgia, Mr. CLAY, Mr. WAMP, Mr. RUSH, Mr. CLYBURN, Mrs. CLAYTON, Mr. SCOTT, Mr. THOMPSON, Mr. WYNN, Mr. FATTAH, Mr. DELLUMS, and Ms. WATERS.

H.R. 1464: Mr. GOODLATTE.

H.R. 1499: Mr. MCINTOSH.

H.R. 1619: Mr. RAHALL, Mr. TALENT, and Mr. SHAW.

H.R. 1627: Mr. NEY.

H.R. 1684: Mr. LEVIN, Ms. NORTON, Mr. SHAYS, Mr. JONES, Mr. UPTON, Mrs. SMITH of Washington, Mr. BAKER of California, Mr. BECERRA, Mr. BISHOP, Mr. BONIOR, Mr. BORSKI, Mr. CAMP, Mr. COSTELLO, Ms. DELAURO, Mr. DOOLEY of California, Mr. FATTAH, Mr. FAZIO of California, Mr. GUTIERREZ, Mr. HANCOCK, Mr. HEFNER, Mr. HERGER, Mr. HOBSON, Mr. HOYER, Mr. HUNTER, Mr. JOHNSTON of Florida, Ms. KAPTUR, Mr. KLINK, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. LEWIS of Georgia, Ms. LOFGREN, Mr. MINGE, Mr. MOLLOHAN, Mr. NADLER, Mr. ORTIZ, Ms. PELOSI, Mr. CHAPMAN, Mr. POMBO, Mr. POMEROY, Mr. POSHARD, Ms. PRYCE, Mr. RANGEL, Mr. ROBERTS, Mr. ROSE, Mr. RUSH, Ms. SLAUGHTER, Mr. STOCKMAN, Mr. TAYLOR of Mississippi, Mr. VOLKMER, Ms. WATERS, Mr. WATT of North Carolina, Mr. WISE, and Mr. TAYLOR of North Carolina.

H.R. 1776: Mr. CLINGER, Mr. BROWDER, Mr. STUPAK, Mr. JACOBS, and Mr. YATES.

H.R. 1856: Mr. SAXTON, Mr. OWENS, and Mr. METCALF.

H.R. 1920: Mr. TATE.

H.R. 2065: Mr. MORAN.

H.R. 2101: Mr. RANGEL.

H.R. 2241: Ms. WOOLSEY.

H.R. 2242: Mr. GILCHREST and Ms. WOOLSEY.

H.R. 2247: Mr. COLEMAN, Mr. CRAMER, Mr. DEFAZIO, Mr. FOX, Mr. GILMAN, Mr. HALL of Ohio, Mr. HILLIARD, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. SABO, Mrs. THURMAN, Mr. VENTO, Mr. WALSH, and Mr. WAXMAN.

H.R. 2333: Mr. CRAPO and Mr. CLYBURN.

H.R. 2416: Mr. WELDON of Florida.

H.R. 2471: Mr. LIPINSKI.

H.R. 2500: Mr. BREWSTER.

H.R. 2548: Mrs. SEASTRAND, Ms. MOLINARI, and Mr. EMERSON.

H.R. 2579: Mr. TORRES, Mr. MATSUI, Mr. SHAYS, Mr. KILDEE, and Mrs. MALONEY.

H.R. 2607: Mrs. KELLY and Ms. BROWN of Florida.

H.R. 2618: Ms. LOFGREN and Mr. CAMPBELL.

H.R. 2636: Mr. MATSUI.

H.R. 2723: Mr. WICKER.

H.R. 2724: Mr. HINCHEY, Mr. FALEOMAVEAGA, Mr. HILLIARD, and Ms. VELAZQUEZ.

H.R. 2725: Mr. HINCHEY, Mr. FALEOMAVAEGA, Mr. HILLIARD, and Ms. VELAZQUEZ.

H.R. 2779: Mr. BAKER of California, Mr. CONDIT, Mr. WELDON of Pennsylvania, Mr. NORWOOD, and Mr. SMITH of New Jersey.

H.R. 2796: Mr. FILNER.

H.R. 2822: Mr. MANZULLO.

H.R. 2827: Mr. VENTO and Mr. SANDERS.

H.R. 2875: Mr. DEUTSCH, Mr. HILLIARD, Mr. FRAZER, and Mr. SMITH of New Jersey.

H.R. 2925: Mr. MANZULLO, Mr. YOUNG of Alaska, Mr. TORKILDSEN, Mr. GREENWOOD, and Mr. NETHERCUTT.

H.R. 2951: Mr. BARRETT of Wisconsin, Mr. BEILENSON, Mr. EHLERS, Mr. LEVIN, Mr. SPRATT, Mr. SENSENBRENNER, Mr. GANSKE, Mr. STARK, and Mr. CAMPBELL.

H.R. 2959: Mr. GREENWOOD, Mr. LAZIO of New York, Mr. GEPHARDT, Mr. FLANAGAN, and Mr. KLINK.

H.R. 2974: Mr. CALVERT.

H.R. 2994: Mr. LEWIS of Georgia, Mr. LATOURETTE, and Mr. MASCARA.

H.R. 3010: Mr. SAWYER, Mr. UNDERWOOD, and Mr. LIPINSKI.

H.R. 3023: Ms. KAPTUR.

H.R. 3043: Mr. MCHUGH, Ms. MCKINNEY, and Mr. GUNDERSON.

H.R. 3067: Mr. DOOLEY and Mr. STUPAK.

H.R. 3086: Mr. UNDERWOOD, Mrs. MEYERS of Kansas, and Mr. GORDON.

H.J. Res. 162: Ms. KAPTUR, Mr. WATTS of Oklahoma, Mr. TAYLOR of North Carolina, and Mr. CALVERT.

H. Con. Res. 51: Ms. FURSE.

H. Con. Res. 148: Mr. LINDER, Mr. MCCOLLUM, Mr. DICKEY, Mr. ROSE, Mr. FRAZER, Mr. BAKER of Louisiana, Mr. MCDADE, Mr. BERMAN, Ms. PRYCE, Mr. BROWNBACK, and Mr. POMBO.

H. Res. 39: Mr. VENTO, Ms. ROYBAL-ALLARD, and Ms. PELOSI.

H. Res. 49: Mrs. MORELLA, Mrs. CLAYTON, Mr. CONYERS, and Mr. KENNEDY of Massachusetts.

H. Res. 381: Mrs. MORELLA, Mr. BAKER of Louisiana, and Mr. PALLONE.

H. Res. 385: Mr. PALLONE and Mr. FRISA.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of March 13, 1996]

H.R. 1972: Mr. BARCIA.

EXTENSIONS OF REMARKS

CITIZEN OF THE YEAR

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. GOODLING. Mr. Speaker, today I am pleased to join the Carlisle Exchange Club in honoring Dr. Webb S. Hersperger as "Citizen of the Year 1995."

I have known Dr. Hersperger for many years and have valued his friendship. While his professional and community service affiliations are extensive, he is most distinguished for his important contributions to the practice of medicine and the medical community. Having served as president of the Cumberland County Medical Society, he was instrumental in the development of the emergency 911 service.

Webb's commitment to public service by no means ends in the hospital. For many years, he served his country in the U.S. Army Medical Corps. He has also worked to preserve the health and welfare of many Pennsylvanians through the American Red Cross, the Salvation Army, the United Way, and the YMCA, just to list a few. Be it through his medical practice, the church, or service with educational and charitable organizations, he has touched the life of each Cumberland County resident in some way.

It has been said that the health of a democratic society is measured by the quality of functions performed by private citizens. Throughout his career Dr. Hersperger has been dedicated to improving and enriching the lives of others. Through his example, he has set this standard and embodied the values of true citizenship which are vital to the well-being of our community and to the future of our Nation.

Mr. Speaker, as the representative of Pennsylvania's 19th Congressional District, I congratulate Dr. Hersperger for receiving this prestigious award. He has made Cumberland County a better place to live and raise a family. I am proud to call him a constituent and a friend.

SALUTING CUYAHOGA COUNTY BAR FOUNDATION PUBLIC SERVANTS MERIT AWARD RECIPIENTS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. STOKES. Mr. Speaker, I rise today to salute eight individuals who are being honored as outstanding public servants. On March 22, 1996, the Cuyahoga County Bar Foundation and Cuyahoga County Bar Association will host the 50th Public Servants Merit Awards Luncheon. At that time, the eight honorees will be presented with the Franklin A. Polk Public Servants Merit Award. The individuals are: Valina M. Aicone; William D. Fromwiller; Sylvia E. Harrison; Patrick P. McGinty; Donald Peak; Francis A. Rutkowski; Rita M. Sobolewski; and J. Carol Wolf. The Public Servants Merit Award is named in honor of Franklin A. Polk, a distinguished lawyer who chaired the annual luncheon for 40 years. As the county bar foundation and the county bar association celebrate a historic 50th awards luncheon, Frank will be remembered for his commitment in recognizing the contributions of public servants.

I take special pride in saluting the 1996 Public Servants Merit Award recipients. I want to share with my colleagues some information regarding these outstanding individuals. They are each more than deserving of special recognition.

Mr. Speaker, Virginia M. Aicone is a resident of Brook Park, OH. She is a graduate of West High School and she has enjoyed a distinguished career with the court which spans 28 years. She began her career with the court in 1968 when she was employed as deputy clerk for the clerk of courts. She went on to serve as editor for the common pleas court.

In her current position, Ms. Aicone is responsible for supervising and training employees in the data input journal entries division. She and her staff work closely with the clerk's office, sheriff's department, and others to guarantee that accurate information is reflected on the court journals.

Ms. Aicone is the proud mother of three children; Michael, Anthony, and Madeline. Her hobbies include bowling, bingo, and coin collecting. In addition, she is active in her community as a member of the Ladies Auxiliary, Fraternal Order of Eagles, where she was named Mother of the year. In addition, she is a member of the American Legion Auxiliary and Women of the Moose.

Mr. Speaker, the next honoree, William D. Fromwiller, is a resident of Claridon, OH. He is a graduate of Richmond Height High School and attended Cleveland State University. Mr. Fromwiller began his court career in 1969, following an honorable discharge from the U.S. Army. He currently serves as chief deputy for the county clerk of courts.

In his position, Mr. Fromwiller, oversees the clerk's budget, including contracts and purchasing. He also responds to procedural questions which arise concerning court rules. Throughout his career, Mr. Fromwiller has exercised the highest level of concern and compassion for those he has encountered on the job. He prides himself on being an effective communicator and problem solver.

Mr. Fromwiller is an avid fisherman, and he enjoys an annual visit to Canada for the sport. He also enjoys hunting and walking. He and his wife, Jean, are the proud parents of two children, Keith and Craig.

Mr. Speaker, our third Public Servants Merit Award recipient has worked in the criminal division of the clerk of courts office for more than 29 years. Currently, Sylvia E. Harrison is employed as assistant supervisor for the clerk of court. In this position, she assists in the preparation of judges' personal docket for court, issues summons and warrants for defendants who fail to appear in court, and maintains and verifies computerized criminal history checks for the court.

Ms. Harrison is a native of West Virginia and graduated from Excelsior High School. She and her husband, Willie C. Harrison, are the proud parents of Marcia, Felicia, April, and Willie, Jr. They are residents of Cleveland, OH.

In her spare time, Ms. Harrison is active in the Cleveland community. Her memberships include the Urban League of Greater Cleveland, the NAACP, and the Democratic Club. In addition, she is a member of Faith Tabernacle where she serves as financial secretary. Her hobbies include camping, reading, cooking, and playing video games.

Mr. Speaker, the fourth honoree, Patrick P. McGinty, is a resident of Lakewood, OH. He is a veteran of the Korean war, and notes with pride that he is one of eight members of his family to have served in the Armed Forces at various times. Mr. McGinty began his court career in 1968. He currently serves as deputy filing clerk for the probate court. In his position, Mr. McGinty is responsible for filing and distributing probate cases to the public. He also makes certain that magistrates of the court have their daily hearings, and he assists the public in viewing microfilms. Mr. McGinty takes pride in his career in public service and his commitment to helping others.

Sharing her life with Mr. McGinty is his wife of 29 years, Margaret. They are the proud parents of three children: Christopher, Kathleen, and James. In his spare time, Mr. McGinty has volunteered his time at the Lakewood Charitable Assistance Corp., where he delivered food to needy families. He also did volunteer work with St. Augustine's Church. In addition, he has coached youngsters in basketball and boxing. His hobbies also include gardening.

The fifth recipient of the Public Servants Merit Award, Donald E. Peak, is a resident of Parma, OH. Mr. Peak began his career with the Cuyahoga County court system in 1965. He has been employed as a probation officer, case supervisor, and supervisor of placement and manager of residential services for the Cuyahoga County juvenile court.

Currently, Mr. Peak holds the position of deputy director for the department of probation and community services. In this position, he takes responsibility for ensuring that children receive proper assessment and the highest level of support services and programs designed to curtail unlawful behavior on the part of youth.

Mr. Peak is a veteran who was honorably discharged from the U.S. Army. He is an avid

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sports fan and also enjoys reading, walking, fishing, and coin collecting. In addition, Mr. Peak maintains a close association with and assists individuals who are mentally and physically disadvantaged. He advises that it has given him a greater appreciation of life's true priorities. Mr. Peak and his wife, Virginia Brown Peak, are the parents of three children: Jim, Joe, and Jack.

Mr. Speaker, the next individual selected to be recognized by the Cuyahoga County Bar Association is Francis A. Rutkowski. Mr. Rutkowski is supervisor for the Cleveland municipal court. In this post, he supervises eight probation officers who prepare pre-sentence reports for court judges.

A resident of Westlake, OH, Mr. Rutkowski developed his keen sense of public service while watching his late father, Judge Anthony Rutkowski, tackle the challenges in the courtroom. Mr. Rutkowski's career has included service as a deputy sheriff and probation officer. He is also the past president of the Polish Roman Catholic Union of America and served as lecturer at Cleveland State University.

Mr. Rutkowski is a graduate of John Carroll University and Alliance College. He received his law degree from the Cleveland-Marshall College of Law. His professional associations include the American Correctional Association, Ohio Correctional and Court Services Association, National Sheriff's Association, National Association of Chiefs of Police, and the American Bar Association, just to name a few. He and his wife, Patricia L. Buk, are the proud parents of four children; Christine, Joseph, Anne, and Michael.

The next honoree, Ria Moredock Sobolewski, is a former free lance court reporter. For the past 19 years, she has served as the official court reporter for the domestic relations court. She is responsible for the creation of a verbatim record of all court proceedings.

A graduate of West Virginia University and the Academy of Court Reporting, Ms. Sobolewski holds memberships in the National Court Reporters Association and the Ohio Court Reporters Association. She is also the recipient of numerous awards and certificates of merit for outstanding work.

Ms. Sobolewski is the wife of John Sobolewski. The couple resides in North Olmsted, OH, and have enjoyed 20 years of marriage. They are the proud parents of Amy and Johnny.

Mr. Speaker, the final recipient of the Franklin Polk Public Servant Merit Award, Jetta C. Wolf, has enjoyed a career as a legal and judicial secretary which has spanned 39 years. A graduate of Holston High School in Blountville, TN, she began her career with the court system in 1977.

Currently, Ms. Wolf serves as judicial secretary for Judge John T. Patton. In her post, she is responsible for correspondence, stenographic, and file maintenance for the judge. In addition, Ms. Wolf is responsible for circulating and releasing opinions and entering the same records into the court data system.

In her spare time, Ms. Wolf enjoys tailoring, doll making, and cake decorating. She also enjoys antiques and attending Cleveland Indian games. She and her husband, Richard, a retired Cleveland policeman, are the proud parents of Runa, Lettie, Brian, Tracy, and Angela. The Wolf family reside in North Ridgeville, OH, where they attend Shepherd of the Ridge Lutheran Church.

Mr. Speaker, I take pride in saluting the eight individuals who have been selected to receive the Public Servants Merit Awards from the Cuyahoga County Bar Foundation and Bar Association. They have exhibited the highest level of commitment to public service and personal excellence. I also applaud these distinguished organizations for recognizing the importance of honoring employees who strive to make the court system work more effectively.

THE 125TH ANNIVERSARY OF THE SAN FRANCISCO ART INSTITUTE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to the San Francisco Art Institute as it celebrates its 125th year of contributing to the enrichment of the artistic and cultural community of the San Francisco Bay Area and the United States. The San Francisco Art Institute has excelled in training, guiding and nurturing budding artistic talent, and these talented students and artists have shared their many gifts with the Nation and the world.

Founded in 1871 by a group of artists, writers and civic leaders, the San Francisco Art Institute has become an integral part of the heritage that has made San Francisco a thriving creative arts community. First named the San Francisco Art Association, it was then and continues to be a pioneering institution with a distinct cultural vision for the West.

After World War II, the Art Institute became the west coast center of abstract expressionism, involving an impressive group of artists, including Clyfford Still, Mark Rothko and Ad Reinhardt. In 1946, renowned photographer Ansel Adams created the Nation's first fine art photography department at the Institute, which later enticed such notable instructors as Dorothea Lange, Imogen Cunningham and Edward Weston. In the 1950s, the Institute was a center for the Nation's leading figurative artists, including Richard Diebenkorn, Elmer Bischoff, David Park and James Weeks. In the 1960s, the Art Institute established the country's first fine art film program. And in 1995, keeping up with ever changing technology and new tools for creative expression, the Art Institute launched the New Imaging Center, an important new computer resource center for the visual arts.

The Art Institute offers innovative academic programs in painting, photography, printmaking, filmmaking and sculpture. One of the keys to its exceptional success as an educational institution is the Institute's emphasis on personal exploration, growth and total immersion in one's work. The roster of stellar creative talent associated with the Art Institute throughout its last century is stunning in its breadth. The sculptor of Mount Rushmore, Gutzon Borglum, was a student. Diego Rivera created a mural at the school. Enrique Chagoya, Annie Liebowitz and the Grateful Dead's Jerry Garcia are just a few more of the notable artists who have left their mark on the Art Institute and our Nation.

Mr. Speaker, on March 16, 1996, the San Francisco Art Institute will host a gala celebration of its 125 years. A city-wide arts celebration will occur this month and next, as other San Francisco museums, galleries and art spaces pay tribute to the Institute on this landmark anniversary. On behalf of the United States Congress, I salute Art Institute President Ella King Torrey and all of the great contemporary artists and teachers who have contributed throughout the years to creating and building this legacy for our Nation. Let us all join with the San Francisco Art Institute and continue to celebrate and support the arts and their prominent place in our society for years to come.

WASHINGTON POST EDITORIAL CRITICIZES SERBIAN RESTRICTIONS ON THE INFORMATION MEDIA AND GOVERNMENT CLOSING OF THE SOROS FOUNDATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. LANTOS. Mr. Speaker, just a few days ago, with my colleague from Nebraska, Mr. BEREUTER, In introduced House Resolution 378 deploring the recent actions by the government of Serbia restricting freedom of the press and freedom of expression and ending the legal authority of the Soros Foundation to continue its democracy-building and humanitarian activities in Serbia.

The Washington Post in an excellent editorial last week commented on the Serbian decision to close the Soros Foundation and the measures taken by the government against the independent information media. I commend this excellent editorial to my colleagues, and I ask that it be placed in the RECORD.

[From the Washington Post, Mar. 7, 1996]

SHUTTERING UP SERBIA

No task is more important in the former Yugoslavia than building a nongovernmental civil society to open up the ingrown local regimes. And in no place is this work more vital than Serbia, the dominant and pace-setting part of the broken-up country. Finally, in this activity no one plays a larger individual role than George Soros, who, as U.S. Information Agency chief Joseph Duffey puts it, does what the U.S. government would do if it had the money. In a score of formerly Community countries, the billionaire speculator runs private foundations "to enable people to do things which are not centrally determined but autonomous and spontaneous." Except not in Serbia. Not anymore.

"Even as he offered himself internationally as a man who could bring peace to Bosnia. Serbian President Slobodan Milosevic was further consolidating his power at home. He has made a special target of the local Soros Foundation, which does scholarships, summer camps and toys for children, relief for Serb refugees, medical institutions, nongovernmental organizations, the independent works. The foundation has sustained Serbia's only independent media, including the newspaper Nasa Borba and television's Studio B.

But after a campaign (400 articles and broadcasts) in the official media, Serb authorities hoked up a technicality to close the foundation down. Evidently Mr. Milosevic, heading toward elections, wants no opposition, democratic or otherwise—least of all an open society.

The other day, a week after Belgrade closed out the Soros project, the State Department called on President Milosevic to "reverse the trend of anti-democratic repressive measures." The question arises, however, whether Mr. Milosevic had not taken a contrary clue from the secretary of state's failure to receive the independent sector when he buzzed through Belgrade last month.

The Serb leader seems to be carefully weighing what his—undeniably considerable—contributions to ending the war will buy him in international acceptance of his tightening at home. Others must be careful not to let him conclude he has no further need to allow space for independent local actors and foreign organizations like the Soros Foundation. This is space for civility and tolerance, values the former Yugoslavia desperately needs.

POLITICS VERSUS GROWTH?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. GINGRICH. Mr. Speaker, I commend to my colleagues the attached article from Investor's Business Daily. With economic growth of only 1.4 percent last year, the possibility of a recession still casting a shadow and the middle-class being squeezed on all sides, the situation cries out for serious action. Unfortunately, the President vetoed the Balanced Budget Act of 1995 and so far has offered nothing to address the issue of economic growth.

As the Daily points out, there is room for agreement on a capital gains tax. The President has long supported a targeted one. According to one study, such a cut would have created 1.4 million new jobs between 1995 and 1999, added an additional 1 percent a year to the stock market and brought in $9–$18 billion in Federal revenue. We must be prepared to respond to the under performance of the economy. Let us hope the President is ready to work out an agreement. I submit the full article into the RECORD.

[From the Investor's Business Daily]

POLITICS VS. GROWTH?

The economy grew just 1.4% after inflation last year, and recession is possible this year. Congress and President Clinton should skip the political games and move now to turn things around.

Speaking in Michigan on Monday, Clinton gave us his "growth agenda." Yet that's just a new, transparent label on his old wish list: a minimum wage hike, a tax deduction for college costs, government vouchers for worker retraining, and the Kennedy-Kassebaum health-insurance reform.

Half his points—the health bill and the wage hike—plainly have nothing to do with growth. At best, they'd be good for those who have jobs.

Education and training do boost growth in the long term. Yet Clinton has yet to show how more government sponsorship of these goals will help achieve them. It hasn't worked that way in recent decades.

Don't look to other Democrats, either. House Minority Leader Richard Gephardt recently claimed we "don't know" how to boost growth. His best guess is that favorite of Labor Secretary Robert Reich: tax penalties on corporations that downsize.

In fact, Clinton certainly knows what the economy needs, and Gephardt probably does: Tax cuts, the pro-growth move that worked for Presidents Kennedy and Reagan alike.

House Speaker Newt Gingrich is ready to play ball. "All the warning signals are there" for recession, he told reporters last week. "I think if the President really wants to help us to avoid a significant recession . . . we should have a pretty substantial (budget) package in the next week or two."

Gingrich could have added. "If the President really wants to get re-elected." Clinton is riding high in the polls now, but presidents who don't deliver solid growth rarely win a second term.

To Gingrich's credit, he has put jobs above politics. If a Republican Congress and a Democratic president can agree to cut taxes, Americans may just opt for more of the same. It could give Clinton a pro-business image just when he needs it.

But what kind of tax cuts should the deal contain?

The collapse of last year's talks puts us in a whole new ball game. The GOP's $245 billion grab-bag of tax reductions is dead.

Some Republicans want to salvage part of last year's biggest-ticket proposal, the $500 per-child credit. That might fit their political needs, but it is more social policy than economic stimulus.

And unless Clinton and Congress can agree on large spending cuts, tax cutters will need to keep their ambitions modest. Big cuts run straight into the iron wall of the "Byrd Rule." this says tax cuts must be "paid for," and the rules for "paying" overestimate how much revenue most tax cuts would lose the government.

The bind is so constrictive, the Byrd Rule so absurd, that the GOP has been reduced to considering bringing back the airline ticket tax to pay for tax cuts.

With so little room to play in, the clear choice is the tax cut that delivers the most bang for the buck: Trimming capital-gains tax rates.

GOP leaders are said to be considering a cut in the top rate from 28% to 20% for individuals only. The relief would be retroactive to the start of this year.

Clinton has long publicly backed a least a targeted cap-gains cut. And throughout the budget battle, he has said he's open to a rate cut.

If Clinton were to quietly approve, we might get something resembling the original "Contract With America" cap-gains plan. Lehman Brothers Chief Economist Allan Sinai, no supply sider, calculated that that would have added 0.7% to the gross domestic product from 1995 to 1999.

Such a cut would have created 1.4 million new jobs over the same five years boosted the S&P 500 by more than 1% a year and put $9 billion to 18 billion in extra revenues in federal coffers, according to Sinai.

DRI–McGraw Hill projected growth of 1.9% in productivity, $22.7 billion in higher tax revenues and a near 12% drop in the cost of capital, cumulatively over 10 years.

Thanks to organizational strength, Bob Dole may pull out ahead of the GOP presidential pack over the next week. Yet the strong showing by political neophyte Steve Forbes, and the failure of Pat Buchanan's economic pitch, prove that prosperity and opportunity sell at the ballot box.

Dole needs a message—and Clinton needs growth. For the sake of the economy, let's hope they can work together to give us a cap-gains tax cut now.

UKRAINE'S COMMITMENTS TO REFORM IN THE ENERGY SECTOR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. HAMILTON. I would like to bring to my colleagues' attention a letter I received from the administration concerning a commitment by Ukraine to reform its energy sector in return for United States assistance in the form of a USAID/Eximbank credit facility. In a series of communications with Mr. Richard Morningstar, special adviser to the President and Secretary of State for United States Assistance to the NIS, I expressed my concern that United States provision of a USAID/Eximbank facility be conditioned upon Ukrainian agreement to specific reforms.

In return for a $175 million credit facility, Ukrainian Deputy Finance Minister Shpek committed to restructure the power market. He specifically agreed to break up the power market by taking four distinct steps, as itemized in the following letter from the Department of State. The reforms agreed to by Mr. Shpek are above and beyond any existing IMF or World Bank conditionality. In my judgment, the conditions attached to this credit facility will enhance reform in the Ukraine.

The text of the letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, February 22, 1996.

Hon. LEE HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: During your meeting last fall with Mr. Richard Morningstar, Special Advisor to the President and Secretary of State for U.S. Assistance to the NIS, you expressed interest in the Administration's program of encouraging reform in Ukraine's energy sector and the AID/Eximbank facility. We wanted to take the opportunity to describe the energy sector reforms to which the Government of Ukraine has committed as a condition of approval of the facility.

In two face-to-face official meetings, Mr. Morningstar has made clear to Ukrainian Deputy Prime Minister Shpek that commitment to restructure the power market is an essential condition under which we could implement the $175 million facility. Deputy Prime Minister Shpek understood and accepted that condition and has committed to break up the state-owned power monopoly into the following parts:

Four already established, competing electricity generating companies that will be privatized; a national electricity transmission company; twenty-seven independent, joint stock local electric companies; and a competitive market for power by the end of March 1996 in which the generation companies bid to supply the local distribution companies with electricity at the lowest price.

This commitment is above and beyond any IMF conditions and any condition for any existing World Bank loan. Creation of the power market will become part of the negotiations for an upcoming World Bank loan. The AID/Eximbank credit will give the Government of Ukraine short-term funding flexibility to implement the energy market structure and will help to leverage the World Bank financing.

The AID/Eximbank facility is a special export credit insurance facility for U.S. exporters of agricultural-related goods and services to Ukraine. The purchase of refined fuel agricultural inputs—up to $100 million of the $175 million facility and of critical importance to the Government of Ukraine—would qualify for coverage under the program; however, the facility may not be used for broader, untied fuel purchases. We strongly believe that the commitment to the reforms outlined above justifies the inclusion of refined fuel products in the agriculture credit facility. The facility will operate according to ExIm's regulations and Eximbank will recommend whether to extend insurance coverage on a case-by-case basis. We assure you that any agricultural fuel inputs will be closely monitored and traced to agricultural use. As we go forward with this program we will be sure that it remains consistent with our broader efforts to promoting reform in Ukraine.

Please let me know if we can be of further assistance on this or any other issue.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

IN CELEBRATION OF THE GOLDEN ANNIVERSARY OF TROOP 232 OF THE BOY SCOUTS OF AMERICA

HON. LARRY COMBEST

OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mr. COMBEST. Mr. Speaker, I rise this afternoon with great pride to acknowledge an outstanding organization in Midland, TX—Troop 232 of the Boy Scouts of America is celebrating its golden anniversary and I would like to take this opportunity to congratulate them on this distinguished milestone.

Scout master Cliff Hogue started Troop 232 in 1946, and thanks to his efforts and the efforts of so many fine young men and their families, Troop 232 has reached this impressive record of a half-century of achievement. In the last 12 years, nearly 40 young men of Troop 232 have been awarded the prestigious Eagle Scout Award. In celebrating its golden anniversary, Troop 232 is not only paying tribute to its longevity, but it is recognizing a commitment to leadership and excellence.

As a former Boy Scout myself, I am well aware of the valuable role this organization plays in providing our youth with the necessary tools to become outstanding leaders. The Boy Scouts remind us of all that is good in America, and Troop 232, through its unwavering dedication to that organization's noble principles, has enriched the lives of hundreds of young men and given its community a legacy of which to be proud.

Congratulations Troop 232. May your success continue as you begin your second half-century.

LEGISLATION TO BENEFIT REEMPLOYED VETERANS

HON. BARBARA F. VUCANOVICH

OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mrs. VUCANOVICH. Mr. Speaker, the Uniformed Services Employment and Reemployment Rights Act of 1994 [USERRA] increased the protections afforded our service men and women who leave a civilian job for qualified military service. In addition to assuring these returning veterans that their jobs would be waiting for them when they return, under USERRA a returning veteran is also eligible to have his or her pension, profit-sharing and other related benefits restored. These are the benefits that would have accrued, but for the employee's absence due to qualified military service.

The problem is, under the Internal Revenue Code [IRC], overall limits are placed on contributions and benefits under certain retirement plans. Thus the employer-sponsored pension and savings plan rights given to returning veterans by USERRA are taken away by existing rules in the IRC. If the conflicts between USERRA and the IRC are not corrected, aggrieved veterans will have to bring suit against employers to enforce their rights under USERRA. Relying on litigation to resolve this situation would benefit no one—not the courts, not employers, and certainly not veterans.

Today I am introducing the Veterans Reemployment Benefits Protection Act to allow veterans to received the benefits Congress intended to give them when it enacted USERRA. This legislation makes technical amendments to the IRC to allow returning veterans and their employers to make make-up contributions as authorized by USERRA.

Language similar to this legislation was included in the Balanced Budget Act of 1995, H.R. 2491, as passed by the House. I have added minor technical changes to the language in H.R. 2491 at the suggestion of the Treasury Department.

Mr. Speaker, I hope my colleagues will agree that this much-needed technical correction to the IRC should be passed expeditiously, either as part of a larger bill or even on its own. The dedicated young men and women who leave their jobs and families to serve in the U.S. military deserve nothing less.

ALCOHOL LABELING ACT

HON. PATRICIA SCHROEDER

OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mrs. SCHROEDER. Mr. Speaker, today I and my colleagues are reintroducing the Alcohol Labeling Act, which would require makers of alcoholic beverages to label each beverage container with a list of the ingredients and calories, as well as the alcohol, it contains.

This low-cost proposal establishes the unit of serving size called the drink. One drink contains 0.6 ounces of alcohol—the amount usually found in one beer, one shot of distilled spirits, or one glass of wine.

The only cost to U.S. taxpayers will be $500,000 for a toll-free number, which would provide referral help for those with a drinking problem. This number and the required information would be legibly printed on each container.

Labeling for alcoholic beverages was not part of the nutrition labeling requirements mandated for food products in 1990. As a result, we are still burdened with an alcohol labeling law that dates from the Prohibition era. It is inconsistent that the alcohol contents of wine and distilled spirits must be disclosed, while producers of beer and malt liquor have the option of listing their ingredients on their labels.

This bill would correct that inconsistency, while providing young consumers, diabetics, and others with diet-sensitive conditions with information on what they are consuming.

I am especially concerned about the increasing problem of teenage binge drinking. This bill would give young, inexperienced drinkers user-friendly information on beverage potency and a standard gauge of the impairment caused by an alcoholic beverage. Informed teens are more likely to avoid death from overdose.

In the 103d Congress, this legislation received the support of groups ranging from the Academy of Pediatrics, to the General Conference of Seventh-Day Adventists, to the National Parent Teacher Association, to the Latino Council on Alcohol and Tobacco.

Providing consumers with the information they need to make informed decisions about drinking is a sound first step in reforming our national alcohol policy.

I urge my colleagues to join me in supporting ingredient labeling on alcoholic beverages. As individuals, we need this information to be more responsible in our use of alcohol. As a nation, we must end marketing practices that mislead and target our youth.

AMERICA MUST STAND BY TAIWAN

HON. BILL BAKER

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mr. BAKER of California. Mr. Speaker, on March 23, the people of Taiwan will hold an event we in this country much too often take for granted: a free election. As Americans, we share in their pride and hopeful anticipation of this great celebration of liberty.

At the same time, we must condemn the actions of the Mainland Chinese in attempting to intimidate the Taiwanese people. The efforts of the dictators in Beijing to somehow frighten the people of Taiwan into postponing their election have failed, and have again reminded the world of what the raw and sordid face of Marxist totalitarianism looks like.

Recently I met on Capitol Hill with Mr. Chen Rong-jye, Deputy Representative of the government of Taiwan. Mr. Chen holds the second-ranking position in the Taipei Economic and Cultural Representative Office in the United States, the equivalent of the Taiwanese Embassy—since formal American recognition of the Communist government in Beijing, Taiwan has had no formal embassy in the United States. We discussed China's military actions in the vicinity of Taiwan's coastline, and Mr. Chen showed me on a map how close the Communist Chinese had come in their missile exercises to two major Taiwanese ports.

I was honored that Mr. Chen came to the Hill to meet with me and discuss the Taiwanese situation. Communist China's crude bullying of Taiwan has failed to sway the commitment of the Taiwanese people to democratic elections later this month, and I fully endorse their brave determination to stand for liberty, and also am strongly supportive of the recent placement of U.S. naval ships in the waters near Taiwan.

In addition, I am proud to be an original cosponsor of the nonbinding House Concurrent Resolution 148, a resolution that states, in part, that "the United States, in accordance with the Taiwan Relations Act and the constitutional process of the United States, and consistent with its friendship with and commitment to the democratic government and people of Taiwan, should assist in defending them against invasion, missile attack, or blockade by the People's Republic of China."

Other key supporters of this resolution include House Speaker NEWT GINGRICH, International Relations Committee Chairman BENJAMIN GILMAN (R–NY), House Majority Leader DICK ARMEY, and House Majority Whip TOM DELAY.

Ronald Reagan once reminded us that "we are a people with a government, not the other way around." The people of Taiwan understand this fundamental truth in a way the aging tyrants in Beijing perhaps never will, which is all the more reason for the United States to uphold our longtime friends on Taiwan.

INTRODUCTION OF LEGISLATION TO CLARIFY THAT FREQUENT FLIER MILEAGE IS NOT TAXABLE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to clarify that frequent flier mileage is not taxable. I believe that frequent flier miles are not taxable under current law. However, in light of the Internal Revenue Service's recent advice in technical advice memorandum 9547001 and despite the fact that technical advice memorandums only apply to a given taxpayer and set of circumstances, I feel a clarification is necessary.

The technical advice memorandum would require employers that permit employees to use frequent flier miles for personal trips to report as income on workers' W–2 forms the full cost of plane tickets that led to the accumulation of the frequent flier miles. This simply makes no sense.

This is one of those areas where taxation would raise a myriad of questions for which there is no single correct answer such as appropriate timing—would miles be taxed when earned or when used; valuation—is mile earned from a credit card equal to a mile earned by flying a particular airline—what is the correct value of a ticket or a free upgrade in light of the fact that any given flight has a myriad of service classes; segregation—do employees have to try and keep track of which miles were earned for personal travel, which miles were earned for business travel, and which miles are earned from using a credit card, or using a particular long-distance carrier. Taxation of frequent flier miles would only result in mindless complication and paperwork of nightmarish proportions for millions of Americans, the airlines, and the Internal Revenue Service. And the Service should realize this.

At a time when over 15 million Americans are enrolled in frequent flier programs and suspicion that the Internal Revenue Code is not fair and needless complexity is at an all time high, it would be sheer folly for the Service to move in this area. They have opened, closed, and reopened several projects to address the tax treatment of frequent flier miles over the years, all to no avail.

I believe that frequent flier miles are not taxable under current law and should remain that way. My bill would simply explicitly say that frequent flier miles are not taxable. I urge my colleagues' support.

ROTARY CLUB OF SAN CLEMENTE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. PACKARD. Mr. Speaker, I would like to bring to your attention an organization that has provided 50 years of outstanding service to the city of San Clemente, CA.

Founded in March, 1946, the Rotary Club of San Clemente and its members have provided hundreds of thousands of dollars, equipment, and tens of thousands of manhours in service to the city, the Nation, and the world.

Their accomplishments are numerous. In its many years of service, the Rotary Club of San Clemente has sent thousands of dollars and equipment to De Tuju, Argentina, San Clemente's "sister city". In conjunction with Rotary International, they have taken on the monumental task of eradicating polio in the world by the year 2000. Closer to home, they provide financial support to over 19 San Clemente charities and organizations, as well as, scholarships to local high school seniors.

I would like to commend and thank them for work they so selflessly perform. Their dedication is an inspiration to all.

ESSAY ON FREEDOM BY MICHELLE FUNK OF RICHMOND

HON. DAVID M. McINTOSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. MCINTOSH. Mr. Speaker, today I would like to give my report from Indiana for the week of March 11.

This week I would like to share with you an essay written by a sixth grade girl named Michelle Funk. Michelle is from Richmond, IN, in my district. Her essay won the top school award for sixth grade and first place in a Sertoma Club contest.

Michelle has entitled her essay, "Freedom." I think Michelle describes the God given right of self-determination better than many adults.

Her essay begins.

> Imagine this: Johnny and Mark were playing one-on-one basketball when a bully came up to them and said, "Give me that ball!" Johnny said, "I don't have to. It's a free country."
>
> "It's a free country." Many times that just seems like an excuse for not doing things we're told to. But it's true. It is a free country. But what does that mean?
>
> One thing is rights, the rights that are listed in the Constitution. They say that we can go to school, speak our minds, publish our ideas, and believe in whatever and whoever we want to.
>
> A right that is very important is voting. Even though it doesn't apply to me yet, it's still important that we can choose our own leaders instead of having a ruler who's succeeded by his children and their children.
>
> Even though we have a right to freedom, it's still a privilege, and privileges always go with responsibilities. If we are responsible now and in the future, we will make a better life for ourselves and our future families in many ways. If you're responsible, you will do better in school and in your future career. So be responsible!
>
> But then again, you don't have to. It's a free country!

I want to thank Michelle for helping us remember the true nature of freedom. In our Nation, we are blessed with freedoms which people in so many other countries do not enjoy. Michelle reminds us that freedom without responsibility is license. Freedom with responsibility is a virtue.

Mr. Speaker, Michelle's words are an important reminder for our work here in Congress, and they bear repeating. "If we are responsible now and in the future, we will make a better life for ourselves and our future families in many ways". This sixth grader from Richmond, IN is right. Thank you Michelle.

And that is my report from Indiana this week.

THE STORY OF VARIAN FRY AND THE EMERGENCY RESCUE COMMITTEE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. LANTOS. Mr. Speaker, the following account was written by my wife Annette with the able assistance and research of Mandi Cohn. It is a belated attempt to pay a debt to an American hero whose important deeds in the early years of World War II have been overlooked by a majority of Americans. He is the only American recipient of the Righteous Among the Nations Award bestowed by Israel to non-Jews who risked their lives to save Jews during the Holocaust. Truly, I'm grateful to my wife for once more helping us to remember those who deserve to be honored and emulated.

I am placing this statement in the RECORD on March 19 because this marks the 52d anniversary of the Nazi occupation of Hungary. It is important, Mr. Speaker, that we remember not only the tragedies but those few who, by putting their lives on the line, proved that it could have been detered.

VARIAN FRY: A RIGHTEOUS AMERICAN

In the summer of 1940 when the newspaper headlines in New York announced the fall of France to the Nazis, Varian Fry was way ahead of most Americans in realizing the full implication of these Nazis victories. In 1935 he had visited Germany on assignment for The Living Age magazine. He sensed the atmosphere of hatred and oppression Hitler brought to his country. While in Berlin he had seen the first great pogroms against the Jews. He saw young Nazis smash up Jewish-owned shops and watched in horror as they dragged people out in the streets and beat and kicked them almost to death. He watched as they dragged men and women, cut and bleeding down the street, hitting them with clubs, shouting and cursing vile names at them.

When France fell to Hitler invading armies in 1940, thousands of refugees who had fled to Paris as their only escape from Nazi horrors had to flee to the as yet unoccupied southern part of France with Marseilles as their destination. Only after it was too late did they realize that they were caught in yet another trap. In order to appease Hitler, the new puppet government, under Marshall Petain, enacted one stringent decree after another against the Jews and political refugees. They closed the borders and agreed to turn over all refugee exit-visa applications to the Gestapo. As a result the very act of asking to leave was sufficient to guarantee instant arrest.

Meanwhile in New York, Varian Fry, along with a few other prominent individuals, formed the Emergency Rescue Committee to try to help the beleaguered refugees in France. They managed to enlist the support of Eleanor Roosevelt and convince her of the imminent danger facing thousands of distinguished intellectuals, writers, scientists, academics, journalists, historians, musicians, opposition political leaders, and others. Eleanor Roosevelt was able to persuade the President to authorize 200 visas for the most prominent individuals in the group. This was the beginning of the extraordinary rescue mission for which Varian Fry promptly volunteered.

With the help of the German writer Thomas Mann, Jacques Maritain and many others, a list of 200 names was formed, and Varian Fry was appointed by the Emergency Rescue Committee to go to France to head the mission. It was a difficult and complicated undertaking because he received very little support from official sources. He had to coax a passport out of the State Department, which at that time took a dim view of Americans travelling to Europe. Fry then persuaded the International YMCA to give him a letter identifying him as a relief worker with refugees. This gave him some kind of official status vis-a-vis the French puppet Government of Vichy.

With $3,000 dollars taped to his leg, the list of 200 names which included such world famous persons as political scientist Hannah Arendt and painter Marc Chagall, but without any addresses or phone numbers to facilitate contact, he set out for the overcrowded and turbulent city of Marseilles. After a long and arduous trip he arrived on August 15, 1940, in Marseilles. When he finally settled in his dingy little hotel room he had to admit to himself that he had no idea how to begin searching for the individuals whose lives were now in his hands. He realized he needed help urgently to accomplish his mission.

His first fortunate breakthrough came when he met with a brilliant young German economist, Dr. Albert Hirschman, who at the time was himself a refugee who had recently managed to escape from Germany. Hirschman became Fry's most trusted friend and assistant. They developed a warm friendship which greatly eased the stresses and strains they faced daily in their dangerous mission. Fry nicknamed Hirschman "Beamish" because no matter how desperate their situation was he kept smiling and beaming optimism. Eventually, Miriam Davenport, a young, energetic and resourceful art history student from Boston, joined them. She, like many others, left Paris when the Germans invaded the city. The three of them became friends and "co-conspirators" in one of the most daring and successful rescue operations of World War II.

They opened their temporary "office" in an abandoned handbag factory in Marseilles. There from early in the morning until late at night Fry and his two young associates interviewed refugees. During each interview they wrote the necessary information about each refugee and placed it on an index card. After the last of the refugees departed each day, Fry, Beamish and their secretary, Lena Fishman, would adjourn to the bathroom and turn on all the water taps to foil any attempts at eavesdropping. There they would talk over any problems that surfaced during the day. Before leaving each day, Fry would spread the index cards containing names and notations on them in careful disarray on one of the desks so that he could tell if they had been tampered with and placed any incriminating documents behind the mirror inside the closet door.

The biggest problem was to find an escape route, to find a way out of France illegally (across the border unnoticed without an exit visa) and enter Spain legally, where it was imperative to get the entry stamp in one's passport. Dr. Hirschman, who had fought briefly with a Republican unit in Barcelona during the Spanish Civil War, knew that in the mountains above Cerbre, a fishing village near the border of Spain, the French and Spanish frontier posts were placed so that neither was visible to the other. It was possible to climb the mountain on the French side without being seen by the guards while also managing not to overshoot the Spanish border station. Once across the border, with a stamped passport, the refugees were able to continue their journey legally. Albert Hirschman drew Varian Fry a sketch of his plan. This map, drawn in pencil on a little scrap of paper, was to become the crucial lifesaving document for thousands of refugees who eventually, with the help of Fry and his associates, fled to the United States, where they would make their most important contributions to the cultural history of western civilization.

Once Fry and his associates worked out this complex routing, they had to acquire a large number of passports and blank identity cards, and find a skilled forger who could make them usable. To forge the documents, Fry engaged the services of a cheery, diminutive Austrian cartoonist named Bill Freier. Freier fled to France when the Germans entered Vienna in March, 1938. He spent his days drawing portraits of people and his nights in his hotel room altering passports. Unfortunately, Bill Freier paid a heavy price for his valiant efforts. He was arrested by the Gestapo and deported to the death camps in Germany. Amazingly, with courage, endurance and luck, Mr. Freier survived the camp until its liberation. Then he proceeded to walk across France until he found his wife and the four-year old son he had never seen.

With all these pieces in place, Fry's underground "railway" was in business, and miraculously none of the refugees were ever caught. Fry succeeded in saving an incredible number of Europe's intellectual elite in spite of growing police surveillance and harassment. He succeeded in spite of the reluctance of some, the arrogant attitudes of others and the constant lack of cooperation, even discouragement, he received from American consular officials in Marseilles.

Varian Fry's work came to an end on Friday, August 29, 1941, when he was taken into custody by agents of the French Secret Police and was deported to Spain. Unfortunately, once in the safety of the United States, the celebrated refugees Varian Fry rescued could find no time for him. Instead of recognition for his vitally significant and dangerous mission during the war, he was rejected, snubbed and forgotten. The State Department failed to apologize for seizing his passport and leaving him without identification behind enemy lines in France, enabling the Fascist French Secret Police to seize him. "We can't support an American citizen who is helping people evade French law," a U.S. diplomat told Fry when he asked for help.

In the United States Varian Fry wrote and lectured about the plight of Jews and other war refugees, and he accurately predicted the massacre of the Jews throughout Europe. His story is written in his book, "Surrender on Demand," and the later version, "Assignment: Rescue." Finally, Varian Fry received recognition for his efforts when he was awarded the Croix du Chevalier of the French Legion of Honor on April 12, 1967. In the summer of the same year Varian Fry died in his Connecticut home alone, leaving behind the unrecognized legacy of a heroic mission. He is survived by his wife, Annette, and three children.

Mr. Speaker, in 1993 the Holocaust Memorial Museum in Washington, DC, opened an exhibit detailing his accomplishments. On February 2, 1996, he was honored in Jerusalem at the Yad Vashem Holocaust Museum. Varian Fry is the first and only American recipient of the Righteous Among the Nations Award, which is an honor bestowed by Israel to non-Jews who risked their lives to save Jews during the Holocaust. "Fry was an American Oskar Schindler, an American Raoul Wallenberg," said an attending Israeli.

Secretary of State Warren Christopher was the keynote speaker at the ceremony held belatedly to acknowledge Fry's heroism and humanity. On that occasion he said:

> We have come to pay tribute to Varian Fry—a remarkable man and a remarkable American. Regretfully, during his lifetime, his heroic actions never received the support they deserved from my government, particularly the State Department. Even today, Varian Fry's tale of courage and compassion is too little known by his own countrymen. It is therefore with pride, but also with humility, that I come here today, as America's Secretary of State, to honor this extraordinary man.
>
> His assignment was supposed to last three weeks. He remained in France 13 months.

His initial orders were to help 200 individuals * * * he ended up rescuing close to 4,000. Operating under constant threat, without regard for his personal safety, Varian Fry worked tirelessly, using every means available, to secure safe passage for those who came to him, desperate for help. He remained in France long after the dangers to his life became apparent. His explanation was simple: "I stayed", he wrote, "because the refugees needed me." And because he knew that he was truly their last hope.

The measure of our faith is only restored by the knowledge that, in the fact of such evil, there were also men and women like Varian Fry. Otherwise ordinary individuals who were capable of summoning up extraordinary moral courage to confront and defy overwhelming brutality.

Mr. Speaker, what Varian Fry accomplished in terms of saving lives, renewing our faith in humanity and enhancing our trust in people's willingness to act on behalf of the persecuted is unique in the history of World War II. His history of World War II. His work deserves to be honored formally by the United States.

SURRENDER TO NEA PRESSURE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. GINGRICH. Mr. Speaker, I would like to bring to the attention of my colleagues the attached article from the March 7 Washington Times. Columnist John Leo describes the power of the National Education Association in opposing any and all school choice reform measures. Leo observes that the NEA's power is so great that it has succeeded in scuttling a full vote in the other body on the District of Columbia appropriations bill; its school voucher initiative is anathema to the NEA. As a result, the financially crippled D.C. government totters near bankruptcy.

Leo observes:

The NEA, the giant dinosaur of educational policy, is the largest single reason why the public school system seems almost impervious to real reform. It's clear goal is power over a monopolistic system, and it will do whatever it must to retain that power.

All those interested in producing true reform in our public schools are urged to read this column, submitted here into the CONGRESSIONAL RECORD.

[From the Washington Times, Mar. 7, 1996]

SURRENDER TO NEA PRESSURE

(By John Leo)

In his generally upbeat State of Education speech last week, Education Secretary Richard Riley talked darkly about people who want to "destroy public schools" and who "seek nothing less than dismemberment of the public education system."

These destroyers and dismemberers turned out to be ordinary supporters of school vouchers or school choice, a great many of whom are poor and black or Hispanic.

In part, Mr. Riley's attack on the school choice movement was protective cover for a disgraceful vote last week perpetrated by Senate Democrats under prodding from the White House. The Senate sank an aid package for the nearly bankrupt District of Columbia government, essentially because one part of the plan could have given some poor D.C. parents vouchers or scholarships for children to attend private schools. The plan went down on a procedural vote to prevent filibuster. Sixty votes were needed, but the two votes for cloture came out 54–44 and 52–42, with Democrats voting as a bloc with four dissenters, then five.

Democrats are not famous for stiffing the D.C. government, for opposing "choice" in any form, or even for defending Senate talkathons as a method of frustrating majorities. When it comes to essential services, Democrats routinely argue that the poor should have the same options as the middle class and the rich, even if it takes public funds to guarantee them. But all these normal party instincts are routinely suppressed when the subject is schools and the lobby applying the pressure is the major teachers union, the National Education Association.

In this case, the pressure was so intense that the Democrats preferred "a looming crisis of Congress' own making," as The Washington Post put it, to keeping alive the possibility that some poor Washington children might be able to attend non-public schools. As the Republicans tell it, they had the 60 votes in hand on Monday, but the NEA leaned on President Clinton, who abandoned his support for the plan and sent a written message to congressional Democrats asking them to switch, too.

The plan would have left the decision on these vouchers up to the D.C. council, which is highly hostile to the idea. Even if the council had approved, no money would have been removed from public school coffers. School-choice money was separate from public school aid, about $21 million over five years, covering tuition scholarships for low-income children most at risk for failure.

Still, the NEA did not want D.C. voters to decide for themselves, and it didn't want Congress on record as favoring choice in any way, even for parents confronted with the worst public school system in America. Unionized teachers, like beneficiaries of monopolies everywhere, can always be counted on to suppress competition. So as expected, the White House and the Senate Democrats caved in on schedule.

The NEA, the giant dinosaur of educational policy, is the largest single reason why the public school system seems almost impervious to real reform. Its clear goal is power over a monopolistic system, and it will do whatever it must to retain that power. Given its lobbying strength and muscle within the party—almost one in eight delegates to the last Democratic National Convention were NEA members—it can reliably dictate educational policy and key votes by congressional Democrats. And it can make trouble for reformers of all persuasions. As Lamar Alexander once said, "Only a very determined governor has the influence to marshal enough power to overcome (NEA) opposition."

True to form, the NEA cloaked its institutional interest in fears about church-state separation being violated by children attending religious schools on vouchers. By coincidence, the church-state issue was argued last week before the Wisconsin Supreme Court. At stake is the planned expansion to religious schools of the choice program that is making the most headway—Milwaukee's plan offering scholarships, of about $3,200 a year per student for some 7,000 poor children to enroll in non-public schools.

The state of Wisconsin argued before the court that arguments calling the Milwaukee plan a violation of the establishment clause are "no more than hollow walls" thrown up to defend a failing public school system. In questioning lawyers, the justices seemed dubious about the constitutionality of including religious schools in the program.

Still, programs such as this stand a good chance of passing muster. Since 1983, U.S. Supreme Court rulings have held that this kind of support for students in sectarian schools is legally permissible if the aid goes directly to parents, if the choice of school is freely made by parents or guardians, and if the system of funding is neutral on parental choice of school.

Former Assistant Secretary of Education Diane Ravitch reminds us that both the Head Start program and public scholarships to college provide models for choice—in both cases, public funds legally follow students even to sectarian institutions.

A Supreme Court ruling is presumably years away. In the meantime, we may see many episodes like the Senate's shabby treatment of the D.C. package.

EXCEPTING LOCAL REDEVELOPMENT AUTHORITIES FROM THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. WOLF. Mr. Speaker, yesterday I introduced legislation which would amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [CERCLA] to exempt certain State and local redevelopment authorities such as civic boards or commissions, and fresh start users of facilities purchased from those boards or commissions, from liability under the Superfund law under certain limited circumstances.

Under current law, civic boards or commissions charged with the job of developing plans for and encouraging the rehabilitation and reuse of Superfund sites are handicapped by certain Superfund liability provisions. These provisions could make such boards or commissions or their members liable for the costs of remediation of the site because of their involvement with developing plans to encourage future productive use of the site. This situation is unacceptable. Local governments should be able to develop and implement redevelopment plans without the fear of lawsuits seeking to join them as liable owners or operators.

Mr. Speaker, Front Royal, VA, located in Warren County, which I am proud to represent, is a beautiful and historic area located in the scenic Shenandoah Valley of the 10th District. The region has a blemish; however, namely, the Avtex-FMC Superfund site. State and local officials and the citizens of Warren County have come together in a concerted effort to cooperate with the Environmental Protection Agency (EPA) to clean up this contaminated site. Furthermore, like other communities that have Superfund sites, the citizens of Warren County and the town of Front Royal would like to move this site into productive economic use as soon as possible, thereby creating jobs and expanding the tax base.

In fact, the Warren County Redevelopment Board [WCRB], a local civic board, is dedicated to facilitating the reuse of the site. However, the WCRB is limited in what it can do because liability under CERCLA is joint and several and adheres to owners or operators whether they actually contributed to the contamination or not. That means that a local governmental entity, which assumes ownership or control of some or all of the remediated property for the sole purpose of finding a new owner for the property, could be held liable for any further cleanup even though that entity did not engage in any response action at the facility and was not engaged in the generation of any hazardous substance disposed of at the facility.

To further complicate the situation at the Avtex-FMC Superfund site, the EPA has proposed to subdivide putatively clean portions of the site and authorize the transfer of title to the clean sites to a new governmental, industrial, or business owner. In this manner some productive reuse of part of the property could be achieved long before the other polluted portion of the site has been remediated. Taking control of such a clean portion of the site is risky for the transferee because they could be liable for any further remediation required at the site.

Thus, for example, a civic board taking ownership or control of land presently or formerly part of a Superfund site for nonprofit purposes merely with a view to conveying it to a new industrial or commercial entity could be subject to Superfund liability because, for a time, it was an owner or operator of the site, notwithstanding the fact that it never contributed to the contamination of the site. This is the problem facing the WCRB. Likewise, new fresh start users are deterred from taking over the cleaned site for fear of being liable under CERCLA's complicated liability system.

Mr. Speaker, my legislation would allow a civic entity such as the Warren County Redevelopment Board to take title to portions of the site for the purpose of conveying ownership to an economic enterprise that will in turn be granted a fresh start, that is, to take and use the property free of potential liability for past pollution caused by the conduct of other parties at the site. It must be emphasized that the exemption provided by this legislation is strictly limited. Redevelopment authorities will only escape liability if such entity first, has not engaged in any response action at the facility, second, owns the facility or any portion thereof only on a temporary basis for the purpose of transferring the facility to a fresh start user, and third, has not engaged in the generation of any hazardous substance disposed of at such facility. Similarly, fresh start users will only be exempt if they acquired the facility from a redevelopment authority and has not engaged in first, any response action at the facility, second, disposal of any hazardous substance at the facility, or third, the generation of any hazardous substance disposed of at such facility. In short, redevelopment corporations and fresh start users that contaminate the property will not escape liability, but those that have nothing to do with the pollution would not be held liable.

This legislation is a good Government measure which would give State and local governments needed flexibility in the transition of Superfund sites into productive uses. Moreover, shielding the fresh start user from liability for an act for which the new user has no blame is essential to attracting a new business user which would otherwise be deterred by the potential for liability under the current complicated liability structure.

Mr. Speaker, I ask unanimous consent to include in the RECORD a copy of this legislation and a letter from Fred Foster, president of the Warren County Redevelopment Board, in support of this bill immediately following my statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM CERCLA LIABILITY FOR CERTAIN REDEVELOPMENT AUTHORITIES AND FRESH START FACILITY USERS.

(a) EXEMPTION FOR CERTAIN REDEVELOPMENT AUTHORITIES.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following at the end thereof:

"(n) REDEVELOPMENT AUTHORITIES.—No State or local board, commission, or other entity, or any member thereof, appointed or elected pursuant to State or local law to plan for or implement the redevelopment or reuse of a facility shall be liable under this section for costs or damages with respect to any release or threat of release from the facility to the extent such liability is based solely on the entity's status as an owner of the facility under paragraph (1) of subsection (a) if such entity—

"(1) has not engaged in any response action at the facility;

"(2) owns the facility or any portion thereof only on a temporary basis prior to transfer to another entity; and

"(3) has not engaged in the generation of any hazardous substance disposed of at such facility.

(b) FRESH START USERS.—Section 101(35)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by striking "described in clause (i), (ii), or (iii)" and inserting "described in clause (i), (ii), (iii), or (iv)" and by adding the following after clause (iii):

"(iv) The defendant acquired the facility from a person exempt from liability under section 107(n) and has not engaged in (I) any response action at the facility, (II) disposal of any hazardous substance at the facility, or (III) the generation of any hazardous substance disposed of at such facility. This clause shall not apply to any person who impedes the performance of a response action or natural resource restoration at the facility concerned.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to final agency actions, or court orders issued or judicial decisions made, under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 after the date of the enactment of this Act.

WARREN COUNTY
REDEVELOPMENT CORPORATION, INC.,
Front Royal, VA, July 19, 1995.

Hon. FRANK R. WOLF,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN WOLF: I am writing on behalf of the Warren County Redevelopment Board (WCRB) to thank you for authorizing the drafting of legislation that will protect the WCRB from legal liability as a result of our attempts to obtain productive reuse of the Avtex-FMC Superfund site in Front Royal.

As you know, the EPA has proposed to subdivide the Front Royal site and convey portions of the site that are supposed to be clean on an expedited basis (by the end of this year), long before the entire site has been cleaned up by FMC. As a matter of fact, FMC has proposed to amend its "work plan" to redo the cleaning up work on about 80% of the site which they have already been working on since mid-1980's. In addition EPA is proposing, for FMC approval, a work plan change that will allow them to dispose of contaminated industrial debris in a so called RCRA capsule. Under present law this onsite disposal will, inter alia, result in an inspection five years after the remedial action has been completed and at a minimum yet another five year reinspection delay thereafter.

One of the problems we fact is whether EPA has the legal authority to subdivide a Superfund site. I authorized our environmental counsel to write to the EPA in Philadelphia to request they disclose the basis for their authority to perform this subdivision of the site and the conveyance later this year of a "clean" part of the site to the WCRB.

The legislation protecting the WCRB from liability is necessary only if the subdivision of the Avtex-FMC site is legally authorized. But even under the best case scenario, if the subdivision is legally possible, the WCRB is convinced that they could never interest a new company to take over a "clean" part of the site unless your bill is expanded to protect not only the WCRB but the new company which will become the owner and operator of the subdivided site.

Therefore to be helpful your bill must exempt such a new owner by authorizing a "fresh start" status under which the new company is exempted from liability for hazardous substances and pollutants and contaminants on or near the Avtex-FMC site unless the new owner can be shown to actually release these substances by its own activities.

I am convinced that unless we can convey "fresh start" status to a new enterprise we will be unable to attract any company to use the site even if it can be subdivided prior to total cleanup.

Again, I want to thank you for your efforts on our behalf. The additional authority we believe to be necessary will of course entail action by the Senate as well as the House of Representatives. The WCRB and I personally would appreciate it if you would undertake to arrange a meeting with Senators Warner and Robb to get their support for this legislation.

Sincerely yours,
FRED P. FOSTER, *President.*

TRIBUTE TO THE CHRON'S & COLITIS FOUNDATION OF AMERICA WOMEN OF DISTINCTION

HON. CARRIE P. MEEK

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to join with the Chron's & Colitis Foundation of America in honoring their

1996 Women of Distinction. The Chron's & Colitis Foundation is the only national organization dedicated to finding the cure for these two debilitating diseases. The 1996 Women of Distinction are being honored for their devotion to making a difference.

Sonja Zuckerman immigrated to the United States 50 years ago, and has spent her time as an active participant for many important causes including life chairperson of the Diabetes Research Institute's love and hope committee, an ambassador for Project Newborn and her involvement with the Children's Resource Fund, and the Greater Miami Opera. Sonja is an inspiration to those who have had the privilege of working with her.

Judge Lenore Carrero Nesbitt is a U.S. district judge and the first to be appointed to the Federal bench in the southern district. Judge Nesbitt serves the Miami community through many ways, among them through her membership on the Florida civil justice advisory committee, the U.S. Judicial Conference Committee on Criminal Law and Probation Administration, as a member of the board of trustees of the University of Miami, and as a member of the board of directors of the Children's Home Society.

Gwendolyn B. Scott, MD is presently a professor of pediatrics and the director of the pediatric AIDS program at the University of Miami/Jackson Memorial Hospital. Dr. Scott has cared for children with HIV infection and AIDS for many years, and is nationally and internationally recognized for her work in pediatric HIV infection. She also serves as a member of the Dade County Ryan White HIV planning council, as a member of an AHCPR panel to develop guidelines for early HIV treatment, a member of the board of the AIDS Policy Center, and as the director of the Ryan White title IV program at the University of Miami.

Linda Gibb has dedicated her life to making her community a better place to live and caring for those in the world-at-large who are less fortunate. Ms. Gibb is the mother of five children and wife of celebrity Barry Gibb. She has served as international co-chair of the love & hope committee for the Diabetes Research Institute [DRI], raised funding to build the DRI building at the University of Miami, is an active supporter of UNICEF, Miami Beach police athletic leagues, Mt. Sinai neonatal care unit, the New World Symphony, Infants in Need, numerous AIDS charities, and the Andy Gibb memorial foundation.

Dr. Joyce Brothers is the world-renowned dean of American psychologists. Dr. Brothers has pursued many careers simultaneously, she is a regular columnist for Good Housekeeping and writes a daily column that is published in more than 175 newspapers worldwide. In pursuit of this prestigious career, Dr. Brothers gives of herself to help others.

In honor of their giving and caring for others, I salute the Chron's & Colitis Foundation of America 1996 Women of Distinction.

A SELLOUT TO CHINA

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mrs. FOWLER. Mr. Speaker, China's recent saber-rattling in the Taiwan Strait has raised eyebrows and anxiety levels all over the world and generated news coverage about China's defense buildup and weapons and technology sales to other nations. These are issues of extraordinary importance, and I am glad to see that they are finally getting some attention.

One area, however, which has been virtually ignored is the fact that United States Government officials have actually aided the People's Republic of China in these activities by loosening export controls and only selectively enforcing laws which are meant to prevent critical technology from falling into the wrong hands. Some of the effects of this short-sighted and dangerous trend were described last week in an article in the Wall Street Journal written by Michael Ledeen, a senior scholar at the American Enterprise Institute and an expert on foreign policy.

The article addresses some of the implications of our Nation's transfer of technology to China, including the fact that the transfers are undermining stability in the region and jeopardizing our national security. I include a copy of the article to be included in the Congressional Record following my remarks.

[From the Wall Street Journal, Mar. 12, 1996]

A Sellout to China

(By Michael Ledeen)

Those of us who believe that free trade and free markets are morally, politically and economically superior to state planning must nonetheless recognize that the government should take measures to prevent the sale of particularly dangerous technology to actual and potential enemies. Our victory in the Cold War was due in no small measure to the Reagan administration's successful program to deny the Soviet Union advanced military technology.

Yet that lesson has been forgotten in the scramble for business in the last major Communist dictatorship, the People's Republic of China. As a recent fiasco proves, the Clinton administration has encouraged American corporations to facilitate the rapid growth of Chinese military power, which is now being used to intimidate our democratic friends and allies in Taiwan and elsewhere in Asia, and may someday be directed against us.

A STRUGGLING COMPANY

The story involves a struggling aircraft company, McDonnell Douglas. Led to believe they could cash in on a Chinese proposal to purchase large numbers of civilian aircraft, McDonnell executives, in violation of export-control legislation, permitted the Chinese to visit a plant in Columbus, Ohio, where parts for the B–1 bomber and the C–17 strategic transport plane were manufactured. The Chinese took extensive notes, photographs and even videotapes of the machinery, involving advanced "five axis" tools used to manufacture components not only for aircraft but also for cruise missiles and nuclear warheads. Workers at the plant, already enraged by McDonnell's decision to phase out the facility, protested against the Chinese inspection tours. To avoid the workers's wrath, the McDonnell executives smuggled the Chinese in at night or on weekends. The Chinese were so keen to get their hands on the technology that they linked future cooperation with McDonnell to their ability to buy the machinery.

Even though other American companies were interested in buying the equipment. McDonnell, lured by Chinese promises to buy dozens of jointly produced MD–90 passenger planes, insisted on selling it to China at bargain basement prices (about 10 cents on the dollar). The Commerce Department approved an export license in September 1994. According to government officials, the contents of the factory filled 280 semi-trailers, which were driven to the West Coast, whence the stuff was shipped to China.

On its face the sales seemed to violate international agreements among the "Nuclear Suppliers Group." which forbid selling five-axis machinery to any country known to be a nuclear "proliferator" (China is dubbed a "proliferation concern" by the U.S. itself). To justify this extraordinary action, the licenses stipulated that the five-axis machines would be sent exclusively to a new Chinese facility in Beijing, where they could be monitored, but U.S. officials failed to conduct any preshipment inspection of the new factory. If they had, they would have discovered that it did not exist. The Chinese had created a Potemkin factory in order to acquire the technology, which was destined for military facilities. The intelligence community expected this to happen, and it did; Six of the machines were illegally diverted to Nanchang, a major center for Chinese missile programs.

By last spring, McDonnell executives realized they'd been had. The machines had gone to a military facility, the Beijing factory was a hoax, and the Chinese had already canceled the bulk of their promised order. McDonnell informed the Commerce Department of the Chinese diversion, and asked that the license be suspended. Commerce did that, and began an investigation, but before its completion, the Chinese came up with another scheme: Why not send the machines to a factory in Shanghai that was already part of the joint venture with McDonnell? McDonnell filed a request to amend the export license, and in late January a Commerce official told the Far Eastern Economic Review's Nigel Holloway that the amended license had been approved. It is hard to imagine a more classic act of appeasement: A sale that never should have been approved in the first place turns out to have been an illegal diversion, but instead of punishing the criminals involved, the Clinton administration simply covers it up by rewriting the documents.

As if this were not enough, it turns out that McDonnell is hotly pursuing another project with the Chinese, which would expand its MD–90 airplane facility at Shenyang to manufacture parts for a smaller version, the MD–95. Some officials in the Defense Department were concerned that advanced machine tools at Shenyang were grossly underutilized, and they believe they have now found an explanation. On Feb. 5, a joint Chinese-Russian project was announced for the construction of Su–27 fighters—some of the most advanced in the world—at Shenyang. No clearer proof could be imagined of the military value of the McDonnell hardware. One would hope that our president would come down hard on a company that was contributing so mightily to Chinese military power. Instead, at a campaign-style appearance at a McDonnell plant in Long Beach, Calif., on Feb. 23, Bill Clinton announced that the government was buying another batch of McDonnell military transports.

The McDonnell case is just one example among many of the Clinton administration's determination to give China most everything it wants, national security be damned. As early as October 1993, Secretary of Defense William Perry announced in Beijing that he'd told the Chinese they could cut back on their nuclear testing by using advanced computers to simulate the explosions, adding that the U.S. was prepared to share this know-how. Within two months, Mr. Clinton announced a massive decontrol on exports of the necessary supercomputers.

While it is true that the computer simulations might reduce the need for some nuclear testing, they also permit the Chinese to conduct their nuclear program with greater secrecy, thereby making it far more difficult for the West to find out what China is up to in this delicate area. But Clinton & Co. don't seem terribly worried by anything the Chinese might care to do. The Washington Times revealed on Feb. 5 that the intelligence community had discovered that China is shipping the Pakistanis components for their nuclear weapons program. This leak, nicely timed to coincide with the Washington visit of China's foreign minister, shamed the administration into promising it would raise the issue with him.

Another leak—this time that the Chinese are providing Iran with the technology for advanced chemical weapons factories—appeared just in time for the arrival in Washington of their national security adviser. But why should the Chinese worry? This is the crowd that decontrolled the supercomputers, and pointedly refused to take punitive action when advanced technology was illegally diverted to military projects. The administration even refused to invoke sanctions when Adm. Scott Redd, commander of U.S. naval forces in the Persian Gulf, warned that missiles supplied by China to Iran threaten our ships.

ONLY WORDS

The Clinton administration's threats to "get tough" with China are only words, and the words are belied by its actions. Just before the release of the State Department's criticism of Chinese human rights practices last week, the White House announced the lifting of yet another sanction on China: American companies like Loral, Hughes and Lockheed Martin can now use Chinese rockets to put their satellites into orbit. It doesn't take a Confucian scholar to understand the meaning of Mr. Clinton's behavior: The words assuage his domestic critics, but the actions strengthen and delight the Chinese.

Mr. Clinton's policy is based on the theory that we can best influence the behavior of China by enmeshing that country in a vast network of trade. For those old enough to remember, this theory was tested in the mid-1970s on the U.S.S.R., when Richard Nixon and Henry Kissinger called it "detente." It did not change Soviet behavior; instead it made the Soviets technologically and militarily more powerful. It will certainly do the same for the Chinese.

Let us hope that neither our Pacific friends and allies nor our own children will have to face terrible weapons of destruction, designed and manufactured by American computers and machines, foolishly and irresponsibly provided by Bill Clinton, Ron Brown, William Perry and their willing accomplices in government and business.

NEW YORK TIMES CALLS INDIA ROTTEN, CORRUPT, REPRESSIVE, AND ANTIPEOPLE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. SOLOMON. Mr. Speaker, the February 25 issue of the New York Times featured an excellent article on the corruption and repression in India. In it, the Indian Government was aptly described as "a rotten, corrupt, repressive, and anti-people system." This is an accurate and very damning indictment of the brutal Indian regime. I will be placing this article in the RECORD.

The repression of the Sikhs is vividly exposed in the new video "Disappearances in Punjab," which I recently received from the Council of Khalistan. An Indian policewoman testifies in the video about acts of torture and repression that she has seen. The kidnaping of human rights activist Jaswant Singh Khalra is highlighted. Mr. Khalra was kidnaped by the Punjab police after publishing a report which exposed abductions and disappearances of the same kind as those revealed by this video.

The video is a powerful indictment of India's reign of terror in Punjab, Khalistan. No one who watches it will ever again see India as anything but a brutal police state. I strongly recommend it. As Siskel and Ebert would say, it gets two thumbs up.

As you know, India has recently been rocked by a massive corruption scandal which as forced the resignations of several Cabinet members and a number of leading opposition political figures. According to the January 25 issue of the Tribune of Chandigarh, the Prime Minister himself received 3.5 crore rupees, the equivalent of millions of dollars, in this scandal. All this is going on while the ordinary people of India live in some of the worst poverty in all the world, some of them making less than a dollar a day. Is it any wonder that many experts believe that India is apt to break apart soon?

This corruption is one symptom of India's moral bankruptcy. Another is the repression of the Indian regime routinely practices against the Sikhs Nation and the other nations their forces brutally occupy, such as Azad Kashmir and Christian Nagaland. One recent incident, while not as serious as the Khalra kidnapping, shows how pervasive the effort to intimidate the Sikh Nation into submission is. A university student is being denied his degree by the regime despite being one of the top students in his class. His name is Sukhbir Signh Osan, and he is also the reporter who broke the story that the late Governor of Punjab, Surendra Nath, was paid $1.5 billion by the Indian regime to organize and support covert states terrorism in Punjab and Kashmir. This certainly seem to be an attempt to force Mr. Osan to toe the India regime's line rather than doing this kind of independent reporting.

In that light, the Sikhs of Khalistan and the oppressed peoples of the other nations India brutally occupies are entirely justified in seeking their freedom. America should support them in this effort.

Many of us have introduced a bill, H.R. 1425, the Human Rights in India Act, which will cut off United States development aid to India until the human rights situation is rectified. This bill would be a first step in restoring freedom in the subcontinent. I urge my colleagues to support it, and I call upon our colleagues over on the Senate side to introduce parallel legislation. I also call upon our Senate colleagues to circulate a letter protesting India's brutal repression of the Sikhs and others similar to the one 65 of us signed last year. In America, we enjoy the blessings of freedom. It is our duty to help spread those blessings to all the people of the world.

THE SPIRIT OF RURAL AMERICA

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. NETHERCUTT. Mr. Speaker, the first 2 months of 1996 brought the Pacific Northwest bitter cold, heavy snow, torrential rains, and disastrous floods.

I had the opportunity to witness some of the worst flooding in our State in 30 years. Railroads have been washed out, highways are crumbling, and homes have been carpeted with river mud. However, outside of the heavy mud rose a spirit from eastern Washington that lightened the hearts of everyone who was touched by this force of nature. Without phone calls, whistles, or an official call, the eastern Washington community has come together to work day and night to take their town back from overflowing rivers. Working as one, they created an awe-inspiring relief team. This effort is a tribute to the strength and capability of the people of the Pacific Northwest.

Nothing tears at the fabric of a community like a natural disaster and nothing else can bring out the best in human beings. The people of Dayton, Walla Walla, Waitsburg, Pullman, Colfax, Elberton, Palouse, and all surrounding towns should be commended for what they have endured and how they have welcomed their neighbors' help with open arms.

The employees of FEMA, the Red Cross, Corps of Engineers, and the Small Business Administration must be congratulated as well. Working among disaster areas and dealing with human concerns day after day challenged public and private citizens alike. My visit to these towns to view the damage was not only inspiring but an encouraging opportunity to observe Federal employees at work. These agencies have received high marks in Washington State and our residents thank their personnel for what they have done to assist.

When spring arrives in the Pacific Northwest, the scars will remain visible, but the work will continue. Crops will be replanted and roads will be repaired. As a Member of Congress, I will be doing my best to help our small towns get back on their feet, back in their homes, and their lives back to normal. It will all take time and it will also preparation to avoid flood damage in the future.

America's small towns must be preserved. Rural communities are certainly a window into our past and, I hope, a picture of what America can be. We are faced with daily reports of bad news about the condition of our society, but the citizens of Dayton, Waitsburg, Palouse, and all the other affected towns in eastern Washington give me hope. Community leaders like Waitsburg Mayor Tom Baker, Columbia County Commissioner Jon McFarland, and Walla Walla County Commissioner David Carey have given so much to their constituents under adverse circumstances. John Vachal, the mayor of Dayton, has done an excellent job coordinating his responsibilities to the town and contending with the damage to his own neighborhood. Great commitment and leadership has also been recognized in Columbia County Commissioners George Touchette and Charles Reeves, Colfax Mayor Norma Becker, Palouse Mayor Bruce Baldwin, and Pullman Mayor Mitch Chandler, to name only a few.

Countless families have endured this winter's heartbreaking events, like the Marshall family of Starbuck, whose living room was flooded with 3 feet of water. Flint and Megan Gilbertson were both moved to tears, not simply because they nearly lost their home, but because their community opened hearts and wallets and donated needed money to the family. Nevertheless, few complain and everybody works for the good of the community. I believe Darlene Burrill of Walla Walla said it best. "May each one find hope and encouragement in knowing that there are many people who care."

I will do all that I can to make recovery proceed as smoothly as possible for the people of the Fifth Congressional District. America has much to learn from my part of the country, and I have a renewed respect and a continuing deep appreciation for the spirit of rural America and eastern Washington.

IRAN OIL SANCTIONS ACT OF 1996

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. GILMAN. Mr. Speaker, I rise today to introduce H.R. 3107, a bill that would impose sanctions on companies that provide key oilfield equipment and technology and investment to Iran and Libya. The Iran Oil Sanctions Act of 1996 will ensure that these terrorist states will have more limited access to outside capital and technology. It will be a major deterrant to their efforts in attracting new investment and luring European and Asian firms into developing Iranian offshore oil resources.

The Iran Oil Sanctions Act of 1996 imposes sanctions on persons exporting key oilfield goods of technology or making investments of $40 million or more that would enhance the ability of Iran and Libya to develop their petroleum resources.

The measure would require the President to impose two or more penalties on a sanctioned person. These penalties include a denial of Exibank assistance; a denial of specific licenses for the export of controlled technology and a prohibition on imports from that company; a prohibition on a sanctioned financial institution from serving as a primary dealer in U.S. Government debt instruments; a prohibition on any U.S. financial institution from making any loan to a sanctioned person over $10 million a year; and a ban on any U.S. Government procurement of any goods or services from a sanctioned person.

The legislation allows the President to delay imposition of sanctions for 90 days to pursue consultations with the Government of the sanctioned person to terminate the sanctionable activities. An additional 90-day delay is provided if that Government is in the process of terminating these activities. The President may waive any of the sanctions if he determines that doing so is in the U.S. national interest.

The adoption of a companion bill in the Senate on December 22, 1995, as well as the prospect for the enactment of a more comprehensive sanctions regime contained in this bill has already had a deterrent effect on potential investors and oilfield suppliers in Iran and Libya.

The bombings and slaughter of innocent civilians in Israel over the past several months demands an immediate and concrete plan to punish those states providing financing and other support to the perpetrators of these unspeakable crimes.

While the convening of an antiterrorism summit in Egypt earlier this month was a laudable step in fighting the challenge of state-supported terrorism around the world, much more needs to be done in focusing the spotlight directly on states such as Libya and Iran. Adoption of this measure would be the first step in developing such a plan.

It can be the cornerstone in the foundation of our policy of cutting off the key sources of funding to those regimes aiding and funding these acts of terrorism and actively developing weapons of mass destruction.

In my view, the most effective way to advance the goals of the antiterrorism summit is to adopt a comprehensive policy designed to stop the flow of oilfield technology and investments to Iran and Libya. This bill accomplishes this objective by sanctioning any company providing goods or the capital to develop the oil resources of these rogue regimes.

To our trading partners in Europe and Japan who have expressed reservations about our approach in this bill, I would only ask them to examine the actions and public statements coming from Teheran and Tripoli, including their continued support for terrorist activities throughout Europe, their advocacy of the destruction of Israel, their efforts to develop chemical and nuclear weapons of mass destruction, their characterization of the murder of Prime Minister Yitzakh Rabin as "divine revenge", and their unwillingness to extradite those responsible for the murder of the passengers of the Pan Am 103 flight.

I ask my colleagues on both sides of the aisle to send a strong message that future trade and investment in the petroleum sector in Iran and Libya will restrict a company's access to the United States economy. I ask you to join me in supporting this very important legislation which will be considered later this week by the International Relations Committee.

TRIBUTE TO MSGR. JOHN PATRICK CARROLL-ABBING

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. DEUTSCH. Mr. Speaker, I rise today on behalf of Lou Marsh, a close friend and constituent. Mr. Marsh is the Florida chairman of the national board of the Boys' Town of Italy as well as its tireless advocate. It is through his commitment that I have become familiar with the Boys' Town of Italy and how I come to pay tribute to the humanitarian efforts of Msgr. John Patrick Carroll-Abbing and this years Boys' Town honorees.

The monsignor's work has spanned the course of the last half-century and has served to establish and preserve the Boys' Town of Italy. In 1945, Monsignor Carroll-Abbing founded his first Boys' Town 45 miles from Rome. The purpose of the town was simple, to give orphaned or abandoned children a home. The Boys' Towns were run completely by the children. They shared in the work responsibilities and learned to respect one another.

The dreams of monsignor Carroll-Abbing have been realized today with nine Boys' Towns and one Girls' Town in Italy, all run by the monsignor's International Boys' Towns of Italy—the organization which he established. Today, orphans in Italy no longer go without homes. Besides the towns which he established, the monsignor's organization also donates money, clothes, medical care, furniture, and time to children in need.

Today, Monsignor Carroll-Abbing's touch is felt around the world. He has extended his aid across seas and continents. The monsignor's Boys' Towns have provided homes for hundreds who have suffered due to war, famine, and disaster. In addition, the monsignor travels around the world to disaster sights to assist in relief efforts on each occasion with the help of children.

Monsignor Carroll-Abbing's major contribution to the world has been to give opportunity to a group of forgotten children who would have otherwise lacked it. Msgr. John Patrick Carroll-Abbing has served humanity throughout his life; whether they be orphans, delinquents, or children in need. Monsignor Carroll-Abbing is a man who has touched, changed, and saved the lives of thousands of children. For more than 50 years he has dedicated himself to improving the lives of children. Monsignor Carroll-Abbing is a man who should be revered by all, and overlooked by none, as one of the greatest humanitarians in history.

This year the Boys' Towns of Italy are honoring two outstanding Italian-Americans for their various achievements and contributions. The Boys' Town Entertainer of the Year Award will go to Mr. Dennis Farina. Mr. Farina has long been acknowledged as one of Hollywood's busiest actors, and has appeared in such hits as "Get Shorty," "Little Big League," and "Striking Distance."

The Boys' Town of Italy Man of the Year is Mr. Chuck Curico. Mr. Curico at the age of 17 joined the U.S. Marine Corps where he served for 3 years. He received the Navy Achievement Medal for his service in the Vietnam war.

He returned home, married, and graduated from college in 1972, the same year he founded Tire Kingdom with a modest investment of $150. Tire Kingdom is now America's third largest independent tire dealer, and is currently listed as one of Florida's top 50 companies. Believing strongly in giving something back to his community, Mr. Curico has been actively involved in community service projects such as: Homesafe, Junior Achievement, the American Cancer Society, the Cystic Fibrosis Foundation, the March of Dimes, Boys and Girls Clubs, and many others. Mr. Curico, with his exemplary and tireless dedication to improving the lives of others serves as an illustration of what we all should strive to become.

WIDENING INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. SABO. Mr. Speaker, for many years, I have been speaking about the growing income gap in America. Due to the Republican Presidential race, this issue has finally been catapulted into the forefront of the Nation's consciousness. In fact, it is hard to open a newspaper op-ed page or turn on a television news program without hearing something about declining worker wages, increased layoffs and increasing corporate profits and CEO pay. I am grateful that people have started to pay attention to this important problem. I fear, however, that as the Republican race winds down, the issue of the income gap will no longer be in vogue, and the media will turn its attention to something new.

We cannot squander this opportunity. The income gap is a growing problem that, if not addressed, threatens to undermine our Nation's prosperity and calls into question the type of nation we want America to be. We must take advantage of the attention now being paid to the problems facing working Americans.

Thanks in part to the deficit reduction measures we passed in 1993, the American economy today is in good shape: We enjoy strong growth combined with low unemployment and low inflation. The stock market is also reaching record highs, as are profits of many American companies. This should seem like good news for the average American family, for in the past, Americans at all income levels shared in our Nation's prosperity. Today, however, stock prices and corporate profits rise while the incomes of middle-class American families stagnate or drop.

If stagnating wages were the only problem that working Americans had to face, things might not be so bad. However, in recent years our Nation has also seen unprecedented worker layoffs in corporate America. Of course, it is understandable that such upheavals may occur as our economy becomes more technology-based and integrated into global markets. What is difficult to understand, however, are the tremendous bonuses and pay increases enjoyed by the very CEO's who lay off thousands of workers.

The United States has prided itself on being a nation of the middle class—one in which if you work hard and follow the rules, you can expect to do well enough to support yourself and your family. Alarmingly, this is no longer true for an increasing number of Americans.

In the decades following World War II, American workers shared in the successes of their employers. Over the past 20 years, however, only high-income Americans have moved ahead economically. Between 1977 and 1990, for instance, the average after-tax income of the wealthiest 1 percent of our population increased by 67 percent, after adjusting for inflation. During this same period, the average after-tax income of the bottom fifth decreased by nearly 27 percent.

This is not a problem that affects only the poor. Every year, thousands of Americans are laid off from well-paying middle class jobs, to be left with a choice between a new job that pays less or the unemployment line. Clearly, this trend cannot continue.

America's level of income inequality is already higher than that of any industrialized nation. Our middle class is evaporating, and we are well on the road to becoming a nation divided between a few very rich and many who simply struggle to get by. None of us, in the words of Labor Secretary Robert Reich, will "want to live in a society sharply divided between winners and losers."

Leaders in government and business must begin to address this problem, which will have social consequences that far outweigh any economic impact. We must correct policies that exacerbate the income gap, and develop new ones that help to close it. Several of my Democratic colleagues have developed proposals to reduce the income gap by encouraging responsible corporate citizenship, boosting worker wages, and making our Tax Code more equitable. I commend them for these efforts, and call upon all of my colleagues to take action to restore working Americans' faith in the economy.

The widening income gap lays before us the question of what kind of country we want to be: one sharply divided between the rich and poor, or one in which all citizens can benefit from a strong economy. I believe that our choice is clear. America has always been the land of opportunity. We should work together for policies that do not favor any income group, but enable all Americans to share in our Nation's strength and prosperity.

INDIAN TYRANNY SUBJECT OF NEW VIDEO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. TOWNS. Mr. Speaker, many of us have spoken repeatedly about India's repressive tyranny in Punjab, Khalistan, and in other areas where the dominant population is not Brahmin Hindu. Now a new video has come out which exposes the pervasive nature of that tyranny, at least as it relates to the Sikh nation in Punjab, Khalistan. I thank the Council of Khalistan for sending me this powerful documentary Disappearances in Punjab.

This video was not made by Sikhs, but by a human rights activist who is Hindu. It is a solid investigation of the repressive nature of India's brutal rule of Punjab, Khalistan. Khalistan, of course, is the independent Sikh country declared on October 7, 1987. The Council of Khalistan is its government in exile.

Disappearances in Punjab focuses on Sikhs who have been made to disappear by the Indian regime. According to a coalition of prominent human rights groups and individual activists, there are more than 100,000 Sikhs who have been subjected to this cruel fate. Perhaps the most prominent is the general secretary of the human rights wing—Shiromani Akali Dal—Jaswant Singh Khalra. Mr. Khalra was whisked away from his Amritsar home on September 6, less than a week after meeting with a congressional delegation to discuss a report he had published. In the report, Mr. Khalra showed that over 25,000 young Sikhs men had been abducted by the regime, tortured, and killed, then their bodies had been declared unidentified and cremated. After the report was published, the Tarn Taran police chief explicitly told Mr. Khalra that he, too, would be made to disappear. After more than 6 months in illegal detention, Mr. Khalra's whereabouts remain unknown. As the video shows, this incident is unfortunately part of a pattern of intimidation through terror by the Indian regime.

The video publicizes real victims of India's brutal repression. It shows us a policewoman talking about the disappearances and other repression in Punjab, Khalistan. It is vivid indictment of the brutality that is a way of life in Punjab, Khalistan, under India's tyrannical rule.

After seeing this video, I am more convinced than ever that we need to support the Sikhs of Khalistan and the other oppressed people of the South Asian subcontinent in their struggle to be free. The Indian regime has killed over 150,000 Sikhs since 1984, over 200,000 Christians in Nagaland since 1947, over 43,000 Moslems in Kashmir since 1988, and thousands of Assamese, Manipuris, Tamils, Dalits—black untouchables—and other people who are in the way of the Brahmin class. Maybe that is what the New York Times had in mind when it described India in its February 25 edition as "a rotten, corrupt, repressive, and anti-people system." No one should have to live in such a system. If America can help the peoples of the subcontinent escape from this brutal and bloody tyranny, it is our moral duty to do so. We must do whatever we can.

One thing we clearly can do is to cut off United States aid to India. A good first step in that direction is H.R. 1425, the Human Rights in India Act. Under this act, United States development aid to India would be cut off until human rights are observed. I urge my colleagues to vote for this bill and to join those of us who have become sponsors. America must not be supporting tyranny with aid or trade. We must be especially careful not to support tyrants with the tax dollars of the American people.

We must also pass House Concurrent Resolution 32, urging a plebiscite in Indian-occupied Khalistan under international supervision. This is a sense-of-the-Congress resolution.

Frankly, India shows all the signs of a country in the process of unraveling. It is time that America got itself on the side of the emerging South Asian nations who will soon be free despite Indian's repression. Only then will the subcontinent live in prosperity and harmony.

HONORING THE LUDLOW BOYS SOCCER TEAM'S STATE CHAMPIONSHIP

HON. RICHARD E. NEAL

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to pay tribute to Coach Tony Goncalves and his Ludlow High School Lions boys soccer team for their outstanding 4 to 1 victory over Somerville High School to win the Massachusetts Boys Division I State Soccer Championship. The impressive performance by the Lions in the championship capped off a tremendous 17–2–3 campaign for Coach Goncalves and his team and earned them a spot in the top 25 of the Umbro Boys High School Soccer Poll. Over the years Ludlow High School has enjoyed a rich tradition of soccer excellence and this team will certainly be remembered as one of the best in Ludlow High School history.

I would also like to recognize Coach Goncalves' assistants, Jack Vilaca, Greg Kolodziey, and Jon Cavallo, as well as team managers Brian Gosciminski and Tony Sanches for their outstanding efforts throughout this championship season. It is the unsung efforts of people like these that often make championships possible, and Ludlow was quite fortunate to be assisted by such able individuals.

Finally, I would like to recognize the players who delivered this spectacular victory: Seniors, Bob Nascimento, Eddie Pires, Rich Huff, John Summerlin, Aaron Majka, Carlos Gomes, Adriano Dos Santos, Wesley Manuel, Chris Goncalves, Mark Eusebio, Jeff Leandro, James Ziemba; Juniors: Rob Gomes, Matthew Goncalves, Adriano Genovevo, Danny Elias, Jason Alves, Ryan Lemek; Sophomores: Alex Carvalho, Dave Garcia, Jon Haluch, and Justin Larame.

The achievements of these young men are a tremendous source of pride for not only the town of Ludlow but for the entire Second Congressional District. I am honored to represent such outstanding individuals and I join with the citizens of the Second Congressional District in offering most heartfelt congratulations. I would also like to wish the returning players the best of luck as they embark on their title defense next season.

ERISA CLARIFICATION ACT OF 1996

HON. MARGE ROUKEMA

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mrs. ROUKEMA. Mr. Speaker, today I am introducing the ERISA Clarification Act of 1996.

For almost 20 years, the insurance industry has relied on a Department of Labor interpretive bulletin stating that assets contained in an insurance company general account were not plan assets under ERISA.

However, in 1993 the Supreme Court ruled in John Hancock versus Harris Trust that such pension assets were covered by ERISA. Because the court recognized that this interpretation could seriously disrupt pension management, it recommended that potential problems be addressed either administratively or legislatively.

Although the Department of Labor is currently working to develop new rules governing prospective insurance company activities, without legislative changes, insurance companies might go unprotected from retroactive liability further threatening the security of pension assets.

Because of the manner in which insurance companies have managed their pension assets over the past 20 years, this legislation will remove the threat of retroactive liability. In doing so, pension plan participants and beneficiaries will be protected without affecting any ongoing civil action.

Since the Department of Labor issued its interpretive bulletin in 1975, there is little evidence that plan participants have suffered as a result of this longstanding practice of the insurance industry. In fact, prior to the Harris Trust decision, the Department of Labor had not initiated any enforcement proceedings based on alleged mismanagement.

If we do not address this issue, we will seriously risk the safety and security of pension assets while unfairly exposing the insurance industry to retroactive liability costs based on actions which, at the time, were in accordance with the Department of Labor's rules and regulations.

Therefore, I would ask my colleagues to join me in this effort by becoming cosponsors of this necessary legislation.

HONORING THE 163-YEAR ANNIVERSARY OF THE TREATY OF AMITY AND COMMERCE

HON. THOMAS M. DAVIS

OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mr. DAVIS. Mr. Speaker, I rise today to commemorate the 163d anniversary of the Treaty of Amity and Commerce between the United States and the kingdom of Thailand. This treaty was the first of its kind between the United States and an Asian nation.

The United States has had a close relationship with Thailand dating back before 1833 when this treaty was signed. Scores of teachers, Christian missionaries, and medical personnel were instrumental in the 19th century in building schools, churches, and leprosy clinics and hospitals throughout the kingdom, often working closely with the Chakri Dynasty of kings, including the current monarch, King Bhumibhol Adulyadej, who was born in Boston while his father attended Harvard Medical School. Americans helped bring Thailand its first X-ray machine and printing press.

While there have been successors to the 1833 Treaty of Amity and Commerce which have been accorded status as the ruling documents of diplomacy between our two nations, I would like to emphasize that this particular treaty was the foundation for 163 years of close personal and political friendships. The United States and Thailand have reaffirmed their commitment to conduct bilateral relations in a manner consistent with the spirit of this treaty.

Thailand's culture and Government go back thousands of years, and it is the only nation in Southeast Asia that was never colonized. For this reason, our long friendship holds a special significance in the region. I believe that as we approach the 21st century it is important to recognize our old, close friend throughout the world.

Mr. Speaker, I am sure that my colleagues are aware of the differences of opinion we have with Thailand over a number of trade-related issues. However, I hope that we remember that Thailand is a long-time friend to the United States and prompt us to work together to solve these problems in a manner befitting our long cordial friendship.

DR. ELIZABETH BOGGS: IN MEMORIAM

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise to revise and extend my remarks to mark the memory of Elizabeth Boggs who died on January 27, 1996. I am privileged to join many other Americans in paying tribute to Dr. Elizabeth Boggs.

We met when I first entered the New Jersey State Legislature in the early 1980's. She was physically striking—but it was her towering mind that was totally overwhelming. Elizabeth had an encyclopedic memory and when she said she knew the law, she meant it. Elizabeth would quote chapter and verse of most every statute since she in most cases wrote them. She was not boastful, but rather quite matter of fact: facts, figures, dates, times, locations, and people. When she looked down at you through her glasses you'd better be prepared to be questioned, grilled, interrogated, and vastly overpowered and outmanned on all counts.

When I chaired the appropriations process in the New Jersey Legislature, she would confront me in person and write long and detailed letters citing the most irrefutable evidence for her arguments. Elizabeth Boggs took my breath away literally with her intellect. Her integrity was unquestioned, so the force of her arguments made many of us rewrite our policy and appropriations bills accordingly. As well, she put a human face on her advocacy for individuals with mental retardation and developmental disabilities.

I consider myself lucky to have been in her company during my time in Trenton and more recently in Washington. Most of us in politics and government are lay people, thank goodness, so we benefit from those who educate us. While there are many teachers in my past, Elizabeth Boggs was one of the best and most memorable. Her education formula: perseverance, patience, repetition, love, and lots of heart.

IMMIGRATION AND NATURALIZATION SERVICE COMPREHENSIVE SOUTHWEST BORDER ENFORCEMENT STRATEGY

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. PASTOR. Mr. Speaker, as the House begins debate on an immigration reform bill, I would like to take this opportunity to highlight the Immigration and Naturalization Service's [INS] efforts to control illegal immigration along the United States' southern border. The administration has made the enforcement of our borders a high priority, and for the first time in recent memory the INS has the resources to seriously undertake this responsibility. Both Attorney General Janet Reno and INS Commissioner Doris Meissner have made personal visits to the border, with the Commissioner visiting Nogales, AZ, as recently as last month. Commissioner Meissner and Attorney General Reno are to be commended for their efforts at border enforcement, and I submit for the RECORD an outline of the INS's successful comprehensive Southwest border enforcement strategy.

THE IMMIGRATION AND NATURALIZATION SERVICE: BUILDING A COMPREHENSIVE SOUTHWEST BORDER ENFORCEMENT STRATEGY

I. OVERVIEW

The Clinton Administration has made control of illegal immigration a top priority and has worked to provide the Immigration and Naturalization Service (INS) with the resources necessary for an enforcement strategy that will make a difference quickly and sustain itself over time. The Administration focused immigration control efforts first on the 2,000-mile U.S.-Mexican border. Years of neglect had left the Southwest border an open invitation to illegal immigration. The INS did not have the personnel or the equipment to properly control this important frontier.

For the first time, the Clinton Administration developed a coherent strategy to restore the rule of law to the Southwest border. This strategy is backed by adequate resources and broad community support. The Administration's goal is unambiguous: a border that deters illegal immigration, drug trafficking, and alien smuggling and facilitates legal immigration and commerce.

II. A COMPREHENSIVE BORDER CONTROL STRATEGY

The international boundary between the United States and Mexico divides two countries with dramatically different economies, but many shared values, commercial interests and a shared history. It is a border that runs through communities. It is also a border that is used by migrants from Mexico and around the world to enter the United States illegally. It is a border that is today experiencing tremendous immigration pressures.

INS developed a multi-year border enforcement strategy both to facilitate legal travel and commerce between the United States and Mexico, and to aggressively enforce the nation's immigration laws. The plan is comprehensive, recognizing that the various regions of the border are interconnected, and any action on one part of the border affects conditions along other parts of the border.

The Administration's border control plan has several key objectives:

To provide the Border Patrol and other INS enforcement divisions with the personnel, equipment and technology to deter, detect and apprehend illegal aliens;

To regain control of major entry coordiors along the border that for too long have been controlled by illegal immigrants and smugglers;

To close off the routes most frequently used by smugglers and illegal aliens and to shift traffic to areas that are more remote and difficult to cross illegally, where INS has the tactical advantage;

To tighten security and control illegal crossings through ports of entry; and

To make our ports of entry work for regular commuters, trade, tourists and other legitimate traffic across our borders.

These objectives are essential to effectively deter illegal immigration into the United States. The over-arching goal of the strategy is to make it so difficult and so costly to enter this county illegally that fewer individuals even try.

The Administration developed an ambitious plan to achieve these objectives. It involved the strategic deployment of resources, equipment and technologies in concentrated areas of illegal activity. In the past, INS resources were spread out along the length of the border. This deployment plan diminished the effectiveness of Border Patrol agents, vehicles and sensors. By contrast, INS first targeted deployment of new resources to the San Diego and El Paso sectors. These two sectors alone historically accounted for approximately 65 percent of all Border Patrol apprehensions. INS has also deployed significant new resources in Arizona. This concentrated approach has enabled INS to gain a greater degree of control in these two regions. As we regain control in these areas, we are working to expand control to other corridors of illegal entry.

III. PUTTING EFFECTIVE STRATEGIES INTO PLACE

The 2,000-mile border contains many distinct areas with wide-ranging topography, histories and crossing patterns. INS designed strategies for each area consistent with the comprehensive approach and the over-arching goal of deterring illegal immigration.

INS began by concentrating resources in areas that have long been major corridors for illegal immigration. The agency launched Operation Hold the Line in El Paso, Operation Gatekeeper in San Diego, and Operation Safeguard in Arizona. INS has continued to strengthen these operations with new agents, tightened enforcement at ports of entry, and a crackdown on alien smugglers.

Operation Hold the Line

INS launched Operation Hold the Line in El Paso, Texas to close the holes in what had become one of the most porous areas of the U.S.-Mexican border. Before Operation Hold the Line, 18 percent of all illegal crossers caught entering the United States were apprehended in this area. INS redirected 54 Border Patrol agents to the Sector in FY 1994, and added 50 new agents in FY 1995 to support Operation Hold the Line.

With Operation Hold the Line, the Border Patrol developed a high visibility strategy to deter illegal alien traffic into El Paso. The strategy was based on the specific crossing patterns, the characteristics of the illegal crossers in El Paso, and the flat terrain of the region. The majority of aliens apprehended by the Border Patrol in El Paso have historically been commuters—traveling from Juarez, Mexico to El Paso on a regular basis to work, shop or visit with friends and relatives. Most tried to enter the United States directly through downtown El Paso. Accordingly, the Border Patrol focused on a strategy of deterring these crossers, placing Border Patrol agents directly on the line at regular intervals.

The Operation has proven to be tremendously effective. Apprehensions in the sector dropped significantly. In addition, the crime rate in downtown El Paso is down, and it appears that many short-term illegal crossers have been deterred from entering the United States. Traffic at the El Paso ports of entry has risen, and INS has applied law enforcement and facilitation strategies there.

At the same time, while many illegal crossers are deterred, a number of more determined crossers are shifting their routes of entry to the outskirts of El Paso. INS is responding to these shifts in traffic by adding additional agents to support outlying stations, building fences, and providing agents with sophisticated equipment and technologies to track and apprehend aliens who cross in remote regions.

Operation Gatekeeper

For years, before the Administration launched Operation Gatekeeper, the Border Patrol in San Diego fought a losing battle. The border was overridden with illegal alien traffic. Nearly 25 percent of all apprehensions along the U.S.-Mexican border took place along the 5-mile stretch between San Diego and Tijuana known as Imperial Beach. A 14-mile stretch in San Diego—which includes Imperial Beach—has historically accounted for as much as 40 percent of Southwest border apprehensions. Before Operation Gatekeeper, illegal aliens openly congregated on the U.S. side of the border while waiting for an opportunity to head north. Many areas of Imperial Beach belonged to smugglers, illegal aliens and criminals who preyed on aliens and U.S. residents alike.

San Diego has historically been a main point of entry for illegal crossers coming to the United States from the interior of Mexico. Unlike El Paso, there are fewer "commuters." The vast majority of illegal crossers are highly motivated and try repeatedly to enter. Many hire smugglers to help them evade the Border Patrol. The terrain—a combination of rugged canyons, mountains, forest areas, and mud flats, along with heavily populated communities almost directly on the border—makes the work of the Border Patrol even more difficult.

On October 1, 1994, the Attorney General announced Operation Gatekeeper, a coordinated effort by the INS, the Office of the U.S. Attorney for the Southern District of California and the Executive Office of Immigration Review. Operation Gatekeeper was designed to use a multitude of tools to increase INS' enforcement capacity in San Diego and to address the specific challenges of the region.

The Clinton Administration deployed new agents, time-saving equipment, state-of-the-art technology and an effective strategy to begin to reclaim the border in San Diego. The Operation sought first to control the 5-mile area of Imperial Beach, and then to expand control eastward throughout the 66-mile Sector. This strategy has proven effective, and intensive enforcement efforts have shifted traffic east to areas that are more remote and where the Border Patrol has more of a tactical advantage.

As traffic has shifted away from Imperial Beach, INS has continued to beef up the Border Patrol presence along the remaining 61 miles of the San Diego Sector. However, illegal immigrants have often resorted to hiring smugglers to help them evade the Border Patrol. Others attempt to enter illegally through a port of entry using a fraudulent document. In May of 1995, INS launched Operation Disruption to crack down on smugglers and close off smuggling routes. The agency has also taken steps to tighten enforcement at ports of entry in San Diego.

INS continues to fortify the entire San Diego border and will strengthen the control achieved to date with substantial new resources this fiscal year.

Operation Safeguard

Over the course of the last 2 years, as INS enhanced border security in El Paso, Texas, and San Diego, California, INS anticipated that traffic would shift to Arizona. By the end of 1994, apprehensions in Arizona had climbed 59 percent above the levels at the end of 1993.

The Department of Justice launched Operation Safeguard to enhance the security of the Arizona border. INS detailed agents to Arizona to handle the increase flow of illegal alien traffic in the area until permanent agents could arrive. The goal of the operation was to redirect illegal crossings away from urban areas near the Nogales Port of Entry to open areas that the Border Patrol can more easily control. The Border Patrol used its enhanced force to deploy agents almost directly on the line along the four critical miles of the border. The agent deployment, combined with new fencing, has allowed the Border Patrol to enhance control in this critical area in Nogales.

Bridging Enforcement Across California and Arizona

On January 16, 1996, the Clinton Administration implemented a new initiative to strengthen and link Operations Gatekeeper and Operation Safeguard. INS accelerated the deployment of new personnel and resources—including 200 detailed Border Patrol agents, 40 detailed inspectors, and 60 special agent investigators—to further deter illegal crossings into California and Arizona.

The new initiative has three critical components:

First, with the addition of new equipment and personnel in San Diego, INS will expand the area of control in San Diego from Imperial Beach to Chula Vista to the east.

Second, INS has linked Operation Gatekeeper in California with Operation Safeguard in Arizona. Through the use of checkpoints and airport monitoring, the agency is closing off routes used by illegal aliens and smugglers to evade the Border Patrol in areas of heightened enforcement. As part of this effort, the Department of Justice has strengthened it current coordination with the military as the work at the border on counter-drug enforcement activities in California and Arizona.

Third, INS has been working closely with local law enforcement and plans to formally establish a federal-local partnership to enforce federal, state and local laws along the border. Local law enforcement agencies across California and Arizona will provide the Border Patrol and immigration agents with assistance by providing transportation, security and other support. The Justice Department will reimburse local law enforcement agencies for the extra assistance they provide INS in immigration enforcement.

IV. PROVIDING THE BORDER REGION WITH RESOURCES TO EFFECTIVELY CONTROL THE BORDER

Three years ago, the Border Patrol was understaffed and gravely handicapped in its ability to patrol the front line. Agents spent too much time on administrative duties, filling out paperwork by hand or on manual typewriters. Agents were often stranded because of broken-down vehicles, or left idled with radios or other equipment in need of repair. A shortage of vehicles forced agents to leave the line open during shift changes—allowing illegal crossers to enter the United States unimpeded at regular intervals during day and night. Too few roads, inadequate lighting and too little fencing in key crossing areas further hampered the work of the Border Patrol.

Over the last 3 years, the Clinton Administration has used every resource at its disposal to implement a plan that brings the highest crossed corridors in key urban areas under control. INS has deployed hundreds of new Border Patrol agents. It has provided agents with advanced technologies to catch illegal crossers and criminal aliens. Agents now have state-of-the-art equipment and vehicles. The Federal Government has built miles of roads and fences, and installed lighting to enhance effectiveness across the border. Over the course of this year, the INS will continue to strengthen the border with new agents, inspectors, vehicles and other equipment, fencing, lighting, and technology.

New Border Patrol Agents

In fiscal years 1994 and 1995, the Clinton Administration sought and received funding for a total of 1,150 new Border Patrol agents. Of these agents, more than 500 new agents have been deployed in San Diego, more than 140 in the El Paso Sector, with 510 agents going to Tucson, Del Rio, Laredo and McAllen.

In FY 1996, 800 new Border Patrol agents are targeted for assignment to the Southwest border. These enhancements will increase the size and effectiveness of the Border Patrol. In addition, 200 Border Patrol positions will be redeployed from interior locations in the United States to further strengthen the Border Patrol presence along the front lines of the Southwest border. With the new agents to be added this fiscal year, the Border Patrol force will have increased by more than 40 percent in just over 3 years.

New Land Border Inspectors

INS hired 110 new land border inspectors with FY 1995 funding and will hire 536 new inspectors for ports of entry along the Southwest border with FY 1996 funding. The additional inspectors to be added this year will increase current staffing levels by 50 percent—the most significant port of entry staffing increase in the history of the agency. These inspectors are crucial to facilitate legal traffic and commerce and to tighten enforcement at our ports of entry along the border. INS has an ambitious plan in place to facilitate legal traffic through ports of entry along our Southern and Northern borders. With new personnel and technology, INS is taking steps and piloting programs to reduce waiting times for people legally entering the United States. These steps include designated commuter lanes, an automatic entry system for pre-screened travelers, and other improvements in our processing systems. These steps will reduce the inconvenience of waiting to enter the United States at our ports of entry without sacrificing the security of our borders.

Vehicles and Equipment

Over the past 3 years, INS has expanded the fleet of Border Patrol vehicles with the purchase of more than 1,500 new vehicles and more than 900 replacement vehicles. INS will continue to purchase two new vehicles for every three agents hired. Now, with an adequate vehicle fleet, agents can change shifts without sacrificing enforcement on the line and without creating a window of opportunity for illegal crossers.

Fencing the Roads

Over the past several years, INS, with the support of military personnel and the National Guard, has built many miles of fencing along the border to control drug trafficking, alien smuggling, crime, and illegal immigration. In San Diego, the Federal Government completed 7 miles of fencing by 1993 and, with continued construction over the last 3 years, there are now 23 miles of fencing in the Sector. In Tucson, INS has started construction on a fence project and in the Yuma, Arizona Sector, the agency has built close to 6 miles of fencing.

With continued support, INS plans to build the following new fences this year: 8 miles of fencing in the Campo Station section of the San Diego Sector; 3 miles of fencing in El Centro; 4.7 miles of fencing at the Nogales Station area in the Tucson Sector, completing a project started this past year; and 2.3 miles of fencing in El Paso—including a one-mile fence in the Anapra/Sunland Park, New Mexico area and 1.3 miles at the Roadside Park area.

INS will build roads to access the fencing and along the entire length of the fences, just as it has done in previous fence construction.

Lighting

Over the past 2 years, lighting projects in areas of San Diego have proven tremendously effective and have established the need for additional border lighting. With brightly shining lights, smugglers and illegal crossers cannot evade detection by the Border Patrol or other law enforcement personnel and it is harder for criminals to prey on victims in the dark. In 1995, the San Diego Sector installed 5 miles of lighting in the Imperial Beach Station, and other parts of the Sector have utilized portable lights pending the arrival of permanent fixtures.

This year, INS will install additional lighting in San Diego and El Paso. The key areas to be lit are those east of the San Ysidro Port of Entry stretching to the San Ysidro mountains in San Diego; the Anapra/Sunland Park, New Mexico area; and along the Franklin Canal in the El Paso Sector.

High Technology Support for Enforcement Operations

Over the past year, the Border Patrol has received state-of-the-art technologies to support the detection and apprehension of illegal crossers. Twenty-five infra-red scopes were deployed in San Diego and El Paso and 105 sensors were placed along crossing routes in San Diego, Tucson and Yuma, Arizona. The Border Patrol has also been equipped with computer equipment to speed up the time it takes to process illegal aliens—freeing up more agents for work on the line.

In addition, INS deployed a valuable new tool on the border: the IDENT system. This new technology is an automated fingerprint identification system that allows INS, for the first time, to readily identify criminal aliens, track illegal crossing patterns, and collect recidivism data. Over the past year, this system has been deployed in parts of California, Arizona and Texas.

This year, we will make our agents even more effective with the following new equipment:

Additional sensors for every sector along the Southwest border to detect illegal traffic;

Portable radios for all new agents and new vehicles. In addition, INS will install a new radio network in San Diego to handle encrypted voice communication;

Infra-red scopes across the border, including 16 to the San Diego Sector, 5 to the San Diego repair facility, 6 to El Centro, 7 to Yuma, 10 to Tucson, 6 to El Paso, 5 to the El Paso repair facility, 6 to Marfa, 15 to Del Rio, 4 to Laredo, and 8 to McAllen;

New equipment and software for the Border Patrol's computer-assisted dispatch system in San Diego; and

The complete deployment of IDENT to each of the sectors along the Southwest border and the installation of IDENT enhancements.

V. SUMMARY: A RECORD OF PROGRESS

The Clinton Administration has made clear progress to date. Today, the border is harder to cross than at any time in history. INS is advancing each of the key objectives of the border control strategy. It has secured areas of the border where just 2 years ago aliens freely crossed with impunity. As it has closed off traditional traffic routes, forcing illegal crossers to remote regions and to use longer and more arduous routes. In short, INS is successfully raising the cost and difficulty of entering the United States illegally. Communities across the Southwest border are encouraged by the measures we have taken to date.

The work that the Clinton Administration is doing on the Southwest border is essential to restore the rule of law to the region and to begin to control the problem of immigration into the United States. However, to effectively control illegal immigration, the Federal Government must remove the magnet of illegal employment that draws illegal aliens to the United States and must also protect our citizens from criminal aliens.

This Administration is committed to fighting the problem of illegal immigration on each of these fronts. INS is working with unsurpassed commitment not just to control the border, but also to back up border enforcement efforts with the aggressive enforcement of immigration laws at the worksite, tough penalties on criminal aliens who return to the United States, and an aggressive program to remove criminal and other illegal aliens from the United States. The agency is now armed with new resources to eliminate the job magnet and restore integrity to our immigration system. The measures being taken, and the enforcement plan at work, will bring greater security to the region and to the country for years to come.

A CHRONOLOGY OF PROGRESS ON THE BORDER: 1993–1996

March 1993—14-mile Fence Completed in the San Diego Sector

The San Diego fence, built with support of the military's Joint Task Force 6, has rerouted illegal traffic, deterred illegal entry and forced alien and drug smugglers to use routes where the risk of apprehension is substantially higher.

October 1993—Operation Hold the Line Launched in El Paso, Texas

Operation Hold the Line employs an enhanced Border Patrol unit to engage in linewatch operations in the metropolitan El Paso area to effectively stop illegal immigration between El Paso and Ciudad Juarez, Mexico.

October 1994—Operation Gatekeeper Launched in San Diego, California

The Department of Justice deployed new agents, added support staff to free additional agents to work on the line, and provided the San Diego Sector with new technology, including the prototype IDENT system, and equipment. INS uses these and other new resources in an aggressive new strategy to control illegal immigration into San Diego and to shift traffic to areas where crossing is more difficult and the risk of apprehension is greater.

October 1994—Operation Safeguard Launched in Arizona

Operation Safeguard utilizes a line-watching strategy, in the Nogales and Douglas areas of Arizona. As part of the Operation, and in order to channel illegal traffic to areas of enhanced Border Patrol control, INS built part of a 4.7-mile metal fence in the Nogales Station area in 1995.

January 1995—New Resources Deployed Across the Southwest Border

With new resources in FY 1995, INS announced that it would add 700 Border Patrol agents to the Southwest border to bring the on duty force to 4,400. These new agents are supported with new vehicles, equipment and technologies, and well as new roads, fences and lighting.

May 1995—Operation Disruption Launched in San Diego

With the INS border crackdown in San Diego, INS launched Operation Disruption to disrupt established alien smuggling routes and to prevent smugglers from developing new avenues for illegal entry into the United States.

June 1995—Phase II of Gatekeeper Launched in San Diego

Building on the success of Operation Gatekeeper, a second phase was launched to respond to changes in traffic patterns and to address smuggling. INS placed additional agents in East County and tightened security at ports of entry. In addition, the agency announced that it would maintain and improve checkpoints north of San Diego and a new temporary checkpoint in East County.

October 1995—Further Enhancements to Gatekeeper

Attorney General announced the detailing of agents to San Diego to beef up enforcement in East County and to reinforce Imperial Beach and other areas of San Diego. She also announced that INS penalties for fraudulent document users, new detention space to support the border crackdown, and the appointment of Alan Bersin, the U.S. Attorney for the Southern District of California, to be her Special Representative for the southwest border to coordinate the work of all Justice Department agencies, harness resources from throughout the Federal Government, and work with state and local law enforcement.

December 1995—IDENT Installed in Tucson, El Paso, McAllen, Yuma

The IDENT prototype system deployment continued, expanding in areas east of San Diego and bringing the useful apprehension and analytic tool to more Border Patrol sectors along the Southwest border. By March, all nine Southwest sectors will have the IDENT prototype installed.

January 1996—Border Enhancements in California and Arizona

INS detailed 200 agents from Western, Central and Eastern regions of the United States to sectors in California and Arizona and 100 investigators/special agents as an advance deployment of FY 1996 resources. These new agents, along with improved coordination with the military and the support of local law enforcement, will increase control and further deter illegal immigration into the United States during a period when immigration pressures from Mexico are high.

February 1996—FY 1996 resources are deployed to California, Arizona and Texas

Department of Justice announced the deployment of new resources to be directed to the Southwest border. These include the addition of 1,000 Border Patrol agents to the front line and the extension of the border strategy to gain control of additional sections of the border where there is a high level of illegal traffic—providing significant support for San Diego, Tucson, and El Paso and McAllen, Texas.

FIGHTING CRIME TO PROTECT THE AMERICAN DREAM

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. CHRISTENSEN. Mr. Speaker, a long shadow is falling over Nebraska. Slowly, the shadow is blotting out the sunny streets and parks where children play. It's blotting out the moonlight where couples walk, carefree. It's even blotting out the warm, welcoming glow of our own houses at night.

That shadow is crime, and after many years of thinking it can't fall on us here—it has. The violence that trails gangs and drugs like a vicious dog drove homicides in Omaha to an all-time high in 1995. There were 41 killings last year in Omaha, 8 more than 1994. Omaha's police made nearly 20 percent more juvenile arrests in 1995 than in 1994. And the shadow even claimed the life of one of our brave men in blue. As Ronald Reagan once said, our police patrol "the thin blue line that holds back a jungle which threatens to reclaim this clearing we call civilization. No bands play when a cop is shooting it out in a back alley." Certainly none play when he can't even fire back.

We may have been free from the worst crime for many years, but now we must turn and face the shadow, and drive it back.

Today I want to talk about how I think we can restore safety to our streets and sanity to the system. I'm fighting hard to protect the American dream. An essential part of that dream is the freedom from fear. We must have safe streets and secure schools, and I believe that we can.

TOUGH CRIME BILLS

The fact is that moral principles—our values—underlie our criminal justice system. There's nothing wrong with these values, and we should never feel guilty about making those who violate those values pay. Theft is not some act of artistic or political expression. It is theft and it is wrong. Murder is not forbidden as a matter of subjective opinion. It is objectively evil, and we must stop it. No one but thieves and murderers benefit when we think otherwise.

I've long argued for tougher punishment for those who prey on society. Back in 1994, I made my support for the death penalty a cornerstone of my bid for Congress. Since then, I've worked hard for tough crime legislation that made sure local law enforcement officials—and not Washington bureaucrats—decided how their funds were used.

A year ago, we in the House of Representatives passed six tough bills aimed at combating crime. For instance, the House unanimously approved the Victim Restitution Act. The bill instructs courts in Federal criminal proceedings to require convicted offenders to pay restitution to their victims. The fact that we passed the Victim Restitution Act without a single dissenting vote tells me Congress truly has changed. Nowadays, we all agree that criminals should have to pay for their misdeeds—literally.

The House also approved the Exclusionary Rule Reform Act, which would allow prosecutors in federal court to use evidence gathered by law enforcement officials acting in good faith. Today, criminals are frequently acquitted on technicalities, only because the officers investigating them unknowingly stepped over some arbitrary line. A typo on a warrant should never put a vicious criminal back on the street. This reform would help end that, while still protecting the rights of private citizens.

We passed the Effective Death Penalty Act, to limit the number of appeals of convicted felons already on death row. Currently, those on death row can file almost unlimited appeals, tying up the courts and using the appeals process to escape their sentence. We've seen that again and again in Nebraska as vicious killers like Willie Otey and John Joubert cheat justice for decades.

Fourth, the House passed the Violent Criminal Incarceration Act, which provided resources to states for prison construction and also contained truth-in-sentencing provisions intended to make convicted criminals serve more of the prison terms they are given.

Fifth, we passed the Criminal Alien Deportation Improvements Act, which strengthens our ability to deal aliens who are convicted of serious crimes while they are in the United States. It's a shocking fact that our Federal prisons now hold more than 25 percent non-U.S. citizens. Since 1980, the number of alien inmates has skyrocketed 600 percent. Why on earth should our States pay hundreds of millions of dollars a year to incarcerate foreign drug dealers?

The House capped its action on crime prevention by passing the Local Government Law Enforcement Block Grants Act. This bill would provide resources to States and cities like Omaha for law enforcement and allows them to spend it in the most effective way for their area. It will help local police fight crime without Congress dictating from Washington the best way to do it. A program along those lines will allow Sarpy County police to go high-technology this year, putting laptops in squad cars to keep them on the beat more and at their desks less.

All but one of these bills are waiting for approval in the Senate. But I'm not going to just stand around and wait for them. I'm going to be working to bring these bills up again in a revised form that addresses the Senate's concerns. And I'm going to work to see that the Senate brings these bills up. I believe that controlling crime is one key concern of Americans nationwide.

CHRISTENSEN PRISON REFORM BILL

Some say prisoners are overcrowded. Some say prisoners are uncomfortable. Some say prisoners are denied access to recreation.

To them I say: So?

For too long, liberal judges, slick lawyers and misguided policies have turned prisons into playhouses. To fix that, I've put together legislation that makes it clear once and for all that our prisons are not country clubs.

First, the legislation would repeal all Federal prohibitions inhibiting or prohibiting the sale or shipment of prison-made goods. Simply put, this bill would give our Federal prisons the ability to require prisoners to produce goods and services that are actually demanded by market forces, as opposed to spending time on make-work projects such as busting rocks. Profits generated by the sale of such goods and services can then go to help reduce the costs of institutionalization and victim restitution, and take some of the burden off our overtaxed families.

Moreover, the prison reform bill assesses a 25-percent levy on all prisoner wages, with: 5 percent going to reimburse the prosecuting agency for the cost of prosecution; 10 percent going to victim restitution, and 10 percent to a new fund created to help to protect our officers from violent criminals, and to help the families of peace officers killed in the line of duty.

Second, the bill would institute a 48-hour-per-week work requirement for all Federal prisoners. If both parents in middle-class families are forced to work just to make ends meet, at the very least we should demand that those who have broken our laws and terrorized our families should put in an honest day's work.

Third, the Christensen bill requires Federal prisoners to study at least 12 hours per week. Part of the role of the prison is to prepare convicted criminals to reenter society. It's not their choice whether to spend that time playing cards or getting their GED. It's ours.

Fourth, the Christensen bill would prohibit the use of weight lifting equipment in Federal prisons by Federal prisoners. Why should taxpayers be forced to pay for criminals to become stronger and more deadly so that they can then prey upon our families and children upon release? Our prisons are not for recreation—they are for incarceration.

Fifth, the Christensen bill would ban the use of televisions in Federal prisons, with a narrow exception for educational purposes. So long as just one Nebraska family can't afford the luxury of cable television, then not one Federal prisoner should either. It's time we quit treating our Federal prisons like Holiday Inns.

Finally, the Christensen bill seeks an end to frivolous prison litigation. Inmates have claimed prisons have violated their rights to: Wear sunglasses; own soap on a rope; and eat off real china as opposed to paper plates.

Try finding those rights in the Constitution.

In my home State of Nebraska, inmates have sued claiming: a right to meals of his choice, complaining about soggy toast and cold hamburgers; cruel and unusual punishment because Nebraska taxpayers wouldn't pay for a nose job; and even a right to child pornography in prison, despite the fact that the inmate was serving a sentence for first degree sexual assault on a child and manufacturing child pornography.

The bottom line is that these lawsuits are nuts, and they must stop. I believe this bill will make sure prisons are punishment, not playgrounds.

HARD TIME FOR GUN CRIMES BILL

Another bill I've been working on is H.R. 3085, the Hard Time for Gun Crimes Act.

This bill would make it clear that the problem with guns in our society is not the guns but the felons who use them for a criminal purpose. It would do so by dramatically increasing the penalties for the possessing, brandishing, or discharging a firearm during the commission of a federal felony.

For instance, under my bill, if you fire a gun during the commission of a Federal crime: If it's the first offense, you'll get 30 extra years in jail, If it's the second offense, you'll get a minimum 50 extra years in jail.

The key message is that we've had it with gun-related violence. Americans have zero tolerance for gun crime, so our justice system should too. Our families and children shouldn't be afraid to walk to school, go to the grocery store, and leave their windows open at night.

I believe firmly that gun control is not crime control. Why would someone willing to commit murder respect gun control laws? Gun control, while often well-intentioned, has simply failed. We have over 22,000 gun control laws on the books today. Yet the States with the toughest gun laws tend to have the highest crime rates, and those with the least gun laws tend to have the lowest. Controlling those who use guns in a criminal way is far more effective than cracking down on the vast majority of law-abiding citizens who own firearms for hunting and their own protection.

That's why I think we should work to keep those who would misuse guns in jail. No more slick criminal defense attorneys pushing criminals to freedom through legal loopholes. No more soft sentences after teary speeches before the bench. No more legal gymnastics setting criminals free after a fraction of their allotted time in jail.

My hard time for gun crimes bill sends a clear message: If you use a gun to commit a felony, plan on spending the next few decades behind bars—no exceptions.

WELFARE REFORM

The bills passed by the House last year and just last week are aimed at fixing our desperately broken criminal justice system. I'd like to add my measures, which will both keep criminals in jail and make jail a punishment once again. I believe that as a package, these get-tough measures will transform America's attack on crime and make it effective once again.

But before I close, I want to touch on one other major crime control initiative that I have supported from the beginning of my campaign. It may not always be presented as crime-control, but I believe strongly that it is. That initiative is welfare reform.

Over the past 30 years, the rise in violent crime parallels the rise in families abandoned by fathers. High-crime areas also overlap with concentrations of broken families. One study indicated that a 10-percent increase in the percentage of children living in single-parent households leads typically to a 17-percent increase in juvenile crime. According to policy analyst Patrick Fagan, "In high-crime inner-city neighborhoods, well over 90 percent of children from safe, stable homes do not become delinquents. By contrast, only 10 percent of children from unsafe, unstable homes in these neighborhoods avoid crime."

And it is where welfare is most prevalent that families break up. If family break-up causes crime, and welfare causes family break-up, why do we keep kiting checks to destroy our most vulnerable communities? Reforming welfare is not just a matter of saving money—it is a matter of fighting crime. Reforming welfare is a moral imperative for those who care about our children's safety.

Last year we worked hard to end welfare as we know it, to spring our Nation's most vulnerable members from the trap of dependency, sloth, and moral decay. The Personal Responsibility Act, as it was called, was a revolutionary proposal that delivered the true, tough welfare reform Americans have been demanding for so long. In spite of cries to the contrary, this legislation will improve the lives of the disadvantaged children trapped in today's collapsed welfare pit. Welfare reform will, over time, begin to heal the diseased underbelly of society. And as it does, I deeply believe the cancer of crime will begin to recede.

The current welfare system is a cause, not a cure, of the ills afflicting inner-city America. Nothing could be more cruel to our Nation's children than a system which lures their parents into dependency, traps them in broke down public housing, and subsidizes failure, illegitimacy, and substance abuse. This system is hurting the very disadvantaged children it was intended to help—and turning ever more of them to a life of crime.

The current welfare state fuels crime by paying poor people to break up their families, use drugs and alcohol, and abandon their responsibility for their own lives. Over half of the 5 million families on welfare remain trapped on it for 10 years or more.

The Personal Responsibility Act I supported would end welfare as a way of life, both by requiring recipients to work for benefits after 2 years, and by cutting off welfare altogether after 5 years. The measure would get even tougher with faceless Washington bureaucrats. It eliminated their bloated headquarters, turning the resources over to States to design programs that work at the local level. I want to make sure our money is used in Nebraska where it's needed, not Washington where all too often it's wasted. That way the resources can be used to lift families out of poverty, instead of anchoring them in it. The seemingly hopeless, pointless communities blasted by the top-down welfare state breed crime, and true welfare reform would allow Nebraska to heal those communities. We could save children not just from poverty, but from depravity.

Moving to an opportunity society rather than a welfare state will favor families over illegitimacy, local control over Federal centralization, and responsibility over dependence. And, ultimately, it will fight crime by giving our poorest, most disillusioned children hope rather than handouts. The best way to fight crime is to have fewer children becoming criminals.

Those who truly care about our safety—as well as our disadvantaged—should come together to reform the failed Federal welfare state. I'll continue working hard to see that that gets done.

CONCLUSION

I believe that the new Congress and I have brought true change to Washington. I've worked hard to balance the budget for the first time in a generation to put the Nation back on track, just as I said I would. I've worked hard to clean up our broken court system, to stop the blight of runaway lawyers and rampant lawsuits crippling our Nation, just as I said I would. I've worked hard as your representative on the tax-writing Ways and Means Committee to reduce the burden on hard-working Americans and job-creating businesses to restore the upward climb of our families and workplaces, just as I said I would. And I've tried always to keep my word, to restore the bonds of trust that make a democracy work—just as I said I would.

This fight to bring Nebraska's values to Washington is well on its way. The day will come when the occupant of 1600 Pennsylvania Avenue will have the courage to sign a balanced budget, welfare reform, and tax relief—and to keep his promises. But to restore the American dream for us and our children, none of this will be enough. What does a balanced Federal budget matter if Nebraska's children can't play in the streets? What consolation is the restoration of a good income to a woman who's lost her husband at the hands of a violent criminal? What do good jobs and opportunity matter if people are barricaded in their houses?

That's why we need to come together as Americans to fight this shadow off. Men and women of all ideologies, all races, and all creeds agree that the shadow of crime has frightened our children long enough. I say those who care should work now—today—to restore our streets to safety. We should work now—today—to knit up our Nation's fraying social fabric. We should work now—today—to stop coddling criminals and start crushing them.

I'm confident my colleagues will join me in this hard work, because it is hard work. And I also know that many Americans on the front lines of this battle are working far more effectively and bravely than any of us could to combat crime. But until more and more of our families live free from fear, and less and less of our children cry themselves to sleep, I also promise you this: No one will outwork JON CHRISTENSEN.

SENATE—*Wednesday, March 20, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Abraham Lincoln expressed his dependence on prayer to sustain and strengthen him in difficult and challenging times. He said, "I have been driven many times to my knees by the overwhelming conviction that I had nowhere to go but to prayer. My own wisdom and that of those all about me seemed insufficient for the day."

Gracious Father, thank You for the gift of prayer. When problems pile up and pressures mount, we are so grateful that we, too, have a place to turn. And You are there waiting for us, offering Your grace for grim days and Your strength for our struggles. How good it is to know that we are not alone. We can be honest with You about our insufficiencies and discover the sufficiency of Your wisdom given in very specific and practical answers to our deepest needs. Lord, help us to spend more time listening to Your answers than we do in our lengthy explanations to You of our problems. We dedicate this day to seek Your guidance, to follow Your direction, and to do our best to lead this Nation according to Your will. We humbly confess our profound need for You and praise You for Your faithfulness to give us exactly what we need for all the challenges of the day ahead. Lead on Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized, the Senator from Washington State.

SCHEDULE

Mr. GORTON. Mr. President, this morning the Senate will immediately begin consideration of the conference report accompanying H.R. 956, the product liability bill.

Under the consent agreement reached last night, there will be 5 hours of debate, equally divided, which will end just after 3 p.m. today. At that time, the Senate will begin a vote on invoking cloture on the conference report, to be immediately followed by a cloture vote on the motion to proceed to the Whitewater legislation.

As a reminder, under a previous order, if cloture is invoked today on the product liability conference report, there will be an additional 3 hours of debate tomorrow morning at 9 a.m., with a vote on the adoption of the conference report at 12 noon on Thursday. Following the cloture votes scheduled at 3 o'clock today, the Senate will begin consideration of S. 1459, the grazing fees legislation. Additional votes are, therefore, to be expected today in regard to the grazing fees bill.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report to accompany H.R. 956.

The clerk will report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and fair conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

Mr. GORTON. Mr. President, I am pleased, after a lapse of almost 1 year, to present to the Senate and to support the conference report on H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996. This is a bipartisan proposal reflecting, essentially, the decisions made here in the U.S. Senate last year, without the broader additions that were passed by the House of Representatives.

Mr. President, during the course of this 5 hours today, there will be many statements—passionately held—about what the future holds with respect to both our legal system and our economic system, and whether this bill should pass. As a consequence, Mr. President, I want to start my remarks with a statement about what has already happened as a result of a very modest product liability reform that was passed by the Congress of the United States, and signed by the President, just 2 or 3 years ago. I am going to do that because that action speaks louder than any words we can say about the desirability of this broader legislation.

On August 17, 1994, President Clinton signed the General Aviation Revitalization Act of 1994. That act created an 18-year statute of repose on general aviation, piston-driven aircraft. That single provision, in less than 2 years, has already had a magnificently positive impact on the general aviation industry.

Since the enactment of the bill, the general aviation industry has recorded its best year in more than a decade. In 1986, as a result largely of product liability litigation, Cessna, a famous name in aviation, stopped producing piston-driven aircraft. It has now reentered that field. In July, Cessna will open a new $40 million facility in Kansas and, once again, will begin to produce piston-driven aircraft. The facility will employ about 2,000 people.

Cessna is not alone in this connection, Mr. President. Piper Aircraft, just 2 years ago, was having an extremely difficult time getting out of a bankruptcy proceeding to which it had been subjected. No investor wanted to come to the rescue of that famous American company because it would have to assume its liability risks. Since the enactment of that simple piece of legislation, however, investors have come forward. The Piper Aircraft Co. has come out of bankruptcy, and its employment has increased by 30 percent. More generally, employment is up at every general aviation manufacturing facility in the United States by 15 percent. We went to the Internet last week to find the kind of job openings that have resulted from this resurgence in general aviation activity. Here is a brief list of some of the jobs we found: Avionics technician, Cessna; computer control technician, Cessna; systems designer, Cessna; weights engineer, Cessna; senior cost accountant, Raytheon; senior engineer, software systems certification, Raytheon. Exactly the kind of high-skill, high-wage jobs that the United States needs in order to continue its leadership in world technology, and in order to provide jobs for coming generations.

Mr. President, that bill less than 2 years ago was criticized as restricting the rights of plaintiffs. Yet, Mr. President, I am confident when I say that there is not a single Member of this body—or, for that matter, of the House of Representatives—who ever, in the course of a political campaign or to meet an obligation, turned down a ride in a Cessna aircraft on the grounds that those aircraft were negligently manufactured. Those who most eloquently defend the present legal system—a system which for all practical purposes bankrupted Cessna and Piper by reason of lawsuits claiming negligent manufacture—never once acted on that and said, "Oh, no, I cannot get on the plane; it was negligently manufactured."

Mr. President, I cannot imagine that there is a Member of this body, or of the House of Representatives, who ever said, "I won't allow my child to get a whooping cough vaccination because the materials in that vaccination were negligently manufactured." And yet they will stand up here today and say, "We cannot change the law. We cannot protect those manufacturers against lawsuits like that because it would be unwise to do so."

The present system has driven every such manufacturer—except one—out of the business, and has caused the cost of that vaccine to be multiplied by 400 percent. It is less available and more expensive because of the insistence that we continue to allow absurd lawsuits to be brought against those manufacturers. The people of the United States deserve, we all agree, a system that is fair and efficient, yields reasonably predictable results, holds parties responsible in accordance with their fault, and perhaps most importantly reduces the wasteful transaction costs associated with all kinds of litigation, but in this case product liability litigation.

Estimates of total tort costs of litigation and associated activities range from some $80 to $117 billion a year. Every dollar of these costs is forced back on consumers through higher prices on products used every day, and not at all, incidentally, limits the choice of those products as well.

Listen to just a few facts about today's product liability system in America. The current system accounts for about 20 percent of the cost of a ladder. It accounts for 50 percent of the cost of a football helmet. Injured parties, on the other hand, receive less than half of the money spent on product liability actions, with the other half going to lawyers and their associated expenses. Nearly 90 percent of all of the companies in the United States can expect to become a defendant in a product liability case at least once—90 percent of all of the companies in the United States. Are 90 percent of them negligent manufacturers or product sellers? No. Many win these lawsuits, but they have to pay their attorney fees and they have to pay their insurance costs, in any event.

Product liability insurance costs 15 times as much in the United States as it does in Japan and 20 times more than it does in Europe. Are their manufacturers, as a result, automatically negligent and indifferent to their consumers? Under the present laws in most of the States of the United States, manufacturers can be sued for products manufactured in the 1800's—manufactured a century ago.

The present system costs too much. In a book published 5 years ago by the Brookings Institution the following note appears:

> Regardless of the trends in tort verdicts, most studies in this area have concluded that, after adjusting for inflation and population, liability costs have risen dramatically in the last 30 years, and most especially in the last decade.

I have already spoken to the proposition that more of the money in the system goes to the lawyers and to their associates than goes to victims. Liability insurance costs affect every manufacturer in the United States.

One example from my own State is a water ski manufacturer, Connelly Water Skis of Lynnwood, WA, pays an annual premium every year of $345,000 for product liability insurance even though it has never lost a case. It has never lost a case—but still has to pay that huge premium.

The present system takes forever—years—to settle cases. Compensation, ironically, is unfair. The smaller the amount of damages, the larger the percentage of recovery. The larger the actual damages, the actual losses to an individual, the lower the percentage of actual recovery.

Unpredictability. Last year in a hearing before the Commerce Committee a Virginia law professor, Jeffrey O'Connell, explained:

> If you are badly injured in our society by a product and you go to a highly skilled lawyer . . . in all honesty the lawyer cannot tell you what you will be paid, when you will be paid, or, indeed, if you will be paid.

What is the effect of a broken down system on people in the United States today? First, it is increased costs. I have already referred to the fact that one manufacturer of vaccines has raised its price 400 percent, from $2.80 to $11.40, solely to recover the cost of increased lawsuits, and that in 1984 two of the three companies manufacturing the DPT vaccine decided to stop production because it just simply was not worth it, by reason of the cost of the product liability. Later in that year, the Centers for Disease Control recommended that doctors stop vaccinating children over the age of 1 in order to conserve limited supplies of that vaccine.

Second, it is very clear that the fear of product liability litigation hinders the development of new products in the United States, and the marketing of those products once they are developed. In an American Medical Association report entitled "The Impact of Product Liability on the Development of New Medical Technologies," they wrote:

> Innovative new products are not being developed, or are being withheld from the market because of liability concerns, or the inability to obtain adequate insurance. Certain older technologies have been removed from the market not because of sound scientific evidence indicating lack of safety or efficacy but because product liability suits have exposes manufacturers to unacceptable financial risk.

Rawlings Sporting Goods, one of the leading manufacturers of competitive football equipment for more than 80 years, announced in 1988 that it would no longer manufacture, distribute, or sell football helmets. Two manufacturers in the United States out of 20 that were in this business in 1975 remain in that business today.

A recent article in Science magazine reported that a careful examination of the current state of research to develop an AIDS vaccine "shows liability concerns have had negative effects."

It points out that Genentech halted its AIDS vaccine research after the California legislature failed to enact State tort reform. Only after a favorable ruling did they renew or resume that research.

On that same topic, consider a recent comment by Dr. Jonas Salk, the inventor of the polio vaccine. I quote Dr. Salk:

> If I develop an AIDS vaccine, I do not believe a U.S. manufacturer will market it because of the current punitive damage system.

Not only does the current system hurt medical innovation, it also inhibits small companies from producing everyday goods. For example, again in my own State, Washington Auto Carriage in Spokane distributes various kinds of truck equipment throughout the United States. Here is what its owner, Cliff King, says, and I quote him.

> We have been forced out of selling some kinds of truck equipment because of the exorbitant insurance premiums required to be in the market. As a result, this type of equipment tends to be distributed only by a very few large distributors around the country who can afford to spread the costs over a very large base of sales. Ultimately there is much less competition in these markets.

Many arguments are made against this proposal on the basis of federalism. The United States is a single market, however, a single market now with 51 different product liability regimes. As a result, one of the associations that is most interested in a devolution of power to the States, the National Governors' Association, recognizes that the current patchwork of U.S. product liability law is too costly, time consuming, unpredictable and counterproductive, resulting in severely adverse effects on the American consumer, workers' competitiveness, innovation and competence.

Mr. President, we will have a considerable period of time today during which to debate details of this legislation, but I wish to return just for a moment to the point with which I began this explanation of the bill.

First, the Members of the Senate, even those who argue most passionately and eloquently to retain the present broken down system, do they act in their own lives as if these manufacturers were engaged in nefarious activities indifferent to the safety of their consumers? Did they, during all of the years in which Cessna and Piper were being driven out of business by the system they defended, refuse to fly on their airplanes? No. Do they tell their families or do they themselves refuse the latest medical devices, the latest serums, the costs of which have been driven sky high by product liability litigation? No, they do not. They use them. They use them for their children. Do we have an example of what even modest reform in this field means to the American economy? Yes, we do, in the general aviation industry. And so I am convinced that we can and should pass this modest product liability reform, and we can expect an immodest and positive result: more competition, better goods and services, lower prices, fewer lawsuits, and a higher degree of justice for the American people as a whole.

This issue has been debated in this body for more than a decade at this point. It is time to bring that debate to a close, to pass this legislation, and to see the relief that the American consumer, the American manufacturer, and American competitiveness needs to be successful in the world of the 21st century. As a consequence, I urgently ask my fellow Senators promptly to pass this bill and send it to the House and then to the President of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, [Mr. HOLLINGS], is recognized.

Mr. HOLLINGS. I yield so much time as will be necessary.

I am thoroughly bemused by my friend from the State of Washington starting off on aircraft with the very categorical statement that no one ever got on a plane saying that Cessna's planes were unsafe or the manufacturer was negligent. If they thought so, they were not going to get on the plane. They would not have to say it. Come on. Who are we kidding?

By coincidence, just last Thursday, I saw it reported that a Cessna plane down in Florida took off with the Blackburn family from my hometown and it had barely gotten off, I observed, to fly over the waters, and it turned and went down in about 5 to 10 feet of water at the most. We saw the pictures of them trying to save the family. The husband and wife and two of the children were lost, the pilot was lost, and the little 11-year-old hangs on as we talk.

Being an observer, I wondered what had happened. Stories have come again and again that the pilot was most experienced. Someone saw the engine streaming smoke. I cannot tell. You cannot. No one can at the moment. But it appears that it is a product liability situation. There is not any question in my mind. It occurs again and again.

It brings me right to the point, Mr. President, of the shabby nature of this whole proceeding. I say that because we passed this bill in the Senate last May and finally agreed to a conference on the House side in November. They had one short, brief meeting. Under the rules in the House, you have to at least have a meeting. But thereafter there was nothing.

It really bemuses me when the distinguished Senator says we are now to consider the conference report. We now consider the conspiracy report. It is not a conference. I never conferred. I was appointed by the distinguished Presiding Officer of the Senate as a member of the conference but was never told, never consented, never conferred, and not any on our side of the aisle or our staff were invited other than the distinguished Senator from West Virginia.

Here is what is happening in the Congress of the United States. I am going on my 30th year now, and this is the first time I have ever seen this happen this year and last year where they fixed the jury; namely, they get together on what they want and, since they are the majority party, can pick up a vote or two. They then go and bicycle around: Now, Senator, will this please you if we change this little word? And you have a "gerrybuilt" bill in front of you that never would pass muster in a conference.

Having fixed the vote, they went ahead and we heard last week that something was happening. In fact, I could tell it. On Thursday night Richard Threlkeld on CBS came in at 7:20 and he said the U.S. Congress is about to consider these dastardly, ridiculous lawsuits, and he went on to talk about a man in the men's restroom where women came in and he was insulted. The proponents talk about the coffee case from McDonald's, and they have these anecdotal, nonsensical matters that never tell the complete facts. And the truth of the matter is, since we mention the coffee case, I have the finding right here that confirms that the jury did award $3 million. But the judge reduced that. After all, judges do have sense. Jurors do have sense. All wisdom is not vested in the Senate. And they reduced that amount to $640,000 and the lady who was hospitalized with third-degree burns, requiring skin grafts, settled for even a lesser amount. But you hear on CBS national news, "All you have to do is spill coffee and run up and get your money." Come on.

Regarding all the planes, now they are back in business and everything. We always allocate to ourselves that everything begins and ends right here with the wisdom of the U.S. Senate. They want to tell how we passed a good budget bill that has corporate America going like gangbusters, the stock market through the roof, and, yes, people are buying planes, but they do not want to talk about the budget we passed that none of them ever voted for. Categorically, one Senator on the other side of the aisle said, just 2 years ago, that if we pass this budget they would be hunting us down like dogs in the street and shooting us, the economy would collapse, there would be a depression; everything would go wrong.

Here now the stock market sets record levels, corporate America is as affluent as it has ever been, and they are buying airplanes. And my colleagues want to attribute that to themselves passing a bill? Come on.

The next thing the proponents say is the present system costs too much. Mr. President, it is like a college education. A college education is most expensive. The only thing more expensive is not having a college education. If product liability costs, which it does very little, the worst would be to not have product liability, because injuries occur. We have a safe America.

I wish I had time to go down through a list of these injuries. When I say the conference was "a shabby procedure," I mean that last week I was struggling on Friday to try to find the bill. The bill's supporters were changing words down to the last minute. They filed a cloture motion at the time they filed the bill, which means they have the votes for cloture, and the jury is fixed before they hear any arguments. And thereby they can come in with the fixed jury and say, bam, bam, bam, they have cloture—today I was limited to an hour postcloture. They could have called for the cloture vote in the next 20 minutes, since we came in at 10 o'clock. So you are under the gun when they offer you only a few hours of debate. You are not allowed to talk sense.

Oh, boy, we could spend an afternoon pointing out the good that product liability has done. We do not get blown up by that Pinto gas tank. Cars all have antilock brakes. That elevator is checked. The steps are marked. Little children do not burn up in flammable pajamas. The women of America are not threatened with Dalkon shields. And football helmets are much safer—yes, we have had some wonderful decisions against their unsafe nature. When you and I played football, Mr. President, we ran into the line and there was just a piece of leather and what you would get, many, many a time, was traumatic cataracts. That does not occur now in high school and college ball, because of the better construction of football helmets—and product liability.

We could go all afternoon and try to explain the wisdom of a tort system that is working at the State level. But the proponents do not give you time to do that. They come up here with the anecdotal stuff, that it is costing too much. Let me cite some reports about what it costs, because the Rand Corp. and the Conference Board have studied these matters. The Rand Corp. said that less than 1 percent of product liability injuries ever result in a lawsuit. Over 50 percent of civil cases are business suits, incidentally. Business is suing business, like gangbusters. Pennzoil against Texaco, a $10.2 billion verdict, that one business against business result is more than all the product liability for personal injuries in the last 20 years, that one case. And they are talking about, "It costs too much."

But what did the Conference Board do? They interviewed 232 risk managers. We have it in the RECORD. The Conference Board interviewed 232 risk managers, of the blue chip, Fortune 500 companies, who said that less than 1 percent of the cost of the product was due to product liability. It was not a problem.

The proponents knew this. They come in here because they have Victor Schwartz and there is still a movement against lawyers. This is pollster driven. We all come here per political poll. Lawyers get rid of the lawyers.

Ah, Mr. President, "the trial lawyers have paid them off." Yes. The proponents had a news conference even before the bill was called up. You see they have radio, TV shows, news conferences, before we even call the bill, and before those who oppose it have even a chance to say so. That is why I say it is a shabby operation. But I will quote, because you have to get the news clips about how two of the Senators:

> . . . who will appear on the ballot with Clinton in West Virginia this fall responded angrily to Clinton's weekend threat to veto the House-Senate compromise of a bill that limits damage awards in product liability cases. The two gave an "unusually harsh accusation" to the President, saying Clinton was "rewarding" the trial lawyers who are "bankrolling his reelection bid."

That is from the Baltimore Sun.

Come on, it takes a bankroller to find a bankroller. Let us go to the individual Senators, namely this Senator. I hope I have gotten some contributions from the trial lawyers. I have been one. But I have been a business lawyer, too. I have handled antitrust cases. I have sued a corporation before the Securities and Exchange Commission. When you come from a relatively small town like I grew up in, you represent all sides. And look at the record. I have been elected six times to the U.S. Senate. I will guarantee I have gotten more business contributions than trial lawyer contributions. So let us dispel this notion about what you are doing for the trial lawyers. We are thinking of the Constitution in this case. That is one of the big reasons the American Bar Association opposes it.

We are thinking of that seventh amendment. We are thinking of what the bill's supporters said in the original instance about simplicity, transactional costs, but how this particular measure now increases the transaction cost and makes complex the so-called simplicity, if there ever one was.

More than anything else, let us go to the original doctrine of the Contract With America crowd, from the 1994 election. Oh, they won on account of the contract. Did you not get the message of the contract?

They have a bunch of children Senators running around, hollering, "The contract," and "We gave our pledge." This Senator was elected, too, on a pledge: To stop a lot of this nonsense if he possibly could.

None other than the distinguished majority leader said, at the beginning of this particular Congress:

> America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reining in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.

Senator ROBERT DOLE, now the Republican nominee for the Presidency here in November. I further quote Senator DOLE:

> . . . We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things . . .?

The majority leader then went on to say.

> . . . Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our States can't be trusted with power. . . . If I have one goal for the 104th Congress, it is this: that we will dust off the 10th amendment and restore it to its rightful place.

Those powers not reserved under the Constitution are hereby delegated to the several States.

Here we go with the devolution group. We started off with unfunded mandates. They said we had to give everything back to the States. Every measure that has come up here says, "Send welfare back, send the health problem back"—of course, it is all political pap. It is trying to get rid of responsibility. They do not want to pay the bill.

We have been spending $250 billion more than we have taken in each year and both budgets—the President's and the Republican budget—will call again for another $250 billion in expenditures with less than $250 billion in revenues. So they do not want to speak the truth. They want to get boiled up into term limits, and we have gotten the lawyers now because this says "kill all the lawyers," as the butcher said in Henry VI.

People do not realize how he said it. He said anarchy cannot predominate unless we get rid of all the lawyers. The lawyers, Mr. President, have been the bulwark of this great democracy. Every President from Washington up to Lincoln was a lawyer. They are the ones who founded this country, gave thought and wisdom and direction and growth.

I hearken the words of Patrick Henry: "I know not what course others may take, but as for me, give me liberty or give me death." A Virginia lawyer.

Another Virginia lawyer, a 34-year-old lawyer sitting there and penning, "All men are created equal." Thomas Jefferson.

James Madison foresaw our problem right here this minute 200-some years ago. He said, "But what is Government save the best of reflection on human nature. If man were angels, there would be no need for Government, and if angels governed man, there would be no need for controls over the Government. The task in formulating a government to be administered by a man over man is first frame that government with the power to control the governed and thereupon oblige that same government to control itself." James Madison, the lawyer.

This Government is out of fiscal control, and no one wants to talk about it. I wish you would pick up the business section this morning. They do not talk about that. They said, "Well, the idea of deficits now has gone sort of out of style." Why? I can tell the Washington Post why.

For all last year the Republicans had a fraudulent budget, 7 years to balance. It was a fraud. It did not balance. Finally, President Clinton said, "Well, monkey see monkey do. I will put out a fraudulent budget, too." So when he put one out, they said, "Ah-ha, fraud." He said, "No, that's what you have," and that is why they stopped talking, because neither side can possibly balance the budget without an increase in taxes, and both sides are trying to buy—trying to buy—the vote in November with a tax cut.

Sheer nonsense, but that is what is going on. That is why they do not talk about deficits anymore, because you cannot realistically talk about it and give a tax cut at the same time. So they are moving on to abortion, immigration, they pick up lawyers—term limits—any kind of sidebar that is not a national problem to get by the election.

It is all applesauce. It is all Presidential politics. We are spinning our wheels, and it is a shabby process to come and bring this without any debate, limited as we are to talk about a national need that every one of the States over the years has addressed—the distinguished Senator from Rhode Island got up on the floor and talked about the years we have been discussing this. He is right. We have been discussing it for years and years, and the reason it has not passed is because the States have long since taken care of the problem, whether the problem was the inability of finding insurance, whether it was trying to get uniformity, whether it was international competition—you can go down the list, like Sealtest ice cream, the flavor of the week, they had a different reason every time.

Every time that the law professors looked at it, they came en masse and testified, "For Heaven's sake, don't pass this measure."

Every time the State legislators came, or the State attorneys general came, they said, "Look, we're doing the job. It's a nonproblem."

Every time the chief justices of the States—the States that they revere so much in devolution but that are totally repudiated here—the Association of State Chief Justices came and said, "Don't pass this."

The American Bar came and said, "Don't pass this."

I do not know who they represent other than themselves trying to get reelected on a pollster hot button. That is all it is. We can go down the list of those who oppose this measure still.

The AFL–CIO, do you not think they represent working Americans? Find me a working American who says this is a good bill.

The Coalition for Consumer Rights; the Consumer Federation of America; the National Conference of State Legislatures; Public Citizen—I can go right down the list.

Mr. President, I challenge the supporters of this bill to say what group, other than the Business Advisory Council and Victor Schwartz, wants it. I represent people in business, and I can tell you about the cost of it.

So the Senator mentions the cost. Then he gets into the amount of lawyers. Since we are talking about the lawyers, I should have completed my thought. Again, it was a lawyer, Abraham Lincoln, who made the Emancipation Proclamation. Franklin Roosevelt in the darkest days of the Depression, a lawyer, said: "All we have to fear is fear itself."

I was admitted to practice before the U.S. Supreme Court in December 1952, Mr. President. We had then the school segregation cases. Brown versus Board of Education of Topeka—actually the lead case was Briggs versus Chaney. We had John W. Davis, the former Solicitor General, argue on behalf of the State. Thurgood Marshall, the lead attorney arguing not the Kansas case but the Briggs versus Chaney case. I can see Justice Marshall, a lawyer, standing there now talking about freedom and bringing this Congress and the people in this land to equal justice under law.

"Get rid of the lawyers," they say. I can go to Ralph Nader, I can go to Morris Dees, and all the others. I can go down and then I can come to the 60,000—did you hear the figure?—60,000 registered to practice downtown in the District, all on billable hours, hardly any in a court, all fixing us politicians, $200 an hour, $400 an hour.

I have talked to some with ethics charges, and they have gone broke. They have not paid their bills yet. They got rid of the ethics charge, but to go back to all the records, they had to pay lawyers $400 an hour to come and just look over the records in the office.

The billable hour crowd is behind this bill. That is one group. They do not want to mention it. Lawyers, yeah, they have the Persian rugs, mahogany desks, and the drapes. They never worked. The trial lawyers have to convince 12 jurors in their community, all 12—all 12—and have to withstand judicial review, as the coffee case did where it was cut. They did not get paid anything. The presumption is, on the amount to the lawyers, that these injured parties without a lawyer would get the money. That is why they are having a product liability case, because they are denying payment. They are denying payment.

But, yes, we had in the committee—I will read about who gets what, and that this is just a plaintiff's lawyer—people ought to know about defendants' lawyers and about the billable hours thing. It is wonderful. We are talking about the time it takes and the backlog. Who is interested in time and backlog? Then there is the insurance company lawyer out there on the 20th or 30th floor, and the Persian rugs. He could care less. He gets his money. If the insurer can put the claim off and never pay it, at least when they do pay it, it will be in inflated dollars. The insurance lawyers are the ones who are asking for continuances and motions and who call their secretary and tell her to put 52 interrogatories in. Then, they get the discovery going. All they do is just sit there and answer the phone and go out to the club and eat lunch and have their martinis and say how smart they are. And they get paid.

Plaintiffs' lawyers, the defendants' lawyers. I read from the committee report:

> According to calculations derived from the survey conducted by the insurance services officer of the Institute for Civil Justice, for every dollar paid to claimants, insurance paid an average of an additional 42 cents in defense costs. While for every dollar awarded to a plaintiff, the plaintiff pays an average contingent fee of 33 cents out of that dollar. Thus, in cases in which plaintiffs prevail, out of each $1.42 in total litigation costs, including damages, about half of that goes to attorney's fees, with the defendant's attorneys on average paid better than the plaintiff's attorneys. Of course, defendant's attorneys are paid regardless of the outcome of the case, while the plaintiff's attorneys are paid only if they win their case; otherwise, they take a loss for the time and expenses they have incurred.

Mr. President, coming to the Senate, I left a lot of money on the table. I can say that poor person now in the Boland case—this guy had broken down between Georgetown and Charleston. As he went back to get the spare tire out of the trunk, the bus rammed him, dead. The family did not have any money, whatever it was. I said, "Well, I'll take it." We spent quite a bit of time and money, won the case, took the case on appeal, trying to chase down to Florida the particular defendants in that case, everything else of that kind. We just had to leave that.

Plaintiff's attorneys understand that is the cost of doing business. Otherwise, how is poor America ever going to be represented? I take my hat off to trial lawyers. Heavens above, yes, if they make it, some are making in these class actions, I guess, healthy amounts. But the experience is otherwise. As we have heard in the hearings and everything else like that, the cost is not trial lawyers, the cost is because of the defense lawyer.

The cost of the enactment of this particular so-called conference, what I call conspiracy, report, is that individual rights would be seriously, seriously inhibited. There is not any question about the matter of the studies that we have had. In 1991, the Rand Corp. showed that only 2 percent of product liability cases are ever filed. The majority of the 2 percent are business; 90 percent never get to court.

I have already mentioned the Conference Board. The Rand study said that less than 1 percent of corporate America is ever named in a particular lawsuit. Of course, Cornell University's most updated study shows that in the decades of the 1980's, coming into the 1990's, there has been a decline of litigation. There used to be what they call, I forget now, but they had a panic that they just had a plethora of suits. Actually under the Cornell study the suits have declined 44 percent.

The States have moved in. They have moved in a responsible fashion. And here we come—in the State of Arizona, for example, they had a referendum on this. This bill abolishes the public vote of the people of Arizona. If that is not senatorial arrogance, if that is not congressional arrogance, if that is not Washington Government at its worst—everybody's campaigning on the stump, Republican and Democrat, that we are going to get rid of that kind of Washington Government—if that is not it, I do not know what is.

I could go on, Mr. President, into the matter of the bill itself. The very interesting thing is that they are talking, oh, so reasonable, about how they are struggling and how it works and how they have balance. I hope they do not use that word "balance" because I heard that in the caucus yesterday. Balance, my Aunt Edith. This does not apply to the business of the majority of people bringing product liability cases. Oh, no. Hum-mm. No. It does not apply to coming back on punitive damages and having a separate hearing nor to joint and several liability. None of this balance talk is about pain and suffering, none of this at all—

Oh, look through this obstacle course they have here for the poor, injured party. Not an injured business, no. United Airlines is looking at suing the Dallas manufacturer, I take it, of the baggage handler out there in Denver. No. This bill will not apply to them. That is a corporation. No, siree. That military airplane that crashed—oh, boy, I think we have had 31 of those F-14's in a period of a few months or years. We put those planes on line 23 years ago. That last crash killed, I think, two or three people on the ground there in Nashville. No case under this bill. No case because they have been exempted.

You have to read this thing. I am proud to stand here and tell the truth and expose this nonsense, this conspiracy, that has taken on, on the one hand, a political poll hot button issue, that is a nonproblem, and expose the movement that is in behind it and continues and continues because who is paid, when they talk about the trial lawyers and being bankrolled, who is paid and bankrolling this?

So you have two classes of injured parties. If you are a business injured, do not worry. If you are instead an individual who struggles because you not only have to get the investigation cost, you have to get your medical cost, you have to get it all assumed by that rascally trial lawyer, and he is assuming the plat to be made, the diagrams, the photographs and everything else to bring the truth to the 12 men and women on the jury and suffer all the legal motions and everything else. The trial lawyers are bankrolling injured parties, for an average, I would say, of anywhere from 1½ to 2 years at least on these cases.

If they do not prevail with all 12 or with the supreme court of the State on appeal, they are goners. They are goners. That has happened time and time again.

But you have two classes. There the bill's supporters have been very, very careful to talk about fairness and trying so long. You have two classes of individual parties: the CEO and the fellow who is working in the plant. The CEO makes $5 million. Ask AT&T; I think the CEO got up to $16 million. If he comes in and he gets an injury, he can get twice times the economic damages. So, if he is out for a year, he can get $32 million in punitive damages.

But if the same fellow in the car that is driving with the CEO—if the CEO will give him a ride—that fellow will only get $250,000 in punitive damages. Oh, boy, what a fair bill. It is so studied, so nice, so pleasant. We have been holding it up because trial lawyers have been bankrolling everybody, and everything else of that kind.

I wish this crowd would sober up and read this thing. You have the poor women. You have two classes there. If you have the breadwinner, the man in the family, he can get all his economic damages and everything else, but she can be expecting a baby and lose that baby and never be able to produce a child again, but that is not economic damage, that is pain and suffering. So there is going to be a separate hearing there.

Mr. President, later, if the time permits, I want to get to the uniformity and the global competition that they talk about, because with respect to, say, the State of Washington which does not have punitive damages, this law would not apply. To my State of South Carolina that does have punitive damages, this law shall apply. They call that uniformity. They call that uniformity.

Interstate commerce is a many splendored thing and the lawyers are bolixing it up. As for global competition—I have foreign industries coming in like gangbusters. I have been in the game at least 35, nearly 40 years. This is why I challenged the distinguished Senator from North Carolina; I know his State; we compete together. We have never had the blue chip corporations that we have today—I have Firestone, several GE's, I have several DuPont, American industries. Right here in the last 2 or 3 months, we have BMW, we have roller bearings, Hoffmann-La Rouche, the most wonderful pharmaceutical firm that you have ever seen. Companies from everywhere—Hitachi, in the TV industry.

I want to thank publicly the Washington Post for that Outlook article on Sunday. I have been trying to bring this trade issue to the U.S. Senate now—this is the 30th year, this so-called protectionism. President Ronald Reagan, under section 301, started moving in these cases and got voluntary restraint agreements. As a result of the voluntary restraint agreements in things like Sematech—protectionism, if you please—we are not only holding on to the old jobs but we are getting new jobs.

I remember the Republican primary campaign in South Carolina, when the former Governor said, "Free trade, free trade. Look at this, BMW taking Senator DOLE through its new plant. It was there on account of free trade." It was there on account of protectionism. When we got voluntary restraints, that is how we got Honda, how we got Toyota, how we got BMW. Who is kidding whom?

When the distinguished Senator from Alaska, Senator STEVENS and I, put into the defense bill the Buy America provision on roller bearings, we got Koyo and INF up in York County. That is why they are there. Voluntary restraint agreements on steel, voluntary restraint agreements with respect to semiconductors, Sematech, Hitachi. You can go down the list, Mr. President: Trial lawyers, protectionism. Competition is what America is interested in at this particular moment, not the tort system being handled by the States, not term limits and all the other fanciful games played in political polls. They want America. They want this Congress to get competitive.

There is nothing wrong with the industrial work of America. The industrial work of America is the most competitive. What is not competing is us up here, where we have a failed policy of the cold war that we had to enact trying to keep the alliance together. Now with the fall of the wall is the time to build up our economy. Now is the time to go forward with the protectionism that we have for the environment that they are trying to get rid of—clean air, clean water, proper trial at the State level.

I have to read aloud the seventh amendment because I do not believe they have ever read it. You ought to see what it says. The seventh amendment to the Constitution:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, according to the rules of the common law.

They have reexamined the amendment in here where they say, "Mr. Trial Judge, do not tell the jury about that $250,000 cap, but if they come in, then you go and you factually proceed in violation of the Constitution and come out with your trying of the facts in your decision." Come on.

They say now they have worked over the many years to pass a product liability bill, and the general aviation bill lets manufacturers sell airplanes that are working so well. Global competition, we have to get into the global competition. I am going to write a follow-up piece for publication. Over half of what is coming in here in imports is American multinational generated. We are competing with ourselves. The multinationals that have lost their country as far as business imports are concerned have gone overseas and they are coming back in and the foreign entities, foreign governments are coming in here with a historic chant. It is devastating our economy. Everybody can see it but us politicians. Everybody can see it but us politicians.

It is a given in manufacturing that 30 percent of volume is the cost of the employees, the workers; now we call them the associates. It is a given, further, that you can save as much as 20 percent of sales volume by going to a low-wage country in manufacturing.

So if you have $5 million in a sales corporation you can keep your executive office, your sales force, but move your manufacturing offshore to a low-wage country and save $100 million, or you can continue to work your own people and go broke. That is not greedy corporations. That is a stupid Congress that allows that to happen.

If I ran a corporation and my competition headed overseas and started cutting his costs that much, I am forced to leave. We have a veritable hemorrhage of industries leaving. I pointed out that Baxter Medical that I brought here years ago, with 830 workers, has just gone to Malaysia. Secretary Reich says, and the Congress says, now what we have to do is retraining, retraining, retraining. Come on. I have skilled training coming out of my ears. We can train them to do anything. We do not need a Federal program. We have BMW without a Federal retraining program, and all these other industries.

But assume they are right and they are retrained into wonderful computer operators, 830 of them, the next day. The average age is 45. Do you think they will hire the 45-year-old computer operator or the 25-year-old? With the cost of retirement, with the medical costs and everything, the answer is obvious.

What we are dealing with here is not a cost of doing business. I am identifying our injury. Our injury is the failure to, as Lincoln said, "disenthrall" ourselves from free trade, free trade, free trade. There is no such thing as free trade. In the 1930's, we had reciprocal trade, and tariffs as the instrumentality—protectionism. Everybody wants to flatten the income tax—flat tax, flat tax, flat tax, is something else going on. Well, we lived on tariffs and protectionism from the beginning of the republic up until 1913. A country, an economic giant, built on protectionism. But they are all running around here like children and hollering, "Protectionism, protectionism, free trade, free trade. Product liability is such a weight on doing business." And all of the business statistics, findings, insurance company results and everything else of that kind show otherwise.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that Craig Williams, a fellow on the staff of Senator McCAIN, be granted the privilege of the floor during the Senate session today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield to the Senator from West Virginia such time as he may desire.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Washington.

Mr. President, I am very happy that the Senate, at long last, is taking this bill up. We have been here before; we have been here many times before. I wish we could have gotten here sooner this year. Nevertheless, I am glad we are here. I think there is a natural tendency in Congress to wait until absolutely the last minute before important decisions are made, and that is what we are doing again this time. But so be it.

I am here to report to my colleagues that the Senate product liability bill has maintained the Senate's standard, which is products only. It has to be fair. It cannot include a whole lot of extra things that the Contract With America wanted, or that others wanted, or, indeed, that earlier generations within this body tried to add on to this bill. It was always my intention—and it was always the intention of the Senator from the State of Washington—to keep this bill disciplined, on products only, not to expand and include all kinds of other subjects, so that we could keep faith with our colleagues. I believe we have done that. All of this is now embodied in H.R. 956, the commonsense product liability legal reform bill.

I am enormously proud of the fact that the Senate really does want to see meaningful product liability reform, to fix our broken products system. Most of those on the other side of the aisle feel that way. There is a merry band of us on our side of the aisle who feel that way, and we have for a long time.

We can announce to our colleagues that we have done what we promised we would do—hold to the Senate position in virtually every respect, to preserve the balanced, reasonable Senate product liability reform provisions that will provide Federal uniformity to the hodgepodge of State laws, which deal with product liability today. This will improve the product liability system for consumers and for business alike.

There is a feeling sometimes in here that the bill has to either be just for consumers or just for business, and that you are over here or you are over here. This bill is trying to reach to both sides. We do some things to help manufacturers, and we do some things to help consumers. That was the point—to make it a balanced system. The statute of limitations is one that occurs to me mightily. California, for example, has a 1-year statute of limitations, and that means, in California, I presume—and I am not a lawyer—that if you are injured and wish to sue, you have 1 year within which to do it, and after a year is passed, you cannot sue. I consider that to be anticonsumer, and I consider those who are defending the status quo to be defending an anticonsumer position, which is, in fact, virulently anticonsumer.

Our bill says that one has the right to go 2 years after one discovers, first, that one is injured and, second, what the cause of the injury was, so that one knows who to sue. Now, in an era of drugs and toxics—and we are seeing this, for example, in the Persian Gulf war with the so-called mystery illness, which is no mystery to me, but what seems to be a mystery to the Department of Defense—sometimes it takes 4 or 5 years. Sometimes it takes 15 or 20 years for a toxic or a drug to show up as an injury. So then you know that you are injured.

But under our bill, that is not enough. You have to know what the cause of the injury was so you know who to sue. Now, that is clearly proconsumer, and those who are defending the status quo—that is, those who oppose this legislation—wish heartily to deny consumers that window to get into the courthouse door. I find that stunning. I find that, in many ways, shocking. I am very proud that we have that in our bill.

Opponents of this legislation have, I believe—and this has been true in the past—used gross distortions and out and out misstatements about this bill to try to suggest that it has been significantly changed from the Senate-passed product liability bill. We are spending our time running around taking examples, which are patently false, which have been raised as though they were patently true. That is not a distinguished aspect of Senate life on this bill.

The fact is that this report is virtually identical to the Senate bill in every single respect—virtually. Senator GORTON and I, in what I thought was a rather extraordinary colloquy from the floor, delivered on our blood oath, in which we both said that if we did not deliver on this promise, we would vote against proceeding to the bill or vote against the bill; and that was that we promised to delete the provision providing a defendant with a right to a new trial under the "additional amount" provision. That was an issue. We pledged to remove it. We did. We also took the House timeframe on the statute of repose. That was the one change that we made, maintaining the Senate bill's limited scope, importantly, to durable goods in the workplace.

Now, again, some of the distortions being used are that by reducing the statute of repose, which was the only area in which we gave the House what they wanted—we gave them the 15 years, but we did not give them what they really wanted. They wanted this to include everything, not just durable goods in the workplace. We maintained the Senate position even on that.

Beyond that, no substantive changes were really made. Technical and conforming drafting changes were made, as in any report of this sort. But that is it. That is the sum of the changes from the Senate-passed bill, no matter what the opponents of the reform will assert, and will assert this day. My colleagues need to know that, and they should be reassured that this means that the product liability report is yet one more opportunity to go on record in support of moderate and beneficial reform of our product liability law.

Senator GORTON has gone through, and will continue to go through, a detailed legal analysis for the minor changes that were made, conforming changes. He will also rebut—certainly better than I—the outrageous claims that are being circulated by the opponents of the reform. I heard them in the Democratic caucus yesterday, and I am sure I will hear them on the floor today. However, as coauthor of the Senate product liability bill, I would like to go on record with my own analysis of the opponents' wild claim about the report. It is not in legalese because I am not a lawyer. But it is in English. I want this RECORD to reflect what is actually in the bill, rather than what the other side will, as I have said, continue to misinform Members about during this crucial debate.

There is a lot of confusing misinformation being circulated. Here are the facts.

Fact No. 1: There is no cap on economic or noneconomic damages—no cap on economic or noneconomic damages. Claimants will continue to be able to recover whatever they are awarded in a court.

Fact No. 2: The statute of repose remains limited to durable goods in the workplace only—only. Statements being made that they now cover all goods are wrong.

Fact No. 3: Product sellers, lessors, or renters will not be protected from negligent liability. That is precisely why the negligent entrustment exception was moved to the product sellers' section of this bill.

Fact No. 4: Dow-Corning and other companies who made, or make, breast implants will not be shielded from liability—will not be shielded from liability. We went through this last year, and groups, in particular, women's groups, gave impassioned, very emotional press conferences in which they said they would be included and that they would be shielded by this bill. It was not true last year. It is not true this year. Whether or not they supplied the silicon, they remain as liable as any other manufacturers who produce a defective product, if they do.

Fact No. 5: And this is very important because this involves a subject which has struck a number of people on my side of the aisle deeply, and it has to do with a letter that Mothers Against Drunk Driving—obviously an incredibly excellent and wonderful group—have circulated. But we have been trying to reach them to get them to make a retraction because they have made a mistake. It is a mistake which has been persuasive, unfortunately, to at least two Members on our side that I can think of.

I repeat, drunk drivers, gun users, et cetera, will not be protected from liability in any way. Opponents are intentionally trying to confuse harm caused by a product—that is, harm caused by a product which is covered in the bill—and harm caused by the product's use by a person, or persons, which is not covered in the bill and remains totally subject to existing State law. Specifically, for those inclined that way, section 101(15) and 101(a)(1), definition of "product liability action," includes only "harm caused by a product, not use." That is an enormous difference.

If I have leased a car and then stopped off at several bars and become drunk and then cause damage to somebody, I, as a person, can certainly be sued, but the use of the car, if the car is not defective, is not actionable under this bill, nor should it be, because this is a products-only bill. It is the products we are talking about, not the use, or the user.

Fact No. 6: In all States that permit punitive damages, they will continue to be available and the additional amount provision—we used to call that judge additur, but we now call it additional amount provision—will apply in all those States regardless of whether caps are higher or lower in that State.

Fact No. 7: Tolling, this was raised in our caucus yesterday; it has been raised since. Tolling of the statute of limitations will be covered as they are now by applicable State and Federal law. For example, for those so inclined, see 11 U.S. Code 108(c), "automatic tolling in bankruptcy cases."

Nothing in the bill, Mr. President, or omitted from the bill, will change State law on tolling. That is a fact.

Fact No. 8: State law will continue to control whether or not electricity, steam, et cetera, is considered a product or not.

Fact No. 9: This is not a one-way preemption bill but a mix of State and Federal rules, as it ought to be, in a bill which is moderate. Products are in interstate commerce—we have said this over the years so many times—70 percent. There was a day when things that were manufactured in California were probably sold in California for the most part. Today, on a national average, 70 percent of all things that are manufactured are interstate and are sold outside the borders of that State and thus are in interstate commerce, and they should be subject to more uniform rules for business and consumers.

Let me just say again, as I did last year, that the European Economic Community—which is close to 400 million people and an enormous competitor for the United States of America economically—all 13 countries have a single product liability law, a uniform product liability law—all 13 countries, not provinces within those countries but the whole country.

Japan has just adopted a uniform product liability law, a law uniform for the country, but we have 51. We have 51 different laws. For example, in the case of punitive damages, I think about 80 percent of all punitive damages come from three States—California, Texas, and Alabama. Why is that? Probably because of something called forum shopping. Because we have so many different laws—51 different laws—people can simply try to find the place which is most effective for their particular case, and there they go. So this is not a one-way preemption.

Fact No. 10: On joint and several liability—there has been a lot of talk about that and this is an extremely important issue—30 States have modified joint and several liability at this point. The Federal proposal follows the California law affecting only noneconomic damages. It is interesting on this point; the States clearly recognize that there are things they want to change in joint and several liability. Twelve States have eliminated joint liability altogether. Two States have eliminated joint liability for noneconomic damages. That is California and Nebraska. Ten States have otherwise limited the availability of joint liability as to noneconomic damages or damages generally, with the result being it is significantly less likely that noneconomic damages would be subject to joint liability. Three States have eliminated joint liability in cases in which the plaintiff is negligent and five States have capped awards of noneconomic damages. In all, 30 States have done this, and these include 8 of the 9 largest States in the Nation.

For the remainder of my time I wish to remind my colleagues and whoever else might be listening why some of us have wanted so much to act on this legislation and to outline the opportunity that this reform in fact holds for this country and for our people as consumers and as human beings.

Product liability reform has a very long history in the Congress. Members in both Houses and on both sides of the aisle have been trying to reform the product liability rules for over a decade, in fact for substantially longer than that, and we have done it for the most part by working together, Republicans and Democrats. No matter what anyone says to try and hone this issue as truly partisan or divisive, the idea of product liability reform is a legislative idea with a complete, thorough, aboveboard, open, and honest history of hearings, of markups, of floor debate, of cloture votes, and everything and anything else that one could call the way to legislate.

Yes, we have been persistent, those of us who want to see this law enacted. We have been dogged. We have been focused because we think this country and its people need the change. The status quo is hurting American workers, American business, American consumers, and American competitiveness. When products by definition cross State lines—at least 70 percent of them—it makes no sense, absolutely no sense for product liability rules to be different in all 50 States, which they are—50 different sets of rules. It breeds unpredictability, delay, confusion, and unfairness that hurts everybody, not just businesses being sued but people, too.

Senator GORTON and I introduced a bill last year, once again to reform product liability. And I have to say I have enjoyed enormously a true partnership in spearheading this effort with Senator GORTON. Because I said everything good I could think of last year and ran out of the English language, I can simply thank him once again for his legal acumen, extraordinary integrity, and extraordinary sincerity in trying to enact reform.

Different legislation was passed in the House earlier in the year, as people know, and fortunately one part of it was product liability reform. In the discussions, many of my colleagues in the House and some in the Senate deeply wanted to pursue nonproduct liability legal reforms—nonproduct liability legal reforms, all kinds of ideas—making it available to all civil torts, putting it on medical malpractice, which I personally favor but which has no place in a products bill. This is a products bill. The problem was that the Senate did not have companion legislation to consider or to conference on the House's ideas for malpractice reforms or legal reforms beyond product liability. While I am not opposed to looking at other kinds of legal reforms, I believe I owe it to my colleagues to whom I and Senator GORTON and others have made this pledge and to the legislative process to have the Senate first take up legislation through the relevant committees and the regular process.

The history of product liability reform legislation makes it obvious that it is still a very contentious subject, and I always say to my good friend, Senator HOLLINGS, that I do not like disagreeing with him on anything, on anything, but I think there is an immensely compelling, urgent, and clear-cut case for product liability reform.

Senator GORTON and I introduced a bill that is bipartisan, moderate, balanced, and focused as a way to begin fixing the problems in the product liability system. The report is in essence the same bill with improvements suggested by the administration—I repeat, with improvements suggested by the administration—and others interested in getting responsible product liability enacted into law. Even the National Governors' Association, usually the most insistent that the job should be left to the States, which we have seen in Medicaid and welfare reform and many other things, even in these last 10 months, has said in formal resolutions that "uniform standards" are needed in product liability. They have so said. One of those resolutions was passed.

In fact, the original task force on product liability—one of the members was then Governor Bill Clinton, and he was the leading force at NGA—had a unanimous report in favor of uniform standards and twice the President of the United States voted to support that position.

Last August, the Economic Strategy Institute, the organization headed by Clyde Pressler, with whom I believe the Senator from South Carolina generally agrees, and a voice for tough action on trade and other areas, issued a report called—and this is not what I would call the best title I have ever read in my life, but it is called "Tortuous Road to Product Liability Reform."

To paraphrase, when the institute issued the findings of its recent research, it said that America's unique approach to product liability has brought enormous and growing costs to the resolution of disputes, and the costs are borne by consumers and U.S. business alike.

It goes on to say that costs are eating up money that could be spent on wages, on research and development, on training and other investments to be competitive with the rest of the world where our principal economic opponents have adopted uniform product liability standards. The institute's report underscores that product liability reform would significantly benefit consumers and business.

I think everybody knows that I obviously am disappointed by the President's recent statements indicating that he intends to veto this report, particularly when the administration issued a statement by the President on May 4, when the Senate was debating amendments to expand our product liability reform bill, that concluded with the final paragraph which I think shows how much consensus we have managed to develop over the years on the point that action on product liability is needed. It said in that statement, "The administration supports the enactment of limited but meaningful product liability reform at the Federal level. Any legislation must fairly balance the interests of consumers with those of manufacturers and sellers."

It was this President who just 2 years ago signed legislation providing the American aviation industry and its consumers with provisions very much like what is in the current report for product liability reform. That bill, the general aviation bill, thoroughly described by Senator GORTON, has helped the small plane industry make a major comeback since its enactment, and the President when he signed it said he felt that this would create many, many jobs for Americans. The President was correct then in arguing for reform, and I hope, hope and hope and pray, that he will seize the opportunity of moderate, balanced reform that our conference report presents to him now.

Mr. President, I believe this conference report is the legislation the President was calling for last May. I truly believe that it is. I consulted with the administration every step of the way during this long process to meet its parameters and those of many of my Democratic colleagues. I felt an obligation to so do. I think and believe that my colleagues know how hard I have fought to stay within these parameters.

Now we are voting on the conference report that produces the product liability reform the Democrats and Republicans in both Houses have toiled in the vineyards to achieve these many years. At a time when America clearly faces threats to our jobs and economic growth across the world, where they do not have the same maze of conflicting laws, we should do everything we can to suit up, not surrender. Consumers should not have to bear the costs of ridiculous delays or be denied the breakthrough drugs or other innovations that the current system scares off.

So I think this conference report, in concluding, Mr. President, has earned the votes of those who support meaningful product liability reform in good faith, those who sincerely mean it. The final decision, of course, is the President's. He said he is going to veto it. Having so said, obviously, he has a chance to hear this debate, to rethink his position, and to change his position itself and, in fact, to sign the bill. He could still do that.

As I have said, I hope he will take that time and see this vote as a reason to reconsider his position.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 25 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 25 minutes.

Mr. HEFLIN. Mr. President, Senator ROCKEFELLER, I am sure, has endeavored to live up to his commitments to not expand the conference report, to the best of his knowledge, but being a nonlawyer, I am afraid some of his advisers who are writing it did not explain to him the vast expansion of this report over what the Senate passed before. There are numerous changes, subtle changes in many instances—for example, the changing of the word "and" to "or," which greatly expanded the bill.

The proponents are referring to the various special interests who have concerns about this legislation. You know to whom they are referring—trial lawyers and advocates on behalf of the American consumer. But there are a lot of other special interests that are involved, particularly those who have been endeavoring to save money and to make a bigger profit. In that category could be many elements of business from manufacturers to wholesalers, distributors, retail sellers and also including the insurance industry. These can certainly be called special interests.

This report's section on punitive damages has, with regard to small businesses, a provision about "the lesser amount" and therefore providing a maximum cap on punitive damages of $250,000 if a business has less than 25 employees. I doubt if there is any company that has 25 employees that does not carry substantial excess liability insurance over and above $250,000. Most businesses carry liability insurance in large amounts, and the relationship of employees to the policy of insurance that is carried, that protects them, is not really germane at all.

The conference report is greatly expanded by lowering by 25 percent, from 20 to 15 years, the statute of repose. For example, the statute of repose will apply to a bridge. Most contractors' negligence and the defects in the production of a bridge do not occur during the first 5 years, 10 years, or even 15 years of a bridge's use. A defect in a part or component product of a bridge manifests itself by a bridge collapsing, or giving way after a period of time in excess of 15 years.

Under the definition of the term "products," it is anything that is used in the construction of a bridge under this bill, and there are many component products that are manufactured for the purpose of lasting many, many years.

So, as we see in particular mountainous areas where bridges span big gaps, or cross between mountains, you will have a real danger after 15 years of a collapse and under the statute of repose of 15 years, an insured person or his estate is outright prohibited from bringing a suit to determine fault. Also, consider that it is 15 years from the date of the delivery to the first purchaser that the statute begins to run. There are many consumer items, products that are delivered to the first purchaser, which is not the consumer, that may stay on the shelf 2 or 3 years. What do we have? The statute running even sooner against unwary consumers.

We should also consider workplace products and their safeguards that are supposed to protect innocent workers. What you protect is a person, a farmer from losing a hand in a corn machine, which harvests corn. Or you can have any type of other situations where there is an absence of or defect in safeguards associated with machinery. I have charts to show the various items of where safeguards are left off. Consider a plastic injection molding machine or a tractor, manufactured more than 15 years prior to the accident where a 34-year-old person was killed, and where the manufacturer failed to equip it with rollover protection system. Consider a punch press which lacked guards and safety devices. All of these items illustrate how an innocent person could be adversely affected by the 15 year statute of repose contained in this conference report.

Then the statute of repose has some language that says "not caused by a toxic material." The issue arises in regard to whether or not, for example, asbestos is a toxic harm or toxic material. There are various and sundry people who would say a position can be taken that asbestos is not a toxin or a poison, but that breathing it, is unlike poisons like chlorine or benzene. They say that asbestos is simply a rock fiber and asbestosis, the most prevalent asbestos-related disease, is caused not from toxic interaction between the asbestos fibers and cells but, instead, because the needle-like asbestos fibers pierce and destroy air sacs in the lungs.

It takes generally 15 or 20 years of exposure to asbestos material before the disease develops. But under the statute of repose, you do not have a right to bring any suit. You are forever barred from bringing a suit after the passage of 15 years from the date of delivery to the first purchaser.

Now tell me this is fair. This, to me, is a great expansion of the conference report from the Senate-passed bill. But let us look at some of the other expansions in this report.

The report has a change of a slight word about a standard of liability other than negligence. For years and years, product liability bills have excluded natural gas and electricity, but this report comes back from conference with a change in language providing that if natural gas or electricity is subject to a different standard than negligence, then it is subject to all of provisions of this legislation—this is a vast expansion.

Now, natural gas and electricity are looked upon, in practically all States, to be highly dangerous and are subject to laws that say that if they are sold, the producer and seller must be held to the highest standard of care in order to protect the public. But the conference report contains an expansion for the first time in about 18 years. Was this merely an inadvertence or was it intended?

Natural gas is odorless, and producers have to add a fluid to it for people to smell it in order to detect it. It is generally referred to as "skunk juice." But if somebody fails to add it or fails to put the proper amount in and a devastating accident occurs, are those in the production chain allowed to reap the benefits of this legislation's protections, say, as to the caps on punitive damages? Is that not a great expansion of the conference report? I just wonder how many homes are heated with natural gas, and there is a particular case that just occurred recently, a Seminole natural gas case out in Texas where there was an explosion and three people were killed and many were injured. Punitive damages were awarded by a jury.

Obviously, that brought to mind a very crafty, highly intelligent drafter, who now says we can take care of similar situations by a little sleight of pen and make these type of these cases come within the ambit of the bill. I am sure that the distinguished proponents of this legislation did not realize or never were told about this particular change, but it greatly expands the bill, make no mistake about it.

Consider the provision regarding negligent entrustment. There was a provision in the Senate-passed bill that said that the limitations of this bill shall not apply to any suit brought for negligent entrustment. The Mothers Against Drunk Driving had insisted that that provision be in the Senate bill. That is where you have the State dram shop laws, where liability is provided where tavern or bar owner sells whiskey to a minor or to a drunk who then drives a car under drunken conditions and kills an innocent victim. Under the Senate-passed bill, a defendant was not provided with the limitations of this bill such as the caps on punitive damages. But now a defendant could come within the limitations contained in the conference report. Gun dealers, who have been subject to negligent entrustment actions on the State level for selling guns to known incompetents or criminals, would now benefit from the subtle change between the Senate-passed bill and the conference report which is now before the Senate.

The negligent entrustment provision was moved from one place in the Senate-passed bill to another place in the conference report, and this subtle change allows defendants in negligent entrustment actions to avail themselves of the limitations in this conference report. The Mothers Against Drunk Driving are utterly opposed to this report and are urging Senators to vote against cloture.

Then there is the issue of the statute of limitations of 2 years where a court orders an injunction, like a company goes into bankruptcy and you, therefore, are enjoined by law from filing a product liability suit. Under the bill that was passed by the Senate, that time did not count—the statute of limitations was suspended or tolled. It said that that time did not count on your statute of limitation running of 2 years.

But, by sleight of hand, it is removed from the bill and it is no longer there.

The President, in his veto message that he sent, points that out. I had read the bill, and I had not discovered that. I went back and read it again, and I saw how craftily that had been omitted from the conference. So, therefore, if your company goes into bankruptcy, there is an automatic stay against being able to file a civil suit. Therefore, that provision that gave you protection against the running of time is removed.

I mentioned a definition of durable goods, how the adding of a "comma" in the durable goods section now brings in many, many household goods—baby cribs, lawn mowers, razors, electric razors that are used—any type of thing that has a projected life of 3 years is now in it. Before in it, it had to be related to a business. No longer does it. But it includes household goods that are there.

There is another change about remediation relating to Superfund in regards to the environment. I am not sure that I understand it, but it was changed for some reason. The conferees did not make these changes unless they are trying to give some sort of protection to some company.

Another change to me that was unusual was the conferees changed the name of the bill. When the bill was in the Senate and passed the Senate it was called the Product Liability Fairness Act of 1995. I made a speech about it and said that was the biggest misnomer and pointed out the unfair provisions. For example, business can sue for commercial loss, and they are not subject to these provisions. The report exempts business in their suits against each other. But they contain provisions that it would apply to individuals, to injured parties. But if you are an injured business, you can sue for loss of profits, you can sue and are not subject to the bill's limitations.

For example, you have a statute of limitations for 2 years here, while in most States the statute of limitations, under the Uniform Commercial Code, is anywhere from 4 to 6 years, just for example. Business suits are not subject to it. Yet the biggest verdicts that have been rendered relative to punitive damages are business cases. Pennzoil versus Texaco and so on. But anyway the proponents changed the name to the Commonsense Product Liability Legal Reform Act of 1996.

I just do not believe that it is common sense or fairness either way. I think it is a misnomer. Is it common sense to include governmental entities, the Department of Defense, the GSA, and subject them to the provisions of this, but not subject business by allowing them to be able to sue for their commercial losses? But does it make common sense that in this time of deficits where we are trying to reduce Government spending, to put the Federal Government at a disadvantage as regards this bill?

The Department of Defense has helicopters, tanks, trucks, et cetera. Almost all products that the military buys are built with the idea of having a long life.

But does it make common sense, in these days, to have the Government subjected to the statute of repose of 15 years? Does it make sense, in these days of where we are trying to take care of local governments and not to have unfunded mandates, to impose this bill's limitations upon governmental entities?

Does it make sense, common sense, to allow them to not subtract time from bankruptcy from a statute of limitation? Does it make common sense not to show in a trial in chief that the engineer who designed a railroad bridge was a known alcoholic, and the company knew it, and they still did not take steps to review his works, and a bridge on a railroad collapses? I mean, let us go down the list relative to commonsense matters.

But this idea of fairness is a smokescreen for patent unfairness. When you get movements, say, started, and the questioning of all the trial lawyers, therefore it gives you an opportunity not to just maybe address one issue or two issues, but it addresses all of these issues that you have lost cases on. So therefore you want to protect the insurance company and you start adding and adding.

I think there is also the question of fairness where the issue of a separate trial on punitive damages is requested. If a separate trial has been requested, it is automatically granted. But the report says you cannot show the conduct of the defendant which exhibits a conscious, flagrant indifference to the safety of others. That is the standard in this report that allows for punitive damages.

A claimant cannot show that type of conduct in the trial in chief for compensatory damages—that is the trial for economic nor noneconomic damages. Remember noneconomic damages include pain and suffering that may be caused by conscious, flagrant indifference to one's safety. Is that fair to a person who has been badly disfigured, scarred, or suffered a loss of limb by a product whose manufacturer knew of its defect but refused to take steps to recall the product.

I would like to give this illustration of commercial loss. There are two commercial airplanes, one of them Delta, one of them American. They collide and we will just say here, for a hypothetical viewpoint, the American is at fault. The passengers that are killed in any one of them are subject to the limitations of this act. But Delta can sue for the loss of profits which are not limited and can have a different statute of repose or statute of limitations; it can sue with no limit on punitive damages for their commercial loss relative to this accident.

But the passengers are limited under the provisions of this report. Is it fair that businesses have a double standard? If it is good for the goose, it ought to be good for the gander. But why do the proponents exclude civil actions for commercial loss? That shows how one sided this legislation is.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEFLIN. I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. The Senator is yielded 2 more minutes, if there is no objection. Without objection, it is so ordered.

Mr. HEFLIN. If that plane falls on Yankee Stadium, and has killed or injured people—they are bound by the limitations of this act. But the owner of Yankee Stadium can sue for the loss of profits due to the destruction of his grandstand. None of the provisions pertain to him.

So this is a grossly unfair bill, and it does not make common sense. The conference bill greatly expands the Senate passed bill. It is extreme in its provisions. It denies an injured party rights. It is particularly harmful to women in title II's provisions regarding biomaterial suppliers, giving a complete immunity or bar to suit to such suppliers. I wish I had time to go into all of that, and I urge them to review title II carefully. I urge that my colleagues vote against cloture on this bill.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Washington.

Mr. GORTON. I yield such time as the Senator from Connecticut desires.

Mr. LIEBERMAN. I thank my friend and colleague from the State of Washington.

Mr. President, I rise as an enthusiastic supporter of the conference report accompanying H.R. 956, called the Commonsense Product Liability Legal Reform Act of 1996. In this case, it is not just a title. This bill is full of common sense. It is reform. This is a moderate bill. It is a thoughtful bill. It reflects compromise. It reflects years of effort to solve a real problem.

Sometimes when we get into the back and forth of the arcane legal concepts involved here, we may lose sight of the fact, as Senator GORTON pointed out in his excellent opening statement, and Senator ROCKEFELLER, there is a real problem out there. Our tort system, our system for compensating those who were injured as a result of other's negligence, has gone off the track. People in this country know there is too much litigation. People know that they are not benefiting from it. They are actually paying more for it in higher consumer prices and lost opportunity for jobs and lost opportunity to use new products that require some risk. People in this country, businesses, are afraid to take that risk. Why? Because they are worried about being bludgeoned by a lawsuit, regardless of whether they are negligent or not.

I have to tell you when I was attorney general of the State of Connecticut, I was involved—and my friend and occupant of the chair may have gone through the same experience—I was at a national meeting of the attorneys general. I recall voting for a resolution that spoke out against product liability reform. I did not know much about it. We were oriented in a different direction. I started going around the State of Connecticut. I made it a practice to visit businesses, particularly small businesses in the State. People out there are the heroes. They are out there, day in, day out. They are not making big money. They took a risk. They are working hard. Maybe they have 10, 20, 30, 40, 50 people, maybe a few more, in their business.

I am interested always in knowing, how did you get started? How did you raise the money to get into it? How are you doing? What can I do to help you? Over and over again, right there at the top, one, two, or three, "Do something about all this litigation. We are constantly being sued, and even though we are not negligent we have to pay so much money to lawyers." Or, "We get frightened because they come after us not just to pay the cost of an injury, medical, lost wages, et cetera, but the intangibles of pain and suffering, or so-called punitive damages which go well beyond the specific injuries suffered. Please help us with this." That is how I got into this battle.

It seemed to me this was a real problem. There is a real problem out there. The bill that comes out of conference is a real commonsense solution to that problem. It puts some very moderate limits and lines and parameters on the existing system. It does not deny an injured plaintiff the right to recover any wages lost, any medical expenses; indeed, even the so-called noneconomic intangibles of pain and suffering, loss of consortium, et cetera. What it does, basically, is to say in the category of punitive damages, punishment, I guess created at the outset for probably a good reason, which was to add to this civil justice system some sort of extra punishment to a truly negligent producer of a product, to get that person not to do that anymore. It is almost a kind of criminal penalty; in fact, it is quasi-criminal.

What has happened with this presumably well-intentioned concept of punitive damages, it has become a club held over the head of defendants, worried that juries may come in with multimillion-dollar verdicts. So they settle regardless of whether they are negligent or not. So it is a limitation of the greater of $250,000, no small amount, or twice the compensatory damage that is economic and noneconomic as we have talked about—that is the basic limit on punitive damages that this bill provides. Very moderate.

Senator GORTON and Senator ROCKEFELLER have spent the 9 months since the Senate passed this bill, saying "No" to just about everyone who sought to change the bill passed on the Senate floor last May. They said "No" to Democratic Senators; they said, "No" to Republican Senators, and they said "No" to the House conferees.

What they have produced is a bill that is remarkably similar to what the Senate passed last year with overwhelming Republican and Democratic support. Frankly, Mr. President, I do not understand why anyone who voted for this bill last May will not vote for cloture and vote for this bill today when it comes up.

Senators GORTON and ROCKEFELLER deserve our thanks, but to speak in much more tangible terms—they deserve our votes this afternoon to break this filibuster. They have spent these many months in the disagreeable position of saying "No" to so many, specifically so that Senators who voted for the Senate bill last May—we understood the margin was not greatly over the 60 votes required to break a filibuster. Again, not 51 for a majority, but 60 to break a filibuster. They kept saying "No" so that the 60-plus votes last May would stay there when the conference report came out.

I think they have achieved what most people thought, frankly, was impossible in the conference report they brought up, because the House yielded to the Senate on almost every proposal, every measure, every item in controversy.

What now do our colleagues, Senators GORTON and ROCKEFELLER, face? Last-minute concerns, distortions, new arguments. I would not blame these two warriors if they were dispirited. I admire them for not being so. Unfortunately, it is what we have come to expect in these debates. The hostile fire keeps coming in from every different direction. It is like having a shot fired; it is defended against; another shot fired on another perimeter; it goes on and on. It is meant to blur over the basic requirement for this bill, and the basic moderation and common sense of the bill before the Senate.

Mr. President, I have a particular interest in title II of this bill, the so-called biomaterials provision. It is almost identical to a bill that I was proud to cosponsor and introduce with our colleague from Arizona, Senator MCCAIN, in 1994. We reintroduced it in 1995. Happily, the Commerce Committee incorporated the bill into the conference report on product liability early last year.

Mr. President, among the attacks that have come up here at the last minute as we come close to finally doing this after 18 years, now, that we have been working at this. I make reference to the Bible. I hope we are not going to have to wander for the 40 years the children of Israel did before they got into the promised land. I am looking at my colleague and dear friend, Senator GORTON, he deserves better than that. Here we are, close to this vote. We look like we have worked out a very sensible bill and now new crossfire comes in after this proposal has been up for years. I want to answer a few charges raised against the biomaterials provision.

In the middle of last week as the final conference report had been under discussion for months, was being completed, we are suddenly confronted with claims that the provision would "devastate the chances for recovery," of claimants in the so-called breast implant cases; that those claimants then presented proposed amendments to fix the allegations that there were problems in the bill. Of course, we have also seen some extraordinarily active lobbying on behalf of those suddenly urgent amendments.

Since so much confusion and concern seem to have been generated as a result, I want to respond. First, the product liability bill and the biomaterials provision is prospective. It does not go into effect until it is enacted.

The bill only applies to civil actions filed after it is adopted. It would have, therefore, no effect on the thousands of breast implant claims already filed, pending—no effect. It would have no effect on claims filed in Dow Chemical's bankruptcy proceeding, past or future. It would have no effect, as Senator ROCKEFELLER pointed out earlier, on the capacity of bankruptcy judges and State judges in product liability cases, including breast implant cases, to toll the statute of limitations, to stop it from going while the bankruptcy proceeding is going on. Finally, to the extent that any claims are filed after this bill becomes law, it would have no effect on the overwhelming majority of those cases, for the following reasons:

First, Dow Corning was the originator and largest single manufacturer of breast implants. The biomaterials title explicitly preserves the liability of manufacturers and sellers of implants like Dow Corning.

In other words, if you are claiming to be a supplier but you are actually a manufacturer or seller, there is no protection under the bill.

Second, the provision has no relevance to litigation in which claimants are seeking to impose liability on Dow Chemical and Corning Corp., the two corporations that own Dow Corning, since neither was a biomaterial supplier under the title II definition of a supplier. To my knowledge, no one has argued that they were biomaterial suppliers.

Third, while Dow Corning invented silicone breast implants and was the single largest manufacturer of them, they also sold silicone gel to other companies that manufactured breast implants. Those companies, generally, are the large pharmaceutical and manufacturing companies. Many claims have been made against them, and the biomaterials provision will have absolutely no effect on those claims.

Now, what if a raw material supplier knew the product might harm the person in whom the medical device was implanted? Will that person be let off? No. Biomaterial suppliers who sell raw materials or components they know are going to hurt somebody will find no protection under the biomaterials provisions of the bill. If the raw material supplier knows its material will cause harm, and fails to disclose it, that supplier cannot be said to be providing the product described in the contract between the manufacturer and the supplier because it departed so substantially from the expectations of the parties. That, too, in the legislation before us, is an exception from the general protection offered to suppliers. They are not protected if, in fact, they are manufacturers, if, in fact, they are suppliers, and if they breach the specifications of the contract with the manufacturers or the description of the product as certified by the FDA. A supplier who provides a product that does not meet contract requirements, or these specifications, is not eligible for protection under the provision.

We have tried to construct a liability scheme where suppliers would have some comfort that they would have the opportunity to prove their innocence early in the litigation. The responsibility of ensuring that a medical device is safe for the purpose intended should rest with the manufacturer responsible for the design, testing and research of that product, not with the supplier who is supplying a component that, of its own, will have no benefit and cannot be used as an implant for the consumer desiring it.

The suppliers have been sued because they are viewed as "deep pockets." The cases against them have almost always been dismissed without a finding of any liability. Raw materials suppliers are typically supplying generic products with a lot of different uses. I will get into what happened in the field that has generated a need for this provision in a moment.

So let me repeat, Mr. President, that this provision will not preclude present or future breast implant claims filed against these companies. They remain available to satisfy judgments.

Plaintiffs will likely argue that Dow Corning, for instance, was so involved in the creation of the product originally to be a manufacturer in all instances, or they violated applicable contractual requirements or specifications by supplying silicone gel that "did not constitute the product described in the contract" because it departed so substantially from the expectations of the parties. Those arguments are consistent with title II, and they will be in order if this bill is enacted into law.

Remember what I said earlier, that the major difference here, even in an extreme biomaterials case, is that the arguments by the suppliers to get out of a case because they are innocent will be able to be made earlier in the litigation. Under our current system, these innocent raw material component suppliers who have supplied small amounts of material and have not been involved in design, testing, or manufacture of medical devices, fear the cost of being kept in these lawsuits for years more than they fear the judgments, because they know they are innocent. We have found very little evidence that such raw materials suppliers are ultimately ever found liable in these cases.

So why the provision in the first place? This, again, is why I say this bill is not just an exercise in legal theory; it responds to a very real crisis out there in the real world.

Title II, the biomaterials provision, is a response to what I would call a genuine public health crisis. It is there to end a frightening, artificially caused biomaterials shortage that doctors, patients, the American Cancer Society, the American College of Cardiology, Paralyzed Veterans of America, and other major medical societies, scientific organizations, and patient and consumer groups have all pleaded with Congress to solve.

What is the cause of this artificial shortage of biomaterials, the stuff that you need to make the devices I am going to describe? It is not because we are running out of those materials. It is because the fear of litigation by the suppliers, who make very little money in supplying the raw materials and component parts for these extraordinary devices, far outweighs any benefit they can incur by selling these devices. It is just not worth it to them. But it is worth it to the 8 million people whose lives are either being sustained or made normal by the miraculous array of medical devices that technology makes possible today.

What are we talking about? Pacemakers, hip and knee joints, hydrocephalic shunts for children, balloon angioplasty catheters, defibrillators, vascular grafts, and even, in some cases, sutures used in common surgery. We all know people whose lives are either being sustained or made better by these unbelievable devices. Fifty years ago, who would have guessed that life could be sustained by these devices? The fact is—and we have heard testimony before committees of Congress—that the people who make these devices obviously need raw materials to make them. They need resins, plastics, rubber, and other component parts. And the suppliers either have cut back or have given them a warning they are about to do it by a date certain. The most recent date is January 1, 1997, next January, because they cannot afford the millions of dollars that they have to pay to defend lawsuits for supplying a nickel's worth, a dime's worth, or a quarter's worth of plastic resin or rubber.

The problem is not a genuine shortage. It is an unnatural shortage caused by a system of litigation that has gone wild. The economics of the decision that these raw materials suppliers make are unfortunately understandable because of the small amount of money that they make on these devices. The fact is that since 1994 12 raw material suppliers, including three major chemical companies, have decided to simply stop selling to medical device manufacturers. The medical device manufacturers are scrambling to find substitute products but sometimes they are simply not available.

If you doubt whether this is a crisis just check the congressional testimony. Listen to the father of the young man—boy—who passed out because he had water on the brain. They put in a hydrocephalus shunt that takes the water out of the brain. The child was living a normal life. He actually came and testified before one committee hearing which I had. He is a wonderful looking young man, and very active. Periodically they have to replace that shunt. And, if there is not the raw materials to do that, this young boy faces a tragedy, and his family with him.

It is worth noting that the administration in the statement of policy issued by the President over the weekend opposing the product liability bill singled out the biomaterials provision for praise and acknowledged the importance of ensuring that "biomaterials suppliers will continue to provide sufficient quantities of their products to medical device manufacturers."

Contrary to what some of our colleagues I am afraid may have heard in the last week or so from those opposed to this bill, this provision is not a trick nor a ruse to protect bad suppliers from legitimate claims. This is an effort to respond to a genuine public health crisis, one that is well documented, and, as I say, acknowledged by the administration in its praise, in its statement of policy.

The biomaterials provision does nothing to reduce the liability of manufacturers, or other responsible parties but consistent with the fundamental and fair premise of this legislation—this conference report—it places responsibility where it ought to be—on those who do wrong, and protects from unnecessary harassment and enormous cost those who have done no wrong.

Mr. President, this bill actually in that sense so fundamentally relates to the broader questions of values in our society and the fear that people often have that our legal system has gone astray, that those who do wrong are not punished and too often those who have done no wrong suffer. We most often hear that cry about the criminal justice system. But it has unfortunately become true in our civil justice system as well. The guilty parties do not pay enough. The innocent parties pay too much. And all of us end up paying, and the price we pay for consumer goods and lost jobs are paying for this irrational a system.

Mr. President, that is what this bill is all about. There are those who oppose the bill who describe it in "either/or" terms. Either you are probusiness or proconsumer. You are either proinnovation or prosafety. That rhetoric misses the point—preventing us from dealing with the central issue. The fact is that this bill is probusiness and proconsumer. It is proinnovation and prosafety. It is aimed at putting liability back where it should be—on the parties who are actually responsible for any harm and so are best able to prevent injury.

It is aimed at protecting the defendants from being frightened by lawyers and lawsuits into paying legal fees and settlement costs when they are in fact not responsible for any harm.

All of that contributes to the cynicism and mistrust of our legal system which is so fundamentally corrosive to the way we live in our country, and so costly to our society.

Mr. President, I ask unanimous consent that a list of raw material suppliers and their action withdrawing various products from the market be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPLIER WITHDRAWAL AS OF DECEMBER 1995

Supplier	Raw material	Withdrawal date	Device affected
Allied Signal Chemicals	ACCUFLOR CFx fluorinated carbon	May 1995	Pacemaker batteries.
Altec	Surgical stainless steel	Summer 1994	
Ausimont USA	Fluoropolymers	January 20, 1994	Pacemakers.
BASF Corp	PEKEEK, Ultrapek polymer	December 1994	Production of spinal implants.
Dow Chemical	Medical grade resins and film products	April 1992	Cardiac prosthetic devices and long-term implants.
	Pellethane®, polyurethane and Isoplast	April 1995	Pacemaker leads.
Dow Corning	Silastic® silicone	December 1993	No sales for medical implants or use in obstetrical, gynecological, contraceptive applications, or load-bearing or drug-loaded implants.
du Pont	All polymers TEFLON® (tetrafluoroethylene), DACRON® polyester, DELRIN® acetyl.	January 31, 1994	
Furakawa (Japanese vendor)	Nickel/titanium memory metal	December 1994	Scoliosis correction implant system.
Industrial Techtronics	Tantalum X-ray market beads	January 1995	
Montell Polyolefins	UHMW polyethelene	1995	Biomet Co. (orthopedic implants) polyethelene coats the surface of artificial joints.
Owychem	Alathon® polyethelene resin		
Rehau	Silicone adhesives	March 1995	
Shell	PET	February 1994	
Victrex	PEEK (polyether ether ketone) & PEK (polyether ketone)	1994	

Mr. LIEBERMAN. Mr. President, I did not always support a national approach to product liability reform and I can well understand the hesitancy, particularly of newer Members, to support Federal involvement in what traditionally has been the province of State law. In fact, as attorney general of Connecticut and a member of the National Association of Attorneys General, I voted for resolutions opposing earlier Federal product liability legislation that would have swept away virtually all State product liability laws and repealed the doctrine of strict liability for product defects.

But as I traveled around the State of Connecticut, this problem—product liability litigation—kept coming up in my discussions with small business men and women, with small and large manufacturing companies, and with plant managers. They told me of problems they had experienced with the product liability system, of the expense of defending yourself even when you win, of the cost of settlements to avoid paying litigation costs, and of the time and energy that product liability suits diverted away from the business of designing new products and bringing them to market.

At a time when we need to be rebuilding our country's manufacturing base, to be promoting innovation in our manufacturing sector, to be designing, building, and bringing to market the next generation of high-quality, high-value added products the world will need, our liability system chills innovation.

The debate should really center around consumers, because it is consumers who suffer because of this system, not simply businesses. Consumers are the ones who have to pay higher prices in order to cover product-liability-related costs. If a ladder costs 20 percent more because of liability-related costs, consumers—not businesses—end up paying that 20 percent premium.

The best interests of consumers as a whole are not always identical to the interests of people who are seeking compensation. The people who suffer or die because a new drug or medical device was never developed, or was delayed in its development, are hurt as surely as those who suffer because a device malfunctioned or a drug was improperly designed. These silent victims of our product liability system's chilling effect on innovation are consumers whose interests also deserve protection.

Of course, even for its intended beneficiaries, people who are injured by defective products, the legal system hardly can be said to work well. GAO, in its 5-State survey, found that product liability cases took an average of 2½ years just to reach trial. If the case was appealed, it took, on average, another year to resolve. This is a very long time for an injured person to wait for compensation.

In some instances, too, our product liability laws have erected barriers to suit that just do not make sense. For example, in some States, the statute of limitations—the time within which a lawsuit can be brought—begins to run even though the injured person did not know they were injured and could not have known that the product was the cause. In those States, the time in which to bring a suit can expire before the claimant knows or could ever know there is a suit to bring.

Mr. President, no one will argue that this bill will cure all the ills in our product liability system. That would require a gargantuan overhaul and we are not likely to reach agreement in the near future as to what that would look like.

I make no secret of the fact that I would have preferred a broader bill. Product liability cases are only a part of the problems in our civil justice system. I have very real concerns that when we fix some of the problems there, some lawyers will just target nonmanufacturing clients, like financial service providers, municipalities, nonprofit organizations. I would have preferred a bill that covered much more, but clearly that was not to be.

By working incrementally to eliminate the worst aspects of our current system with respect to product liability, perhaps we can begin to create a record that will allow us to restore some balance to our tort system overall. The enactment of the Federal General Aviation Revitalization Act of 1994 has demonstrated that reform does not mean that injured people will go uncompensated and bad actors unpunished, but that reform means more jobs and safer aircraft. I hope we will have the same chance to build the same foundation for more reform with this modest, balanced product liability bill.

For people injured by defective products, this bill makes a set of very important and beneficial changes. First, it enacts uniform, nationwide statute of limitations of 2 years from the date the claimant knew or should have discovered both the fact he or she was injured and the cause of the injury. Injured people will no longer lose the right to sue before they know both that they were hurt and that a specific product caused their injury.

Second, this bill will force defendants to enter alternative dispute resolution processes which can resolve a case in months rather than years. If the defendant unreasonably refuses to enter into ADR, it can be liable for all of claimant's costs and attorney's fees. On the other hand, if a plaintiff unreasonably refuses to enter ADR, they will suffer no penalty.

For workers who face possible injury in the workplace, this bill will reform the product liability system to give employers a stronger incentive to provide a safe workplace. Under current law, an employer is often permitted to recoup the entire amount of workers compensation benefits paid to an employee who was injured by a defective machine, even if the employer contributed significantly to the injury by, for example, running the machine at excessive speeds or removing safety equipment. This essentially means that an employer can end up paying nothing despite the fact that their misconduct was a significant cause of the injury.

This bill would change this. When an employer is found, by clear and convincing evidence, to be partly responsible for an injury, the employer loses recoupment in proportion to its contribution to the injury. This does not change the amount of money going to the injured person, but it makes the employer responsible for its conduct.

Manufacturers of durable goods—goods with life expectancy over 3 years that are used in the workplace—will also be assured that they cannot be sued more than 20 years after they deliver a product. This will bring an end to suits such as the one in which Otis Elevator was sued over a 75-year-old elevator that had been modified and maintained by a number of different owners and repair persons through the decades. By the way, this same provision will not apply to household goods such as refrigerators, and is only intended to cover those workplace injuries that are already covered by workers compensation.

Manufacturers will also have some protection against deep pocket liability. While the bill still permits States to hold all defendants jointly liable for economic damages such as lost wages, foregone future earnings, past and future medical bills, and cost of replacement services, noneconomic damages such as pain and suffering will be apportioned among codefendants on the basis of each defendant's contribution to the harm.

For wholesalers and retailers, they will, in the majority of cases, be relieved of the threat that they can be held liable for the actions of others. Under current law, for example, the owner of the corner hardware store could be sued for injuries resulting from a power saw just as if she was the manufacturer of a power saw, even if she had no input in the design or assembly of the power saw and had done nothing other than to inspect a sample to make sure there were no obvious flaws and to put the items on the shelf.

For our American economy and industrial base, passage of this product liability reform legislation will move us back to promoting innovation and the development and commercialization of new products. Passing this bill will create and save jobs here, not overseas.

Mr. President, let me reiterate that I believe this bill can be a win-win situation. It provides real balance. It balances the scales of justice to ensure that the victims of defective products will continue to be compensated while consumers receive the best products available. It is incremental reform. Frankly, it is a lot less than I had hoped for and that I voted for. But I think it is incremental because it is hoped that is the way to begin the road to genuine legal reform in our country.

In this debate today, we hear a lot of charges, countercharges, and attacks coming from every which direction as we come close to the vote. One thing should not be lost. This bill does not absolve a company that has not made a safe product. If a company has made a defective product, it will and must be held fully accountable, period. But when a company does follow the rules and makes a safe product, it should not have to settle frivolous claims simply to avoid the expense of litigation and protect against the risk that a huge and irrational judgment will be awarded against it.

Mr. President, once again I thank my colleagues, Senators GORTON and ROCKEFELLER, who have really been extraordinarily able and honorable in this task.

I honestly believe that what is on the line here today in this vote is not just the fate of this product liability bill, but it is a broader question of whether this Congress is able to function on a bipartisan basis and get something done to respond to a real problem as we have described out in society.

The critics who say—I hear this all the time when I go home—"Why are you folks all so political? Why don't you get together and get something done, and respond to some real problems? Why don't you compromise?" A compromise is not just to reward the people who send us here to serve them. Compromise is getting something done.

Senators GORTON and ROCKEFELLER—Republican and Democrat working hard for years now but particularly the last year and 3 months—bipartisan, and willing to accept compromise, get the bill past the hurdle of breaking a filibuster here in the Senate with over 60 votes, get it passed, take it to the conference committee, again compromise, get something done to start us down the road to a response, to a real problem, and now we are faced with these last-minute attacks and a threat of a veto by the President.

I think what is on the line here is whether, with all the procedural intricacies at work, we can produce. I hope that the answer is yes. I hope that we will vote this afternoon to break the filibuster, that we will then tomorrow pass this bill and that President Clinton will then reconsider his decision to veto it.

This is a moment of opportunity. It is a moment of test for this institution, and it may not come again in this way for quite a long time.

I thank the Chair.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am sure the distinguished Senator from Connecticut would also include me in his thanks but, of course, not being in the conference and not making any contribution I am not due any thanks at all. We just could not participate.

I was rather interested to hear for the first time that the House gave in on all of these things because we never conferred on any House giving into anything.

Just highlighting, of course, the nature of this endeavor, the fact is this Senator spoke and shepherded over a 3-year period a communications bill that passed this Senate on a bipartisan vote of 91 Senators. So I know how to work in a bipartisan fashion. But this thing is a hijacking, if I have ever participated in one.

I yield 10 minutes to the distinguished Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the Chair. I thank very much the senior ranking member of the committee for yielding, and for the work he has put in over the years on this issue.

Mr. President, I rise in opposition to the legislation for a number of reasons but principally because it is bad policy. It is bad public policy. And, second, it is not necessary. It is not needed. There are some who have argued that there is a rash of product liability suits and everybody who makes a product in America is just about on the verge of not making products anymore because they fear they may get sued if they make bad products that injure people, whether they do it with gross negligence, or it is just the egregious nature of what they are doing; but they may get sued and put people out of business.

The facts are just the opposite, and that is one of the issues I wish to focus on, plus the punitive damages question.

First of all, is there so much litigation out there that companies are not producing products? No. The legislation is trying to fix a problem that does not exist. Product liability cases account for only 4 percent of all of the injury cases that are filed in this country—4 percent. Only 4 percent of the cases dealt with defective products. There is not an explosion of product liability cases.

Then if you look at the statistics, out of 762,000 civil cases resolved in the Nation's 75 most populous counties in the whole country in 1991 and 1992, only 360 cases out of 762,000 cases dealt with defective products. Is there an explosion of litigation from products? I think the facts are just the opposite.

Something else. In all of those 360 product cases, do you know how many had punitive damages awarded? Three. Three. And yet the principal focus of this legislation that is before the Senate is that we have to pass this legislation because the country is in chaos because of product liability suits, when the truth is that only 4 percent of all of the civil cases filed are product liability cases.

The second point I wish to focus on is this part of the bill that says Washington knows best. Our Republican colleagues want to block grant just about everything in Washington to the States and let them decide—Medicaid, welfare, you name it. "Give it to the States; Washington does not know what it is talking about" is the statement that I hear from my colleagues on this side of the aisle except when it comes to this legislation, it is just the opposite. Their position on this legislation is that the States do not know anything, that the States are messing it up so bad that we are going to have Washington decide what is the appropriate remedy for people in the various States who are injured by defective products back in their States. Welfare, we are going to do it in the States; Medicaid, we are going to do it in the States, but when it comes to product liability we are going to do it here in Washington.

This legislation says that no matter how egregious the actions of a person or a company that makes a product, the cap on damages, punitive damages is $250,000. My friend from Connecticut said that is really a lot. Let me give you an example of the problem. The $250,000 figure is out of the air. It is something that they just picked up. It has no basis in fact. This legislation says that if a person is going to be entitled to punitive damages against a company for the most egregious type of behavior that we have ever heard of, the cap is going to be $250,000 or two times the economic damages.

The courts have said that unlike damages which are awarded to compensate an individual for his injuries, punitive damages are unique because they are based on an entirely different public policy consideration, that of punishing the wrongdoer to change that wrongdoer's behavior, and, second, to set an example to others that you should not do that type of behavior. Punitive damages are generally awarded for egregious, morally repugnant conduct, conduct that is so offensive to the average American that we say that person who has done this should not do it again. We have to make an example of this type of morally repugnant behavior so that others who may think about doing it will not do it again.

That is what punitive damages is all about. And that is on what this bill arbitrarily sets a cap of $250,000. Let me tell you what is wrong with that, why it is not based on anything.

Say you have a person, I call him Joe Six-Pack in this case, and Joe Six-Pack is just as mean and ornery a fellow as you ever want to meet. And one day Joe Six-Pack is walking down the street in his hometown and a guy is coming in the opposite direction, and when he gets next to Joe, Joe just hauls off and knocks the ever-living everything out of the guy because he did not like the way he looked. He smashes his fist into the guy's face, and he breaks his cranial bones, permanently disfigures him and sends him to the hospital. They have to do surgery to reconstruct this individual's face.

The individual, after he finally recovers, says, "I am going to sue Joe. I want him to pay for my suffering, my hospital bills." And the court says he is right; that was repugnant, morally offensive behavior. We are also going to assess punitive damages because we do not want this to happen again. So how much is the right amount? OK, they take a look at what Joe Six-Pack is worth. Say Joe Six-Pack is worth $10,000. That is the savings, the money he has. If the court says we are going to fine him maybe half a percent of his assets, that is a $50 fine.

Does anybody think a $50 fine is going to change Joe Six-Pack's behavior? Is that enough to tell Joe that he should not do that again? Probably not. The court could say, "Well, let's fine Joe 1 percent of his assets." Is that enough to change Joe's behavior and set an example for others they should not do it? That is a $100 fine. I doubt whether that really will affect Joe's behavior. He may do it again just because he is an ornery fellow or he does not care.

The court may say, "Well, maybe punitive damages are 5 percent. Let's fine him $500." Is that enough to change Joe's behavior? Probably getting close. Probably he will think a second time before he walks up to the next person and smashes him in the face if he knows the court said, "Joe, that's morally repugnant behavior. You are fined $500." Joe is going to say, "I don't think I am going to do that again."

So let us take another example. How about a Corp. Let us call it XYZ Corp. It is a small Corp., with only $50 million of assets. And I say small because of the Fortune 500, the number 500 company on the Fortune 500 list has assets of $4 billion. So XYZ Corp. with $50 million of assets is pretty small.

Let us assume XYZ Corp. starts making a product. Let us say they make pajamas for children, and when they make those pajamas for children their engineers say, "Mr. CEO, we just found out that these pajamas that you make for children are flammable; these pajamas catch on fire very easily, and we are making them for children. We could fix that by adding this retardant chemical to it so it will not catch on fire." The president and the board says, "Forget it; we have this whole warehouse full of them. We are going to sell them. We don't care; we'll take our chances."

XYZ Corp. starts selling their pajamas all over the United States, and, lo and behold, the inevitable happens; a child catches on fire walking in front of the fireplace, is horribly burned and disfigured for life. The engineers come back to the chairman and the board and say, "Look, we told you that was going to happen. This is our study. We saw it. It's flammable. Let's change it."

The president and the board say, "No way. We still have half a warehouse full of pajamas. We are going to sell the rest of them. We don't care. We don't think it's going to happen again. We don't care what your studies say. Forget them. File them away."

Sure enough, a second child who is wearing the same pajamas catches on fire in front of a fireplace, is horribly disfigured and burned, with economic damages, pain and suffering, disfigured for the rest of that person's life, and they file suit against XYZ Corp. The court says, "Your behavior is morally repugnant to this country. Your behavior is indefensible. Your behavior needs to be punished. How much should we punish XYZ Corp.?"

Well, if we said half a percent was not enough to affect Joe Six-Pack because it would only be $50 of his assets, a half a percent of XYZ Corp. would be $250,000. That is the cap in this bill. That is the cap in this bill. And if we said that that was not enough to affect Joe Six-Pack's behavior, a $50 fine, why should the same percentage be enough to change XYZ Corp.'s position in manufacturing defective products that they know are defective?

We said that a 1-percent fine of $100 was not enough to affect old Joe. Joe was still going to do whatever Joe was wanting to do, smashing people in the face. It was not enough to change his behavior. How about a 1-percent fine for the XYZ Corp.? That is $500,000. We said it would not have an effect, but it is also twice the cap in this bill. We cannot even do that under this legislation.

So we say 5 percent was probably getting pretty close to affect Joe's behavior. That is what, $500. That probably changes his mind about his social behavior and society. How about XYZ Corp.? A 5-percent fine is $2.5 million. But forget it when this legislation is passed, because somebody in Washington has decided that $250,000 is the magical number.

Let me show you something. The No. 500 corporation on the Fortune 500 list in this country has assets of $4 billion. If this cap is in place and they make a defective product and they are fined the maximum of $250,000, do you know what percentage of their assets that turns out to be? That is .00625 percent. Does anybody think that a maximum fine that is .00625 percent of that corporation's assets is going to have any effect on their social behavior? I bet they do not even consider it. It is a dot on their asset sheet.

So, if we get back to the point that punitive damages is to tell a reckless defendant, who has had a jury say that this is morally repugnant behavior, if we tell them that from here on out, Congress in Washington, in our wisdom, has decided that the maximum fine is $250,000 and it has no relationship to the ability of a defendant to pay, we are making a serious public policy mistake. We should, I think, be ashamed of this legislation with this type of cap. I am. The States, I think, are doing a good job. It is not a problem. In addition to not being a problem, this arbitrary proposal makes no sense.

You wonder why a lot of the very big businesses think it is a great idea? It is because a cap of that small amount is such a small percentage of their assets, they can continue to make those pajamas. They can continue to say, "We are not going to listen to our engineers who have told us it is flammable. We are not going to listen to our engineers who told us that children can catch on fire wearing this product and the only thing we have to do to fix it is to add a fire retardant ingredient. Do you know what? We are not going to do it because we still have that warehouse full of pajamas and we are going to keep selling them."

How many young kids would be in danger? That is just one example. There are literally hundreds of them.

Mr. President, I will conclude simply by saying this legislation is not necessary, it is not needed, there is not a problem. In addition to that, it is a bad public policy statement.

I yield the remainder of my time.

Mr. McCONNELL. Mr. President, this is a historic day. For more than a decade we have tried to pass product liability reform. In every Congress, until this Congress, the opponents of reform have mounted successful filibusters. But this year we broke through the filibuster, and the Senate passed a modest bill. Now, the conference report is before us, and we must again break a filibuster.

The American people are frustrated with the legal system. Cases take too long to resolve and too many injured don't get fairly compensated, while a few win the lawsuit lottery.

Litigation drains billions from our economy, adding a tort tax to goods and services. For example, the average price of an 8-foot ladder is $119.33, but the actual cost is less than $95.00, with the litigation tax responsible for a 25-percent increase in the cost. Lawsuits drive the price of a heart pacemaker up 20 percent, from $15,000 to $18,000.

If we don't fix the problems of our legal system, consumers will have fewer choices and American companies will have a smaller share of the global market.

This bill is a significant, although imperfect, step in the right direction. But before I mention what the bill does, let me explain what the bill doesn't do. The opponents have scared many into believing that this bill cuts off the right to sue for injuries. But it doesn't. Those who are injured by defective products will be able to sue and recover all of their losses—their lost wages, all medical bills, any costs for home assistance, and even so-called pain and suffering damages.

This bill does not close the courthouse door to any injured party. So, there will be no horror stories as predicted by the opponents, of those injured by cars, household appliances, or workplace machinery shut out of the legal system. It's simply not true.

The bill does contain a modest limitation on punitive damages, which are supposed to punish the responsible party, not be a windfall for the injured party. Punitive damages are limited to the greater of $250,000 or two times compensatory damages. But this bill contains no limitation on economic damages or pain and suffering damages.

The bill also provides some limited protection to those who have nothing to do with the defect in the product, but who sometimes get stuck with the tab in a lawsuit. An injured will be able to recover from those who are responsible for the defects in the products—the manufacturers, and not the sellers who simply put the merchandise on a shelf or in a showroom. And, if the injured party can't find the manufacturer, or if the manufacturer can't be sued, or if a damage award can't be collected from a manufacturer, then a product seller will be responsible. So, injured parties will always be fully compensated for their injuries. The opponents of this bill are only scaring and deceiving consumers when they claim this bill will cut off the ability of injured persons to recover.

And, this bill makes a necessary change in the assessment of pain and suffering damages against multiple defendants. Each defendant will only be responsible for its proportionate share of noneconomic losses. This will, hopefully, discourage suing someone who is only remotely connected to the defective product on the basis of that defendant's deep pockets.

Mr. President, the time for this bill is long overdue. The problems of our legal system—long delays, inefficiency and unpredictability in getting compensation to those injured—are only getting worse. And that means more burdens on productivity and invention in our economy.

I regret that the President has announced his intention to veto this bill, based upon false assumptions about the bill. As I've already said, the bill won't prevent injured from recovering; it won't limit the recovery of damages that compensate victims for their injuries. The President's assertions to the contrary just simply aren't true.

Survey after survey and poll after polls show that the American people are frustrated by our legal system and particularly dissatisfied with the legal profession. Those lawyers who misstate the facts about this bill in an effort to scare the public do their profession a disservice. Not only does this bill protect the injured party's right to compensation, but it would also restore some public confidence in lawyers and the legal system. It is unfortunate there's a failure to understand this fact at the other end of Pennsylvania Avenue.

I urge my colleagues to vote for this conference report. Let the American people know that this Congress wants to improve the legal system and protect the injured consumers.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose this conference report for a number of reasons. One of the principal ones is the fact that it does not provide uniformity when it comes to product liability.

The statement of the managers says that one of its purposes—this is on page 3—"* * * is to establish certain uniform legal principles of product liability." Its sponsors on the floor have said the same thing, that it is aimed at providing uniformity when it comes to rules governing product liability. But, unfortunately, this bill fails to live up to its own statement of purposes. Indeed, it violates its own statement of purposes because there is no uniformity that is provided in this bill. There is no fair balance among the interests of product users, manufacturers, and product sellers.

This bill has what perhaps could be called a one-way preemption approach. Under this approach, States are allowed to adopt laws that differ from the so-called uniform standards, providing that States are more restrictive on the rights of injured parties. But, if States seek to be less restrictive on the rights of injured parties, they are then prevented from doing so. This is not uniformity. This is not a bill which says that we are going to have a 15-year statute of repose, that is it, that is what injured plaintiffs have, that is what defendants can count on. That would be a uniform standard. This bill does something very, very different from that.

This bill says that if a State wants to be more restrictive than the provisions of this bill, more restrictive in terms of the ability of plaintiffs who are injured persons to recover, that they are allowed to do so. It is only if a State decides they want to be less restrictive on the rights of injured parties that they are prevented from doing so, that they are preempted from doing so. That is not uniformity. That is a one-way street. That is preemption of the rights of injured parties.

I want to go through some of the language in these titles to make this point clearer, to make the point that we are not going to have one law that governs all the States. We are not going to eliminate the patchwork of product liability laws. We are still going to have a patchwork. We are still going to have States that are more restrictive than the particular ceiling which is set forth in this statute. There is not going to be a uniform rule which is fair. There is going to be a so-called rule, which is applied if this passes, but not really. States are allowed to be more restrictive if they choose to do so.

Let us take a look at section 106 of this conference report. Section 106 provides that:

> Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser. . . .

That sounds pretty uniform. It says, "Subject to paragraphs (2) and (3), no product liability action * * * may be filed after a 15-year period." That is the statute of repose. As a matter of fact, the heading of that section, 106, says "Uniform Time Limitations on Liability." The word "uniform" is right in the heading.

Then you read paragraphs (2) and (3). Paragraph (2) says,

> Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply. . . .

How do the sponsors use the word "uniform" in the title, when in fact they permit diversity, providing it is downward, providing it is more restrictive on the rights of injured parties? That is allowed. The title "uniform" is used, although a patchwork of laws is permitted, providing they are more restrictive than the 15-year limit which is provided for in section 106. How is that for a misleading label? Uniform? There is nothing uniform about it.

My dear friend from West Virginia said this morning that when products cross State lines, it makes no sense for product liability rules to be different from State to State. Well, if it makes no sense for product liability rules to be different from State to State, how does it then make sense to allow States to be more restrictive than the 15-year statute of repose?

They cannot be less restrictive. They cannot give more rights to injured parties, only less. But to use the words of my dear friend from West Virginia, if it makes absolutely no sense for liability rules to be different from State to State, why then are States allowed to move in one direction, to be more restrictive under section 106 and section 108 and a whole host of other sections, but they cannot be less restrictive to persons who are injured?

That is not uniformity. That is uniform unfairness. That is a consistent unfairness. That is a one-way street. That is a one-way preemption.

Let us take a look at some other provisions of the law. Section 108 of the conference report contains a provision entitled, again, "Uniform Standards for Award of Punitive Damages."

Uniform standards. It is not a uniform standard in section 108. When you read it, it says, and this relates to punitive damages:

> Punitive damages may, to the extent permitted by applicable State law—

And then it goes on to say what those punitive damages can be. But State law governs if it is more restrictive. What happens if State law is less restrictive? What happens if State law is more generous to injured parties? What happens if State law is tougher on defendants in terms of punitive damages? That is not allowed. That is preempted. But if a State law is more restrictive, that is, again, allowed.

That is not uniformity, and if it makes sense for product liability rules to be uniform from State to State or, to use the words of the Senator from West Virginia, if it makes no sense for product liability rules to be different from State to State, then it surely makes no sense to allow States to vary from the rule downward to be more restrictive on the rights of injured parties. All they are prevented from doing is to be less restrictive in terms of the rights of plaintiffs and injured parties.

Another section, section 110. Section 110 of the bill contains a provision that limits joint and several liability in product liability suits. The statement of managers explains that this provision is intended to preempt State laws that are more favorable to plaintiffs, but not to preempt State laws that are more favorable to defendants. Here is what the statement of managers says. It says that the House-passed version specified that the section, and here we are talking about the section on joint and several liability, the section—

> . . . does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages.

So this section on joint and several liability, according to the House version, is not intended to limit or preempt or supersede any State or Federal law if that law further limits—further limits—the application of joint and several. That is OK. That is OK in the House version, and then we are told by the statement of managers——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEVIN. If I could have 30 more seconds.

We are told by the statement of managers that the language that I just quoted reflects the conference agreement's intent. It is not just the House provision, it is the conference agreement's intent.

So, Mr. President, what we have here is not uniformity. We have a one-way preemption in this bill that allows the State in section after section after section to be more restrictive of the rights of injured parties. All that they are preempted and prevented from doing at the State level is being less restrictive on the rights of injured parties.

That is not fair. That is not uniform. It is one of the reasons I will vote against this conference report, because even though you can make out an argument for uniformity, I think there is a good intellectual argument that can be made for uniformity, if it is true uniformity, if it applies both ways, to both plaintiffs and defendants, if it is not just a one-way street that allows States to be more restrictive but not less restrictive. That is intellectually defensible.

Whether you agree with it or not, at least it is consistent, at least there is a coherent logic to it. But to provide, as this bill does, that State laws which are more restrictive are preempted but not the ones less restrictive, it is unfair, unbalanced, and it is one of the reasons I will vote against this bill.

Let us look at one example of how this one-way preemption provision would work. The bill would override State laws that provide joint and several liability for noneconomic damages. Joint and several liability is the doctrine under which any one defendant who contributed to the injury may be held responsible for 100 percent of the damages in a case, even if other wrongdoers also contributed to the injury.

The sponsors of this bill, and this amendment, have pointed out that there are problems with joint and several liability. In some cases, a defendant who has only a marginal role in causing the damage ends up holding the bag for all of the damages. That doesn't seem fair.

On the other hand, there are good reasons for the doctrine of joint and several liability. Case and effect often cannot be assigned on a percentage basis with accuracy. There may be many causes of an event, the absence of any one of which would have prevented the event from occurring. Because the injury would not have occurred without each of these so-called but-for causes, each is, in a very real sense, 100 percent responsible for the resulting injury.

This bill, however, does not recognize that in the real world, multiple wrongdoers may each be a cause of the same injury. It insists that responsibility be portioned out, with damages divided up into pieces, and the liability of each defendant limited to a single piece. Under this approach, the more causes the event can be attributed to, the less each defendant will have to pay.

Unless the person who has been injured can successfully sue all parties who contributed to the injury, he or she will not be compensated for his entire loss. The real world result is that most plaintiffs will not be made whole, even if they manage to overcome the burdens of our legal system and prevail in court. Isn't it more fair to say that the wrongdoers, each of whom caused the injury, should bear the risk that one of them might not be able to pay its share than it is for the injured party to bear that risk and remain uncompensated for the harm?

The bill before us completely ignores the complexity of this issue with its one-way approach to Federal preemption. States which are more favorable to defendants are allowed to retain their laws. But State laws that try to reach a balanced approach between plaintiffs and defendants would be preempted.

Roughly half the States choose to protect the injured party through the doctrine of joint and several liability. Another half dozen States have adopted creative approaches to joint and several liability, seeking to balance the rights of plaintiffs and defendants.

Let me give you a few examples.

Louisiana law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages; there is no joint and several liability at all in cases where the plaintiff's contributory fault was greater than the defendant's fault.

Mississippi law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages, and for any defendant who actively took part in the wrongdoing.

New Jersey law provides joint and several liability in the case of defendants who are 60 percent or more responsible for the harm; joint and several liability for economic loss only in the case of defendants who are 20 to 60 percent responsible; and no joint and several liability at all for defendants who are less than 20 percent responsible.

New York law provides joint and several liability for defendants who are more than 50 percent responsible for the harm; joint and several liability is limited to economic loss in the case of defendants who are less than 50 percent responsible.

South Dakota law provides that a defendant that is less than 50 percent responsible for the harm caused to the claimant may not be liable for more than twice the percentage of fault assigned to it.

Texas law provides joint and several liability only for defendants who are more than 20 percent responsible for the harm caused to the claimant.

All of these State laws are efforts to address a complex problem in a balanced manner, with full recognition of factors unique to the State. To the extent that they are more favorable to the injured party than the approach adopted in this bill, however, they would all be preempted.

On the other hand, other States, which take a more restrictive view of joint and several liability, or even prohibit it altogether, would be allowed to retain their individual State approaches. That just does not make sense.

Mr. President, there is a list of problems in our legal system that we could all go through. Going to court takes too much time and it costs too much money. Some plaintiffs get more than they deserve, while others who suffer injuries may spend years in court but recover nothing at all. As Senator GORTON, one of the lead authors of the bill before us, explained during last year's debate on the Senate bill:

> [T]he victims of this system are very often the claimants, the plaintiffs themselves, who suffer by the actual negligence of a product manufacturer, and frequently are unable to afford to undertake the high cost of legal fees over an extended period of time. Frequently, they are forced into settlements that are inadequate because they lack resources to pay for their immediate needs, their medical and rehabilitation expenses, their actual out-of-pocket costs.

I agree with Senator GORTON that there is unfairness in our current legal system. There is unfairness to defendants in some cases, and there is unfairness to plaintiffs in other cases. However, the conference report before us does not even attempt to address the problems faced by plaintiffs. There is absolutely nothing in this bill to assist those who have been hurt by defective products and face the difficult burdens of trying to recover damages through our legal system.

On the contrary, the bill makes every effort to override State laws which attempt to help the victims of defective products. Only laws that make it harder for the injured party to obtain compensation are permitted. That is not uniform, it is not fair, and I cannot support it.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield such time that the Senator from North Dakota may desire.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the Senator yielding time. I would like to ask a series of questions about the bill and about one section of the bill specifically.

I voted for this bill and moved the bill to conference. I am inclined to vote for cloture today. But I have reviewed what came out of conference, and one area gives me some concern. I want to go through it with the Senators on the floor, especially Senator GORTON.

There is on page 6 of the bill that the Senate passed an exclusion for the term "product." The bill included on the bottom of page 6 under (ii), the exclusion reading: "electricity, water delivered by a utility, natural gas or steam."

We were clearly deciding that these utilities were not covered as products in this bill.

The bill came back from conference with that provision. However, a new clause was added. The same words existed— "electricity, water delivered by utility, natural gas or steam." This is in the part of the bill which is defining what is excluded from the bill. That is what the Senate passed.

But the conference report comes back with the same words but goes on to say: "except * * *" In other words, we are excluding utilities "except to the extent electricity, water delivered by a utility, natural gas or steam are subject, under applicable State law, to a standard of liability other than negligence."

Forty-four States have such standards; 18 of them have been litigated on the subject of electric utilities. It appears to me that what the conference has done in this section is added utilities as being covered by this bill. I have asked questions of half a dozen experts in the last 24 to 48 hours, and the answers I get are not satisfying. The answers I get are, "Well, that's what the words say, but that's not what it means." I am assuming courts will say this means what it says, not what someone says it means. So I want to go through a couple of questions.

I ask the Senator from the State of Washington, how is the provision that went into conference different from the provision that came out? When it went in, it said "electricity, water delivered by a utility, natural gas and steam" are excluded. Period. They are not part of this bill. When it came out, it seems to say they are now a part of this bill, which is a major change.

Mr. President, I ask that we might have an interchange. I ask the Senator from Washington if he can respond to that for me.

Mr. GORTON. I can. I would start by referring the Senator from North Dakota back to page 6 of the original bill, the bill that passed the Commerce Committee, on which both of us serve, and passed this body, the Senate, unchanged and to look at the entire subsection (B), entitled "EXCLUSION." The Senator from North Dakota will see in that exclusion.

The term "product" does not include,

> (i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence.

It goes on to say,

> [And] (ii) electricity, water delivered by a utility, natural gas, or steam . . .

The next reference that I would make to the Senator from North Dakota is in the Senate committee report on that bill. On page 24 of the Senate committee report on the bill that passed the Senate here, in subsection (ii), the explanation under the term "product" there is, for all practical purposes, word for word this exclusionary language, particularly the last two sentences.

> The term does not include tissue, organs, blood and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood and blood products, or the provision thereof, are subject under applicable State law to a standard of liability other than negligence.

In other words, the same word is in the statute.

> The term also does not include electricity, water delivered by a utility, natural gas or steam.

There is a footnoted comment. And the footnote reads:

> Claims for harm caused by tissue, organs, blood and blood products used for therapeutic and medical purposes are, in the view of most courts, claims for negligently performed services and are not subject to strict product liability. The act, thus, respects State law by providing that in those States, the law with respect to harms caused by these substances will not be changed. In the past, however, a few States have held that claims for these substances are subject to a standard of liability other than negligence, and this act does not prevent them from doing so. Such actions would be governed by the act. Actions involving claims for harms caused by electricity, water delivered by a utility, natural gas or steam are treated in the same manner.

When this went to conference—we had the better part of a year to read through every detail—the proposition, the meaning of this bill, as it passed the Senate, showed up in the proposition that this exception appeared in subsection (i) on page 6. It did not appear in subsection (ii). The same words have now been added to subsection (ii), which simply accords with the committee report interpretation of the language that we passed here in the Senate.

So the fundamental answer at this point to the question that is raised by the Senator from North Dakota is that this change does not change the meaning of the act as it was set out in the committee report to the original Senate bill. State law, in other words, in each of these cases, whether it is tissue or electricity, State law will govern.

If a State passes a law that says electricity is a product, yes, it would be governed. If that State consciously decides to treat electricity as a product, then it would be a product under this bill. But these strict liability States, you know, do not do that. It leaves it entirely up to North Dakota or California or to Washington or West Virginia to make that determination. If it wishes for strict liability, it can impose strict liability. If it wants to call it a product—I do not know of any that do—but if it wants to call it a product, it can bring it up to this bill. That is up to the State.

Mr. DORGAN. You are arguing one of two things. Either you are making the case that utilities are defined as a product under the bill, as originally passed by the Senate, because of a footnote on page 24 of the committee report. In other words, you are saying that utilities would not be excluded from the definition of the term product but, in fact, are covered by this bill. Therefore, what came back from the conference is not a change. That might be what you are arguing. I do not think that is the understanding of most Members of the Senate.

I think, having read what left the Senate on its face—it says on page 6, "EXCLUSION," that is, an exclusion not to be treated as a product includes:

> (ii) electricity, water delivered by a utility, natural gas, or steam.

You might be arguing, I think, that although we might have read that as an exclusion, it never really was. Utilities were really going to come under this. We just did not understand the application of the footnote on page 24, or you are making the case now that what has been done in conference has no impact at all on what the language really means. What you are saying then is that utilities are truly excluded, and what you have done comports with the description under "tissues, organs and blood," and your intention is to make sure that utilities are not defined as a product but, in fact, are a service and are, therefore, excluded under the definition section of this bill. I am not sure what you are saying.

Mr. GORTON. I would say the second is correct, with the exception if a State wants to define it as a product and bring it under this bill, they can.

Mr. DORGAN. But that is not what the language says. It says it is excluded unless the State defines it with a standard of strict liability.

I am saying to you that there are 18 States that already have this with respect to electric utility cases alone. Are you saying, the way you have written this, those 18 States have already decided this bill will cover electric utilities? If that is the case, that is a remarkable change from what left the Senate.

Mr. GORTON. I am sorry.

Mr. DORGAN. Let me try it one more time. The Senator is saying the States can make the decision whether utilities are excluded or not. The bill passed by the Senate was very simple. On page 6—it cannot be misread, notwithstanding any other footnotes in some other committee report—it says:

> EXCLUSION.—The term [product] does not include—electricity, water delivered by a utility, natural gas or steam.

That is what the Senate passed. I am coming to the floor to ask the question, has that dramatically changed so that in fact utilities are no longer excluded? Did somebody lift up the flap on the tent and utilities snuck in to get a massive exclusion under this bill? If that is the case, then I am very concerned about this. What I am hearing from people is to say, "no, it kind of reads that way, but that is not really the effect of it."

I do not have the foggiest notion of how one relates to the contradiction between how something reads and how someone intended it. That is why I am asking the question of, what is your intent? Is it your intent that just as in the bill passed by the Senate, it is your intent that the exclusion means that utilities will be excluded, period?

Mr. GORTON. I am sorry. Repeat it again.

Mr. DORGAN. Is it the intent, just as in the bill that was originally passed by the Senate, that the exclusion under (B), page 6, would still remain, that electricity, water delivered by a utility, natural gas and steam are, in fact, excluded? They are not products? Is that the intent of the people that wrote whatever they wrote in this conference?

Mr. GORTON. Well, first I need to say that no outside group came and asked whatsoever.

Mr. DORGAN. I did not say "outside group."

Mr. GORTON. The intent of the conference committee drafters was to see to it that subsection (i) and subsection (ii) read the same way, because we had already described them as having the same meaning in the original Senate bill. There was an inconsistency. There they were described in the Senate bill, conference report, as having exactly the same meaning. So there is a change only to the extent that something was already gone with respect to tissue, organs, and blood.

Mr. DORGAN. But you cannot describe in the conference report what the language means. The language means what it says it means.

My question, first, is, when this language left the Senate, did it mean that utilities were excluded from the definition of products? I thought it meant that. Most Members of the Senate thought it meant that. That is what I think it says. Do you believe that is what it says?

Mr. GORTON. I think that is the case not only with electricity but with respect to tissue, organs, and blood.

Mr. DORGAN. That is fine. I am not interested in those, but I am interested in electricity.

Mr. GORTON. Let me finish. I think it is exactly the same exclusion for both unless a State legislature has determined that they ought to be considered products. That is a privilege that the State legislature has now and retains under this bill.

Mr. DORGAN. That is not what the law says that you are asking us to vote on, as written. You are not talking about whether the State wants to determine if it is a product. You are talking about the question of the standard the State determines, appropriate.

There are certain kinds of things that are very dangerous and high risk that the States determine it wants an elevated standard of liability. It's called a strict liability standard. The way this is written, you are saying that utilities are excluded as products under this bill. They are excluded. They are not involved in this bill, except if a State determines that their standard is one of strict liability, then they are considered as products.

What you have done, you have swept claims against utilities under the bill. My point is, 18 States have already determined that in their courts with respect to claims against electric utilities alone, 14 have permitted strict liability in claims against natural gas utilities and 11 have allowed the same standard of strict liability on water utility cases. The fact is that there have been court cases and legislation on this very point. Thus, it appears it is already determined that claims against utilities are going to fall under the definition of "products" under this bill. I am not trying to be antagonistic. I voted for cloture before, and I voted for this bill on final passage. I want to understand whether somebody decided to bring a big moving van here and move something into this bill that no one on the floor understands. The "moving van" means loading up utility interests and putting it in.

Let me frame it in as simple a way as I can. Is it the intention of those who wrote this when it left the Senate, is it the intention that utilities shall not be considered a product? Is it the intention that the language as written—it says under "exclusion" on page 6 that utilities are not part of this bill. They are not a product. They are excluded, period, end of sentence, just declarative, end of sentence.

If that is the case—I want the answer to that—if that is the case, one says that judgment has not changed, how do we reconcile that with the changed language? That is what I am trying to understand. I am not trying to take up anybody's time or cause trouble. I am trying to understand exactly what this does and means with respect to utilities. I may be putting whoever is listening to sleep, I am sure, but it is very important.

Just parenthetically, while I am asking this question, I think this is one of those interesting issues where there is a little bit of truth on all sides, frankly. I know both sides immediately just separate and say, "Well, you are wrong; we are right," and, "We are wrong; you are right." The fact is there is a little bit of truth on the product liability issue in general. There are too many lawyers in America too prone to file lawsuits. I understand all that. I do not want to injure anybody's rights to redress for grievance in our court system if they get a defective product.

I have advanced this bill because it was narrow enough, to me, and because I thought it was a reasonable approach. When I see the conference report, first of all, nobody pulled this out for us to say this was a change. However, the more I look at it, the more it occurs to me that something has happened here that is of concern. I am trying to understand what it is because you are dealing with a very large industry—the electricity and the utility industry—and something has changed this definition.

So, I know that the Senator from South Carolina wanted to ask a question, but I have the two questions I want to ask: First, is it the understanding of the folks that wrote this when we originally dealt with it in the Senate that the exclusion—very straightforward on page 6—meant that we were excluding utilities? End of the story. That was my notion. I voted for it. Was that the notion that everyone else had who wrote this? It is pretty hard to misread it. Even if you have page 24 of the conference report, it is not hard to misread what it says. It says:

> EXCLUSION.—The term "product" does not include electricity, water delivered by utility, natural gas or steam.

Is your understanding the same as mine, that under that bill utilities were excluded? They were not to be considered products for this bill? I ask the Senator from Washington.

Mr. GORTON. My understanding was that it was the meaning as is stated in the conference committee report of the original bill that they were excluded unless the State had defined them as a product and had subjected them to strict liability. That was the meaning of the original bill and the meaning of this bill.

Mr. DORGAN. But the original bill was not written that way or understood that way by this Senator.

Is it your understanding there are many States that have adopted a standard of strict liability, which would mean that the way you interpret the provision in the original bill would redefine utilities as a product and provide for utilities protection under this bill?

Mr. GORTON. Do I have a specific understanding of that or can I name the States? I would have to answer the question "no." The committee report, which I believe to be accurate, says that most of the courts in most States treat these matters as matters that are subject to a negligent standard, not to a strict liability standard. Certainly there are some States treating them as strict liability.

Mr. DORGAN. But those who do adopt a strict liability standard, because these are kinds of activities that have a potential for greater danger and so on, is it the intention of those who have authored this to say for those States that adopted that standard of strict liability that we will offer protection of the utility industry under this bill?

I think, frankly, that is a substantial departure from what most people in this Senate would understand. I had thought originally some, incidentally, whom I have consulted with in the last 2 days or day on this, they say, "No, you do not understand this. We do not really mean utilities fall under this bill." That is comforting to me, except the language seems at odds with that.

I think what Senator GORTON is saying is the way I read it, that those many States who have decided on the standard of strict liability—and there are many of them—will be told by this piece of legislation that utilities, for them, will now be a product whose interests will be protected by the limitations in this bill, and I daresay, I do not think there are two Senators on the floor of the Senate that understand that to be the case.

Can you respond to that? I am not trying to cause trouble for you. I want to understand exactly what we are doing.

Mr. GORTON. The answer to the question of the Senator from North Dakota is that in such States, such States are subject to the restrictions of this bill, exactly as they were under the intention of the bill as it was originally passed by the Senate Commerce Committee and by the Senate itself, as is evidenced by the Senate committee report, and that the change in the statutory language was simply to conform the statutory language with the intention expressed in the committee report.

Mr. DORGAN. We are both on the Senate Commerce Committee. I ask, do you think it was or is the intention of the Senate Commerce Committee to provide protection for utilities under product liability?

Mr. GORTON. Under the same circumstances that it would provide it for any other similarly situated organization, providing product liability provides it for any manufacturer, or for that matter, distributor, no matter how large or how small.

The direction of the bill, the direction of a product liability bill is to provide a degree of predictability and a protection of the consumer interest for the producers of goods—not services in this case—goods. If this is the description that a State uses for its utilities, yes, the committee did intend to provide exactly that protection, and that is exactly what the committee report says.

Mr. DORGAN. Well, the bill that we passed in the Senate Commerce Committee that came to the Senate floor that I supported said this, and said only this; it had no caveats, no exception, no exclusions. It said on page 6, "EXCLUSION. The term 'product' does not include electricity, water delivered by utility, natural gas or steam."

The answer I am hearing from the Senator from Washington now is that you would have had to understood more than this language in order to understand the importance of it, because you are saying that this really meant except those 44 States, 18 of whom already had court cases on the issues of standard of strict liability on electric utilities. Those that adopt a standard of strict liability will find that utilities in their States have their products or their services defined as products in this bill.

There is something wrong here. There is something that does not connect. I am trying to understand, because I have been a supporter, and I am trying to understand what does not connect here. What are we trying to avoid by including the exception? I come from a school of nine people in my graduating class, and we did not have the highest math there or advanced reading, but I understand what I read, and it says, "the term 'product' does not include electricity, water delivered by utility, natural gas or steam." Period, end of story.

I voted for that. I say I agree with that. Utilities are not covered as products because they are in the section called "Exclusion." Now I am hearing a description that says, "No, you only read what was in the law. There was something else behind it." So I am just trying to understand where we are. If someone can enlighten me. Where are we with respect to utilities?

Mr. HARKIN. Will the Senator yield for a question?

Mr. HOLLINGS. Will the Senator yield?

Mr. DORGAN. I guess. I do not know that you will enlighten me.

Mr. HARKIN. I have never heard of this. Can I ask a question?

Mr. DORGAN. Well, who has the floor, Mr. President?

The PRESIDING OFFICER (Mr. JEFFORDS). The time is under the control of the Senator from South Carolina.

Mr. HOLLINGS. I will yield on my own time just a minute. I say to Senator DORGAN, he is right on target. In the zeal to avoid using what is intended—namely, the expression of strict liability and nuisance—for utilities, as put in the juxtaposed position in this language, where you have two exceptions, almost like a mathematical case of two negatives making a positive. Yes, positively, utilities are covered, wherein they have strict liability on nuisance tests. I have here in my hand a majority of States that do have it.

I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FOLLOWING CHART INDICATES WHERE A CAUSE OF ACTION UNDER STRICT LIABILITY CAN BE BROUGHT BY AN INJURED PARTY

State	Natural Gas	Electricity	Water
Alabama			
Alaska			State Farm v. Municipality of Anchorage, 788 P.2d 726, 729.
Arizona	Mast v. Standard Oil Co., (1983) 140 Ariz 19; 680 P.2d 155		Ramada Inns., Inc. v. Salt River Valley Water Users' Assn', 523 P.2d 496, 498–99 (Ariz. 1974).
California	Davidson v. American Liquid Gas Corp. (1939) 32 Cal App 2d 382, 89 P2d 1130.	Pierce v. Pacific Gas & Electric Co. (1985, 3d Dist) 166 Cal App 3d 68, 212 Cal Rpt 283, CCH.	Transamerica Insurance Co. v. Trico International Inc., (1985) 149 Ariz. 104; 716 P.2d 1041.
Colorado	Blueflame Gas, Inc. v. Van Hoose (1984, Colo) 679 P2d 579	Smith v. Home Light & Power Co., (1987, Colo) 734 P2d 1051, CCh.	Barr v. Game, Fish & Parks Comm'n, 497 P.2d 340, 343 (Colo. Ct. App. 1972). Garnet Ditch & Reservoir Co. v. Sampson, 110 P. 79, 80–81 (Colo. 1910).
Connecticut	Dunphy, et al vs Yankee Gas Services Co., (1995) Conn. Super. Docket No. CV94–0246428S.	Carbone v. Connecticut Light & Power Co. (1984) 40 Conn Supp 120, 482 A2d 722	
Delaware		Does not recognize strict liability in Tort For Products Liability Actions	
District of Columbia			
Florida			
Georgia			
Hawaii			
Idaho			
Illinois	Decatur & Macon County Hospital Asso. v. Erie City Iron Works (1966, 4th Dist) 75 Ill App 2d 144, 220 NE2d 590.	Troszynski v. Commonwealth Edison Co., 356 N.E.2d 926. 923 (Ill. App. Ct. 1976) Genaust v. Illinois Power Co. (1976) 62 Ill 2d 456, 343 NE2d 465. Cratsley v. Commonwealth Edison Co. (1976, 1st Dist) 38 Ill App 3d 55, 347. Elgin Airport Inn, Inc. v. Commonwealth Edison Col. (1980, 2d Dist) 88 Ill App 3d 477	
Indiana	Southern Indiana Gas & Electric Co. v. Indiana Ins. CO. 91978) 178 Ind App 505, 383 NE2d 387.	Petroski v. Northern Indian Public service Company (Ind. App. 1979) 396 N.E. 2d 933 Public Service Indian, Inc. v. Nichols (1986, Ind App) 494 NE2d 349 Hedges v. Public Service Co. (1979, Ind App) 396 NE2d 933.	
Iowa	Pastour v. Kolb Hardware Inc, (1969, Iowa) 173 NW2d 116. Koppinger v. Cullen-Schiltz & Associates (1975, CA8 Iowa) 513 F2d 901. Kellar v. Peoples Natural Gas Co., (1984) 352 N.W.2d 688.		
Kansas	.Worden v. Union Gas System, Inc. (1958) 182 Kan 686, 324 P2d 501 Williams v. Amoco Prod. Co., 734 P.2d 1113, 1121–23 (Kn. 1987)		
Kentucky		Bryant v. Tri-County Elec. Membership Corp., 844 F. Supp. 347, 351.	Winchester Water Works v. Holliday 45 S.W.2d 9, 10–11, (Ky. 1931).
Louisiana	American secur. Ins. co. v. Griffith's Air Conditioning (1975, La App 3d Cir) 317 So 2d 256.	Sessums v. Louisiana Power & Light Co. (1981, CA5 La) 652 F2d 579 cert den 455 US 948, 71 L Ed 2d 661, 102 S Ct 1448	

THE FOLLOWING CHART INDICATES WHERE A CAUSE OF ACTION UNDER STRICT LIABILITY CAN BE BROUGHT BY AN INJURED PARTY—Continued

State	Natural Gas	Electricity	Water
Maine			
Maryland	Dudley v. Baltimore Gas & Elec. Co., 98 Md. App. 182, 632 A.2d 492.	Voelker v. Delmarva Power & Light Co., 727 F. Supp 991, 994	
Minnesota			
Mississippi			
Missouri	McGowen v. TriCounty Gas Co. (1972, Mo) 483 SW2d 1 Crystal Tire Co. v. Home Service Oil Co. (1971, Mo) 465 SW2d 531	Hills v. Ozark Border Electric Cooperative 91986, Mo App) 710 SW2d 338.	Amish v. Walnut Creek Dev., Inc. 631 S.W.2d 866, 871 (Mo. Ct. App. 1982) Covington v. Kalicak, 319 S.W.2d 888, 894 (Mo. Ct. App. 1959)
Montana			
Nebraska		Rodgers v. Chimney Rock Public Power Dist. (1984) 216 Neb 666, 345 NW2d 12	
Nevada			
New Hampshire			
New Jersey		Aversa v. Public Service Electric & Gas co., 186 N.J. Super, 30, 451 A.2d 976 (1982) Huddell v. Levin, 537 F.2d 726 (3 Cir. 1976)	
New Mexico			
New York		Farina v. Niagara Mohawk Power Corp. (1981, 3d Dept) 81 App Div 2d 700, 438 NYS2d 645.	Pixley v. Clark, 35 N.Y. 520, 531 (1866)
North Carolina		Does not recognize strict liability in Tort For Products Liability Actions	
North Dakota			
Ohio		Otte v. Dayton Power & Light Co., (1988) 37 Ohio St 3d 33, 523 NE2d 835	
Oklahoma			
Oregon	McLeane v. Northwest Natural Gas Co., 467 P.2d 635 (Or. 1970).		Union Pac. R.R. v. Vale, Oregon Irrigation Dist., 253 F. Supp. 251, 257–58 (D. Or. 1966).
Pennsylvania		Schriner v. Pa. Power & Light Co. 501 A.2d 1128, 1134 Pa. Super. Ct. (1985) Carbone v. Connecticut Light & Power Co., 40 Conn Supp 120, 482 A2d 722 (1984) Smithbower v. S.W. Cent. Rural Elec. Co-op., 374 Pa. Super. 46, 542 A.2d 140, appeal denied 521 Pa. 606	
Rhode Island			
South Carolina		Priest v. Brown 91990, SC App) 396 SE2d 638	
South Dakota			
Tennessee			
Texas	Smith v. Koening (1965, Tex Civ App) 398 SW2d 411	Houston Lighting & Power Co. v. Reynolds; (1986) Tex App Houston (1st Dist)) 712 SW 22d 761.	Anderson v. Highland Lake CO., 258 S.W. 218, (Tex. Ct. App. 1924). Texas & Prac. Ry. v. Frazer, 182 S.W. 1161, 1162 (Tex. Ct. App. 1916).
Utah			Zampos v. U.S. Smelting, Ref. & Mining co., 206 F.2d 171, 176–77 (10th Cir. 1953).
Vermont			
Virginia		Does not recognize strict liability in Tort For Products Liability Actions	
Washington	Zamora v. Mobil Corp. (1985) 104 Wash 2d 199, 704 P2d 584 New Meadows Holding Co. v. Washington Water Power Co., 687 P.d 212, 216 (Wash. 1984)		Johnson v. Sultan Ry. & Timber Co., 258 P. 1033, 1034–35 (Wash. 1927).
West Virginia			
Wisonsin		Ransom v. Electric Power co., (1979) 87 Wis 2d 605, 275 NW2d 641. Koplin v. Pioneer Power & Light Co. (1990, App) 154 Wis 2d 487, 453 NW2d 214.. Kemp v. Wisconsin Electric Power Co. (1969) 44 Wis 2d 571, 172 NW2d 161.	
Wyoming		Wyrulec Co. v. Schutt (1993, Wyo 866 P2d 756.	

Mr. HOLLINGS. I reserve the remainder of my time.

Mr. DORGAN. Mr. President, let me continue to inquire. I will not take much more time. I still do not understand the answer. Is the answer that the utilities essentially are providing services and are therefore not covered as products under this bill?

If that is the case—and that is what I thought was the case—then fine. But there is extra language here, where there needs to be a record in the Senate, that says here is exactly what this legislation means. If we have a circumstance where we are saying in 44 districts they have strict liability, the services of a utility are now put under the entire provisions of this law, that is a substantial change.

Mr. GORTON. Let me summarize a response to the general concern expressed by the Senator from North Dakota. Generally, at least in common law, the provision of electricity has been considered a service. The provision of the service is not governed by strict liability. Strict liability is a concept that applies to products.

A number of States have determined that there should be a standard of strict liability applied to electricity and, for that matter, to the delivery of blood, the subjects of the first subsection of that section. If a State treats as a product the delivery of electricity, or the supply of blood, and subjects it to strict liability, it is subject to the provisions of this act. It was meant to be subject to the provisions of this act by the bill as it was reported from the Commerce Committee. It is included as a part of the Commerce Committee report. It was noticed simply by someone on the staff that, for some reason or another, subsection (2) omitted the language that was in subsection (1), and it was added during the course of the drafting of the conference committee report. That was not intended to create any difference in the way in which the bill would have been interpreted, in any event. It was intended to bring it into conformity with the committee report, and it has done so. But if the fundamental question of the Senator from North Dakota is, if a State imposes strict liability under these circumstances and treats electricity as a product, it is subject to those provisions, and I say ought to be.

Mr. DORGAN. Imposing strict——

Mr. GORTON. If I can say one other thing, obviously, this question did not come up during the long debate we had a year ago. If it had, to the best of my ability, I would have answered the question of the Senator the same way I am answering now. That is what was meant. Had I memorized this footnote at the time? No, I had not. I would have had to refer to it, but I would have come up with the same answer.

Mr. DORGAN. The State deciding to adopt strict liability with respect to a utility does not put it in the category of products. I do not understand the mixing of the two.

Let me take it one step further then. If that is the case, what would the logic be in saying to a State that because it decides to impose a standard of strict liability on utilities—because potentially you have some very hazardous kinds of circumstances that can exist with respect to electricity, steam, natural gas, and so on. But because a State decides to impose strict liability on that, what would be the logic of saying, by the way, you decided to do that, therefore, we will put the utilities under the protection of this law. I do not understand the logic of attaching that.

Mr. GORTON. Exactly the same logic that applies to the entire bill. If the utility manufactured a toaster, which is clearly a product, and gave it as a bonus to its customers, that product would be subject to this bill. The whole logic of the bill is to provide a degree of predictability to the law from State to State, which does not exist at the present time. That logic is every bit as applicable to a utility as it is to General Motors or to a small business that is engaged in retail sales.

Mr. DORGAN. Mr. President, I will not take this further. But I say there is a substantial difference between utilities and toasters. The reason I supported the bill is I think there has been too much litigation in this country; some of the litigation is totally inappropriate. I supported it on that basis, to create a reasonable response without abridging the rights of the people who want to sue, yet trying to reduce the number of lawsuits in our country. I felt that was appropriate.

I am surprised at the description of what the exclusion means on page 6 of the bill, as originally passed in the Senate. The answer to the question I am asking this afternoon is that the new language in the conference report does not alter what the old language intends to do. It was so clear on its face. It says "exclusions." The term "product" does not included electric and water delivered by utility, natural gas, or steam—period, end of section, end of story. There is nobody in my hometown who could misread this. And I did not misread it, I do not think.

The answer now, I guess, is that the added language of that section does not change the intended section because the section was intended to mean something that did not comport with the way it was read.

So I guess legislation is a strange process. I am trying to understand what exactly does this bill do as we move along. There is plenty in the bill I am satisfied with. I commend those who have created some provisions of this bill that I think advance the interests most of us want to find common interest on. But I think it is obvious from the discussion that there is a substantial amount of misunderstanding about what this exclusion means with respect to utilities.

Mr. GORTON. Let me try one other approach to this subject because it applies equally to the two subsections of this section. The whole concept of many of these damages, especially punitive damages, is a concept that is based on a company doing something wrong—in our case, and from some of the definitions, egregiously wrong. It is based on negligence or gross negligence. When a State or a given organization is subject to a standard of strict liability, it is liable for all of the damages that it causes to an individual—in this case, using whatever it is that the company produces, regardless of whether it is negligent or not. It may have engaged in the highest standard of safety available for such an organization. Yet, a legislature or a Congress has determined that, for some reason or another, the whole cost, all of the damages created by that organization, ought to be imposed on the organization, without regard to its having done anything wrong. That is what strict liability means.

You do not have to prove negligence or that there was anything wrong at all with what the particular organization did. You are still going to hold it liable. Well, that is the reason for the first subsection. Under those circumstances, it seems quite logical that you are not going to be required to pay for more than the damages that were actually created.

Mr. DORGAN. If I may finally say, you are absolutely correct about strict liability. But the reason for the standard of strict liability is that there are some kinds of activities that are sufficiently dangerous and contain sufficient risks that a strict liability standard has been determined to be in the public interest.

What I think you are saying is if, in the case of utilities, a State determines that a strict liability standard is appropriate, that is the same as a State defining a utility as a product. There is no relationship between the standard and the product. I think most of us believe——

Mr. GORTON. But it seems to me, I say to the Senator from North Dakota, there is a relationship between the standard and what kind of damages ought to be allowed over and above the actual losses suffered by the victim.

Mr. DORGAN. That is a different issue. The issue is under exclusion. The term "product" does not exclude what? The Senate has determined a product does not exclude utilities—the Senator has been patient. I am trying to understand exactly the consequences of this legislation. It is, while a boring subject for some, nonetheless a very important subject with a lot at stake for the American people.

Last evening, I read a fair amount about this. It is not fun reading. It is not a page-turner. But while I was struggling through it, I was trying to understand exactly what we have done and what the consequences will be. I personally think there is room for product liability reform, and I have voted that way and likely will continue to. I am very concerned about that, and I will continue visiting with the Senator about it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield 15 minutes to the distinguished Senator from Iowa.

Mr. HARKIN. I thank the Senator. I have listened very carefully to the preceding colloquy, and I must say that I read both the House and the Senate version of that, and I read what came in afterward in the conference report. Quite frankly, I was opposed to this bill before, and now even more so, because I think it is clear what happened in conference.

As we have said now, 44 States, as I understand it, have strict liability laws. Now those utilities will come under the purview of this bill and, therefore, it will cap damages to the extent that it is my understanding now that, under this bill, for example, the Seminole pipeline and natural gas facility in Texas, exploded in 1992, killed three, injured a lot, caused a lot of damage in two counties, and a jury awarded $46 million in punitive damages. It is my understanding that now, under this bill, that will not be able to happen after this.

So I thank the Senator from North Dakota for bringing that out. I had not focused on that before.

Mr. President, I want to say that the debate over product liability has been clouded by misinformation and anecdotal evidence, which is substituting for a careful consideration of the facts.

Mr. President, you know, every time a jury is impaneled, they are told by a judge they should consider only the facts, not hearsay, not speculation, but only the facts. Well, Mr. President, we are sort of sitting as a jury here. We ought to consider the facts. But what we have before us in this legislation—what we are hearing is hearsay, speculation, and a distortion of the truth. If, in fact, this Senate finds in favor of the conference report, and we were a jury, the judge would be well within his purview to dismiss the jury for not adhering to the instructions of the court and following the facts of the case.

It is wrong for a jury to decide on anything other than the facts, and it is wrong for us to legislate based on anecdote and misinformation, but that is what we are doing. This is not commonsense reform. This is nonsense regression. This bill ought to be called the caveat emptor bill of 1996, throwing us back to the old days when it was buyer, beware. If you bought something and it hurt you, tough luck—buyer, beware. That is what this bill is about. It turns back the clock years.

In the midst of all the legalese, it is hard to sort out what is really at stake here. It is really very simple. We are talking about people's lives. We are talking about their health, and we are talking about their happiness and about families.

This bill is about as antifamily, antihuman rights as I have ever seen. What the bill does is places economic worth on a higher plateau than individual work. I find that totally objectionable.

We have heard a lot of words about the need to promote values of greater responsibility and accountability. If you believe in those values, you ought to oppose this bill because it absolves wrongdoers from responsibility and does not hold them fully accountable for their actions.

We have heard a lot of talk about sending more power to the States. If you are for that, you ought to oppose this because this puts power in Washington. We have heard a lot of talk on the floor about putting more power in the hands of the people. If you believe in that, you ought to oppose this legislation because this takes power out of the hands of citizens and juries and puts it in the hands of big Government. Plain and simple, this bill is big Government, big business, and it is a big mistake.

Now, of course, most businesses do not set out to harm consumers with their products. Obviously not. But sometimes faulty products do make it to the market, and sometimes they make it to the market through carelessness or through sheer disregard of the public safety by those manufacturers. Sometimes people get hurt and die because of it. In the zeal to pass this conference report, let us not pass over the victims. There is a lot of talk about the victims. Let us talk about the victims—the children severely burned by highly flammable pajamas, women who die from toxic shock syndrome, women with silicone breast implants who have now lupus and scleroderma.

Again, I want to make it clear that most businesses are responsible. Most businesses take due care and concern. But there are those who do not. The current product liability system is based on a fundamental premise that we want to make sure that people—average citizens of this country—have the assurance that when they buy a product, when children consume a product, when they travel on our highway, they can be reasonably certain that what they are using, consuming, or buying is not going to harm them.

Part of that is our responsibility, and that is why we have health and safety and food inspection laws. That is why we have left untouched in our country the common law that we inherited from Great Britain that goes back several hundred years, the concept of tort feasor, the concept that someone must take due care or concern that his actions do not harm others, and if they do, that person must be held accountable and responsible. Those are the core values embodied in our Nation's laws. It is the essence of the common law. It goes back several hundred years.

My friend from North Dakota said we have too many lawyers in this country. I do not know about that, but I do believe that more knowledge of law and a love and respect of law—and especially the common law that we have inherited—makes us a more decent and a more law-abiding citizenry. That is what we are forgetting here. We are forgetting the history of tort feasance. For the life of me, I do not understand how people argue about we ought to be personally responsible and now saying we do not have to follow that admonition.

With this legislation, we all know that punitive damages awarded for grossly negligent behavior are capped. But in their efforts to make the product liability system uniform across the United States, supporters have fashioned a one-way preemption: This legislation strikes down only those aspects of State law that give citizens more protection from defective products. That is a one-two punch.

The bill passed by the Senate last year was bad, and this conference report is worse. It is far more extreme. It preserves some of the worst provisions of the Senate bill, like the elimination of joint and several liability and the cap on punitive damages, and expands other areas resulting in a bill that is the consumers' worst nightmare.

Let me talk for a couple of minutes about the elimination of joint and several liability for noneconomic damages. Again, it violates the golden rule of responsibility and accountability. You do not have to worry about being accountable and making sure the victim is wholly compensated unless the victim has a high-paying job. The Senator from Louisiana talked about that earlier. Eliminating joint and several liability for noneconomic damages eliminates the protections particularly for women, children, and elderly, because noneconomic losses constitute a greater proportion of their total losses.

So, again, this bill is antiwomen, it is antichildren, and it is antielderly. I do not understand that. We are supposed to be for individual workers. And, yet, what this says is that if you have a high-paying job, you are worth more than a child or worth more than an elderly person who has been a homemaker. You are worth more than they are.

Under current law, joint and several liability enables an individual to bring one lawsuit against the companies that are responsible for the manufacture of a dangerous, defective product and have the defendants apportion fault amongst themselves if the jury finds for the plaintiff. Under joint liability, victims are compensated fully for their injuries even if one or more of the wrongdoers is insolvent.

Our civil justice system is founded on the principle that the victim deserves the greatest protection. This bill turns that basic value on its head. It says we should protect the wrongdoer. This bill says they deserve protection.

Mr. President, consider one case, the Claassen family of Newhall, IA. Bill, Jeanne, his wife, and their 4-year-old son, Matt, were returning home from a family gathering on November 6, 1993, in their 1973 Chevrolet pickup. Another driver failed to stop at a stop sign and rammed into the passenger side of their pickup at a speed of about 30 miles an hour. Eyewitnesses confirmed that the Claassen's pickup immediately burst into flames on impact. The flames raced up the outside of the passenger door and engulfed Jeanne Claassen's face in flames.

The Claassen's son, Matt, was seated between Bill and Jeanne in the pickup. Bill struggled to get Matt out of the truck before returning to rescue his wife. He was unable to rescue her and was convinced that she had died in the fire. Witnesses who arrived on the scene immediately after the collision heard Bill telling his son that his mommy had died and gone to heaven.

Jeanne Claassen survived and is still recovering today. Her face and head permanently disfigured, she has not been able to return to her job as a medical technician. They are reluctant to take her back because of her appearance. She continues to undergo painful surgery to regain some semblance of her former self. Her young son Matt often relives that nightmare in his school drawings, once drawing an igloo engulfed in flames. He sometimes has trouble relating to the different way his mother now looks.

The Claassens are currently in litigation to recover damages from the two parties involved in this accident, the driver of the other car and the General Motors Corp. that manufactured the truck.

The driver of the other car has no personal assets, and her insurance will only cover some of Jeanne's many continual medical expenses. General Motors has been under criticism for refusing to recall the 1973 and later models of the C/K pickups. These model trucks have the fuel tanks outside of the frame rail of the vehicle, making them more susceptible to the type of accidents like Jeanne Claassen's.

By eliminating joint and several liability for noneconomic damages, this legislation will make it potentially more difficult for Jeanne Claassen to be compensated for her loss if the court rules in her favor. The driver of the other car is insolvent, and once the insurance money runs out, GM will not necessarily have to chip in to cover expenses. But Mrs. Claassen's pain and suffering will continue.

This legislation says that it really does not matter about her, it does not matter about the exploding fuel tank when awarding noneconomic damages. If one of them cannot pay, if one of the defendants cannot pay, we will just stick it to Mrs. Claassen. But—and here is the rub in this bill—if Mrs. Claassen was a CEO making millions of dollars a year for a major corporation, this bill would not hesitate to take care of her economic losses. She does not have a big economic loss, but she has personal losses. She has pain and suffering. She has a lot of loss in her life. This bill says, tough luck. If she had been the CEO of a major corporation making 20 million bucks a year, this bill would have been for her. But not for this Mrs. Claassen. What kind of discrimination against human beings are we about to engage in if we approve this conference report?

Mr. President, there are a lot of things I object to in this bill, but that is what I find most objectionable—economic losses are more important than human losses, pure and simple. If you have money, this bill is for you. But if you suffer the loss of consortium, if you suffer the loss of one of your family, pain and suffering, disfigurement, sorry, you are out of luck. Under this bill, Mrs. Claassen would be out of luck.

The elimination of joint liability for noneconomic damages forces our legal system to make a value judgment based upon your economic worth, and that is why this bill is so antiwoman and antifamily.

Last, let me just talk about capping punitive damages. I think I heard earlier the Senator from Connecticut saying $250,000 is a lot of money.

Mr. President, I have here a list of the amount of money made by CEO's of our major corporations. I figured out how long it would take to reach the cap of $250,000.

The CEO of Boeing makes $1.4 million a year. It would take 9 weeks of his salary to reach this cap. Do you think that is going to be a deterrent to Boeing? IBM, it would take 5 weeks. Sears & Roebuck, it would take 1 month. That is not a deterrent.

When this bill first came to the floor, in good faith I offered an amendment which I thought would tend to balance things out. I am opposed to caps, but I said if you are going to have a cap, let us put the cap at twice the annual compensation of the CEO of the corporation. That way it protects small businesses because, if you are a CEO of a small business, you do not have much money every year so you would have less exposure, but if you are a CEO making $20 million a year, well, then twice that would be the limit on the cap.

I lost on that amendment, but to me it still makes better sense than what we have in this bill of saying $250,000 or twice the compensatory damages, whichever is greater. This defeats the purpose of the deterrent effect of the product liability laws. They have made a difference. Ford Motor Co. redesigned the Pinto only after a $125 million lawsuit was awarded in which a 13-year-old boy was severely burned when the Pinto he was riding in burst into flames.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HARKIN. Yet evidence showed Ford Motor Co. knew it was a faulty design, but they went ahead anyway because they said it would cost less to have to pay it out in damages than to redesign the car.

Mr. President, what this bill does is it lets those tort feasors off the hook.

I know my time is up. I could go on and on. Quite frankly, we should not say that simply because you make a lot of money you are going to get awarded more damages, more punitive damages will be assessed against someone if you make more money than if you are a homemaker or a child or an elderly person. That is discrimination of the worst sort.

I hope and I trust we will not invoke cloture on this bill and that we can continue to abide by the principles of individual work and responsibility and accountability in our country.

I thank the Senator for yielding me this time.

The PRESIDING OFFICER. Who yields time?

The majority manager is recognized.

Mr. GORTON. Mr. President, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first of all, in connection with the remarks of the distinguished Senator from Iowa, I point out there is an additur provision in this bill dealing with punitive damages. I do not want to debate that whole thing here; I only have 10 minutes, but I would stress that point of which perhaps the Senator was not aware.

Mr. President, yesterday, I briefly outlined the history of this legislation, which represents now 15 years—15 years; that is a long time—we have been debating this liability reform act. It started in 1981 when Senator Kasten, of Wisconsin, introduced the first bill.

Finally, here we are today with a fair and a reasonable bipartisan bill that not only has passed both Houses but did so with strong majorities. The House approved a broader bill, not this one but a broader one, which I presume those on the other side would find more offensive. They passed that 265 to 161, a very substantial majority. In the Senate, the bill that we passed had 61 votes in support of it, 61 out of 100.

So with a track record like that, you might think product liability reform would soon become law. But here we are faced with two major obstacles, a cloture vote this afternoon to protect against further filibustering on this issue, and, worse than that, a newly raised threat of a Presidential veto. If this bill does not make it past the procedural hurdle of cloture, or if the President does not reconsider his threat of a veto, this bill will not become law.

To be prevented from succeeding at this point, I must say, is particularly galling. After all, I suspect that this bill has seen more roadblocks in the last 15 years than any other bill we have seen here. Indeed, I venture to guess that product liability has been subject to more cloture votes than any other subject. There were 2 cloture votes in 1986, 3 in 1992, 2 in 1993, 4 in 1995, for a total of 11 cloture votes in all. Yet, it seemed in this new Congress we were going to win it; once and for all this gridlock would be ended.

Drafting of this bill was a bipartisan effort right from the beginning. It is not a Republican bill; it is a Republican-Democratic bill, a bipartisan bill. The White House was well aware of what was going on. The White House watched closely as the Senate took up the bill and began adding amendments. It is my understanding that it was the administration, during the Senate debate in May, that quite helpfully suggested the addition of the so-called additur provision to the final version.

So, as I say, it went sailing through here, 61 to 37. What happened to change the White House's attitude? Did the bill change dramatically in conference from what went through here in the Senate? The answer is, hardly at all. It was clear to all that the House's broad tort-reform bill would not be approved by the administration. Therefore, to their credit, the conferees, representatives from the House and representatives from the Senate meeting together, decided to stick closely to the Senate version that had passed so overwhelmingly and that seemed to have White House support. So the bill that we will vote on today, or the bill that we are dealing with, is virtually identical to the Senate-passed bill that won such strong approval.

I do not know why the President appears to have changed his mind. I cannot believe he is personally opposed to a Federal liability law for, as a Governor, as Governor of Arkansas, the President sat on the National Governors' Association committee that drafted the first National Governors' Association resolution dealing with Federal liability reform.

Here we have a copy of the letter from the President to Senator DOLE setting forth the reasons for the veto.

I ask unanimous consent the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. We are told it is an "unwarranted intrusion on State authority." Yet, the National Governors' Association enthusiastically supports this measure.

We are told the bill would "encourage wrongful conduct because it abolishes joint liability." But joint and several liability, it has been pointed out, applies still to economic damages.

The letter accuses the bill of "increas[ing] the incentive to engage in the egregious conduct of knowingly manufacturing and selling defective products." I do not find this charge makes much sense. Then it goes on to say that the "additur" provision the White House itself put in here, the provision being that the judge himself can increase the punitive damages—the White House had a hand in drafting that—now they say that is not adequate.

So I do not think any of these three statements that the President has in his letter represents what this conference report really would do. I think that is very, very unfortunate.

To my judgment, this bill is sound and reasonable. Under the bill, those who sell but do not make products—sell the products but not necessarily having made them—are liable only if they did not exercise reasonable care. If they offered their own warranty and it was not met, or if they engaged in intentional wrongdoing, obviously they will be liable. But they cannot be caught up in a liability suit where they did nothing wrong. I do not see much trouble with that.

If the injured person was under the influence of drugs and alcohol and that condition was more than 50 percent responsible for the event that led to the injury, the defendant cannot be held liable.

If plaintiff misused or altered the product—this is the one we see so often in the area I come from, people have altered machinery and equipment that they have purchased—in violation of the instructions or warnings to the contrary, or in violation of just plain common sense, then the damages are reduced accordingly. I just cannot understand why we ought to blame the manufacturer for behavior that everyone knows would place the product user at risk. That does not seem fair to me. Does that not contradict our notion of an individual's personal responsibility? The person has to have some sense of responsibility here.

The bill allows injured persons to file an action up to 2 years after the date they discovered or should have discovered the harm and its cause. For durable goods, the actions may be filed up to 15 years after the initial delivery of the product. These also seem to me to be fair.

Either party may offer to proceed to voluntary, nonbinding, alternative dispute resolution.

The most controversial element of the bill, I suppose, is the punitive damages. I remind my colleagues that these damages are separate and apart from compensatory damages. The compensatory damages are meant to make the injured party whole. The punitive damages are awarded where there is "clear and convincing evidence" proving "conscious, flagrant indifference to the right of safety of others." The amount of punitive damages may not exceed two times the amount awarded for compensatory loss or $250,000, whichever is the greater.

Again, I must say I have had trouble with punitive damages for a long time. I have great difficulty understanding the basis of that; certainly that the punitive damages go to the plaintiff instead of the State for retraining of those who are committing the errors. It might be manufacturers, it might be physicians, whatever it is. But I have great difficulty understanding why in the world punitive damages should go to the plaintiff.

In conclusion, I pay my compliments to Senators ROCKEFELLER, GORTON, PRESSLER, and LIEBERMAN for the work they have done on this. I certainly urge the President to reconsider his position and join the bipartisan coalition supporting this very important legislation.

I urge him to sign this bill into law.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 16, 1996.

Hon. BOB DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I will veto H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996, if it is presented to me in this current form.

This bill represents an unwarranted intrusion on state authority, in the interest of protecting manufacturers and sellers of defective products. Tort law is traditionally the prerogative of the states, rather than of Congress. In this bill, Congress has intruded on state power—and done so in a way that peculiarly disadvantages consumers. As a rule, this bill displaces state law only when that law is more beneficial to consumers; it allows state law to remain in effect when that law is more favorable to manufacturers and sellers. In the absence of compelling reasons to do so, I cannot accept such a one-way street of federalism, in which Congress defers to state law when doing so helps manufacturers and sellers, but not when doing so aids consumers.

I also have particular objections to certain provisions of the bill, which would encourage wrongful conduct and prevent injured persons from recovering the full measure of their damages. Specifically, the bill's elimination of joint-and-several liability for noneconomic damages, such as pain and suffering, will mean that victims of terrible harm sometimes will not be fully compensated for it. Where under current law a joint wrongdoer will make the victim whole, under this bill an innocent victim would suffer when one wrongdoer goes bankrupt and cannot pay his portion of the judgment. It is important to note that companies sued for manufacturing and selling defective products stand a much higher than usual chance of going bankrupt; consider, for example, manufacturers of asbestos or breast implants or intra-uterine devices.

In addition, for those irresponsible companies willing to put profits above all else, the bill's capping of punitive damages increases the incentive to engage in the egregious misconduct of knowingly manufacturing and selling defective products. The provision of the bill allowing judges to exceed the cap in certain circumstances does not cure this problem, given Congress's clear intent, expressed in the Statement of Managers, that judges should do so only in the rarest of circumstances.

The attached Statement of Administration Policy more fully explains my position on this issue—an issue of great importance to American consumers, and to evenly applied principles of federalism.

Sincerely,

BILL CLINTON.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). Who yields time?

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to speak in opposition to the conference report on the Common Sense Product Liability Legal Reform Act. Supporters of this legislation have made the claim that this bill will benefit manufacturers, investors and business owners and workers. They also say it will benefit consumers. Yet, to my knowledge, this bill is opposed by virtually every group in the country that represents working people and consumers and children and the elderly.

One of the reasons for this is that the claims that have been made on behalf of this bill do not really add up. The people who support this bill claim the bill would set uniform Federal standards for product liability legislation. They claim uniformity is essential and that knowing the laws are going to be the same everywhere you go is absolutely critical for business interests that might be unsure of what the marketplace and a legal system of a particular jurisdiction will hold for them. That is the whole basis of this bill. That is the core concept, that you have to have this uniformity across the board, or businesses really will not know what to do in terms of location, business location decisions.

I would like to use my time to speak about two aspects of this notion of uniformity. First, let us remember that this legislation marks an unprecedented event. We are, for the first time, imposing the demands of the Federal Government in an area of law that has, for 200 years, been the sole domain, the sole province of the States. I thought this was a Congress devoted to devolution, not to the Government at Washington making mandatory rules.

I thought that was the mantra of the new Republican majority, that the States know best, that most of the time the best decisions are those that are made by the folks back home and not by the decisionmakers in Washington. I remember time and time again the majority leader coming down to the Senate floor and telling us it was time to "dust off the 10th amendment."

I remember when the Speaker of the other body went on national TV last spring and in an address to the Nation said the following:

> This country is too big and too diverse for Washington to have the knowledge to make the right decisions on local matters. We've

got to return power back to you, to your families, your neighborhoods, your local and State governments.

Mr. President, what happened to those words? What happened to the 10th amendment? What happened to the need to address local problems on the local level? All this talk about States rights is about to go right out the window as we usurp over 200 years of State control over their tort systems.

We have a bill before us that has as its central premise the notion that the Federal Government is a better administrator of justice than the States and that the U.S. Senate is better suited to determine the outcome of a civil trial than are 12 average Americans sitting in a jury box.

How troubling that, at a time when Americans are so distrustful of their Government, we in Government are not willing to trust Americans to administer civil justice. But I suppose that for the sponsors of this bill, this is a reasonable price, so long as we get some uniformity in our laws.

Unfortunately—and I really want to stress this—this bill has about as much uniformity as a circus parade. Look at the new punitive damage cap contained in the bill. That provision caps punitive damages in most cases at the higher of $250,000, or two times compensatory damages. That sounds pretty uniform, does it not? But read the small print.

If a State has a law that is more restrictive—more restrictive—than the Federal cap, then that particular State law prevails. If a State has a law that is less restrictive than this Federal cap, then, and only then, the Federal cap prevails.

Moreover, under this bill, those States that currently simply prohibit punitive damages, do not allow them at all, they would be permitted to continue to not allow any punitive damages.

So what does this mean for American consumers? It means the consumers and children and the elderly living in different States with different sets of laws will have substantially different protections from injuries and defective products.

Mr. President, so much for the uniform Federal standards and so much for the idea that this bill is somehow fair and equitable and beneficial to consumers.

But what this really is is sort of a one-way preemption of State laws, and it is grounded on the premise that some States know better than others and that some Americans can properly serve on juries but others cannot. With this new concept of, let us call it, selective federalism, perhaps we should change the words above the Supreme Court so they read "Equal justice under the law, unless you live in the following States," and then list the appropriate States.

Mr. President, I also find it absolutely ludicrous that the supporters of this bill would suggest that we are providing uniformity when we are going to have completely different standards and rules throughout the 50 States. If I had to pick one provision of this bill that demonstrates how nonsensical this notion of uniformity is, I would have to choose the provisions seeking to reestablish a new Federal statute of repose.

This bill creates a new Federal standard for the number of years a manufacturer or product seller can be held liable for harm caused by a particular product. Known as a statute of repose, that period is 15 years under this conference report.

Why 15 years? Where did that come from? It is a good question. The product liability legislation considered in the 103d Congress, written by the same two principal authors, contained a 25-year statute of repose. Why? Well, a footnote in the committee report from that Congress justified the 25-year limit by pointing out that, according to testimony received by the Commerce Committee, and I quote, "30 percent of the lawsuits brought against machine tool manufacturers involve machines that are over 25 years old." Therefore, Mr. President, presumably the authors of this bill, last time around, selected 25 years as the life expectancy of all products manufactured in the United States.

So last May, we considered a product liability bill that the supporters tried to characterize as much more moderate and much narrower than the product liability bill considered in the 103d Congress. But in many cases, the bill we considered last May was worse than its predecessor. For example, they dropped the 25-year statute of repose to only 20 years. Why? Once again, good question. The committee report for the Senate-passed legislation conspicuously left out that footnote from last time about the machine tool testimony and just makes no mention whatsoever as to why 20 years was selected for that bill. Instead, the committee report promotes the consistency of the 20-year statute of repose with the General Aircraft Revitalization Act of 1994 that was passed by this body in 1994.

It also justifies a Federal statute of repose on the basis that Japan is poised to enact a short 10-year statute of repose. So now, apparently, the Japanese Government knows better than the State of Wisconsin how to properly administer civil justice in cases involving Wisconsin litigants. I wonder how the Framers of the Constitution would feel about that assertion, Mr. President.

What is too bad is, in this conference report before us, it does not end there because, as I said, the conference report before us does not have a 25-year statute of repose, does not have a 20-year statute of repose, it even has now a significantly shorter 15-year statute of repose. So we have gone from 25 to 20 to 15, and they call this a moderate bill.

Again, what in the world is that 15 years based on? It strikes me as being completely arbitrary and it seems less concerned with what the life expectancy of certain products should be and more concerned with making sure we pass as short a statute of repose as can possibly be done politically.

Finally, Mr. President, worse, this takes us back to the issue of selective preemption of State authority over liability laws. Under this conference report, if a State legislature has decided against having a statute of repose or has decided on a statute that is longer than 15 years, then this new Federal law will override the judgment of that State legislature.

Again, when you really look at this bill, it is not about uniformity at all. It will lock in a lack of uniformity and different treatment throughout the States and not provide the central purpose of the bill, as I understand it, which is to provide all the businesses in the country with some kind of uniformity.

So, Mr. President, on behalf of all the consumers who will be affected by this, as well as the concern about uniformity, I simply must say that this conference report should be defeated.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague. I will try to use less time than that, because I know my colleague from Washington has several requests for additional time.

First of all, let me commend our colleagues from West Virginia and from Washington for their tremendous work on this legislation. They have spent countless months, indeed years, working on this issue. I want to express my gratitude to them and the gratitude of my constituents in Connecticut. They have dealt with a complicated, sensitive issue in a forthright manner, allowing all to have a full say in what ought to be included in the legislation. I strongly urge our colleagues to support their effort, the Common Sense Product Liability and Legal Reform Act of 1996.

Mr. President, I am not new to this issue. During this debate, I have been playing a supporting role to the efforts of Senator ROCKEFELLER and Senator GORTON. But I began working on this issue 10 years ago, when I joined with our former colleague, Jack Danforth, and attempted to fashion a product liability bill. None of our efforts ever made much headway through the legislative process, but I think we helped lay a foundation for the measure we are considering today.

Mr. President, when I ask the businesses in my State to list the single most important issue to them, they tell me that it is product liability reform, more so than taxes or any other issue. This is particularly true of my smaller manufacturers, the tool and die makers, and other industries that are supported by larger companies like United Technologies, Sikorsky, and Electric Boat. This is the issue they care more about than anything else.

Across this country, manufacturers are spending seven times more to prepare for product liability cases than they are on research and development.

Because of these costs, innovative products never make it to the market. There is no question, for example, that there would be more research into an aids vaccine if companies were not fearful of the current product liability system.

Additionally, the high costs of litigation raises the cost of many products. This so-called tort tax accounts for an estimated 20 percent of the cost of a ladder, 55 percent of the cost of a football helmet, and 95 percent of the cost of childhood vaccines.

The excessive costs of the product liability system also hurt the competitive position of American companies. Some American manufacturers pay product liability insurance rates that are 20 to 50 times higher than their foreign competitors.

Of course, if this system were working well for consumers, that would be an important argument for maintaining the status quo. But that is not the case.

As I mentioned earlier, consumers are denied innovative products and must pay higher prices for products. And what about people who are injured by the products that do make it to the marketplace? Do they benefit from the current system? The answer is no.

A General Accounting Office study concluded that it takes almost 3 years for a case to be resolved. That is 3 years that an injured person must wait to be made whole. Regrettably, this delay leads many injured people, particularly those with very severe injuries, to settle for less than their full losses.

Clearly, the present system is broken. We need to fix it and the conference report makes some important repairs. My colleagues have already discussed some aspects of the bill, but let me highlight some provisions that are particularly important.

UNIFORM SYSTEM

First, by providing Federal standards in certain areas, this measure will provide a more uniform system of product liability. These standards will add more certainty to the system, and help reduce transaction costs.

When you consider that 70 percent of all products move in interstate commerce, Federal standards make sense. The National Governors Association supports this approach. The association has testified:

> The United States needs a single, predictable set of product liability rules. The adoption of a Federal uniform product liability code would eliminate unnecessary cost, delay, and confusion in resolving product liability cases.

ALTERNATIVE DISPUTE RESOLUTION

The provision in the bill that encourages the use of alternative dispute resolution will also help reduce the excessive costs in the current system. Currently, too much money goes to transaction costs—primarily lawyers fees—and not enough goes to victims.

A 1993 survey of the Association of Manufacturing Technology found that every 100 claims filed against its members cost a total of $10.2 million. Out of that total, the victims received only $2.3 million, with the rest of the money going to legal fees and other costs. Clearly, we need to implement a better system in which the money goes to those who need it—injured people.

STATUTE OF LIMITATIONS

Consumers will also benefit from a statute of limitations provision that preserves a claim until 2 years after the consumer should have discovered the harm and the cause. In many cases, injured people are not sure what caused their injuries, and by the time they figure it out, they have often lost their ability to sue. This legislation will provide relief for people in such situations and allow them adequate time to bring a lawsuit.

This legislation will also improve the system for businesses—from large manufacturers to the hardware store down the street.

ALCOHOL AND DRUGS

Under this bill, defendants would have an absolute defense if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and the condition was more than 50 percent responsible for the plaintiff's injuries. This provision, it seems to me, is nothing more than common sense. Why should a responsible company pay for the actions of a drunk or a drug user?

PRODUCT SELLERS

The bill also institutes reforms to help product sellers. They would only be liable for their own negligence or failure to comply with an express warranty. Product sellers who are not at fault can get out of cases before running up huge legal bills. But as an added protection for injured people, this rule would not apply if the manufacturer could not be brought into court or if the claimant would be unable to enforce a judgment against the manufacturer.

PUNITIVE DAMAGES

In my view, the conference report also strikes an appropriate balance on punitive damages. There are reasonable limitations on punitive damages, but the judge could award a higher amount against large businesses if the limited punitive damage award is insufficient to deter egregious conduct.

BIOMATERIALS

The biomaterials provision also addresses a critical problem. It would limit the liability of biomaterials suppliers to cases where they are at fault, and establish a procedure to ensure that suppliers, but not manufacturers, could avoid unnecessary legal costs. This provision will help ensure that Americans continue to have access to lifesaving and life-enhancing medical devices.

My colleague from Connecticut, Senator LIEBERMAN, authored this proposal and I commend him for his excellent effort.

BALANCED LEGISLATION

The provisions I have outlined demonstrate the balance this legislation strikes between consumers and businesses. In the final analysis, the reforms in the bill should strengthen the product liability system for everyone.

Mr. President, I commend the conferees for staying so close to the Senate bill. In my view, the House bill went too far. It contained provisions that would have applied in a wide range of cases, including medical malpractice.

The stakes of legal reform, the rights and responsibilities of all Americans, warrant a more cautious approach. There are some areas of our legal system where problems must be addressed. Securities litigation and product liability are obvious examples, but we should avoid wholesale changes.

The conference report we are debating today takes the right approach. It is a moderate measure that makes modest reforms. It strikes a careful balance between the needs of consumers and businesses, and should help improve the product liability system for everyone.

Before closing, let me again commend Senator ROCKEFELLER and Senator GORTON for their excellent work on this legislation. As I discussed earlier, this conference report has very few changes from the Senate bill that they crafted so carefully. They have also done a superb job in keeping this legislation moving forward.

I urge my colleagues to vote for cloture and help pass this conference report.

Mr. President, I yield back whatever time I may have remaining to our distinguished colleague from Washington.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, before I yield to the distinguished Senator from Minnesota, I ask unanimous consent to have printed in the RECORD an article entitled "In Defense of Big

(Not Bad) Business" from the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN DEFENSE OF BIG (NOT BAD) BUSINESS

(By Jerry J. Jasinowski)

Engaging in class warfare and anti-industrial rhetoric has become the favorite blood sport in this political year.

We have the unlikely duo of presidential candidate Pat Buchanan and Labor Secretary Robert Reich warning us about anxious workers and their stagnant wages. A seven-part treatise in the New York Times blames corporate callousness for the ills of society, while Newsweek recently threw the mugs of four leading American business executives on its cover under the headline "Corporate Killers."

How quickly perceptions change. Little more than a year ago I was invited to address an international gathering of corporate and political leaders in Davos, Switzerland, to talk about an American industrial renaissance that had restored the United States to the top spot among the world's economies for the first time in nearly a decade. And instead of warning of Japan's industrial might, a constant theme throughout the 1980's, I found myself describing a quality and productivity revolution that has led to record job creation in the United States.

No one in this country seems to know it or care, but while Americans have been busy berating our capitalist system with unbridled enthusiasm, the U.S. economy has become the envy of the industrialized world.

Indeed, the current anxiety over jobs and wages illustrates the verity of the notion that a big enough lie, repeated often enough, can take on the trappings of reality. I may be fashionable—and in some cases politically expedient—to argue that American workers are underpaid, underappreciated and on the brink of losing their jobs. Some are—and these concerns need to be addressed. But to suggest that this is the prevailing phenomenon taking place in our economy is wrong, or at the least, a very distorted view of reality.

While corporate downsizing gets the headlines, the American economy has quietly grown richer—gaining more than 8 million net new jobs since 1992 and putting our unemployment rate at an historically low 5.5 percent. In the past 25 years, U.S. employment has increased 59 percent and we have created more than five times as many net jobs as all the countries of Europe combined.

Even in areas like U.S. manufacturing, to take a favorite topic of media concern, the picture is not so bleak as news reports, or a cursory look at the data, might suggest. According to government statistics, around 1.7 million manufacturing jobs disappeared between 1988 and 1993. But many of the positions shed by manufacturers were never the assembly line jobs typically associated with manufacturing in the first place. Rather, a sizable portion of the eliminated positions were back-office jobs like payroll and accounting, which are now contracted out to companies that the Labor Department classifies as "service sector" firms. It's also worth remembering that millions of jobs are created in other sectors as a direct result of manufacturing. It happens when a new restaurant locates near a manufacturing plant, the so-called "multiplier effect." And it happens when jobs that were considered by the government to be manufacturing are spun off—the most common example being GM's transfer of its data-processing to EDS, a move that overnight classified thousands of jobs from manufacturing to service.

The data can be equally misleading when it comes to wages. It has by now been widely reported that median household incomes, adjusted for inflation, have been falling for nearly two decades, and by 7 percent since 1989 alone. But the wage decline doesn't take into account other factors that greatly mitigate its effect. First, the size of the average American family has been declining meaning the typical household paycheck is being spread over fewer people. And when the overstatement of inflation contained in the consumer price index is eliminated, income growth actually climbs by 15 percent.

Nor do such statistics take into account the fact that workplace compensation has undergone radical changes in recent years. As studies by the Federal Reserve and others have shown, employees nowadays receive a much greater share of their compensation in the form of various benefits—health care, paid vacation, pensions, incentive payments, bonuses, commissions and profit sharing. Using this broader measure of total compensation, workers are even better off than they were in the 1970s.

It is also important to remember that workers with the right skills and in the right fields are sharing handsomely in the economy's growth. A study by Princeton University economist Alan Krueger showed that employees who use computers on the job earn 15 percent more than those who don't. Indeed, a wage boom has been underway for some time in many high-tech firms. Assembly-line positions in the technology sector now typically pay anywhere from $50,000 to $75,000 annually, including bonuses. And in part because of automation that has raised the skill-level required to perform all kinds of jobs on the factory floor, manufacturing workers in any field now earn an average of $40,000 annually, for companies like Cypress Semiconductor in San Jose, Calif., compensation is even higher. The average worker in this 1,900-person company, including line workers and receptionists, earns $93,000 a year including benefits.

Even more important than what the numbers tell us about the present is what they tell us about our future. It is true that, while the wage picture is not as bleak as we've been led to believe, there is reason for concern. But a number of powerful trends suggest that several of the factors that have kept take-home pay lower than expected and job in security higher than desired are self-correcting. Others are well within our power to fix.

The baby-boom generation, combined with the influx of women into the workplace and high levels of immigration, has brought on the largest increase in the supply of labor in American history. Since 1968, the number of Americans seeking jobs has shot up by 52 million workers, a factor which has had the inevitable effect of slowing wage growth since so many more people were out in the market competing for jobs.

Currently there are still too many workers with inadequate skills struggling to fit themselves into an economy that increasingly demands higher levels of education. But demographics will be on the side of the workers in coming years. For one, four times as many Americans have college degrees today compared with just 50 years back. More importantly, the generation now entering the work force is one-third smaller than the baby-boom generation, which will inevitably push up employee compensation. A labor force that is older and more experienced also commands generally higher compensation, a factor that filters down through the entire labor market.

Meanwhile, many jobs are going wanting. Some manufacturers are so desperate for skilled assembly line workers that they've taken to hiring professional recruiting firms to help them find qualified applicants. The owner of one Northern Virginia firm told me that software developers who commanded $30,000 five years ago now demand, and get, $50,000 a year. And a newly released study of software programmers nationwide shows many veteran code writers can command salaries that exceed $100,000.

John F. Kennedy's oft-repeated maxim that "a rising tide lifts all boats" is as true today is it was 35 years ago. Unfortunately, the tide hasn't been rising very fast lately. Though much of the news about the economy is positive, it's also true that economic growth during the current expansion has been hovering around 2 percent, roughly half that of previous post-war expansions. Yet, given improvements in corporate productivity of late, both in manufacturing and more recently in the service sector, there is no reason our growth rate can't be lifted to at least 3 percent a year. If that happened, we would inevitably see substantial new economic activity and jobs gains for workers at all skill levels.

So why isn't the economy growing faster?

Pat Buchanan would have us believe that it's because our free-trade policies have allowed other countries to benefit at the expense of Americans. But if anything, the opposite is true. Exports, in fact, have been responsible for roughly one-third of U.S. economic growth over the past decade. According to a new report by the Manufacturing Institute and the Institute for International Economics, American firms that export goods or services have experienced a job growth rate almost 20 percent higher than comparable non-exporting firms. Exporters are 9 percent less likely to shut down, and they pay their workers as much as 10 percent more than firms that do not export, the study found. If anything, we should be figuring out ways to open up markets across the world, not stir tensions in a way that could set off a trade war.

It's also time we question whether the Federal Reserve is keeping interest rates unduly high, and whether we should continue allowing government to keep the tax burden so high. The median two-wage earner family carries total tax burden—federal, state and local—of 38.2 percent, up from 27.7 percent in 1955. This amounts to more than $5,000 a year for the typical family. Payroll taxes, which represent the largest single tax on millions of middle income Americans, have grown at four times the rate of incomes. While this last tax is technically paid by employers and employees alike, it amounts to a direct hit on employees because most companies simply pass on the burden in the firm of reduced wages and benefits.

So does all this mean business should be let off the hook? Certainly not. I would be the last to exonerate business completely of the charges coming at them of late. Take the issue of wages. It's true that many companies have done a lot to share their success with their workers. Last month, for example, while the press was busy maligning IBM for its layoffs, the computer maker announced it would spend more than $200 million increasing employee bonuses, not just for top executives but for the rank and file. And at Coca-Cola, where nearly one-third of the workers own company stock, each employees' holdings shot up in value by an average of $70,000 over the last 15 months.

The problem is that not enough companies are putting a priority on performance-related compensation. People should be paid based on the quality of their performance, at every company, and no matter how lowly the job appears. If only the top executives are sharing the largess—or if bonuses are climbing when profits are shrinking—something is wrong.

The other area that needs more corporate attention is education and training. Again, many companies are investing significant sums, but too many others aren't. In a constantly changing work environment, honing skills and keeping up with the latest technology is an essential priority for all companies that intend to remain competitive. Yet right now, the average company spends roughly 1.5 percent of its payroll on employee training and education. To my mind, that figure needs to double.

The United States still offers the best employment opportunities in the world. But if it is to stay that way, it will require a new social compact in the workplace. That doesn't mean guaranteed job security—which is impossible in today's highly competitive world. But it does mean employment security; ensuring that workers acquire the training and skills to move up the ladder, if not at one company, then at another.

For employees, it means that instead of thinking of themselves as victims, they should be investing in their own futures. And, in exchange for their hard work, they should insist that corporations keep up their end by helping to fund the cost of training, and by rewarding financially those who help themselves.

Mr. HOLLINGS. This particular article refutes the statement by the Senator from Connecticut. Big business is doing fine. They are not worried about new products. They are competitive. They are making the biggest profits. It goes right back to the official hearings we had with the conference report, risk managers. Over 432 risks managers sat there and said it was less than 1 percent of the cost of the product.

So we can hear these statements that this is the No. 1 thing they are worried about, and everything of that kind and holding things back, but under the Cornell study, product liability cases are diminished by 44 percent in the last decade and, yes, industries are suing industries like Pennzoil suing Texaco for a $10 billion verdict. Those things occur.

But this is not the No. 1 interest of business. The No. 1 interest of business, that I have been trying to defend in the Commerce Department and ask what they are interested in, they say they are interested in capital gains. "We are not going to really spread our influence around. On the contrary, we are going to fight for capital gains and let the Commerce Department and the President take care of that."

I yield 7 minutes to the distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague. I thank the Senator from South Carolina.

Mr. President, I ask my colleagues to consider the faces of people who will be hurt by this provision. Think of LeeAnn Gryc from my State of Minnesota who was 4 years old when the pajamas she was wearing ignited, leaving her with second and third degree burns over 20 percent of her body. An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable the company was "sitting on a powder keg."

This bill contains a cap on the punitive damages a plaintiff could receive. How would this affect LeeAnn? We are talking about people, we are talking about consumers. They may not be the heavy hitters, or the big players, but that is who we are talking about.

It all depends on what kind of compensatory damages the jury awards. Are we really willing to sit here in Washington and dictate to LeeAnn and other victims of defective products how much is enough to punish and deter the people who hurt them?

The jury's role. By capping punitive damages this bill takes power out of the hands of the jury. This particularly confounds me. People on juries are fine when they are electing Members of the Senate to their jobs. But apparently some of my colleagues do not trust them to sit in judgment of their peers. They sit in judgment of us, do they not? Are they not usually the finders of facts? How is it that they lose their competence in the short trip from the ballot box to the jury box?

Elimination of joint liability. In Minnesota we struggled with this problem and we have come to a middle ground. Joint liability only applies to wrongdoers who are over 15 percent responsible. But this bill would say that Minnesota's solution is not good enough. This bill would preempt Minnesota's law with an extreme measure, one that my State at least has chosen not to embrace.

Again, Mr. President, real people, faces I would like my colleagues to see before they vote. Nancy Winkleman, a Minnesotan I met last year who was in a car crash. Because a defective car underride bar failed to operate properly, the hood of her car went under the back of a truck and the passenger compartment came into direct contact with the rear end of the larger vehicle. Without the benefit of her car's own bumper to protect her, she was severely injured, losing part of her tongue and virtually all of her lower jaw. Despite reconstructive surgery, her face and ability to speak will never be the same.

I cannot imagine the pain that Nancy must have undergone or the pain that she undergoes every day, nor can my colleagues. If one of the responsible parties in her case was unable to pay their fair share, should she go uncompensated for some of that pain or should the other responsible parties have to make it up? Unless you are certain, colleagues, that it is more important to protect those other parties, who usually have been found to be negligent, than to compensate Nancy for her pain, you should not support this bill. If you do, you will be hurting real people, you will be hurting real people.

Statute of repose now cut down to 15 years. Jimmy Hoscheit was a boy at work on his family farm when he was hurt. I met Jimmy last year when he was in my office telling me his story. He was using common farm machinery, consisting of a tractor, a mill, and a blower, all linked together with a power transfer system, much like the drivetrain on a truck. The power of the tractor was transferred to the other equipment by way of a spinning shaft, a shaft covered by a freely spinning metal sleeve. The sleeve is on bearings so if you were to grab the sleeve, it would stop moving, while the shaft inside would continue to powerfully rotate at a very high speed.

Apparently when Jimmy leaned over the shaft to pick up a shovel, his jacket touched the sleeve and got caught on it. However, instead of spinning free on the internal shaft, the sleeve somehow was bound to the shaft, became wrapped in Jimmy's jacket and tore Jimmy's arms off. His father found him flat on his back on the other side of the shaft. The manufacturer could have avoided all of this if it just provided a simple and inexpensive chain to anchor the shaft to the tractor.

I ask you, should Jimmy be able to bring suit against the manufacturer? What if the product was over 15 years old? Does that make his injury and his pain any less severe?

A similar question can be asked about 6-year-old Katie Fritz, another Minnesotan whose family I was privileged to meet when we began consideration of the bill. This is about real people. Katie was killed when a defective garage door opener failed to reverse direction, pinning her under the door, and crushing the breath out of her.

We do not know how long some of these machines can last. If that garage was at a business and was over 20 years old, Katie's family could not have sued the manufacturer. There would not be any question of capping punitive damages or having joint liability for noneconomic damages. They simply would not be allowed to the courthouse door.

Mr. President—the big picture—on behalf of people like LeeAnn, Jimmy, Katie, Nancy, real people, consumers, I urge my colleagues to reach into their hearts and do the right thing, and to reject this bill. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated only yesterday from Mothers Against Drunk Driving in opposition to the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MOTHERS AGAINST DRUNK DRIVING,
Irving, TX, March 19, 1996.

Re H.R. 956 Conference Report.
Members of the U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the more than 3 million members and supporters of Mothers Against Drunk Driving (MADD) and the thousands of victims of drunk drivers crashes in this country, I urge you to oppose the H.R. 956 Conference Report (The Common Sense Product Liability Act of 1996). While it may not have been the intent of the sponsors and supporters of this legislation to limit or restrict the rights of drunk driving crash victims to be fully compensated for the harm they have suffered, this will be one of the unintended consequences of this bill in its present form.

It is clear that alcoholic beverages will fall within the meaning of "product" in this bill and the term "product liability action" in the bill means "any civil action brought on any theory of harm caused by a product or product use." The limitations and restrictions imposed by this legislation will limit recovery by victims of drunk driving crashes against sellers who irresponsibly serve intoxicated persons or minors who subsequently cause drunk driving crashes killing or seriously injuring innocent victims. Defendants in these dram shop cases will be able to use the defenses and protections provided to them by this legislation to prevent these innocent victims from being fully compensated for the harm they have suffered.

The caps on punitive damages contained in this reform legislation will directly benefit those who irresponsibly serve alcoholic beverages to obviously intoxicated persons and minors in violation of existing laws and in total disregard for the safety of the citizens who drive on our highways. In 1994, 16,589 people were killed and an estimated 950,000 were injured in drunk driving crashes in this country. Punitive damages have historically been allowed against defendants as a means of "protecting the public" and "deterring dangerous conduct." I know of no more appropriate case for the imposition of punitive damages without limitations than drunk driving and dram shop cases. The limitations on recovery of non-economic damages and joint and several liability are additional roadblocks this legislation puts in front of drunk driving crash victims.

For the reasons outlined above, MADD urges you to oppose the H.R. 956 Conference Report. The defects and unintended consequences of this bill can be corrected and we can avoid this rush to judgment which will have a devastating impact on drunk driving crash victims.

Sincerely,

KATHERINE PRESCOTT,
National President.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my colleague for this opportunity to rise in opposition to the conference report to H.R. 965, the Commonsense Product Liability Legal Reform Act of 1996.

Before I lay out my reasons for objecting to this conference report, I would like to express my dismay that while appointed as a conferee, I was never invited to participate in the conference. I am very disappointed that the legislative process has deteriorated to this level where diverse views are no longer welcome.

A critical analysis of the conference report to H.R. 965 reveals that the balance tips in favor of product producers at the expense of injured women, children, retires, and the poor.

This measure provides a series of limitations on the ability of victims to recover from the manufacturers of defective products, while it expressly exempts the big businesses who support this bill from those requirements.

For example, if company A purchases a piece of factory equipment from company B, and that piece of equipment is defective and explodes, company A can sue company B for all of its lost profits caused by the disruption of company A's business. On the other hand, the family of the poor worker who is operating the machine at the time it exploded must face the limitations in the bill to recover. Further, if the piece of machinery is 15 years old or older, the worker or his family cannot recover at all while the business faces no such limitation.

The punitive damage limitation in this bill causes me tremendous concern. I find it ironic that in the punitive damage section of the bill, it clearly indicates that punitive damages may only be awarded in the most serious cases. Yet later in that same section it provides that the amount of damages that can be recovered for these most serious cases is limited to the greater of 2 times the economic and noneconomic damages of $250,000. That same section further limits the ability to recover damages by creating a special rule protecting individuals of limited net worth and business or entities with a small number of employees. The construction of this section is facially inconsistent with its intent.

I would also like to debunk the myth that punitive damage awards threaten the viability of many business. The evidence indicates otherwise. Punitive damages are rarely awarded in product liability cases. In "Demystifying the Functions of Punitive Damages in Products Liability: An Empirical Study of a Quarter Century of Verdicts" (1991), author Michael Rustad concludes that consumer products are responsible for an estimated 29,000 deaths and 30 million injuries each year. Between 1965 and 1990, punitive damages were awarded in only 353 product liability cases—91 of which involved asbestos claims. In addition, he states that approximately 25 percent of these awards were reversed or remanded upon appeal. It is apparent that punitive damage awards do not threaten the viability of businesses.

In addition, this measure discriminates against women, children, and retirees. Women are most likely to be victims of such dangerous products as Dalkon shields, Copper-7 intrauterine devices, high estrogen birth control pills, super-absorbent tampons and silicone gel breast implants. These products all were justly held liable for punitive damage awards and were removed from the market. Had this bill been in effect, punitive damage awards in these cases would have been severely limited and the impetus for these companies to remove these dangerous products from the market may not have been as strong.

H.R. 956 also makes noneconomic damages more difficult to recover. Again, women, children and the poor are disproportionately impacted. It fundamentally alters the traditional concept of joint and several liability by eliminating joint liability. H.R. 956 places the harm caused by defective breast implants, or a women's loss of her ability to bear children, or the disabling of a child, in a secondary position to that of the lost salary of a corporate executive.

The corporate executive who misses work because of an injury caused by a product is unfettered in his ability to recover millions because he can easily establish his economic damages. However, if a young woman loses her ability to ever become a mother because of a defective contraceptive device, she is made to endure additional difficulties to recover compensation and, under the bill, faces the risk of not being able to collect her damages at all since these are noneconomic. This is inherently unfair.

On a very personal note, if I may, Mr. President, thank God that provisions of this law were not part of the American military laws at the time I had the privilege of serving this country in uniform. On May 30, 1947, I was retired, not as a general, not as a colonel, but as a small captain. I was awarded at that time the sum of $175 a month for the loss of my arm. I would like to believe that my arm is worth much more than that. But Uncle Sam did not forget us. That amounted to $2,100 per year. Today, Uncle Sam, understanding the rising cost of living, is now awarding me $19,140 a year tax free.

In addition to that, Uncle Sam sees to it that if I desire, I can receive medical services for the rest of my life. The same thing for my spouse. I have received free education as a result, receiving my law degree. If this provision was in effect at that time, I would end up receiving $175 a month, if I am lucky, for the rest of my life. In other words, Mr. President, Uncle Sam has paid me in damages, and never once did they ask me, is this the most serious of cases? They did not ask me about strict liability. It made no difference whether I fell off a jeep or was struck by a shell. I received in excess of $383,000. I think the least that can be done is to do the same for fellow citizens.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Tennessee.

Mr. FRIST. Mr. President, I yield myself 5 minutes.

Mr. President, I rise today to speak in support of the Commonsense Product Liability Legal Reform Act of 1996. This piece of legislation has been crafted carefully. It is tempered. It is moderate. It is bipartisan.

We now live in the most litigious country on Earth, and we are paying a huge price as a result. Year after year, companies are forced to lay off workers or shut down entirely because of the staggering cost of product liability insurance or because of the threat of outrageous damage awards that in many cases bear no relation whatever to the underlying claims. This bill will help stem that tide. It will help preserve jobs, particularly manufacturing jobs, and it will help create jobs.

At a time in our country when there is so much focus on worker unrest, so much focus on the loss of good manufacturing jobs, when there is so much talk about finding ways to stimulate the economy, this is an easy call. It is a bipartisan bill. It is supported by 90 percent of the American public. We all know that the only real group that opposes it is a small band of plaintiff's attorneys who have become wealthy at the expense of the public at large. It is the trial lawyers and a few special interest groups that are preventing this bill from becoming law.

Mr. President, critics of the House-Senate compromise are concerned about the violation of States' rights. This is one area where a federalism argument simply does not hold water. The Framers of the Constitution valued local decisionmaking and they wanted to avoid an overly centralized Federal Government. However, one important exception they recognized was the need to have Federal control over interstate commerce and trade.

Alexander Hamilton, in Federalist No. 11, wrote about his concerns that diverse and conflicting State regulations would be an impediment to American merchants. Today, the abuses in our product liability system have reached the point where they are, indeed, a major impediment to interstate commerce. The Commerce Department had reported that over 70 percent of the goods manufactured in a particular State are shipped out of that State and sold. Moreover, the National Governors' Association, the obvious protector of States' rights, has adopted three resolutions calling on Congress to enact a uniform Federal product liability law, most recently in January of 1995.

Opponents of this legislation have also argued the so-called hard cap on punitive damages. But there is no hard cap on punitive damages. The bill permits punitive damages to be awarded against large businesses up to the greater of $250,000 or two times the claimant's compensatory damages. It is critical to note that it is two times compensatory damages, not just economic damages. Two times compensatory damages will still permit huge punitive damages awards in almost all product liability cases where such punitive damages are appropriate.

The damage awards in this country will still be astronomically higher than in any other industrialized nation, but at least there will be some limits that businesses can hang their hats on. If that were not enough, the trial judge is given the discretion to award even more if he or she thinks it is appropriate. This is not a hard cap. All it does is inject an element of predictability into our legal system.

If you asked most citizens in this country whether or not they think it is fair to cut off lawsuits 15 years after a product was manufactured, most would agree that is eminently reasonable. And even this modest limit does not apply in cases involving motor vehicles, vessels, aircraft, passenger trains, or in any case involving toxic harm.

At the end of the day, when you finish sifting through the opponents' concerns with this bill, it is clear that the trial lawyers are exercising an inordinate amount of political muscle. Their opposition to this bill is clearly in their own interest. But it is bad politics, and it is terrible policy.

American workers and American businesses need this bill. Industry trade associations report that today 30 percent of the price of a step ladder, 33 percent of the price of a general aviation aircraft, 95 percent of the price of a childhood vaccine are all due to costs of product liability.

I urge my colleagues to support this bill, and I urge the President to rethink his position.

I yield the floor.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes, 22 seconds.

Mr. HOLLINGS. I yield 7 minutes, 22 seconds to the distinguished Senator from California.

Mrs. FEINSTEIN. Mr. President, I supported the Senate-passed product liability bill, and I am very proud of that. I think the findings in the conference report very clearly state why there needs to be a product liability bill, not the least of which is some uniformity all the way across the broad consumer market, known as the United States of America. While I supported the Senate-passed bill, the conference report, I believe, raises some new questions, points of controversy that, since I am not a lawyer, I cannot resolve. I ask one party and they say one thing; I ask another party and they say another. This may mean clarification is needed. It may mean that substantive changes need to be made. But surely, it means, I believe, that we should send this bill back to conference.

I want, very briefly, in the time afforded me, to make five points. The first is the section, or the move of the section, on negligent entrustment. Negligent entrustment, as it was presented in the Senate bill, applied to the entire bill, and now, in this bill, it has been placed in a section on "Liability Rules Applicable to Product Sellers, Renters, and Lessors." This move, I am told, also then places a cap on punitive damages in negligent entrustment actions, and subjects them to the limitations on joint and several liability.

This is a problem to me because, in the event of automobiles and drunk drivers, guns sold or given to people who misuse them, this could have an impact on the kinds and types of suits and the amount of judgments derived therefrom. Therefore, my belief is that this entire issue of negligent entrustment needs to be clarified so that we are certain that the exception applies throughout the entire bill.

Second the statute of repose. California has no statute of repose. The proposed statute of repose in the Senate bill was 20 years, and now it is down to 15 years in the conference report. The bill provides, however, that any State with a statute of repose that is under 15 years prevails. California, with no statute of repose, cannot have a higher standard and maintain no statute of repose. But a State with a lesser standard of, let us say, a 10-year statute of repose, can prevail. To me, this is unsatisfactory. For my vote, I would have a very difficult time having a statute of repose in a bill which is less than 20 years.

I believe it sends a wrong signal to U.S. manufacturers. I believe it sends a message to manufacturers all across this great land that they can, in fact, manufacture less durable and perhaps even less safe products, because their time for liability is cut dramatically, certainly from no statute of repose to a 15-year statute of repose. This is a dramatic change in the bill.

The third point is the definition of durable goods. Durable goods are subject to the statute of repose. In the definition on page 4 of the conference report, section 101, subsection 7, one comma has been deleted and one has been added. I must say that what could be just grammatical has caused a maelstrom of interpretation and misinterpretation. And I, frankly, do not know who to believe.

This may be a drafting error, or it may be an intentional change in meaning. But many people point out to me that this change of a comma could change the definition of durable goods.

The fourth point I would like to make has to do with the additur provision, and this relates to punitive damages. I believe it needs further clarification. As I understand the additur provision in this conference bill, it provides that if a State has a cap on punitive damages and does not authorize an additur, then a judge is unlikely to have the authority to award punitive damages above the State cap. I believe this needs to be cleared up by the conference committee.

My fifth point has to do with biomaterials. I come from a State with many responsible companies who are very concerned about the possibility of losing their supplies of raw materials. They need this legislation because they produce lifesaving devices, whether they be pacemakers, or heart starters. I was visited by a very young woman who had a condition in which her heart periodically would just stop, and she had an implanted device that would restart her heart. Her heart would sometimes stop when she was asleep. The people that made some of the materials that went into this device essentially would not provide it absent some release from liability.

But, as presently drafted, biomaterials suppliers—including suppliers of component parts—can be liable only if they fail to meet their contract specifications, or if they fail to properly register their materials with the FDA.

First, I think we need a better definition of what is a "component part" in the bill to ensure that this does not sweep too broadly, and to ensure that this language would not allow certain manufacturers of devices to escape liability. I believe it is also very important that raw materials suppliers who know that their products pose a potential hazard and fail to disclose such harm should be held liable for knowing behavior.

I thank the Chair.

Mr. PRESSLER. Mr. President, this should be a great day. It should be a great day for small business. It should be a great day for employees of those businesses. It should be a great day for consumers. It should be a great day for those unfortunate enough to be injured by defective products.

As chairman of the Committee on Commerce, Science, and Transportation I am extremely pleased and proud to see the Senate take up consideration of the conference report to H.R. 965, the Commonsense Product Liability Legal Reform Act of 1996. This is historic. Never in almost two decades of work have we gotten this far. I am deeply saddened, however, by the President's announced intention to veto this important legislation.

I am also quite puzzled. You see, as Governor of Arkansas, Bill Clinton in August 1991, sat on the committee that drafted and unanimously approved the National Governors Association's [NGA] first resolution supporting product liability reform. Governor Clinton also went on record in support of the second resolution favoring product liability reform passed by the NGA.

Mr. President, America is plagued by frivolous lawsuits. Every day, our economy is victimized by ridiculous damage awards, both real and threatened. This conference agreement represents a substantial reform of the legal system that allows this abuse. It is tragic some have allowed this effort to formulate meaningful policy to be overtaken by political posturing. It is election year politics at its worst. The sad thing is the posturing is being done for the benefit of certain special interests. Tragically, if the special interests win, the American people lose.

BRIEF HISTORY OF THE STRUGGLE FOR REFORM

Mr. President, over the past 15 years the Commerce Committee has held 23 days of hearings on product liability reform. In this Congress, the companion measure to H.R. 965—S. 565—was reported by the Commerce Committee on April 6, 1995. The bill marked the seventh reform bill reported by the Commerce Committee since 1981. I have been involved deeply in the product liability reform movement since that time. I was an original cosponsor of the Risk Retention Act that became law in 1981. This legislation provided for liability insurance pools—so-called risk retention groups—for businesses. I chaired Small Business Committee field hearings in Sioux Falls and Rapid City, SD, on this issue in 1985.

Over the years, I sponsored numerous product liability reform bills with some of the great leaders in this area including Senators Kasten and Danforth. These gentlemen are no longer Members of this body, but this legislation is their legacy. I want to commend them for their excellent work. They truly pioneered much of this effort. It has brought us to this point. We would not have gotten this far without them.

Let me also take a moment to commend two of our current colleagues—Senators GORTON and ROCKEFELLER—for their hard work and dedication to this process. They have given years of labor to a cause in which they both are committed and have done so in an extraordinarily bipartisan fashion. I also know Jeanne Bumpus and Trent Erickson of Senator GORTON's staff and Tamera Stanton, Jim Gottlieb, and Ellen Doneski with Senator ROCKEFELLER have given much of the past year, and in some cases more time than that, to this effort. On my own staff, I want to commend Tom Hohenthaner, deputy chief of staff for the Commerce Committee, who has worked this issue for years and in this Congress managed what has often been a tortuous process. I also thank Lance Bultena, counsel for the Consumer Subcommittee, for his dedicated efforts.

Let me next pay tribute to House Judiciary Committee Chairman HENRY HYDE who also served as chairman of the conference. HENRY and I were in the same freshman class in the House back in 1974, and I have been honored to serve with him over the years. At the first meeting of the conference, I likened Chairman HYDE to a beacon shining brightly in a field. I would say that his light never wavered in this process and without his fine leadership we would not be here today. Chairman HYDE was assisted in this process by Alan Coffee, general counsel and staff director for the House Judiciary Committee and a savvy veteran of many legislative battles over the years. Diana Schacht and Peter Levinson, both counsels to the Judiciary Committee, and both consummate professionals, also put in a great many hours in this process. Finally, the House Commerce Committee shared jurisdiction over this measure, and I think and commend Chairman BLILEY for his leadership. Robert Gordon, counsel to the House Commerce Committee, proved a dedicated and significant member of the team of staff—all of whom worked so hard on this conference agreement and legislation that preceded it. Again, I thank them all.

I know many—including many of our colleagues in the other body—would have liked to see much broader reform. Indeed, many in this body wanted more. So why this fairly narrow and moderate approach? The short answer is: expansion was not possible. We tried. Last April 24 the Senate began consideration of the legislation. Over the next 2½ weeks—and some 90 hours of debate—the Senate considered and voted on over 30 amendments.

Ultimately, the Senate passed a bill very similar to the legislation reported by the Commerce Committee. In the following months, we negotiated with our colleagues in the other body who had passed a much broader bill. Again, activity centered around the possibility of expanding the scope of the Senate bill. Mr. President, the bill that has emerged from conference is—virtually—the Senate-passed bill. It is extraordinarily close to the legislation we sent out of the Commerce Committee last spring. The Senate should pass it again.

The conference agreement is narrower than many of us would like. However, while limited in scope, it is an excellent piece of legislation. This bill is fair, balanced, and well reasoned. Indeed, it is a moderate package of reforms. It also keeps faith with what we set out to accomplish—it provides substantial reform to a legal system that is broken.

HIGHLIGHTS OF THE CONFERENCE AGREEMENT

Mr. President, let me highlight some of those much-needed reforms:

Punitive damages. The conference agreement provides that punitive damages may be awarded in a product liability case if a plaintiff proves, by "clear and convincing evidence," that his or her harm was caused by the defendant's "conscious, flagrant indifference to the safety of others." This language is to make clear that punitive damages are only to be awarded in the most serious of cases.

Mr. President, a fact all too often overlooked in this debate is that punitive damages are not intended as compensation for injured parties. They are punishment. Punishment of defendants found to have injured others in a conscious manner. They are used much as fines in the criminal system. However, currently there are two big differences. First, unlike the criminal system, there are virtually no standards for when punitive damages may be awarded. Second, when awarded, there are no clear guidelines as to their amount. This agreement addresses both problems. It brings uniformity to the punishment and deterrence phase of product liability law by providing a meaningful standard for when punitives are to be imposed and at what level.

Under the conference agreement—except in cases against small businesses—punitive damages in a product liability case may be awarded up to two times compensatory damages or $250,000, whichever is greater. An additur provision permits the judge to award punitive damages beyond this limit if certain factors are met, but the judge cannot exceed the amount of the jury's original award.

When the defendant is a small business—or similar entity—with less than 25 full-time employees, punitive damages may not exceed $250,000 or two times compensatory damages, whichever is less. The additur provision does not apply to small businesses.

Finally, either party can request the trail be conducted in two phases, one dealing with compensatory damages and the other dealing with punitive damages. The same jury is used in both phases.

Joint and several liability. Joint liability is abolished for noneconomic damages—such as pain and suffering—in product liability cases. Joint liability is a concept allowing one defendant to be held liable for all damages even though others also were responsible for the damage caused. What are the consequences? Too often, it means one person is held responsible for the conduct of another. True wrongdoers are not held liable. Indeed, consumers ultimately pay these claims—either through higher prices, loss of service, or higher insurance premiums.

Therefore, as to noneconomic damages, under this bill defendants would be liable only in direct proportion to their responsibility for the claimant's harm—so-called several liability. This section goes a long way toward correcting one of the most often abused aspects of our current civil legal system. It would ensure defendants would be held liable based on their degree of fault or responsibility, not the depth of their pockets.

Mr. President, this is an issue on which I have worked for many years. In 1986, I fought to strengthen proposed product liability legislation, S. 2760, with an amendment regarding joint and several liability. My amendment—which passed the Commerce Committee—also abrogated joint and several liability for noneconomic damages in product liability cases. I am proud the spirit of my amendment of a decade ago lives on in this legislation.

Alcohol and drugs defense. Under this bill, the defendant in a product liability case has an absolute defense if the plaintiff was under the influence of intoxicating alcohol, illegal drugs, or misuse of a prescription drug and as a result of this influence was more than 50 percent responsible for his or her own injuries.

The philosophy behind such a provision is simple. A society working hard to discourage alcohol and drug abuse must not sanction such abuse by allowing individuals to collect damages when their disregard of a vital societal norm is the primary cause of an accident.

Misuse and alteration defense. Under this legislation, a defendant's liability in a product liability case is reduced to the extent a claimant's harm is due to the misuse or alternation of a product. Why should the manufacturer of a machine pay for injuries I sustain because I remove safety guards put on in the factory?

Statute of limitations. The statute of limitations for product liability claims is established as 2 years from when the claimant discovered or reasonably should have discovered both the harm and its cause. A plaintiff may not file suit after this time.

This is an excellent example of how this legislation would benefit victims. Under current law, some States establish the time of injury as the point at which the time for bringing a claim begins to run. Often this is not a problem. However, in cases in which the harm has a latency period or manifests itself only after repeated exposure to the product, the claimant may not know immediately if he or she has been harmed or the cause of the harm.

This bill thus would reduce the number of victims who, having otherwise meritorious claims, are denied justice solely on the basis of the statute of limitations in the State in which they file their claim.

Statute of repose. A statute of repose of 15 years is established for certain durable goods. A durable good is defined by the bill as one having either: a normal life expectancy of 3 or more years, or a normal life expectancy that can be depreciated under applicable IRS regulations; and is: first, used in trade or business; second, held for the production of income; or third, sold or donated to a governmental or private entity for the production of goods, training, demonstration or any similar purpose.

No product liability suit may be filed for injuries related to the use of a durable good 15 years after its delivery unless the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than 15 years. In such a case, the statute of repose does not apply until that warranty period is complete. The statute of repose section does not apply in cases involving toxic harm.

States would be free to impose shorter statutes of repose and to cover more than just durable goods. For instance, the House-passed version of this bill would have applied the statute of repose to all goods.

The need for a Federal statute of repose was presented well by a fellow South Dakotan, Art Kroetch, chairman of Scotchman Industries, Inc., a small manufacturer of machine tools located in Philip, SD. Last year during hearings, Art told the Commerce Committee how vital product liability reform is to the ability of American manufacturers to compete in the global marketplace.

Art told me that under the current patchwork of liability laws, his company pays twice as much for product liability insurance as it does for research and development. Mr. President, the system is broken.

Workers compensation subrogation standards. This provision preserves an employer's right to recover workers compensation benefits from a manufacturer whose product harmed a worker—for instance, the manufacturer of a machine used in a business which injures an employee—unless the manufacturer can prove, by clear and convincing evidence, that the employer caused the injury—for example by maintaining an unsafe work environment or taking safety guards off the machine.

This section of the bill makes no changes to the amount of damages an injured worker can recover in such cases. It merely provides the insurer or employer will not be able to recover workers compensation benefits it paid to an injured employee if the employer or a coemployee is at fault.

Biomaterials Access assurance. In certain actions in which a plaintiff alleges harm from a medical implant, title II of the legislation allows biomaterial suppliers to be dismissed from the action without extensive discovery or other legal costs. The term "biomaterial" refers to the raw materials—such as plastic tubing or copper wiring—used as part of an implantable medical device.

The legislation does not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. However, it releases biomaterials suppliers from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical implant.

During our hearings last year, the Commerce Committee heard compelling testimony that without such changes in the law, the millions of Americans who depend upon a variety of implantable medical devices will be at grave risk. Suppliers of biomaterials have found the risks and costs of responding to litigation related to medical implants far exceeds potential revenues from the sale of the components they manufacture.

Indeed, several major suppliers of raw materials used in the manufacture of implantable medical devices have announced they will limit—or altogether cease—shipments of crucial raw materials to device manufacturers. Each of the suppliers indicated these were rational and necessary business decisions given the current legal framework.

PRODUCT LIABILITY AND SMALL BUSINESS

Mr. President, during the last Congress it was my privilege to serve as ranking member of the Committee on Small Business. As a member of that panel for many years, I know product liability reform is essential to the future health and success of America's small businesses. Indeed, according to a Small Business Administration study, small firms may be affected more negatively than large firms by nonuniform product liability laws.

This is because small businesses do not enjoy economies of scale in production and litigation costs. In addition, they are less able to bargain with potential plaintiffs. Finally, their limited assets make adequate insurance much more difficult to obtain. The cost of product liability insurance in the United States is 15 times higher than that of similar insurance in Japan and 20 times higher than in European countries. We simply cannot compete.

America's small businesses need rationality and uniformity in the product liability system if they are to compete effectively in the global marketplace. As I explained previously, this point was at the heart of the testimony given by Art Kroetch of Scotchman Industries in Philip, SD, at committee hearings last year.

It also was the point made to me by Jim Cope of Morgen Manufacturing in Yankton, SD. Jim calls product liability reform a jobs issue for our State. Morgen has had to lay off workers and has been unable to give raises to other employees because of losses due to product liability claims—claims that never have resulted in a verdict against his company. Nevertheless, Morgen Manufacturing is forced to spend tens of thousands of dollars defending itself.

To Jim Cope—and many small business owners just like him—tort reform means more jobs for South Dakota and the Nation.

PRODUCT LIABILITY REFORM AND CONSUMERS

Mr. President, opponents of this legislation tell us it would hurt the American consumer. Don't you believe it. Aside from the jobs issue, product liability reform would benefit consumers in numerous ways.

It would lower the cost of U.S. goods. The current product liability system accounts for 20 percent of the cost of a ladder, 50 percent of the cost of a football helmet, and up to 95 percent of the cost of some pharmaceuticals.

Reform also would foster competition and provide consumers with a greater selection of products from which to choose. Studies tell us 47 percent of U.S. companies have withdrawn products from the market and 39 percent have decided not to introduce products due to liability concerns. As a result, Americans depend on single sources to provide such vital needs as vaccines for polio, measles, rubella, rabies, diphtheria, and tetanus.

This bill also would encourage safety improvements. By contrast, the current system actually discourages companies from engaging in research. Many fear research aimed at improving an existing product will be used against them to demonstrate they knew the product was not as safe as it could be. Certainty in the legal system would reduce this counterproductive effect.

In addition, the legislation would encourage wholesalers and retailers to deal with responsible and reputable manufacturers. This, in turn, would lead to better products for consumers. Under the conference agreement, product sellers would be legally responsible for products manufactured by companies that are insolvent or do not have assets in the United States. This should increase the quality of the products found on the shelves of U.S. businesses.

Mr. President, I have just outlined five ways this bill benefits consumers. First, it will mean more jobs. Second, it will lower the cost of the goods they purchase. Third, it will mean a greater selection of goods from which to choose. Fourth, it will encourage testing to make goods safer. Finally, it will help to maintain and, in some cases, improve the quality of products available to consumers.

A bill that is bad for consumers? How can they say that with a straight face?

PRODUCT LIABILITY REFORM AND THE INJURED

Mr. President, we also have been subjected to a great deal of nonsense that this bill would limit the rights of victims. Opponents paint the picture of injured victims being harmed further when the courthouse door hits them in the face.

Not only does this conference agreement leave intact a full range of victims rights, it actually improves the current system in at least two very critical ways. First, the system we have today is plagued by delay. Second, compensation that eventually is received often is inequitable. Curtailing frivolous lawsuits—all this legislation really seeks to achieve—would significantly improve both problems.

Currently, product liability suits take a very long time to process. A General Accounting Office study found, on average, that product liability cases took 2½ years to move from filing to trial court verdict. Other studies indicate it is more like 5 years. Most product liability cases are settled before trial, but even these cases suffer from delay. One plaintiff's attorney explained that "most settlement negotiations get serious only a week or so before trial is scheduled to begin."

Delay often results in undercompensation of victims. Many victims are forced to settle their claims for less than their full losses so they can obtain compensation more quickly. These individuals often are forced into this decision because of inadequate resources to cover medical and rehabilitation expenses while their case drags on.

Another way in which the current system inequitably compensates victims concerns proportionality. Numerous studies demonstrate the current tort system grossly overpays people with small losses, while underpaying people with the most serious losses.

A bill that limits victims rights? Try a bill that strengthens them.

THE TRUTH ABOUT PRODUCT LIABILITY REFORM

There you have it, Mr. President—the truth about what it is we are trying to accomplish. The truth about how this bill would help consumers, small businesses and, yes, even those injured in the use of a product.

The truth is, we would not change anything that is right with America's current civil justice system. Rather, we would curb the abuse of frivolous lawsuits that cost each and every one of us in a wide variety of ways each and every day. The courthouse doors stay open. Consumers retain a full complement of rights. Lawsuits would continue to provide a strong check on corporate behavior. Concepts such as contingent fees would continue to allow citizens with limited means to bring suit.

The truth, Mr. President, is that election year politics threaten to kill this effort. The truth is, we all lose if that happens. The truth is the American people know the current system is broken and want us to fix it. A recent poll conducted in my home State found 83 percent of South Dakotans responding feel "the present liability system has problems and should be improved," while only 10 percent said "the present liability lawsuit system is working well and should not be changed."

The truth is, that out there in the real America, this is not viewed as a partisan issue. Seventy-eight percent of Democrats, 83 percent of independents, and 88 percent of Republicans in South Dakota responding to the survey I just quoted say there are problems that need to be fixed. Mr. President, the message is clear. Our constituents do not believe this should be a political fight. I cannot for the life of me understand why some among us wish to make it so.

We should adopt this conference agreement. This body approved a virtually identical bill last year. Nothing done in conference should change anyone's reasoning. This is a moderate and reasoned bill. Let us do what is right. Adopt the conference agreement and send it on to the President. Hopefully, he will remember the strong commitment he demonstrated to product liability on two separate occasions just a few short years ago. Hopefully, he will not allow special interests to continue playing politics. The stakes are simply too high.

THE NEED TO ADDRESS LIABILITY FOR BIOMATERIALS

Mr. McCAIN. Mr. President, this bill contains a very important provision ensuring the availability of raw materials and component parts for implantable medical devices. This provision is necessary if Americans are to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers. To address this issue, Senator LEIBERMAN and I cosponsored the Biomaterials Access Assurance Act of 1994, which has been incorporated in the Product Liability Fairness Act which we are debating today.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal liability for selling relatively small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Due to their small profit margins and large legal vulnerability for these sales, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement, and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in nonmedical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life-enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The product liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve one important aspect of our broken medical product liability system.

This issue came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising, that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Addressing this issue by enacting the Product Liability Act would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act today to ensure the continued availability of biomaterials to ensure that the lives of Tara and thousands of other Americans are not jeopardized. I ask unanimous consent that a column from the Wall Street Journal entitled "Lawyers May Kill My Daughter" be printed in the RECORD. In this column, Tara's mother eloquently describes her daughter's condition and the need for this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

LAWYERS MAY KILL MY DAUGHTER

(By Linda Ransom)

Our daughter Tara was diagnosed at birth with hydrocephalus—sometimes called "water on the brain." In the old days, there was no treatment for hydrocephalus. Most babies diagnosed with it died within months. The lucky few who survived were severely handicapped. These days, the only medical intervention that works is a surgically implanted device called a shunt, made of silicone. The shunt is a tube and a pump that diverts excess fluid from Tara's brain.

Kids outgrow shunts, which is why Tara has already had five shunt surgeries. She will need more. There are no guarantees that there won't be complications from the surgeries—she's already had meningitis, hypotonia and temporary blindness. But before the new flexible silicone plastics were developed, shunts were not successful. We know that there are no guarantees even with a silicone shunt, but at least we have something that works.

Tara has come a long way. Eight years old, she has mastered skipping, jumping rope, roller skating and all the other things that kids do at her age. Until this year, she didn't even need glasses. She never read the "risk" statistics because she has been too busy reading the original 14 books of the Wizard of Oz series. Tara is currently in the third grade at Magnet Traditional School in Phoenix. She has been the top student in her class for the past two years, with most of her skills well above the fifth grade level.

More importantly, Tara is the perfect example of hope—hope in the skill of her surgeons, in advances in medical technology, and improvements in the shunt itself. She is also the symbol of our faith—faith in our belief that God's miracles are the hands of the surgeons and the minds of the scientists who make the discoveries and create the devices.

Without a shunt, however, she faces increased pressure in her brain leading to progressive retardation, blindness, paralysis and death. In the U.S., there are approximately 50,000 hydrocephalics like Tara depending on shunts to stay alive. That is about the same number of Americans who died in Vietnam. Hydrocephalics will never get their own wall in Washington, but they would leave behind just as many devastated families.

Although scientists are working on new and better shunts, no one can guarantee that a shunt will be available the next time Tara needs one. Because of lawsuit abuse, the silicone from which the shunt is made may no longer be available.

Dow Corning, the only manufacturer of raw silicone used in shunts, last year filed for bankruptcy as a result of thousands of lawsuits against their silicone breast implants. (These implants were recently found to be safe in numerous studies, including a Harvard report released in the current Journal of the American Medical Association.) Despite a preponderance of evidence that silicone products are safe, lawyers have signaled that they will now make all silicone devices a focus of their next big class action.

Because of liability and legal blackmail, chemical companies are no longer willing to sell the raw materials that go into these desperately needed products—from pacemakers and heart values, to knee joints and cataract lenses. For Tara's shunt, there are no alternative materials or suppliers that can be used.

No one denies there should be just compensation for gross errors, like the man in Florida who had the wrong leg amputated. But how can anyone be for speculative lawsuits against all silicone products when people desperately need these devices to live? How can anyone put the interests of a small group of trial lawyers seeking the next big class action lawsuit over the lives of children?

This lottery system creates big winners, but it also creates new losers. In Sara's case, no amount of money can buy a product that may no longer be manufacured because of a lack of raw materials—even if it is a life-saving device.

Lack of availability is creating a black market for medical devices in other countries. Tara's neurosurgeon told us that shunts are so scarce in Russia today, they are removed from bodies during autopsies and then used in new patients. Would you want a used device if you needed a pacemaker? Would you want to buy a shunt on the black market? Would you want your child to be on a waiting list for one?

The good news is there are reform efforts under-way in Arizona and at the federal level. The Senate is planning to vote, as early as today, on legislation to place reasonable limits on punitive damages and eliminate unfair allocations of liability in all civil cases. This would protect all Americans—not just the manufacturers of medical products but also small businesses, service providers, local governments and nonprofit groups. Above all, it would save children like Tara. Unfortunately, even if the bill passes, President Clinton has said he will veto it.

I'm not a legal expert. I'm just a desperate mother. But I know that reasonable changes must be made to protect everyone. Enact civil justice reform. Don't take hope away from Tara.

Mr. BURNS. Mr. President, I rise today in support of the conference report to H.R. 956, The Commonsense Product Liability Legal Reform Act of 1995.

This is an important piece of legislation that is the result of more than a decade's worth of effort. I would like to congratulate the members of the Conference Committee, led by Senators GORTON and ROCKEFELLER, on their diligence in coming up with a final conference report.

This bill will help to reign in unnecessary, costly, and time-consuming product liability cases. There is a lot of talk in this town about cutting regulations and making American companies more competitive. But when the talk is over nothing much has changed.

The product liability bill originally passed the Senate more than 10 months ago after prolonged debate. The final conference report is similar to the Senate-passed bill in scope and focus rather than the wide-sweeping reform found in the House bill.

This bill is conspicuous not for what is in it, but for what is missing. The House approved sweeping legal reform last year that would have addressed other civil cases, besides products, including lawsuits against doctors, charities, and volunteer organizations.

However, it does have important provisions on punitive damages, joint and several liability, statute of limitations, statute of repose, workers' compensation subrogation standards. It also covers product sellers and States rights.

This bill does not work against consumers; nor is it for manufacturers. In fact many proponents of products liability reform who had hoped and worked for broader reform are disappointed in its narrow scope. H.R. 956 merely attempts to block the free-for-all that has taken hold of our court system.

Everybody wins under this bill. Consumers will see products ranging from football helmets to life-saving new drugs become more widely available and less costly.

And it will not limit the legitimate rights of victims to sue or to receive full compensation for their injuries.

This legislation is a good step in the right direction. It will not stop lawsuits, but it will put some restraints on the out-of-control legal battles we have seen in recent years.

That is why it is so frustrating to hear President Clinton say that the reforms included in the bill go too far. This was a bipartisan effort to get a bill that would be enacted into law.

Negotiations between the House and the Senate were tempered with caution to ensure that it would get the support needed to be passed by the Senate.

Once again efforts by reform-minded folks in Congress is threatened by a President that has put plaintiff lawyers interests above those of regular Americans. Politics once again rears its ugly head. The losers are consumers, manufacturers, and true victims who find themselves locked in a case-clogged court system.

Mr. President, once again I ask my colleagues to take a close look at this legislation and vote in support of cloture.

CONTINGENCY-FEE LAWYERS' NONSENSE ABOUT THE COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT OF 1996

Mr. GORTON. Mr. President, a document being circulated by the Association of Trial Lawyers of America [ATLA] and their allied professional interest groups makes the accusation that the conference report on H.R. 956, the Commonsense Product Liability and Legal Reform Act of 1996, is radically different than the bill passed by the Senate. The contingency-fee lawyers' argument about commonsense product liability reform is unfounded.

Anyone who reads the conference report and compares it to the Senate bill can see for themselves that, except for change in the time period, not the narrow scope, of the statute of repose and two slight modifications to the additional amount provision, the conference report is virtually identical to the Senate bill. All familiar with the history of this bill also know House Members delayed going to conference, and then agreeing on a conference report, for almost a year until it became apparent that Senate allies of the trial bar would not support legal fairness legislation going beyond the Senate bill.

Facts are a stubborn thing for these lawyers, because as hard as they try to avoid them or argue around them or simply ignore them, as is often the case, the facts never change. And, the fact is that the product liability conference report is a narrow and limited proposal that almost mirrors the Senate's version of H.R. 956.

STATUTE OF REPOSE

H.R. 956, contains a narrow statute of repose, which places an outer time limit on stale litigation involving a limited category of products, workplace durable goods, that is, machine tools used in the workplace, that are over 15-years old. If the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than the period of repose—15 years—then the statute of repose does not apply until that warranty period is complete. The provision does not apply in any case involving a toxic harm, or in any case involving motor vehicles, vessels, aircraft, or trains used primarily to transport passengers for hire.

The only difference between the conference report and the Senate bill is the conference report's 15-year period; the Senate bill contained a 20-year limitation. Otherwise, the provision, including the limited category of products covered, is unchanged.

Approximately one-third of the States have enacted statute of repose legislation; no State provides a more liberal time period or is more favorable to potential plaintiffs in terms of its scope that the narrow provision in H.R. 956. Support is also found by comparing the proposed 15-year period to the laws of industrial nations which directly compete with the U.S. to provide jobs. The EC Product Liability Directive, implemented by 13 European nations and Australia, and Japan's new product liability law, which became effective July 1, 1995, each adopt a 10-year statute of repose which applies to all products. H.R. 956 will help level the playing field against foreign competitors abroad which put American jobs at risk.

The contingency-fee lawyers argue that the conference report extends the statute of repose to virtually all goods. This statement is wrong. Section 101(7) of the conference report narrowly defines the term Durable good as follows:

> DURABLE GOOD.—The term "durable good" means any product, or any component part of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 *and which is*—
>
> (A) *used in a trade or business;*
>
> (B) held for the production of income;
>
> (C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose. (Emphasis added).

Both the conference report and the Senate bill only apply to goods which have either a normal life expectancy of 3 or more years or are of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and are used in a trade or business, held for the production of income, or sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose. A machine tool is an example of product with a long life expectancy, subject to depreciation, which is used in trade or business.

The contingency-fee lawyers are misleading the public to believe that the workplace use limitation has disappeared from the conference report. It has not.

THE ADDITIONAL AMOUNT OR ADDITUR PROVISION

Recognizing that a flexible approach to punitive damages is likely to deliver strong bipartisan support for legal reform, opponents have challenged the constitutionality and content of the provision in H.R. 956 which permits a judge a safety valve to go beyond the proportionate limits set for punitive damages against larger businesses and award additional punitive damages (up to the amount of the jury verdict) in cases of egregious conduct in a desperate effort to shake support. The provision is constitutional and represents good public policy.

The conference report additional amount provision, as mentioned, contains two slight modifications to the Senate bill. First, a controversial provision in the Senate bill that would have allowed the defendant the right to a new trial if the court used award an additional amount of punitive damages has been removed from the legislation and does not appear in the conference report. This change was made in response to requests from the administration and several Senators just before the final Senate vote. The absence of the new trial language does not affect the constitutionality of the provision. Research by the U.S. Department of Justice indicates that the safety valve provision in H.R. 956 is constitutional.

Second, the Senate bill language was modified in the conference report to clarify that the additional amount which can be awarded may not exceed the jury's initial award of punitive damages. The jury is not informed of the statutory limit. This language strengthens the constitutional foundation of the provision. Opponents' seventh amendment right to jury trial arguments are without merit.

PRODUCT LIABILITY DOES NOT EXTEND TO NEGLIGENT ENTRUSTMENT

Once again opponents are trying to mislead and confuse product liability actions, which are covered by the conference report, with negligent entrustment cases, which are not covered by the legislation. As in the past, they use attention-getting, but irrelevant examples, such as drunk driving cases and gun violence.

The trial lawyers' hollow argument is based on the applicability section of the conference report, which says that the act applies to any product liability action brought in any State or Federal court on any theory for harm caused by a product. The reason for this broad definition is to assure that the bill covers all theories of product liability, that is, negligence, implied warranty, and strict liability. The argument then looks to the section dealing with product sellers, which imposes liability when a product seller fails to exercise reasonable care with respect to a product. The argument continues that a product seller's failure to exercise reasonable care in selling a gun to a minor, convicted felon, or mentally unstable individual would not be actionable, because the product seller was negligent with respect to the purchaser and not the product.

This argument reflects an obvious misconstruction of the bill. To make this clear, one only need look to the acts covered by product sellers in the conference report. This appears in the definition of product seller. The bill says that it is applicable to product sellers, but only with respect to those aspects of a product, or component part of a product, which are created or affected when before placing the product in the stream of commerce. The definition then addresses those things where the product seller produces, creates, makes, constructs, designs, or formulates * * * an aspect of the product * * * made by another. See §101(14)(B). This is classic product liability.

To make the point crystal clear, the product seller section specifically provides that the conference report does not cover negligent entrustment or negligence in selling, leasing or renting to an inappropriate party. Section 103(d) expressly states: A civil action for negligent entrustment shall not be subject to the provisions of this section but shall be subject to any applicable State law.

For these reasons, the bill would not cover the situation described by the trial lawyers. It also would not cover a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive.

In sum, the product liability bill covers product liability, not negligent entrustment or failure to exercise reasonable care with regard to whom products are sold, rented or leased.

TRIAL LAWYERS' OTHER ARGUMENTS ARE SIMILARLY WITHOUT ANY MERIT

The trial lawyers' desperate attempt to portray the conference report as to the right of the Senate bill includes a couple of other minor points which are so hollow and petty that they deserve only brief attention. First, the notion that the conference report expands the product seller section beyond the Senate bill, changes burden of proof rules for persons who irresponsibly misuse or alter products or seek punitive damages is completely meritless. The falsity of these arguments is apparent from the language of the conference report and the Statement of Managers. Second, the argument that the findings in the legislation are not supported is foolish. The subject of Federal product liability reform has been reviewed by Congress for 15 years and been the subject of hundreds of hours of hearings and floor debate.

Mr. SPECTER. Mr. President, I am voting for cloture on the conference report on product liability legislation because I believe, on balance, that the issue should be decided by a majority vote of the Senate.

In deciding to support cloture, I am significantly influenced by the fact that the conference report corrects my principal concern: punitive damages on egregious cases.

A decision on whether to support cloture depends upon a variety of factors such as whether there should be more debate to fully air the issues or whether a constitutional issue or some other fundamental matter is involved which warrants a super-majority of 60.

In the past, I have voted for cloture on product liability legislation in circumstance where I thought the matter should reach the Senate floor for a majority vote.

On this state of the record on this bill, I think there should be a majority determination, so I am voting in favor of cloture.

Mr. COATS. Mr. President, I rise today to urge my colleagues' support for this very important product liability reform legislation. This legislation is a conservative, but significant attempt to begin the process of curbing a civil justice system gone awry, a system that has been overwhelmed by the logistical burdens and economic costs of unnecessary and unwarranted litigation.

Mr. President, it is very appropriate that Congress begin to address this broad problem in the area of product liability reform. For it is this area of law that has become, perhaps, the most unruly, and which is having an increasingly adverse impact on the U.S. economy. There are several important provisions contained in this bill. However, I will limit my comments to the section dealing with biomaterials.

The purpose of this section is to provide a defense to the suppliers of biomaterials, or parts, which are used in the manufacture of implantable medical devices. What this section will do is insure the continued availability of the raw materials that are absolutely critical to the development of implantable medical devices. Under the current legal system, claimants who sustain harm from a medical device are encouraged to go after the company with the deepest pockets, the one they can get the most money from. Often times, this entity is the innocent supplier of the raw, biomaterials, that are utilized in the manufacturing of the device. This, in spite of the fact that the biomaterials supplier did nothing to cause the injury or harm.

Mr. President, the result of this vicarious liability on the part of the biomaterials supplier is that, economically, they cannot afford to supply the materials to the manufacturer because the risk of being innocently swept up into litigation is too high. You see, the volume of material they provide to the bio-manufacturer represents such a small percentage of their total sales that it is simply not cost effective to take the risk. They are driven out of the market by the risk of litigation.

Located in my home State, Mr. President, in Bloomington, IN, there is a very special company: Cook International. This company truly represents what is great about our economic system. Unfortunately, it also represents how a system gone awry can harm both business and the consumer.

Cook International manufactures medical devices. One product line is medical catheters. These catheters are high precision devices used for various medical procedures.

A true American success story, Cook International began operating out of the founder's home. It has rapidly grown into an international corporation manufacturing the very finest in precision medical catheters. Vital to these instruments is teflon. However, under the threat of potentially being swept up in a product liability law suit, Cook's suppliers have served notice that they will soon cease to provide the vital materials for the manufacture of these life saving catheters.

Without this legislation, Mr. President, companies like Cook will be forced to find new suppliers of biomaterials or simply cease to manufacture these products. The costs of this result can be measured in lost time, lost jobs, and lost lives.

Mr. President, this is a very simple provision. If a company meets all specifications of the manufacturer; if they are in no way involved in the actual manufacturing or sale of the biomedical device; if they have acted in good faith in meeting their contractual obligation to the manufacturer; they cannot be swept up in a product liability lawsuit simply because they have deep pockets. This is fundamentally fair.

I urge my colleagues to support this very responsible effort at reforming our product liability legal system. I urge them to do so in order to preserve and ensure the growth of the American manufacturing industry. I urge them to do so because it is absolutely vital to our biomedical industry.

Ms. MIKULSKI. Mr. President, today, I will vote against cloture on the Product Liability Reform Act conference report. I believe the Senate should have a careful and thorough debate on the consequences of this conference report.

We should not close the courthouse door to those with legitimate grievances. Nor should we close debate on an issue as serious and far-reaching as product liability reform. I particularly do not want to close debate when there is disagreement on the consequences on this conference report.

Mr. President, I voted for the Senate's version of the product liability bill. I absolutely believe Congress should enact a reform measure to reduce frivolous law suits and have national uniform product liability standards. I also believe that when it comes to public health and safety, those who are responsible must be held accountable for their actions.

The Senate bill achieved a balance which addressed the valid concerns of the business community while protecting the rights of citizens with legitimate cases. That's why I voted for it.

I made it clear at the time that moving beyond the Senate bill was unacceptable to me. I said, "To move beyond the Senate bill would be a mistake. The scales on this are delicately balanced. If those scales are tipped, it is unlikely I will support this bill."

Mr. President, over the past several days, I have carefully assessed the conference report on product liability. I have weighed the arguments made by its supporters and its opponents. Always I have asked whether the conference report represents the same bill I voted for in 1995, or whether it was changed, tilting the delicate balance I talked about last spring.

Let me be clear. I do believe we need reform in this area. My job as a U.S. Senator is to save jobs, to save lives, and to save communities. I do want to reduce frivolous lawsuits. I want to remove barriers which stifle innovation. I want us to be economically competitive.

At the same time, public health and safety are paramount with me. I want consumers to have some assurance that the products they use are safe. And if products are defective and cause harm, consumers should know they can seek justice and redress through our courts. I do not want to shut the courthouse door to people with legitimate claims.

That's why I have grave concerns about this conference report. This conference report does, indeed, tip the balance.

Let me tell you why:

First of all, under the conference agreement, consumer products not covered by the Senate bill will now be covered. The caps and other restrictions under the conference report apply to a wide range of consumer products and appliances, not just to those used in trade or business.

Second, the conference report adds another barrier to people who are seeking punitive damages. Under its provisions, an injured person will now have to demonstrate that the wrongdoer's conduct was the proximate cause of harm instead of merely resulting in harm. This is a much more difficult standard.

Third, the bill could unacceptably shift the burden of proof in cases where the alcohol and drug defense is used. Under our Senate bill, a defendant was required to prove the plaintiff was under the influence of drugs or alcohol. This conference agreement leaves this issue entirely up to the States.

Finally, the conference report fails to specifically state that the 2-year statute of limitations will be suspended in cases where a court has issued a stay or injunction. The Senate bill was quite clear on this point. I fear the conference agreement's silence on this issue will result in injustice.

For instance, in cases similar to the Dalkon Shield case, a court could issue a stay, and the statute of limitations could run out for people who have legitimate claims. I fear this defect in the conference report will prevent women who have suffered from defective products from seeking justice.

Mr. President, I know there are disagreements on each of the points I have just outlined. I know that people interpret the conference agreement's language on these and other issues in very different ways.

But, I must say that these very differences of opinion have reinforced my conclusion that I must oppose cloture and this conference agreement. When there are such deep and serious differences about the impact of this legislation, I must lean on the side of protecting consumers. I must place my obligation to protect public health and safety first.

Therefore, I will oppose cloture today. And I will oppose this conference report.

Mr. President, before concluding my remarks, I must acknowledge the tremendous work done by my esteemed colleague, Senator ROCKEFELLER, on this legislation. He has fought diligently to uphold the Senate's position on product liability reform. And, I must say that he has succeeded on a number of issues. His fight has been a valiant one, and I regret that I am not able to stand by his side today.

Let me just say, this year is not over yet. Many of us want genuine reform we can all support. Although I cannot support the conference agreement before us today, I hope we can go back to the drawing board. I want us to produce a bill which reflects the balance that is needed between the concerns of business and those of consumers. I would be proud to support such a bill.

Mr. HATCH. Mr. President, I rise in strong support of the conference report to the Product Liability Fairness Act.

I would first like to commend and congratulate my distinguished colleagues, Senators GORTON, ROCKEFELLER, and PRESSLER for their longstanding leadership on this issue and on this bill. They have labored long and hard over several Congresses to come up with a bill that is measured and fair, and that will accomplish meaningful and important reforms of our product liability system.

This bill will benefit American workers and consumers. The only people who may be truly hurt by this bill are some of the Nation's trial lawyers.

I hope this bill will not fall victim to election year politics. It is a good bill and one that we have needed for a long time.

When this bill was on the Senate floor last spring, I supported efforts to broaden it so that its key provisions on punitive damages and joint and several liability would apply to all civil lawsuits.

We succeeded in passing a Dole-Exon-Hatch amendment to broaden the punitive damages provision. Unfortunately, the bill with that provision in it could not survive cloture and the amendment was removed.

While I continue to support broader civil justice reforms—and would particularly like to see this Congress at least enact a bill to protect religious and nonprofit organizations and volunteers from excessive punitive damage awards—I offer my enthusiastic support to this product liability bill.

Even though it is a modest bill, it represents a significant step in the right direction toward removing some of the outrageous litigation abuses in our system.

Anyone who has looked at the substance of this bill will realize that this is a limited, reasoned effort that is long overdue. This bill should not even raise the question of a Presidential veto.

But unfortunately, it has.

The ink was barely dry on this compromise bill before the President, coming to the defense of a limited and narrowly focused interest group—trial lawyers—and at the expense of American competitiveness, American jobs, and American consumers, declared he would veto this bill.

For the sake of our constituents across the Nation, we should be crystal clear about where the opposition to this sensible bill comes from. It does not come from the American people, and it does not come from American workers and consumers.

Product liability reform is supported by the overwhelming majority of Americans. They have indicated their frustration with crazy lawsuits, outrageous punitive damage awards, and abusive litigation. They see a complete lack of common sense in our civil justice system.

They want change from a status quo that has been unfair and that has encouraged irresponsible litigation in this country. It is our responsibility to deliver that change. And it should be the President's responsibility to sign this bill.

Given the President's last-minute veto of the securities litigation reform bill, which came following appeals from a few well-placed, well-heeled trial lawyers, we probably should not be surprised by the President's obstructionist position on this bill.

Despite the sincere, tireless efforts of a leading member of his party, Senator ROCKEFELLER, to work out a bipartisan position, the President has apparently opted to defend the status quo.

Senator ROCKEFELLER should take some heart in the fact that while he may be no more successful in selling this bipartisan bill to the White House than his colleague Senator DODD was in selling the securities litigation bill, Senator DODD ultimately crossed the finish line.

We should at least be clear that the President's opposition to this bill comes only from the well-heeled trial lawyers who have taken advantage of our litigation system for their own benefit.

For too long, our citizens have been the ultimate victim of lawsuits and threats of lawsuits that go beyond the bounds of common sense. It often is not fair, and it often is very extreme.

By some estimates, nearly 90 percent of all companies can expect to become a defendant in a product liability case at least once. Estimates of the costs of product liability litigation range from $80 to $117 billion per year. That is simply too high.

Our national resources should not be misdirected to pay for extreme and unproductive litigation costs. We heard many, many references to these costs when this bill was on the floor last spring. We heard that 20 percent of the price of a ladder goes to pay for litigation and liability insurance, that one-half of the price of a football helmet goes to liability insurance, and on and on. Just who does President Clinton think is paying these additional costs?

This bill seeks to reduce the litigation tax burdening our economy and stifling innovation and job-growth. At the same time, it aims to ensure that those individuals who are harmed by defective products are compensated by the parties who rightfully should bear responsibility for wrongdoing.

This is an important point given the disinformation circulating about this bill. This legislation does not deprive any American of his or her right to sue.

We need these reforms because it has become evident that we cannot address these problems comprehensively without a uniform, nationwide solution to put a ceiling on at least the most abusive litigation tactics.

Products produced in one State move in interstate commerce. Manufacturers, product sellers, and individuals from one State may find themselves being sued in another State.

We need to protect citizens of some States from the product liability litigation costs imposed on them by other States' legal systems.

We need to assist those affected by laws in States where the legislatures have attempted reforms only to be thwarted by some State courts.

This bill does that by encouraging commonsense, responsible, and fair litigation.

For one, this bill reforms joint and several liability. I have spoken before about a case against Walt Disney World in which Walt Disney World was judged to be only 1 percent at fault for injuries a woman suffered when her fiance rammed into her on a grand prix ride at Disney World. Under principles of joint and several liability, Disney World was forced to pay 86 percent of the damages. (*Walt Disney World Co.* v. *Wood*, 515 So.2d 198 (Fla. S. Ct. 1987).)

This bill strikes a sensible balance by limiting joint and several liability to economic damages. This fairness approach means that defendants will be chiefly responsible for the harm that they cause rather than the harm caused by other defendants.

Other provisions also promote fairness. It is 100 percent wrong to paint them any other way.

Take the 2-year statute of limitations. That gives parties a reasonable time in which to take legal action after they know, or should have known, of an injury and its cause, at the same time that it prevents late-in-the-day lawsuits.

Who can argue with these commonsense provisions, except some of our Nation's trial lawyers who benefit from the increased fees they receive from unfair recoveries?

The bill imposes liability on product sellers only under certain circumstances in which the product seller is responsible for the safety of the product it sells. A product seller should not be held hostage to a lawsuit if the manufacturer caused the damage and the plaintiff can and should be suing the manufacturer.

The bill similarly provides that those who rent or lease products should be liable only where they themselves have actually been negligent or otherwise responsible for the harm—not where they are simply in the supply chain and have done nothing wrong.

The bill provides a defense if the plaintiff was intoxicated or under the influence of drugs and if that accounted for more than 50 percent of the responsibility for the harm caused. What is wrong with that provision?

The bill reduces damages payable by a manufacturer if harm is caused by any misuse or alteration of the product.

The bill includes a limit on punitive damages in product liability cases of two times the amount of economic and noneconomic losses. That permits an adequate punishment where punishment is called for, but puts some restraint on runaway punitive damages.

We did make some accommodations in this provision, including an exception allowing judges to go beyond the limits of the bill. This provision was tightened up in conference, and I think it was improved somewhat. Although I continue to have some reservations that the additur provision represents a weakening of the bill's punitive damages provision, I support this bill.

The provision that we added on the floor to protect small businesses has remained in the conference report. That provision applies to small businesses having less than 25 employees and individuals whose net worth does not exceed $500,000. In cases involving either of those as defendants, punitive damages cannot exceed the lesser of $250,000 or two times economic and noneconomic losses.

This worthy provision prevents small businesses and individuals from facing punitive damages in excess of $250,000.

The conference report adopts the House version of the statute of repose, which sets a 15-year limit beyond which manufacturers could no longer be sued in a product liability action. Of course, other parties having physical responsibility for the product, like product sellers or renters, would continue to bear responsibility.

I believe it is important to stress that punitive damages are in addition to make whole, compensatory relief. The administration produced its policy with respect to the Gorton substitute product liability bill on April 25, 1995, and was critical of the punitive damage limitations in the bill.

In the President's statement this past weekend indicating that he would veto this legislation, the President again criticized the punitive damages provisions—even though those provisions have since been modified in an attempt to address his concerns.

On May 2, 1995, I received a letter from Prof. George Priest of the Yale Law School responding to the administration's policy. I think he gets to the heart of why the administration's concerns then and now are misplaced, in error, and an excuse to veto this bill.

Let me read from that letter.

Professor Priest—responding to the bill's then punitive damages limit of three times economic damages or $250,000, whichever is greater—writes:

> The Administration opposes the cap on punitive damages on the grounds that the cap "invites a wealthy potential wrongdoer to weigh the risks of a capped punitive award against the potential gains of profits from the wrongdoing.

I note that the administration used that exact same phraseology in its statement of administration policy issued on March 16, 1996.

Professor Priest went on to write:

> Meaning no disrespect, the administration's position displays a naivete unworthy of the serious problems created for consumers and low-income consumers, in particular, by the current absence of limits on potential punitive damages awards.
>
> The administration appears to criticize and to want to prevent the calculation by potential defendants of future potential damages. That position cannot be sensibly maintained because it ignores the only purpose of punitive damages, which is to deter. There can be no deterrence without a calculation of a possible future penalty. The entire system of punitive damages is premised on the hope that potential wrongdoers will engage in such calculations and decide against engaging in harm-causing behavior. If there were no such calculations, there would be no deterrent effect. The issue, thus, is what the level of potential punitive damages ought to be in order to obtain appropriate deterrence.
>
> Although the administration does not address the issue, it is well established in the analysis of modern tort law (and hardly controversial within the academy) that the calculation of compensatory damages alone is sufficient to create the appropriate deterrence of loss. Additional punitive damages awards surely reinforce the deterrent effect of compensatory damages, but at a cost: Where punitive damages awards are excessive or unpredictable (which the administration seems to want), producers are deterred from sales altogether and withdraw products and services from markets. Excessive or unpredictable punitive damage awards, thus, harm consumers and low-income consumers most of all because low profit margin products and services are the first to be withdrawn.
>
> Many scholars believe (and I am among them) that the current problems created by excessive punitive damages are so severe that a cap of three times economic damages is still too high and that consumers—again, especially the low income—would benefit from a stricter cap.

I think that statement accurately and precisely sets out the reasons that I and so many others have come to the conclusion that punitive damages must be limited to benefit consumers. It is simplistic and inaccurate for opponents of this bill to claim that unlimited punitive damages benefit consumers. They do not.

I note that the proportionality limit in the current bill was moderated to two times the sum of economic and noneconomic damages.

Simply put, all of the provisions in this bill are commonsense provisions that level the playing field and encourage fairness in our product liability system. They are changes that Americans want and deserve.

I could go on and on about ridiculous product liability cases that Americans are sick of hearing about.

Everyone has heard of the McDonald's coffee case, but remember the McDonald's milkshake case? I spoke at length about that on the floor last spring.

A man had purchased a milkshake at the McDonald's drive-through, put it between his legs, spilled it all over himself, and got into an accident with another driver. That driver sued McDonald's on a product liability theory and claimed that McDonald's should have warned the milkshake drinker not to drink milkshakes and drive. (*Carter* v. *McDonald's Corp.*, 640 A.2d 850 (N.J. 1994).)

Or how about the president of the Dixie Flag Manufacturing Co. who testified before the Commerce Committee last April. His company was sued by a man who stopped to help some employees at another company lower a flag. The man claimed that, while holding the flag, he was blown off the ground by a strong gust of wind and that the flag ripped, causing him to fall and hurt himself. He sued the flag company, claiming that the flag was unreasonably dangerous. That is bad enough, but what is worse is that there was no evidence that Dixie Flag had even sold the flag at issue.

We have just got to restore some common sense into our legal system.

The examples and the abuse go on and on.

Our large and small businesses and our consumers and workers are being overwhelmed with litigation abuse.

The vice president of the Otis Elevator Corp. provided us with information indicating that his company is sued on the average of once a day. Once a day.

Although Otis wins over 75 percent of its cases, on average over the past 3 years it has spent $20 million per year on liability costs, about half of which has gone to attorneys' fees.

These are staggering costs that should take our breath away. They represent resources which could be going to create new jobs or undertake new advancements. Our national resources should be going to productive uses—not to unnecessary and overblown litigation and insurance costs.

In short, I hope the Senate will stand up for what is right and what the American people want and need. We should send this bill to the President.

And, the President should sign it.

Mr. DOLE. Mr. President, there is a broad bipartisan consensus that we must do more to curb lawsuit abuse in America—the kind of abuse that has turned suing your neighbor into the newest American pastime.

This bipartisan compromise bill is an important first step: It will restrain outrageous and costly lawsuits that inhibit economic growth, threaten small businesses, and inflict a litigation tax on American consumers of $152 billion a year—that's right, $152 billion a year.

I want to congratulate Chairman PRESSLER, and particularly Senators GORTON and ROCKEFELLER for their hard work—years of hard work, really—on this important legislation. I also want to thank Senator LOTT for his assistance in resolving the differences between House and Senate.

But despite all the work, all of the bipartisanship, all of the sweet whispers of support out of the White House, suddenly we are voting on a bill that is under a threat of veto.

Why? Well, let us take a look at what President Clinton said last Saturday when he issued his veto threat. President Clinton said that he was concerned about federalism and an "unwarranted intrusion on State authority." But this argument was long ago dismissed by such concerned parties as the National Governors Association. In fact, the Governors, including then-Governor Clinton, called for a uniform national standard, stating that it would "greatly enhance the effectiveness of interstate commerce."

In other words, this sudden attack of States rights fever is misplaced.

President Clinton also said last Saturday that he was concerned the bill would "prevent injured persons from recovering the full measure of their damages." But compensatory damages are not affected by this legislation at all. And punitive damages are available for exactly those situations for which they were intended—situations which involve wrongdoing or egregious conduct.

That is what the President said.

What the President did not say however was that he has been under enormous pressure to veto this measure from the wealthiest and most powerful special interest lobby in America: the trial lawyers.

Mr. Clinton has been one of the most-favored recipients of their largess. The Center for Responsive Politics found that lawyers and lobbyists funneled a grand total of $2.6 million to Mr. Clinton's 1992 campaign. That of course vastly understates the real number, since it is often impossible to identify the source of the real donors. In just the first 9 months of 1995, lawyers and law firms have pumped another $2.5 million into the President's campaign coffers.

If money talks, this money screams. And what it screams is very simple: kill each and every attempt at legal reform. Now, I'm not one to assume just because someone gives you money, they call the tune. But this message has apparently been heard down at the White House loud and clear.

Consider the record: President Clinton instigated a filibuster to stop legal reform that covered small business and charities and volunteer organizations last year.

President Clinton pulled a much-publicized flip-flop and vetoed the securities litigation reform late last year. Fortunately, Congress overrode his veto.

President Clinton now threatens to veto a modest and bipartisan bill that he once suggested he would support.

This is unfortunate, but how it happened is worse.

Before he said he would veto this bill, President Clinton's allies did something very cynical. Mr. Clinton's friends on the Hill made sure that the protections from lawsuit abuses in this compromise bill would not be extended to charities and nonprofits.

Why would they do that? Everyone professes to want such protections passed into law. Yet, they insisted.

Well, obviously, it would have been more difficult to veto a bill that offered protections for charities and volunteer organizations. It would have interfered with posturing as the defender of the little guy. So, those protections had to go. And 2 days after those protections were deleted by his allies, President Clinton issued his veto threat.

I don't intend to play this game. Charities and volunteer organizations deserve relief, not cynical politics as usual.

Elaine Chao, president of the United Way of America, recently wrote a passionate plea calling for protections for charities, so caseworkers in family counseling agencies, literacy tutors, and volunteer fundraisers won't be chased away by the threat of liability.

All Americans should be outraged, as Elaine Chao puts it, by "the proliferation of frivolous lawsuits that treat charities and nonprofits as pinatas, as so many bags of goodies to be plundered."

That's why Senator HATCH and I have introduced a bill that provides such relief. Our bill would protect charities and nonprofits like the Little League and Girl Scouts. I intend to bring it to the floor for consideration as soon as possible.

The President and his allies will then be asked to make a simple choice between protecting charities or enriching trial lawyers.

President Clinton, please do not block this measure again. Do not let the heavy hand of special interests stay the helping hand of charities.

Mr. President, with nearly 19 million new suits filed per year—1 for every 10 adults—no one is immune from the lawsuit epidemic. The cost of defending yourself in an average, nonautomotive case is about $7,500. That is money you lose even if you win your case.

The lawyers, of course, never lose. It is time that this stopped.

I hope President Clinton will reconsider his ill-advised veto threat. In the meantime, I urge my colleagues to pass this bill.

Mr. ABRAHAM. Mr. President, I rise today in support of H.R. 956, a bill to reform product liability law.

A few months ago, the 104th Congress took the first momentous step toward legal reform. Over President Clinton's veto, we passed H.R. 1056, a bill to reform securities litigation.

This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

In passing H.R. 956, the Senate will be taking an equally important second step on the road toward a sane legal regime of civil justice.

Our current legal system, under which we spend $300 billion or 4.5 percent of our gross domestic product each year, is not just broken, it is falling apart.

This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

This is a system in which neighbors are turned into litigants. I was particularly struck by a recent example reported in the Washington Post. This case involved two 3-year-old children whose mothers could not settle a sandbox dispute—literally, a preschool altercation in the sandbox—without going to court.

Something must be done about this situation and this litigious psychology, Mr. President, and this bill puts us on the road to real, substantive reform.

It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries.

It provides product manufacturers with long-overdue relief from abusers of their products.

And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage.

First, as to punitive damages. No one wants to see plaintiffs denied full and fair compensation for their injuries. And this bill would do nothing to get in the way of such recoveries.

Unfortunately, punitive damages have come to be seen as part of the normal package of compensation to be expected by plaintiffs. George Priest of the Yale Law School reports that in one county, Bullock, AL, 95.6 percent of all cases filed in 1993–94 included claims for punitive damages.

Punitive damages are intended to punish and deter wrongdoing. When they become routine—one might say when they reach epidemic proportions—they end up hurting us all by increasing the cost of important goods and services.

For example, the American Tort Reform Association reports that, of the $18,000 cost of a heart pacemaker, $3,000 goes to cover lawsuits, as does $170 of the $1,000 cost of a motorized wheelchair and $500 of the cost of a 2-day maternity hospital stay.

We can no longer afford to allow this trend to continue. I am glad, therefore, that this bill begins to cap punitive damages—although in my judgment it only makes a beginning in that area.

I am particularly glad that the bill imposes a hard cap of $250,000 on punitive damages assessed against small businesses—the engine of growth and invention in our Nation.

Of course, punitive damage awards are not the only things increasing the costs of needed products.

Throughout the debate over civil justice reform I have been referring to the case of Piper Aircraft versus Cleveland. I use that example because it shows how ridiculous legal standards can literally kill an industry—as they did light aircraft manufacturing in America—and cost thousands of American jobs.

In Piper Aircraft, a man took the front seat out of his plane and intentionally attempted to fly it from the back seat. He crashed, not surprisingly, and his family sued and won over $1 million in damages on the grounds that he should have been able to fly safely from the back seat.

These are the kinds of decisions we must stop. Drunken plaintiffs, plaintiffs who abuse and misuse products—plaintiffs who blame manufacturers and sellers for their own misconduct—should not be rewarded with large sums of money. They may deserve our concern and sympathy, but we, as a people, do not deserve to pay for their misconduct through the loss of entire industries.

I am happy that this bill establishes defenses based on plaintiff inebriation and abuse of the product because I believe these defenses will benefit all Americans.

Finally, it seems clear to me that no manufacturer should be held liable for noneconomic damages which that individual or company did not cause.

In its common form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This is unfair. And the unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are intended to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation.

Because noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law. Defendants can be forced to pay enormous sums for unverifiable damages they did not substantially cause.

This bill would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages.

As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay.

This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

Mr. President, problems will remain with our civil justice system after this bill is made into law—if this bill is signed by President Clinton and made law.

Charities and their volunteers will remain unprotected from frivolous lawsuits.

Our municipalities will remain exposed to profit-seeking plaintiffs.

And the nonproducts area of private civil law in general will remain unreformed—3-year-olds and their mothers may still end up in court over a sandbox altercation.

In the last session I and some of my colleagues fought for more extensive, substantive, and programmatic reforms to our civil justice system. These were consistently turned back.

I believe at this point it is time for us to consider more neutral, procedural reforms, such as in the area of Federal conflicts rules, to rationalize a system we cannot seem to tame.

But I am certain, Mr. President, that this bill marks an important step toward a fairer, more reasonable and less expensive civil justice system.

This is why I am frustrated that President Clinton has threatened to veto this bill.

The President has stated repeatedly that he would support balanced, limited product liability reform. He has been singularly unhelpful in his opposition to more far-reaching reforms that would do more for American workers and consumers. But he has claimed that he would support product liability reform.

Now the President is claiming that this legislation is somehow unfair to consumers.

Mr. President, is a system in which fifty seven cents of every dollar awarded in court goes to lawyers and other transaction costs fair to consumers of legal services?

Is it really pro-consumer to have a system in which, as reported in a conference board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Please tell me, Mr. President, are consumers helped by a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

The clear answer, I believe, is that consumers are hurt by our out-of-control civil justice system, a system which makes them pay more for less sophisticated and updated goods.

I respectfully suggest that President Clinton look beyond the interests of his friends among the trial lawyers to the interests of the American people as a whole.

If he looks to that interest he will find a nation hungry for reform, yearning to be freed from a civil justice system that is neither civil nor just, seeking protection from egregious wrongs, but not willing to sacrifice necessary goods, important public and voluntary services, and the very character of their communities to a system that no longer produces fair and predictable results.

If we in this chamber consult the interest of the people, Mr. President, we will pass this bill. If President Clinton consults that primary interest, he will sign the bill and make it law.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, today's vote marks the return of the product liability issue to the Senate. It was about 1 year ago, May 10, 1995, when I voted for final passage of the Senate version of the product liability bill.

Yet before final passage, I voted against cloture four times. I voted against cloture because I had reservations about some of the provisions in the bill, including the absolute punitive damage cap and one way preemption clauses within the bill. However, after cloture was achieved, I voted in support of final passage in the hopes that the Senate and House conferees, working in conjunction with the White House, would reach a reasonable, balanced, and fair compromise.

Unfortunately, the conference report, rather than improving the bill, raises more questions and concerns. In the Senate bill, the language made it clear that the following would be excluded from the definition of product, electricity, water delivered by a utility, natural gas, or steam. However, the conference report adds an exception that in application, swallows the exclusion. The exception provides that if electricity, water delivered by a utility, natural gas, or steam is subject under State law to strict liability, the provisions of the product liability conference report apply. This is an expansion of the Senate bill.

Also, in the Senate bill, the provision regarding negligent entrustment was found in the applicability section and it provided that nothing in the title, the products liability bill, would apply to negligent entrustment cases. However, in the conference report, the negligent entrustment language is moved to the seller liability section and therefore negligent entrustment actions are not excluded from the provisions of the bill. Does the Senate really want to send a signal to those who, for example, serve alcohol to minors that their liability is substantially reduced?

The conference report language changes the Senate bill's provision on statute of repose by reducing the number of years and inserting ambiguity on the scope of products covered under statute of repose. The statute of repose is reduced from the Senate bill's period of 20 years to the conference report's period of 15 years. Changes in the definition of durable goods have raised ambiguity over whether the statute of repose remains applicable to only durable goods used in the workplace.

Finally, my concern remains about provisions which change State law only when that law is unfavorable to negligent manufacturers. If the goal is to create a uniform Federal law, the conference report should not make exceptions for States in the areas of statute of repose and punitive damage cap formulas.

I regret that I am unable to vote for cloture on this conference report. I remain supportive of reasonable and balanced product liability reform. My vote for final passage of the Senate bill on May 10, 1995, is a testament to my position.

Mr. BAUCUS. Mr. President, I rise in opposition to this conference report.

Like most Americans, I believe we would all be better off with fewer lawsuits. But, as we vote on this legislation, we must also ask ourselves if we are being fair to average Americans who are injured by dangerous products.

As I will discuss in more detail in just a moment, I believe my home State of Montana has done a fine job of discouraging unnecessary litigation and excessive damage awards. We have found a balance—a fair balance—that works for Montana and I believe other states should be allowed to the same.

BILL INTRUDES ON STATE RESPONSIBILITIES

This past December, I supported welfare reform legislation. My reason, in essence, was that a Federal program was broken and could be managed better by State governments.

The product liability bill before us now does just the opposite. It takes State laws which are not broken and subordinates them to a Federal law. It preempts the civil law of all 50 States and expands Federal powers into an area which, for two centuries, has been governed by the States. That is a very grave decision, and it is one we should not take unless there is absolutely no alternative.

Now, I am not an absolutist on this point. In some unusual cases—in particular, when States are violating the rights of individuals—the Federal Government should step in. For example, the Federal Government was right to intervene and eliminate segregationist Jim Crow laws through the Civil Rights Act and the Voting Rights Act.

But in this case, State governments are exercising their tort law responsibilities perfectly well. There is no reason for the Feds to take over.

THE MONTANA CASE

Let us look at the case of Montana to see why.

Our Chief Justice, the Honorable Jean Turnage, summed it up in a letter he wrote to me in 1994 in his capacity as President of the Conference of Chief Justices. In that letter he said:

> Federal preemption of existing State product liability law at this point is an unwise and unnecessary intrusion upon the principles of federalism.

Justice Turnage is on very firm ground. Over time, Montana has drafted and amended our State laws to make sure they reflect our needs. For example, our legislature has imposed a punitive damage cap in medical malpractice cases. We also let small businesses register as limited liability companies to reduce their exposure to civil suits.

And Montana has already solved many of the other problems this product liability reform bill attempts to address.

LIABILITY ALREADY REFORMED IN MONTANA

First, we strike a fair balance between plaintiffs and defendants. The doctrine of joint and several liability is a good example.

Montana applies joint liability only when defendants are more than 50 percent responsible for a person's injury. Defendants who are less than 50 percent liable are accountable only for the amount of injury directly attributable to their wrongdoing.

This makes sense. Defendants should not be held jointly liable when they are only minimally responsible. Conversely, the injured should not go uncompensated when a defendant is more than half responsible.

So we have found a balance on liability. And this bill would destroy the balance. Because if it passes, Federal law would void Montana's joint and several liability statute completely.

MONTANA COURTS FAIR IN PUNITIVE DAMAGES

Second, look at Montana's treatment of punitive damages.

Again, we looked at the issue and found a solution that meets our needs. Our courts award punitive damages only in limited circumstances where a corporation clearly acts in a reckless way that endangers public safety.

We allow juries to award punitive damages only when a product manufacturer or seller is guilty of actual fraud or malice. Montana juries awarded these punitive damages a grand total of three times since 1965. And under H.R. 956, Montana juries would have great difficulty awarding punitive damages even when the defendant has shown total disregard and disrespect for the health and welfare of the consumer.

PROTECTING MONTANA WORKERS COMPENSATION LAW

Last but not least, I am deeply concerned about how this legislation could seriously harm Montana small businesses.

I recently asked Prof. David Patterson of the University of Montana School of Law to review this conference report and advise me of its potential impacts on Montana business. Professor Patterson is an acknowledged expert in Montana workers compensation law. He is also chairman of the State Bar Ethics Committee.

Professor Patterson has advised me that this conference report could have unfavorable, perhaps unintentional impacts * * * on Montana employers.

Specifically, he points to its provisions overriding existing Montana workers compensation law. As it is today, Montana workers compensation law protects employers from virtually all workplace-related products liability suits. But Professor Patterson believes the legislation before the Senate would eliminate or significantly errode these protections for Montana employers. I find that deeply troubling.

Mr. President, I ask that the full text of Professor Patterson's letter to be printed in the record immediately following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Now, I believe that many companies have legitimate grievances with some of the State tort laws. But they should take the complaints to the States and do the job there. It is simply unnecessary—and really, it is wrong—to bring in Federal law enforcement and Federal courts to nationalize the tort laws. And its potential impacts on Montana workers compensation law show how dangerous—and costly for small businesses—this can become.

As Chief Justice Turnage said, it is unnecessary and unwise for Congress to try and take over these State responsibilities. Montana has managed its liability laws for over 100 years. We have exercised our rights in a responsible and balanced way. And we should be able to do so for the next hundred years.

And Congress, for its part, should get back to its real business and what the people expect—working together to balance the budget, raise the minimum wage, and help our families provide themselves and their children with a secure future.

EXHIBIT 1

THE UNIVERSITY OF MONTANA
SCHOOL OF LAW,
Missoula, MT.

Re H.R. 956 counterproductive for Montana employers.

Sen. MAX BAUCUS,
Senate Hart Building, Washington, DC.

DEAR SEN. BAUCUS: As a Montana law professor who teaches workers-compensation courses, I urge you to consider, before voting on H.R. 956, the "Common Sense Product Liability Legal Reform Act of 1996," how surely and severely Section 111 of that bill would impact Montana employers and their workers compensation insurers.

Section 111(a)(3) of H.R. 956 clearly rewards manufacturers and sellers of defective workplace equipment who blame employers for injuries to their employees. Consequently, even employers who are otherwise immune from liability under Montana's workers compensation scheme will frequently be dragged into costly lawsuits between injured workers and the manufacturers or sellers of defective machinery.

H.R. 956 will also increase workers compensation premiums in Montana by forcing Montana employers and their workers compensation insurers to pay for workplace injuries which are currently the responsibility of manufacturers and sellers of defective products. Whatever its other merits, H.R. 956 undeniably shifts additional costs of workplace injuries caused by defective products onto Montana employers.

Finally, and perhaps most dangerously, H.R. 956 seriously jeopardizes the core immunities historically enjoyed by Montana employers. H.R. 956 forcibly injects the issue of employer fault into a previously no-fault state workers compensation scheme. The bill also expressly preempts all inconsistent state statutes—including those guaranteeing exclusive-remedy protection to employers. If (as seems likely) the Montana Supreme Court, in any of several pending appeals, finds limits to such a faultbased workers compensation system under Montana's Constitution, then H.R. 956 will automatically preempt the exclusive-remedy statutes now taken for granted by Montana employers.

Please consider carefully the unfavorable, perhaps unintentional, impacts of H.R. 956 on Montana employers. Please contact me if I can provide additional information or assistance. Thank you.

Respectfully,

Prof. David Patterson.

The PRESIDING OFFICER (Mr. FRIST). Who yields time?

Mr. GORTON. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my colleague from the State of Washington.

Mr. President, we are about now to vote on what I think is an enormously important bill in terms of human beings and in terms of the prospects for a better growing economy. However, I will be specific in my closing remarks.

There has been so much confusion about what is and what is not covered under product liability in the conference report, and I think that is because there has been a very deliberate attempt to mislead people during the course of this debate and prior to it.

There is one example I hope will enlighten my colleagues. Yesterday I received a letter from MADD, Mothers Against Drunk Driving, which incorrectly quoted the legislation and, from that, concluded that drunk driving cases would be protected. That is totally wrong. Drunk driving cases will not be covered by this bill. Here is what MADD said. The bill covers "harm caused by a product or product use". Here is the correct quote, Mr. President. The bill covers "harm caused by a product." It is product liability that we are talking about—not product use but product. There is a huge difference.

Mr. President, many other well-meaning workers and people have been totally mislead about what this bill covers. The issue of what is covered and what is not covered is this: Is it the product that causes harm? If yes, then it is covered in the bill. However, if the person using the product that causes harm—such as the driver of a car—the case is not covered by this bill.

Mr. HOLLINGS. Mr. President, I read the law, and it is properly quoted by MADD. We doublechecked because we heard some rumors. So checking it out, we found that the MADD position in opposition to this legislation is the same as I included in the RECORD, you can read the exact language which says "any several action brought, or any theory of harm caused by a product or product use"—period, end quote. So they know what they are talking about.

Now to the confusion. You saw that 30-minute demonstration we had out here about strict liability and utilities. They wrote that in the double negative fashion because they did not want to say we are going to exempt strict liability. So they have done so by covering it in this bill.

Right to the point, they tell the gas company to go ahead and get reckless and not worry about punitive damages for the simple reason that now, having been written that way, you have to have malice.

I could cover a plethora of things. The solution is within the States. The Senator from Rhode Island was correct. We have been on it for 15 years. The State of Tennessee has acted. The State of South Carolina has acted. When we say it is a moderate, bipartisan bill, the opposition is moderate and bipartisan. There is bipartisan opposition because this goes totally against the grain. When I was sent up here some 29 years ago standing for States rights, here comes the crowd finally saying let us have education back to the States; Medicaid, let us have it back to the States; crime and block grants back to the States; welfare, the Governors say, come, give it to us, back to the States. The States are doing the job. The majority leader runs around with a tenth amendment in his pocket and pulls it out, and says we have government going back to the States. But the business crowd downtown wrote this sorry measure. It is not bipartisan with respect to the conference. We were never asked into that conference; never considered. That had not happened. That had not happened.

I found out about this on CBS when they talked about the silly case of women going into the men's room.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Washington.

Mr. GORTON. Mr. President, this debate can come down to an example involving one individual, a young girl, and one company. The young girl is Tara Ransom, whose story is told in today's Wall Street Journal, and who with her parents has come to my office. Tara is one of 50,000 hydrocephalics in the United States with a condition that previously could not be treated at all and was a literal terror to its victims and to their parents.

She has, nonetheless, led a normal life, almost a normal life, due to a series of silicon shunts which have to be replaced every year or so due to her growth rate.

It is now becoming next to impossible for Tara to get such a silicon shunt because the one company, Dow-Corning, that is willing to manufacture it, is in bankruptcy largely due to product liability litigation and is threatened with class actions.

Dow-Corning simply manufactures the silicone. In one of these shunts its net return is $1 or $2. As the Presiding Officer as a physician knows, not every medical device works perfectly at all times and under all circumstances. I think it is almost inevitable that among those 50,000 hydrocephalics, or the numbers of thousands who use these shunts at some point or another, one of them is going to die, and there will be a threat of a lawsuit against every one who had anything to do with the shunt. The manufacturer of the material itself would be brought right into that lawsuit. Its liability, even if it wins, the cost of its attorney's fees will be far more than the gross sales price of all of the silicone it sold. So it will not sell the material. We now in some parts of the world have a black market in these shunts for exactly this reason.

So to save the trial lawyers, to deal with all of the abstractions we heard from here today, Tara Ransom and others like her may soon not be able to get the very devices that have allowed them to lead reasonably normal lives. If this bill passes—and I refer you to the statement of Senator McCAIN—that will no longer be the case. It is one of the harms, one of the outrages, in our present legal system which will be controlled by this bill.

Mr. President, the Cessna airplane company—in the late 1970's general aircraft in the United States was being manufactured and shipped at the rate of more than 17,000 a year. By 1982, it was down to almost just more than half of that. By 1986, claims hit $210 million a year. By 1991, Piper went into bankruptcy. By 1993, 100,000 jobs had been lost in general aviation largely due to our present product liability system. By that time, fewer than 1,000 planes per year were being manufactured in the United States as against 17,000. In August 1994, this Congress passed the General Aviation Revitalization Act. All it consisted of was a statute of repose at 18 years for aircraft. That is all that was in that reform. Already there has been a rebound. The very next year more aircraft were manufactured than were manufactured before, and this year Cessna is building a $40 million plant to hire 2,000 people to get back into this business.

That, Mr. President, is what this debate is all about—whether or not young people and older people will be able to get medical devices that they need without the manufacturers being frightened out of the business by liability costs, and whether or not industries in the United States will be able to operate successfully to hire people to produce goods that people would like to buy.

We have a legal system now which has hurt our competitiveness, has driven up prices, has reduced the choices that the American people have, all to oblige a handful of trial lawyers. This bill is a modest beginning to create a redress in that balance and to restore the economy of the United States and to provide better products for more people at a lower cost more of the time. It is just as simple as that, Mr. President.

Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-four seconds.

Mr. GORTON. I yield the remainder of my time.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They are automatic.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 956, the Product Liability Fairness Act:

Slade Gorton, Trent Lott, Hank Brown, Chuck Grassley, Craig Thomas, Larry E. Craig, Frank H. Murkowski, Nancy L. Kassebaum, Mark Hatfield, Larry Pressler, Bob Smith, Jon Kyl, John H. Chafee, Conrad Burns, Pete V. Domenici, John McCain.

VOTE

The PRESIDING OFFICER (Mr. COHEN). The question is, Is it the sense of the Senate that debate be brought to a close? The yeas and nays are mandatory under rule XXII. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—60

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Rockefeller
Santorum
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Mikulski
Moynihan
Murray
Reid
Robb
Roth
Sarbanes
Shelby
Simon
Simpson
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 40. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

CLOTURE MOTION

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Senate Resolution 227 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Arizona be permitted to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

READY TOMORROW: DEFENDING AMERICAN INTERESTS IN THE 21ST CENTURY

Mr. McCAIN. Mr. President, as we near the end of this century, we must be prepared to deal with the changing realities of the post-cold-war world and to meet the new challenges of the 21st century. My purpose in speaking today to the Senate is to open a debate on the continuing need to reshape our national security strategy and military force structure to address those new challenges.

We have already made several attempts to deal with these new realities. The Base Force and Bottom Up Review processes were laudable early efforts. However, we have not yet made the difficult decisions to adapt to the challenges created by the collapse of the Soviet Union and the Warsaw Pact. Our current strategy and force plans are not structured to meet the challenges of the future.

The potential threats to our national security interests today and in the future are different from those of the cold war; they are less deterrable by traditional means and often less easily defeated. We no longer face a superpower threat from the former Soviet Union, although we must be "prepared to prepare" to defend against an emerging major power threat. We must deal with a wide range of lesser threats throughout the world, including: regional and ethnic conflicts in which the United States could easily become involved; the rise of extremist and radical movements; the proliferation of weapons of mass destruction and the means to deliver them; the increasing capability of individuals and nations to attack us through our dependence on technology, particularly information and communications systems; and finally, both domestic and international terrorism.

As has been all too common in the past, our military planning focuses on maintaining the force structure that proved effective in winning the last war, while too little attention has been given to the changing and uncertain nature of future conflicts.

We must now undertake another effort to reshape our strategy and force structure, an effort which is innovative and forward-thinking rather than constrained by the accepted principles of the past. A key focus of this effort must be ensuring that our defense strategy and military forces are flexible and capable of quickly evolving to meet any new threats.

In this effort, we cannot ignore the fiscal realities of our debt-ridden Federal Government. Planning for our future military capabilities must be tempered by a realistic view of fiscal constraints on future defense budgets, without allowing those constraints to become the dominant factor in our decisions about future defense requirements. We must be prepared to accept the cost of being a world power. In short, we must focus on the most cost-effective means of maintaining the military capabilities necessary to ensure our future security.

Mr. President, we now face a significant gap between our force plans and the resources available to implement them. By 1995, the defense budget had been cut by more than 35 percent in real, inflation-adjusted dollars in just 10 years. Independent assessments of the cost of the BUR force show that it exceeds the funding levels dedicated by the current administration in the Future Years Defense Program [FYDP] by $150 billion to $500 billion.

As a result, we have been confronted by a series of Hobson's choices. We have had to choose among cutting force strength, maintaining readiness, or funding force modernization within the constraints of continually declining defense budgets. The result has been reductions in all three areas.

Over the past 5 years, we have reduced our military manpower levels by more than half a million people. After a dangerous trend 3 or 4 years ago of declining military readiness, there is now broad agreement that we have restored current levels of operational activity and readiness of the smaller BUR force. However, we have done so by foregoing the modernization programs required to ensure the effectiveness of that small force.

The Chairman of the Joint Chiefs of Staff has repeatedly warned that procurement accounts are seriously underfunded, and the Vice Chairman has said we face a "crisis" in weapons procurement.

Because of the modernization crisis, the Chairman of the Joint Chiefs has set a procurement funding goal of $60 billion per year. However, the President's fiscal year 1997 defense budget includes only $39 billion for procurement—nearly $5 billion less for procurement than was projected in the previous year's budget and far short of the Chairman's target. The administration now projects the $60 billion procurement funding goal will not be reached until the year 2001—3 years beyond the Chairman's target.

Mr. President, there is a dangerous long-term impact of postponing essential force modernization programs. America's future military readiness hinges on our ability to retain technological superiority over any potential adversaries. We have already seen some reduction in United States capabilities to fight in a single contingency such as the Persian Gulf. The continuing failure to invest wisely in military modernization programs has put our future readiness at risk.

We must reverse the alarming practice of postponing essential weapons modernization programs. To do this, we need to do one of two things—either increase the overall defense budget, or spend our available defense resources more wisely.

Last year, the Congress added $7 billion to the President's request for national defense and projected adding $14 billion to the planned fiscal year 1997 defense budget. However, the President requested $9 billion less for defense in fiscal year 1997 than Congress provided in fiscal year 1996.

Mr. President, I strongly support much-needed efforts in Congress to slow the too-rapid decline in defense spending. However, with continuing pressure to balance the Federal budget and alleviate our Nation's long-term fiscal crisis, there is, in my view, little realistic prospect of significant, sustained increases in defense spending in the future.

Therefore, it is imperative that we—the Congress and the administration—begin a debate to develop new ideas to ensure the best possible U.S. military force, capable of meeting the challenges of the future, within the fiscal constraints of today's defense budgets. Today, I want to offer my thoughts on the issues that must be considered in that debate.

Mr. President, our national security strategy must complement a credible foreign policy. The United States can and should use diplomacy to guide the course of world events, rather than simply observing and acquiescing in them. Indecision, hesitation, and vacillation in the conduct of our foreign policy only encourage aggression by our potential adversaries, possibly leading to conflict.

A strong military force is essential to maintaining the credibility of our foreign policy. The existence of capable and ready military forces, combined with the credible threat of their use when necessary to defend our national security interests, serves to deter the outbreak of conflict. If deterrence fails, those forces must be prepared to react early and decisively to prevail in war. Without both a credible foreign policy and a strong military force, the ability of the United States to shape the future course of world events is severely hampered.

As I noted earlier, our Nation's fiscal situation makes it likely that the defense budget will, at best, remain at the current level, despite recent efforts in Congress to increase the defense budget. This level is widely recognized as inadequate to fund the force structure necessary to support our current strategy of engagement and enlargement, based on a capability to fight and win two nearly simultaneous major regional contingencies [MRCs].

Further, the two-MRC strategy is focused too narrowly on large conventional conflicts in the Persian Gulf and

Korea. It must be broadened to ensure attention to all possible conflict scenarios, not just the current military capabilities of Iraq and North Korea.

Current fiscal reality, which makes unlikely future significant increases in defense spending, as well as an overly narrow focus of our current strategy demand that we reassess both our strategy and our force structure. Therefore, many U.S. planners, including senior planners on the Joint Staff and the military staffs of the Armed Services, are already in the process of considering a single MRC strategy in which the United States would only be able to fight one major conflict at a time.

In conducting a reassessment of our future force requirements, we should focus on a flexible contingency strategy supported by an affordable, flexible force. Our force planning should provide, at a minimum, sufficient levels to decisively prevail in a single, generic MRC. At the same time, we must recognize the existence of many lesser threats and maintain the capability to inflict unacceptable damage on an adversary should one or more of these threats materialize.

This more realistic approach to future force planning will eliminate the gap between our current strategy and fiscal reality. While planning for a flexible force with the ability of fighting a single MRC, possibly together with one or more lesser threats, may necessitate the acceptance of some additional risk in certain areas, it is far better than to plan for forces and capabilities that will never materialize within the limits of likely future defense budgets.

FUTURE FORCE STRUCTURE

The nature of foreseeable conflicts requires that we continue to provide for a force structure containing air, land, and see elements that are flexible enough to adapt quickly to unforeseeable situations. Our warfighting forces must be capable of responding quickly and effectively to any potential challenge and should be designed to supplement the military forces of our allies in order to provide the greatest military capability in the future at the lowest possible cost.

Very briefly, let me describe the principal warfighting capabilities that must be maintained to ensure our readiness in the future.

Naval forces: Our naval forces are at the forefront of our forward presence, crisis response, and power projection capability. They are among the most likely to be called to respond to a crisis and the most likely to be used in the early phases of any regional conflict.

Naval vessels should be self-sustaining and have significant offensive capability while providing for their own defense. Automation of weapon systems and support equipment aboard these vessels should be pursued to minimize the number of personnel required to produce an efficient, lethal fighting platform.

Much of our power projection capability will continue to be provided by carrier-based air power, increasingly supplemented by cruise missiles and other long-range strike systems. Political uncertainties, making the use of forward air bases problematic, mean that we cannot always rely upon these assets in a crisis situation. One only has to remember the United States bombing of Libya in 1986, and the restrictions on over-flights of certain countries, to realize that we must maintain a sufficient force of aircraft carriers if we want to provide the capability of ever-ready air power.

Marine expeditionary forces will continue to fill a critical role in any future force structure because of their flexibility and the ease with which they can be dispatched to regional hot spots. These forces must be supported with sufficient lift, mine warfare capability, and shore fire support.

Our submarine force will continue to play an important role. We must, however, re-examine the numbers and mix of the planned post-cost war realities. Today's threats make it possible to scale back plans to replace the current, very capable attack submarine force with an all-new class of stealthy, high-technology submarines.

Air power: Air power that can be quickly deployed and engage the enemy with devastating effect is a critical element of any future force structure. Our air assets must be maintained at the forefront of technology in order to pose a viable threat to our enemies.

Our tactical aircraft must have the capability to deliver precision weapons on enemy targets. Multimission platforms and maximum firepower per platform should be absolute requirements, as the cost of aircraft continues to climb at an enormous rate. Precision-guided stand-off weapons, such as cruise missiles, will increasingly become the weapon of choice for their ability to attack enemy targets without endangering air crews and expensive platforms.

Procurement of self-protection equipment is both necessary and cost-effective. Every effort should be made to build upon existing electronic and other countermeasures, including expendables.

At the same time, we should explore opportunities to increase the use of remotely piloted vehicles [RPVs] and unmanned aerial vehicles [UAVs]. Both RPVs and UAVs offer great potential to provide a cheaper, more effective means of gathering information and delivering ordnance, while minimizing risk to our air crews.

We must act now to resolve the issue of strategic versus tactical bombers. We must maintain a viable offensive capability at an affordable cost. Therefore, we must carefully consider cost versus capabilities in assessing the effectiveness of our strategic and tactical bombers in a conventional role. Current information supports a decision to cap the B-2 bomber program at its present fleet size and give higher priority to precision-guided munitions and improved tactical fighter/bomber forces.

Ground forces: As our overseas basing continues to decline, we must reassess our requirement for large ground-based forces. This will require greater emphasis on allied capabilities for ground combat missions. U.S. ground forces must be readily deployable, requiring a reassessment of the balance between heavy and light forces. Greater emphasis and reliance on smaller, lighter, and more automated systems may be appropriate.

We need to retailor both our active and reserve forces to concentrate our resources on forces we can rapidly deploy or move forward within a few months. We do not need units, bases, reserves, or large stocks of equipment that we cannot project outside the United States without a year or more of mobilization time.

Information technology will continue to revolutionize the battlefield, giving ground commanders unprecedented levels of situational awareness on the battlefield. We must ensure that resources are dedicated to providing these essential technological enhancements.

Our ground forces must be properly equipped to maintain superior offensive and defense capabilities. Increased night warfighting capabilities, increased survivability of tanks and heavy artillery, and improvements in antiarmor defenses are particularly important. Increased capability to detect, defend, and survive in a biological or chemical warfare environment is absolutely essential.

Special Operations Forces: We must continue to maintain the capability to conduct special military operations in a variety of missions. Special operations forces expand the range of options available to decisionmakers by confronting crises and conflicts below the threshold of war. These forces must be able to respond to specialized contingencies across the conflict spectrum with stealth, speed, and precision.

Strategic Lift: We must continue to focus on improving our ability to move personnel and equipment overseas. The limits we face on the forward deployment of our forces, in a world where our forces could be required in any region of the globe, means that strategic lift has become increasingly important. We must increase our efforts to procure the necessary lift capacity to maximize the mobility of our forces.

National Guard and Reserves: The Reserve and Guard components of the Armed Forces should be tasked primarily with those mission areas which support rapid power projection and require little training prior to deployment. Combat arms units in the Guard and Reserves that cannot be mobilized within a very short period of time cannot play a decisive role in conflict resolution. By restricting the Guard and Reserves to those areas where proficiency can be maintained with minimal unit training time, we can minimize the risk that essential military forces will not be prepared if they are called upon in a crisis situation.

The missions most appropriate to the Guard and Reserves, commonly referred to as combat support or combat service support, are those directly related to a civilian occupation, such as transportation specialists, medical support, public affairs, and computer and information specialists.

There are, however, certain military missions which should not be assigned to the Reserves or Guard. These missions, such as heavy armor and infantry, require constant physical conditioning and training in large unit exercises, and are best left to the active forces which can be maintained in a ready state for rapid deployment.

Other force capabilities: Other high-priority force capabilities include cost-effective theater and national missile defense systems, effective counter-proliferation and proliferation detection capabilities, safe and reliable nuclear deterrent forces, and technologically superior, maintainable space-based systems.

These essential force capabilities will not exist in the future without sufficient investment in modernization programs. Our ability to counter future threats will not depend on stealthy submarines or more long-range bombers. Instead, we should emphasize the capabilities most effective in likely future conflicts; namely, adequate strategic sea and air lift, enhanced amphibious capability, next-generation tactical aircraft, deployable light ground forces, and improved command, control, and communications systems. Investment now in these high-priority programs will ensure our future readiness.

TIERED FORCE READINESS

Mr. President, during the 1970's, the United States allowed its military to become hollow by failing to dedicate adequate resources to the day-to-day operational readiness of our Armed Forces. Defense budget increases in the 1980's restored the readiness and morale of our forces and provided much-needed investment funding.

Because of the continuous decline in defense budgets since the mid-1980's, however, we heard warnings from our highest-ranking military officers of a similar readiness crisis in the early 1990's. We heeded those warnings and managed to reverse the alarming trends toward another hollow force by dedicating increasing shares of our smaller defense budgets to the readiness of our forces.

Today, we are permitting our forces to become hollow in a different way. We are shortchanging military modernization, as we did in the 1920's and 1930's. Then, our military forces were antiquated and inadequately equipped, requiring several years and many millions of dollars before they were prepared to fight our enemies in World War II. Because of our failure to adequately fund the investment accounts, our forces today face a future armed with rapidly aging equipment which is difficult and expensive to maintain and operate.

We must stop postponing essential modernization programs. To maintain the force capabilities I have described, and to keep them modernized, we must look for savings elsewhere in the defense budget.

There are many approaches to streamlining defense operations and activities that could result in cost savings and which should be done to ensure the best value to the American taxpayer. We should consider revisiting our infrastructure requirements, modernizing and making more efficient cross-service activities, and greater privatization on nonmilitary activities. However, the magnitude of savings from these efficiencies is negligible in comparison to the funding required to modernize and maintain a ready military force.

Another approach we should consider, which would save scarce defense resources and make available needed funding for critical modernization programs, would be to reevaluate the readiness requirements of our military forces. Although, to a limited extent, the Military services currently maintain forces at varying readiness levels, a comprehensive, force-wide review must be performed to ensure the future overall readiness of our forces.

Criticality of forces in any future crisis should be the determining factor of the degree of day-to-day readiness that each military unit should maintain. An evaluation should include two key factors: First, the likelihood that forces will be called upon to respond to a military crisis, and second, the timeframe in which those forces would be deployed. Forces could then be categorized by readiness tiers based on the degree of day-to-day readiness at which they should be maintained.

It is important to differentiate this proposed tiering of readiness requirements from the current fluctuations in unit readiness which are caused by training or operational deployments. For example, our Navy carrier forces are maintained at the highest readiness level while on cruise, fall back to a very low level when they first return to homeport, and then gradually regain their readiness as they prepare for the next deployment. The proposal outlined above for tiered force structure readiness would categorize units based on their criticality to a crisis situation, not on these normal training fluctuations.

The following delineation of our forces at three different levels of military readiness is proposed as the starting point for a discussion of the concept of tiered readiness.

Tier I—Forward-Deployed and Crisis Response Forces: In peacetime, our forward-deployed military forces support our diplomacy and our commitments to our allies. Our forward military presence takes the form of fixed air and ground bases that are home to U.S. forces overseas, and our forward-deployed carriers, surface combatants, and amphibious forces. Some special operations forces are also forward-deployed, both at sea and ashore. Reserves become part of the equation through our military exercise programs.

In the event of a crisis, these forward-deployed forces are most often called upon to respond first to contain the crisis. In addition, our crisis response forces must be able to get to the region quickly and be able to enter the region using force, since we cannot assume that ports or airfields will be available. These qualifications limit the types of forces that must be ready to respond quickly in a crisis:

Air forces are limited to aircraft that can make a round trip from a secure base.

Land forces include airborne units.

Sea forces include carriers, surface combatants, and amphibious forces within a range of a few days.

The Army afloat brigade and naval maritime prepositioning forces can respond quickly and, supported by airborne and amphibious forces, can expect to have a secure port and airfield in the region when they arrive.

Because they must be able to respond effectively within a matter of days, forward-deployed and crisis response forces must be maintained at the highest state, or tier, of readiness.

Tier II—Force Buildup: History shows that crises can usually be resolved or contained by the deployment of only a small portion of our military capability. In the past 50 years, the United States has responded militarily to crises throughout the world over 300 times, but we have deployed follow-on forces in anticipation of a major regional conflict only 5 times. These include the forward deployment of United States troops in Europe at the onset of the cold war; the deployment of forces to Korea in 1950; the deployment of forces in response to the Cuban missile crisis in 1962; deployment to Vietnam in the 1960's; and deployment to Southwest Asia in 1990.

Although follow-on forces have been used only rarely, we must still maintain the forces necessary to halt an escalating crisis.

Buildup forces are those that can deploy and achieve combat-ready status within a matter of weeks rather than days. These follow-on forces require permissive access to the theater of operations. There must be airfields available for land-based tactical aviation, ports available to receive land forces and logistics support, and property available for assembly and training areas and supplies and maintenance activities.

Unlike initial response forces, these forces may be maintained at a lower level, or tier, of readiness since they will not be required in the theater of operations until after the initial stages of the conflict. They must, however, maintain the ability to return to a high state of readiness within a short time.

Tier III—Conflict Resolution: In only three of the cases mentioned above—Korea, Vietnam, and Southwest Asia—were we engaged in sustained conflict, requiring a large-scale deployment of United States forces.

Forces that seldom deploy must be maintained and available to ensure that we have the force superiority to prevail in any conflict. Conflict resolution forces include those that deploy late in the conflict because of limited airlift or sealift, and the finite capacity of the theater to absorb arriving forces. Also included are the later-arriving heavy ground forces, naval forces that have not already deployed, and air forces that become supportable as airfields and support capability in theater expands.

These combat units should be maintained at a third, or lowest, tier of readiness. They would not be required in the theater of operations until after about the sixth month of the conflict and would, therefore, have sufficient time to make ready for deployment.

Finally, we must reexamine the practice of maintaining combat units for which there is either no identified requirement under our national military strategy, or which cannot be deployed to a theater of operations until after a time certain following the outbreak of a conflict—perhaps 9 months to a year. We should not be spending scarce defense funds on combat forces which do not significantly enhance our national security.

Adjusting the readiness requirements of our military forces requires a thorough reassessment of our warfighting strategy and tactics. We must recognize that maintaining force readiness at different levels, or tiers, may increase the potential risk in the near term. However, the alternative is an antiquated force of the future which would not be capable of effectively protecting our national interests. The resources saved by tiering readiness could be reinvested in modernization and recapitalization of most needed capabilities. The long-term result of tiered readiness may very well be a more capable force for the future, and a force which is affordable under foreseeable fiscal constraints.

The ideas presented in this paper are designed to spur a much-needed debate about U.S. national security strategy and military force structure for the 21st century. The President and the Congress share in the responsibility of providing adequate military forces, properly trained and equipped to deal with whatever consequences a changing world holds for the United States.

We have an opportunity to chart a new course for national security, and we cannot afford inaction when offered a chance to abandon "business as usual." If we ignore the difficult issues facing us today, we will fail in our most basic responsibility—protecting the security of the American people.

I thank my friend from New Mexico, my neighbor. I know how important the issue is that he brings before the Senate. I appreciate his indulgence.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to Senator McCAIN, might I just comment that not only what he spoke of is vitally important but, as I reviewed the President's budget—not for the details as it pertains to these areas where the Senator finds deficiencies but in terms of the funding—I find that it is $14 billion in budget authority under what was requested in our budget resolution after long negotiations between the House and the Senate. I do not believe that would help any of that. It would only make it somewhat worse. But I wanted to make that comment.

PUBLIC RANGELANDS MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate, S. 1459, the Public Rangelands Management Act.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The Senate proceeded with the consideration of the bill.

Mr. DOMENICI. Mr. President, let me try to talk to the Senate about where we are.

We have before us a public lands reform act that deals with grazing and other multiple uses, principally with grazing as one of the multiple uses, and the reform in that for those who are ranching on public domain.

There are a number of Senators on our side and certainly on the Democrat side who want to speak to this issue. There are a number of Senators who have amendments. Let me make a few observations about that.

First, I want to thank the Democrat leader, Senator DOLE, my friend Senator BINGAMAN, and other Democrats who are working on this bill because, as I gather, we are going to try to accommodate each other and in the next couple of days get this matter to a final vote.

The Republican leader has graciously given us the rest of today, most of tomorrow, and tomorrow night as long as is necessary to get this bill finished. For that we very much appreciate his generosity of the Senate's time. But I would say there has also been some comment about our leader about not having any votes on Friday. I would suggest he has also indicated to me that he would like to see this bill finished Thursday night, if we are going to have a Friday without votes to be followed by a Monday, as I understand it, without votes.

So I ask that anyone who has an amendment to this bill—I only know of two at this point, and I have not seen one of them, but the other I am pretty familiar with—I hope they will accommodate us by getting to their manager and to the floor whatever amendments they might have. We do not need any surprises, and there will be none because there are no time agreements on the amendments.

So, if we need a couple of hours to look them over, we can either do it in advance, or we will do it while the Senate is in session here on the floor.

I understand Senator BUMPERS has an amendment that changes the grazing fees. I say to all the Senators present that I have not seen it yet. We are asking that it be presented as soon as possible. When I sit down, I will go try to find out where it is.

AMENDMENT NO. 3555

(Purpose: An amendment in the nature of a substitute to the Public Rangelands Management Act of 1995)

Mr. DOMENICI. Mr. President, I have, in behalf of a number of Senators—myself, the chairman of the committee, Senators MURKOWSKI, CRAIG, THOMAS, BURNS, KYL, CAMPBELL, HATCH, BENNETT, KEMPTHORNE, SIMPSON, PRESSLER, and DOLE—a substitute for the pending measure. It is understood that it will be the first thing tendered to the Senate.

On behalf of those Senators and myself, I send an amendment to the desk and ask for its immediate consideration

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. BURNS, Mr. KYL, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. KEMPTHORNE, Mr. SIMPSON, Mr. PRESSLER, and Mr. DOLE, proposes an amendment numbered 3555.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, on the floor right now I see four Senators on our side who might want to speak. I would like to propose the following: Senator BINGAMAN is here, and he would like to speak. I would like to yield to my fellow colleagues on this side for some opening remarks and intersperse that between Republicans and Democrats. Is Senator CAMPBELL prepared to make opening remarks?

I propose that Senator BINGAMAN go first. Then, if he is ready, for him proceed, and then we will go over to our side in which two Senators will speak.

I am going to leave the floor. Let us say that after Senator BINGAMAN, Senator BURNS will make his own agreement as to which one would go first. Senator BUMPERS will not be ready until at least 4:30 or a little later.

So why not handle it that way?

Mr. President, Senator STEVENS has been waiting patiently on the floor. I ask unanimous consent that he be given 2 minutes as if in morning business to introduce a bill, after which we will follow the informal format that we just agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I thank the Senator from New Mexico.

Mr. President, I, too, have to leave the floor. I thank my colleagues for permitting me to make this statement.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1629 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that two members of my staff, Charles Hunt and Sharon Miner, be given floor privileges during the entire proceedings on S. 1459.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. CAMPBELL. Thank you.

Mr. President, I rise today to voice my support for the Public Rangelands Management Act, and for the courageous efforts of my distinguished colleague and neighbor, Senator DOMENICI.

While I was sitting here, I was just reading a disparaging ad that was taken out in the Wednesday, March 13, 1996, issue of the Albuquerque Journal, the largest city in New Mexico. I have to tell you, nothing could be farther from the truth than this ad. It accuses the Senator from New Mexico of trashing the public lands, of drying up the streams, of driving people off the land, and practically everything except raping the West.

I thought it was very unfortunate that the shrillness of the debate has gotten to that point. But I guess that is what we all face when we try to make changes around here—that we have to face some pretty angry people.

But, from my perspective, the Senator from New Mexico has shown great courage in trying to solve the problem that we have been dealing with for decades here in the U.S. Congress.

As many of you know, the showdown in the West over cattle and grazing rights has been going on for a long time. In the old days, the differences were simply settled over a shot of whiskey or with a shot from the Winchester. But today, with our elevated laws and regulations, we attempt to settle our differences using the power of legislative language and administrative rulemaking. However, it is clear when you read ads like that, that the raw passions and emotions over the management of livestock on public lands often persevere and drive these very strong debates. Unfortunately for the family rancher whose very livelihood is dependent on the fate of these laws and regulations, our debates have reached such emotional heights that we have almost forgotten what actually happens to the family that has to make a living on the land.

But this issue should not be about emotions or politics. It should not be driven along partisan lines.

The debate today should not be about who is right and who is wrong, on whichever version of rules and regulations we are looking at. It should not be about the environmentalists versus the ranchers. The debate should be about how to best nurture sustainable ecosystems on the public lands in the West while still maintaining a consistent, healthy, and viable environment for ranchers and farmers to make a living on the public lands.

I believe the bill of the Senator from New Mexico does that. He has worked on it with a number of us from the West for many months. We have gone through trial and error and met with a great resistance. I think perhaps we finally have something that can pass.

I ask my colleagues for a moment to put themselves in the shoes or boots, as the case may be, of the western rancher today. There is a lot of mystique over who they actually are and what they do. Oftentimes we hear debates in the Senate about the so-called welfare ranchers or the rich CEO's or tycoons or perhaps surgeons who bought some land out West, and have some grazing permits but do not actually know how to ranch. We hear these stories of people taking advantage of the system. But I am here to tell you most of us who really believe in the West and ranching in America are not here to defend them. We are here to try to defend our friends, and neighbors. These are the people we know who have helped build Western America and who have a very strong belief in taking care of the land.

Contrary to perception that these folks somehow make a mint off the public lands, most independent cattle ranchers today are struggling with weak and unpredictable markets and increasing instability of rules and regulations that govern the way they do their daily chores. The uncertainty of Federal legislation often puts ranchers in a precarious position when they have to borrow money from their local bank. They have no idea what to tell the banker regarding the stability of their permit, given the inability of Congress to resolve this issue.

Raising livestock is a tough business, and I venture to say that those who have survived the back breaking work, the tough climate, the market fluctuations and the political pressures, too, are simply in it because they love the land and animals that subsist off it. These are people who care about the land not only because they have to, but because they want to.

I think I can tell you with certainty that any rancher who does not take care of the land simply does not stay in business. I know for a fact that they are better stewards than they are often given credit for.

Over the last few years, the Department of Interior, in my opinion, has engaged in kind of a deceitful and arrogant attempt to override westerners and our ability to make decisions for ourselves. The underlying message of the Department of Interior's rangeland reform basically states that we are not smart enough to figure out what is good for us. Indeed, according to the regulations promulgated last summer by the Secretary of Interior, we apparently need the assistance of beltway bureaucrats, national environmental groups, and virtually everyone else in the country with a peripheral interest in our business in order to make even the smallest decisions on our ranches, including where to put a water holding tank or a cattle guard.

Unlike the administration's proposal, the Public Rangelands Management Act, which Senator DOMENICI has introduced will empower local people to make the decisions that affect them directly. This bill does nothing to prevent broader public participation in management plans or recreational activities on the public lands.

Under S. 1459, affected interests are given the opportunity to comment on seven different kinds of proposed decisions affecting grazing allotments. By managing the public participation process, S. 1459 will provide much needed relief for permittees and Federal land managers from frivolous protests from out-of-State activists who oppose any use of the public lands whatsoever.

I believe that the Department of the Interior's rangeland reform is an undermining effort to overturn a lifestyle that has been part of the history of this Nation. In its zealous attempt to increase the diversity of the biological life on the range, it is threatening that lifestyle and operation that is already endangered. As I mentioned earlier, ranching is a tough business and it has become increasingly more difficult. Literally hundreds of ranchers in the West who were in business just 5 or 6 years ago, have already gone into bankruptcy.

In my own State of Colorado, many real estate developers are taking advantage of the unstable market and buying ranchers out to split up their land and subdivide the property into small units and tracts. Ironically, by attempting to increase diversity on the range, the rangeland regulations as they are promulgated by the Secretary of the Interior will only assist the paving over of the brush, the grassland, and the fields, putting them all under concrete and plywood. I think even the most ardent environmentalists would prefer to see cattle in those meadows and fields rather than pavement and condominiums.

In fact, if we look at the Department of the Interior's own reports, we can see evidence that indicates that the rangelands are in some of the best conditions they have ever been and continue to improve. For example, according to the Deer and Elk Management Analysis Guide published in 1993 by the Colorado Division of Wildlife, Colorado's elk population is estimated to have increased from 3,000 animals in 1900 to 185,000 in 1990. That report also indicates that Colorado's deer population is estimated to have increased from 6,000 animals in 1900 to 600,000 in 1990.

As a western Senator who has worked closely with grazing for many years, I truly understand the difficulty of trying to achieve a consensus on this issue. I have to say that the time has run out, and S. 1459 presents us with the best and I think perhaps the last chance to balance the concerns of the environmentalists with the concerns of the ranchers in a constructive manner. If you take away all the rhetoric, you will find that this bill has been crafted from collaboration and compromise.

In closing, Mr. President, I submit for the RECORD two resolutions. One was passed by the Colorado State Joint House and Senate Memorial Committee supporting the Public Rangelands Management Act. The second is a resolution from Club 20 which is an organization built from 20 counties in western Colorado which also declares their support for Senator DOMENICI's bill. I ask unanimous consent to have those printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

COLORADO SENATE JOINT MEMORIAL 96-3

Whereas, The federal rangelands are currently in the best condition that they have ever been in; and

Whereas, The condition of the federal rangelands has improved and continues to improve through the efforts of holders of federal grazing rights; and

Whereas, As a consequence of the efforts of holders of federal grazing rights, the improvement of the federal rangelands has resulted in stabilized and increasing populations of big game and wildlife, and further efforts will continue to provide long term benefits to big game and wildlife; and

Whereas, The western livestock industry is a vital component of the economy of Colorado and the economy of the United States, providing the people of the nation and the world with a reliable and healthy source of food; and

Whereas, Fees for grazing on federal lands must reflect a fair return to the federal government; and

Whereas, The Public Rangelands Management Act (S. 1459) has been introduced in the United States Congress; and

Whereas, The objectives of the Public Rangelands Management Act are to promote healthy sustainable rangelands and to enhance the productivity of federal lands while at the same time facilitating the orderly use, improvement, and development of those lands; and

Whereas, The Public Rangelands Management Act gives consideration to the need for stabilization of the livestock industry, scientific monitoring of trends, the environmental health of riparian areas, and the needs of wildlife populations dependent on federal lands; now, therefore,

Be It Resolved by the Senate of the Sixtieth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the Colorado General Assembly, strongly urge the Congress of the United States to pass the Public Rangelands Management Act (S. 1459).

Be it further Resolved, That copies of this Memorial be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the Secretary of the United States Department of Interior.

RESOLUTIONS BY VOICE OF THE WESTERN SLOPE, SINCE 1953

PUBLIC RANGELANDS MANAGEMENT ACT

Whereas: 73% of the Western Colorado is owned by the federal government, mostly in the form of BLM and Forest Service lands, and

Whereas: The use of these lands for grazing is critical to the economic viability of Western Colorado's livestock industry and to the communities supported by that industry, and

Whereas: The Interior Department's recently-adopted revised grazing regulations provide an unfair and unacceptable environment for the livestock industry to operate in, specifically in terms of the makeup of local grazing advisory councils, lack of incentives for investment in the range resource by the permitees, lack of provisions to encourage stability through the use of extended permit terms, and lack of needed efficiencies in the administration of grazing management on these public lands, and

Whereas: The formula for determining the livestock grazing fee needs to be established in an equitable manner, in law, in order to provide fair return to the public and a reasonable rate for permitees, now therefore be it *Resolved* by the Board of Directors at its 1995 Fall Meeting that CLUB 20 supports the concepts embodied in S. 852 and H.R. 1713 as introduced, specifically:

Addition of public representatives on local grazing advisory councils while still allowing majority representation by those with an economic interest at stake,

Adoption of a new formula for establishing the public lands grazing fee in order to ensure a fair return to the public and a reasonable rate for permitees,

Provisions to ensure proper management of public lands resources through NEPA-documented land use plans, range monitoring and enforcement.

Streamlining of the NEPA documentation process to allow for full public participation in the development of area land use plans without unnecessarily encumbering local agency officers and preventing them from carrying out sound range management.

RESOLUTION BY VOICE OF THE WESTERN SLOPE, SINCE 1953

RANGELAND REFORM 1994

Whereas: Interior Secretary Bruce Babbitt has proposed grazing reforms which contain many administrative changes unacceptable to the West, and

Whereas: CLUB 20 has always supported the multiple use of public lands, and food production, as a component of the multiple use of public lands, contributes significantly to the total food production of the United States, and

Whereas: As a whole, ranchers have been excellent stewards of the rangelands, benefiting both livestock and wildlife, and

Whereas: CLUB 20 believes Secretary Babbitt's proposed regulatory rangeland reform will ruin the livestock industry and substantially affect the total economy of Western Colorado, and

Whereas: It is not in the best interest of Western Colorado for affected ranches to be subdivided and sold in small parcels, and now therefore be it

Resolved by the CLUB 20 Board of Directors at its Fall Meeting, September 10, 1993, the CLUB 20 cannot support the administrative changes suggested in the proposed "Rangeland Reform '94".

Mr. CAMPBELL. In addition, I ask unanimous consent to have printed in the RECORD a Denver Post editorial of March 13 of 1995. Although I will not read the whole thing, which endorses S. 1459, I wish to read the first paragraph which states under the headline, The Domenici Grazing Bill Fosters Better Stewardship:

> Some Eastern-based environmental groups have been waging a political holy war against the Public Rangelands Management Act authored by New Mexico Senator Pete DOMENICI, but it seems clear that both the long-term environmental and economic interests of the West would be well served by this legislation to provide some badly needed stability and balance to the management of the public lands.

This is from one of our State's largest newspapers.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DOMENICI'S GRAZING BILL FOSTERS BETTER STEWARDSHIP

Some Eastern-based environmental groups have been waging a political holy war against the Public Rangelands Management Act authored by New Mexico Sen. Pete Domenici. But it seems clear that both the long-term environmental and economic interests of the West would be well served by this legislation to provide some badly needed stability and balance to the management of public lands.

Domenici's bill is basically a response to new rangeland management rules proposed in February by Secretary of the Interior Bruce Babbitt after many hearings and much debate. Critics of the Domenici bill are now trying to kill it in the belief that it is less favorable to the environmental lobby than Babbitt's rules. While they are undoubtedly right on that point, the critics are overlooking a crucial fact: What a liberal Democratic administration can arbitrarily impose, the next conservative Republican administration can arbitrarily repeal.

Administrative mandates without the permanence of law thus raise the specter of wild oscillations in policies that lock everything up after one election, then encourage short-term plunder after the next. That's the opposite of what the West needs—a policy that fosters long-term stewardship of the land, rewarding users who manage it carefully and punishing the greedy or stupid who abuse it for short-term gain. Both Babbitt and Domenici are aiming at that goal, but only Domenici is trying to cast it into long-term law.

The swinging-pendulum policies of recent years clearly have been bad for all concerned. Ranchers who aren't sure they can continue leasing land have no incentive to make expensive investments to control erosion or other problems. Likewise, past policies have been too slow to punish the small minority of ranchers who have neglected the land. In contrast, Domenici's bill, S. 852, encourages the Department of Interior to enter into cooperative agreements with permit holders for "the construction, installation, modification, maintenance, or use of a permanent range improvement or development of a rangeland."

Importantly, the Public Rangeland Management Act would allow grazing leases to be issued for up to 15 years—encouraging lessees to make long-term improvements and to carefully nourish the land. And while it would increase grazing fees approximately 30 percent from existing levels, the PRMA would also establish future fees by a formula keyed to the actual value of such leases as reflected in the price of the animals that can be raised on them. Again, by assuring a fair return to taxpayers and ranchers alike, the Domenici bill would reduce the risk of radical "windfall or wipeout" oscillations in fees which could themselves encourage overgrazing or other misuse of the land.

Some of the more hysterical opponents of the bill have claimed it would ban hiking, fishing or hunting from the public lands. The simplest answer to that charge is that it is an outright lie. The bill in fact encourages conservation, control of soil erosion and "consideration of wildlife populations and habitat, consistent with land-use plans, multiple-use, sustained yield, (and) environmental values."

The bill does give an important role to ranchers themselves in establishing grazing policies, recognizing that families who, in some cases, have managed public lands for more than a century are obvious sources of expertise and concern for their long-term welfare. But local citizens, public officials and environmental groups are also given seats at the policy table.

The Public Rangeland Management Act isn't perfect, and we welcome efforts to improve it as it wends its way through Congress. But it is a good start toward the wiser stewardship the public lands so clearly require.

Mr. CAMPBELL. So with that, Mr. President, I will yield the floor and simply urge my colleagues to support this well-crafted legislation. Under the leadership of Senator DOMENICI, it has taken many of us much time and effort.

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to once again repeat and inquire as to whether or not we might see and be able to read the Bumpers amendment with reference to increased grazing fees. If it is prepared, I hope somebody would let us see it. We would like to have a vote as soon as possible and that would be the one we would vote on.

Mr. President, I am going to very quickly yield to my friend, Senator BINGAMAN, and then to the Senator from Wyoming.

Could I just take 3 minutes? I yield myself 3 minutes.

Mr. President, when I became a Senator 24 years ago, I knew nothing about grazing, nothing about rangeland, nothing about public domain. I traveled New Mexico and met some of the finest people in the world. It just so happens that more times than not they were ranchers or ranching families. They had their house out there on a little piece of private property and some of their own property and then they had permit land. Some of them had been there for two generations, maybe in succession in their family. I can guarantee you that I never met finer folks, nor have I ever met folks who are more dedicated to maintaining the public domain and their stewardship. They just reeked in stewardship of this land. They always talked about it in terms of how they preserved it, how it maintained their families and how so long as they could keep that together and keep the rangeland in good condition, they could be there and enjoy this lifestyle and this manner of living.

We are in danger of many things in the western public domain lands. Some say the West is gone and urbanization shall take over. I do not really believe that. There is so much public domain and open space that the Federal Government is going to have to decide now and for decades to come how they want the people of this country to utilize it. Many, many years ago, order was made out of total chaos and the Taylor Grazing Act was passed for America.

It recognized multiple uses, and a simple proposition that you could graze cattle, pay a reasonable fee to the Government, do maintenance on that land to be able to tend to those cattle, and in addition have hunting, fishing, recreation, and the other things that go with it—namely, multiple use. Nothing, in my opinion, has changed. We ought to have multiple use. But we do not have to destroy the lifestyle of ranchers in our State and across the West, in an effort to maintain this multiple use.

If anyone would like to go to New Mexico and visit the ranchers today, he would see there are no rich ranchers. For those who worry about us representing rich ranchers, if they are rich they were rich before they got on the ranch. They are not getting rich on the ranch. As a matter of fact, there are more ranchers in New Mexico close to bankruptcy than any time in our history. After 3 years of drought and incessant demands made upon them by the Secretary of Interior and his rules and regulations, and excessive demands made upon their stewardship every time they turn around, we have them on the brink of disappearing without us having to pass laws that will make them disappear, or even without enforcing Secretary Babbitt's rules, which will surely, within a decade, even without droughts, see to it that ranching is a disappearing way of life.

In addition, I suggest, just to add to all the fury, cattle prices have come down half—is that correct, I say to my friend?

Mr. BURNS. A third.

Mr. DOMENICI. A third. So, look out where the rancher has 500 head. It is worth a third less this year than last year. With the drought setting in, they are cutting back. So they do not have any great shakes for those who are worried about rich ranchers and those of us in the West who are representing them, representing rich ranchers. We are trying to represent a way of life. In northern New Mexico, hundreds and hundreds of Hispanic Americans, in the third and fourth generation, have small ranches with few, maybe 100, 200 head, and some far less, on their annual permit of head on the range.

Frankly, this bill that is before us, contrary to everything that has been said, does not take away any rights from hunters and fishermen and those women who hunt and fish. We just repeated it over and over in the bill, that whatever their rights were, they remain.

There are some who want us to resolve all the issues between the hunting-fishing population and the ranchers. There is always some kind of problem with the public domain, some kind of friction. So some would like it resolved in this bill to the satisfaction of one group or the other. I believe we leave it just where it was. It is other regulations that concern us.

Before we are finished, we will elaborate to the Senators who have interest, and the American people who are interested, the long litany of new regulations that Secretary Babbitt would impose on the rangeland. Frankly, the Interior Department, under his leadership, is playing very, very cute. None of those things are going to bite until perhaps next year or the year after. But, by the time those regulations are imposed on the ranchers, in my State and across the West, what I have just described as the condition will be far worse.

I cannot believe that those who want habitat for wildlife, those who want hunting and fishing on the public domain, where cattle is also permitted to graze—I cannot believe that they truly believe they will be better off if cattle are not on the public domain. For those who were for cattle free—at one time the yell was "Cattle free by '93." I do not know what it is now, but it is not too many years off, for many of those who oppose this bill.

I wonder what we are going to do to supply water and habitat and all the things that are jointly used by the cattle that graze and the wildlife that inhabits the land. Who is going to pay for all that? Is the Federal Government going to go out and develop these water sources for them? Of course not.

Nonetheless, there are some who would like this bill today to permit those who have a public interest—just a public interest—permit them to get into the details of operating a ranch. We have withstood that. We give them, the environmentalists and others, conservationists—we give them plenty of input in this bill and plenty of opportunity to be part of it. But we have resisted permitting those who have just a public interest to get into the day-by-day management, get into the day-by-day reissuing of permits. We firmly believe that is not the way it ought to be done. It will yield nothing but havoc on the range, which needs stability these days, as it has never needed it before.

So, perhaps by Thursday night we will get a few questions answered and finish up some votes. I am very hopeful we will add stability to the West in the public domain, and will at least indicate that, while many of us do not understand, many Senators do not come from our areas, we are willing to say give this lifestyle, the lifestyle of being a cowboy, a private cowboy who owns a ranch—permit that lifestyle to exist for a few more decades.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, many of us in this body have tried to resolve the controversies that surround grazing on public lands. We have been working on it for several years. I also believe, as my colleagues who have already spoken believe, that a healthy livestock industry on the public lands is in the best interests of the country. Furthermore, I believe that the continued uncertainty that surrounds this industry, and the continued controversy that surrounds it, benefits nobody.

However, unlike some of my colleagues who support this bill, S. 1459, I contend that the uncertainty and the controversy will not be resolved by this bill. I believe it will not be resolved because the bill, as it now reads, in the substitute form, does reduce public input into decisions related to our public lands. It does elevate grazing into a preferred status as a use of our public lands. And, third, it does unduly limit the ability of the land managers who work for the public to carry out their responsibilities.

I believe that the resolution of these disagreements and these controversies can only be achieved when a balance is struck that respects the needs of all public land users, not just the ranchers. For a number of years, I and many of my colleagues have done what we could to ensure that any reform effort that was enacted would be fair to both livestock producers and the American public. My colleague has referred to the drought that we have experienced in the West. Certainly we have in my part of the country, in New Mexico. There has been a severe drought, and we are still in a very severe drought which adversely affects anyone who is trying to make a living in agriculture.

He also referred to the low prices of cattle. Again, that is a very real problem for people in the ranching industry in my State. I certainly do not dispute that. I think that is a very real concern and one which we are taking into account in the position that I will advocate here today.

But the other part was references to the efforts of the Secretary of the Interior to run these people out of a way of life, and to put in place extremely onerous provisions that will terminate their ability to use the public lands. There I have to disagree with much of what my colleague said.

Last summer, after many months of meetings, I think probably the most extensive set of public meetings that I am aware of having had conducted, at least in recent years, since I have been in the Senate, the Secretary of Interior and the President did promulgate regulations that sought to achieve a balance between the various uses of our public lands. If we are serious about providing stability and certainty to public land livestock producers, we need to adopt a balanced solution that, first of all, addresses the concerns of livestock producers; second, respects the need of all public land users—the needs that they have; and, third, provides some reasonable authority to the agencies that we have given responsibility to manage the public lands.

If we deviate from the balance in either direction, we are merely inviting continued strife and uncertainty as the aggrieved group, whichever group it happens to be, pursues legislative or regulatory fixes.

The Babbitt regulations, which have been referred to by my colleague, create some legitimate concerns for the permittees in my State.

In the substitute which several Senators and I intend to offer later in the discussion, we try to fix those specific concerns that have been pointed out to us and restore the balance that needs to be there in our grazing policies. However, if we pass S. 1459 in its current form, as the substitute was sent to the desk, we go beyond fixing those concerns and, in my view, we once again will throw the grazing policy of this country out of balance. This lack of balance will fester, just like the permittees' concerns have been festering, and lead to more instability and more lawsuits and more hard feelings.

We will likely be addressing this issue again in future years if we err on the side which I fear this bill will cause us to err on. We cannot afford to let that happen. We owe it to the grazing permittees, to their families and communities that rely on the livestock industry, as well as to other public land users and the American public in general, to resolve the dispute now in a balanced and sustainable manner that will withstand the test of time.

Mr. President, I want at this point to go through some of the specific concerns we have with S. 1459. In order to do that, let me put up a couple of charts just to keep track of where I am in the discussion.

A first concern which I have repeated numerous times—and let me say by way of introduction, the bill we are now considering is not the bill which was introduced last summer by my colleague from New Mexico. It is an improved bill. I think the designation of the earlier bill, S. 852, in my view, was substantially more lopsided and one-sided than this bill is, but significant problems still exist in the legislation. Let me go through those.

One of those major problems is that grazing is still given preference as a use of the public land over other uses in the legislation. First, let me talk about conservation use.

It is ambiguous in S. 1459 whether conservation use of a grazing allotment is allowed. Conservation use is where the permittee would voluntarily refrain from grazing all or a portion of the allotment in order to improve the health of the range. Sponsors of the bill will claim that such uses would be permitted. However, I will submit for the RECORD a letter that The Nature Conservancy has sent to me concerning this matter, dated March 16, 1996.

That letter states, Mr. President, and I will quote a couple sentences:

> But our qualification—

That is qualification to be a permittee.

> has been challenged in a case now before the Interior Board of Land Appeals. Part of the argument was that because we were resting an allotment, we could not be said to be "in the livestock business" (as required by the regulations that would be reinstated by S. 1459), despite the fact that at other locations

we own, raise and sell domestic livestock and depend on the revenues we get from the cattle business to support our operations.

Creating a category of "conservation use" of Federal grazing permits would make it clear that The Nature Conservancy could hold a permit and rest it.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter from Russell Shay, who is the senior policy adviser to The Nature Conservancy.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NATURE CONSERVANCY,
Arlington, VA, March 16, 1996.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Thank you for asking us about our use of grazing permits on public lands, and the potential impacts of new grazing legislation on them. We currently hold 23 of the more than 26,000 federal grazing permits on Bureau of Land Management (BLM) or Forest Service lands. Those 23 permits are spread across 9 different states. Our review of BLM and Forest Service records has not found any other conservation organizations to be currently listed as owners of federal grazing permits.

The Nature Conservancy and cooperating ranching partners actively graze domestic livestock on about half of our allotments. The others are being rested in non-use being annually approved by the local BLM or Forest Service professional land manager. Our permits were each approved by local managers whose judgement was that The Nature Conservancy was qualified to hold them. But our qualification has been challenged in a case now before the Interior Board of Land Appeals. Part of the argument was that because we were resting an allotment, we could not be said to be "in the livestock business" (as required by the regulations that would be reinstated by S. 1459), despite the fact that at other locations we own, raise and sell domestic livestock and depend on the revenues we get from the cattle business to support our operations.

Creating a category of "conservation use" of federal grazing permits would make it clear that The Nature Conservancy could hold a permit and rest it. It would also provide a framework that would allow for local consideration of such uses and their effects through public participation in the land-use planning and allotment management plan approval processes.

Sincerely,

RUSSELL SHAY,
Senior Policy Advisor.

Mr. BINGAMAN. Mr. President, I think it is clear when you analyze the bill—and I am sure we will have more discussion on this—it is clear that entities that are not engaged in the livestock business under the language of this bill could not hold a permit in their own name, and I think that is something we should correct. We will propose to do that in the substitute that we offer.

A second concern, which is on this chart—I hope that people can see this; I am sure most cannot—but a second concern that I have with S. 1459, a second way in which grazing is given a preference is that S. 1459 will, for the first time, allow permittees to hold title to permanent range improvements on forest land.

For example, under existing law and regulations, a Forest Service grazing permittee is granted a permit to construct a range improvement and the title to that improvement is in the name of the United States. That has always been the law in our national forests.

S. 1459 will allow the permittee to hold title in proportion to the value of the contribution that that permittee has made for the cost of construction, and that is a major change for those who are permittees in the Forest Service.

A third way in which grazing is given a preference is that S. 1459 statutorily provides for granting private property rights on BLM land as well as on forest land. The old BLM grazing regulations provided only regulatory authority for granting title to permanent range improvements on BLM land. This would take what was in the old regulations promulgated under the administration of Secretary Watt and would put that into statute for the first time.

A fourth ground for concern is the wording of the objectives in the bill. Here my reading of the objectives is that they favor the stability of the livestock industry over the needs of wildlife. The objectives are extremely important in this, as pointed out in the Congressional Research Service report, which makes the very important point that under section 105(A), management standards and guidelines are to be consistent with the objectives and become directly effective upon plans by operation of law.

Under section 134(A), terms and conditions of a permit must be necessary to achieve the objectives of title I. Therefore the objectives have more significance than would be true if they provided only a general guidance unrelated to particular processes.

A fifth concern with regard to grazing being a preferred use of the lands, Mr. President, is that S. 1459 provides for cooperative range improvement agreements with permittees and lessees only. Currently, about 17 percent of all BLM range improvements have nonpermittee cooperators, such as Quails Unlimited.

The old grazing regulations provided that the Secretary could enter into a cooperative range improvement agreement with any person. This bill goes further in restricting the Secretary, further than the regulations promulgated in the Watt administration or developed in the Watt administration, and says that the Secretary is only able to enter into these cooperative agreements with permittees and lessees.

Let me move to the second of the three major points I want to make at this time, and that is this bill does reduce the extent of public involvement.

The first way in which it reduces the extent of public involvement is that it denies the right of affected interests, people who are determined to be affected interests, to protest grazing decisions on public land and national forests. S. 1459 allows an affected interest to be notified of proposed decisions and given an opportunity for comment and informal consultation. However, only an applicant, or permittee, or lessee may protest a proposed decision. Further, in the absence of a timely filed protest, the proposed decision becomes final.

Again, referring to the Congressional Research Service analysis, it says:

> A protest, similar to a predecisional appeal that gives the public an opportunity to object to a proposal, gives the agency an opportunity to change or modify its course before commitment of further time or effort.

These provisions appear to mean—these provisions being S. 1459—appear to mean that unless an applicant or permittee protests a proposed decision, comments or other input from other sources will not be taken into account because, absent a protest, the proposed decision does become final. If this is a correct reading, then the opportunity for comment and consultation does not appear to be meaningful.

A second way in which public involvement is reduced is, it is possible that only ranchers, under our reading of the bill, would qualify to file an appeal of a final decision affecting the public lands. A person who is adversely affected—and that phrase is a term of art, because it is used in the legislation—a person who is adversely affected within the meaning of 5 U.S.C. 702 is permitted to appeal. This cited code refers back to the relevant statute.

In this case, the relevant statute would be S. 1459. On that issue, the analysis by the Congressional Research Service says that the persons included within this provision are not clear. The cited code section refers back to the relevant statutes, thereby setting up a circularity.

Since the CRS report was published, new appeals language has been added that further clouds the situation. It states—I will quote this from the bill—it says:

> Being an affected interest, as described in section 1043, does not in and of itself confer standing to appeal a final decision upon any individual or organization.

Mr. President, a third way in which public input, involvement is reduced is that S. 1459 exempts on-the-ground management from the provisions of the National Environmental Policy Act, or NEPA. As the bill is presently presented, the National Environmental Policy Act, commonly known as NEPA, is going to be the topic of a great deal of our discussion. NEPA is one of the main tools used by land managers to analyze the health of the land and to analyze the potential effect on the land.

S. 1459 exempts on-the-ground management from NEPA. In discussing the elimination of NEPA in site-specific situations, this Congressional Research Service report states:

> An activity could readily comport with a land use plan and yet have many harmful aspects if carried out in a particular area. Therefore, the elimination of site-specific analysis is a significant change in current law and procedures, and could result in significant effects on the conditions of the land.

In place of NEPA, S. 1459 proposes a review of resource conditions. Essentially, the bill states that upon the issuance, renewal or transfer of a grazing permit or lease, at least once every 6 years the Secretary shall review all available monitoring data from the affected allotment. The central problem with this provision is that monitoring data usually consists of very specific measures of vegetative attributes. That monitoring data, in many cases, is not available.

A fourth reason that I would cite why public involvement is reduced under this bill is, aside from the grazing advisory councils, the public is not given a say in range improvements. The old grazing regulations allow affected interests a say in the development of range improvements. As I read the provisions of this bill, it does not.

Let me move to the third major concern that I have, Mr. President. That is that S. 1459, as drafted, and as being considered here, unduly ties the hands of lands managers. It does so in several respects. First of all, the application of terms and conditions needed to protect the land requires the development of a formal allotment management plan under this bill.

Currently, less than 25 percent of BLM land and national forest allotments have allotment management plans prepared for them. The old grazing regulations' terms and conditions were attached as needed to protect resources and no allotment management plan was required.

A second reason that I believe the current bill, Senate bill 1459, ties the hands of land managers is that the number of animal unit months would be established in land use plans in this bill. The land use plan often covers millions of acres, contains very general language, and S. 1459 would require costly, time-consuming land use plans and amendments to establish and make changes in grazing use for each allotment. In the old regulations, specific grazing use was determined through site-specific analysis, not through amendments to the entire land use plan.

A third reason that the hands of land managers will be tied by this legislation is that in conducting monitoring activity, S. 1459 requires the manager to give prior notice, to the extent practicable, of not less than 48 hours. This exception to the notice creates a burden of proof that has never existed before.

I also point out this creates a burden of proof when a land manager is dealing with a grazing permittee which does not exist when dealing with any other permittee on our public lands. Someone involved in the oil and gas industry certainly is not entitled to any 48-hour notice prior to monitoring activity taking place. It is inconsistent with the concept of these being public lands, Mr. President, to say that the manager of those public lands has to give notice 48 hours in advance before being able to view the lands and determine the condition. In the old grazing regulations no such advanced notice was required.

A fourth way in which the hands of land managers are tied, in my view, in this bill is that S. 1459 would allow a sublease in cases where permittees neither own nor control the livestock. In the old regulations, ownership or control of the livestock was required. As I understand it, that is an appropriate requirement because clearly the BLM or the Forest Service cannot be expected to go around trying to find who is accountable for damage to the public lands. They have a right to assume that the person that has the permit or the lease has control of the livestock or ownership of that livestock and can be held accountable for what happens on the land.

Mr. President, let me just conclude this set of initial comments here by saying that I do believe that we need to keep working to get a balance. We will offer later in the debate a substitute proposal which we believe does a better job of striking a middle ground and addresses the specific concerns that have been raised in the current Department of Interior regulations but does not repeal them entirely, as this legislation would. We believe that it gets us much closer to something that looks out for the interests of all those who have a valid interest in the use of the public lands.

So I will stop with that, Mr. President. I know there are many others on the floor who wish to speak. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the Domenici bill. I would like to give a little background on it. I think later in the debate it will be necessary for us to talk a little bit about the comments of the Senator from New Mexico in that I think they are exactly where we are in terms of wanting more bureaucracy, wanting the bureaucracy to have more and more input. That is precisely what we want to get away from.

Let me just say one thing in terms of this idea that keeps rising up that grazing is the preferred use. Let me read from page 6 here, on line 14.

> Nothing in this title shall limit or preclude the use or the access of Federal lands for hunting, fishing, recreational, watershed management, or other appropriate multiple-use activities in accordance with applicable Federal and State law in the principal or multiple use.

Not only is it there in this instance, it is there in a number of instances and has been the focus of our interest over the last several months. I really do not think there is any substance to that kind of an argument, although we continue to hear it.

Mr. President, let me be a little broader. I think one of the things about this whole debate is that there is a unique aspect to western public lands. Most Members of this body are not as familiar with them. I think you have to start with the uniqueness of the West. You have to start with the uniqueness of the idea that Western States run anywhere—in my State from 50 percent Federal ownership, and in Nevada, I think, as high as 80 to 85 percent Federal ownership. I think you have to talk about that a little bit. I brought a map to give you some idea of the kind of complexity involved in the management of public lands.

First of all, there are a number of kinds of public lands. The idea that public land is public land is not the case. Many people in New Jersey would say, "Well, public land must mean Yellowstone Park or Teton Park." It does not. There is a substantial difference. We have the parks which were reserved and withdrawn for a special purpose by the Congress. We have the forest which was reserved by action of the Congress. You have Indian reservations. You have other kinds of lands that were withdrawn—wilderness in the forest. These things were all set aside for a specific purpose because of the uniqueness of that land.

The remainder is basically what we are talking about here. We are talking about those lands that were residual lands, lands that were left in the State after the homesteaders came and took up the base lands, took up the lands, frankly, where the water is, where the winter feed is, took up the most valuable lands, and the others were left there. That is basically what we are talking about.

Let me tell you from a standpoint of a westerner, if we do not have a multiple-use policy for the lands, we have very little economic future to look forward to. By "multiple use," we are talking about hunting and fishing, talking about outfitting and mining, talking about oil, talking about grazing. These things have for a very long time been compatible with one another.

Some of this map is hard to see. The colored part belongs to the Federal Government. The green color is the

Forest Service, the purple is the park, and all of this yellow are BLM lands. We can see how interspersed they are. This is particularly unique. These are called the checkerboard lands. When the West was developed and the railroads were encouraged to be out West, they were granted 20 miles on either side of the railroad, and every other section belongs to the Federal Government. In between are private sections. For the most part, there are no fences there. You do not manage these separately. These are very unproductive lands. This land probably takes 100 acres for one cow unit to last for a year. This is not the kind of land that people think about when they think about a pasture in Indiana.

When we were in the House, we went through this thing about the fees. The chairman of the committee was from Indiana. He had this pasture where the grass grew this big, and he could not figure out why the fee should not be the same for this land as it is for his land. It is quite different.

What we have in terms of landownership patterns you have to take into account. Here is a blowup of the checkerboard land. Every other section here belongs to the Federal Government; the others are private. These are interspersed. The blue ones happen to be State lands. You can see, in order to manage this stuff, you have to have some of these local folks do it.

Now, talking very briefly about the condition of the range, this is the figure put together by the Bureau of Land Management in Wyoming. It talks about the percentage of acreage in a condition class. This green is called excellent and good; the red dotted line is poor. This starts in 1974 and goes up to 1993. This is the good and excellent here. This is the condition of the range. This is the poor down here. It has improved substantially.

Let me give you another reason why that is the case. This is the big game population on public lands in Wyoming. We talk about the multiple uses being able to work together. Here is antelope. In 1962, we had 97,000 of those rascals running around; now we have 226,721. I got one last year. Now, deer, 87,000; go up to 250,000. Elk, 12,000 in 1962; now 35,000. You can see the percentage increase over a 28-year period.

My point is that the range is in good shape. The range is carefully husbanded by these ranchers. Why? Not just because they are entirely gratuitous, but because their future depends on year after year usage of this resource.

I must tell you, having grown up there, that this wildlife would not do well if there was not somebody out there using this land for something else and preparing water, often digging out a spring and damming it up so there is water available, not only for cattle or sheep, but also for wildlife as well.

It is a very unique thing, Mr. President. I think we need to start with understanding that. Western cattlemen, western livestock people, of course, a very important part of our society, not only because of these families that live and work there but because these are the sustaining families for the small towns that are there. This is the economy for much of the West. This is a historic time now of low prices for cattle, as everybody knows. The considerable loss to predators has also been a problem and makes it much more difficult to make a living.

Now we face, I think, excessive regulations put on by the Bureau of Land Management. The Senator from New Mexico mentioned the number of trips of the Secretary out there. He is right. I was involved in very many of those. For 2 years we had meetings, meetings, and meetings. When the regulations were put out, they were put out almost precisely as they were initially. You can have meetings until you are green in the face; that does not mean there will be any difference. That is a fact.

That is where we are. We are seeking to make some changes here from this movement by the Secretary for more and more bureaucracy in Washington, to some movement where there is more impact of the people, more decisionmaking by the people who live there. I do not think there is any question that rangeland reform will drive families off the range, create some economic problems in our areas. We worry about that, naturally. Maybe the broader, more generic concern, however, is the maximum, ultimate best use of multiple resources. Grass is a renewable resource, one that you manage.

This Public Rangelands Management Act is a great step forward. It is something we have worked on for over a year. We have taken it to our friends on the other side of the aisle; we have talked about it; they have come back; they have agreed to some things; we have put in much more than we have changed for ourselves. However, there are some changes in which we do not basically agree. One of them is the degree of bureaucratic involvement in this bill.

We have established and very carefully established a relationship and a balance between grazing and hunting and those activities. Personally, I come from a place where hunting and fishing is a very major function between Cody, WY, and Yellowstone Park. There is grazing, but hunting and fishing is equally important from the economic standpoint. I understand that. We balance that. That is what this bill does.

I think for too long over the last several years the grazing question has zeroed in on the fee. The Secretary does not even have a change in the fee. We have a fee. We have a simplified fee based on the value of the product, based on the average value of the livestock, and it raises the fee even in spite of the economic condition that livestock people are in. This is not a question, this time, about fee. It is a fee that is based on the product.

Too often there are comparisons made between this land and this land, these services and these services. I am sure we will hear, "Well, the State charges more, gets paid more, private gets paid more." Yes; they do. They also provide a great many more services. You can have exclusive use of State land, but you cannot do that with public land.

There are differences. Someone said it is a little like the difference between a furnished apartment and an unfurnished apartment. That is exactly right.

Mr. President, I think we have a great opportunity to move forward to do something that has needed to be resolved for a very long time, and I think this moves toward that resolution. And I think the bill, as it stands, is one that has been considered and approved by many people. It is time, certainly, for us to come to closure on it. I have been disappointed that each time we have tried to do something, we get a lot of disinformation from BLM. I do not think that is an appropriate role. We have been involved in that over a good period of time.

So, Mr. President, I am sure we will be back to talk some more about the specifics of the issue that have been brought up. I do not believe that this limits public input. I do not think that is true at all. On the contrary, we are seeking to deal with issues like NEPA and to try and say the NEPA law requires that activity in relation to a major Federal action.

Last year, we had a proposal in the Forest Service that every renewed grazing permit have a NEPA process. Ridiculous. If you ever heard of excessive bureaucracy, that is it. Indeed, the NEPA process takes place on the land use plan which takes up a number of allotments. That is the reasonable thing to do. I do not think there is anybody who would argue you should have a NEPA process for every renewable grazing lease. That was already seen to be not workable.

Mr. President, I am glad we are talking about it here. As I said, this is kind of an opening statement for me. I want to come back, as we go forward, to talk about some of the specific things that were talked about here.

Let me say, finally, that I have no doubt that this is a question about the livelihood of families in the West. This is a question of small ranchers who depend on this public land to go with their deeded land, to be able to sublease. They were able to do that in the past, and they can do it now only if the BLM agrees to that. That is what it says in the bill. That is the way it ought to be.

So, Mr. President, I hope that we can move through these issues, and I hope that we can end up with a reasonable way to provide multiple use in the West, protect the environment, which all of us who live there want to do, and, at the same time, be able to use those resources so that those families in the West can make a living as they do over the rest of the country.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I will be brief today. We are here on the floor of the Senate talking about a grazing bill. I have spent a substantial amount of time on this issue this year. I cannot tell you the number of meetings I have had in North Dakota with ranchers, environmentalists, hunters, and others, talking about the various proposals that exist in the grazing legislation that has been offered by Senator DOMENICI, the substitute that was previously offered by Senator BINGAMAN and myself in the Energy Committee, and other iterations of each.

This is another one of those cases where in debate on the floor of the Senate, it seems to me, there is a little bit of truth on both sides. Each side takes their side of this issue and tends to take it out here and make a caricature out of it. The fact is that we have a circumstance with respect to publicly owned lands in many of our States that are used for a lot of purposes, where ranchers in my State—not big ranchers, but family ranchers—are trying to make a living grazing their cattle on public lands, as has been provided for many years with respect to the multiple use of these lands. They work hard and they do not ask for much from anybody.

Most of these folks are not big. They are family-size ranches. They are subject to the whims of the weather and subject to the ups and downs of cattle prices, and sometimes they have an awful time.

I notice that the Senator from Connecticut has something he wants to do. I will be happy to yield for a moment.

Mr. DOMENICI. Mr. President, we have been informed that Senator DODD will introduce a distinguished guest. He will then ask that we be in recess for a period of time.

I yield to Senator DODD for that purpose.

VISIT TO THE SENATE BY THE PRESIDENT OF HAITI

Mr. DODD. Mr. President, we have the high honor of having with us in the U.S. Senate today the President of Haiti, Rene Preval, who is visiting us in the Senate today. My colleague from Georgia, Senator COVERDELL, and I had a very good meeting in the Senate Foreign Relations Committee.

RECESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that our colleagues may have the opportunity to greet President Preval.

There being no objection, the Senate, at 5:05 p.m., recessed; whereupon, the Senate, at 5:11 p.m., reassembled when called to order by the Presiding Officer (Mr. COATS).

PUBLIC RANGELANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I was saying, this piece of legislation is a piece of legislation that deals with grazing issues that are important issues to people who ranch and who graze cattle on public lands. I indicated previously that there is some truth on every side here on this issue, and that each side seems to stretch some here and there to make their point.

I think there is a legitimate question with respect to some of the management practices, especially on the grasslands in North Dakota. I think there is a legitimate question about the management practices that create circumstances where a rancher who is grazing on public lands wants to move a water tank and months and months and months pass, and they do not get an answer. Some of these little issues that they ought to get resolved ought to be resolved. They ought not to wait forever for some answer. So ranchers get upset on that kind of management of public lands, and they have a right to be upset about that. We ought to resolve some of those problems and address some of those problems.

Senator DOMENICI has offered a piece of legislation that has gone through a couple of different drafts. Senator BINGAMAN and I offered a substitute in the Senate Energy Committee on two occasions I believe; maybe one. But we offered a substitute. We said that there are some things that we think have merit in Senator DOMENICI's approach, and there are some things that we think need to be improved upon and changed.

So we wrote a substitute that we think addresses the real problems that exist without causing some other problems. We are here wanting to solve problems—not create problems.

I say this to those who argue, as some have in the recent editorials in the last day or two in the largest newspaper in our State, that this is a "land grab" by ranchers; that they want to seize control of public lands, period, end of story. That is not an accurate assessment of what is going on.

I am prepared to support some legislation to address these issues, as I think the Senator New Mexico, Senator BINGAMAN, does and as others do on the floor who have spoken. We may want to address it in a slightly different way. But, nonetheless, all of us come here saying there are some legitimate problems that ranchers have, and we ought to address some of those problems.

Those who make the charge—as was made a couple of days ago in an editorial in our largest newspaper that this is a "land grab"—that it simply would turn the keys to the Federal lands over to the ranchers with no input from anybody else is wrong. I will not support that. That is not what our substitute says. Frankly, that is not what the Domenici bill says. We come at this sometimes from different ways, and we, because we offer a substitute, think the bill moves too far in some areas. But all of us believe these are multiple-use lands—public lands available for multiple use—and that they ought to remain that way.

I really believe that hunters have a right to these lands. Hikers have a right to these lands. Environmentalists own these lands as well. These are multiple-use lands, and will remain multiple-use lands. And I would not support anything—not a substitute, anything—if someone brought a proposition to the floor that says this is not your land, and that this land belongs to ranchers. It is not my view. I will not support anything that supports that view. That is not what we are saying.

The substitute offered in the Energy Committee by Senator BINGAMAN and I says there are some problems and let us address those problems. Let us not address those problems by creating more problems for ranchers. Let us not address them restricting any access for anybody else. Let us simply address them the way they ought to be addressed.

I hope, as we talk through this set of issues in the next day or so—and hopefully we will have a vote tomorrow on this, and we will have a vote I think on a substitute that Senator BINGAMAN and I will offer along with some others—I understand that there will be a vote on an amendment by Senator BUMPERS on grazing fees. There may or may not be other Senators who come to offer amendments on the issue. But I hope when we get to the final stages of this process that most of us will understand that we are aiming for the same thing—we want to solve some problems. We do not want to create others.

I would say to those in my State, North Dakotans, who are interested in this issue that these are multiple-use lands and will remain multiple-use lands. I feel very strongly that hunters and others have an interest in these lands, and I will not do anything to restrict that interest. By the same token, I come to the Senate wanting to solve some problems that ranchers have. They graze cattle and have some problems with respect to the management structure. And I am interested in solving those problems.

As we debate and discuss this, let us really deal with the facts on each side, and let us—each of us—represent what we want the answers to be to these problems. At the end of the day we count votes in the Senate. We do not weigh them. So whoever has the votes to advance their proposal, that is what public policy will be. And I hope, at the end of this, public policy will be one that says these are lands that belong to our country—all of the people of our country—and should be available for all of the people in our country to use. But some of the salt-of-the-Earth people in our country also are people who ranch, who work hard, who try to beat the odds, the weather, the prices, and they have some management problems, and we ought to address some of them. That is my interest in this legislation.

I will return to the floor with my colleague, Senator BINGAMAN, offering a substitute, and we will have a discussion about that. I will also, when I return to the floor, join in some discussion I am sure with Senator DOMENICI, Senator CRAIG, Senator BURNS, and others. While we might disagree on some parts of this bill we agree on others.

I commend all of those who are involved in this discussion because I think that this is an interesting discussion about the use of public lands, and I hope that we will shed more light rather than cause more fog in the next day or so.

Mr. President, with that, I yield the floor and I will return to the floor with Senator BINGAMAN and offer a substitute.

Mr. DOMENICI. Mr. President, I understand that Senator BURNS has been waiting a long time and wants to speak on our side. I am pleased that Senator BUMPERS is here. If all goes well, as soon as he is finished, the Senator may get the floor and offer his amendment, debate it, and try to vote this evening. Is that all right?

Mr. BUMPERS. Mr. President, it is immaterial to me when we vote. We can vote this evening or possibly tomorrow. I am not prepared to enter into a time agreement at this moment. If the Senator from Montana would like to proceed, my chief cosponsor, Senator JEFFORDS, will be here in about 2 or 3 minutes. If the Senator wants to proceed, that is fine.

Mr. DOMENICI. He will proceed now, and then Senator BUMPERS will follow.

Let me just talk to Senator BUMPERS for a minute on the timing. I understand his amendment is an amendment to increase grazing fees. That is the one which he has given us. He may have others. I just wanted to tell him what I told the Senate when I did not think he could be here. The leader wants us to finish tomorrow because he has a commitment to Senators that there will be no votes on Friday. We will be in tonight, if need be rather late, and then come back on this, I think, at noon tomorrow.

So we will give the Senator all of the time in the world because he is entitled to it. But I hope on his amendment that sometime later he might give us an idea when he might vote this evening so we could get one vote on this bill accomplished this evening.

Mr. President, before I yield, let me say to Senator DORGAN that I thank him for the way he has handled himself here on the floor this afternoon. I think his comments were very well taken. I think there is a lot of excess language on both sides of this. I mean ranchers frequently say, if this happens, they are out of business; they are gone. Environmentalists say, "If you do not do this, the public land is all going to be owned and confiscated by ranchers, and we will lose all of our rights." Frequently neither of those views are accurate.

We are going to try our best to have a multiple-use bill when we leave the Senate, get one from the House, and send it to the President. We have no intention of taking away any rights—we do, however, want to protect grazing, and try to put it in a secured position. But we are not trying to take away any of the other rights. We are doing our very best to try to see that they are there.

Mr. DORGAN. Will the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. DORGAN. With respect to the schedule, of course, that is up to the leaders. I would suggest I do not think there is a circumstance where you are going to see a filibuster that succeeds on this legislation. I think there is a general understanding that this legislation will be resolved by the end of tomorrow, and I hope that if we get to a circumstance where someone wants to offer an amendment, and it is going to take us until 8 or 9 tonight, and we are not going to call people back for tonight, we could roll that vote first thing in the morning.

So I would urge the leaders and the managers of the bill to consider that because I do not think this is a case where if we do not vote by 9 o'clock tonight, we are not going to have the bill out of here tomorrow. I do not know of anyone who is going to stall the bill tomorrow.

Mr. DOMENICI. Let me just make sure that the Senate understands that I do not intend, if we have some kind of understanding about how many amendments and we will finish tomorrow, to keep the Senate in until 9, if we have consent to debate it tonight and vote tomorrow. I thought we would get through the first amendment sooner than that, by 6 or 7. If not, I will talk to the leader about the Senator's idea.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Mr. COATS). The Senator from Montana.

Mr. BURNS. Mr. President, I thank my friends from New Mexico for the leadership they have shown on this issue.

It is a wonderful day to start the debate on this particular issue, the first day of spring. Even though the weatherman has not chosen to cooperate properly in greeting this day for the most part across the country, a little bit colder than usual, the Earth is starting to shed its winter chill and the frost is giving way to the warmth that lives within this great Earth. It is also the time of renewal, when those seeds that have laid in the Earth and those grasses that were dormant, are starting to show some signs of growth. It starts to give the Earth a different hue.

It is also a pretty exciting time in livestock agriculture, too, a time for newborn calves and lambs, a special time of the year for those who are attached to the land in a very, very special way.

It is a season that also gives us renewal. This transformation that we have, this promise of renewal every spring, every year, this renewable resource that renews itself, happens right before our eyes and it assures us that the future is now and will ever be.

I realize it is hard to see the significance of the season by those who have never really experienced that special attachment to the land.

In saying that, it is time for the Senate and this Congress to bring some common sense, some predictability, and stability to the folks who really deserve it, the people who are charged with the business of caretaker of our lands and our resources that come from those lands. They are good caretakers because it behooves them to be good caretakers. I just do not know of any good or successful rancher who loves and cares for his livestock and his land, who lives for the day that he will finally turn over the reins and the ownership of that ranch to the next generation, whether it be a son or son-in-law or daughter or daughter-in-law, who does not live for that. They teach their next generations how important this caretaking is. If we in this country are to hand to our children and to our grandchildren a better ranch and therefore a better world, where they can work, where they can sustain life, where they can recreate in an environment of clean air and clean water, then we must dedicate ourselves to the idea that Washington must, in a different way, make regulations and work with the local people to make sure it happens.

After hour after hour of discussion both here in Washington and on the ground on this particular subject, it is time now to move forward with a rangeland bill that we can be proud of and that we know will work and has the support of everybody involved.

If one could have written a rangeland bill that has all the principles of multiple use, maybe this is not quite perfection. If we were to write one that reflects the dedication to pursue sensible environmental policy, that preserved the gains that we have made in the last 50 years on our rangeland, then I would say this one probably is not perfection either, for, you see, those folks who are charged with the caring of this land, they became concerned about our range conditions a long time ago. They just did not start in 1980 or 1986 or 1984 or 1990, and for sure not 1996.

Range management was put together after World War II and after the Great Depression and great droughts of the dirty thirties.

In this bill, as presented by Senator DOMENICI of New Mexico, we have taken a giant step to the resolution of a very, very contentious and emotionally charged issue, and at times it has defied common sense and good judgment because there are groups that probably have had to raise some money and this is probably a pretty good issue on which to do it.

As we look at the future of these lands, we must be careful as to what the people who are actually the caretakers of these lands provide for the rest of America to enjoy, for it is in the best interests of these people to care for these lands. Without the continual regeneration of the grass and the land they care for, they have nothing to graze. They are out in the cold. They are out of business.

We have heard that there are those who are concerned about wildlife. Please read all the journals of Lewis and Clark. Please read of the people who entered these lands long before there was a rancher there. Read in the journals how there was no wildlife at all, that they ate their horses in the dead of winter, and the only wildlife—and it was sparse—was along the rivers, the Missouri and the Yellowstone and the rest of them. That was in the north country. Those lands were not claimed during the homestead days. It was for one reason: There was no water. Very harsh land. But with people who cared and people with new and innovative ways to bring water into grasslands, there came the wildlife. I can give you all kinds of figures on the increase in antelope, deer, whitetail deer, muleys, elk, whatever you want to count. There are more of them now than at any time since the Great Depression.

I am not going to do anything that is going to harm the habitat of wildlife or harm my way of life. I like to hunt. I am chairman of the Sportsmen's Caucus in this body. I am not going to do anything to harm that. I would ask these people, where are some of our supporters whenever hunters' rights come up? Where are they then? Are we playing with a double-bitted ax here?

Section 102, paragraph (c) says:

> Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple-use activities in accordance with applicable Federal and State laws and the principles of multiple use.

How much clearer must it be? It is even written in plain, everyday English.

So, as we talk about this issue, we will all have a lot more to say about it. I agree with my friend from North Dakota, we have run into some problems. We have not been able to move a water tank when we wanted to. The decisions from BLM did not come fast enough, or decisions from the U.S. Forest Service did not come fast enough. But do we create two or three layers more of bureaucracy to make that decision? The best decisions are made at the local level. Do we have to call Washington to change a gate? I would say no, not and be good caretakers of the land, because if they delay the decision of moving the water tank, maybe they will delay the decision about moving some stock that should be moved. Maybe there is some real environmental damage that could be done because of the inability to make a decision 2,100 miles away from where the grazing activity is taking place.

The challenge that awaits this and every Congress from here on out will be the effect of how we manage public lands or the policy we set for those resources found on public lands. This bill seeks to provide an effective, reasonable management of our natural resources. Effective management means it will allow those close to the land, who have not only economic but also social involvement with a community, allow them to manage those resources, not as they see fit but as nature sees fit.

The terms of this bill, to make grazing an acceptable practice in the management of our Federal public lands, is that asking too much? Do we just let the grass grow up every year? Some years you are going to have drought, and it is not going to grow up. But let us say we got a lot of growth last year, this year there is a lot of dead grass around, and it burns. It will burn. In its path you put at jeopardy life, property, even residences. I do not know how many people on this floor have ever faced one of those fires. They are not a fun thing. They are pretty scary. But the people who are caretakers of this land face that every day.

Do you want to talk about prices of cattle? I can talk about that. I have a hard time relating $58 and $62 steers and heifers ready to be brought to market, and little T-bone steaks at Giant at $4.50 to $6 a pound. There is not too much relationship here. Packers say they are not making any money. You know how packers are.

Cattlemen will be hurt, but we will not feel it here in this town because, in this town, April 15, the shrimp boat comes home and we will get our check. They will get theirs this fall. But it will be 35 percent less than it was last year, and we think we are doing them a favor. Those who pay the bills in that community, who provide the services to local government—schools, roads, public safety—all of this comes out of that check when he sells the product this fall.

So, as we talk about this, and we will bring up more points as we go along, I just want to remind folks what we are dealing with here and how delicate the balance is between good management on range and bad management.

In 1979, I started a little activity in Montana called Montana Range Days. It started off with about 200, 250 people who would attend every year. We had super starters, 8-year-old, 9-year-old kids, identify plants, weeds, grasses; identify carrying capacity on range, capacity conservation, watershed—3 days sleeping on the ground out on the range. I kind of helped that get started. It is bigger now than it was in 1979, under the leadership of Taylor Brown, who took over the Northern Ag Network when I left that organization. So we are pretty familiar with rangeland and what they teach in the colleges, and how they teach management and things that can happen on a range.

By the way, a range is not used for just about any other purpose. The only way we got to harvest that resource out there is through animal agriculture.

So, we will talk about the merits of amendments and the merits of this bill. But I ask my colleagues to think and look, and really look at it objectively, without any outside influence, to see exactly who contributes what to a neighborhood, to a community, to a county, and to a State, and look at the practices and look how far we have come in the development of better range for everybody. There is a lot more to be hunted, there are a lot more fish in the rivers, because there has been good stewardship on our range, because it is profitable for a rancher to do so.

The future of our public lands rests in our hands. We had an opportunity to make the future meaningful for all people, and I hope my fellow Members will work with us and vote with us to provide a sustainable and stable future for the land, for the livestock producer, and the people who enjoy those public lands.

Let us look at the real merits of what we are doing here and the effect it has on people. I am just talking about people. I have heard it from the other side, "We are the compassionate folks. We care." We will find out how much they care and the compassion they have for people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3556 TO AMENDMENT NO. 3555

(Purpose: To increase the fee charged for grazing on Federal land)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. JEFFORDS, Mr. BRADLEY, and Mr. KERRY, proposes an amendment numbered 3556 to amendment No. 3555.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Section 135 of the substitute and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands. The fee shall be equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B)(1) the fee provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than:

$1.50 per animal unit month for the 1997 grazing year;

$1.75 per animal unit month for the 1998 grazing year; and

$2.00 per animal unit month for the 1999 grazing year and thereafter; plus

(2) 25 percent.

(b) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Susanne Fleek, a fellow from the Department of the Interior, be granted the privilege of the floor during the debate on grazing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3557 TO AMENDMENT NO. 3556

(Purpose: To increase the fee charged for grazing on Federal land)

Mr. JEFFORDS. Mr. President, I have a second-degree amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3557 to amendment No. 3556.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted by the Bumpers amendment insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than:

$1.50 per animal unit month for the 1997 grazing year;

$1.75 per animal unit month for the 1998 grazing year; and

$2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

Mr. JEFFORDS. Mr. President, this is kind of bringing back memories to me here today. I remember fondly my first year in the U.S. Senate. After 14 years as a Member of the House of Representatives, I came to the Senate in 1991, excited to represent my State. Respecting the customs of this honorable institution, I worked to learn the rules and procedures of the Senate. It was not until September of my first year that I actually made a speech longer than 5 minutes on the Senate floor.

During this first long speech—it was long, as many may remember, or maybe somebody remembers—I discussed the issue we are here debating today, that is grazing fees. At the time, in September 1991, I authored a grazing fee amendment that would have increased the fee from $1.97 per AUM, or animal unit month, to $5.13 per AUM, in 5 years. We did this in response to a similar amendment which passed the House overwhelmingly during that summer, which would have raised the fee to $8.70 per AUM.

The amendment I offered in 1991 failed, and the House proposal was removed in conference. The primary argument against this first grazing amendment was that such a fee would have bankrupt many small ranchers. We revisited the grazing fee issue 1 year later, in August 1992. Again, we offered a proposal which would have required those ranchers grazing on Federal land to pay their fair share of its use.

This time, however, we exempted the small farmers, about which so much concern was expressed, those having fewer than 500 head. Therefore, the increase would only have affected the largest of the ranchers. This amendment also failed, but by a smaller margin.

The opponents of the second grazing fee amendment argued that a grazing fee increase should not be included on an appropriations measure, but considered only during debate on grazing reform legislation.

Today is the day when that opportunity has arisen again. I want to take this time to do what I have been told, and that is to bring it up on an appropriate piece of legislation and leave the small farmers alone. That is what my amendment does.

I believe today it is time to finally change this longstanding inequity; an inequity because when you compare this to what private people have to pay or pay on State grazing lands, this is a real giveaway. I do not mind it for small farmers, but I do mind that the large corporate owners own 9 percent of the permits, but have 60 percent of the AUM.

Senator BUMPERS' amendment requires that all ranchers operating on Federal land pay a fee equal to the State grazing fee. His amendment says they ought to pay at least what they have to pay to the State, forget about private lands, but at least they ought to pay what is paid for using State land.

The second-degree amendment I just offered exempts all small ranchers and allows them to continue to pay the lower Federal fee that is presently at dispute here.

Mr. President, my second-degree amendment will protect small family ranchers who currently rely on Federal lands to support their business. A few years ago, I had the opportunity to tour several western ranches and visit with small family ranchers. I empathize with them and recognize that out in the West, so much land is owned by the Federal Government and if you do not have an opportunity to utilize that land, you have no opportunity. During this visit, I gained great appreciation and respect for the lifestyle of these small farmers. I made many friends in Wyoming. These ranchers embody not only a piece of our Nation's history, but also a piece of our Nation's future.

I realize that these farmers are facing a daily struggle to keep their ranches operating, a fact I have taken into consideration in drafting this amendment. Keeping with the theme of Senator DOMENICI's bill, my amendment protects these farmers. In fact, my amendment places a lower fee on these farmers than the fee contained in the pending bill.

So if you want to look out for the small farmers, this is the opportunity to do it, better than even the underlying Domenici bill.

On my amendment, the fee for small ranchers will be $1.50 per AUM, animal unit month, in 1997. This is 20 percent less than the fee in the underlying bill—20 percent less.

Instead, my amendment addresses the large ranchers who for years have been making millions off the public lands and costing taxpayers up to $200 million annually. Not only are these ranchers paying a grazing fee that is 60 percent less than what it was 10 years ago, but they are also the beneficiary of Federal programs for range improvements, predator control, and emergency feed programs.

Mr. President, it is time to take a closer look at these large ranchers and start charging them an honest and equitable price for the land from which they are profiting. An interesting phenomenon has occurred in the Federal grazing program. Although the large ranchers hold only 9 percent of the Bureau of Land Management grazing permits, they comprise over 60 percent of the active use of animal unit months on public lands. Nine percent of the permit holders are big corporations owning 60 percent of the AUM's.

Who are these ranchers? Let me give you some examples. One is Willard Garvey of Willard Garvey Industries, which recorded $80 million in sales in 1991. Wow, boy, do they need help from the Federal Government.

One is J.R. Simplot, who has an estimated fortune of $500 million. Great one to give subsidies to. He was on the cover of Fortune magazine as one of the great entrepreneurs of our society, and we give him that kind of a break.

Another is the Rock Springs Grazing Association that has over $1.6 million in assets. I have a list of large ranchers, including Texaco, Getty Oil, Hilton—wow, boy, do they need help. I ask you, why is it that these large companies are receiving Federal subsidies when, in many cases, small family ranches operating on private lands at many times the cost receive nothing?

My amendment is a first step in remedying this obvious disparity. My amendment will raise the grazing fee for large ranchers who have permits holding more than 2,000 animal unit months. It will raise it to a level equal to the grazing fee charged by the State. This is all we are doing. This is for the big guys, the large ones, the huge guys who do not need help. We say, at least you ought to pay what other farmers are paying to the State. Not only will this bring the Federal fee to fair market value—that is what is charged by private owners—but will also give the States more control over grazing in their own State. By creating a two-tier program, my amendment protects the lifestyle of the small ranchers in the West who are more than worthy of Federal assistance. By creating a two-tier program, we will help do what should be done, and that is to get equity over the expenditure of Federal funds.

The amendment will retain a low grazing fee for over 90 percent of the ranchers leasing public lands. Over 90 percent of the ranchers will be getting this assistance. It will raise the fee for the remaining 9 percent of the ranchers who operate the large and highly profitable ranches, and, in doing so, my amendment will raise approximately $13 million annually in revenue; that is, we are really converting and just giving the money that was going to those huge ranchers out there, with the exception of $13 million which will go to help defer the cost of the program, to the small ranchers. That, I believe, is a fair deal for the taxpayers and a real benefit to those small family ranchers out in the West who need the assistance, whereas the large corporate ones certainly need no assistance.

Mr. President, let me summarize. My second-degree amendment exempts small ranchers. Only large corporate interests who hold Federal grazing permits will be affected by the underlying Bumpers amendment.

Again, remember that 9 percent of the permit holders are large corporate entities, or wealthy individuals, and they control over 60 percent of the AUM's. And 91 percent of the ranchers holding permits to graze on Federal lands will pay less with my amendment than the pending legislation, and only those 9 percent, the very wealthy corporations and individuals, will have to contribute a fair cost of what they are getting at the State level, not at the private-lands level, which would even be higher.

So let us vote for the small ranchers. I urge my colleagues to vote for my second-degree amendment.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I want to say a few words in support of the basic bill we are debating, the Domenici bill. I appreciate the parliamentary position we are in; that is, the Bumpers amendment on fees pending with the Jeffords second-degree amendment pending. I want to direct my comments not to those specific amendments—the first- and second-degree amendments—but rather to the substance of the bill.

I want to begin by reminding my colleagues what this debate is really all about, and also what it is not about.

I want to begin by pointing out that, frankly, this bill fundamentally is about providing ranchers with grazing rules that are fair, grazing rules that are predictable, and grazing rules that are certain.

The Domenici bill is also about assuring that where grazing does occur on Federal lands, it does not occur at the sacrifice of wildlife, it does not occur at the sacrifice of quality or public access. Namely, we honor the principle of multiple use. The goal, simply put, is to see that ranchers stay in business while assuring outstanding hunting and fishing. It is that simple. I might say, in my State of Montana this balance exists, and it exists today, and I want to see that balance continue.

Let me add a word about what this debate is not about. This debate is not about protecting those few ranchers who abuse the land. As far as I am concerned, the holder of any grazing permit has the right to graze livestock on his public land. That is the right of that permittee. But that right comes with a responsibility, a responsibility to be a good steward of the land, good steward of water and wildlife and allotment. If that responsibility is not met, if the land is abused, then that permit should be ended, it should be terminated. Basically, that is what should be done, that is what should happen.

In my State of Montana, there is a famous painting painted by the great cowboy artist Charlie Russell, who had the unique gift for capturing the life of the Old West on canvas. There is one Russell painting that comes to mind called "Waiting for a Chinook," also known as "The Last of 5,000." It was painted by Charlie Russell as he was sending a card and letter back to the owner of the ranch. The owner happened to be in New York City. This is a ranch he was associated with in Montana.

It is a painting of a lone cow. It is a lone cow standing in the middle of a blizzard. Coyotes are circling and waiting for that cow to fall. It was a year when most of the herds in Montana were decimated. This pretty much sums up the challenges that we have faced as ranchers in Montana.

Ranchers have to face the severity of Montana winters. They have to deal with predators, not only coyotes, but wolves. They have to deal with very wide swings in the cattle market cycles. While the Russell painting does not reflect it, today's ranchers have to deal with the challenge and frustration of Canadians pumping beef into the U.S. market and meatpackers manipulating market prices. So, taken as a whole, it all makes for a mighty uncertain livelihood.

That is what S. 1459 is about. It is about giving ranchers a Federal grazing policy that is stable and fair, that will encourage ranchers to remain good stewards of both their private lands and the public lands where they graze. The bill provides the tools to set Federal policy in that direction. It gives ranchers the stability of 12-year permits. It is very important. It recognizes the investments that ranchers make in range improvements, also important, and protects individual water rights, equally important in the West.

As I was listening to the Senator from Vermont talk about these big ranches of the West, there is one point the Senator from Vermont seems to forget—that it does not rain in the West. In Vermont, it rains a lot. Here you get about 40, 50 inches of rain. In my part of the country, west of the 100th meridian, the average rainfall is about 14, 15, 16 inches a year. That is all year around, including snow and rain. That is why there are big ranches in the West. You have to have a lot more space to graze your livestock because there is not a lot of rain for the grass to grow.

The bill also, I might say, Mr. President, protects not only water rights, but it makes the Forest Service and BLM grazing rules much more uniform, also important, because ranches have one set of regulations on BLM land and a different set on Forest Service lands. It helps to assure that Federal grazing policy is basically the same whether it is BLM or Forest Service land.

The predictability of this bill benefits not only ranchers, but all users of our public lands; that is, hunters, rock hounds, birdwatchers, hikers, you name it.

There is a popular bumper sticker I frequently see on cars passing by as I am walking across my State of Montana. Let me tell you what that bumper sticker says. It says, "Cattle, Not Condos." That is what would happen if our family ranches simply became too unprofitable to stay in business. The land would be subdivided. Wildlife habitat would be fragmented. Access to many of our favorite fishing holes would be cut off, as stream and riverfront lots are sold for cabin sites. We would lose the great sense of openness, wide open spaces that help make Montana the "Big Sky State."

John Schultz of the Gran Prairie Ranch, near Grass Range, in Fergus County, summed it up when he wrote me, "The recreationists and hunters use this land extensively * * *," that is the land that this rancher owns, private land as well as public land, "* * * however, there is only one man who maintains the water and manages the grass so the plant population is diverse and in good condition. Not only do the livestock benefit, but the wildlife do as well."

The simple fact is that a strong, viable ranching industry is of benefit to all Montanans. It benefits the small communities that rely on the ranchers' business, and it benefits sportsmen who enjoy the outstanding hunting opportunities created by large tracks of undeveloped wildlife habitat. It helps provide the tax base for many of our rural communities, our schools, and our hospitals. That is what this bill is about.

It is about establishing a Federal policy that helps us be good stewards of the land and remain economically viable. It is a policy that makes the Federal Government a partner rather than a pest.

Let me go back to what this bill is not about. It is not about excluding the public from having a full say in how we manage our public lands. It is not about compromising on environmental protection.

Critics of this bill maintain that the bill bars meaningful public participation when it comes to range improvement. That is not accurate. Under the bill, a simple postcard guarantees an interested citizen a seat at the table for virtually every decision affecting range management on our public lands. They will be given notice of all proposed permit actions and provided with an opportunity to comment and informally consult with BLM or Forest Service land managers before a decision is made. Following that decision, they have the right to lodge an administrative appeal. If they are still unhappy, they can take their grievance to Federal court. So under this bill the door is open to the public at virtually every stage of the process.

This legislation also recognizes the progress that the current resource advisory councils have made in developing standards and guidelines for responsible grazing on our Federal lands. The work of these councils will continue to serve as the basis for setting grazing standards.

Most importantly, these standards will be developed by Montanans, not Washington bureaucrats.

The legislation also maintains high environmental standards for ranchers. Just listen to this. Today, over 70 percent of lands managed by the BLM in Montana are rated good to excellent —70 percent. That is, 70 percent of the BLM lands in the State of Montana are rated good to excellent. Less than 5 percent of the BLM land is in poor condition; that is, not great, could be a lot better, but it is not bad. So, 70 percent good to excellent; 5 percent in poor condition.

The legislation provides the tools, however, to assure that the conditions in the poor allotments are improved.

On-the-ground decisions reflect sound science. The bill requires a permit-level review of monitoring data every 6 years to ensure that good stewardship is not only the goal, but is actually being practiced.

In closing, I want to go back to what this bill is about. It is about putting into effect fair, balanced grazing rules that will allow our ranchers to make a living.

It is also about recognizing that sportsmen and recreationists use the public lands. It is their right, too. That Federal policy must be one of mutual respect and accommodation for all legitimate uses of the resources. We have to work together, come together.

That is what this bill does. It helps reduce the division, the acrimony, the dissension of all the groups that have been trying to deal with this policy. It helps bring people together. That is what this does. It goes a long way to strike a balance, which I think is very helpful to better and more sound Federal land policy. I urge its adoption.

Mr. President, I ask unanimous consent to be added as a cosponsor to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to thank Senator BAUCUS for his cooperation. He has worked with us on trying to make the bill better, and clearly from the first bill we introduced, into the second draft and the final one we put in today, I think we improved it from everybody's standpoint. I want to say he has been consistent with us. I am very appreciative. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3556 TO AMENDMENT NO. 3555

Mr. BUMPERS. Mr. President, I would like to open my remarks by simply saying that this amendment is not vindictive, it is not designed to put small ranchers out of business, and indeed it would not. I consider it to be an eminently fair amendment.

Mr. President, for the benefit of people who do not deal with this issue and really do not understand what this debate is about, let me start off by saying there are 270 million acres of land that literally belong to the taxpayers of America. Most of it, admittedly, is in the western States. However, some of it is in my State and your State. Mr. President, there are currently 270 million acres of land that are subject to grazing permits.

How many permits? Twenty-two thousand. How much money do we get? Mr. President, we receive $25 million and change. Therefore, we are not here debating money. That is really not the issue here. There is not much difference in the amount of money between the bill of the Senator from New Mexico and the Bumpers amendment. I will tell you, however, where the difference is. The difference is in fairness.

The difference is in who pays the fee and what happens to the money.

Now, the principal thrust of my amendment and the second-degree amendment of the Senator from Vermont [Mr. JEFFORDS], is to protect—let me repeat, to protect—small ranchers. That is who the Senator from New Mexico says he wants to protect. He has a lot of small ranchers in New Mexico that are totally dependent for their livelihood on grazing. I want them protected.

I do not want my intelligence insulted by continually talking about small ranchers when 9 percent of the permittees, bear this in mind, there are 22,000 permittees and 9 percent of those permittees control 60 percent of the AUM's. What is an AUM? It is an animal unit month. It is the amount of forage needed to graze one horse, one cow, five sheep, or five goats for 1 month. An AUM is the basis on which farmers or ranchers are charged for grazing their cattle. They may start off with 200 head and they may keep 200 head for 6 months and they will pay, today, in 1996, $1.35 for each month for each of those 200 head that graze on Federal land. If the rancher sells off 100 head on the first of July, his rent is cut in half.

I was a drugstore cowboy, among other things before I came to the Senate. I had 125 cows and maybe 80 calves.

Mr. DOMENICI. Did the Senator graze those on the public domain?

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Arkansas.

Mr. BUMPERS. They were raised on private land. However, other people in Arkansas currently graze on Forest Service lands. Moreover, fees paid on eastern Forest Service lands, including Arkansas, are currently calculated using a formula that is different than the western Forest Service lands. The formula for eastern Forest Service lands is based on fair market value and is currently $2.50 per AUM. Additionally, any new or vacant permits on eastern Forest Service lands are competitively bid.

When I was elected Governor of my State, I charged five times as much per AUM for my farm lands as the Federal Government receives now.

I did not just fall off a turnip truck when it comes to cattle. I raised cattle for several years and I know something about it. I enjoyed some good times and some bad times. I will never forget back in the late 1960's, the story about two farmers meeting. My area of Arkansas is cattle and poultry farming. Two farmers met in the restaurant. One said, "I lost $100 already this morning." The other said, "How on Earth did you do that?" He said, "My cow had a calf." That is how bad prices were for cattle.

Back to the point, not only do 9 percent of all BLM permittees control 60 percent of the AUM's, according to GAO, 2 percent of the 22,000 permittees control 50 percent of all the land. Who are they? I will come back to that in just a moment.

When I begin providing you with a list of the kind of people, and they are not exactly small ranchers, who control hundreds of thousands of acres of land and run thousands of acres of cattle, you will see that we are not talking about that small rancher that everybody in the Senate wants to protect. We are talking about billionaires, millionaires, and big corporations.

What do they receive? At this very moment, they may be in a State that charges up to $10 per AUM for grazing cattle on State lands. They may have to pay $10 for per AUM on State lands. But if they get a permit from "Uncle Sucker" they pay $1.35 per AUM. Here are some of the fees that the States charge. I have been through this so many times on mining, and it is the same old story. Here is what the U.S. Government receives, $1.35 per AUM; Arizona, $2.16; Colorado, $6.50; Idaho, $4.88; Montana, $4.05; Nebraska, $15.50; New Mexico, $3.54; Oklahoma, $10; Oregon, $2.72; South Dakota, $7; Utah, $2.50; Washington, $4.55; and Wyoming, $3.50.

Why in the name of God does the Federal Government charge $1.35 per AUM? What do the States know that we do not know? I tell you what the States know. They know what the value of their land is.

The argument will be made, "Senator BUMPERS, you do not seem to understand the way BLM and the Forest Service hassle our people. It is just terrible how put upon they are." I know there is some truth to that. I know that some of these bureaucrats of the BLM and the Forest Service can be overbearing. I also know that most of those ranchers do not want them around, period.

Now, the reason I am standing here is twofold: No. 1, I want a grazing bill that is fair, that protects small ranchers and no. 2, I want a grazing bill that restores the rangelands of this country.

Madam President, I want you to look at this very carefully on why the States are so much smarter than we are when it comes to leasing their lands for cattle grazing.

Even this Senator had enough sense not to charge $1.35 when folks were standing in line to pay me $10. Why do we continue to do this? I want you to look at this chart. Since 1981—incidentally, Madam President, in 1981, the U.S. Government was getting $2.31 for an animal unit month. The current PRIA formula takes cattle prices into consideration. The cattle prices are very low right now. That is one of the reasons that I want to make sure that we protect the small ranchers. They are having a terrible time surviving right now.

It is interesting to look at the trend of the Federal fee level—we received $2.31 in 1980. In 1996, 15 years later, we are receiving $1.35. That is $1 less per AUM than we received in 1980.

What is the trend with regard to fees charged on State lands? The States are not dummies. They did what any prudent landowner would do. They have raised their rates from an average of $3.22 per AUM in 1980 to $5.58 per AUM in 1995. That translates into approximately a 50-percent increase. What is the trend of the private sector? They are smarter than the States or the Federal Government, either one. In 1981, they were receiving an average of $7.83 per animal unit month on private lands. Today they are receiving an average of $11.20 per AUM. Look at poor old Uncle Sucker. Not much money involved, I repeat, but a big principle.

Why would some of these billionaires not be clamoring for Federal lands? They did not get rich by being stupid. They are mining the Federal Treasury, too. Who are they? One of my favorites, Newmont Mining. Talk about somebody mining the Federal Treasury. Newmont Mining is one of the biggest gold producers in the country, mining on lands that they bought from the Federal Government for $2.50 an acre. They are mining billions of dollars' worth of gold on it and not paying the U.S. Government one red cent. They are not just satisfied with owning gold lands. They want some of these grazing permits. So what do they have? They control 12,000 AUM's. What are we doing? We are charging $1.35 per AUM to Newmont Mining Co., one of the wealthiest companies in the world.

Who else? Incidentally, here is a good one. Mr. Hewlett and Mr. Packard. They started a good company. I noticed a while ago that their stock went down today. They are a big computer manufacturer. Everybody knows Hewlett-Packard. Mr. Hewlett and Mr. Packard graze cattle on nearly 100,000 acres in Idaho. Why? Because it adjoins a ranch they own. Mr. Hewlett and Mr. Packard pay $1.35 per AUM on that Federal land. Why can Mr. Hewlett and Mr. Packard not pay a fee that is at least a little closer to fair market value than $1.35 per AUM.

There is a company called Nevada First Corp. How many AUM's do you think Nevada First has? They have 56,000. They are a subsidiary of the Garvey Industries Corp., with a net worth of $80 million. Then there is Anheuser-Busch. Everybody knows who Anheuser-Busch is. Sunday afternoon, I was coming back on an airplane, and my staff had given me a memo on this debate and a newspaper article about how much public land Anheuser-Busch controlled with grazing permits. I asked the gentleman sitting on my left, "Do you work for Anheuser-Busch?" He said, "No." I said, "In that case, I will let you read this." He handed it back to me and said, "Surely, you are not surprised by that." I said, "No, I am not surprised." We went on our separate ways.

Anheuser-Busch, which ranks 80th in the top 500 corporations in America, holds four permits that total 8,000 AUM's. I have nothing against Anheuser-Busch. I have been a Cardinal fan all my life. That was all we could get on the radio when I was a kid. They are a good corporation, as far as I know.

Then there is an organization named Bogle Farms. Bogle Farms has 40,000 AUM's on two permits in New Mexico. In 1991, their net worth was $15 million.

Dan Russell—I do not know these people—currently holds 10 permits covering 200,000 AUM's. The issue is not whether or not he is a rancher. The issue is whether, if he controls 200,000 AUMs, we should subsidize his cattle at the same rate that small ranchers pay.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. BUMPERS. For what purpose?

Mr. DOMENICI. We are going to agree on a procedure.

Mr. BUMPERS. I yield for that purpose.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Madam President, I ask unanimous consent that following the two rollcall votes scheduled to begin at 12 noon on Thursday, the Senate resume the grazing fee bill and the pending Bumpers amendment No. 3556, that debate on that issue be equally divided in the usual form, and at 2:00 p.m., the Senate proceed to vote on or in relation to the Bumpers amendment, without any intervening action or debate.

I further ask that there be a minimum of 75 minutes, equally divided, prior to the vote in relation to the Bumpers amendment.

I further ask unanimous consent that following the disposition of the Bumpers amendment, Senator BINGAMAN be recognized to offer an amendment.

Mr. BUMPERS. Madam President, reserving the right to object —and I know the Senator from New Mexico did not prepare this—but the first vote which is to occur at 2:00 p.m. is supposed to be after the two votes. But it anticipates an hour and 15 minutes. So I ask that it be changed to an hour and 15 minutes following the close of the second vote.

Mr. DOMENICI. I did that. I said: Further, that a minimum of 75 minutes, equally divided, prior to the vote in relation to the Bumpers amendment.

Mr. BUMPERS. Second, there is one correction there. The first vote should be on the Jeffords amendment to the Bumpers amendment.

Mr. DOMENICI. No. We did this on purpose. We want the first amendment to be on the Bumpers underlying amendment. If our desires prevail, then Jeffords goes with it. If not, you are here and you can do whatever you want.

Mr. BUMPERS. Well, obviously, I cannot object to that. You have a perfect right to move to table.

Mr. DOMENICI. I think it is fair that we take both amendments down with a vote.

Mr. BUMPERS. The reason I have strong objection to that—and I am going to talk a great deal about that—is that the Jeffords amendment is an amendment with which I agree. I like it. I like it in some respects better than I do my own. I want for the people of this body to understand that if they vote to table the Bumpers amendment, they will not get a chance to vote on the Jeffords amendment, which I think most of them would like to do.

Mr. DOMENICI. You may prevail on that, which means we will have a vote.

Mr. BUMPERS. I would not want to preclude the possibility of making a tabling motion prior to the Jeffords amendment prior to that time.

I would like to add that to the unanimous consent agreement.

Madam President, to ensure the RECORD is clear, I would like to make this statement as a part of the unanimous consent agreement; that is, that at any time prior to the expiration of the hour and 15 minutes, or immediately thereafter—Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Madam President, today the Senate will have the opportunity to return a bit of market discipline to the Federal grazing program. At a time when the Congress is cutting assistance to the poor, to education, and to a wide variety of other vital services, we cannot ignore any potential sources of additional Federal income. The Federal grazing program must also begin to pay its own way.

The fee contained in S. 1459 covers only a small part of the actual cost of the grazing program. The Bumpers amendment seeks to increase this fee to a level at least a bit closer to what would be the fair market value of grazing services by adopting State grazing prices. According to the Congressional Research Service, the 12 States they studied charge from about 1½ to 10 times as much as what is charged for grazing land under this Federal bill. While there may be small differences in the condition of some State and Federal grazing lands, any differences do not justify a fee disparity of 10 times grazing. Many of my colleagues are fond of saying that the States know best regarding most programs. Just return programs to the States, they say and programs will magically improve. Well, why cannot we look to the States when it comes to revenue, too? State programs are managed to bring in money to support their schools. They cannot afford to subsidize grazers at the expense of their children's education. As a result, no State studied charges anything like the Federal fee. By adopting the State level, we also insure that fees are appropriate for local conditions.

Madam President, this amendment is simple. The rest of the bill is not. According to the statement of administration policy submitted on S. 1459, the bill severely limits the ability of public land managers to protect the land and its resources and manage lands for multiple use. The bill curtails most public participation in grazing management decisions and activities, and severely weakens the requirements for compliance with the National Environmental Policy Act.

The bill also contains troubling water rights language which, according to the Department of the Interior, may bar transfer of water uses from Federal to private land and language which would prevent ranchers from taking land out of production for conservation uses. In other words, they have to keep it in grazing.

Worst of all, the bill violates the spirit under which Federal lands are supposed to be managed—for multiple uses which benefit all of the people and not just a few, organized groups. Our public lands belong to all Americans, whether they hike, bird watch, or graze livestock. Whether they live in Wyoming or New Jersey. They should never become the exclusive province of any one use.

Madam President, I urge my colleagues to vote for this Bumpers amendment, a fiscally conservative amendment, and later for the Democratic substitute that will be offered by Senator BINGAMAN which makes needed changes in the underlying bill.

AMENDMENT NO. 3556, AS MODIFIED

Mr. BUMPERS. Madam President, I send a modification of my amendment to desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3556), as modified, is as follows:

Strike section 135 and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985):

Provided, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

Mr. DOMENICI. May we make the unanimous-consent request now?

Mr. BUMPERS. Yes.

Mr. DOMENICI. Madam President, let me just say that if we can get this, our leader has authorized me to say there will be no more votes tonight. But we have to get this first.

I ask unanimous-consent that the following—let me do this.

I stated the unanimous-consent previously. I ask that that unanimous-consent which I stated, and which I send to the desk in writing to reaffirm, be granted at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, there will be an hour and 15 minutes following the close of the second vote tomorrow.

Mr. DOMENICI. We set 75 minutes.

Mr. BUMPERS. OK. Fine. I accept that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Now we can say in behalf of the majority leader that there will be no more votes tonight.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I just wanted to know. There will be no more votes. But will the discussion continue on this particular amendment tonight, or is it going to be continued also tomorrow?

Mr. BUMPERS. No. The amendment will be the subject of an hour and 15 minutes of debate tomorrow.

Does that answer the Senator's question?

Mr. CHAFEE. Yes. In other words, you are winding up the debate pretty soon here.

Thank you.

Mr. BUMPERS. We will debate tonight as long as anybody wants to say anything on this, and then we will shut the Senate down as soon as we run out of debate.

AMENDMENT NO. 3557 WITHDRAWN

Mr. BUMPERS. Madam President, I ask unanimous consent that the Jeffords amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3556, AS MODIFIED

Mr. BUMPERS. Madam President, I do not want to belabor these rich folks too long. The last one that I want to point out to for the edification of my colleagues is the gentleman by the name of J.R. Simplot from the great State of Idaho. He is 86 years old and has obviously been a great entrepreneur. I do not know a thing in the world about him. I assume he is a very fine man. In 1991, Forbes magazine identified him as one of the wealthiest individuals in the United States. Furthermore, he is on the cover of Fortune magazine in November 1995. Here is the magazine, if anybody would care to look at it.

His sales that year were $3 billion. And Mr. Simplot, to his credit and to his ingenuity, controls 50,000 AUM's in Idaho, Oregon, and Nevada.

Finally, a Japanese named Kaiku controls 6,000 AUM's on 40,000 acres of Federal land in Montana.

What does our amendment do? I will not belabor the point because it is very simple. We make a distinction between that group of people that I showed you a moment ago. Look at this chart, colleagues. We make a distinction in what people in this category pay, and what people in this category pay.

Ninety-one percent of the permittees under our amendment will pay just a little bit more than they would pay under the Domenici proposal, and in some years less than the Domenici proposal. Ninety-one percent of them will pay just a few cents more than Senator DOMENICI's bill requires.

This other 9 percent, which control 60 percent of all the AUM's, will pay either the same amount as the small ranchers, plus 25 percent, or a weighted average of the State fees charged in the State in which the permit is located, whichever is higher.

That is as fair as a proposition could be. You can accept this amendment and agree that these people have taken advantage of a generous Congress who passed this law and gave these permits to people thinking they were helping poor ranchers make a living. And now we find 60 percent of this land and AUM's are controlled by the richest people of America. Even under our proposal, to require these rich people to pay the weighted average of what the State charges, will still be in most instances around 100 percent less than what the private sector charges for grazing.

Madam President, why are we defending a system that promotes the use of the public lands for the wealthiest when it was intended for the poorest? Because it is an old law and we just simply have not been able to turn it loose and make it work the way it was supposed to.

When I came here in 1975, I found out that the Federal Government was leasing Federal lands for oil and gas leasing by lottery, like a bingo game. If you won the lottery, you got the land for $1 an acre. When I began to raise questions about it, they said, "We are trying to make sure those little mom and pop operations get some of this Federal land."

We started checking the little mom and pop operations, and guess what was happening? They were retirees in Florida. They were elderly people who were snapping up these lottery chances because they were advertised all over America by a bunch of snake oil salesmen. And if they did happen to win the lottery, what do you think they did with it? They took it to Exxon, and if Exxon thought it had potential, they paid them a fortune for it.

That is what we did for mom and pop operators. We made people, who did not know what a drilling rig looked like, wealthy because we refused to change that old law. I just made my mining speech yesterday so I am not going to make that again, but how many times have I heard that old story about those poor little old mom and pop mining companies out there?

It turns out, as I began to examine it, that we are helping the biggest corporations in the world—not the United States, in the world. Now, here is deja vu. If someone argues that the State's rates are too high, I will answer that they have people standing in line wanting these permits. And when then they say, "But that mean old BLM hassles us. They make us sort of take care of the land." But you know something else that the BLM and the Forest Service do? They take 50 percent of the rent and put it back into the land. How many landlords do you know that take 50 percent of the rent they receive and put it back into improvements of your apartment or your house? Fifty percent goes back to improve the very land where these cattlemen are running their cattle.

Madam President, the Public Rangelands Management Act was passed in 1978. As I stated earlier, the fee under that formula has declined. In 1980, the fee was $2.36 and in 1996, the fee is $1.35. Our amendment would use the same formula and simply raise the minimum.

My amendment requires 91 percent of the deserving ranchers to pay very little more than they are paying right now. In 1999, our rate would go to $2 and under Senator DOMENICI's amendment the fee would be $1.85—15 cents difference. Who is going to quibble about that? However, under our amendment these people, the wealthiest people in America, would have to pay more.

Madam President, two quick points, and I will conclude and let others speak who wish to. Karl Hess, a senior fellow at the Cato Institute, which is not exactly a citadel of liberalism, no bleeding heart liberals over at Cato, simply believes that the Government ought to get fair value for its assets. Here is a statement by Mr. Hess:

> Domenici's bill is bad for ranchers, bad for public lands, bad for the American taxpayer. It will not improve management of public lands and it will not be a fix for the hard economic times now faced by ranchers. What it will do, however, is deepen the fiscal crisis of the public land grazing program by plunging it into an ever-deepening deficit. If western ranchers insist on supporting this bill and the additional costs associated with it, they should be prepared to pay the price. Tagging the majority of Federal grazing fees to state grazing rates is one essential step in that direction.

I yield the floor.

Mr. KYL. Mr. President, I rise today in support of S. 1459, the Public Rangelands Management Act of 1995. Rangeland reform is important both for the health of our public lands and the ranching industry in the Western States. I commend my colleague from New Mexico, Senator DOMENICI, for his work in bringing this bill to the Senate floor.

Let me make clear up front, S. 1459 is not an attempt to weaken existing environmental laws applicable to grazing. All major environmental laws continue to apply as written. This bill provides for better rangeland management by establishing standards and guidelines at the State or regional level, so that rangeland policy can take regional differences into account. Nothing is more important to me than the preservation of these multiple-use lands for present and future generations. I would not, and could not support anything to the contrary.

There continues to be debate about what is an appropriate fee for grazing on public land. It is important that the Government realize a fair return for the use of Federal lands. This legislation prescribes a new formula for calculating grazing fees. Under this formula, fees would rise approximately 30 percent over the present level.

For those who make their living from the land, and who put food on the table for all of us, we want to offer some certainty for the future. We must protect rancher's private property rights, provide stability on grazing allotments, and offer sufficient incentives for sound long-term resource management practices.

Critics have suggested that S. 1459 provides for grazing and livestock activities as the dominant use on the allotments. That is simply not true. The bill explicitly provides that the public lands will continue to be accessible to all multiple-use activities.

It has also been suggested that this legislation will curtail public participation in the decisionmaking process. The public's opportunity to participate in the NEPA and FLPMA processes is not affected by this legislation. It does, however, address the problem of who can appeal allotment management decisions by limiting appeals to persons who have affected interests. This will enable Federal land managers to review appeals more expeditiously and will shorten the delays in achieving a final implementation plan. This process will allow permittees and lessees to carry out their business without the heavy financial losses usually associated with lengthy delays.

Most importantly, this legislation provides for periodic monitoring of rangeland resource conditions. The Secretaries of Agriculture and the Interior have the ability to amend allotment plans where resource conditions dictate. I believe that the bill therefore reflects a wide variety of environmental and user concerns; and I urge its favorable consideration.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I thank the Chair.

Mr. President, I would like to take this opportunity to clarify the issue grazing fees on public lands. As I mentioned before in my opening statement, I believe there is a grave misperception about ranchers who utilize public lands. For those of you unfamiliar with ranchers or the ranching business, let me tell you that it is not a lucrative business. I believe it is this misperception that drives the efforts to try to hike up the grazing fees to unacceptable heights. Opponents of the new fee structure proposed in S. 1459, argue that ranchers don't pay fair market value. Well, I would like my colleagues to explain to the rest of us, how one can determine what fair market value is.

For example, when doing a fair market value appraisal, appraisers compare the value of similarly situated pieces of property—they compare apples with apples. When opponents of the proposed grazing fee compare the prices charged to lease private or State lands with the grazing fees ranchers pay for BLM or Forest Service lands, however they are comparing apples with oranges. They simply are not the same thing.

My friends from Arkansas and Vermont, are attempting to draw comparisons between apples—State lands, and oranges—Federal lands, to legitimize their logic. States fees are structured under an entirely different scenario than Federal fees. State lands are administered for completely different purposes and goals compared to Federal lands. To compare the fee dollars and cents on a chart is simply not fair.

With their amendments, my colleagues are attempting to utilize the State fee structure to create a more fair return to the Government and taxpayer. However, as I have stated before, this logic is flawed.

If we follow this rationale utilized in this amendment, by implementing the State rate fees, we might as well streamline the process and manage the public lands according to State management systems. Heck, if we charge a grazing fee according to State rates, manage the Federal lands like State lands, we might as well turn the whole operation and ownership over to the States. I suspect there are many Members in this body that would not agree with this type of logic.

Furthermore, the grazing fee structure in the Bumpers amendment is fundamentally unfair to ranchers. This proposal does not fully consider the investment that ranchers already have made in building their lots and stock ponds. In addition, the profit margins for many ranchers is small, and thousands of ranchers have already fallen into bankruptcy. Raising the fees as this amendment proposes to do will drive even more ranchers into economic insolvency.

Mr. President, the fee structure proposed by S. 1459 would establish a fair system. It is a very simple and straightforward method for calculating the grazing fee that would apply to western BLM and Forest Service lands.

Quite simply, you would take the 3-year average of the total gross value of production of beef cattle for the 3 years preceding the grazing fee year—based on data supplied by the Economic Research Service of the USDA—and multiply that number by the 10-year rolling average of 6-month Treasury bills. That number would be divided by 12, the number of months in a year. The dividend would be the grazing fee, expressed in dollars per animal unit month. S. 1459 would increase the fee by an average of about 50 cents per AUM.

Anyone who truly understands the grazing fees, will understand that there is only one agency that really attempts to compile data about private leased lands—it is the USDA's Economic Research Service—and that is why they are the source of the critical data used in this fee formula.

Mr. President, I am deeply concerned about this misperception of grazing fees that has become a symbol representing unfair subsidies and environmental degradation. Fee increases are imminent, and most people here understand that. However, these increases must be carefully structured with appropriate data. S. 1459 achieves this, by establishing a grazing fee formula that protects the rancher while allowing for equitable returns to the Federal Government.

I would like to abbreviate my comments because I know my colleagues want to get out of here at a decent hour this evening. I was over in the office listening to the Senator from Arkansas and the Senator from Vermont, and I have to tell you I think they are just simply missing the target. I would ask my colleagues to oppose both their amendments.

As I understand the Jeffords amendment in the second degree, is attempting to put corporate interests in the same category as the family rancher, who has spent years and years of hard work to make his ranch grow. I think that is a mistake. It seems to me that we are confusing the issue of large and small ranchers and real ranchers with corporate operations.

I know in our State of Colorado we give special 100-year awards to ranchers and farmers. If the family has stayed with the land for 100 years, we give them an award at our State fair every year to try to encourage them to stay on the land. Many of those ranchers have sacrificed a great deal and their families have sacrificed too in order to make the ranch grow.

Some have done well over the years and invested in other things, but their primary income still comes from the ranch. This reality is a little different than the reality I have heard described by the two Senators and their amendments. I understand that the amendments that are being offered now are an attempt to try to get the corporate people out of ranching, and both Senator BUMPERS and Senator JEFFORDS mentioned Anheuser-Busch and Hewlett-Packard and a number of others, Simplot and Texaco, and so on.

I think most of us recognize that there are corporations in America that have bought ranches or bought permits to use as some kind of a tax shelter. I understand that. Most of us understand that. That is not who we are trying to protect. I know the Senator from Wyoming [Mr. THOMAS] and I have a lot of friends who fall into the first category that I was trying to describe. Those people who have worked the land, stuck to the land and sacrificed to keep the land are the ones we are concerned about. We are not in any way trying to protect the big corporations from using ranching legislation as a tax writeoff.

It would seem to me what they should introduce perhaps is an amendment to prevent nonranchers from buying permits, or to specify the criteria for permittees. It seems to me that is who they are trying to identify are those people who are abusing or misusing, if I can use their words, the system of ranching and the system of using permits.

Now, I wanted to also respond to the Senator from Arkansas question of quote, "Where does the money go?" I will tell you where the little money ranchers gain in profit goes. It goes onto Main Street. It goes into hardware stores, and it goes into the grocery stores, and it goes into the used car lot and everyplace else—the banks, too, if there is some left over. Maybe it even goes for recreation or vacations. For the most part, however, usually the little that is left over goes back into the ranch to improve the ranch. I don't think people understand that ranching is the economic backbone for many rural communities in the West. When one rancher goes down, the whole community is affected. People up in the administration like to talk about the interconnectedness of ecosystems. Well, the rural ranching communities are a great example of an interconnected community. One element goes down, and the whole system crashes.

It seems to me, knowing what I do, as a western Senator, about ranching, when you kill the ranching industry—you also kill Main Street. I believe a disproportionate increase in a fee could do just that, and there are many studies that have indicated that a fee increase would indeed have devastating repercussions for the rancher and the community. This is obviously a serious issue to many small towns in the West, in probably eight or nine States at the very least. A blind and politically driven fee increase would result in putting real hard-working people on the welfare lines, and destroying property tax bases in our region. I do not think that is what our goal ought to be.

The Senator from Arkansas also mentioned one person in particular which he used to convince folks, in his catch-all kind of shotgun attack, that large ranchers are the same as corporate ranchers. That man was a man by the name of Dan Russell. I happen to personally know Dan Russell, although I do not know him well. I met him years ago, clear back in the 1960's. I disagree strongly with the Senator from Arkansas' characterization of his operation as some type of heartless, profit-driven corporate industry.

Dan Russell's family has ranched for almost 100 years on both sides of the Sierra Nevada Mountains in California and Nevada, too. He probably made 98 percent of his money or more from ranching, although he has probably invested in other things, too. Yes, he did make money, but I do not think that is against the law and it should not be against the law.

Dan Russell may have made money, but one factor that the Senator from Arkansas failed to mention is that Dan is known as one of the most community-minded people in the foothills of the Sierra Nevada Mountains. Dan's profit has been a profit for his community. If you go to Folsom, CA, a small town northeast of Sacramento, you find the Dan Russell Arena, which Dan donated. A lot of events are held there for the community. He is known as a civic leader and community-minded citizen who has made his money through real ranching, not because he had an interest in Texaco or something else. Dan's contributions to his local community should be commended, not condemned.

I would now like to address the issue of fair market value. This issue comes up in this debate time after time. There is a great misperception about the fees for public lands, as if, somehow, ranchers in the West are ripping off the taxpayer because they do not pay the same amount for their AUM as a rancher in some other State that has to rent private land. I have private land. My wife's family used to have permits. I can tell you there is a big difference between private land and permits on public lands. The public land permits do not have the same sorts of benefits you could get on private land. Developments, improvements, anything you would not have to pay or provide on private lands, you have to pay for out of your own pocket on public lands. You get a lot more for your money with private rentals than you do with the permits. I think it is simply a bad comparison.

I would like to illustrate the ludicrous nature of this comparison with a couple of examples. I live out West where, if you want to go get your own Christmas tree at Christmas, you can do it on public lands. You can get a $5 permit from the Forest Service and go cut a tree. Virtually any tree of any size that you can carry out of there, is only $5. Yet, if you go downtown to any city in America and you buy a tree on the lot, it will probably cost you $5 a foot. So how do you go about comparing the two? If you use the same rationale in the amendment offered by the Senator from Arkansas, we should start charging folks $5 a foot for the trees on Forest Service land. I have a hunch though, that if you told everybody who wanted to go out in the forest and cut his or her own Christmas tree, many of whom have built traditions off of this practice year after year, that we were going to charge them $5 a foot for any tree they pack out of the forest, they would probably get pretty darned angry about it. Is it fair? How about this example: In Denver, CO, if you go to the zoo to see eagles, hawks, coyotes, snakes, alligators, elk, and deer or whatever kind of animal, you pay $6. If you drive about 30 minutes from the zoo to the foothills of the Rocky Mountains, you could easily see a lot of these animals, and you wouldn't be charged a cent. Under the Senator from Arkansas' logic with fair market value, maybe we ought to charge anybody who wants to see a deer, who goes out in the forest, $6 to go out and look at deer. There would be a national uprising if we even suggested something like that.

This business about fair market value is simply a classic case of apples and oranges. It does not fit and it is not fair.

Finally, I would like to address another example that demonstrates the difficulties in ranching on public lands. Currently, under the rangeland reform regulations and the Bingaman substitute amendment, the permittees on public lands who have put money into improvements are not allowed to have any ownership over the investments they make. The ranchers simply have to put in that money themselves—there are no Federal grants to assist them—and they get very little in return in the end. Under the Domenici bill, there are real incentives for permittees to improve their allotments. Unless you provide real incentives for the rancher, the condition of the range will continue to be substandard. This is not the fault or responsibility of the rancher. It is the responsibility of the Federal Government. It just makes sense—people have to feel empowered, they have to feel like they have a stake in what they work on, in order for them to be proactive in improving the conditions.

In any event, I did want to come down just for a moment and voice my opposition to both the Jeffords amendment and the Bumpers amendment. I think they are both just shots in the dark, and by trying to go after the big corporations they will create casualties amongst the hard-working family ranchers of the West.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, just for a moment, I, too, cannot resist the opportunity to make some comment on what we have heard over the last few minutes. I guess it is because I have heard it a half a dozen times since I came here to the Congress in 1989. Every year this same thing goes on, we go through this same business.

Basically, the first decision you have to make is the question of, as the previous speaker said, "highly subsidized grazing." Let me quote for you a study that was made by Pepperdine University. It was a comparative analysis of economic and financial conditions. It happened to be in Montana, between ranchers who have Federal lands and those who do not. These are just a few of the findings.

> Montana ranchers who rely upon access to Federal lands and grazing do not have a competitive advantage over other ranchers in the State. Livestock operators with direct access to Federal forage do not enjoy significant economic or financial advantages over ranchers who do not utilize Federal forage.

It goes on and on. This is not my study; it is an academic study from Pepperdine University.

The point of the matter is, there is a great deal of difference between what you buy in State lands and what you buy in private lands and what you get in public lands. The Senator was talking about comparing it to Arkansas. What do they get, 35, 40 inches of moisture a year? In Wyoming, we get 6 or 8. There is a substantial difference there. Out in the Red Desert, where much of this land is, it takes 100 acres for one animal unit year. That is what it takes. It is different.

State lands you can fence. State lands you can—they are better quality lands. Generally they are small, isolated tracts that are enclosed. It is not comparable.

The Senator was talking about $1.35. Our bill does not talk about $1.35, it talks about $1.85. It talks about going up from where we were. It has a formula based on the price and the value of cattle. It does not treat different people differently.

The Senator keeps mentioning the Rock Springs Grazing Association, that it is a great corporation. It is not a great corporation. It is a combination of relatively small ranches.

I keep hearing about it every year, the same thing. I just do not understand it. It is interesting, of course, that all those who talk about this come from nonpublic-land States. I guess that might have something to do with it.

In any event, I oppose these propositions. I think the formula has nothing to do with the price of cattle. It has nothing to do with the idea of what it is you are buying. Anyone who thinks there is a comparative value between private leasing and public lands just has not taken a look at it. They just have not taken a look at it.

Madam President, I am sure we will talk about this some more tomorrow, and should. But I want to tell you that this whole idea of trying to establish two classes of users is not even supported by the Secretary of the Interior over time. It has never been used before. The idea that the whole thing is subsidized simply is not the case. It is a matter of utilizing the resources on a multiple-use basis.

Tell me how many private land leases are also shared with hunters and fishermen and leased to oil? They are not that way. That is not the way it is. So, it is interesting to me that we continue to have this same discussion every time this comes up. Fortunately, that position does not generally prevail.

Madam President, we will pursue it some more tomorrow. For tonight, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Just for a minute I want to speak on the bill before us, and then I want to ask permission to speak as in morning business for about 7 or 8 minutes.

Before I speak in morning business, most of the time I only speak on agricultural issues as they relate to the Midwest—the cattle, the pork, the production of corn, production of soybeans, and some wheat. But I think a lot of things that could be said on that issue can be said on this bill as well.

Part of the problem that the Senators from the West are having comes from a lot of constituents who are legitimately expressing concern about the environment, legitimately expressing concern about the good management and a good economic return for the Federal Government on land that the taxpayers own, who do all this legitimately. But they forget, in the process, they are not appreciating what the consumer of America has in the way of production of food in America.

I think too often the 98 percent of the people in this country who are not producing food—remember, that is 2 percent of the people in this country producing the food that the other 98 percent eat, or another way to put it, one farmer in America will produce enough food not only for Americans but for people outside of America to feed another 124 people—the 98 percent do not really appreciate the fact that food grows on farms, it does not grow in supermarkets.

They are so used to going to the supermarket, getting anything they want anytime they want it and just pay for it. Every time you pay for it, you think you are paying for a very expensive item. But, in fact, food in the United States, not only being of the highest quality, is also a cheaper product in America than any other country in the world.

The consumers of America spend about 9 or 10 percent of their disposable income on food. Look at any other country, and the percentage is in the high teens and low twenties, and in some of the countries of Eastern Europe, it could be 40 percent of income spent just on food.

I know none of you is going to buy the argument when I say we are talking about subsidies for farmers. Just think of the subsidy that the consumers of America get from the efficient production of food in America that consumers in other places in the world do not get from production of food by their farmers.

I do not expect anybody to buy the argument that the farmers of America are subsidizing the food bill of consumers of America by 40 percent, but that is a fact, because we produce so efficiently, we produce such a high-quality product that it is just a little irksome for those of us who are involved in agriculture to sit around here and listen to this lack of appreciation of what the farmers do for the consumers of America, what 2 percent of the people do for the other 98 percent, what we not only do in the way of production of food and fiber, but what we do to create jobs in America, because whatever starts out as the natural resources of America, whether it be on the row-crop farms of the Midwest or the grazing lands of the

West, the start of that product there, when you trace that product from the farm through the consumer of America, you are talking about a food and fiber chain that is 20 percent of the gross national product of America.

That is jobs for a lot of people other than the 2 percent of the people who are farmers. Quite frankly, a lot of income returned on labor is much greater than the return that the farmer gets for labor.

So you can go ahead in this debate over the next day or two and have all the fun you want to about doing what you think is right for the environment or what you think is right for a return on investment for the taxpayers who have money invested in public land and give the farmers of America a bad time. We probably have to take it because we are such a small segment of the population, but I would like to see, once in a while, an appreciation from the people in the Congress of the United States, not only this body but the other body as well, for the 2 percent of the people who provide a good product and a cheap product for the consumers of America.

Madam President, I ask unanimous consent to speak as in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP—PART II

Mr. GRASSLEY. Madam President, yesterday, I spoke about the void in moral leadership in the White House.

I felt obliged, as Teddy Roosevelt said, to speak the truth about the President.

Let me quote him once more.

Some of my colleagues may not have heard me yesterday.

He said it is absolutely necessary that we have full liberty to tell the truth about the President and his acts.

> Any other attitude in an American citizen is both base and servile.
>
> To announce that there must be no criticism of the President . . . is not only unpatriotic and servile, but is morally treasonable to the American public . . .
>
> It is even more important to tell the truth, pleasant or unpleasant, about him than about anyone else.

I quoted yesterday from another great President, also named Roosevelt. Franklin D. Roosevelt. He said,

> The Presidency is not merely an administrative office . . .
>
> It is more than an engineering job . . .
>
> It is pre-eminently a place of moral leadership.

That is why it is important to reflect on this issue.

I speak about the moral leadership issue because I believe it is critical.

Because it is lacking.

I make a distinction between leadership and moral leadership.

Leadership means the capacity for exercising responsible authority.

There are many in this body who are outstanding leaders.

This is reflected in the many important laws we write for the Nation.

Moral leadership is different.

Moral leadership means we do not just pass laws for the rest of the Nation, and exempt ourselves.

It means we pass laws and we apply them to ourselves, as well.

We set the example.

We say one thing, and we do it, too.

That is what I mean by moral leadership.

This Congress, for example, in one of its very first deeds, passed the Congressional Accountability Act.

In doing so, for the very first time we applied the laws to ourselves that we passed for the rest of the country.

That is moral leadership, Madam President.

That is setting an example.

It says, "Watch what we do, not just what we say."

It is not often that Congress is able to exhibit moral leadership.

We do things more by consensus and compromise.

The reality of Congress is, we usually do things ugly.

Foreigners always have the best observations about our form of government. de Tocqueville, of course, is the most famous example.

But a Russian visitor, Boris Marshalov, once observed, "Congress is so strange. A man gets up to speak and says nothing. Nobody listens—and then everybody disagrees.

Madam President, that's precisely why leadership from the White House is so important.

The individuality of the President is required to provide the moral leadership for the Nation that Congress, as a body, cannot.

The country desperately needs it.

That is what Franklin Roosevelt was talking about.

Yesterday, I talked about why the White House has covered up all its nonlegal activities, on both Whitewater and Travelgate.

It is because the activity of those in the White House conflicts with their projected image.

In the words of syndicated columnist Charles Krauthammer, it is "political duplicity * * * The offense is hypocrisy of a high order. Having posed as our moral betters, they *had* to cover up. At stake is their image."

Yesterday, I referred to and quoted from the new book by James B. Stewart, "Blood Sport."

The book reveals much about the Clintons to which Mr. Krauthammer alluded. Mr. Stewart raises several questions about the Clintons.

One is about their willingness' to abide by the same standards that everyone else has to meet. A second is about whether they abide by financial requirements in obtaining mortgage loans. A third is whether they should have accepted favors from people who were regulated by the State of Arkansas.

Last week, Mr. Stewart was interviewed by Ted Koppel on "Nightline." In that interview, Mr. Stewart calls this a story about: "the Arrogance of Power, what people think they can do/ and get away with/as an elected official, then how candid and honest they are when questioned about it."

He offers an illustration. It is a quote from the First Lady. She was advised by White House staff to disclose everything rather than stonewall. Let the Sun shine in, they said. But the First Lady rejected that advice. She said, according to Mr. Stewart, "Well, you know, I'm not going to have people poring over our documents. After all, we're the President."

Madam President, I will put the entire interview of Mr. Stewart by Mr. Koppel into the RECORD.

That way, the RECORD will reflect the full context of Mr. Stewart's words, so that I am not accused of misleading the American people.

But Mr. Stewart's observations, as well as those of Mr. Krauthammer, heighten the public's awareness of a moral leadership void in the White House.

So I ask unanimous consent to have printed in the RECORD the interview of Mr. Stewart by Mr. Koppel.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

[From "Nightline" Mar. 11, 1996]

TED KOPPEL [voice-over]. The Whitewater controversy, accusations made and denied.

JAMES STEWART [Author, "Blood Sport"]. Mrs. Clinton, essentially, took singlehandedly the control of this investment.

HILLARY CLINTON. We saw no records, we saw no documents.

TED KOPPEL [voice-over]. New questions about the Clintons' credibility.

JAMES STEWART. I think the death of Vincent Foster is the pivotal event in this story.

HILLARY CLINTON. There were no documents taken out of Vince Foster's office on the night he died.

President BILL CLINTON. An allegation comes up, and we answer it, and then people say, "Well, here's another allegation. Answer this."

JAMES STEWART. The President practically screamed over the phone. He said, "I can't take this anymore. I'm here in Europe and they're asking me about Whitewater."

TED KOPPEL [voice-over]. Now, the picture may become a little clearer. Tonight, new details about Whitewater, Vince Foster and damage control.

ANNOUNCER. This is ABC News Nightline. Reporting from Washington, Ted Koppel.

TED KOPPEL. This program may be the first you've heard about "Blood Sport," a new book which becomes available later this week, but it will not be the last. To begin with, you need to know how and why the book came about. The idea appears to have originated with Hillary Clinton. In any event, it was her close friend, Susan Thomases, herself a lawyer, who approached the author, Jim Stewart, and suggested that those closest to the First Family and, indeed, the President and the First Lady themselves, would be willing to cooperate with an objective, outside-the-Beltway writer on a detailed, no-holds-barred Whitewater book.

Stewart, a lawyer and former page one editor of the Wall Street Journal, had impeccable credentials. He had shared in a 1988 Pulitzer Prize for his reporting on insider trading. In 1991, he published the book "Den of Thieves," about financial fraud in the 1980's. Stewart took up the offer and even had one lengthy meeting with Mrs. Clinton at the White House, but the promised cooperation never materialized, although a number of people close to the Clintons did ultimately talk. Stewart went ahead and wrote the book anyway. Jim Stewart is a meticulous writer, which is another way of saying that there are few blaring headlines, but dozens of troubling revelations.

To understand what Jim Stewart has done, you need to refresh your memory on what the Clintons have variously claimed and insisted. The Clintons have insisted, for example, that they were only passive investors in Whitewater, and had virtually nothing to do with it themselves.

HILLARY CLINTON. We gave whatever money we were requested to give by Jim McDougal. I mean, he was the one who would say, "Here's what you owe on interest, here's what your contributions should be." We did whatever he asked us. We saw no records, we saw no documents.

TED KOPPEL. The Clintons insist that they have fully cooperated with the investigation of Whitewater, but that they have been dogged by one unproved allegation after another.

President BILL CLINTON. That's really the story of this for the last four years. An allegation comes up and we answer it, and the people say, "Well, here's another allegation. Answer this." And then, "Here's another allegation. Answer this." That is the way we are—we're living here in Washington today.

TED KOPPEL. And only a couple of weeks ago, after the FDIC released a report prepared by Jay Stevens, a former Republican U.S. attorney not known to be friendly toward the Clintons, there was this.

MARK FABIANI [Associate White House Counsel]. This report blows out of the water the allegations that have been made about the First Lady and the Rose Law Firm, and it undermines the contention of those who would extend these Whitewater hearings endlessly on into the future.

TED KOPPEL. That may be as good a place as any to introduce Jim Stewart, the author of "Blood Sport," in his first television interview on the book, and let me have you respond right away, because the White House is obviously very proud of the fact that Jay Stevens, Republican, no friend of the Clintons, supervised a report by the FDIC which, in effect, according to the White House, found the Clintons blameless in the—in the Whitewater affair. Is that an overstatement?

JAMES STEWART [Author, "Blood Sport"]. Well, I think the White House reaction is misplaced optimism. The report is good news, as far as it goes, but it doesn't go very far. It explicitly says that it's not the definitive report on many of the questions that have arisen here, and there is still an independent counsel investigating all of these and even more allegations. As long as the independent counsel investigation continues, a real threat hovers over this President.

TED KOPPEL. Why or how do you explain the fact that Jay Stevens, who, as I say, has no particular love for the Clintons, why would he end an investigation if, as you say, it's incomplete?

JAMES STEWART. He was retained to investigate the narrow question of whether the government should sue the Clintons or others to regain losses from Madison Guaranty, and he concluded there was no evidence to warrant a suit against the Clintons or the Rose Law Firm to do that, and I think that's the right conclusion. I do not conclude that Madison Guaranty losses flowed to the Clintons.

TED KOPPEL. What then, do you conclude, that—I mean, try and give it to me in a broad sense. What is it that you would say if you were obliged, in 15 or 30 seconds, to summarize what is troublesome about Whitewater and what will still come back to haunt the Clintons?

JAMES STEWART. Well, I think the Whitewater investment and the story of that is important because it shows many things about the Clintons. It shows their willingness to hold themselves to the standards that everyone else has to meet. It shows their willingness to abide by financial requirements in obtaining mortgage loans. But I think, most of all, it shows their willingness, while in Arkansas, to accept the favors of people who were regulated by the state.

Their attitude to this, which bordered on the negligent in the beginning, clearly indicated a mindset which said, "Somebody else will take care of us because of our power as highly elected officials in the state of Arkansas."

TED KOPPEL. In a sense, Jim, that's a negative way of saying the same thing we heard Mrs. Clinton say at the beginning of this broadcast. In other words, let somebody else take care of this. She put, in a more positive sense, i.e., "We had nothing to do with this. If Jim McDougal came and said, 'You owe so-and-so-much in interest,' we paid it, but we never saw documents, we never had an active role in this Whitewater affair." To which you would say what?

JAMES STEWART. Well, that simply isn't true. I think it may have been true in the very beginning of the investment, when there were still high hopes that this would make money and the McDougals could handle everything, but by 1986, when the McDougal empire was crumbling, it was not true. At that point, Mrs. Clinton essentially took, singlehandedly, the control of this investment. She was the one who negotiated the loan renewals with the bank that held the mortgage. She was the one who handled all the correspondence. She was the one who went over all the numbers. She had possession of all the records.

TED KOPPEL. It is your contention that she vastly inflated the value of the Clintons' interest in Whitewater.

JAMES STEWART. That's correct.

TED KOPPEL. Correct?

JAMES STEWART. As I'm sure anybody who has ever applied for a mortgage knows, you have to disclose your assets in such a financial disclosure statement, and there are warnings on these forms to be honest about this, to be accurate, to be careful, not to use uncertain judgments, because to inflate that can be a federal crime. And yet Mrs. Clinton valued Whitewater at $100,000 on a 1987 financial disclosure document, right after the bank itself had visited the property and concluded the most generous estimate for their half-interest would be $52,000.

TED KOPPEL. So when you're talking about a $100,000 evaluation, you're not talking about the value of the whole property, but the Clinton's half-interest?

JAMES STEWART. They valued their half-interest at $100,000.

TED KOPPEL. I ask you this question advisedly, reminding our viewers that you have some experience as a lawyer. Is that a crime?

JAMES STEWART. It is a crime to submit a false financial document. In fact, their partners, the McDougals, are on trial in Little Rock this week for having submitted false financial documents to financial institutions. But to prove a case like that, a prosecutor would have to prove that it was knowingly a false submission. We haven't heard an explanation from either Mrs. Clinton or the President about that document, and that ultimately would be a question for a prosecutor and a jury to decide.

TED KOPPEL. I bring you back, Jim, to what we heard the President say just a few moments ago, again, at the top of this broadcast, sort of this—this cry of "What in heaven's name are we supposed to do? Somebody makes an allegation, we respond to the allegation. Somebody makes a new allegation, we respond to that allegation." This sounds like another one of those allegations. How do you respond to—to what the President is saying?

JAMES STEWART. Well, I don't think these allegations would be coming out, or the revelations, in this kind of slow, drip-by-drip process, if the White House and the Clintons had been forthright from the beginning, when this first surfaced in the campaign. Get the story out. They came to me, or they sent someone to me, allegedly because they wanted to get the whole story out, and they had been advised at the time—and I told them the same thing—that to stop these inquiries, get in front of the story. Tell us what happened, and don't leave holes in the story. Be complete. Err on the side of completeness, and if people are bored, they can ignore it. But that has never been the strategy they have employed.

TED KOPPEL. Let's take a short break, Jim. When—we come back, we will talk about what Vince Foster knew about Whitewater and a number of other subjects.

[Commercial break.]

TED KOPPEL. And back once again with Jim Stewart.

You begin with the suicide of Vince Foster, and clearly believe that his suicide is pivotal to understanding everything that's happened to the Clintons in—in subsequent months and years. Have you reached any conclusion as to why he committed suicide?

JAMES STEWART. Well, first of all, there was the things [sic] he enumerated in—in the note that he wrote, and I think foremost among those was probably his concern about the handling of the firing of employees in the travel office, but what I think I can contribute that's new is that there were things bothering him that were so serious he didn't dare write them in his note, he didn't confide them to his wife. He was worried about his marriage. He was very much enmeshed in what we now know as Whitewater, and he knew of things that hadn't come to light that could prove embarrassing. He was concerned about the deterioration of his relationship with the First Lady, and I think there's a good chance he knew of the problems that Webster Hubbell was about to face, given his handling of clients in the Rose firm.

TED KOPPEL. When you talk about Web Hubbell, I should point out, first of all, Vince Foster, Hillary Clinton, Web Hubbell had all been partners at the—at the Rose Law Firm together. Web Hubbell then came with the Clintons to Washington, was briefly the assistant attorney general of the United

States, and you write that in the months before Vince Foster committed suicide, that he went over to Web Hubbell's house and went down in the basement to look at what?

JAMES STEWARD. Well, there were files in Web Hubbell's basement that had been removed from the Rose Law Firm during the campaign by Web Hubbell and Vince Foster. Web and Vince, during the campaign, went through the Rose Firm and removed anything that they thought might be controversial or create problems for the campaign, and this including many of the billing records relating to Hillary Clinton's work for Madison Guaranty and other matters. And one day Vince Foster went over and he and Web Hubbell got into the basement, they went to the boxes, and they went through those materials looking for these particular files, which they did get and turn over to the First Lady. But also in those files were all of this other material, including a lot of the Whitewater material, bank records from Whitewater, and the billing records, as I mentioned before.

TED KOPPEL. Is it—is it your impression that Vince Foster then took those billing records to the White House, to his office?

JAMES STEWART. It's certainly a possibility. I don't know for sure, and nobody's said they recalled him taking documents out of the basement. But those documents in the basement were later all turned over to the Williams and Connolly firm after they learned that Web Hubbell had all these documents, and they supposedly turned all those documents over to Congress. So these records did not surface there. So that suggests to me that somehow, between their first being removed from the Rose firm to their being discovered, they were in Vince Foster's office.

TED KOPPEL. Talk to me for a moment about—about Travelgate, but first of all, let's take a look at something the First Lady said, I believe in her interview with Barbara Walters, about the whole Travelgate affair.

HILLARY CLINTON ["20/20"]. I think that everyone who knew about it was quite concerned, and wanted it to be taken care of, but I did not make the decisions, I did not direct anyone to make the decisions, but I have absolutely no doubt that I did express concern, because I was concerned about any kind of financial mismanagement.

TED KOPPEL. Mrs. Clinton presents herself in that interview as exercising a sort of passive role. "Yes, I may have expressed some concern about but I certainly didn't initiate it." There is a memorandum by David Watkins, I believe. Tell the story of that memorandum, because it, of course, suggests something totally different, but the White House itself ultimately produced that memorandum and made it available. Why is that significant?

JAMES STEWART. Well, the facts, as I discovered, on the travel office affair, are as follows. I learned, before the production of this memo, that in fact, whatever her own personal belief about this is, Mrs. Clinton was the first person to suggest to David Watkins that these people be replaced.

TED KOPPEL. David Watkins being?

JAMES STEWART. He was the head of management in the White House and was the person in charge of personnel in the White House, including the travel office.

TED KOPPEL. Right.

JAMES STEWART. She was the first one to say to him, "We need our people in this office." Did she literally say "Fire them"? No. But the implication seemed very clear to him and to everyone else who spoke with her, and that's what set in motion the chain of events that led to their being fired.

TED KOPPEL. But the—the memorandum that David Watkins wrote to his own file about all of this, and about falling on his sword for the First Lady, is a memorandum that the White House itself, after all, made available. Now, that certainly puts them in a good light, doesn't it?

JAMES STEWART. Well, I don't think so. First of all, that memorandum had been under subpoena for a considerable period of time. The independent counsel, the predecessor to Kenneth Starr, had subpoenaed that particular document. Meanwhile, I think the White House was aware that all this information was soon going to be made public. I have no idea how they found it, when they did, or why they decided to—to make it public when they did, but I do know that the week before that, I and my fact checker were checking the details about the First Lady's involvement in the travel office affair with the White House press office, with people in the White House, and had even faxed them material that dealt with this very subject, and almost immediately after that the memo itself appeared.

TED KOPPEL. What you're suggesting, Jim, is that because you indicated that something about this was going to be in your book that they then decided to—to make it public before it became public in your book?

JAMES STEWART. Well, as I said, I don't know why they did it. All I can say is, I had all this information in the book, we were fact-checking this information with the White House, so the White House knew this information was going to be in the book and shortly after that the memo appeared. But I'm sure the White House will say that no, that had nothing to do with it.

TED KOPPEL. Let's take another short break. An inside peek at the White House damage control operation when we come back.

[Commercial break.]

TED KOPPEL. There was, Jim Stewart, considerable debate going on within the White House, you discovered, about how much to reveal, when to reveal it, how cooperative to be, and at one point there is a—a line that I suspect is going to be a rather devastating line that the First Lady uttered in reference to all of this.

JAMES STEWART. Well, you're—you're right. The—there was internal advice, especially from David Gergen, to turn everything over, and this was seriously considered until the First Lady interrupted at one point and said, "Well, you know, I'm not going to have people poring over our documents. After all, we're the President," suggesting that, by virtue of grandeur and power of the office, that they somehow should not have to endure such an experience.

TED KOPPEL. The key questions, I think, ultimately may become not so much what happened during Whitewater, but what happened in more recent months, in terms of either covering things up or not being as forthcoming with information. There is one story that—that you uncover having to do with the Paula Jones story, this is the young lady who charged sexual harassment against then-Governor Clinton, and the—and the Arkansas state troopers who were then guarding Mr. Clinton. What is that all about?

JAMES STEWART. Well, I think it's well-known at this point that the troopers surfaced with some accounts of their experiences while in the security detail of the governor. What I think hasn't gotten much attention is that before these reports were published, and before the troopers actually made the final decision to reveal what they claim to know, there was pressure applied to them to try to get them not to speak out, and I think the most significant example of this came when the President of the United States himself called one of these troopers and offered him a federal job. That trooper subsequently decided not to participate. He was not one of the troopers who subsequently did tell stories to anyone, so if the goal of that job offer was to get this trooper to remain silent, it worked.

TED KOPPEL. Is there not one trooper who, in fact, ended up with a federal job?

JAMES STEWART. The head of the governor's security detail did end up with a federal job, but the trooper who heard directly from the president and decided not to participate did not accept it. He said he didn't—didn't want one of these jobs, he wanted to stay in Little Rock.

TED KOPPEL. Now, again, let me draw on some of your experience as a lawyer. If, indeed, that could be—that could be proved true, the charge that you—that you make in your book, that would be a federal crime, would it not?

JAMES STEWART. Well, that, again, could be a federal crime. I think the—the issue here is was a job offered explicitly in exchange for something else?

TED KOPPEL. Let me ask you—and I realize this—this may be the most difficult question I ask you of all—after having written a book that is 400 pages-plus, how do you—how do you reduce it to a conclusion as to culpability, lack of culpability, whether this is a story that has just been blown way out of proportion, whether it is simply being kept alive for partisan reasons now and is—is doomed to do so for the rest of this year because there is a presidential election and because, you know, for the Clintons, the unfortunate timing that your book is coming out right now—how do you summarize everything you've learned?

JAMES STEWART. Well, my interest is not partisan, and my interest is not narrowly was a law broken. I think to sum up the whole book is a study in the acquisition and wielding of power, and in the end, it's a study of the arrogance of power, what people think they can do and get away with as an elected official, and then how candid and honest they are when questioned about it. I think that is what it reveals, I think, most significantly about the Clintons.

TED KOPPEL. And—and to those who say, has all of this investigation, the congressional investigations, the independent prosecutors, the time that you have spent in putting this book together, you know, was the—was it all worth all the money and the time and the effort and the pain?

JAMES STEWART. I think, in the end, we'll find that it was, that the truth is important in our society, that justice is important in our society. I don't think you can put a price tag on those things. Yes, it's terribly expensive, and at times it seems very wasteful, and at times it's nasty and it's partisan. It often is a blood sport, as Vince Foster said. But why is that? It's 'cause the truth was never honored in the first place, and I hope if there's any lesson that comes out of that, that people in the future will recognize that.

TED KOPPEL. Jim Stewart, thank you.

I'll be back in a moment.

[Commercial break.]

TED KOPPEL. The controversy over "Blood Sport", this book, will be the subject of a segment on "Good Morning America" tomorrow.

That's our report for tonight. I'm Ted Koppel in Washington. For all of us here at ABC News, good night.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Wyoming.

PUBLIC RANGELANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, today we debate a bill of tremendous importance to my State and to many Americans who draw their livelihood from the land. I am speaking specifically about ranchers, that often maligned group of individuals who have played such an enduring role of the development and prosperity of our Western States over the years—and individuals they are.

It is difficult to conceive of a greater distortion than the continuing ugly portrayal of those in my State being described as big-time cattle barons, Cadillac cowboys, few in number and great in wealth and rapacity and greed. The reality is far, far different. There are more than 25,000 ranchers whose livestock grazes on these western lands all over our Western States.

In Western and Midwestern States, more than 50 percent of all beef cattle graze these lands at one time or another during the year. If cattle were driven from these lands—and this administration seems to advocate that; that has been the pressure from them—large numbers of ranchers would surely go out of business. That is the stark reality. It is also a very cynical and deceptive canard that alleges that if this bill were to pass, public access to these Federal lands would be simply cut off. Instead, this bill reaffirms that use of these public lands for nongrazing purposes, shall continue in accordance with State and Federal law, already in effect.

I am very pleased to support this bill. So many have worked so hard. I commend the occupant of the chair, Senator DOMENICI, and so many people who have worked so hard. My colleague from Wyoming, Senator CRAIG THOMAS, has done a yeoman's task, and does it well.

I support Americans who make their living off the land. I support a healthy environment. Who does not? I get tired of that argument. Good Lord, I have lifted more lumber on the environmental laws when I was a State legislator than half the people who bark and howl at the moon in this place. I support public access to our public lands. I support the principle of multiple use, an unknown description to several people in this body. It is indeed impossible to believe that we cannot pursue all of these objectives simultaneously, which this bill does.

What I do not support is this one-size-fits-all solution for local problems. These are issues which very much require a rich participation in the form of the expertise and concerns of the local people, those who are closest to the problems and those who, I might say, care the most and are affected the most. It makes little sense for the beltway environmentalists to have veto power over the common sense and experience of those who have lived and worked and grubbed that land from nothing for generations.

Mr. President, this bill is moderate and balanced and inclusive and fair, and yet it is being described by certain special interests as a sinister, venal, even Republican conspiracy—we have had some good bipartisan support on this issue through the months—to turn back the clock on environmental protection. That shows up, I guess, in focus groups. That is not what this is. This charge is preposterous and made by people who do not want to stop with simply regulating the proper role of livestock on the public lands. It is made by people who would abandon all concept and principle of multiple use altogether.

Let there be no mistake here—the groups opposing this bill hold as their ultimate goal the outright abolition of livestock from public lands. Let us be very clear. I believe that is very evident in slogans such as "cattle free in '93," which was gleefully chanted into the vapors with such fierce conviction, less than one Presidential term ago, as the type of genuine extremism which has played too great a role in this debate.

From a purely scientific perspective, there is not a scintilla of evidence demonstrating that responsible grazing has been detrimental to the rangelands—not one—rather, an ever-growing body of scientific data suggesting it has been a critical component—critical component—of good range health. It is also irrefutable that the range is in far better condition today than it was 40 years ago. That is not my opinion. That is according to the Forest Service and the Bureau of Land Management.

The condition of the public lands is the best it has been in this century. Yes, we have more cattle grazing on these lands, but we also have more elk, deer, antelope, and even coyotes. We take good care of them, too. How can this be so? The good stewardship of our ranchers, that is how.

Mr. President, I want to just briefly show some photographs. They are rather remarkable. The first, I think, if you can discern—these are unique in their own historical context because the top ones on each of these panels were taken in 1870 by the renowned William Henry Jackson during his photographic survey of the Wyoming Territory. He was working for the USGGST, the U.S. Geological and Geographical Survey of the Territories at the time. This same expedition eventually reached the Yellowstone area. When he got to Yellowstone, he took some extraordinary photos that were so influential in gaining national park status for Yellowstone National Park in that spectacular region.

He, along with Thomas Moran, the artist, upon returning with the material and presenting it to the Congress in 1872, formed Yellowstone Park as a pleasuring ground for the enjoyment of the American people. You would never know that, as people forget the organic act. That is what it was set up for.

When these photographs were taken, all of the pictured lands were Federal. They were all owned by the Federal Government.

But here we are, and over 100 years later, then Prof. Kendall Johnson, of the Range Science Department at Utah State University, attempted to exactly re-create the location and the exact point from which Jackson set up his extraordinarily cumbersome equipment. And with the great plates and the weight of them and hauling them through the West—which was a feat in itself—he re-created Mr. Jackson's photos as a means of studying the condition of rangelands in Wyoming. I am indebted to him for the use of these photographs that were published in his book called "Rangeland Through Time."

Some of the lands pictured in the lower panels are Federal and some are private, but all of them are livestock grazed. Every single photo in the lower area is being livestock grazed, all of them.

So the top photograph here shows land about 50 miles north of Rawlins, WY.

This photo was taken in 1870, August 28, about the same time that the Sun family started ranching there. It looks as if the original ranchers took some pretty tough-looking country to decide to work on, but they have been right there ranching ever since that picture was taken.

If you look at the bottom photo just taken a few years ago, the exact same location, you will see the fruits of their stewardship. Do not tell me about environmental devastation wrought by selfish and greedy ranchers. We see trees, cottonwoods. We see extraordinary vegetation, hay lands. That is it, right there. This was the way that God had it. God has had some helpers.

These two photos then were taken on the Laramie River about 5 miles north of Wheatland on August 10, 1870. The top photo was taken in 1870 and the bottom was taken over 100 years later. You will notice that the riparian habitat has been so lush that you cannot even see the river. Here it is in the original form, and here it is 20 years ago. Here is the riparian habitat, and this is all grazing country. As I say, you cannot even tell where the river is because of the lushness of the growth.

Again, do not tell me our ranchers do not understand good ecomanagement.

The next pair of photos were taken about 40 miles south of Douglas, pretty rugged country, the same respective time as the previous pair of photos, August 12, 1870. Now, this is a real one—notice the pine and the growth, and here is one taken almost 100 years later. Look at the trees, look at the pine. All of this is grazing land. Look at the grass. This is just rock. Here is grassland, and here is all of this being grazed for decades. Do not tell me, again, about ranchers devastating the land.

Another pair of pictures, the fourth, showing this widespread phenomenon, same timeframe, 1870, August 20, northwest of Douglas, WY. The scene shows a treeless and barren landscape. There it is and there is the camp. People were camping there, probably the first white people to go through—not the first humans. This entire area is near the old Bozeman Trail, Ft. Laramie, up past Ft. Phil Kearny, into Montana. Of course, it was just 5 years after this, on June 25, 1876, that Custer had his rather unfortunate occasion at Little Bighorn. At the bottom we see, again, 100 years later, the grasses are lush and thick, trees are abundant by prairie standards—cottonwoods, water, grasslands, all of it grazed.

It was not a Ph.D. in ecomanagement that resulted in this recovery. Rather, it was the common sense of ranchers who depend for their survival upon the health of these lands. When your family depends on your stewardship, you pay awful close attention, very, very close attention.

Finally, two photos taken on the North Platte River. This was the area of several great Indian struggles in the history of my State, southwest of Casper, WY. A young man named Caspar Collins was killed in an Indian skirmish there. In 1870, these lands were totally overgrazed and treeless; August 25, 1870. By 1986, they had recovered to become well grassed, with riparian habitat abounding. Here is the same photo. Here is water. Here are trees, cottonwoods, native grasses, hayfields, irrigation. So do not tell me about ranchers being poor stewards of the land.

I always like to ask environmentalists what it is they find so appealing about my beautiful State of Wyoming where I am a fifth generation. My grandfather came to this rugged country in 1862 through Ft. Laramie. He was with the Conner expedition, and he ended up going up that trail to Ft. Phil Kearny and was there during what was called the Fetterman massacre. He was a sutler. That is a chap who sells tobacco, boots, and booze to the soldiers. He was good at that. Fincelius G. Burnett. He was there when this great historical battle took place. Then he lived in what was called Fremont County, and he became the boss farmer of Chief Washakie. One of the great Shoshonie leaders of all time had my great grandfather as his boss farmer. That is what he called him. He even gave him land on the reservation. He said, "I will not take it because it will cause you a lot of pain in the years to come," and my grandfather deeded it back. It was a good thing to do because the lands that are there now that did go into private hands have caused some pain.

I ask these environmentalists about Wyoming and what they find so appealing about our great State. The answers I always get reference such things as rugged, natural beauty, the wildlife, the clean streams, the clean air, and great fishing. I say, well, how in Heaven's name do you think it has managed to stay that way all these years? Somebody must have been taking care of it. I tell them that we have been engaged in land use activities for over 100 years. How do you think Wyoming has managed to remain the natural jewel that it is? It is because those of us that live there refuse to let it become ripped and ruined and torn to bits. It is because those citizens who depend upon these lands for their livelihoods have taken such good care of them over time. That is how.

When you are a Republican from Wyoming, you get accused of some very interesting things on the issue of the environment. But I was in the State legislature for 13 years. In the State legislature we put on the books the toughest mine land reclamation law in the United States, in the largest coal-producing State in the United States, Wyoming; the toughest Clean Air Act, which was six times more stringent than the Federal Clean Air Act; a Clean Water Act; a Plant Sighting Act which said, if you are going to come and set up a great type of structure here, an infrastructure, you will see to it that you address the accompanying social and domestic problems. We made them cough up the front end money. That is what I did when I was in the legislature.

I do tire of the paternalistic approach of people who come up to me and ask about saving the State that we already saved. We get a little tired of them hanging around. In this kind of debate, they all use the same fax machine, and all the organizations that chop you to shreds all having interlocking boards of directorate. They really are something. They all live pretty well, a lot of them on inherited wealth. If they do go to work, they find out what the rest of us find out: Work is healing, therapeutic and keeps your mind off cows messing around on the riparian bank and streams. It clears the air. I want that to happen. I get tired of that paternalistic business.

Mr. President, it is no accident that our public grazing lands, each parcel of which is the responsibility of the lessee, are in such good shape today. We have other areas of our planet which are not in good shape, where people have ripped, ruined and torn it up, whether in the oceans, the mountains, or the plains. And this bill puts the powerful tool of self interest to work in favor of the environment instead of against it. It recognizes the basic law that its opponents seem not to understand—that the worst thing in the world for the environment is not mining, logging, ranching, or multiple use; the worst thing in the world for the environment is poverty.

Look at every past civilization of the Earth; before disappearing into the vapors of history when they have finally used up every resource, cut the last tree, shot the last deer, caught the last fish, overpopulated the entire system, their last contribution is a devastated environment. That is what happens. Travel anywhere in the world to any impoverished developing country and you will see the truth of that. You may even come to understand that one of the most important human rights is the right to a job. I know that sounds evil. But that is a great human right—the right to work, the right to make a living.

So I can tell you what will happen. Here is one for the greenies to mull as they are sitting there having a little chardonnay by the campfire with their pals singing songs, of course, in the evening. Here is one for the greenies to mull: What do you think is going to happen when these old cowboys lose their grazing permit, lose the ability to use that land which they have been using for 60, 70 years? I will tell you. Do not miss this scenario. You lose the permit, you gather the kids around—some of them are downtown, or maybe they are working at the courthouse, or wherever they are—and make the decision to sell the place. Then start talking to your pals on the county commission, those county commissioners that you helped elect, and they will direct you to the zoning and planning commission; go to the zoning and planning commission, and they will say, Yes, we have a subdivision regulation there, you bet; go to the old local civil engineer and draw up the plans for the subdivision; and then sell the property for a subdivision in the midst of this magnificent kind of country, just so you can do a silly thing—eat. And then instead of cows for those same greenies to worry about—as they slosh the chardonnay on their shoes—they can worry about people messing up the area—a few hoof prints beside the creek will then start to look pretty good compared to septic tanks and leach fields. That is exactly where this one is going. So get involved in the great emotion of it, and watch these wily, canny people, who do not like to starve to death, pedal off their land and remove even the Sun family—

Kathleen, Bernard, Dennis and the rest—perhaps, after 5 generations—remove themselves from ranching and decide to sell it and spend the winters in Arizona and the summers on that magnificent part of the ranch they kept for themselves. If anybody cannot understand this is what will happen, the drinks are on me.

Thank you.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I commend my friend from Wyoming for telling how it really is. I thought his graphic pictures portrayed an awful lot of America that, unfortunately, few Americans see. The Senator's reference to those that would like to see something different done to that part of the American west, while explicit in its reference to the comfort around the fire and the chardonnay, I think reflect an unrealistic reference, if you will, to the responsibility that we have in this body to recognize the significance of grazing, as we know it today.

As chairman of the committee of jurisdiction, Energy and Natural Resources, I rise to support the substitute, S. 1459, which has been offered by Senator DOMENICI, the Public Rangelands Management Act.

While the livestock grazing issue is not significant in my State, there is reindeer grazing on Bureau of Land Management lands under regulations specific to Alaska and some cattle grazing on Fish and Wildlife Service lands on Kodiak Island. In the lower 48 States, however, livestock grazing is a part of western society. It is part of the history, and the heritage, of the American West. And it's a part of the social fabric of the West and a cornerstone of the western economy.

Because I understand the importance of livestock grazing to the rural western economy, to the ranching community and to the family structure, I want to lend my support to this important legislation and encourage my colleagues on both sides of the aisle to support S. 1459.

Mr. President, as chairman of the Committee on Energy and Natural Resources, and as one of the three elected representatives of the State of Alaska in Washington, I have a strong interest in our Nation's natural resource and public land management policies. I believe the public lands in my State and in the lower 48 States contain abundant natural resources—timber, coal, oil and gas, minerals, and other renewable assets—that can be used to sustain the economic engine of this great country of ours. Our public lands are also a valuable recreational resource—they are used for hunting, fishing, camping, river running, bird watching, backpacking, skiing, off-road vehicle use, and other recreational uses. The fact is, our public lands are taking a great deal of pressure off our national parks for Americans who want to enjoy an outdoor experience.

And just as Alaskans are willing to allow their resources to be used prudently to better the future for Alaska's children and grandchildren, I believe Americans are willing to use America's resources for the benefit of future generations. I do not believe a majority of Americans support locking up our public lands for preservation purposes. As chairman of the Committee on Energy and Natural Resources, I am obligated to speak out for responsible use of our public lands and natural resources in a way that I believe makes the most productive use of those lands and resources for all Americans.

One of the reasons I support S. 1459 is because of my concern about the Clinton administration's general attitude regarding public land use and, more specifically, about Secretary Babbitt's regulations and polices regarding activities on the public lands to conduct timber harvesting, livestock grazing, mining, and oil and gas exploration and development. There is an alarming trend toward driving traditional public land users—timber harvesters, ranchers, oil and gas drillers, and miners—off the public lands.

At least in the case of the oil and gas and mining industries, good, high-paying, long-lasting jobs and hundreds of millions of dollars in investment capital are being forced overseas because of a hostile attitude toward resource development on public lands. Also lost with those jobs and investment capital are untold millions of dollars in potential tax revenues and mineral receipts to the Federal Government and the States. Thousands of good, high-paying jobs in the timber industry have been lost, and are not likely to be recovered again. That is happening in the southeastern portion of my own State.

For the livestock industry, however, the story is different. Ranchers have been using the public lands for generations to make a living for themselves and their families. We are not talking about high-technology, high-paying jobs. We are talking in some cases about folks who are just able to eke out a living and pay their bills. The job is tough, the hours are long, and the pay is poor, but because many of them are fourth or fifth generation ranchers, they want to keep up the tradition, run their cattle or sheep, and live the simple lifestyle out in the open space of the West.

The ranches are not being forces overseas like the oil and gas and mining industries. They are simply being run out of business altogether—driven off the public lands like the cattle or sheep they herd—by an administration and an Interior Secretary hostile to their way of living. They're being run off the public range and ridiculed as relics of the past. They're criticized for receiving what some claim is a subsidy.

Mr. President, we are not talking about subsidizing and preserving the way of life for "cute little German farms in Bavaria" as one of my colleagues recently observed, we're talking about members of western society who are making a substantial contribution to their local and State economies, to the Federal Treasury, and to the feeding of tens of millions of people who consume their products every day.

What Secretary Babbitt set in motion with his Rangeland Reform 1994 regulations is symptomatic of a broader attitude toward public lands use and natural resource development from his Department. Secretary Babbitt's attitude seems to be "lock up the public lands, keep them preserved for posterity's sake, and do not worry about all the lost jobs and economic benefits—we can get all those people retrained so they can be productive members of society again."

What is troubling about that kind of attitude, Mr. President, is that it is elitist. It is elitist because it tells Americans that their public lands should be used only for the enjoyment of the preservationists and no one else. It says, "the heck with the ranchers, the miners, the oil and gas drillers, the timber cutters and the others who want to use the public lands to make a better life for themselves, their families, or their country." It also says, "the heck with the people who want to recreate, and hunt and fish on the public lands."

In the case of livestock grazing, that approach takes away the lifestyle so many people have freely chosen, despite the hard work and low pay. It takes away a portion of the western culture. it takes away a pillar of the West's economy. It takes away revenues to the Federal Treasury and to the States whose education systems and public services rely so heavily on the public lands.

There is one aspect of the grazing debate that I appreciate more than some of the others because of my experience as a former banker. And that is how difficult it is now for ranchers to secure lending to support their operations or to make improvements. More and more banks are asking tougher and tougher questions before they loan money to ranchers because of the seeming instability of the livestock industry—instability that is brought about by the regulatory malaise caused by Secretary Babbitt's rangeland reform regulations. More and more banks are denying loans because they believe livestock operations cannot be conducted profitably given the current regulatory climate. That is why we need to act now to bring the stability ranchers and their lenders need.

As for the substance of this legislation, Mr. President, S. 1459 starts with the premise that public lands should continue to be used for multiple use purposes. The No. 1 finding on page 3 of the bill says, and I quote: "multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests." Multiple use is a guiding principle for public lands management now, and the bill says right up front that multiple use will continue to be the guiding principle. It says so throughout the bill. So any claim, Mr. President, that this bill establishes grazing as the dominant use of the public lands is false. That is one of the false claims we will hear over and again about this bill, Mr. President, but such a claim has no basis in fact.

The multiple use foundation of this bill is further exemplified by the explicit declaration that nothing precludes use of and access to Federal land for hunting, fishing, recreation, or other appropriate multiple use activities in accordance with Federal and State law.

Environmental protection of public rangelands is ensured by S. 1459 in several ways. The bill states as its first objective the promotion of "healthy, sustained rangeland." Another objective is to "maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality." S. 1459 also calls for: the establishment of State or regional standards and guidelines for addressing rangeland condition; consideration of the environmental effects of grazing in accordance with NEPA, the National Environmental Policy Act; approval of cooperative agreements and coordinated resource management practices for conservation purposes or resource enhancement; and penalties for failure to comply with permit terms and conditions or environmental laws and regulations. All of these provisions add up to a serious effort to protect the condition of the rangeland and to improve its condition where such improvement is needed.

A lot criticism has been directed at the public participation aspects of this legislation, Mr. President, and I want to explain what S. 1459 does in that regard. The bill makes absolutely clear that affected interests will be notified of proposed decisions, and does nothing whatsoever to prevent those interests from having dialogue with Federal land managers concerning management decisions on grazing allotments. That is the case now and that has always been the case. The bill also makes clear that those citizens whose interests are adversely affected can appeal decisions of the land managers. Further, the bill gives the interested public the opportunity to participate in Resource Advisory Councils, the Grazing Advisory Councils, and the NEPA process.

What the bill does not do, Mr. President—much to the disappointment of Secretary Babbitt and the other opponents of this legislation—is allow anti-public lands or anti-grazing activists from Boston and elsewhere to micromanage and second-guess every single decision regarding grazing and what happens on each individual grazing allotment for the price of a 32-cent stamp. Appropriate public participation in public lands management decisions is healthy and constructive. We do not have a problem with that, Mr. President. We welcome appropriate public participation.

What we do have a problem with, however, is elevating in statute the legal status of an individual who lives hundreds of miles away who wants to dictate what happens on a grazing allotment out West, and whose form of public participation consists of mailing a protest postcard to the land management agency. We do not need more lawsuits spawned by armchair quarterbacks who have never seen a grazing allotment. Nor do we need to have every single decision of the public lands manager second-guessed by self-proclaimed experts.

Mr. President, there are many other positive aspects of S. 1459 that deserve mentioning. But my colleagues who have labored long and hard trying to put together a grazing reform bill that can enjoy bipartisan support are anxious to speak to the many positive features of the bill.

I want to tell my colleagues about the process we have been through this year on grazing reform, Mr. President, because I believe it is important that they know about the intense interest in this issue, and even more intense interest in passing legislation that will provide stability, certainty, and predictability for the foreseeable future. This is such a contentious issue that we do not need to be revisiting grazing every session of Congress.

Earlier last year—May 25—another grazing bill, S. 852, was introduced by Senators DOMENICI, CRAIG, BROWN, CAMPBELL, HATCH, BENNETT, BURNS, SIMPSON, THOMAS, KYL, PRESSLER, KEMPTHORNE, CONRAD, DORGAN, DOLE, and GRAMM. Senators BAUCUS, NICKLES, and INHOFE subsequently joined as cosponsors.

A companion bill to that measure, H.R. 1713, was introduced in the House. The House Subcommittee on National Parks, Forests, and Public Lands of the House Resources Committee held a hearing in July.

A hearing on the Senate bill was held in June by Senator CRAIG's Subcommittee on Forests and Public Land Management, and the Committee on Energy and Natural Resources reported the bill on July 19, 1995.

S. 852 was placed on Senate Calendar but went nowhere as a result of apparent lack of sufficient support.

Following the August recess, a bipartisan effort was mounted to craft a bill that would address the deficiencies of S. 852 was initiated by several Members on our side, Senators DOMENICI, THOMAS, KYL, CRAIG, and BURNS, and included several of our Democrat colleagues, Senators REID, BRYAN, CONRAD, BAUCUS, BINGAMAN, and DORGAN.

After several weeks of staff discussions and Member involvement, a revised bill was drafted that addressed some 16 areas where there seemed to be general bipartisan agreement. Shortly thereafter, the Senate began consideration of the Balanced Budget Act of 1995. Grazing provisions were not included in the Senate version of the Balanced Budget Act, but the House version did contain a handful of provisions, only one of which would have produced revenues—the grazing fee provision. In the end, the House receded to the Senate approach and no provisions on grazing were included in the Balanced Budget Act.

On November 16, 1995, Senators DOMENICI, KYL, CRAIG, THOMAS, and BAUCUS wrote me to request that the Energy Committee consider the new draft proposal, which was reported as S. 1459 on November 30.

In December and January, Mr. President, our side met with Democrat Members and staff several times in an attempt to incorporate changes desired by the Democrat Members in order to address concerns raised by their constituents and support this measure. We went what we believed was the extra mile to address their concerns.

At the end of January, Mr. President, we had only five unresolved issues. We made clear to our colleagues that we could accommodate their concerns on some of these issues. On a few others, we probably could not agree because of fundamental differences in approach. However, we believed that the unresolved issues could be decided on the floor through the amendment process, Mr. President, which would allow our colleagues to offer proposals to address the remaining issues on which we seemed divided.

That brings us to where we are now, Mr. President. At a crossroad. We are at a crossroad with this grazing bill because we have gone about as far as we can without harming what we believe are the legitimate concerns of the livestock industry. We believe we have ample environmental safeguards in the bill, Mr. President, and more than adequate opportunity for public participation.

If our Democrat colleagues whose interests we have tried so hard to address cannot support this bill now, Mr. President, it is not for a lack of effort on our part to accommodate their concerns. It is not because of sincere effort on our part to include them in the process of drafting this legislation. And it is not because we did not seek their input and ideas as to how we could make S. 1459 better legislation.

I would suggest Mr. President, that those who cannot support this legislation—even though we have bent over backwards to accommodate the interests of our western Democrat colleagues—are making their decision not on the merits of the bill but rather on the basis of a desire to make nonuse of the public lands the dominant use.

We're at a crossroad not only with this grazing bill, but also with the administration's public lands and natural resources policies. We can either choose between Secretary Babbitt's Rangeland Reform 1994 regulations, which will hasten the end of livestock grazing on the public lands, or we can choose an approach that makes significant improvements in the way livestock grazing is managed while allowing ranchers to continue to graze cattle and sheep on the public range. The same choice is true for other public lands use issues: We can either ship our jobs, our capital, our mineral receipts, and our tax revenues overseas or we can keep them here and allow responsible use of our public lands for resource development activities and other multiple-use purposes.

The choice for me is clear, Mr. President. On this one, I am going to side with the ranchers over the elitists. I urge my colleagues to do the same.

Mr. President, I support the Domenici substitute for three specific reasons. First, it is pro-environment. It is pro-family, and it is pro-economy. The substitute contains, I think, significant provisions to protect the great landscape of the American West that will lead to more money being spent to improve those rangelands specifically.

Furthermore, I think it keeps the families together, the families of rural America, the families out west, because it will allow them to continue what they have been doing for five and six generations—that is, producing livestock on the public lands for the benefit of all Americans.

Further, the Domenici substitute is pro-economy because it will generate more fees to the Federal Government and provide a stable regulatory climate for livestock production on the public lands, and preserve livestock production as an economic pillar, which it has been on the rural communities of the West.

Now, Mr. President, you might wonder why a Senator from Alaska is speaking on grazing issues. Well, it is not significant in my Western State of Alaska, although we do graze a significant herd of "Santa Clause's reindeer" on public land. But it is really part of the history and heritage of the American West, a part of the social fabric of the West, and it is really a cornerstone of the western economy.

So I want to lend my support to this issue and this legislation. I encourage my colleagues on both sides of the aisle to support the Domenici substitute because I understand and really appreciate the importance of this issue to the West. I want to assure you that those who have risen to speak on behalf of this amendment do as well, because they are the ones ultimately accountable for their stewardship to their constituents.

I have a strong interest in our Nation's natural resources, public lands, and management policies. I believe the public lands in my State and in the other lower 48, as we refer to them, contain tremendous natural resources—our timber, coal, oil, gas, minerals, and other renewable assets that can be used to sustain the economic engine of what made this country great.

I firmly believe that through science and technology, we can do it right, we can do a better job than we have done. I feel, in many cases, the old rules relative to environmental oversight and various other aspects of regulatory mandates are really out of date. We have had new technology come along. We are operating under the same rules, same regulations, and a very narrow focus, Mr. President, and a very narrow interpretation. As we look at resource development, we are looking at world markets.

We have the experience and expertise in the United States to do a better job, particularly with our renewable resources, and grazing is a renewable resource. We could do a better job in the renewability of our timber. But as we look at what is happening, we are depending on imports, such as imported beef and timber products, coming from countries that do not have the same sensitivity and responsibility in developing and maintaining the renewability of the resources that we do.

So are we not being a little irresponsible to shed that responsibility on other countries and simply look to importation? Well, I think we are. Just as we in Alaska are willing to allow our resources to prudently contribute to the future of those in our State and the grandchildren that are coming along, I believe Americans are willing to use America's resources and resource development to benefit future generations.

So I support Senate bill 1459 because of my concern about the current administration's general attitude regarding public land use. More specifically, it would be the regulations and policies of the Secretary of the Interior regarding activities on public lands to conduct timber harvesting, livestock, grazing, mining, oil and gas exploration, and development as well. I think, Mr. President, as we look a little further, we see an alarming trend toward driving traditional public land users—timber harvesters, ranchers, oil and gas drillers, and miners—off public lands. Where are they going?

We are driving those jobs out of the United States, we are sending our dollars overseas, and we are importing those products. As our President communicates concern over the loss of high-paying jobs and offsets that by more low-paying jobs, the realism is that many of these blue-collar jobs are high paying. But if we do not develop our resources, we are not going to have them.

The Interior Secretary's approach seems to be to drive these good, high-paying, long-lasting jobs—hundreds of millions of dollars of capital investment—overseas, all with no worry, so to speak, because we will make up for those lost jobs somehow. Well, I think that is an attitude problem. As we look at oil imports alone, now we are currently importing over 54 percent of the total crude oil that we consume. We are simply becoming more dependent on the Mideast. We are only perhaps a terrorist act away from another oil crisis.

So, Mr. President, as we come back to the issue at hand, it is just not about grazing; it is about utilization of the public land in a responsible manner.

I think it is difficult for ranchers without this relief. As a former banker, I think I can comment with some degree of accuracy on the circumstances. It is difficult for ranchers to secure lending to support their operations and to make improvements that are needed. And more and more banks are going to be tougher and tougher before they loan money to ranchers because of the seeming instability of this industry and where it is going. That is brought about by the regulatory malaise caused by the current administration's rangeland reform regulations. I have been told by some of my banker friends that they are denying loans because they believe livestock operations cannot be conducted properly given the economic uncertainty in the industry. I think that is why we need to act now to bring stability that the ranchers need and that certainly the lenders require.

That is another reason I support the Domenici amendment. As for the substance of the so-called substitute, the bill starts with the premise that public lands should continue to be used for multiple use.

The No. 1 finding on page 3 of the bill says: "Multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests." Multiple use is a guiding principle for public lands management now, and the bill says right up front that multiple use will continue to be the guiding principle. It says that throughout the entire bill.

So any claim, Mr. President, that this bill establishes grazing as a dominant use—that has been used time and time again in this debate—of public lands is simply false, and it is inaccurate. This is one of the many claims that we will probably hear over and over again in this debate. But such claims simply have no basis in fact.

Next, I want to say how astounded I am that the Democratic substitute to be offered on the other side of the aisle says absolutely nothing in title I about protecting use, of and access to, Federal land for the experience of hunting, fishing, recreation, watershed management, or any other appropriate multiple-use activity. The question is, why? I wonder if we are to conclude from our friends on the other side of the aisle that they care only about these activities on national grasslands and not about such activities on the BLM or Forest Service rangelands. I hope that some of my colleagues will address that because I think it is a legitimate criticism.

Next, Mr. President, I want to emphasize again how compatible the Domenici bill will be with the environment. The bill states as its first objective the promotion of healthy, sustained rangeland. Another objective is to "maintain and improve conditions of repairing areas which are critical to wildlife habitat and water quality."

The Domenici substitute also calls for the establishment of State or regional standards and guidelines for addressing rangeland conditions; consideration of the environmental effects of grazing in accordance with NEPA, the National Environmental Policy Act; and approval of cooperative agreements and coordinated resource management practices for conservation purposes.

Mr. President, all of these provisions add up to a very, very serious effort to protect the public rangelands and to improve their conditions where such improvements are needed.

So, Mr. President, we are going to hear a lot of criticism in this debate about public participation in the grazing management process. But, in my view, there are far more opportunities for public participation and a broader role for the so-called affected interests in the Domenici substitute than in the substitute which we will see from the other side.

Under the Domenici substitute, for example, for the first time the public will be given the opportunity to comment on reports by the Secretary of the Interior and the Secretary of Agriculture summarizing range-monitoring data. This is a positive improvement and one that will not be provided in the substitute from our colleagues on the other side of the aisle.

What the Domenici substitute does not do, Mr. President, is allow out-of-State antipublic lands, antigrazing activists to simply micromanage and second-guess every single decision regarding grazing and what happens on each individual grazing allotment for the price of a 32-cent stamp, which, as you and I know, is possible now.

Appropriate public participation in public land management decisions is healthy. It is constructive. We do not have a problem with that. We welcome appropriate public participation.

Finally, Mr. President, it is our hope that the Domenici substitute ends the bureaucratic nightmare that livestock producers have been living because of widely differing rules and regulations of not one, but two Federal agencies—the Bureau of Land Management and the U.S. Forest Service. The Domenici bill would require coordination of livestock administration between these two agencies. It would require them to issue regulations simultaneously to address grazing on public lands.

Livestock producers need some degree of certainty. They need regulatory stability. We believe, Mr. President, that the Domenici substitute will provide that certainty and that stability.

I believe Senate bill 1459, as proposed to be amended by the Domenici substitute, will allow family ranchers to continue enjoying the lifestyle they have enjoyed for generations. It is hard work. It is low pay and long hours. If you ask any one of the small family livestock operators, he or she will tell you that they would not want to do anything else or anything any differently. Are we going to take that away from them? I hope not.

We need to provide the proper regulatory climate to allow the family ranchers to continue to earn their living on public rangelands. We need to continue to allow the livestock industry to make its vital contribution to the rural economy of the West. We need to provide incentives for the livestock operator to keep caring about the land that he or she lives on. Yes; ranchers are environmentalists, too. They hunt, they fish, and they recreate. They enjoy the outdoors on the lands in their areas just like others. The only difference is they know better how to take care of the land and how to preserve it. They have a vested interest in continuing to care about those rangelands because their rangelands are also their hunting grounds and their fishing streams.

Mr. President, the Domenici substitute is good for the environment. It is good for the family. It is good for the rural western economy. And it is basically good public policy.

I urge my colleagues to support the Domenici substitute, Senate bill 1459.

I ask unanimous consent to be added as a cosponsor of that legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I would suggest that those who cannot support this legislation for whatever reason, even though we have, in my opinion, bent over backward to accommodate the interests of our western colleagues on the other side of the aisle, are making their decisions, unfortunately, not on the merits of the bill but rather on the basis of a desire to make nonuse of the public lands the dominant use. Think about that, Mr. President. We are at a crossroads not only with this grazing bill but also with the administration's public lands and natural resource policy. We can either choose between Secretary Babbitt's rangeland reform, the 1994 regulations, which will hasten the end of livestock grazing on public land, or we can choose an approach that makes significant improvements in the way livestock grazing is managed while allowing ranchers to continue to graze cattle and sheep on public land.

The same choice is true for other public land use issues. We can either ship our jobs, ship our capital, our mineral receipts, and our tax revenues overseas, or we can keep them here and allow responsible use of our public lands for resource development activities and other multiple-use purposes and to benefit, obviously, Americans who are looking for and need those jobs.

The choice is clear on this one. I am going to side with the ranchers over the elitists. I urge my colleagues to do the same.

Mr. President, that concludes my statement.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO PETER A. JENNINGS

Mr. DASCHLE. Mr. President, today I want to take a moment to commemorate the long and distinguished life of Peter A. Jennings, an outstanding American who passed away last November.

Peter Jennings was born June 9, 1911, in the small town of Bridgewater, SD, and passed away on November 3, 1995, in Fort Meade, SD. Throughout his life he was very dedicated to his family, his community, and his work.

As a father and husband, Peter epitomized the term "family values." He spent his life taking care of his family by always putting their needs and concerns first. He is survived by his wife of 56 years, Anita Sessions Jennings, his son Thomas Jennings, and his sisters Bernadette Stoltz and Irene Rotert. As an active member of his community, Peter was constantly working to improve the quality of people's lives. He belonged to the DAV, VFW, American Legion, Catholic Order of Forresters, the Retired Officers Association, and the Knights of Columbus.

Peter served in the U.S. Army for much of his life, including 26 years of service at four VA medical centers in Fort Meade, SD; Kerrville, TX; Indianapolis, IN; and Hines, IL.

During my travels as a U.S. Senator, I am constantly humbled by the people of my State and the basic principles by which they live their lives: a love of family, an obligation to community service, and a strong commitment to an honest day's work. Peter A. Jennings lived by those principles, and we remember him today.

NOMINATION OF LTG MICHAEL RYAN, U.S. AIR FORCE

Mr. NUNN. Mr. President, the Air Force Times (March 25, 1996 edition) contains a story entitled "Senate Delays Ryan Nomination." The story states that Lieutenant General Ryan's promotion to a fourth star "is being delayed in the Senate according to congressional and military sources." The story adds that the "reasons for the delay were unclear as of March 15, but sources said Ryan's involvement in the Buster Glosson affair in 1994 may be tied to the delay." With no foundation whatsoever, the story then links me to this action by stating: "The aftertaste of the Glosson struggle has remained bitter, especially for one of his ardent congressional supporters, Sen. SAM NUNN, D-Ga."

That is absolutely inaccurate.

In the first place, I strongly support the nomination of Lieutenant General Ryan for his fourth star and have not been involved in any hold. Lieutenant General Ryan was nominated on February 26, 1996 and favorably reported by the Committee on March 12, 1996. I am confident that he will be confirmed by the Senate and I urge the Senate to act immediately to confirm this fine officer.

Second, when I was chairman of the Armed Services Committee in 1994, during Lieutenant General Ryan's previous nomination, I took the lead in ensuring that Lieutenant General Ryan was confirmed. That was at the same time we were considering the issues regarding Lieutenant General Glosson's retirement. Lieutenant General Ryan was nominated on July 12, 1994, approved by the Committee on July 27, 1994, and confirmed on August 25, 1994.

Third, when our committee issued its report on the Glosson matter, I ensured that the following material was placed in the committee report, citing the special panel we had established:

> The Panel Report specifically states: "We wish to be absolutely clear that in our view Generals Nowak, Ryan, and Myers were truthful in their testimony to the IG investigators and to us." The Panel notes that "the reputation of these men for veracity and integrity is unimpeachable."
>
> The Panel Report also observes: "Generals Nowak, Ryan, and Myers acted with the utmost integrity in reporting what they considered to be inappropriate attempts to influence a promotions board and in asking to be excused from service on that board. Their actions in this regard were proper and helped maintain the integrity of the Air Force promotions system."
>
> The committee concurs with these views. The committee notes that its favorable recommendation on the nomination of Lieutenant General Glosson is based upon his overall record of service and does not imply any reservation about the Panel's findings with respect to Lieutenant General Nowak, Lieutenant General Ryan, and Major General Myers.

It is simply wrong to suggest "the aftertaste of the Glosson struggle has remained bitter" for me. On the contrary, I have worked hard to ensure that those, like Lieutenant General Ryan, who did their duty in the Glosson matter have not been adversely affected.

REPEAL OF MANDATORY DISCHARGE OF ARMED FORCES MEMBERS WITH HIV

Mr. KENNEDY. Mr. President, I am especially gratified that the Senate voted yesterday for fairness and against bigotry by repealing the provision in the recent Department of Defense Authorization Act requiring the mandatory discharge of members of the Armed Forces who are HIV-positive.

Yesterday's Senate action clearly demonstrates that this misguided policy's days on the statute books are numbered. The Senate looked at the facts and listened to the Nation's military and medical leaders, and not a single Senator was willing to defend the mandatory discharge provision.

The reality is that military personnel with HIV are serving their country effectively and should be allowed to continue to serve. They may not be fighting on the frontlines, but they are still dedicating themselves to serving our country.

A few examples prove the point. One of the persons affected is a senior enlisted man in the Navy. He is a gulf war veteran who has served over 17 years. During that time, he has earned numerous decorations, including two Navy Achievement Medals and four Good Conduct Medals. Yet under current law, this sailor will be discharged before receiving the retirement he worked so hard and honorably to earn.

Another affected service member is an Army sergeant. This soldier has served for over 15 years, receiving outstanding evaluations and a chest-full of medals. He fears for the fate of his wife and newborn child if he is dismissed from the service before his retirement.

Another member of the Armed Forces, a Navy woman, has served for 7 years, consistently receiving top evaluations.

It is fundamentally unfair that these and hundreds of other productive service members will all have their careers cut short for no valid reason.

Magic Johnson has not served in the military. But he is living with HIV. He has shown America that people with HIV do not have to sit on the bench. They can participate, and even be stars. In a recent article in the Los Angeles Times, Mr. Johnson appealed to us to give the same opportunity to service members with HIV that his fellow athletes gave him. He wrote:

> Service members with HIV are in the Army, Navy, Air Force, and Marines. They are shipbuilders, military police, trainers, recruiters, sonar technicians, communications specialists, engineers, researchers, administrators, and more. They are American men and women who want to work hard and be part of the toughest military in the world. They live to serve—and they shouldn't be a casualty of prejudice. They deserve better. America deserves better.

Magic Johnson is right. The DOD Authorization Act is wrong. As a result of yesterday's overwhelming Senate vote, we are a major step closer to ending this unacceptable discrimination against dedicated members of the Armed Forces. I urge the House of Representatives to accept our repeal of this disgraceful provision.

LABOR COMMITTEE PASSAGE OF OSHA REFORM LEGISLATION

Mr. PELL. Mr. President, last week, the Senate Labor and Human Resources Committee completed a long and, unfortunately, contentious markup of S. 1423, the Safety and Health Reform and Reinvention Act that amends the Occupational Safety and Health Act of 1970.

While I am very aware of the importance of not overburdening businesses with mountains of paperwork and regulation, I am also cognizant, as a cosponsor—along with my old friend Senator Jacob Javits—of the legislation that created OSHA, of the important need to protect the health, safety, and lives of employees.

Much of the debate and discussion that took place during Labor Committee hearings and markups was really over the balance between protections for employees and burdens on employers. During one committee hearing on the topic, a businessman testified in support of a proposal that would prohibit fines on a business if it were to be found in substantial compliance with OSHA regulations. The witness went on say that substantial compliance "does not mean perfection or even near perfection. It does mean better than average."

Mr. President, I would not expect perfectly safe conditions or perfect health protections for myself and we probably should not attempt perfection under OSHA rules. We should not, however, settle for better than average safety. I am sure that none of my colleagues would feel comfortable flying on an airline that advertised as having better than average safety. Would any of us feel comfortable using a piece of machinery or operating an electrical device knowing that there was an average chance of being electrocuted or being injured? I do not believe "better than average" is good enough for America's workers.

Another concern of mine centers on the ability of workers to request onsite inspections by OSHA. I recently received some interesting material from the Rhode Island Committee on Occupational Safety and Health [RICOSH]. One of these cases is a good example of the value of OSHA inspections.

Without an onsite inspection, problems that occurred at a Narragansett, RI jobsite may well have taken a different turn. During construction, workers noticed that the temporary support structure for a poured concrete floor had become dangerously overloaded. The workers placed a call to OSHA. At first, the owner and his engineer and architect all insisted that the 2 x 4's would support a concrete slab. Instead, they suggested to OSHA that the deflection was the result of moist sea breezes causing the support timers to swell combined with expansion caused when the Sun warmed one side of the timbers. At first glance, these all sound like credible explanations. Upon inspection, Mr. President, it was learned that structural calculations were based on a 2½ inch concrete slab. In reality, the slab was 3 inches thick. Obviously, the inspection was the key to discovering the actual cause of the deflection in the concrete slab. Just imagine the number of injuries and even deaths that may have taken place if because of a phone or fax interview, instead of an inspection, OSHA had determined that the culprit was sunny days and humid nights.

Mr. President, I feel that I also must comment on the commotion during the last markup session. After approving three very good amendments—two Democratic and one Republican—by voice vote on the first day of the markup, the committee was asked to vote again on the amendments at the beginning of the last markup. Unfortunately, all three of the votes were along party lines and two of the previously approved amendments failed. I regret very much that this commotion took place and hope that in the future, cooler heads prevail.

FEDERAL CONSTRUCTION METRICATION: A YEAR END REPORT

Mr. PELL. Mr. President, I would like to call to the attention of my colleagues the Metric in Construction 1995 Year End Report by the Construction Metrication Council of the National Institute of Building Sciences located here in Washington, DC.

I found the information outlined in the "Status of Federal Construction Metrication" chart to me most interesting. In many portions of the Federal Government, projects have been constructed in metric for 2 years or more and, contrary to the beliefs of many, the sky has not fallen in.

I also recommend the rest of the council's report to my colleagues. As the report says, 93 percent of the world's population uses the metric system. I continue to believe that the United States will remain at a competitive disadvantage with our global trading partners until we join that 93 percent.

Mr. President, I ask unanimous consent that the Metric in Construction 1995 Year End Report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METRIC IN CONSTRUCTION 1995 YEAR END REPORT

Almost all federal construction programs are now converted to the metric system and most agencies are designing and constructing projects in metric units.

So reported over 20 federal agency representatives at the November 1995 meeting of the Construction Metrication Council (see the agency-by-agency status report on pages 3 and 4). Building on years of work by the nation's voluntary codes, standards, trade and professional construction organizations—and with their support and participation—federal construction is providing the catalyst for the long-awaited metrication of the nation's construction industry.

THE NUMBERS

Government is a major player in the construction industry by virtue of its role as provider of highways, bridges, dams, water and sewer systems, parks, prisons, military bases, space centers, laboratories, embassies, courthouses, schools, and numerous other public facilities. Federal appropriations for construction, including grants to state and local governments, total about $50 billion annually. In 1996, over $20 billion in construction will be designed in metric units and up to $10 billion more put out for bid. By the year 2000, metric construction will approach the $50 billion federal total, not including billions more in state and local matching funds.

Annual U.S. construction expenditures are about $500 billion yearly with roughly one-half allocated to commercial, institutional, industrial and civil works and the other half to homebuiding. Thus, within a few years federally funded metric construction will amount to about 20 percent of all nonresidential construction, with state and local metric construction adding substantially to that percentage.

THE IMPACT

American architectural, engineering, and construction firms already use metric measures in their overseas work, and government's buying power rapidly will expose the remainder of nonresidential construction to the metric system. Given this as well as the rapid globalization of the construction industry (just look at the multilingual packaging with metric measurements on the shelves of your local hardware store), nonresidential construction is likely to convert to the metric system within a decade or so. Homebuilders, who are involved in virtually no foreign or governmental work but are nonetheless closely intertwined with the rest of the construction industry, probably will adopt metric measures a few years later.

Of course, the metric transition could take place faster, as it has in other countries, or, given America's ambivalence toward the metric system, slower. But 93 percent of the world's population uses metric measures and it is only a matter of time before the U.S. construction industry, which accounts for 6 million jobs and 8 percent of the gross national product, joins the nation's automobile, health care, and electronics industries (among others) in completely converting to the metric system.

When it does, metrication will bring more than efficiency and better quality control to construction: it will benefit every American by helping our nation compete more effectively in the global marketplace.

THE RESULTS

Hundreds of millions of dollars in federally funded metric projects have been placed under construction in the past three years and the results speak for themselves. As noted in the last Metric in Construction newsletter:

Conversion has proven to be much less difficult than anticipated.

There has been no appreciable increase in design or construction costs.

Architects and engineers like working in metric units.

Tradesmen adapt readily to metric measures on the job site.

Construction and product problems have been minimal.

However, three product-related issues have surfaced to date:

Reinforcing steel ("rebar"). The rebar industry first promoted and then withdrew a metric standard but not before most state highway departments had adopted it in their standard design drawings, at significant time and expense. The rebar industry currently is balloting, through ASTM, a new metric standard and hopes to unify everyone behind it over the next year or so.

Recessed lighting fixtures. Several lighting manufacturers opposed the introduction of modular metric recessed fixtures for use in modular metric suspended ceiling systems. Such fixtures proved to be readily available from other manufacturers, however, and now the opposing manufacturers are supplying them too. All other suspending ceiling components, including T-bars, lay-in tiles and air diffusers, are available from a variety of manufacturers in modular metric sizes.

Concrete masonry block. Block is also a modular material, but modular metric (so-called "hard metric") block is slightly smaller than current inch-pound block. The block industry, as represented by the National Concrete Masonry Association, argues that producing and keeping an inventory of two sizes of otherwise identical block is costly and, in many cases, too costly for the smaller producers that constitute the bulk of the block industry. The industry further argues that inch-pound block can be economically cut to fit any dimension, inch-pound or metric, and that the specification of metric block is therefore both unnecessary and economically damaging to block producers.

In response to these concerns, the General Services Administration, in its July 1993 Metric Design Guide, encouraged the allowance of either inch-pound or metric block in metric projects. The Construction Metrication Council endorsed GSA's position in the September-October 1993 Metric in Construction newsletter. Since then, contractors have had difficulty obtaining bids on metric block in a number of instances. The Council therefore strongly encourages designers to allow the use of either inch-pound or metric block or to specify nominal wall thicknesses only, thereby leaving the decision to the contractor, with cost the deciding factor.

CONSTRUCTION METRICATION COUNCIL

(English is the international language of business. Metric is the international language of measurement.)

National Institute of Building Sciences, 1201 L Street, N.W., Suite 400, Washington, D.C. 20005, Telephone 202-289-7800; fax 202-289-1092.

Metric in Construction is a bimonthly newsletter published by the Construction Metrication Council to inform the building community about metrication in U.S. construction. The Construction Metrication Council was created by the National Institute of Building Sciences to provide industrywide, public and private sector support for the metrication of federal construction and to promote the adoption and use of the metric system of measurement as a means of increasing the international competitiveness, productivity, and quality of the U.S. construction industry.

The National Institute of Building Sciences is a nonprofit, nongovernmental organization authorized by Congress to serve as an authoritative source on issues of building science and technology.

The Council is an outgrowth of the Construction Subcommittee of the Metrication Operating Committee of the federal Interagency Council on Metric Policy. The Construction Subcommittee was formed in 1988 to further the objectives of the 1975 Metric Conversion Act, as amended by the 1988 Omnibus Trade and Competitiveness Act. To foster effective private sector participation, the activities of the subcommittee were transferred to the Council in April 1992.

Membership in the Council is open to all public and private organizations and individuals with a substantial interest in and commitment to the Council's purposes. The Council meets bimonthly in Washington, D.C.; publishes the Metric Guide for Federal Construction and this bimonthly newsletter, and coordinates a variety of industry metrication task groups. It is funded primarily by contributions from federal agencies.

Chairman—Thomas R. Rutherford, P.E., Department of Defense.

Board of Direction—William Aird, P.E., National Society of Professional Engineers; Gertraud Breitkopf, R.A., GSA Public Buildings Service; Ken Chong, P.E., National Science Foundation; James Daves, Federal Highway Administration; James Gross, National Institute of Standards and Technology; Byron Nupp, Department of Commerce; Arnold Prima, FAIA; Martin Reinhart, Sweet's Division/McGraw-Hill; Ralph Spillinger, National Aeronautics and Space Administration; Gerald Underwood, American National Metric Council; Dwain Warne, P.E., GSA Public Buildings Service; Lorelle Young, U.S. Metric Association; Werner Quasebarth, American Institute of Steel Construction.

Executive Director—William A. Brenner, AIA.

STATUS OF FEDERAL CONSTRUCTION METRICATION—NOVEMBER 1995

Agency	Metric conversion date for new construction projects
General Services Administration	January 1994: GSA's Public Buildings Service builds for several federal agencies. All major projects under its auspices have been constructed in metric for the past two years.
Federal Highway Administration	October 1996/2000: Recent Congressional action has pushed back the FHWA 1996 deadline to 2000, but the majority of states report that they will begin highway construction in metric by October 1996 or sooner. Successful metric projects already have been completed in many states.
Army Corps of Engineers	January 1995: Numerous metric projects are under construction. New work has been designed in metric since January 1994.
Naval Facilities Engineering Command.	October 1996: New projects are being designed in metric now.
Air Force	October 1996: New projects are being designed in metric now.
Coast Guard	In phases, beginning January 1996: Several metric projects are underway now.
State Department	State has virtually always built in metric.
National Aeronautics and Space Administration.	October 1995: A number of metric projects are under construction and more are in design.
Federal Bureau of Prisons	October 1995: New projects are being designed in metric now.
Architect of the Capitol	January 1994: In-house design and renovation work is performed in metric and the planned Library of Congress storage facility will be built in metric.
Veterans' Administration	No date set at this time: Five metric projects are in planning. A large GSA-built project is being constructed in metric now.
Smithsonian Institution	January 1994: Virtually all work has been performed in metric for the past two years.
Deparment of Energy	January 1994 for major projects: Many DOE labs and sites have ongoing metric construction programs.
Environmental Protection Agency	No metric policy on construction grants: EPA provides water and sewer grants to states and municipalities but is not involved in their construction.
USDA Forest Service	October 1996: The Forest Service's metrication schedule depends in large part on state highway metrication activities.
Department of Agriculture	January 1995: Major projects are in metric now.
Indian Health Service	January 1994: Numerous metric projects are in design and construction.
National Institute of Standards and Technology.	January 1994: Major projects are in metric now.
U.S. Postal Service (USPS is not a federal agency).	No date set at this time: But several metric pilot projects are under way.
Administrative Office of the U.S. Courts.	January 1994: All new federal courthouses have been built in metric by GSA since 1994.
Internal Revenue Service	January 1994: All major IRS buildings are built in metric by GSA; small projects are designed in-house in metric.
Naval Sea Systems Command (Ships and boats use many of the same construction components as buildings, particularly structural steel and mechanical and electrical equipment).	No formal date: The metric design of the LPD 17 amphibious assault ship is nearly completed. Two other ships, the SC 21 and the ADC(X), are in the early stages of metric design. NAVSEA's conversion is proceeding on a program-by-program basis.

THE REPUBLIC OF TUNISIA'S 40TH INDEPENDENCE DAY

Mr. THURMOND. Mr. President, I rise today to acknowledge the 40th anniversary of the independence of the Republic of Tunisia. Since gaining independence from France on March 20, 1956, Tunisians have been dedicated to pursuing a path of progress.

Although this small North African country has limited natural resources, it has shown great initiative by successfully devoting a majority of its assets to promoting its people and developing its economy, stressing education as the key to its future. The private sector has contributed greatly to the economy and, as a result, Tunisians have created a diversified, market-oriented economy. While the United States has assisted the Tunisian economy through focused development programs, Tunisia has been able to advance beyond our assistance and is quickly approaching an era of economic partnership with us.

The friendship between the United States and Tunisia dates back almost 200 years when our two countries signed a friendship treaty. Since that time, we have had an outstanding relationship marked by respect, cooperation, and a mutual commitment to freedom and democracy. We have a strong military alliance, routinely engaging in regular joint exercises and program exchanges. Strictly defensive in nature, the Tunisian military force is among the best trained and most professional in the Arab world. Like the United States, Tunisia is dedicated to the peaceful resolution of conflicts and has participated in many peacekeeping operations around the world.

Despite the volatile situation in North Africa, Tunisia has played a key role in preserving stability and peace. Further, they have been at the forefront of the struggle against terrorism, intolerance, and blind violence. They have appealed to the world community through various organizations, including the United Nations, to adopt strict measures in order to combat terrorism and extremism.

In addition, Tunisia has played a significant role and is a key supporter in securing peace in the Middle East. They were the first Arab State to host a multilateral meeting of the peace process and to welcome an official Israeli delegation in Tunis, thus promoting a dialog between Arabs and Israelis. Since that initial meeting, they have hosted two other events and are scheduled to host others. As a result of their efforts, in January of this year, Tunisia and Israel agreed to establish formal diplomatic relations.

Earlier this week, Tunis served as the host city for the Joint Military Commission meeting, further demonstrating their dedication to peace in the Middle East and reinforcing the cooperation between the United States and Tunisia.

Mr. President, I would like to congratulate our friends in Tunisia on successfully achieving this milestone and commend them for their peacekeeping efforts.

FORTY YEARS OF TUNISIAN INDEPENDENCE

Mr. PELL. Mr. President, legend has it that more than 200 years ago, the bey of Tunis, as token of esteem and friendship, sent one of his finest stallions to U.S. President George Washington. Unfortunately, customs officials in the nascent republic denied entry to the horse, which spent its remainder of its days in the port of Baltimore. After this somewhat rocky start, I am happy to report that U.S.-Tunisian relations have improved considerably. Today, in fact, marks the 40th anniversary of the establishment of the Republic of Tunisia as an independent country, a time during which Tunisia has enjoyed a strong and healthy relationship with the United States. Today I wish to congratulate Tunisia for its many accomplishments, and to highlight some of the instances of cooperation between our two countries.

In recent years, Tunisia has taken positive steps towards the establishment of a more democratic system of government. Although the ruling party continues to dominate the political scene, Tunisia has made an effort to broaden political debate, including recent passage of an electoral law that reserved 19 seats of the National Assembly for members of opposition political parties. Because the government has placed a high priority on funding social programs, today Tunisia has literacy and life expectancy rates that are among the highest in the region. I hope that the United States will continue to work with Tunisia on efforts such as these to open up the political process and to improve the living standards of the population. This should help Tunisia to overcome some of the difficulties it continues to encounter in balancing secular and Muslim interests in the country.

Tunisia also has a very impressive economic record. In the last 10 years, the government has turned to economic programs designed to privatize state-owned companies and to reform the banking and financial sectors. As a result, Tunisia's economy has grown at an average rate of 4.5 percent over the last 3 years, and its economic success has had a beneficial impact on Tunisia's international standing. Tunisia joined GATT in 1990, and in 1995, the government signed a free-trade accord with the European Union.

In contrast to some of its Arab neighbors, Tunisia has achieved particular success in the promotion of women's rights. Under the direction of President Ben Ali, the number of Tunisian women and girls receiving an education—up through the university level—has risen dramatically. Women are protected under the law from forced early marriages and domestic violence. I applaud these steps and urge the Tunisian government to continue its efforts to expand personal freedoms for all of its citizens.

Tunisia and the United States have also explored ways to cooperate on international security issues. In fact, the 14th Annual Joint Military Commission of Tunisia and the United States met in Tunis over the last 2 days. Tunisia also has played an active role in U.N. peacekeeping missions, contributing military contingents to operations in Cambodia, Somalia, the Western Sahara, and Rwanda.

Finally, Tunisia has been a welcome force for moderation I the Middle East peace process. The government has taken an active role within the Arab community in promoting better ties with Israel. In April of this year, Israel and Tunisia will establish official interests sections to facilitate political consultations, travel, and trade. Tunisia has condemned the recent suicide bomb attacks in Israel and has called for greater international efforts to fight terrorism.

As I alluded to earlier, the relationship between the United States and Tunisia goes back nearly 200 years, to the very beginnings of American independence. Tunisia was among the first to recognize the United States as a sovereign country. As Tunisia celebrates the 40th anniversary of its own independence, I ask my colleagues to join me in offering a sincere expression of congratulations.

Mr. FEINGOLD. Mr. President, today Tunisia celebrates its 40th anniversary of independence from French colonialism. I want to join in congratulating Tunisia on its social and economic accomplishments of the last 40 years, and to thank the Tunisians for their historic friendship with America.

Two years ago I visited Tunisia with Senator SIMON and Senator REID. Initially, our visit was planned to meet with President Ben Ali, who at that time was President of the Organization of African Unity. However, we quickly learned that Tunisia itself is a story of many other achievements as well.

As a small, secular Muslim country, nestled between two major, unstable powers, Libya and Algeria, Tunisia is playing an important and positive role in international politics. Because of its geography, it is a member of both the Middle East and Africa, and I am impressed how it has taken an active position in both regions.

In 1982, after Yasir Arafat was driven from Beirut, Tunisia opened its doors and hosted the Palestinian Liberation Organization for 14 years. I believe that Tunisia's secular and developed society had a moderating influence on Arafat, which was a critical factor in launching the Middle East peace process. Likewise, it is no surprise to me that Tunisia was the first Arab country to host a U.N. multilateral meeting in connection with the Middle East peace process, or that it will be among the first Arab countries to establish formal diplomatic relations with Israel next month.

Tunisia has also tried to help mediate some of the conflicts between its neighbors in sub-Saharan Africa. President Ben Ali served as President of the Organization of African Unity at a time when the OAU was being re-vitalized as a regional organization, and he helped begin preparations for a conflict resolution center at the OAU. Just this week, Tunisia hosted a regional conference on the Great Lakes which addressed the heated conflicts in Rwanda and Burundi, and the effects of refugees in Central Africa.

Tunisia has also, by necessity, been at the forefront of the international struggle against terrorism. Out of geographic necessity, it has worked diligently and consistently in international efforts against violence and extremism. Indeed, despite the terrorist threats it faces from Algeria and Libya on all its borders, Tunisia still attended the recent international conference on terrorism in Sharm-el-Shekh, and re-affirmed its commitment to moderation.

I believe Tunisia needs to be supported for these important steps. It is an invaluable partner as we form alliances for the 21st century. But Tunisia should also be congratulated for its economic and social achievements. In many areas—particularly family planning, opportunities for women, education, and economic reform—Tunisia can provide a model of development in the Mediterranean.

When I was in Tunisia, I was greatly impressed by the government's commitment to family planning and the development of opportunities for women. Tunisia is one of the world's success stories in family planning: birth control is widely available for those who desire it, and government clinics are focussed on promoting women's health. This was a very far-sighted and constructive decision by the government. As a result, the country has been able to harness the potential of most of its population, and, not coincidentally, has made significant economic gains.

Because of these effective programs, Tunisia was graduated from United States assistance, and is now entering an era of partnership with the United States. Indeed, in many ways, Tunisia is a fine example of a foreign aid success.

Tunisia has great potential for leadership in the 21st century. But it is a country facing severe security risks. As we appreciate its accomplishments of the last 40 years, we must commit to do what we can to ensure Tunisia will continue to develop politically and economically, and enable it to continue to support United States goals of stability and democracy in the Middle East and Africa.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, last week I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the National Domestic Violence Hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number to the hotline.

The toll free number, 1-800-799-SAFE, will provide immediate crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1-800-787-3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most underreported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new National Domestic Violence Hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1-800-799-SAFE, and 1-800-787-3224, for the hearing impaired.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the Federal Government is running on borrowed time, not to mention borrowed money—more than $5 trillion of it. As of the close of business yesterday, March 19, 1996, the Federal debt stood at $5,058,839,098,883.55. On a per capita basis, every man, woman, and child in America owes $19,128.56 as his or her share of the Federal debt.

More than two centuries ago, the Continental Congress adopted the Declaration of Independence. It's time for Congress to adopt a Declaration of Economic Responsibilities along with an amendment requiring the President and Congress to produce a balanced Federal budget—now.

TRIBUTE TO THE CORONADO HIGH SCHOOL THUNDERBIRD BAND OF EL PASO, TX

Mrs. HUTCHISON. Mr. President, it is with much pride that I rise today to recognize the 160 members of the Coronado High School Thunderbird Band who will be representing North America in the Russian Republic's Freedom Day Parade this May. These gifted student musicians from El Paso will travel to Moscow this spring to celebrate the rise of democracy there and to share their extraordinary musical talents with the people of Russia.

It was last September when Richard Lambrecht, the students' band conductor, received the phone call from the Russian Ministry of Culture, inviting the Coronado students to perform in the Freedom Day celebration held annually in Red Square. Since that moment, the students, their parents, and their avid supporters have been working tirelessly, day and night, to raise the necessary funds for this once-in-a-lifetime trip and to maintain their exceptional grade point averages.

This recognition is a fitting testament to the dedication, character, and talent of these Texas teenagers. But it is not the first honor the Thunderbird Band has received. In fact, the band has received the Sudler Flag and the Sudler Shield for both concert and marching performance by the John Phillip Sousa Foundation. These awards are given to only two bands annually, representing the best in the United States for that year. Coronado is one of only three bands to have ever received both designations.

In addition to honoring the Thunderbird Band for this achievement, I would also like to welcome both Alexander Demchenko, the Russian Minister of Culture, and General Victor Afanasiev, the Russian General Conductor, to the United States. These two officials will be visiting the Coronado students on March 27 in El Paso. The Republic of Russia has generously offered to finance a portion of the band's traveling costs, and I would like to thank them for their country's cooperative efforts in making this trip a reality for the Coronado students.

Mr. President, I am confident that the Coronado High School Thunderbird Band will represent the people of Texas, the United States, and North America with both honor and distinction. I congratulate them on this remarkable accomplishment, and I wish them the best of luck in their future endeavors.

Thank you, Mr. President. I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2739. An act to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

H.R. 2937. An act for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.

The message further announced that the House has agreed to the concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 148. A concurrent resolution expressing the sense of the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2739. An act to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on March 20, 1996, he had presented to the President of the United States, the following enrolled bill:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2169. A communication from the Director of the Office of the Secretary (Administration & Management), Department of Defense, the report entitled, "Extraordinary Contractual Actions to Facilitate the National Defense"; to the Committee on Armed Services.

EC-2170. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to renewing a lease; to the Committee on Armed Services.

EC–2171. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC–2172. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on metal casting competitiveness research for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC–2173. A communication from the Chairperson of the U.S. Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–2174. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–2175. A communication from the Associate Attorney General for Legislative Affairs, transmitting, pursuant to law, the report on the activities and operations of The Public Integrity Section for calendar year 1994; to the Committee on the Judiciary.

EC–2176. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2177. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Low-Income Home Energy Assistance Program for fiscal year 1994; to the Committee on Labor and Human Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–486. A resolution adopted by American Democrats Abroad (Switzerland) relative to the foreign affairs budget; to the Committee on Appropriations.

POM–487. A resolution adopted by the Federal Judges Association relative to funding of the Judiciary branch; to the Committee on Appropriations.

POM–488. A notice from the Mayor of the City of Tucson, Arizona relative to a resolution adopted by the U.S. Conference of Mayors relative to the National Endowments for the Arts and the Humanities; to the Committee on Appropriations.

POM–489. A resolution adopted by the City of Inkster, Michigan relative to federally mandated obligations; to the Committee on Appropriations.

POM–490. A resolution adopted by the Los Angeles Board of Harbor Commissioners relative to the Alameda Corridor; to the Committee on Commerce, Science, and Transportation.

POM–491. A resolution adopted by the Alaska Environmental Lobby relative to the Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

POM–492. A notice from the Association of Pacific Island Legislatures relative to agriculture, compact impact, fisheries, and immigration; to the Committee on Energy and Natural Resources.

POM–493. A resolution adopted by the Board of Mayor and Alderman of the Town of Dover, Tennessee relative to the Tennessee Valley Authority Land Between the Lakes; to the Committee on Environment and Public Works.

POM–494. A resolution adopted by the Chamber of Commerce of Stewart County, Tennessee relative to the Tennessee Valley Authority Land Between the Lakes; to the Committee on Environment and Public Works.

POM–495. A resolution adopted by the Board of Commissioners of Cook County, Illinois relative to Puerto Rico; to the Committee on Finance.

POM–496. A resolution adopted by the American Society for Public Administration relative to the United Nations; to the Committee on Foreign Relations.

POM–497. A resolution adopted by the New York County Lawyers' Association relative to the United Nations Convention to Eliminate All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

POM–498. A resolution adopted by the Commission of the City of Miami, Florida relative to the Cuban Government; to the Committee on Foreign Relations.

POM–499. A resolution adopted by the Teinaa Gey Tlingit Nation relative to sovereignty and jurisdiction over membership; to the Committee on Indian Affairs.

POM–500. A resolution adopted by the Teinaa Gey Tlingit Nation relative to jurisdictional boundaries; to the Committee on Indian Affairs.

POM–501. A resolution adopted by the Teinaa Gey Tlingit Nation relative to an audit and investigation of contractors; to the Committee on Indian Affairs.

POM–502. A resolution adopted by the City Council of the City of Seattle, Washington relative to proposed immigration legislation; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 1627. A bill to designate the visitor center at Jean Lafitte National Historical Park in New Orleans, Louisiana as the "Laura C. Hudson Visitor Center."; to the Committee on Energy and Natural Resources.

By Mr. BROWN (for himself, Mr. Thomas, Mr. Faircloth, Mr. Thurmond, and Mr. Helms):

S. 1628. A bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. Dole, Mr. Abraham, Mr. Bennett, Mr. Brown, Mr. Coats, Mr. Cochran, Mr. Coverdell, Mr. Craig, Mr. D'Amato, Mr. Faircloth, Mr. Grams, Mr. Gregg, Mr. Hatch, Mr. Helms, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Kempthorne, Mr. Kyl, Mr. Nickles, Mr. Simpson, Mr. Smith, and Mr. Thompson):

S. 1629. A bill to protect the rights of the States and the people from abuse by the Federal Government; to strengthen the partnership and the intergovernmental relationship between State and Federal governments; to restrain Federal agencies from exceeding their authority; to enforce the Tenth Amendment to the Constitution; and for other purposes; to the Committee on Governmental Affairs.

By Mr. WELLSTONE (for himself and Mr. Wyden):

S. 1630. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 1631. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EXTREME, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself and Mr. Ford):

S. Con. Res. 47. A concurrent resolution for a Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

S. Con. Res. 48. A concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice-President-elect of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 1627. A bill to designate the visitor center at Jean Lafitte National Historical Park in New Orleans, Louisiana as the "Laura C. Hudson Visitor Center"; to the Committee on Energy and Natural Resources.

THE LAURA C. HUDSON VISITOR CENTER DESIGNATION ACT OF 1996

• Mr. JOHNSTON. Mr. President, I am pleased today to introduce a measure to designate the visitor center at 419 Rue Decatur in New Orleans, LA, as the "Laura C. Hudson Visitor Center."

For almost 24 years I have been privileged to serve in the U.S. Senate. For some 20 of those years I have been blessed with the able assistance of Laura Hudson, who completed her Senate service last August, as my legislative director and indispensable right hand.

In so many ways, Laura personifies the best tradition of Senate service—beginning in one capacity and growing into so many more. The young history postgraduate, who took a legislative-correspondent position in my office in 1975, quickly grew beyond that and has been my invaluable counsel on a variety of legislative challenges over the years.

There are parks and preservation projects, in Louisiana and beyond which exist solely because of the personal commitment and legislative skill of Laura Hudson, whole regions of the globe, such as Micronesia, routinely neglected by many in the Congress, receive a respect and recognition in Washington due heavily to Laura's devotion. That component closeup program, which brings hundreds of students and teachers each year from the former trust territories of Micronesia, is but one example of Laura's passion.

Moreover, I am convinced that the relationship between our country and many of the developing and emerging economies, such as China, Vietnam, and Indonesia, profit in immeasurable ways from the understanding and leadership of staff persons such as Laura.

This is a woman, Mr. President, who has forsaken many opportunities in the private sector because of a deep belief in the merits of public service, and a belief in the simple tenet that she could make a difference. More often than we acknowledge, it is the Laura Hudsons who made a qualitative difference in our daily work product. In honor of her unparalleled contributions, I am introducing this legislation today.

I know that Laura will continue to contribute, as only she can, to public policy. But I will miss her in a way immediate and direct, as will so many of her longtime colleagues in the Senate. But I know they join me in expressing appreciation and best wishes as Laura enters an exciting new chapter of her life.

I ask unanimous consent that a copy of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAURA C. HUDSON VISITOR CENTER.

The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".•

By Mr. BROWN (for himself, Mr. THOMAS, Mr. FAIRCLOTH, Mr. THURMOND, and Mr. HELMS):

S. 1628. A bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes; to the Committee on the Judiciary.

MUSIC LICENSING LEGISLATION

• Mr. BROWN. Mr. President, I introduce legislation that would lift a burden off of small businesses who currently pay fees to music licensing organizations under a complicated and cumbersome copyright law.

Introduction of this legislation reflects what I consider a fair position. This bill acknowledges the different sides, and aims to reach a compromise position. This legislation comes after hours and hours of negotiations with different interests over the course of several months.

Under current law, music licensing organizations are permitted to collect fees from those who play a radio or television in their commercial establishment. The music may be background music, or it may be music played at half-time during a football game. The music license fee applies to shoe stores, to diners, to shopping centers or any other business establishment.

The artists who create this music certainly deserve compensation for their intellectual property. In fact, those artists are compensated for their labors. When a song is played over a radio or TV, the broadcaster pays for the rights to play that song. When we are at home, and we turn on the radio, we are not expected to pay a second fee. Yet, if a radio is played at a commercial establishment for no commercial gain, a second fee is charged for the music. This double-dipping smacks of unfairness.

In addition, there is tremendous inequity in the way licensing companies assess these fees. The businesses are unable to see a list of the songs that are available for licensing. The businesses are unable, because of the market inequity, to bargain for a fair price. Instead, we have an anticompetitive environment where two or three licensing companies control almost all of the music available. Small businesses have two options: pay the preordained fee or turn off the radio or TV.

The approach I have taken to address this problem aims at leveling this playing field. The legislation I am introducing would require the licensing companies to make a list of their repertory available so businesses can know what products they are paying for.

The legislation would exempt small businesses from paying the fee for music played over radio and TV if a fee has already been paid. Where music has already been paid for by the broadcaster, the copyright owner has in fact been compensated.

In addition, the legislation would establish arbitration to resolve disputes over fees. As it stands, if a retail store wishes to contest the fees paid to one of the licensing companies, they have to go to a court in New York. Moreover, full blown litigation in any case is often prohibitively expensive.

The legislation would require the music licensing companies to offer per period programming licenses—in other words allow radio stations to purchase licenses for shorter time periods instead of 24 hours a day if they are only playing music in short spots between religious, news, or talk shows. I hope my colleagues will join me in leveling the playing field and will support this bill.

I ask unanimous consent that letters in support of this bill from the National Federation of Independent Business, the National Religious Broadcasters, the National Restaurant Association, and the National Retail Federation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 20, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I would like to express our support for your compromise music licensing legislation. NFIB believes this proposal will resolve many of the serious problems that exist between the small business community and the music licensing societies—ASCAP, BMI and SESAC.

In a recent NFIB survey, more than 92 percent of small-business owners called for music licensing reform. The time has come for fairness in music licensing.

While your bill is different from S. 1137, it addresses many of the issues that are of great importance to small business owners. It allows small businesses to play incidental music on radios and TV's without violating federal copyright law. In addition, the measure gives small business owners the right to arbitrate fee disputes in local forums rather than forced to file a lawsuit in New York City. Many small businesses across the country cannot afford the added expense of traveling to New York City to dispute fees levied by BMI or ASCAP. The legislation does protect the nine state music licensing laws that have been enacted and the other 15 states with legislation pending.

NFIB commends your efforts to fashion a workable compromise and we look forward to working with you to enact music licensing reform legislation.

Sincerely,

DONALD A. DANNER,
Vice President,
Federal Governmental Relations.

NATIONAL RELIGIOUS BROADCASTERS,
Manassas, VA, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of National Religious Broadcasters, I want to commend you and Senators Thurmond, Faircloth, Helms and Thomas for introducing legislation to address the inequities and abuses in the current system for licensing copyrighted music. Our organization, which represents over 800 religious broadcast stations and program providers, is grateful for your leadership and is prepared to support you in any way possible to pass this bill in the 104th Congress.

Legislation is badly needed to rectify the injustices forced upon Christian radio by the entertainment licensing monopolies, ASCAP and BMI. For years, our members who use limited amounts of music in their programming have tried to negotiate a fair license that would allow them to pay simply for the music they play and not be charged as if they played copyrighted works all day long. In the face of monopoly powers granted to

ASCAP and BMI by the federal government, and in the absence of clear Congressional policy to guide competition in the licensing arena, we find we have no leverage with which to negotiate a fair "per program license". Your bill goes a long way toward solving that problem.

We also understand your bill will require the music licensing monopolies to disclose in a practical and user-friendly way the songs for which they have the rights to collect royalties, and it will not allow ASCAP, BMI or any other licensing organization to bring infringement actions against music users for songs that are not listed in their publicly available data bases. These provisions, together with an effective per program license, are critical to establishing music licensing rules that bear some resemblance to a free market system.

In addition to our strong support for your bill, I also urge you and your cosponsors to block any copyright-related legislation in the Senate that does not incorporate music licensing reforms. It would be unconscionable for Congress to enact any measures that enhance the economic clout of the music licensing monopolies without first correcting their abusive business practices. In the view of religious broadcasters, the current system essentially forces Christian radio stations to indirectly subsidize immoral, violent and sexually explicit entertainers—entertainers who reap millions in royalties from the unfair blanket licenses small religious broadcasters are forced to buy. Please see the attached resolution passed by the NRB Board of Directors in February in this regard.

Thank you again for taking a stand for fairness in music licensing. In doing so, you're also making a stand for the positive, life-changing power of religious radio. The millions of Americans whose lives are enriched every day by religious broadcasts are watching this issue very carefully.

Sincerely,

E. BRANDT GUSTAVSON, L.L.D., *President.*

NATIONAL RETAIL FEDERATION,
Washington, DC, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the National Retail Federation and the 1.4 million U.S. retail establishments, I am writing to support your compromise legislation to amend federal copyright law to provide the nation's retailers with protection against the arbitrary pricing, discriminatory enforcement and abusive collection practices of music licensing organizations.

Retailers of all sizes, particularly smaller establishments in your state, are confronted daily by costly and unreasonable demands from music licensing organizations. These organizations have monopoly power to set rates and therefore, retailers are frequently asked to pay outrageous and unfair licensing fees to play music which is only incidental to the purpose of their business.

Under your legislation, business establishments that use radio or TV music with less than 5,000 square feet of public space would be exempt from licensing fees as long as the music was purely background or incidental to the purpose of the business, and customers were not charged a fee to listen to the music. While not all retailers are covered under this compromise, we believe it represents significant progress. Your bill also gives businesses the right to arbitrate fee disputes in local forums rather than being forced to file lawsuits in New York and requires music licensors to provide consumers with full information about the music they are purchasing.

Thank you for your leadership on behalf of America's Main Street. Your efforts and those of your staff to provide relief are greatly appreciated. We look forward to working with you to enact this legislation.

Sincerely,

JOHN J. MOTLEY III,
Senior Vice President,
Government and Public Affairs.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the National Restaurant Association and the 739,000 foodservice establishments nationwide, we would like to express our support for your compromise music licensing legislation. We believe this proposal will resolve many of the serious problems that exist between the business community and the music licensing societies—ASCAP, BMI, and SESAC.

As you know, your legislation represents major concessions by the business community and is different from S. 1137, the Fairness in Musical Licensing Act of 1995. More importantly, however, you measure addresses many of the issues that are of great significance to restaurateurs throughout the country. These include:

Allowing for a logical expansion of current law to allow small businesses to play incidental music on radios and TVs without violating federal copyright law.

Giving businesses the right to arbitrate fee disputes in local forums rather than being forced to file a lawsuit in New York City.

Requiring music licensors to provide consumers with full information on the product—the music—they are buying.

All of this is done while protecting the nine state laws that have been enacted and the other 15 states with legislation pending. As you know, S. 1619, introduced by Senator Hatch would preempt all state music licensing laws. It also, in our opinion, fails to address the number of the problems that exist with the societies including arbitration and access to repertoire.

Senator, as you know, restaurateurs from around the country have faced harassment, frivolous lawsuits, and arbitrary and onerous licensing fees. On behalf of the entire industry, we want to thank you and your staff for the countless hours you have devoted to reach a reasonable compromise. We fully support your efforts and will work towards enactment of your bill.

Sincerely,

ELAINE GRAHAM,
Senior Director, Government Affairs.

KATY MCGREGOR,
Legislative Representative.•

By Mr. STEVENS (for himself, Mr. DOLE, Mr. ABRAHAM, Mr. BENNETT, Mr. BROWN, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KEMPTHORNE, Mr. KYL, Mr. NICKLES, Mr. SIMPSON, Mr. SMITH, and Mr. THOMPSON):

S. 1629. A bill to protect the rights of the States and the people from abuse by the Federal Government; to strengthen the partnership and the intergovernmental relationship between State and Federal governments; to restrain Federal agencies from exceeding their authority; to enforce the 10th amendment to the Constitution; and for other purposes; to the Committee on Governmental Affairs.

THE 10TH AMENDMENT ENFORCEMENT ACT OF 1996

Mr. STEVENS. Mr. President, today, on behalf of 23 of my colleagues, as well as Governors, attorneys general, State legislators, and mayors across the Nation, I rise to introduce the 10th Amendment Enforcement Act of 1996.

The 10th amendment was a promise to the States and to the American people that the Federal Government would be limited, and that the people of the States could, for the most part, govern themselves as they saw fit.

Unfortunately, in the last half century, that promise has been broken. The American people have asked us to start honoring that promise again: to return power to State and local governments which are close to and more sensitive to the needs of the people.

The 104th Congress and in particular, the Unfunded Mandates Reform Act, started to shift power out of Washington by returning it to our States and to the American people. Today we continue that process.

The 10th Amendment Enforcement Act of 1996 will return power to the States and to the people by placing safeguards in the legislative process, by restricting the power of Federal agencies and by instructing the Federal courts to enforce the 10th amendment.

The act enforces the 10th amendment in five ways:

First, the act includes a specific congressional finding that the 10th amendment means what it says: The Federal Government has no powers not delegated by the Constitution, and the States may exercise all powers not withheld by the Constitution;

Second, the act states that Federal laws may not interfere with State or local powers unless Congress declares its intent to do so and Congress cites its specific constitutional authority;

Third, the act gives Members of the House and Senate the ability to raise a point of order challenging a bill that lacks such a declaration or that cites insufficient constitutional authority. Such a point of order would require a three-fifths majority to be defeated;

Fourth, the act requires that Federal agency rules and regulations not interfere with State or local powers without constitutional authority cited by Congress. Agencies must allow States notice and an opportunity to be heard in the rulemaking process;

Fifth, the act directs courts to strictly construe Federal laws and regulations that interfere with State powers, with a presumption in favor of State authority and against Federal preemption.

Before the bill was even introduced, I received letters of support from many Governors and attorneys general—men and women from across the Nation and from both parties who support our efforts to return power to the States and to the people.

Mr. President, I ask unanimous consent that the text of the bill and letters from Governors Allen, Bush, Engler, Leavitt, Merrill, Racicot, Cayetano, and Thompson, and from Attorneys General Bronster, Condon, and Norton be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Supreme Court has stated,

> just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.

The 10th Amendment Enforcement Act of 1996 will prevent overstepping by all three branches of the Federal Government, and will focus attention on what State and local officials have been advocating for so long: the need to return power to the States and to the people.

EXHIBIT 1

S. 1629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be referred to as the "Tenth Amendment Enforcement Act of 1996."

SEC. 2. FINDINGS.

The Congress finds that—

(a) in most areas of governmental concern, State governments possess both the Constitutional authority and the competence to discern the needs and the desires of the People and to govern accordingly;

(b) Federal laws and agency regulations, which have interfered with State powers in areas of State jurisdiction, should be restricted to powers delegated to the Federal Government by the Constitution;

(c) the framers of the Constitution intended to bestow upon the Federal Government only limited authority over the States and the People;

(d) under the Tenth Amendment to the Constitution, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;

(e) the courts, which have in general construed the Tenth Amendment not to restrain the Federal Government's power to act in areas of State jurisdiction, should be directed to strictly construe Federal laws and regulations which interfere with State powers with a presumption in favor of State authority and against Federal preemption.

SEC. 3. CONGRESSIONAL DECLARATION.

(a) On or after January 1, 1997, any statute enacted by Congress shall include a declaration—

(1) that authority to govern in the area addressed by the statute is delegated to Congress by the Constitution, including a citation to the specific Constitutional authority relied upon;

(2) that Congress specifically finds that it has a greater degree of competence than the State to govern in the area addressed by the statute; and

(3) if the statute interferes with State powers or preempts any State or local government law, regulation or ordinance, that Congress specifically intends to interfere with State powers or preempt State or local government law, regulation, or ordinance, and that such preemption is necessary.

(b) Congress must make specific factual findings in support of the declarations described in this section.

SEC. 4. POINT OF ORDER.

(a) IN GENERAL.—

(1) INFORMATION REQUIRED.—It shall not be in order in either the Senate or House of Representatives to consider any bill, joint resolution, or amendment that does not include a declaration of Congressional intent as required under section 3.

(2) SUPERMAJORITY REQUIRED.—The requirements of this subsection may be waived or suspended in the Senate or House of Representatives only by the affirmative vote of three-fifths of the Members of that House duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate or House of Representatives duly chosen and sworn shall be required to sustain an appeal of the ruling of the chair on a point of order raised under this subsection.

(b) RULE MAKING.—This section is enacted—

(1) as an exercise of the rule-making power of the Senate and House of Representatives, and as such, it is deemed a part of the rules of the Senate and House of Representatives, but is applicable only with respect to the matters described in sections 3 and 4 and supersedes other rules of the Senate or House of Representatives only to the extent that such sections are inconsistent with such rules; and

(2) with full recognition of the Constitutional right of the Senate or House of Representatives to change such rules at any time, in the same manner as in the case of any rule of the Senate or House of Representatives.

SEC. 5. EXECUTIVE PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 559 the following new section:

"SEC. 560. PREEMPTION OF STATE LAW.

"(a) No executive department or agency or independent agency shall construe any statutory authorization to issue regulations as authorizing preemption of State law or local ordinance by rule-making or other agency action unless—

"(1) the statute expressly authorizes issuance of preemptive regulations; and

"(2) the executive department, agency or independent agency concludes that the exercise of State power directly conflicts with the exercise of Federal power under the Federal statute, such that the State statutes and the Federal rule promulgated under the Federal statute cannot be reconciled or consistently stand together.

"(b) Any regulatory preemption of State law shall be narrowly tailored to achieve the objectives of the statute pursuant to which the regulations are promulgated and shall explicitly describe the scope of preemption.

"(c) When an executive branch department or agency or independent agency proposes to act through rule-making or other agency action to preempt State law, the department or agency shall provide all affected States notice and an opportunity for comment by duly elected or appointed State and local government officials or their designated representatives in the proceedings.

"(1) The notice of proposed rule-making must be forwarded to the Governor, the Attorney General and the presiding officer of each chamber of the Legislature of each State setting forth the extent and purpose of the preemption. In the table of contents of each Federal Register, there shall be a separate list of preemptive regulations contained within that Register.

"(d) Unless a final executive department or agency or independent agency rule or regulation contains an explicit provision declaring the Federal government's intent to preempt State or local government powers and an explicit description of the extent and purpose of that preemption, the rule or regulation shall not be construed to preempt any State or local government law, ordinance or regulation.

"(e) Each executive department or agency or independent agency shall publish in the Federal Register a plan for periodic review of the rules and regulations issued by the department or agency that preempt, in whole or in part, State or local government powers. This plan may be amended by the department or agency at any time by publishing a revision in the Federal Register.

"(1) The purpose of this review shall be to determine whether and to what extent such rules are to continue without change, consistent with the stated objectives of the applicable statutes, or are to be altered or repealed to minimize the effect of the rules on State or local government powers.".

(b) Any Federal rule or regulation promulgated after January 1, 1997, that is promulgated in a manner inconsistent with this section shall not be binding on any State or local government, and shall not preempt any State or local government law, ordinance, or regulation.

(c) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding after the item for section 559 the following:

"§ 560. Preemption of State Law.".

SEC. 6. CONSTRUCTION.

(a) No statute, or rule promulgated under such statute, enacted after the date of enactment of this Act, shall be construed by courts or other adjudicative entities to preempt, in whole or in part, any State or local government law, ordinance or regulation unless the statute, or rule promulgated under such statute, contains an explicit declaration of intent to preempt, or unless there is a direct conflict between such statute and a State or local government law, ordinance, or regulation, such that the two cannot be reconciled or consistently stand together.

(b) Notwithstanding any other provision of law, any ambiguities in this Act, or in any other law of the United States, shall be construed in favor of preserving the authority of the States and the People.

(c) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, March 18, 1996.

Hon. TED STEVENS,
Chairman, Government Affairs Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent correspondence sharing with me your proposal to strengthen the 10th Amendment by requiring the federal government to restrict its legislative and regulatory activities to those powers delegated to it under the Constitution.

As you know, I have spent a great deal of time over the past few years working on 10th Amendment issues, and I am very supportive of your proposed legislation. As I have studied the history of the 10th Amendment, it has become clear to me that we must act overtly to strengthen this important precept of the Constitution, or it will continue to erode away.

Let me provide some background on why I believe this is so important. The founders of our country attempted to carefully balance power between the competing interests of the states and the national government. They worried that the national government might gain too much power, so they gave states tools, or rules, that if followed would maintain the healthly tension necessary to protect self-governance by the people and prevent any level of government from overstepping its bounds.

Among those rules or tools given to states were these:

The 10th Amendment, which reserved any power not specifically delegated to the national government to the states and the people. Clearly, the founders intended the national government to stay within the bounds of duties enumerated in the Constitution.

The election of U.S. senators by state legislatures. Having senators directly accountable to state legislatures would keep the national government in check. If the national government centralized authority or passed bills disliked by the states, legislatures could call their senators in for an accounting. It would not be likely for the Congress to usurp state authority if senators owed their political lives to state legislatures. The power was carefully balanced and the tension was healthy.

The ability of state legislatures to initiate constitutional amendments. This also would keep the national government in check because if it got out of line the states could take action to rein it in. It is clear that the founders intended state leaders to have the ability to initiate constitutional amendments.

The sense that state leaders would rise in indignation and band together to oppose congressional centralization of authority and usurpation of power. In *Federalist 46*, James Madison predicted that "ambitious encroachments of the federal government on the authority of the state governments . . . would be signals of general alarm. Every government would espouse the common cause . . . plans of resistance would be concerted." States would react as though in danger from a "foreign yoke," he suggested.

Those were some of the tools the founders put in place to safeguard the roles of both levels of government and to prevent either from becoming too dominant.

It would likely be a matter of some bitterness and disappointment to the founders if they were to return today to see what happened to the finely-crafted balance, the healthy tension that they built into the Constitution. As they see a national government that dictates to states on nearly every issue and that is involved in every aspect of citizens' lives, they might wonder what happened to those tools and rules they established to maintain balance.

The sad fact is that each one of those tools has either been eroded away, given away, or rendered impossible to use. Thus, today there does not exist any restraint to prevent the national government from taking advantage of the states. To their credit, leaders of the Republican Congress have gone out of their way to involve governors in important decisions. But there is nothing permanent in that relationship. With a change in leadership, state leaders could easily be relegated to their past status as lobbyists and special interest groups. Over the past several decades, they have had to approach Washington hat in hand, hoping and wishing that Congress will listen to them. There has been no balance of power, no full partnership in a federal-state system. States must accept whatever the Congress gives them. States have no tools, no rules, ensuring them an equal voice.

Let's look at what happened to those tools and rules the founders so carefully provided to ensure balance.

The 10th Amendment has been eroded to the point that in the minds of most Washington insiders it barely exists. The preponderance of congressional action and federal court decisions over the past 60 years have rendered the 10th Amendment nearly meaningless. It would barely be recognizable by the founders. States did not defend or guard it properly and it no longer protects states.

States gave away the power to have their U.S. senators directly accountable to state legislatures. There was good reason for this, as graft and corruption sometimes occurred in the appointment of senators by legislatures. States ratified the 17th Amendment making senators popularly elected, and citizens should not be asked to give up the right to elect their senators. But while it does not make sense to try to restore that tool, it should be replaced with something else more workable.

The ability of states to initiate constitutional amendments has never been used and is essentially unworkable. Clearly, the founders intended for state leaders to be able to initiate amendments as a check on federal power, but it has never happened and likely never will. The Congress sits as a constitutional convention every day it is in session, and can propose constitutional amendments any time it desires. But many citizens have an enormous fear of state leaders coming together to do the same thing, even though any amendment proposed would require ratification by three-fourths of states. Thus, this tool provided by the founders has become impractical and does not protect states from federal encroachment.

The fourth tool was the founders' belief that state leaders would jealously guard their role in the system and rise up in opposition to federal intrusions. That has not happened, especially as state governments have become dependent on federal dollars and have been willing to give up freedom for money. States have proven themselves to be politically anemic. Instead of mobilizing against federal encroachments, state leaders have spent their time lobbying for money and hoping for flexibility.

Thus, it is no wonder that states have little true clout as budget cuts are made and as the pie is being divided in Washington D.C. There is no healthy tension. States have no tools or rules to protect themselves. What is passing for federalism in Washington today is not a true sharing of power, but a subcontracting of federal programs to states. The federal government is merely delegating, not devolving true authority.

Because the tools protecting states have been rendered ineffective, it is important that Congress replace them with new versions that accomplish what the Founders intended. That is why I am so supportive of your Tenth Amendment Enforcement Act. It would help prevent all three branches of the federal government from overstepping their constitutional authority and would help restore the careful balance put in place by the Founders.

I thank you for your efforts to return power to the states and to the people. Please count me among the supporters of this legislation.

Sincerely,

MICHAEL O. LEAVITT,
Governor, State of Utah.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
March 12, 1996.

Hon. TED STEVENS,
Member, U.S. Senate, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR TED: Thank your for your letter regarding the Tenth Amendment Enforcement Act of 1996.

Two centuries ago, the challenge to individual liberty came from an arrogant, overbearing monarchy across the sea. Today, that challenge comes all too often from our own federal government, which has ignored virtually every constitutional limit fashioned by the framers to confine its reach and thus to guard the freedoms of the people.

In our day, the threat to self-determination posed by the centralization of power in the nation's capital has been dramatically demonstrated. Under my administration, Virginia has challenged the constitutionality of federal mandates in court, and I have testified before the Congress in support of restoring powers to the States and the people.

The legislation you are proposing will help the States and the people regain prerogatives usurped by an overbearing federal government. I wholeheartedly support your efforts and would be pleased to work with you to highlight the impact of federal intrusion in Virginia.

With kind personal regards, I remain,

Sincerely,

GEORGE ALLEN.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, March 19, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: I am writing in support of the Tenth Amendment Enforcement Act of 1996, which I understand you intend to introduce this week. Congressional action of this type is necessary to restore vigor to this often-neglected provision of our constitution and I wholeheartedly support your effort to do so.

Congress has over the years run roughshod over state concerns and prerogatives and has generally lost sight of the fact that ours is a federal system of government. In that system, the federal government has only those powers specifically delegated to it and enumerated in the constitution, with the balance remaining with the states or the people. Too often in our recent history the federal government has ignored the meaning of the Tenth Amendment in a mad rush to impose a one-size-fits-all approach in areas of traditional state and local concern. This approach stifles innovation and takes the policy debate further from the people by centralizing decision-making in Washington, D.C.

A recent example of federal intrusion into a matter best left to the states is the Motor Voter law, which imposes an unfunded mandate on the states to offer voter registration services at state social services offices. Michigan must comply with this requirement even though nearly 90 percent of its eligible population is already registered to vote. In fact, Michigan demonstrated the states' superior ability to craft innovative solutions in areas such as this when it initiated the motor voter concept some 21 years ago by offering voter registration services at Secretary of State branch offices. The imposition of a federal "solution" in this area ignores the fact that states are better positioned to address the needs of their citizens and can do so without prodding from the federal government.

The Tenth Amendment Enforcement Act of 1996 will help restore the balance to our federal system that the framers of the constitution intended. It will do so by requiring congress to identify specific constitutional authority for the exercise of federal power. This will have the salutary effect of reminding the congress that it can legislate only pursuant to an enumerated power in the constitution. Requiring congress to state its intention to preempt existing state or federal law or interfere with state power should assist in limiting the intrusion the federal Motor Voter law exemplifies.

I recently offered amendments to the National Governors' Association's policy on state-federal relations that the governors adopted at our 1996 winter meeting. That policy calls upon Congress to "limit the scope of its legislative activity to those areas that are enumerated and delegated to the federal government by the constitution." The Tenth Amendment Enforcement Act of 1996 will help reinvigorate this fundamental constitutional principle and for that reason enjoys my full support.

Sincerely,

JOHN ENGLER,
Governor.

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, March 6, 1996.

Hon. TED STEVENS,
Chairman, U.S. Senate Committee on Governmental Affairs, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing in support of your proposed legislation entitled the Tenth Amendment Enforcement Act of 1996. I applaud your efforts to protect states from federal legislation that, while perhaps unintentionally, has had a strangling effect on the states' ability to act effectively on behalf of their citizens.

The failure to respect states' rights takes a variety of forms, from unfunded mandates to complex requirements that prohibit states from adopting innovative programs to solve problems that may be unique to the state or region. I am sure it is difficult to determine which functions the federal government should properly manage and which should be left to state or local governments. I think most would agree, however, with the intent of the Tenth Amendment—that a better balance must be struck between the federal government and each of the states.

The revitalization of government is essential in these times of declining trust and diminishing respect of its cities. The Tenth Amendment Enforcement Act of 1996 would make government more responsive to our citizens and help restore the public's faith in the policy process.

I hope your proposal is received well in Congress. I know it would be received well in the states.

Sincerely,

MARC RACICOT,
Governor.

STATE OF WISCONSIN,
OFFICE OF FEDERAL/STATE RELATIONS,
Washington, DC, March 5, 1996.

Hon. TED STEVENS,
Chairman, Rules & Administration Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing you in support of legislation that you intend to introduce in your committee regarding the Tenth Amendment. Your vision in regard to this delegation of powers should be commended. Our founding fathers would applaud your courageous efforts.

As you know, the Tenth Amendment restricts the federal government's legislative and regulatory activities to those powers delegated to the federal government under the U.S. Constitution.

Since I have held elective office I have always been a staunch supporter of States Rights' and a firm believer that decisions are best made at the local level. Your bill identifies the problems associated with the lack of enforcement of the Tenth Amendment at present and aims to amend some of these inconsistencies.

Under the Tenth Amendment, federal laws may not interfere with state or local powers unless Congress declares its intent to do so, and Congress cites its specific constitutional authority. Allowing Members of Congress to challenge future legislation that attempts to supersede the Tenth Amendment in my opinion would be beneficial.

As Governor of the State of Wisconsin, I have always been a firm believer that legislation is a far better course of action than litigation. Your bill would do away with needless regulation, infringement of states' abilities to provide quality services to its residents', and encourage local decision making opportunities.

The Tenth Amendment Enforcement Act of 1996 would prevent confusion between the three branches of government and would keep the pressure on Washington to address the concerns Governors have been advocating for years; the need to return power to the states and to the people.

Again, I would like to take this opportunity to thank you for your support on this important legislative matter. Please do not hesitate to contact me in the future.

Sincerely,

TOMMY G. THOMPSON,
Governor.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, February 26, 1996.

Hon. TED STEVENS,
U.S. Senate, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: Thank you for your letter outlining your introduction of the Tenth Amendment Enforcement Act of 1996. I am pleased to offer my strong endorsement of this piece of legislation.

The individual states have seen a continual degradation of their power and sovereignty during the past 60 years. Beginning with the creation of the welfare state through President Roosevelt's New Deal in the 1930's, the federal government has inappropriately usurped power traditionally left to the states. Issues such as education, crime, commerce and the environment have been coopted at the federal level. The result is an erosion of local control and the creation of a system of twisted rules and regulations. This overregulation has stifled State initiatives and innovations. The time has come to say enough is enough.

In the State of New Hampshire, many examples exist of federal overreaching. The most telling of these is our continuing attempts at reforming welfare. Our ambitious program would end welfare as we know it, putting people into the workforce. It is based upon the simple notion that those who are able to work for a living should do so. Instead of collecting a welfare check, individuals would receive unemployment benefits and job training. The result would be a motivated workforce, properly trained and prepared to sustain themselves instead of accepting government largesse. Unfortunately, the federal government has gone out of its way to hinder our efforts. New Hampshire is not alone in this fight. Each state has a similar story to tell.

Liberty is defined by American Heritage as the "condition of being free of restriction or control." It is clear that this definition does not relate to our current set of circumstances. The individual states are the engines of democracy, pushing new and exciting concepts which enrich the country as a whole. The states have been thwarted in their efforts to accomplish this. The time has come to reassert the authority of the Tenth Amendment and to return power back to the states and to the individual where it belongs. I believe that the Tenth Amendment Enforcement Act of 1996 will do this and strongly support its passage.

Very truly yours,

STEPHEN MERRILL,
Governor.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
February 27, 1996.

Hon. TED STEVENS,
U.S. Senate Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: I strongly support your legislation, the Tenth Amendment Enforcement Act of 1996.

I applaud your efforts and hope to see this bill's passage this year.

Sincerely,

GEORGE W. BUSH.

STATE OF SOUTH CAROLINA,
OFFICE OF THE ATTORNEY GENERAL,
Columbia, SC, March 14, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: Please accept this letter as a pledge of support for the Tenth Amendment Enforcement Act of 1996, which you are introducing in the Senate. This is clearly one of the most important pieces of legislation to come before Congress this year.

As attorney general of South Carolina, I see first-hand the trouble that arises every time the federal government oversteps its boundaries and intrudes on states' rights. In fact, South Carolina can claim one of the most egregious examples of the federal government meddling in states' affairs with disastrous results.

Several years ago, when I was a solicitor in Charleston, S.C., a local hospital approached me with a plea: Help us do something about crack babies. In increasing numbers, pregnant women were abusing crack cocaine and giving birth to addicted newborns, who cry and shake uncontrollably, refuse to take food and, too often, ultimately die in intensive care.

Working with the hospital, I developed a program to aggressively confront pregnant women with the consequences of their drug use. Over five years, we presented all pregnant women who tested positive for cocaine with a choice: seek drug treatment or face arrest and jail time.

The program was undeniably successful—until the federal government intervened. Without offering any reasonable alternative solutions for saving these crack babies, federal officials came to Charleston and yowled about discrimination and privacy rights. When we refused to back down, they resorted to blackmail. They continued with the program.

So, now, once again, these crack babies cry unconsolably in Charleston—thanks to the federal government's intrusion where is has no business.

There are myriad other examples of ways the federal government ignores the 10th amendment—with effects that would be laughable if they didn't do so much harm. A sampling:

The Hunley. The federal government claims it owns the H.L. Hunley because it won the Civil War. However, the first submarine to sink another vessel lies on soil that belonged to the state of South Carolina even before the United States came into existence. Although common and maritime law, as well as state and federal statutes, point to South Carolina's ownership of the sunken submarine, the federal government's insistence on interfering in South Carolina affairs will cost all of the nation's taxpayers. Worse, its meddling in this matter has caused this war treasure to sit at the bottom of the Atlantic Ocean, rusting away, until the issue can be resolved with the federal government.

The Citadel. Traditionally, education has been a province of the states. And polls show that the majority of South Carolinians—both male and female—want the option of single-gender education offered by The Citadel. But the federal government thinks it knows what's best for South Carolinians and is trying to destroy an outstanding educational environment that South Carolinians overwhelmingly support.

Tobacco regulation. The Food and Drug Administration is trampling on states' turf with its new proposals for regulating cigarettes and chewing tobacco. Perhaps its silliest demand is that all advertising label cigarettes as "a nicotine-delivery device." The fact is, Congress has not given the FDA power to regulate tobacco except in limited instances. Everything else is up to the states—at least, it's supposed to be. We know the laws in South Carolina, and we can enforce them without Washington's "help."

Garnishment of wages. The federal government is threatening to sue South Carolina for not complying with a federal law that authorizes the garnishment of wages of people who get behind on student loans. The problem is, the law contains no express provision applying its terms to state government. In fact, its language attempts to override state laws altogether. It provides no clear direction to state governments, but now we're faced with the possibility of defending South Carolina in a suit.

Motor Voter. South Carolina is one of seven states to challenge the "Motor Voter" law that allows people to register to vote when they obtain a driver's license. The issue is not easy and accessible registration; we already have that in place. The issues are the rights of sovereign states and unfunded federal mandates. The federal government demanded that South Carolina spend a million dollars to expand its voter registration program—without giving the state a dime. Then, when we began to implement the program, the Justice Department demanded that the state contact all the people who theoretically could have registered while we were in litigation. And it ordered a monthly report on our progress. This micro-management of state business by the federal government should be an outrage to all U.S. citizens.

In closing, the legislation you are proposing promises a meaningful solution to the federal government's continued disregard of the 10th Amendment. Count me in as an enthusiastic supporter of the bill, and let me know of anything I can do to promote its passage.

With kindest personal regards,

CHARLES MOLONY CONDON,
Attorney General.

STATE OF HAWAII,
DEPARTMENT OF THE ATTORNEY GENERAL,
Honolulu, HI, March 4, 1996.

HON. TED STEVENS,
U.S. Senator, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: As the Attorney General for the State of Hawaii, I am writing to express my strong support for the Tenth Amendment Enforcement Act of 1996 ("TAEA").

There have been far too many instances in which federal laws impede, interfere with, or nullify state legislative or administrative actions to the detriment of the interests of the people of Hawaii. This has occurred in large part because the federal courts have given much congressional legislation very broad preemptive scope, in many cases far beyond what it appears Congress itself intended. These preemption rulings have prevented the states from enforcing and implementing needed state policies in areas of traditional state concern, while at the same time failing to serve any significant federal interests.

In my fourteen month tenure as Attorney General of Hawaii, examples of important state policies which were frustrated by preemption rulings made by the federal courts include the striking down of Hawaii's employment disability discrimination laws as applied to airline pilots, see *Aloha Islandair* v. *Tseu*, Civ. No. 94–00937 (D. Haw. 1995), appeal filed, C.A. No. 95–16656 (9th Cir.), the overturning of state labor department discretion to bar preexisting condition limitations in state-wide employee health care plans, *Foodland Super Market* v. *Hamada*, Civ. No. 95–00537 (D. Haw. 1996), appeal filed (9th Cir.), and the nullification of a state law merely asking the State's two major newspapers, granted the privilege of doing business under a joint operating agreement with antitrust immunity, to turn over their tax returns to the state Attorney General, for subsequent disclosure to the United States Justice Department, in order to assess the economic consequences of, and the newspapers' continued need for, the antitrust immunity, see *Hawaii Newspaper Agency* v. *Bronster*, Civ. No. 95–00635 (D. Haw. 1996), appeal filed, C.A. No. 96–15142 (9th Cir.).

Enactment of the TAEA would be a significant step in reversing this disturbing trend, and would help restore state direction over areas of predominant, if not exclusive, state concern. Under the TAEA (Section 6), preemption would only occur when Congress has explicitly stated that a given area is preempted. This would curtail the potentially unlimited sweep of the "implied preemption" doctrine, and ideally result in a more narrowly construed "express preemption."

Although certain provisions of the TAEA may pose procedural difficulties, or raise some questions of interpretation, I support the overall effect of, and goals behind, the TAEA, and specifically endorse Section 6, which would do much to minimize unwarranted preemption of state actions. I would, however, broaden the language of Section 6(a) to clarify that federal law shall not preempt "State or local government law, ordinance, regulation, or action," unless the statute explicitly declares an intent to preempt. This should ensure that all types of state action, including, for example, state discretionary administrative actions not commanded by any rule or statute, are not preempted without express congressional statement of intent to do so.

Thank you for your support of these critical state interests.

Very truly yours,

MARGERY S. BRONSTER,
Attorney General.

STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, March 15, 1996.

Re Tenth Amendment Enforcement Act

HON. TED STEVENS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: I am writing to express my strong support for the proposed Tenth Amendment Enforcement Act of 1996. The proposal is an important part of the continuing effort to return to the States matters which properly belong within their control.

Every state has a vast number of examples of federal laws and regulatory actions which have interfered with state powers and objectives. I will mention just a few examples from Colorado.

The federal government has been especially intrusive into state affairs in the area of the environment. The country faces many environmental problems, from our quality problems to hazardous waste cleanups. The states are diligently working to solve these problems, while taking into account local needs and concerns. Federal interference with state efforts often results in less protection to the environment and less experimentation by the states.

For example, in 1994, Colorado passed legislation which was intended to encourage businesses to perform voluntary audits of their environmental compliance and to promptly correct any violations found. In exchange for these voluntary efforts, state regulators will not impose penalties for the violations. This program, which will be of great benefit to the environment, is severely hampered by the federal Environmental Protection Agency's refusal to give the same assurances, that is, to refrain from prosecuting companies that voluntarily report and correct violations.

Another example of EPA hindering state efforts at experimentation concerns Colorado's attempts to put in place a unique water quality testing program. Colorado was one of the first states to attempt to employ a different biomonitoring test. Rather than encouraging these efforts, EPA continuously rejected Colorado's regulation implementing the program until the state rule was drafted to be word-for-word like a comparable federal regulation.

Another example in the area of the environment concerns air quality. Our state has been developing strategies to deal with air quality issues for years. But our problems and solutions are unique since Colorado is a high elevation state. A federal "one size fits all" approach does not work here. The Environmental Protection Agency's answer—a centralized emissions testing program—has created large implementation costs and reduced state flexibility in addressing pollution problems. Even though Colorado drivers will expend hundreds of millions of dollars in testing costs over the next few years, State officials have no practical alternatives if the program does not work or if better solutions are discovered.

Another example of federal intrusion into matters of state concern arose recently in Colorado with regard to the Medicaid program. As you know, Congress' 1993 change to the Hyde Amendment made federal funds available for abortions terminating pregnancies resulting from rape and incest, but did not require that States pay for any abortions. However, an official at the federal Health Care Financing Administration wrote a letter concluding that states must pay for the disputed abortions. Based solely upon this letter, and without any change in federal statutes or regulations, several federal appellate courts have required States to pay for these procedures, notwithstanding state laws to the contrary.

Colorado state officials are in an impossible dilemma because our state constitution forbids the use of public funds to pay for these procedures. To avoid violating the state constitution but still be consistent with federal mandates, state officials must either (1) withdraw from the Medicaid program and forfeit hundreds of millions of dollars in federal funds, thereby denying thousands of low income Colorado residents access to needed medical care or (2) face contempt citations from federal judges. This problem could have been avoided if federal officials clearly understood their own responsibility to protect state prerogatives.

The federal "motor voter" law presents a different type of intrusion. This law doesn't treat States just like the private sector, it actually imposes special burdens simply because they are States. As the Supreme Court recognized in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), it is peculiarly the right of States to establish the qualifications of voters in state elections. In the absence of a constitutional violation such as an outright denial of the right to vote, the States should have control over voter registration. This sort of unfunded mandate is simply not justified, particularly since even though this law unquestionably interferes with the States' internal affairs, it has not appreciably increased turnout at the polls.

The Tenth Amendment Enforcement Act helps turn the tide in favor of State prerogatives. Particularly noteworthy is the proposal's focus upon agency rulemaking. This is important in two respects. First, many of the most intrusive instances of federal preemption come not by virtue of congressionally-enacted legislation, but through extensive regulations promulgated by administrative agencies and expanding upon the congressional authorization.

Second, statutes seeking to limit subsequent congressional enactments are of limited efficacy, since each subsequent Congress is not bound by the acts of its predecessors. However, focusing upon the regulatory process does not present this problem. My only suggestion would be to include a review or sunset provision requiring every agency to ensure that all of its current rules comply with this new requirement by some date certain, or risk having them invalidated. This would ensure that agencies review the numerous existing federal regulations currently impinging upon Tenth Amendment values—which is, after all, what led to this proposal.

I appreciate your willingness to carry this proposal forward, and encourage you to continue your efforts to restore a proper balance in our federal system.

Sincerely,

GALE A. NORTON,
Colorado Attorney General.

By Mr. WELLSTONE (for himself and Mr. WYDEN):

S. 1630. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

THE VICTIMS OF ABUSE INSURANCE PROTECTION ACT

• Mr. WELLSTONE. Mr. President, I am very pleased to be joined by Senator RON WYDEN today in introducing the Victims of Abuse Insurance Protection Act, legislation that will outlaw discrimination by insurance companies against the victims of domestic violence in all lines of insurance.

With this legislation, we are trying to correct an abhorrent practice by many insurance companies—the denial of coverage to battered women. It is plain, old fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim. Denying women access to the insurance they require to foster their mobility out of an abusive situation must be stopped.

There are many stories of women who have been physically abused and have sought proper medical care only to be turned away by insurance companies who said they were too high risk to insure.

In Minnesota, three insurance companies denied an entire women's shelter insurance because, "as a battered women's shelter, we were high risk." The Women's Shelter in Rochester, MN, was told that it was considered uninsurable because its employees are almost all battered women.

Another shelter in rural Minnesota purchased a car so that women and children in danger who were trying to leave an abusive situation could use this anonymous vehicle and thus the abuser could not track their automobile to find them. The shelter could not find a company to provide them with automobile insurance once the companies knew of the risks surrounding battered women.

A woman in Iowa named Sandra was denied life insurance after the company found out that she had been beaten up twice. In one incident, she had been so badly beaten by an ex-boyfriend that her cheekbones were splintered, and one of her eyes had to be put back in its socket. Her mother, Mary, was the one who originally applied for the life insurance policy, explaining

> I didn't ask for a lot of coverage. I just wanted to apply for thousand dollar coverage, just enough that if something happened, God forbid, that we could at least bury her.

Mary was angry about the denial, so she wrote to State officials and the Iowa Insurance Commissioners Office tried to intervene on their behalf. In four separate letters, the insurance company officials stated they denied the coverage because of a history of assaults. In one letter they defended their decision by citing numerous documents which showed that people involved in domestic violence incidents are at a higher risk of death and injury than others, and, therefore, not a good risk.

There are so many stories about victims of domestic abuse being denied fire insurance, homeowners insurance, life insurance, and health insurance—denied because they were victims of a crime. Domestic violence is the leading cause of injury to women, more common than auto accidents, muggings, and rapes by a stranger combined. It is the No. 1 reason that women go to emergency rooms.

This bill goes a long way toward treating domestic violence as the crime that it is—not a voluntary risky behavior that can be easily changed and not as a preexisting condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that victims are responsible for their abuse.

In order to address the practice of insurers using domestic violence as a basis for determining whom to cover and how much to charge with respect to health, life, disability, homeowners and auto insurance, this legislation prohibits insurance companies from discriminating against victims in any of the following ways: Denying or terminating insurance; limiting coverage or denying claims; charging higher premiums; or terminating health coverage for victims of abuse in situations where coverage was originally issued in the abuser's name, and acts of the abuser would cause the victim to lose coverage.

This legislation also keeps victims' information confidential by prohibiting insurers from improperly using, disclosing, or transferring abuse-related information for any purpose unrelated to the direct provision of health care services.

Mr. President, insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. We may never know the full extent of the problem, but it is grossly unfair practice and should be prohibited.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims of Abuse Insurance Protection Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "abuse" means the occurrence of one or more of the following acts between household or family (including in-laws or extended family) members, spouses or former spouses, or individuals engaged in or formerly engaged in a sexually intimate relationship:

(A) Attempting to cause or intentionally, knowingly, or recklessly causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) The term "abuse-related medical condition" means a medical condition which arises in whole or in part out of an action or pattern of abuse.

(3) The term "abuse status" means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions or has incurred abuse-related claims.

(4) The term "health benefit plan" means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act) that provides health benefits;

(B) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(C) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Federal Trade Commission); and

(D) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Federal Trade Commission).

(5) The term "health carrier" means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for or reimburse any of the cost of health care services unless the person assuming the risk is accepting the risk from a duly licensed health carrier.

(6) The term "insured" means a party named on a policy, certificate, or health benefit plan as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan.

(7) The term "insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third party administrators. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(8) The term "policy" means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(9) The term "subject of abuse" means a person to whom an act of abuse is directed, a person who has had prior or current injuries, illnesses, or disorders that resulted from abuse, or a person who seeks, may have sought, or should have sought medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 3. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer or health carrier may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse:

(1) Denying, refusing to issue, renew or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance or health benefit plan coverage for losses as a result of abuse or denying a claim incurred by an insured as a result of abuse, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(4) Terminating health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986. Nothing in this paragraph prohibits the insurer from requiring the subject of abuse to pay the full premium for the subject's coverage under the health plan. The insurer may terminate group coverage after the continuation coverage required by this paragraph has been in force for 18 months if it offers conversion to an equivalent individual plan. The continuation of health coverage required by this paragraph shall be satisfied by any extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage provided under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—No insurer may use, disclose, or transfer information relating to an applicant's or insured's abuse status or abuse-related medical condition or the applicant's or insured's status as a family member, employer or associate, person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction or by abuse reporting laws. Nothing in this paragraph shall be construed as limiting or precluding a subject of abuse from obtaining the subject's own medical records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 4. REASONS FOR ADVERSE ACTIONS.

An insurer that takes any adverse action relating to any plan or policy of a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. Reference to general underwriting practices or guidelines does not constitute a specific reason.

SEC. 5. LIFE INSURANCE.

Nothing in this Act shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse.

SEC. 6. SUBROGATION WITHOUT CONSENT PROHIBITED.

Except where the subject of abuse has already recovered damages, subrogation of claims resulting from abuse is prohibited with the informed consent of the subject of abuse.

SEC. 7. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this Act. If the Federal Trade Commission determines an insurer has been or is engaged in any act or practice prohibited by this Act, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) PRIVATE CAUSE OF ACTION.—An applicant or insured claiming to be adversely affected by an act or practice of an insurer in violation of this Act may maintain an action against the insurer in a Federal or State court of original jurisdiction. Upon proof of such conduct by a preponderance of the evidence, the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses. With respect to compensatory damages, the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.●

By Mr. PELL:

S. 1631. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Extreme*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COASTWISE TRADING PRIVILEGES LEGISLATION

Mr. PELL. Mr. President, I am introducing a bill today to direct that the vessel *Extreme*, official No. 1022278, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106 through 12108.

The *Extreme* is 70.9 feet in length, 18 feet in breadth, has a depth of 10.8 feet, and is self-propelled.

The purpose of the legislation I am introducing is to allow the *Extreme* to engage in coastwise trade and fisheries of the United States. When the owners purchased the boat, they were unaware of the coastwise trade and fisheries restrictions of the Jones Act. They assumed that there would be no restrictions on engaging the vessel in such limited operation. Although the vessel was constructed in North Carolina, it was built for a foreign customer; thus it did not meet the coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose.

The owners of the *Extreme* are therefore seeking a waiver of the existing law because they wish to engage the vessel in limited commercial use. Their desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If they are granted this waiver, it is their intention to comply fully with U.S. documentation and safety requirements.

Mr. President, I ask unanimous consent that the text of the bill and my statement be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EXTREME, United States official number 1022278.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. HATFIELD, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 582, a bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Arkansas [Mr. BUMPERS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maine [Mr. COHEN], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

At the request of Mr. DOLE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 953, supra.

S. 956

At the request of Mr. AKAKA, his name was withdrawn as a cosponsor of S. 956, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1129

At the request of Mr. ASHCROFT, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1129, a bill to amend the Fair Labor Standards Act of 1938 to permit employers to provide for flexible and compressed schedules, to permit employers to give priority treatment in hiring decisions to former employees after periods of family care responsibility, to maintain the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes.

S. 1386

At the request of Mr. BURNS, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1453

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1453, a bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1612

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE CONCURRENT RESOLUTION 25

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Concurrent Resolution 25, a concurrent resolution concerning the protection and continued viability of the Eastern Orthodox Ecumenical Patriarchate.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE CONCURRENT RESOLUTION 47—RELATIVE TO A JOINT CONGRESSIONAL COMMITTEE

Mr. WARNER (for himself and Mr. FORD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of 3 Senators and 3 Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1997.

SENATE CONCURRENT RESOLUTION 48—RELATIVE TO THE INAUGURATION OF THE PRESIDENT-ELECT AND THE VICE PRESIDENT-ELECT

Mr. WARNER (for himself and Mr. FORD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That (a) the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1997, by the Joint Congressional Committee on Inaugural Ceremonies (the "Joint Committee") in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

(b) The Joint Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies. The Joint Committee may accept gifts and donations of goods and services to carry out its responsibilities.

AMENDMENTS SUBMITTED

THE PUBLIC RANGELANDS MANAGEMENT ACT OF 1996 NATIONAL GRASSLANDS MANAGEMENT ACT OF 1996

DOMENICI (AND OTHERS) AMENDMENT NO. 3555

Mr. DOMENICI (for himself, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. BURNS, Mr. KYL, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. KEMPTHORNE, Mr. SIMPSON, Mr. PRESSLER, and Mr. DOLE) to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Public Rangelands Management Act of 1995."

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments and repeals make by this Act shall become effective on the date of enactment.

(b) APPLICABLE REGULATIONS.—

(1) Except as provided in paragraph (2), grazing of domestic livestock on lands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, shall be administered in accordance with the applicable regulations in effect for each agency as of February 1, 1995, until such time as the Secretary of Agriculture and the Secretary of the Interior promulgate new regulations in accordance with this Act.

(2) Resource Advisory Councils established by the Secretary of the Interior after August 21, 1995, may continue to operate in accordance with their charters for a period not to extend beyond February 28, 1997, and shall be subject to the provisions of this Act.

(c) NEW REGULATIONS.—With respect to title I of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall provide, to the maximum extent practicable, for consistent and coordinated administration of livestock grazing and management of rangelands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, consistent with the laws governing the public lands and the National Forest System;

(2) the Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, coordinate the promulgation of new regulations and shall publish such regulations simultaneously.

TITLE I. MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A—General Provisions

SEC. 101. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests;

(2) through the cooperative and concerted efforts of the Federal rangeland livestock industry, Federal and State land management agencies, and the general public, the Federal rangelands are in the best condition they have been in during this century, and their conditions continues to improve;

(3) as a further consequence of those efforts, populations of wildlife are increasing and stabilizing across vast areas of the West;

(4) grazing preferences must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry;

(5) it is in the public interest to charge a fee for livestock grazing permits and leases on Federal land that is based on a formula that—

(A) reflects a fair return to the Federal Government and the true costs to the permittee or lessee; and

(B) promotes continuing cooperative stewardship efforts;

(6) opportunities exist for improving efficiency in the administration of the range programs on Federal land by—

(A) reducing planning and analysis costs and their associated paperwork, procedural, and clerical burdens; and

(B) refocusing efforts to the direct management of the resources themselves;

(7) in order to provide meaningful review and oversight of the management of the public rangelands and the grazing allotment on those rangelands, refinement of the reporting of costs of various components of the land management program is needed;

(8) greater local input into the management of the public rangelands is in the best interests of the United States;

(9) the western livestock industry that relies on Federal land plays an important role in preserving the social, economic, and cultural base of rural communities in the western States and further plays an integral role in the economies of the 16 contiguous western States with Federal rangelands;

(10) maintaining the economic viability of the western livestock industry is in the best interest of the United States in order to maintain open space and fish and wildlife habitat;

(11) since the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the amendment of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) by the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.), the Secretary of the Interior and the Secretary of Agriculture have been charged with coordinating land use inventory, planning and management programs on Bureau of Land Management and National Forest System lands with each other, other Federal departments and agencies, Indian tribes, and State and local governments within which the lands are located, but to date such coordination has not existed to the extent allowed by law; and

(12) it shall not be the policy of the United States to increase or reduce total livestock numbers on Federal land except as is necessary to provide for proper management of resources, based on local conditions, and as provided by existing law related to the management of Federal land and this title.

(b) REPEAL OF EARLIER FINDING.—Section 2(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(a)) is amended—

(1) by striking paragraphs (1), (2), (3), and (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(3) in paragraph (1) (as so redesignated), by adding "and" at the end; and

(4) in paragraph (2) (as so redesignated)

(A) by striking "harrassment" and inserting "harassment"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 102. APPLICATION OF ACT.

(a) This Act applies to—

(1) the management of grazing on Federal land by the Secretary of the Interior under—

(A) the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.);

(B) the Act of August 28, 1937 (commonly known as the "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937") (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.);

(C) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(D) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(2) the management of grazing on Federal land by the Secretary of Agriculture under—

(A) the 12th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of the Act of June 4, 1897 (commonly known as the "Organic Administration Act of 1897") (30 Stat. 11,35, chapter 2; 16 U.S.C. 511);

(B) the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 580l);

(C) the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.);

(C) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. et seq.);

(E) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(F) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) the Public Rangelands Improvements Act of 1978 (43 U.S.C. 1901 et seq.); and

(3) management of grazing by the Secretary on behalf of the head of another department or agency under a memorandum of understanding.

(b) Nothing is this title shall authorize grazing in any unit of the National Park System, National Wildlife Refuge System, or on any other Federal lands where such use is prohibited by statute, nor supersedes or amends any limitation on the levels of use for grazing that may be specified in other Federal law, nor expands or enlarges any such prohibition or limitation.

(c) Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(d) Nothing in this title shall affect valid existing rights. Section 1323(a) and 1323(b) of Public Law 96-487 shall continue to apply to nonfederally owned lands.

SEC. 103. OBJECTIVE.

The objective of this title is to—

(1) promote healthy, sustained rangeland;

(2) provide direction for the administration of livestock grazing on Federal land;

(3) enhance productivity of Federal land by conservation of forage resources, reduction of soil erosion, and proper management of other resources such as control of noxious species invasion;

(4) provide stability to the livestock industry that utilizes the public rangeland;

(5) emphasize scientific monitoring of trends and condition to support sound rangeland management;

(6) maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality; and

(7) promote the consideration of wildlife populations and habitat, consistent with land use plans, principles of multiple-use, and other objectives stated in this section.

SEC. 104. DEFINITIONS.

IN GENERAL.—In this title:

(1) ACTIVE USE.—The term "active use" means the amounts of authorized livestock grazing use made at any time.

(2) ACTUAL USE.—The term "actual use" means the number and kinds or classes of livestock, and the length of time that livestock graze on, an allotment.

(3) AFFECTED INTEREST.—The term "affected interest" means an individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on a specific allotment, for the purpose of receiving notice of and the opportunity for comment and informal consultation on proposed decisions of the Secretary affecting the allotment.

(4) ALLOTMENT.—The term "allotment" means an area of designated Federal land that includes management for grazing of livestock.

(5) ALLOTMENT MANAGEMENT PLAN.—The term "allotment management plan" has the same meaning as defined in section 103(k) of Pub. L. 94-579 (43 U.S.C. 1702(k)).

(6) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary to administer this title, the Acts cited in section 102, and regulations issued under this title and those Acts.

(7) BASE PROPERTY.—The term "base property" means—

(A) private land that has the capability of producing crops or forage that can be used to support authorized livestock for a specified period of the year; or

(B) water that is suitable for consumption by livestock and is available to and accessible by authorized livestock when the land is used for livestock grazing.

(8) CANCEL; CANCELLATION.—The terms "cancel" and "cancellation" refer to a permanent termination, in whole or in part, of—

(A) a grazing permit or lease and grazing preference; or

(B) other grazing authorization.

(9) CONSULTATION, COOPERATION, AND COORDINATION.—The term "consultation, cooperation, and coordination" means, for the purposes of this title and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), engagement in good faith efforts to reach consensus.

(10) COORDINATED RESOURCE MANAGEMENT.—The term "coordinated resource management"—

(A) means the planning and implementation of management activities in a specified geographic area that require the coordination and cooperation of the Bureau of Land Management or the Forest Service with affected State agencies, private land owners, and Federal land users; and

(B) may include, but is not limited to practices that provide for conservation, resource protection, resource enhancement or integrated management of multiple-use resources.

(11) FEDERAL LAND.—The term "Federal land"—

(A) means land outside the State of Alaska that is owned by the United States and administered by—

(i) the Secretary of the Interior, acting through the Director of the Bureau of Land Management; or

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service; but

(B) does not include—

(i) land held in trust for the benefit of Indians; or

(ii) the National Grasslands as defined in section 203.

(12) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of the Federal land—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock;

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock; or

(C) in a national forest under section 19 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 88, chapter 97; 16 U.S.C. 580l), for the purposes of grazing livestock.

(13) GRAZING PREFERENCE.—The term "grazing preference" means the number of animal unit months of livestock grazing on Federal land as adjudicated or apportioned and attached to base property owned or controlled by a permittee or lessee.

(14) LAND BASE PROPERTY.—The term "land base property" means base property described in paragraph (7)(A).

(15) LAND USE PLAN.—The term "land use plan" means—

(A) with respect to Federal land administered by the Bureau of Land Management, one of the following developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)—

(i) a resource management plan; or

(ii) a management framework plan that is in effect pending completion of a resource management plan; and

(B) with respect to Federal land administered by the Forest Service, a land and resource management plan developed in accordance with section 6 of the Forest and Rangeland Resources Planning Act of 1974 (16 U.S.C. 1604).

(16) LIVESTOCK CARRYING CAPACITY.—The term "livestock carrying capacity" means the maximum sustainable stocking rate that is possible without inducing long-term damage to vegetation or related resources.

(17) MONITORING.—The term "monitoring" means the orderly collection of data using scientifically-based techniques to determine trend and condition of rangeland resources. Data may include historical information, but must be sufficiently reliable to evaluate—

(A) effects of ecological changes and management actions; and

(B) effectiveness of actions in meeting management objectives.

(18) RANGE IMPROVEMENT.—The term "range improvement"—

(A) means an authorized activity or program on or relating to rangeland that is designed to—

(i) improve production of forage;

(ii) change vegetative composition;

(iii) control patterns of use;

(iv) provide water;

(v) stabilize soil and water conditions; or

(vi) provide habitat for livestock, wild horses and burros, and wildlife; and

(B) includes structures, treatment projects, and use of mechanical means to accomplish the goals described in subparagraph (A).

(19) RANGELAND STUDY.—The term "rangeland study" means a documented study or analysis of data obtained on actual use, utilization, climatic conditions, other special events, production trend, and resource condition and trend to determine whether management objectives are being met, that—

(A) relies on the examination of physical measurements of range attributes and not on cursory visual scanning of land, unless the condition to be assessed is patently obvious and requires no physical measurements;

(B) utilizes a scientifically based and verifiable methodology; and

(C) is accepted by an authorized officer.

(20) SECRETARY; SECRETARIES.—The terms "Secretary" or "Secretaries" mean—

(A) the Secretary of the Interior, in reference to livestock grazing on Federal land administered by the Director of the Bureau of Land Management; and

(B) the Secretary of Agriculture, in reference to livestock grazing on Federal land administered by the Chief of the Forest Service or the National Grasslands referred to in title II.

(21) SUBLEASE.—The term "sublease" means an agreement by a permittee or lessee that—

(A) allows a person other than the permittee or lessee to graze livestock on Federal land without controlling the base property supporting the grazing permit or lease; or

(B) allows grazing on Federal land by livestock not owned or controlled by the permittee or lessee.

(22) SUSPEND; SUSPENSION.—The terms "suspend" and "suspension" refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(23) UTILIZATION.—The term "utilization" means the percentage of a year's forage production consumed or destroyed by herbivores.

(24) WATER BASE PROPERTY.—The term "water base property" means base property described in paragraph (7)(B).

SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.

(a) STANDARDS AND GUIDELINES.—The Secretary shall establish standards and guidelines for addressing resource condition and trend on a State or regional level in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State. Standards and guidelines developed pursuant to this subsection shall be consistent with the objectives provided in section 103 and incorporated, by operation of law, into the applicable land use plan to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) COORDINATED RESOURCE MANAGEMENT.—The Secretary shall, where appropriate, authorize and encourage the use of coordinated resource management practices. Coordinated resource management practices shall be—

(1) scientifically based;

(2) consistent with goals and management objectives of the applicable land use plan;

(3) for the purposes of promoting good stewardship and conservation of multiple-use rangeland resources; and

(4) authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees in a specified geographic area. Notwithstanding the mandatory qualifications required to obtain a grazing permit or lease by this or any other act, such agreement may include other individuals, organizations, or Federal land users.

(c) COORDINATION OF FEDERAL AGENCIES.—Where coordinated resource management involves private land, State land, and Federal land managed by the Bureau of Land Management or the Forest Service, the Secretaries are hereby authorized and directed to enter into cooperative agreements to coordinate the associated activities of—

(1) the Bureau of Land Management;

(2) the Forest Service; and

(3) the Natural Resources Conservation Service.

(d) RULE OF CONSTRUCTION.—Nothing in this title or any other law implies that a minimum national standard or guideline is necessary.

SEC. 106. LAND USE PLANS.

(a) PRINCIPLE OF MULTIPLE USE AND SUSTAINED YIELD.—An authorized officer shall manage livestock grazing on Federal land under the principles of multiple use and sustained yield and in accordance with applicable land use plans.

(b) CONTENTS OF LAND USE PLAN.—With respect to grazing administration, a land use plan shall—

(1) consider the impacts of all multiple uses, including livestock and wildlife grazing, on the environment and condition of public rangelands, and the contributions of these uses to the management, maintenance and improvement of such rangelands;

(2) establish available animal unit months for grazing use, related levels of allowable grazing use, resource condition goals, and management objectives for the Federal land covered by the plan; and

(3) set forth programs and general management practices needed to achieve the purposes of this title.

(c) APPLICATION OF NEPA.—Land use plans and amendments thereto shall be developed in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) CONFORMANCE WITH LAND USE PLAN.—Livestock grazing activities, management actions and decisions approved by the authorized officer, including the issuance, renewal, or transfer of grazing permits or leases, shall not constitute major Federal actions requiring consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to that which is necessary to support the land use plan, and amendments thereto.

(e) Nothing in this section is intended to override the planning and public involvement processes of any other Federal law pertaining to Federal lands.

SEC. 107. REVIEW OF RESOURCE CONDITION.

(a) Upon the issuance, renewal, or transfer of a grazing permit or lease, and at least once every six (6) years, the Secretary shall review all available monitoring data for the affected allotment. If the Secretary's review indicates that the resource condition is not meeting management objectives, then the Secretary shall prepare a brief summary report which—

(1) evaluates the monitoring data;

(2) identifies the unsatisfactory resource conditions and the use or management activities contributing to such conditions; and

(3) makes recommendations of any modifications to management activities, or permit or lease terms and conditions necessary to meet management objectives.

(b) The Secretary shall make copies of the summary report available to the permittee or lessee, and affected interests, and shall allow for a 30-day comment period to coincide with the 30-day time period provided in section 155. At the end of such comment period, the Secretary shall review all comments, and as the Secretary deems necessary, modify management activities, and pursuant to section 134, the permit or lease terms and conditions.

(c) If the Secretary determines that available monitoring data are insufficient to make recommendations pursuant to subsection (a)(3), the Secretary shall establish a reasonable schedule to gather sufficient data pursuant to section 123. Insufficient monitoring data shall not be grounds for the Secretary to refuse to issue, renew or transfer a grazing permit or lease, or to terminate or modify the terms and conditions of an existing grazing permit or lease.

Subtitle B—Qualifications and Grazing Preferences

SEC. 111. SPECIFYING GRAZING PREFERENCE.

(a) IN GENERAL.—A grazing permit or lease shall specify—

(1) a historical grazing preference;

(2) active use, based on the amount of forage available for livestock grazing established in the land use plan;

(3) suspended use; and

(4) voluntary and temporary nonuse.

(b) ATTACHMENT OF GRAZING PREFERENCE.—A grazing preference identified in a grazing permit or lease shall attach to the base property supporting the grazing permit or lease.

(c) ATTACHMENT OF ANIMAL UNIT MONTHS.—The animal unit months of a grazing preference shall attach to—

(1) the acreage of land base property on a pro rata basis; or

(2) water base property on the basis of livestock forage production within the service area of the water.

Subtitle C—Grazing Management

SEC. 121. ALLOTMENT MANAGEMENT PLANS.

If the Secretary elects to develop or revise an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved, the grazing advisory councils established pursuant to section 162, and any State or States having lands within the area to be covered by such allotment management plan. The Secretary shall provide for public participation in the development or revision of an allotment management plan as provided in section 155.

SEC. 122. RANGE IMPROVEMENTS.

(a) RANGE IMPROVEMENT COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with a permittee or lessee for the construction, installation, modification, removal, or use of a permanent range improvement or development of a rangeland to achieve a management or resource condition objection.

(2) COST-SHARING.—A range improvement cooperative agreement shall specify how the costs or labor, or both, shall be shared between the United States and the other parties to the agreement.

(3) TITLE.—

(A) IN GENERAL.—Subject to valid existing rights, title to an authorized structural range improvement under a range improvement cooperative agreement shall be shared by the cooperator(s) and the United States in proportion to the value of the contributions (funding, material, and labor) toward the initial cost of construction.

(B) VALUE OF FEDERAL LAND.—For the purpose of subparagraph (A), only a contribution to the construction, installation, or modification of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(4) NONSTRUCTURAL RANGE IMPROVEMENTS.—A range improvement cooperative agreement shall ensure that the respective

parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) INCENTIVE.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) RANGE IMPROVEMENT PERMITS.—

(1) APPLICATION.—A permittee or lessee may apply for a range improvement permit to construct, install, modify, maintain, or use a range improvement that is needed to achieve management objectives within the permittee's or lessee's allotment.

(2) FUNDING.—A permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance of a range improvement covered by a range improvement permit.

(3) AUTHORIZED OFFICER TO ISSUE.—A range improvement permit shall be issued at the discretion of the authorized officer.

(4) TITLE.—Title to an authorized permanent range improvement under a range improvement permit shall be in the name of the permittee or lessee.

(5) CONTROL.—The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the permittee or lessee holding a range improvement permit.

(c) ASSIGNMENT OF RANGE IMPROVEMENTS.—An authorized officer shall not approve the transfer of a grazing preference, or approve use by the transferee of existing range improvements unless the transferee has agreed to compensate the transferor for the transferor's interest in the authorized permanent improvements within the allotment as of the date of the transfer.

SEC. 123. MONITORING AND INSPECTION.

(a) MONITORING.—Monitoring of resource condition and trend of Federal land on an allotment shall be performed by qualified persons approved by the Secretary, including but not limited to Federal, State, or local government personnel, consultants, and grazing permittees or lessees.

(b) INSPECTION.—Inspection of a grazing allotment shall be performed by qualified Federal, State or local agency personnel, or qualified consultants retained by the United States.

(c) MONITORING CRITERIA AND PROTOCOLS.—Rangeland monitoring shall be conducted according to regional or State criteria and protocols that are scientifically based. Criteria and protocols shall be developed by the Secretary in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture or other appropriate State agencies, and academic institutions in each interested State.

(d) OVERSIGHT.—The authorized officer shall provide sufficient oversight to ensure that all monitoring is conducted in accordance with criteria and protocols established pursuant to subsection (c).

(e) NOTICE.—In conducting monitoring activities, the Secretary shall provide reasonable notice of such activities to permittees or lessees, including prior notice to the extent practicable of not less than 48 hours. Prior notice shall not be required for the purposes of inspections, if the authorized officer has substantial grounds to believe that a violation of this or any other act is occurring on the allotment.

SEC. 124. WATER RIGHTS.

(a) IN GENERAL.—No water rights on Federal land shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing management other than in accordance with State law concerning the use and appropriation of water within the State.

(b) STATE LAW.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water right ownership and appropriation.

(c) AUTHORIZED USE OR TRANSPORT.—The Secretary cannot require permittees or lessees to transfer or relinquish all or a portion of their water right to another party, including but not limited to the United States, as a condition to granting a grazing permit or lease, range improvement cooperative agreement or range improvement permit.

(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

(e) VALID EXISTING RIGHTS.—Nothing in this act shall affect valid existing water rights.

Subtitle D—Authorization of Grazing Use

SEC. 131. GRAZING PERMITS OR LEASES.

(a) TERM.—A grazing permit or lease shall be issued for a term of 12 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 12 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation, and a shorter term is determined to be necessary, based upon monitoring information, to achieve resource condition goals and management objectives.

(b) RENEWAL.—A permittee or lessee holding a grazing permit or lease shall be given first priority at the end of the term for renewal of the grazing permit or lease if—

(1) the land for which the grazing permit or lease is issued remains available for domestic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or lease.

SEC. 132. SUBLEASING.

(a) IN GENERAL.—The Secretary shall only authorize subleasing of a Federal grazing permit or lease, in whole or in part—

(1) if the permittee or lessee is unable to make full grazing use due to ill health or death; or

(2) under a cooperative agreement with a grazing permittee or lessee (or group of grazing permittees or lessees), pursuant to section 105(b).

(b) CONSIDERATIONS.—

(1) Livestock owned by a spouse, child, or grandchild of a permittee or lessee shall be considered as owned by the permittee or lessee for the sole purposes of this title.

(2) Leasing or subleasing of base property, in whole or in part, shall not be considered as subleasing of a Federal grazing permit or lease: *Provided*, That the grazing preference associated with such base property is transferred to the person controlling the leased or subleased base property.

SEC. 133. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(a) IN GENERAL.—A permittee or lessee shall own or control and be responsible for the management of the livestock that graze the Federal land under a grazing permit or lease.

(b) MARKING OR TAGGING.—An authorized officer shall not impose any marking or tagging requirement in addition to the requirement under State law.

SEC. 134. TERMS AND CONDITIONS.

(a) IN GENERAL.—

(1) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use (stated in animal unit months) in a grazing permit or lease.

(2) A grazing permit or lease shall be subject to such other reasonable terms or conditions as may be necessary to achieve the objectives of this title, and as contained in an approved allotment management plan.

(3) No term or condition of a grazing permit or lease shall be imposed pertaining to past practice or present willingness of an applicant, permittee or lessee to relinquish control of public access to Federal land across private land.

(4) A grazing permit or lease shall reflect such standards and guidelines developed pursuant to section 105 as are appropriate to the permit or lease.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with permittees and lessees, an authorized officer shall modify the terms and conditions of a grazing permit or lease if monitoring data show that the grazing use is not meeting the management objectives established in a land use plan or allotment management plan, and if modification of such terms and conditions is necessary to meet specific management objectives.

SEC. 135. FEES AND CHARGES.

(a) GRAZING FEES.—The fee for each animal unit month in a grazing fee year to be determined by the Secretary shall be equal to the three-year average of the total gross value of production for beef cattle for the three years preceding the grazing fee year, multiplied by the 10-year average of the United States Treasury Securities 6-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats, each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

(d) OTHER FEES AND CHARGES.—

(1) CROSSING PERMITS, TRANSFERS, AND BILLING NOTICES.—A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) AMOUNT OF FLPMA FEES AND CHARGES.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) NOTICE OF CHANGE.—Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—

(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as in currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary of the Interior and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC 136. USE OF STATE SHARE OF GRAZING FEES.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(2) at the end of subsection (a), by striking ";" and inserting ": *Provided further*, That no such money shall be expended for litigation purposes;";

(3) in subsection (b), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(4) at the end of subsection (b), by striking "." and inserting ": *Provided further*, That no such moneys shall be expended for litigation purposes.".

Subtitle E—Unauthorized Grazing Use

SEC. 141. NONMONETARY SETTLEMENT.

An authorized officer may approve a nonmonetary settlement of a case of a violation described in section 141 if the authorized officer determines that each of the following conditions in satisfied:

(1) NO FAULT.—Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

(2) INSIGNIFICANCE.—The forage use is insignificant.

(3) NO DAMAGE.—Federal land has not been damaged.

(4) BEST INTERESTS.—Nonmonetary settlement is in the best interests of the United States.

SEC. 142. IMPOUNDMENT AND SALE.

Any impoundment and sale of unauthorized livestock on Federal land shall be conducted in accordance with State law.

Subtitle F—Procedure

SEC. 151. PROPOSED DECISION.

(a) SERVICE ON APPLICANTS, PERMITTEES, LESSEES, AND LIENHOLDERS.—The authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienhold) that is affected by—

(1) a proposed action on an application for a grazing permit or lease, or range improvement permit; or

(2) a proposed action relating to a term or condition of a grazing permit or lease, or a range improvement permit.

(b) NOTIFICATION OF AFFECTED INTERESTS.—The authorized officer shall send copies of a proposed decision to affected interests.

(c) CONTENTS.—A proposed decision described in subsection (a) shall—

(1) state reasons for the action, including reference to applicable law (including regulations); and

(2) be based upon, and supported by rangeland studies, where appropriate, and;

(3) state that any protest to the proposed decision must be filed not later than 30 days after service.

SEC. 152. PROTESTS.

An applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.

SEC. 153. FINAL DECISIONS.

(1) NO PROTEST.—In the absence of a timely filed protest, a proposed decision described in section 151(a) shall become the final decision of the authorized officer without further notice.

(b) RECONSIDERATION.—If a protest is timely filed, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case.

(C) SERVICE AND NOTIFICATION.—After reviewing the protest, the authorized officer shall serve a final decision on the parties to the proceeding, and notify affected interests of the final decision.

SEC. 154. APPEALS.

(a) IN GENERAL.—Any person whose interest in adversely affected by a final decision of an authorized officer, within the meaning of 5 U.S.C. 702, may appeal the decision within 30 days after the receipt of the decision, or within 60 days after the receipt of a proposed decision if further notice of a final decision is not required under this title, pursuant to applicable laws and regulations governing the administrative appeals process of the agency serving the decision. Being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.

(b) SUSPENSION PENDING APPEAL.—

(1) IN GENERAL.—An appeal of a final decision shall suspend the effect of the decision pending final action on the appeal unless the decision is made effective pending appeal under paragraph (2).

(2) EFFECTIVENESS PENDING APPEAL.—The authorized officer may place a final decision in full force and effect in an emergency to stop resource deterioration or economic distress, if authorized officer has substantial grounds to believe that resource deterioration or economic distress is imminent. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

(c) In the case of an appeal under this section, the authorized officer shall, within 30 days of receipt, forward the appeal, all documents and information submitted by the applicant, permittee, lessee, or lienholder, and any pertinent information that would be useful in the rendering of a decision on such appeal, to the appropriate authority responsible for issuing the final decision on the appeal.

SEC. 155. PUBLIC PARTICIPATION AND CONSULTATION.

(a) GENERAL PUBLIC.—The Secretary shall provide for public participation, including a reasonable opportunity to comment, on—

(1) land use plans and amendments thereto; and,

(2) development of standards and guidelines to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) AFFECTED INTERESTS.—At least 30 days prior to the issuance of a final decision, the Secretary shall notify affected interests of such proposed decision, and provide a reasonable opportunity for comment and informal consultation regarding the proposed decision within such 30-day period, for—

(1) the designation or modification of allotment boundaries;

(2) the development, revision, or termination of allotment management plans;

(3) the increase or decrease of permitted use;

(4) the issuance, renewal, or transfer of grazing permits or leases;

(5) the modification of terms and conditions of permits or leases;

(6) reports evaluating monitoring data for a permit or lease; and

(7) the issuance of temporary non-renewable use permits.

Subtitle G—Advisory Committees

SEC. 161. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Governors of the affected States, shall establish and operate joint Resource Advisory Councils on a State or regional level to provide advice on management issues for all lands administered by the Bureau of Land Management and the Forest Service within such State or regional area, except where the Secretaries determine that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretaries and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area; and on

(2) major management decisions while working within the broad management objectives established for the district or national forest.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Resource Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may, by majority vote of its members, request that the Secretaries respond directly to the Resource Advisory Council's concerns within 60 days after the Secretaries receive the request.

(2) EFFECT OF RESPONSE.—The response of the Secretaries to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—

(1) The Secretaries, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than nine members and not more than fifteen members.

(2) In appointing members to a Resource Advisory Council, the Secretaries shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users,

representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretaries shall appoint at least one elected official of general purpose government serving the people of the area of each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(e) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretaries to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 162. GRAZING ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Governor of the affected State and with affected counties, shall appoint not fewer than five nor more than nine persons to serve on a Grazing Advisory Council for each district and each national forest within the 16 contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing. The Secretaries may establish joint Grazing Advisory Councils wherever practicable.

(b) DUTIES.—The duties of Grazing Advisory Councils established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands, including—

(1) range improvement objectives;

(2) the expenditure of range improvement or betterment funds under the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.) or the Taylor Grazing Act (43 U.S.C. 315 et seq.);

(3) development and implementation of grazing management programs; and

(4) range management decisions and actions at the allotment level.

(c) DISREGARD OF ADVICE—

(1) REQUEST FOR RESPONSE.—If a Grazing Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Grazing Advisory Council may, be unanimous vote of its members, request that the Secretary respond directly to the Grazing Advisory Council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—The members of a Grazing Advisory Council established pursuant to this section shall represent permittees, lessees, affected landowners, social and economic interests within the district or national forest, and elected State or county officers. All members shall have a demonstrated knowledge of grazing management and range improvement practices appropriate for the region, and shall be residents of a community within or adjacent to the district or national forest, or control a permit or lease within the same area. Members shall be appointed by the Secretary for a term of two years, and may be appointed for additional consecutive terms. The membership of Grazing Advisory Councils shall be equally divided between permittees or lessees, and other interests: *Provided*, That one elected State or county officer representing the people of an area within the district or national forest shall be appointed to create an odd number of members: *Provided further*, That permittees or lessees appointed as members of each Grazing Advisory Council shall be recommended to the Secretary by the permittees or lessees of the district or national forest through an election conducted under rules and regulations prescribed by the Secretary.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Grazing Advisory Councils established pursuant to this section.

SEC. 163. GENERAL PROVISIONS.

(a) DEFINITION OF DISTRICT.—For the purposes of this subtitle, the term "district" means—

(1) a grazing district administered under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b); or

(2) other lands within a State boundary which are eligible for grazing pursuant to section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315m).

(b) TERMINATION OF SERVICE.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which appointed;

(B) fails or is unable to participate regularly in committee work; or

(C) has violated Federal law (including a regulation); or

(2) in the judgment of the Secretary, termination is in the public interest.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—A member of an advisory committee established under sections 161 or 162 shall not receive any compensation in connection with the performance of the member's duties as a member of the advisory committee, but shall be reimbursed for travel and per diem expenses only while on official business, as authorized by 5 U.S.C. 5703.

SEC. 164. CONFORMING AMENDMENT AND REPEAL.

(a) AMENDMENT.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking "district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)" and inserting "Resource Advisory Councils and Grazing Advisory Councils established under section 161 and section 162 of the Public Rangelands Management Act of 1995".

(b) REPEAL.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

Subtitle H Reports

SEC. 171. REPORTS.

(a) IN GENERAL.—Not later than March 1, 1997, and annually thereafter, the Secretaries shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) ITEMIZATION.—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretaries shall indicate with specificity the costs associated with implementation of each such statute.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1995".

SEC. 202. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012),".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local governmental entities, and other interested individuals and organizations in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purposes of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010). Such regulations shall facilitate the efficient administration of grazing and provide protection for the environment, wildlife, wildlife habitat, and Federal lands equivalent to that on the National Grasslands on the day prior to the date of enactment of this act.

(e) CONFORMING AMENDMENT TO BANKHEAD-JONES ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety and welfare, but not to build industrial parks or commercial enterprises.".

(f) HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) VALID EXISTING RIGHTS.—

(1) IN GENERAL.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96-487 shall continue to apply to nonfederal land and interests therein within the boundaries of the National Grasslands.

(2) INTERIM USE AND OCCUPANCY.—

(A) Until such time as regulations concerning the use and occupancy of the National Grasslands are promulgated pursuant to this title, the Secretary shall regulate the use and occupancy of such lands in accordance with regulations applicable to such lands on May 25, 1995, to the extent practicable and consistent with the provisions of this Act.

(B) Any applications for National Grasslands use and occupancy authorizations submitted prior to the date of enactment of this Act, shall continue to be processed without interruption and without reinitiating any processing activity already completed or begun prior to such date.

SEC. 206. FEES AND CHARGES.

Fees and charges for grazing on the National Grasslands shall be determined in accordance with section 135, except that the Secretary may adjust the amount of a grazing fee to compensate for approved conservation practices expenditures."

BUMPERS (AND OTHERS) AMENDMENT NO. 3556

Mr. BUMPERS (for himself, Mr. JEFFORDS, Mr. BRADLEY, and Mr. KERRY) proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill S. 1459, supra; as follows:

Strike Section 135 of the substitute and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands. The fee shall be equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B)(1) the fee provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter; plus

(2) 25 percent.

(b) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

JEFFORDS AMENDMENT NO. 3557

Mr. JEFFORDS proposed an amendment to amendment No. 3556 proposed by Mr. BUMPERS to amendment No. 3555 proposed by Mr. DOMENICI to the bill S. 1459, supra; as follows:

In lieu of the language proposed to be inserted by the Bumpers amendment insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

THE NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1996

FEINSTEIN (AND OTHERS) AMENDMENT NO. 3558

Mr. MURKOWSKI (for Mrs. FEINSTEIN, for herself, Mr. REID, Mr. BURNS, Mr. BIDEN, Mr. KENNEDY, and Mr. AKAKA) proposed an amendment to the bill (S. 956) to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; as follows:

Strike all after the enacting clause and insert:

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the ninth circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate of the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 per diem for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC 4. PERSONNEL.

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out it functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriate to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purpose of this title, Such sums as are appropriated shall remain available until expended.

SEC 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the Report.

Amend the title so as to read: "A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire June 30, 1996.

The hearing will be held on Wednesday, March 27, 1996, it will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, March 20, 1996, at 2 p.m. in SH–216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 9:30 a.m., to hold an oversight hearing on the Congressional Research Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. GORTON. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on veterans' health care eligibility priorities. The hearing will be held on March 20, 1996, at 10 a.m., in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. GORTON. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony on technology base program in the Department of Defense in review of the Defense Authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 20, 1996 for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. the purpose of this oversight hearing is to receive testimony on S. 1077, a bill to authorize research, development, and demonstration of hydrogen as an energy carrier and for other purposes, S. 1153, a bill to authorize research, development, and demonstration of hydrogen as an energy carrier, and a demonstration-commercialization project which produces hydrogen as an energy source produced from solid and complex waste for onsite use in fuel cells, and for other purposes, and H.R. 655, a bill to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, be authorized to meet during the session of the Senate on Wednesday, March 20, 1996 to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony regarding the manpower, personnel, and compensation programs of the Department of Defense in review of the National Defense Authorization Request for fiscal Year 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony on the Department of Defense space programs and issues in review of the Defense Authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE TULALIP SUPERFUND SITE

• Mr. GORTON. Mr. President, I ask that a copy of a letter from Elliot Laws, EPA Assistant Administrator, on the subject of the Tulalip Superfund site be printed in the RECORD immediately following my remarks.

The letter from EPA clarifies that the Agency fully intends to comply with the report language included in the fiscal year 1996 Senate VA-HUD and independent agencies report on the Tulalip Superfund site. In addition, the letter promises to provide further information on the liability of the Tulalip Tribe for the cleanup of the Superfund site.

The letter follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, March 19, 1996.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: Thank you for inviting us to meet with you on Monday, March 11, 1996, concerning the Tulalip Landfill Superfund Project. This is to summarize the meeting with Timothy Fields, Jr., Deputy Assistant Administrator, Office of Solid Waste and Emergency Response, and Kathryn Schmoll, Comptroller, and to reiterate the U.S. Environmental Protection Agency's (EPA) commitment to work closely with you and to carefully and thoroughly consider issues you have raised regarding this matter.

The meeting focused on three key issues you raised: conducting alternative dispute resolution (ADR) with the interested parties, performing a baseline risk assessment, and incorporating the results of these activities into a new review of remedial alternatives for the site. We also discussed EPA's recent decision to issue an Interim Record of Decision (ROD) for the source areas of the site, and other issues relating to allocation of remedial costs.

EPA has already taken a number of steps consistent with the goals you have laid out. For example, we have engaged the potentially responsible parties (PRPs) and others in an extensive dialogue on Tulalip. The Region extended the public comment period on the proposed remedial action plan from 30 days to 80 days, held two public meetings, reviewed and responded to voluminous comments, and thoroughly documented the remedy selection process before publishing the interim ROD. The Agency also generated an extensive record of written communications with the PRPs addressing the cleanup alternatives and the differences between the reviews which the PRPs and EPA have performed. Senior EPA Headquarters management also met with representatives of the PRPs in order to hear and respond to their concerns with the remedy selection process.

Publishing the interim ROD is part of a comprehensive effort to identify and address all actual and potential risks associated with this site. It is designed to control migration of contaminants from the source areas of the site and follows the Agency's guidance of presumptive remedies for landfills. This allows for a prompt remedy selection process based on a brief site characterization and risk assessment effort.

Nevertheless, the Agency is currently conducting a full baseline risk assessment to evaluate the off-source portions of the site. Thus, concurrent with this interim action to prevent further environmental degradation, EPA is evaluating the impacts of the site on the surrounding area and the risks associated with those impacts. This baseline risk assessment is scheduled for completion in the Summer of 1996. It will form the basis for the final ROD, which will address all remaining aspects of the site. EPA expects to issue this final ROD in Summer 1997, after receiving and responding to public comment on the risk evaluation. Again, the issuance of the interim ROD was in no way intended to interfere with our ability to address the interests and concerns raised by yourself and by other parties.

Since, the interim remedy will address the source contamination at the Tulalip site in the most timely and cost-effective manner, EPA designed the baseline risk assessment assuming the interim action would be taken for the on-source areas while continuing investigation of off-source areas. The findings of the baseline risk assessment will be used as the basis for review of the interim ROD, to the extent practicable, and the selection of the final remedy.

EPA has furthermore initiated an ADR settlement project for Tulalip. In cooperation with many of the principal respondents for the site, the Agency has employed a neutral, third-party facilitator to assist in allocating remediation costs. The PRPs are currently working to establish the criteria which the facilitator will use to assign liability for the costs of the cleanup. We understand that the facilitator will most likely consider a combination of factors in assigning liability which will probably include both tonnage (contribution) and the degree of involvement/responsibility for the activities which led to the current site conditions. However, the exact terms of this agreement are the subject of ongoing discussions among the PRPs and their representatives.

In the meeting, you asked a hypothetical question regarding the Tulalip tribe's liability for a portion of the cleanup costs. With respect to estimates of liability, EPA notes that it has published costs estimates only for de minimis settlers as part of an early settlement offer. If other PRPs have estimates of their potential liability, these may represent their own estimates, made for business and planning purposes. However, they are not EPA estimates, and we have not reviewed or concurred with the assumptions on which they may have been based. Again, these issues relating to liability for cleanup costs are to be resolved through the ADR process. We will provide a further update on this issue to you in the future.

As a final note, EPA also seriously evaluated the lower-cost options which several of the PRPs have supported. These alternatives do not provide a cap for the site and would therefore not comply with the minimum applicable State landfill closure requirements. I have enclosed letters from the State of Washington and tribal representatives that present their views in support of EPA's remedy selection decisions.

I believe this letter is responsive to the concerns you raised at the March 11 meeting, and I appreciate your continued interest in the Superfund program and the Tulalip Landfill Superfund cleanup.

Sincerely,

ELLIOTT P. LAWS,
Assistant Administrator.•

COMMENDING TUNISIA ON ITS 40TH ANNIVERSARY OF INDEPENDENCE

• Mr. INOUYE. Mr. President, I rise today to recognize the country of Tunisia which will celebrate its 40th anniversary of independence on March 20, 1996. I would like to congratulate this country, which has made tremendous strides in socio-economic development and in furthering the Middle East peace process.

In the last four decades, Tunisia has played a key role in preserving stability and peace in North Africa. Tunisia is also playing a key role in the Middle East peace process. It was the first Arab country to host a United Nations multilateral meeting in the peace process. Tunisia also hosted an official Israeli delegation in Tunis to encourage the dialog between Arabs and Israelis. Most recently, in January 1996, Tunisia and Israel agreed to establish formal diplomatic relations, and interest sections will be opened in Tunis and Tel Aviv by mid-April 1996.

Tunisia has been a leader in the struggle against terrorism, intolerance, and blind violence. Tunisia appealed to the world community, within the framework of the United Nations, the Organization of African Unity, the Arab League, and the Organization of Islamic Countries, to adopt strict measures in order to combat terrorism and extremism.

I would also like to commend Tunisia on its social and economic achievements. Tunisia has devoted the bulk of its resources to improving the quality of life of its people and to the development of its economy. Education is a key issue in Tunisia. The Government appropriates approximately 30 percent of the annual budget to education, social services, housing, and health care. This results in a highly skilled labor force. Today, 23 percent of Tunisian job seekers are university graduates and 42 percent are vocational training school graduates.

The private sector is playing a key role in the economic development of Tunisia, and as a result, Tunisians have created a diversified, market-oriented economy. Manufacturing accounts for 21 percent of domestic production, agriculture for 15 percent, and tourism for 7 percent. Domestic growth rates have averaged more than 4 percent per year, and the budget deficit has been halved in the last 4 years.

Tunisia welcomes and encourages foreign investment and has preferential access to a number of important regional markets. Tunisia is a member of the World Trade Organization. It enjoys duty free access for Tunisian products in European Union countries and most Arab countries. The United States assisted Tunisian economic growth through focused development programs such as the Generalized System of Preferences. As a result, Tunisia has proudly graduated from United States economic assistance and is now entering an era of economic partnership with the United States.

Tunisia has been a close and reliable ally of the United States and has cooperated with the United States in advancing tolerance, openness, peace, and stability. The bonds that have been created over the years between our two countries have continued to improve. I can only share the aspirations of all Tunisians for a prosperous and peaceful future on this, the 40th anniversary of independence.•

THE ATKINSON GRADUATE SCHOOL OF MANAGEMENT ACCREDITATION

• Mr. HATFIELD. Mr. President, this year Willamette University's Atkinson Graduate School of Management celebrates its 20th anniversary with an extremely prestigious award. Already considered a pioneering spirit in management education, the Atkinson School can profess a singularly unique achievement: accreditation from both the National Association of Schools of Public Affairs and Administration [NASPAA] and the American Assembly of Collegiate Schools of Business [AACSB]. It is the first school in the country to receive both accreditations—it is my alma mater, located in Salem, OR.

Representatives from both the AACSB and the NASPAA visited the school in February 1995 and initiated an intense review process. After the review, the two organizations awarded the Atkinson school unanimous recommendations for accreditation. The two review boards commended the school for the program's focus on teamwork and practical application, the teaching staff's commitment to quality instruction and growth of their students, the uniqueness of the school's mission, and the outstanding facilities. The admissions and placement services received high praise as well.

These two distinguished national and international accreditations testify to the impressive and ground-breaking work being done at the Atkinson School. Long recognized as a leading institute of management education, the accreditations provide the school with recognition world wide, recognition that is duly deserved and places the school among the elite institutions of the Pacific region. Out of the more than 700 business schools in the Nation, the AACSB accredits 292. Among the Nation's 220 programs offering master's degrees in public management, the NASPAA accredits about half.

The Atkinson School offers a curriculum that features quality instruction in both business and public management that will prepare students for the future in our global business community. It is telling that in a school that recognizes the importance of global management and multinational influence, international students comprise 25 percent of the total student body. The Atkinson School has distinguished itself as a model for the expanded role of an American institution, a role that embraces the cultures and perspectives of other nations.

The Willamette University, nestled in the fertile Willamette Valley of Oregon, has long cultivated and developed inquisitive minds. The Atkinson School continues this storied tradition as its devotion to quality business management education aims for the 21st century. I wish to congratulate all the staff, supporters, and students who have participated in the unequaled success of the Atkinson School. I would also like to mention the outstanding leadership of the Atkinson School dean, G. Dave Weight, and the agenda of former Willamette University president, George Herbert Smith, whose vision led to the creation of the Atkinson School. A promising future faces the Atkinson School as it prepares its students to compete successfully in the demanding global business environment.

Mr. President, I ask that the Atkinson School's formal mission statement be printed in the RECORD.

The statement follows:

MISSION STATEMENT

The Mission of the Atkinson Graduate School of Management is to identify and convey principles of management shared by successful enterprises in the business, government and not-for-profit sectors. Consistent with these principles, the School educates managers to cooperate as well as compete, to create as well as to operate, and to learn as well as to know. Atkinson extends to management education the teaching and learning traditions of Willamette University, a small, liberal arts institution. Pursuing Willamette's mission to serve its community with distinctive graduate, professional education, the Atkinson School aims to be the preeminent small, independent management program in the Pacific region.•

MICHAEL SHEA

• Mr. BAUCUS. Mr. President, Michael Shea, age 8, of Dillon MT, was tragically killed in an accident on June 30, 1995.

Although Michael's life was taken, he helped save the lives of four other people. All are in good health, leading normal lives today because Michael was an organ donor.

On the day of his death his heart was flown from Montana to Seattle to be transplanted in a 4-year-old girl, Paige Roberts. Paige, who was born with a complex heart defect, had been waiting for a donor for 3 months. This 4-year-old little girl is alive today thanks to Michael.

Michael also donated his liver to a Baltimore woman. One of his kidneys was given to a girl in Seattle and the other to a woman in southwest Washington. All are now in good health.

The tragedy of Michael's death has given other people the hope of life. We so easily forget how fragile life is. We take for granted the advancement of medicine in this country. Michael's heart was used for the second pediatric heart transplant in Children's history. It is so easy to forget that medicine is about saving people's lives. We get caught up in debates about health care and forget the real importance of it—it is about saving people's lives.

I would also like to mention Michael's mother, Eileen, for her strength. The void left by the absence of Michael can not be easily filled for Eileen or any of the Shea family. It is certainly not easy to lose a child that should—in theory—outlive you. Eileen is a model mother. She took the time to explain death to Michael when his grandfather died, to explain the significance of being a donor for herself and let him come to his own decision on the subject. And Michael told her he wanted to be an organ donor. I admire her courage when faced with the death of a son, she understood the importance of giving life to others.

While the sound of Michael's footsteps racing up and down the stairs may have been silenced in Eileen's house, the echo of his generosity reminds us all of the fragility of life and the importance of medicine. Although modern medicine could not save Michael, it did help save four other people's lives.

We can all learn from Michael's generosity and remember the importance of being a donor. This 8-year-old boy from Dillon, MT, is a heroic example for children and adults alike. We should all take the time to fill out a donor card. It is as easy as writing to Living Bank, P.O. Box 6725, Houston, TX 77265.•

BALANCED BUDGET DOWNPAYMENT ACT, II

• Mr. ABRAHAM. Mr. President, yesterday the Senate voted to adopt H.R. 3019, a bill to make continuing appropriations for the remainder of fiscal year 1996. During consideration of this legislation, the Senate debated and then voted upon two amendments which I would like to discuss at this time. The first was an amendment by Senators BOND and MIKULSKI and the second was an amendment by Senator GRAMM.

The Bond-Mikulski amendment included provisions to boost funding for environment and housing programs. These increases include funding directed to the States to clean up our Nation's water and funding to streamline the programs at the Department of Housing and Urban Development. I believe the EPA funding level approved in last year's appropriations bill represented a reasonable, responsible allocation for environmental programs and oversight. At the same time, I understand how important the Superfund program and the EPA's State revolving loan fund for waste and drinking water infrastructure are to the State of Michigan and States across the country. Therefore, largely because the additional funding was fully offset, I supported this measure.

On the other hand, my support of this en bloc amendment should not be interpreted as support for several of the programs listed, including additional funding for the National Corporation of National Community Service. Paying Americans tens of thousands of dollars per year to volunteer for community service may be President Clinton's idea of a good program, but it's not mine, and I would prefer to see this funding eliminated.

The Gramm amendment would have struck that spending which remained in title IV of the bill following the adoption of the Bond/Mikulski and Specter amendments. This funding included $235 million for the Advanced Technology Program and several hundred million in international accounts. The President has indicated that without additional funding for programs like the ATP—which provides direct subsidies to some of America's wealthiest corporations—he would veto the overall bill and shut down the Federal Government once again. I think it is unconscionable that the President is willing to threaten all the programs of the Federal Government in order to provide McDonalds, AT&T, and Eastman Kodak with millions in direct subsidies, and for that reason I supported Senator GRAMM. Earlier amendments by Senators SPECTER and BOND had gone a long way toward meeting the demands of the President with regard to education, the environment, and housing. While some programs remaining in title IV are worthy of support, an overwhelming amount of the funding would have gone to corporate subsidies and other unnecessary spending.•

BALANCED BUDGET DOWNPAYMENT ACT, II

The text of the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, as passed by the Senate on March 19, 1996, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 3019) entitled "An Act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert: *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1996, and for other purposes, namely:*

TITLE I—OMNIBUS APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: Provided, That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Offices of Legislative Affairs, Public Affairs and Policy Development: Provided further, That the latter three aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $16,898,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: Provided, That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $38,886,000: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation for the Executive Office for Immigration Review and the Office of the Pardon Attorney shall be merged with this appropriation.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by sections 130005 and 130007 of Public Law 103–322, $47,780,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation under title VIII of Public Law 103–317 for the Executive Office for Immigration Review shall be merged with this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,960,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,446,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $401,929,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the funds available in this appropriation, not to exceed $22,618,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: Provided further, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding 31 U.S.C. 1342, the Attorney

General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101–512 (104 Stat. 1289).

In addition, for Salaries and Expenses, General Legal Activities, $12,000,000 shall be made available to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of Public Law 103–322, $7,591,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindered laws, $65,783,000: Provided, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premeger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $17,521,000: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996, shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $895,509,000, of which not to exceed $2,500,000 shall be available until September 30, 1997 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $10,000,000 of those funds available for automated litigation support contracts and $4,000,000 for security equipment shall remain available until expended: Provided further, That in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,595 positions and 8,862 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 190001(d), 40114 and 130005 of Public Law 103–322, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $20,269,000 shall be available to help meet increased demands for litigation and related activities, $500,000 to implement a program to appoint additional Federal Victim's Counselors, and $9,231,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, $102,390,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), which shall be derived from the United States Trustee System Fund: Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, not to exceed $44,191,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended, shall be retained and used for necessary expenses in this appropriation: Provided further, That the $102,390,000 herein appropriated from the United States Trustee System Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from such Fund estimated at not more than $58,199,000: Provided further, That any of the aforementioned fees collected in excess of $44,191,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $423,248,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of Public Law 103–322, $25,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

(INCLUDING TRANSFER OF FUNDS)

For expenses related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $252,820,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

In addition, for Federal Prisoner Detention, $9,000,000 shall be made available until expended to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $85,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: Provided, That notwithstanding any other provision of this title, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $30,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $16,264,000, to become available on October 1, 1996.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $359,843,000, of which $50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-

type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,189,183,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1997; of which not less than $102,345,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $98,400,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That $58,000,000 shall be made available for NCIC 2000, of which not less than $35,000,000 shall be derived from ADP and Telecommunications unobligated balances, and of which $22,000,000 shall be derived by transfer and available until expended from unobligated balances in the Working Capital Fund of the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by Public Law 103–322, $218,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $208,800,000 shall be for activities authorized by section 190001(c); $4,000,000 for Training and Investigative Assistance authorized by section 210501(c)(2); and $5,500,000 for establishing DNA quality assurance and proficiency testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210306.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $97,589,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,208 passenger motor vehicles, of which 1,178 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $750,168,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1997, and of which not to exceed $50,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of Public Law 103–322, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,394,825,000, of which $36,300,000 shall remain available until September 30, 1997; of which $506,800,000 is available for the Border Patrol; of which not to exceed $400,000 for research shall remain available until expended; and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1996: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses: Provided further, That the Attorney General may transfer to the Department of Labor and the Social Security Administration not to exceed $10,000,000 for programs to verify the immigration status of persons seeking employment in the United States: Provided further, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless: (1) the checkpoints are open and traffic is being checked on a continuous 24-hour basis and (2) the Immigration and Naturalization Service undertakes a commuter lane facilitation pilot program at the San Clemente checkpoint within 90 days of enactment of this Act: Provided further, That the Immigration and Naturalization Service shall undertake the renovation and improvement of the San Clemente checkpoint, to include the addition of two to four lanes, and which shall be exempt from Federal procurement regulations for contract formation, from within existing balances in the Immigration and Naturalization Service Construction account: Provided further, That if renovation of the San Clemente checkpoint is not completed by July 1, 1996, the San Clemente checkpoint will close until such time as the renovations and improvements are completed unless funds for the continued operation of the checkpoint are provided and made available for obligation and expenditure in accordance with procedures set forth in section 605 of this Act, as the result of certification by the Attorney General that exigent circumstances require the checkpoint to be open and delays in completion of the renovations are not the result of any actions that are or have been in the control of the Department of Justice: Provided further, That the Office of Public Affairs at the Immigration and Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration and Naturalization Service: Provided further, That the Office of Congressional Relations at the Immigration and Naturalization Service shall conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant congressional committees on proposed legislation affecting immigration matters: Provided further, That in addition to amounts otherwise made available in this title to the Attorney General, the Attorney General is authorized to accept and utilize, on behalf of the United States, the $100,000 Innovation in American Government Award for 1995 from the Ford Foundation for the Immigration and Naturalization Service's Operation Jobs program.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130005, 130006, and 130007 of Public Law 103–322, $316,198,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund, of which $38,704,000 shall be for expeditious deportation of denied asylum applicants, $231,570,000 for improving border controls, and $45,924,000 for expanded special deportation proceedings: Provided, That of the amounts made available, $75,765,000 shall be for the Border Patrol.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $25,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 853, of which 559 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,567,578,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1997: Provided further, *That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants: Provided further, That no funds appropriated in this Act shall be used to privatize any Federal prison facilities located in Forrest City, Arkansas, and Yazoo City, Mississippi.*

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of Public Law 103–322, $13,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $334,728,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: Provided further, That of the total amount appropriated, not to exceed $22,351,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,559,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $99,977,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524).

VIOLENT CRIME REDUCTION PROGRAMS, JUSTICE ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $202,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $6,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; $750,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; $130,000,000 for Grants to Combat Violence Against Women to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; $28,000,000 for Grants to Encourage Arrest Policies to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; $7,000,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; $1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; $27,000,000 for grants for residential substance abuse treatment for State prisoners authorized by section 1001(a)(17) of the 1968 Act; and $900,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(d) of the 1994 Act: Provided, That any balances for these programs shall be transferred to and merged with this appropriation.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $388,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $60,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $3,005,200,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $1,903,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995 for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: Provided, That recipients are encouraged to use these funds to hire additional law enforcement officers: Provided further, That no less than $975,000,000 of this amount shall be available for Public Safety and Community Policing grants pursuant to title I of the 1994 Act: Provided further, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon prior written consultation and notification being given to the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations: Provided further, That no less than $25,000,000 of this amount shall be for drug courts pursuant to title V of the 1994 Act: Provided further, That not less than $20,000,000 of this amount shall be for Boys & Girls Clubs of America for the establishment of Boys & Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: Provided further, That not less than $80,000,000 of such amount shall be for crime prevention block grants pursuant to subtitle B of title III of the 1994 Act: Provided further, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: Provided further, That $10,000,000 of this amount shall be available for programs of Police Corps education, training and service as set forth in sections 200101–200113 of the 1994 Act; $25,000,000 for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; $147,000,000 as authorized by section 1001 of title I of the 1968 Act, which shall be available to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; $300,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; $617,500,000 for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 114 of this Act), of which $200,000,000 shall be available for payments to States for incarceration of criminal aliens, and of which $12,500,000 shall be available for the Cooperative Agreement Program; $1,000,000 for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; $9,000,000 for Improved Training and Technical Automation

Grants, as authorized by section 210501(c)(1) of the 1994 Act; $1,000,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; $500,000 for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; $1,000,000 for Gang Investigation Coordination and Information Collection, as authorized by section 150006 of the 1994 Act; $200,000 for grants as authorized by section 32201(c)(3) of the 1994 Act: Provided further, That funds made available in fiscal year 1996 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: Provided further, That any 1995 balances for these programs shall be transferred to and merged with this appropriation: Provided further, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $28,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: Provided, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: Provided further, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which: (1) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of the Act; (2) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $4,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by section 214B, of the Act: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,134,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993, as amended by section 112 of this Act, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: Provided, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except "salaries and expenses, Community Relations Service" or as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 108. For fiscal year 1996 and each fiscal year thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investment shall be deposited in the Commissary Fund.

SEC. 109. (a) Section 524(c)(8)(E) of title 28, United States Code, is amended by deleting "1994" and inserting "1995" in place thereof.

(b) Section 524(c)(9) is amended to read as follows: "(9) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

SEC. 110. Hereafter, notwithstanding any other provision of law—

(1) No transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code; and

(2) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

SEC. 111. (a) Section 1930(a)(6) of title 28, United States Code, is amended by striking "a plan is confirmed or".

(b) Section 589a(b)(5) of such title is amended by striking ";" and inserting, "until a reorganization plan is confirmed;".

(c) Section 589a(f) of such title is amended—

(1) in paragraph (2) by striking "." and inserting, "until a reorganization plan is confirmed;", and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) 100 percent of the fees collected under section 1930(a)(6) of this title after a reorganization plan is confirmed.".

SEC. 112. Public Law 102–395, section 102 is amended as follows: (1) in subsection (b)(1) strike "years 1993, 1994, and 1995" and insert "year 1996"; (2) in subsection (b)(1)(C) strike "years 1993, 1994, and 1995" and insert "year 1996"; and (3) in subsection (b)(5)(A) strike "years 1993, 1994, and 1995" and insert "year 1996".

SEC. 113. Public Law 101–515 (104 Stat. 2112; 28 U.S.C. 534 note) is amended by inserting "and criminal justice information" after "for the automation of finger-print identification".

SEC. 114. (a) GRANT PROGRAM.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants

"SEC. 20101. DEFINITIONS.

"As used in this subtitle—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court may impose a sentence of a range defined by statute; and

"(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

"(2) the term 'sentencing guidelines' means a system of sentences which—

"(A) is established for use by a sentencing court in determining the sentence to be imposed in a criminal case; and

"(B) increases certainty in sentencing, thereby providing assurances to victims of the sentence to be served;

"(3) the term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

"(4) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

"SEC. 20102. AUTHORIZATION OF GRANTS.

"(a) IN GENERAL.—The Attorney General shall provide Violent Offender Incarceration grants under section 20103(a) and Truth-in-Sentencing Incentive grants under section 20103(b) to eligible States—

"(1) to build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

"(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a part 1 violent crime; and

"(3) to build or expand jails.

"(b) REGIONAL COMPACTS.—

"(1) IN GENERAL.—Subject to paragraph (2), States may enter into regional compacts to carry out this subtitle. Such compacts shall be treated as States under this subtitle.

"(2) REQUIREMENT.—To be recognized as a regional compact for eligibility for a grant under section 20103 (a) or (b), each member State must be eligible individually.

"(3) LIMITATION ON RECEIPT OF FUNDS.—No State may receive a grant under this subtitle both individually and as part of a compact.

"(c) APPLICABILITY.—Notwithstanding the eligibility requirements of section 20103, a State that certifies to the Attorney General that, as of the date of enactment of the Department of Justice Appropriations Act, 1996, such State has enacted legislation in reliance on subtitle A of title II of the Violent Crime Control and Law Enforcement Act, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible to receive a grant for fiscal year 1996 as though such State qualifies under section 20103 of this subtitle.

"SEC. 20103. GRANT ELIGIBILITY.

"(a) VIOLENT OFFENDER INCARCERATION GRANTS.—To be eligible to receive a grant under this subtitle, a State shall submit an application to the Attorney General that provides assurances that the State has implemented, or will implement, correctional policies and programs, including truth-in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

"(b) TRUTH-IN-SENTENCING INCENTIVES.—

"(1) ELIGIBILITY.—To be eligible to receive an additional grant award under this subsection, a State shall submit an application to the Attorney General that demonstrates that—

"(A) such State has implemented truth-in-sentencing laws that—

"(i) require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(ii) result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior);

"(B) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State, not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior);

"(C) in the case of a State that on the date of enactment of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime, persons convicted of a part 1 violent crime in such State on average serve not less than 85 percent of the sentence established under the State's sentencing guidelines (not counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(D) the number of new court commitments to prison for part 1 violent crimes has increased by 10 percent or more over the most recent 3-year period.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may provide that the Governor of the State may allow for the earlier release of—

"(A) a geriatric prisoner; or

"(B) a prisoner whose medical condition precludes the prisoner from posing a threat to the public, but only after a public hearing in which representatives of the public and the prisoner's victims have had an opportunity to be heard regarding a proposed release.

"SEC. 20104. SPECIAL RULES.

"(a) SHARING OF FUNDS WITH COUNTIES AND OTHER UNITS OF LOCAL GOVERNMENT.—

"(1) RESERVATION.—Each State shall reserve not more than 15 percent of the amount of funds allocated in a fiscal year pursuant to section 20105 for counties and units of local government to construct, develop, expand, modify, or improve jails and other correctional facilities.

"(2) FACTORS FOR DETERMINATION OF AMOUNT.—To determine the amount of funds to be reserved under this subsection, a State shall consider the burden placed on a county or unit of local government that results from the implementation of policies adopted by the State to carry out section 20103.

"(b) ADDITIONAL REQUIREMENT.—To be eligible to receive a grant under section 20103, a State shall provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle policies that provide for the recognition of the rights and needs of crime victims.

"(c) FUNDS FOR JUVENILE OFFENDERS.—Notwithstanding any other provision of this subtitle, if a State, or unit of local government located in a State that otherwise meets the requirements of section 20103, certifies to the Attorney General that exigent circumstances exist that require the State to expend funds to build or expand facilities to confine juvenile offenders other than juvenile offenders adjudicated delinquent for an act which, if committed by an adult, would be a part 1 violent crime, the State may use funds received under this subtitle to build or expand juvenile correctional facilities or pretrial detention facilities for juvenile offenders.

"(d) PRIVATE FACILITIES.—A State may use funds received under this subtitle for the privatization of facilities to carry out the purposes of section 20102.

"(e) DEFINITION.—In a case in which a State defines a part 1 violent crime differently than the definition provided in the Uniform Crime Reports, the Attorney General shall determine and designate whether the definition by such State is substantially similar to the definition provided in the Uniform Crime Reports.

"SEC. 20105. FORMULA FOR GRANTS.

"In determining the amount of funds that may be granted to each State eligible to receive a grant under section 20103, the Attorney General shall apply the following formula:

"(1) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20103(a).—Of the amount set aside for grants for section 20103(a), 0.75 percent shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.05 percent.

"(2) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20103(b).—Of the amount set aside for additional grant awards under section 20103(b)—

"(A) if fewer than 20 States are awarded grants under section 20103(b), 2.5 percent of the amounts paid shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.05 percent; and

"(B) if 20 or more States are awarded grants under section 20103(b), 2.0 percent of the amounts awarded shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.04 percent.

"(3) ALLOCATION OF ADDITIONAL AMOUNTS.—

"(A) ALLOCATION OF REMAINING AMOUNTS UNDER SECTION 20103(a).—The amounts remaining after the application of paragraph (1) shall be allocated to each eligible State in the ratio that the population of such State bears to the population of all States.

"(B) DISTRIBUTION OF REMAINING AMOUNTS UNDER SECTION 20103(b).—The amounts remaining after the application of paragraph (2) shall be allocated to each eligible State in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by all such States to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

"(C) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is unavailable for the 3 years preceding the year in which the determination is made or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

"(4) REGIONAL COMPACTS.—In determining the funds that States organized as a regional compact may receive, the Attorney General shall first apply the formula in either paragraph (1) or (2) and (3) of this section to each member State of the compact. The States organized as a regional compact may receive the sum of the amounts so determined.

"SEC. 20106. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State that receives funds under this subtitle shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General, and shall ensure that any funds used to carry out the programs under section 20102(a)

shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

"(b) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General under this subtitle in the same manner that such provisions apply to the officials listed in such sections.

"SEC. 20107. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this subtitle—

"(A) $997,500,000 for fiscal year 1996;

"(B) $1,330,000,000 for fiscal year 1997;

"(C) $2,527,000,000 for fiscal year 1998;

"(D) $2,660,000,000 for fiscal year 1999; and

"(E) $2,753,100,000 for fiscal year 2000.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—Subject to section 20108, of the amount appropriated pursuant to paragraph (1), the Attorney General shall reserve—

"(i) in fiscal year 1996, 50 percent for grants under section 20103(a), and 50 percent for additional incentive awards under section 20103(b);

"(ii) in fiscal year 1997, 30 percent for grants under section 20103(a), and 70 percent for additional incentive awards under section 20103(b);

"(iii) in fiscal year 1998, 20 percent for grants under section 20103(a), and 80 percent for additional incentive awards under section 20103(b);

"(iv) in fiscal year 1999, 15 percent for grants under section 20103(a), and 85 percent for additional incentive awards under section 20103(b); and

"(v) in fiscal year 2000, 10 percent for grants under section 20103(a), and 90 percent for additional incentive awards under section 20103(b);

"(B) DISTRIBUTION OF MINIMUM AMOUNTS.—The Attorney General shall distribute minimum amounts allocated under section 20105 (1) and (2) to an eligible State not later than 30 days after receiving an application that demonstrates that such State qualifies for a Violent Offender Incarceration grant under section 20103(a) or a Truth-in-Sentencing Incentive grant under section 20103(b).

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Except as provided in section 20110, funds made available pursuant to this section shall be used only to carry out the purposes described in section 20102(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

"(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available pursuant to this section shall be used for administrative costs.

"(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

"(5) MATCHING FUNDS.—The Federal share of a grant received under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

"SEC. 20108. PAYMENTS FOR INCARCERATION ON TRIBAL LANDS.

"(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this subtitle, from amounts appropriated under section 20107 to carry out section 20103, the Attorney General shall reserve, to carry out this section—

"(1) 0.3 percent in each of fiscal years 1996 and 1997; and

"(2) 0.2 percent in each of fiscal years 1998, 1999, and 2000.

"(b) GRANTS TO INDIAN TRIBES.—From the amounts reserved under subsection (a), the Attorney General may make grants to Indian tribes for the purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

"SEC. 20109. PAYMENTS TO ELIGIBLE STATES FOR INCARCERATION OF CRIMINAL ALIENS.

"(a) IN GENERAL.—The Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act and which meets the eligibility requirements of section 20103, in such amount as is determined under section 242(j) and for which payment is not made to such State for such fiscal year under such section.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated to carry out this section from amounts authorized under section 20107, an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for fiscal year 1996 equals $500,000,000 and for each of the fiscal years 1997 through 2000 does not exceed $650,000,000.

"(c) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.

"SEC. 20110. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) IN GENERAL.—The Attorney General may make payments to States and units of local government for the purposes authorized in section 4013 of title 18, United States Code.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated from amounts authorized under section 20107 for each of fiscal years 1996 through 2000 such sums as may be necessary to carry out this section.

"SEC. 20111. REPORT BY THE ATTORNEY GENERAL.

"Beginning on July 1, 1996, and each July 1 thereafter, the Attorney General shall report to the Congress on the implementation of this subtitle, including a report on the eligibility of the States under section 20103, and the distribution and use of funds under this subtitle.".

(b) PREFERENCE IN PAYMENTS.—Section 242(j)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(j)(4)) is amended by adding at the end the following:

"(C) In carrying out paragraph (1)(A), the Attorney General shall give preference in making payments to States and political subdivisions of States which are ineligible for payments under section 20109 of the Violent Crime Control and Law Enforcement Act of 1994.".

(c) CONFORMING AMENDMENTS.—

(1) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

(A) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(B) FUNDING.—

(i) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(ii) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as if such Act was in effect on the day preceding the date of enactment of this Act.

(2) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(A) TABLE OF CONTENTS.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V.

(B) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under title V of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as if such subtitle was in effect on the day preceding the date of enactment of this Act.

(C) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II and inserting the following:

"SUBTITLE A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

"Sec. 20101. Definitions.
"Sec. 20102. Authorization of Grants.
"Sec. 20103. Grant eligibility.
"Sec. 20104. Special rules.
"Sec. 20105. Formula for grants.
"Sec. 20106. Accountability.
"Sec. 20107. Authorization of appropriations.
"Sec. 20108. Payments for Incarceration on Tribal Lands.
"Sec. 20109. Payments to eligible States for incarceration of criminal aliens.
"Sec. 20110. Support of Federal prisoners in non-Federal institutions.
"Sec. 20111. Report by the Attorney General.".

SEC. 115. Notwithstanding provisions of 41 U.S.C. 353 or any other provision of law, the Federal Prison System may enter into contracts and other agreements with private entities for a period not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

SEC. 116. The pilot debt collection project authorized by Public Law 99–578, as amended, is extended through September 30, 1997.

SEC. 117. The definition of "educational expenses" in Section 200103 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 is amended to read as follows:

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

SEC. 118. (a) STATE COMPATIBILITY WITH FEDERAL BUREAU OF INVESTIGATION SYSTEMS.—(1) The Attorney General shall make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) USES.—The executive officer of each State shall use the funds made available under this subsection in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(C) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the *combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and*

(D) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(c) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this section.

(d) ALLOCATION.—The Attorney General shall allocate the funds appropriated under subsection (e) to each State based on the following formula:

(1) .25 percent shall be allocated to each of the participating States.

(2) Of the total funds remaining after the allocation under paragraph (1), each State shall be allocated an amount that bears the same ratio to the amount of such funds as the population of such State bears to the population of all States.

(e) APPROPRIATION.—$11,800,000 is appropriated to carry out the provisions in this section and shall remain available until expended.

This title may be cited as the "Department of Justice Appropriations Act, 1996".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,889,000, of which $2,500,000 shall remain available until expended: Provided, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,000,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $264,885,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,604,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $328,500,000: Provided, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: Provided further, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $20,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $32,000,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $45,900,000, to remain available until September 30, 1997.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $133,812,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $150,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,000,000 to remain available until expended: Provided, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to charge Federal agencies for spectrum management, analysis, and operations, and related services: Provided further, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for spectrum management, analysis, and operations, and related services and for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended,

$15,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: Provided further, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: Provided further, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $82,324,000, to remain available until expended: Provided, That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: Provided further, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $259,000,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $80,000,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund": Provided, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: Provided further, That any unobligated balances available from carryover of prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 358 commissioned officers on the active list; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,802,677,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: Provided further, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1996, so as to result in a final general fund appropriation estimated at not more than $1,799,677,000: Provided further, That any such additional fees received in excess of $3,000,000 in fiscal year 1996 shall not be available for obligation until October 1, 1996: Provided further, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, $63,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": Provided further, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2)(A), 16 U.S.C. 1456a(b)(2)(B)(v), and 16 U.S.C. 1461(e).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $50,000,000, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,032,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $5,000,000.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $29,100,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $19,849,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $75,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: Provided, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: Provided further, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce to cover the costs of actions relating to the abolishment, reorganization or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That no monies appropriated under this Act or any other law shall be used by the Secretary of Commerce to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act.

SEC. 207. Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration Project Number 01–11–01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

SEC. 208. (a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b);

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority, on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

SEC. 209. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1996".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $25,834,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,313,000, of which $500,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $14,288,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,859,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,433,141,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,318,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $267,217,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): Provided, That none of the funds provided in this Act shall be available for Death Penalty Resource Centers or Post-Conviction Defender Organizations after April 1, 1996.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,028,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $102,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,914,000; of which $1,800,000 shall remain available through September 30, 1997, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $24,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,000,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,500,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services", shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: Provided, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 305. Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph by striking "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

This title may be cited as "The Judiciary Appropriations Act, 1996".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration, $1,708,800,000: Provided, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: Provided further, That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: Provided further, That starting in fiscal year 1997, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,144,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended. Of the latter amount, $9,600,000 shall not be made available until expiration of the 15 day period beginning on the date when the Secretary of State and the Director of the Diplomatic Telecommunications Service submit the pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State of Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for security enhancements to counter the threat of terrorism, $9,720,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $363,276,000.

For an additional amount for security enhancements to counter the threat of terrorism, $1,870,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $16,400,000, to remain available until expended, as authorized in Public Law 103–236: Provided, That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,369,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (Public Law 96–465), as it relates to post inspections: Provided, That notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,579,000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $385,760,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry *out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.*

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,165,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $125,402,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $700,000,000: Provided, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: Provided further, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1996: Provided further, That certification under section 401(b) of Public Law 103–236 for fiscal year 1996 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: Provided further, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $225,000,000: Provided, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: Provided further, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $3,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $12,058,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: Provided, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $5,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $35,700,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $445,645,000: Provided, That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: Provided further, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That not to exceed $1,700,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorized by 22 U.S.C. 2455: Provided, That $1,800,000 of this amount shall be available for the Mike Mansfield Fellowship Program as authorized by section 252 of Public Law 103–236.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1996, to remain available until expended: Provided, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1996, to remain available until expended.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

For necessary expenses of American Studies Collections as authorized by section 235 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, all interest and earnings accruing to the American Studies Collections Endowment Fund on or before September 30, 1996, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $325,191,000, of which $5,000,000 shall remain available until expended, not to exceed $16,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3), not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085, and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes; and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000 to remain available until expended: Provided, That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to south Florida, and that any funds available under the headings "International Broadcasting Operations", "Broadcasting to Cuba", and "Radio Construction" may be available to carry out this relocation.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $40,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $11,750,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $2,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. (a) No later than 90 days after enactment of legislation consolidating, reorganizing or downsizing the functions of the Department of State, the United States Information Agency, and the Arms Control and Disarmament Agency, the Secretary of State, the Director of the United States Information Agency and the Director of the Arms Control and Disarmament Agency shall submit to the Committees on Appropriations of the House and the Senate a proposal for transferring or rescinding funds appropriated herein for functions that are consolidated, reorganized or downsized under such legislation: Provided, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of State, the Director of the United States Information Agency, and the Director of the Arms Control and Disarmament Agency, as appropriate, may use any available funds to cover the costs of actions to consolidate, reorganize or downsize the functions under their authority required by such legislation, and of any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 402 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 405. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

SEC. 406. Section 36(a)(1) of the State Department Authorities Act of 1956, as amended (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

SEC. 407. Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1999".

SEC. 408. Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996–1998.

SEC. 409. It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this Act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

SEC. 410. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 411. Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) is amended by inserting "Tinian," after "Sao Tome,".

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1996".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $162,610,000, to remain available until expended.

MARITIME NATIONAL SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States as determined by the Secretary of Defense in consultation with the Secretary of Transportation, $46,000,000, to remain available until expended: Provided, That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,600,000, to remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies and may be transferred to the Secretary of the Interior for use as provided in the National Maritime Heritage Act (Public Law 103–451): Provided further, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $40,000,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,500,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,750,000: Provided, That not to exceed $50,000 may be used to employ consultants: Provided further, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,894,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council, $100,000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $195,709,000, of which not to exceed $300,000 shall remain available until September 30, 1997, for research and policy studies: Provided, That $136,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at $59,309,000: Provided further, That any offsetting collections received in excess of $136,400,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: Provided further, That the Commission shall amend its schedule of regulatory fees set forth in section 1.1153 of title 47, CFR, authorized by section 9 of title I of the Communications Act of 1934, as amended by: (1) striking "$22,420" in the Annual Regulatory Fee column for VHF Commercial Markets 1 through 10 and inserting "$32,000"; (2) striking "$19,925" in the Annual Regulatory Fee column for VHF Commercial Markets 11 through 25 and inserting "$26,000"; (3) striking "$14,950" in the Annual Regulatory Fee column for VHF Commercial Markets 26 through 50 and inserting "$17,000"; (4) striking "$9,975" in the Annual Regulatory Fee column for VHF Commercial Markets 51 through 100 and inserting "$9,000"; (5) striking "$6,225" in the Annual Regulatory Fee column for VHF Commercial Remaining Markets and inserting "$2,500"; and (6) striking "$17,925" in the Annual Regulatory Fee column for UHF Commercial Markets 1 through 10 and inserting "$25,000"; (7) striking "$15,950" in the Annual Regulatory Fee column for UHF Commercial Markets 11 through 25 and inserting "$20,000"; (8) striking "$11,950" in the Annual Regulatory Fee column for UHF Commercial Markets 26 through 50 and inserting "$13,000"; (9) striking "$7,975" in the Annual Regulatory Fee column for UHF Commercial Markets 51 through 100 and inserting "$7,000"; and (10) striking "$4,975" in the Annual Regulatory Fee column for UHF Commercial Remaining Markets and inserting "$2,000": Provided further, That the FCC shall pay the travel-related expenses of the Federal-State Joint Board on Universal Service for those activities described in the Telecommunications Act of 1996 (47 U.S.C. 254(a)(1)).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $14,855,000: Provided, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $79,568,000: Provided, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: Provided further, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $31,306,000, to remain available until expended: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, *1996: Provided further, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2282-2285).*

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission, as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $300,000,000, of which $290,750,000 is for basic field programs and required independent audits carried out in accordance with section 509; $250,000 is for a payment to an opposing party for attorney's fees and expenses relating to civil actions named In the Matter of Baby Boy Doe, and Doe v. Roe and Indian tribe, with docket numbers 19512 and 21723 (Idaho February 23, 1996); $1,500,000 is for the Office of the Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients in accordance with section 509 of this Act; and $7,500,000 is for management and administration: Provided, That $198,750,000 of the total amount provided under this heading for basic field programs shall not be available except for the competitive award of grants and contracts under section 503 of this Act.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) Funds appropriated under this Act to the Legal Services Corporation for basic field programs shall be distributed as follows:

(1) The Corporation shall define geographic areas and make the funds available for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within the geographic area, except as provided in paragraph (2)(B). Funds for such a geographic area may be distributed by the Corporation to 1 or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)), subject to sections 502 and 504.

(2) Funds for grants from the Corporation, and contracts entered into by the Corporation for basic field programs, shall be allocated so as to provide—

(A) except as provided in subparagraph (B), an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code (or, in the case of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, Alaska, Hawaii, and the United States Virgin Islands, on the basis of the adjusted population counts historically used as the basis for such determinations); and

(B) an additional amount for Native American communities that received assistance under the Legal Services Corporation Act for fiscal year 1995, so that the proportion of the funds appropriated to the Legal Services Corporation for basic field programs for fiscal year 1996 that is received by the Native American communities shall be not less than the proportion of such funds appropriated for fiscal year 1995 that was received by the Native American communities.

(b) As used in this section:

(1) The term "individual in poverty" means an individual who is a member of a family (of 1 or more members) with an income at or below the poverty line.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 502. None of the funds appropriated in this Act to the Legal Services Corporation shall be used by the Corporation to make a grant, or enter into a contract, for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

(1) a private attorney admitted to practice in a State or the District of Columbia;

(2) a qualified nonprofit organization, chartered under the laws of a State or the District of Columbia, that—

(A) furnishes legal assistance to eligible clients; and

(B) is governed by a board of directors or other governing body, the majority of which is comprised of attorneys who—

(i) are admitted to practice in a State or the District of Columbia; and

(ii) are appointed to terms of office on such board or body by the governing body of a State, county, or municipal bar association, the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)(ii)); or

(4) a substate regional planning or coordination agency that serves a substate area and whose governing board is controlled by locally elected officials.

SEC. 503. (a)(1) Not later than April 1, 1996, the Legal Services Corporation shall implement a system of competitive awards of grants and contracts for all basic field programs, which shall apply to all such grants and contracts awarded by the Corporation after March 31, 1996, from funds appropriated in this Act.

(2) Any grant or contract awarded before April 1, 1996, by the Legal Services Corporation to a basic field program for 1996—

(A) shall not be for an amount greater than the amount required for the period ending March 31, 1996;

(B) shall terminate at the end of such period; and

(C) shall not be renewable except in accordance with the system implemented under paragraph (1).

(3) The amount of grants and contracts awarded before April 1, 1996, by the Legal Services Corporation for basic field programs for 1996 in any geographic area described in section 501 shall not exceed an amount equal to $^{3}/_{12}$ of the total amount to be distributed for such programs for 1996 in such area.

(b) Not later than 60 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process for the recipients of such grants and contracts.

(c) Such regulations shall specify selection criteria for the recipients, which shall include—

(1) a demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving the needs;

(2) the quality, feasibility, and cost effectiveness of a plan submitted by an applicant for the delivery of legal assistance to the eligible clients to be served; and

(3) the experience of the Legal Services Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the record of the applicant of past compliance with Corporation policies, practices, and restrictions.

(d) Such regulations shall ensure that timely notice regarding an opportunity to submit an application for such an award is published in periodicals of local and State bar associations and in at least 1 daily newspaper of general circulation in the area to be served by the person or entity receiving the award.

(e) No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process.

(f) For the purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

SEC. 504. (a) None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a "recipient")—

(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or other statement of general applicability and future effect by any Federal, State, or local agency;

(3) that attempts to influence any part of any adjudicatory proceeding of any Federal, State, or local agency if such part of the proceeding is designed for the formulation or modification of any agency policy of general applicability and future effect;

(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of the Congress or a State or local legislative body;

(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any person or entity receiving financial assistance provided by the Corporation;

(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this section;

(7) that initiates or participates in a class action suit;

(8) that files a complaint or otherwise initiates or participates in litigation against a defendant, or engages in a precomplaint settlement negotiation with a prospective defendant, unless—

(A) each plaintiff has been specifically identified, by name, in any complaint filed for purposes of such litigation or prior to the precomplaint settlement negotiation; and

(B) a statement or statements of facts written in English and, if necessary, in a language that the plaintiffs understand, that enumerate the particular facts known to the plaintiffs on which the complaint is based, have been signed by the plaintiffs, are kept on file by the recipient, and are made available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation:

Provided, That upon establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to such potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of any potential plaintiff pending the outcome of such litigation or negotiations after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiations: Provided further, That other parties to the litigation or negotiation shall have access to the statement of facts referred to in subparagraph (B) only through the discovery process after litigation has begun;

(9) unless—

(A) prior to the provision of financial assistance—

(i) if the person or entity is a nonprofit organization, the governing board of the person or entity has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)(i)), of the types of matters and cases to which the staff of the nonprofit organization shall devote time and resources; and

(ii) the staff of such person or entity has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with the written procedures of such board for such situations; and

(B) the staff of such person or entity provides to the governing board on a quarterly basis, and to the Corporation on an annual basis, information on all cases or matters undertaken other than cases or matters undertaken in accordance with such priorities;

(10) unless—

(A) prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged;

(B) any funds, including Interest on Lawyers Trust Account funds, received from a source other than the Corporation by the person or entity, and disbursements of such funds, are accounted for and reported as receipts and disbursements, respectively, separate and distinct from Corporation funds; and

(C) the person or entity agrees (notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)) to make the records described in this paragraph available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation;

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who—

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(D) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section; or

(F) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity;

(12) that supports or conducts a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity, except that this paragraph shall not be construed to prohibit the provision of training to an attorney or a paralegal to prepare the attorney or paralegal to provide—

(A) adequate legal assistance to eligible clients; or

(B) advice to any eligible client as to the legal rights of the client;

(13) that claims (or whose employee claims), or collects and retains, attorneys' fees pursuant to any Federal or State law permitting or requiring the awarding of such fees;

(14) that participates in any litigation with respect to abortion;

(15) that participates in any litigation on behalf of a person incarcerated in a Federal, State, or local prison;

(16) that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation;

(17) that defends a person in a proceeding to evict the person from a public housing project if—

(A) the person has been charged with the illegal sale or distribution of a controlled substance; and

(B) the eviction proceeding is brought by a public housing agency because the illegal drug activity of the person threatens the health or safety of another tenant residing in the public housing project or employee of the public housing agency;

(18) unless such person or entity agrees that the person or entity, and the employees of the person or entity, will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action, and will not refer such nonattorney to another person or entity or an employee of the person or entity, that is receiving financial assistance provided by the Corporation; or

(19) unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of which shall render any grant or contractual agreement to provide funding null and void, and, for such purposes, the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

(b) Nothing in this section shall be construed to prohibit a recipient from using funds from a source other than the Legal Services Corporation for the purpose of contacting, communicating with, or responding to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

(c) Not later than 30 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate a suggested list of priorities that boards of directors may use in setting priorities under subsection (a)(9).

(d)(1) The Legal Services Corporation shall not accept any non-Federal funds, and no recipient shall accept funds from any source other than the Corporation, unless the Corporation or the recipient, as the case may be, notifies in writing the source of the funds that the funds may not be expended for any purpose prohibited by the Legal Services Corporation Act or this title.

(2) Paragraph (1) shall not prevent a recipient from—

(A) receiving Indian tribal funds (including funds from private nonprofit organizations for the benefit of Indians or Indian tribes) and expending the tribal funds in accordance with the specific purposes for which the tribal funds are provided; or

(B) using funds received from a source other than the Legal Services Corporation to provide legal assistance to a covered individual if such funds are used for the specific purposes for which such funds were received, except that such funds may not be expended by recipients for any purpose prohibited by this Act or by the Legal Services Corporation Act.

(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made.

(f) As used in this section:

(1) The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "covered individual" means any person who—

(A) except as provided in subparagraph (B), meets the requirements of this Act and the Legal Services Corporation Act relating to eligibility for legal assistance; and

(B) may or may not be financially unable to afford legal assistance.

(3) The term "public housing project" has the meaning as used within, and the term "public housing agency" has the meaning given the term, in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a).

SEC. 505. None of the funds appropriated in this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or nonprofit organization.

SEC. 506. None of the funds appropriated in this Act to the Legal Services Corporation may be used by any person or entity receiving financial assistance from the Corporation to file or pursue a lawsuit against the Corporation.

SEC. 507. None of the funds appropriated in this Act to the Legal Services Corporation may be used for any purpose prohibited or contrary to any of the provisions of authorization legislation for fiscal year 1996 for the Legal Services Corporation that is enacted into law. Upon the enactment of such Legal Services Corporation reauthorization legislation, funding provided in *this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.*

SEC. 508. (a) The requirements of section 504 shall apply to the activities of a recipient described in section 504, or an employee of such a recipient, during the provision of legal assistance for a case or matter, if the recipient or employee begins to provide the legal assistance on or after the date of enactment of this Act.

(b) If the recipient or employee began to provide legal assistance for the case or matter prior to the date of enactment of this Act—

(1) each of the requirements of section 504 (other than paragraphs (7), (11), and (15) of subsection (a) of such section) shall, beginning on the date of enactment of this Act, apply to the activities of the recipient or employee during the provision of legal assistance for the case or matter; and

(2) the requirements of paragraphs (7), (11), and (15) of section 504(a) shall apply—

(A) beginning on the date of enactment of this Act, to the activities of the recipient or employee during the provision of legal assistance for any additional related claim for which the recipient or employee begins to provide legal assistance on or after such date; and

(B) beginning July 1, 1996, to all other activities of the recipient or employee during the provision of legal assistance for the case or matter.

(c) The Legal Services Corporation shall, every 60 days, submit to the Committees on Appropriations of the Senate and House of Representatives a report setting forth the status of cases and matters referred to in subsection (b)(2).

SEC. 509. (a) An audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act (referred to in this section as a "recipient") shall be conducted in accordance with generally accepted government auditing standards and guidance established by the Office of the Inspector General and shall report whether—

(1) the financial statements of the recipient present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the recipient has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations; and

(3) the recipient has complied with Federal laws and regulations applicable to funds received, regardless of source.

(b) In carrying out the requirements of subsection (a)(3), the auditor shall select and test a representative number of transactions and report all instances of noncompliance to the recipient. The recipient shall report any noncompliance found by the auditor during the audit under this section within 5 calendar days to the Office of the Inspector General. If the recipient fails to report the noncompliance, the auditor shall report the noncompliance directly to the Office of the Inspector General within 5 calendar days of the recipient's failure to report.

(c) The audits required under this section shall be provided for by the recipients and performed by independent public accountants. The cost of such audits shall be shared on a pro rata basis among all of the recipient's funding providers and the appropriate share shall be an allowable charge to the Federal funds provided by the Legal Services Corporation. No audit costs may be charged to the Federal funds when the audit required by this section has not been made in accordance with the guidance promulgated by the Office of the Inspector General.

If the recipient fails to have an acceptable audit in accordance with the guidance promulgated by the Office of the Inspector General, the following sanctions shall be available to the Corporation as recommended by the Office of the Inspector General:

(1) the withholding of a percentage of the recipient's funding until the audit is completed satisfactorily.

(2) the suspension of recipient's funding until an acceptable audit is completed.

(d) The Office of the Inspector General may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section. The Office of the Inspector General shall develop and issue rules of practice to implement this paragraph.

(e) Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the recipient shall promptly notify the Office of the Inspector General pursuant to such rules as the Office of the Inspector General shall prescribe.

(f) Audits conducted in accordance with this section shall be in lieu of the financial audits otherwise required by section 1009(c) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)).

(g) The Office of the Inspector General is authorized to conduct on-site monitoring, audits, and inspections in accordance with Federal standards.

(h) Notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)), financial records, time records, retainer agreements, client trust fund and eligibility records, and client names, for each recipient shall be made available to any auditor or monitor of the recipient, including any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation, except for reports or records subject to the attorney-client privilege.

(i) The Legal Services Corporation shall not disclose any name or document referred to in subsection (h), except to—

(1) a Federal, State, or local law enforcement official; or

(2) an official of an appropriate bar association for the purpose of enabling the official to conduct an investigation of a rule of professional conduct.

(j) The recipient management shall be responsible for expeditiously resolving all reported audit reportable conditions, findings, and recommendations, including those of sub-recipients.

(k) The Legal Services Corporation shall—

(1) Follow up on significant reportable conditions, findings, and recommendations found by the independent public accountants and reported to Corporation management by the Office of the Inspector General to ensure that instances of deficiencies and noncompliance are resolved in a timely manner, and

(2) Develop procedures to ensure effective follow-up that meet at a minimum the requirements of Office of Management and Budget Circular Number A–50.

(l) The requirements of this section shall apply to a recipient for its first fiscal year beginning on or after January 1, 1996.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,190,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $350,000: Provided, That this shall be the final Federal payment to the Martin Luther King, Jr. Federal Holiday Commission for operations and necessary closing costs.

OUNCE OF PREVENTION COUNCIL

For activities authorized by sections 30101 and 30102 of Public Law 103–322 (including administrative costs), $1,500,000, to remain available until expended, for the Ounce of Prevention Grant Program: Provided, That the Council may accept and use gifts and donations, both real and personal, for the purpose of aiding or facilitating the authorized activities of the Council, of which not to exceed $5,000 may be used for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $287,738,000, of which $3,000,000 is for the Office of Economic Analysis, to be headed by the Chief Economist of the Commission, and of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel and transportation to or from such meetings, and (iii) any other related lodging or subsistence: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of one percentum to one-twenty-ninth of one percentum, and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: Provided further, That the total amount appropriated for fiscal year 1996 under this heading shall be reduced as such fees are deposited to this appropriation so as to result in a final total fiscal year 1996 appropriation from the General Fund estimated at not more than $103,445,000: Provided further, That any such fees collected in excess of $184,293,000 shall remain available until expended but shall not be available for obligation until October 1, 1996: Provided further, That $1,000,000 of the funds appropriated for the Commission shall be available for the enforcement of the Investment Advisers Act of 1940 in addition to any other appropriated funds designated by the Commission for enforcement of such Act.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103–403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $219,190,000: Provided, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: Provided further, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $4,500,000, and for the cost of guaranteed loans, $156,226,000, as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000 shall remain available until September 30, 1997: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 1996, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $92,622,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $34,432,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $71,578,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $2,530,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

SEC. 510. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $5,000,000 to remain available until expended: Provided, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605 (a) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102–567.

SEC. 613. None of the funds made available in this Act may be used for "USIA Television Marti Program" under the Television Broadcasting to Cuba Act or any other program of United States Government television broadcasts to Cuba, when it is made known to the Federal official having authority to obligate or expend such funds that such use would be inconsistent with the applicable provisions of the March 1995 Office of Cuba Broadcasting Reinventing Plan of the United States Information Agency.

SEC. 614. (a)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by striking out the item relating to the Advisory Corrections Council.

(b) This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 615. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 616. Section 201(a) of Public Law 104–99 is repealed.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, $65,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $95,500,000 are rescinded.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $7,400,000 are rescinded.

TITLE VIII—PRISON LITIGATION REFORM

SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(B) The court shall not order any prospective relief that requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State or local law, unless—

"(i) Federal law permits such relief to be ordered in violation of State or local law;

"(ii) the relief is necessary to correct the violation of a Federal right; and

"(iii) no other relief will correct the violation of the Federal right.

"(C) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that—

"(i) crowding is the primary cause of the violation of a Federal right; and

"(ii) no other relief will remedy the violation of the Federal right.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of program facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party or intervener—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law; and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master

under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) may be authorized by a court to conduct hearings and prepare proposed findings of fact, which shall be made on the record;

"(B) shall not make any findings or communications ex parte;

"(C) may be authorized by a court to assist in the development of remedial plans; and

"(D) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages;

"(8) the term 'special master' means any person appointed by a Federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure or pursuant to any inherent power of the court to exercise the powers of a master, regardless of the title or description given by the court; and

"(9) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.".

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions.".

SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section.".

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section.".

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.".

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

"(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

"(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit that includes a statement of all assets such prisoner possesses";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.";

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief.".

(b) EXCEPTION TO DISCHARGE OF DEBT IN BANKRUPTCY PROCEEDING.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28.".

(c) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.".

(d) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.".

(e) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

SEC. 805. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

"§1915A. Screening

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief.

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

"1915A. Screening.".

SEC. 806. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.".

SEC. 807. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS.

Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.

SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD.

Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.

SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§1932. Revocation of earned release credit

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is

amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit.".

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence,"; and

(iii) by striking "such";

(C) in the third sentence, by striking "If the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (2), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.".

SEC. 810. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996.".

(b) Such amounts as may be necessary for programs, projects or activities provided for in the District of Columbia Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

FEDERAL CONTRIBUTION FOR EDUCATION REFORM

For a Federal contribution to Education Reform, $14,930,000 which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104–8, approved April 17, 1995 (109 Stat. 131), and shall be disbursed from such account pursuant to the instructions of the Authority and in accordance with title II of this Act, where applicable, as follows:

$200,000 shall be available for payments to charter schools;

$300,000 shall be available for the Public Charter School Board;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities;

$100,000 shall be available to develop a plan for a residential school;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council;

$1,450,000 shall be available to the District Employment and Learning Center;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program;

$70,000 shall be available for the Everybody Wins program: Provided, That $35,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$100,000 shall be available for the Fit Kids program: Provided, That $50,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,250,000 shall be available pursuant to a plan developed by the Superintendent of the District of Columbia Public Schools, in consultation with public and private entities, for repair, modernization, maintenance and planning consistent with subtitle A and subtitle F of title II of this Act, the August 14, 1995 recommendations of the "Superintendent's Task Force on Education Infrastructure for the 21st Century" and the June 13, 1995 "Accelerating Education Reform in the District of Columbia: Building on BESST": Provided, That not more than $250,000 of this amount may be available for planning: Provided further, That these funds shall be available for repair, modernization, maintenance of classroom buildings: Provided further, That these funds shall remain available until expended.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,130,000 and 1,498 full-time equivalent positions (end of year) (including $117,464,000 and 1,158 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds): Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That $29,500,000 is for pay-as-you-go capital projects of which $1,500,000 shall be for a capital needs assessment study, and $28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: Provided further, That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): Provided, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes *issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.*

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That $250,000 is used for the Georgetown Summer Detail; $200,000 is used for East of the River Detail; $100,000 is used for Adams Morgan Detail; and $100,000 is used for the Capitol Hill Summer Detail: Provided further, That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: Provided further, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: Provided further, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: Provided further, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $580,996,000 and 10,167 full-time equivalent positions (including $498,310,000 and 9,014 full-time equivalent positions from local funds $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $111,800,000 (including $111,000,000 from local funds and $800,000 from intra-District funds) shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,396,000 and 1,079 full-time equivalent positions (including $45,377,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $20,742,000 and 415 full-time equivalent positions (including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: Provided, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

EDUCATION REFORM

Education reform, $14,930,000, to be allocated as follows:

$200,000 shall be available for payments to charter schools as authorized under Subtitle B of title II of this Act;

$300,000 shall be available for the Public Charter School Board as authorized under Subtitle B of title II of this Act;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments as authorized under Subtitle D of title II of this Act;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities as authorized under Subtitle F of title II of this Act;

$100,000 shall be available to develop a plan for a residential school as authorized under Subtitle G of title II of this Act;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available to the District Employment and Learning Center as authorized under Subtitle I of title II of this Act;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program as authorized under Subtitle I of title II of this Act;

$70,000 shall be available for the Everybody Wins program;

$100,000 shall be available for the Fit Kids program;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,250,000 shall be available pursuant to a plan developed by the Superintendent of the District of Columbia Public Schools, in consultation with public and private entities, for repair, modernization, maintenance and planning consistent with subtitle A and subtitle F of title II of this Act, the August 14, 1995 recommendations of the "Superintendent's Task Force on Education Infrastructure for the 21st Century" and the June 13, 1995 "Accelerating Education Reform in the District of Columbia: Building on BESST": Provided, That not more than $250,000 of this amount may be available for planning: Provided further, That these funds shall be available for repair, modernization, maintenance of classroom buildings: Provided further, That these funds shall remain available until expended:

Provided, That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve public school facilities in the same ward as the Hamilton School.

Human Support Services

Human support services, $1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): Provided, That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

Public Works

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,568,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

Washington Convention Center Fund Transfer Payment

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

Repayment of General Fund Recovery Debt

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

Repayment of Interest on Short-Term Borrowing

For repayment of interest on short-term borrowing, $9,698,000 from local funds.

Pay Renegotiation or Reduction in Compensation

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: Provided, That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: Provided further, That the Congress hereby ratifies and approves legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: Provided further, That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

Rainy Day Fund

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: Provided, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

Incentive Buyout Program

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

Outplacement Services

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

Boards and Commissions

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

Government Re-Engineering Program

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

Capital Outlay

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

Water and Sewer Enterprise Fund

For the Water and Sewer Enterprise Fund, $242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from *intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.*

For construction projects, $39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,950,000 and 88 full-time equivalent positions (end-of-year) (including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,351,000 and 8 full-time equivalent positions (end-of-year) (including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $115,034,000, of which $56,735,000 shall be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from the other funds, and $5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,516,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104–8, approved April 17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $165,837,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445, 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: Provided, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such *sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).*

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): Provided, That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104–8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, sec. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: Provided, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married *couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.*

COMPENSATION FOR THE COMMISSION ON JUDICIAL DISABILITIES AND TENURE AND FOR THE JUDICIAL NOMINATION COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, secs. 11–1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11–1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93–198; D.C. Code, sec. 1–1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.".

CALCULATED REAL PROPERTY TAX RATE RESCISSION AND REAL PROPERTY TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47–801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47–812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.".

(B) A new subsection (a–2) is added to read as follows:

"(a–2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.".

(2) Section 413(c) (D.C. Code, sec. 47–815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENT

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council *of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.*

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301).

BUDGET APPROVAL

SEC. 142. The Board of Education the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1–603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

"(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.".

(2) A new paragraph (15A) is added to read as follows:

"(15A) 'School administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.".

(b) Section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)) is amended by adding a new subparagraph (L–i) to read as follows:

"(L–i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"

(c) Section 2402 (D.C. Code, sec. 1–625.2) is amended by adding a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1–625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) A new section 2406 is added to read as follows:

"SEC. 2406. Abolishment of positions for Fiscal Year 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeth's Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to his section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2–38; D.C. Code, sec. 1–2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the

Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

Sec. 150. (a) CEILING ON TOTAL OPERATING EXPENSES.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed $4,994,000,000 of which $165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

PLANS FOR LORTON CORRECTIONAL COMPLEX

SEC. 151. (a) DEVELOPMENT OF PLANS.—Not later than March 15, 1996, the District of Columbia shall develop a series of alternative plans meeting the requirements of subsection (b) for the use and operation of the Lorton Correctional Complex (hereafter in this section referred to as the "Complex"), including—

(1) a plan under which the Complex will be closed;

(2) a plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate;

(3) a plan under which the Complex will be operated under the management of the Federal government;

(4) a plan under which the Complex will be operated under private management; and

(5) such other plans as the District of Columbia considers appropriate.

(b) REQUIREMENTS FOR PLANS.—Each of the plans developed by the District of Columbia under subsection (a) shall meet the following requirements:

(1) The plan shall provide for an appropriate transition period not to exceed 5 years in length.

(2) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(3) The plan shall include a description of any legislation required to implenent the plan.

(4) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(5) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(6) For each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plans under subsection (a), the District of Columbia shall submit the plans to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 152. (a) IN GENERAL.—Section 16–302, D.C. Code, is amended—

(1) by striking "Any person" and inserting "(a) Subject to subsection (b), any person"; and

(2) by adding at the end the following subsection:

"(b)(1) Except as provided in paragraph (2), no person may join in a petition under this section unless the person is the spouse of the petitioner.

"(2) An unmarried person may file a petition for adoption where no other person joins in the petition or where the co-petitioner is the natural parent of the child.".

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

"(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

"(A) shall qualify such individual for the treatment describe in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS.—

"(1) IN GENERAL.—The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A) (i)–(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.".

(3) Effective date; additional election for former federal employees serving on date of enactment; election for employees appointed during interim period.—

(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) Additional election for former federal employees serving on date of enactment.—

(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking "the Authority and its members" and inserting "the Authority, its members, and its employees"; and

(2) by striking "the District of Columbia" and inserting "the Authority or its members or employees or the District of Columbia".

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all fund paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the Environmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1–725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Offices and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96–122, approved November 17, 1979; D.C. Code, secs. 1–722(d) and 1–724(d)).

This title may be cited as the "District of Columbia Appropriations Act, 1996".

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONSENSUS COMMISSION.—The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subtitle L.

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia Government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTION.—The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through grade 12; or

(ii) leading to a secondary school diploma, or its recognized equivalent.

(B) EXCEPTION.—The term "District of Columbia public school" does not include a public charter school.

(13) DISTRICTWIDE ASSESSMENTS.—The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii)) administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that—

(A) are aligned with the District of Columbia's content standards and core curriculum;

(B) provide coherent information about student attainment of such standards;

(C) are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;

(D) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and

(E) provide for—

(i) the participation in such assessments of all students;

(ii) individual student assessments for students that fail to reach minimum acceptable levels of performance;

(iii) the reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32)) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and

(iv) the inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) ELECTRONIC DATA TRANSFER SYSTEM.—The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the District of Columbia.

(17) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) The Public Charter School Board.

(C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after the date of the enactment of this Act.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (42 U.S.C. 9902(3))); and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) INDIVIDUAL CAREER PATH.—The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) LITERACY.—The term "literacy" means—

(A) in the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and

(B) in the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(22) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(23) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(24) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public school or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(25) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(26) PARENT.—The term "parent" means a person who has custody of a child, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(27) PETITION.—The term "petition" means a written application.

(28) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subtitle D.

(29) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that—

(A) is established pursuant to subtitle B; and

(B) except as provided under sections 2212(d)(5) and 2213(c)(5) is not a part of the District of Columbia public schools.

(30) PUBLIC CHARTER SCHOOL BOARD.—The term "Public Charter School Board" means the Public Charter School Board established under section 2214.

(31) SECONDARY SCHOOL.—The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" means a student who is a child with a disability as provided in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

SEC. 2003. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall be effective during the period beginning on the date of enactment of this Act and ending 5 years after such date.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after the date of enactment of this Act, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to the recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools.

(B) The preparation of students for the workforce, including—

(i) providing special emphasis for students planning to obtain a postsecondary education; and

(ii) the development of individual career paths.

(C) The improvement of the health and safety of students in District of Columbia public schools.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools.

(E) The implementation of a comprehensive and effective adult education and literacy program.

(F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion.

(G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8.

(H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service.

(I) Steps necessary to establish an electronic data transfer system.

(J) Encourage parental involvement in all school activities, particularly parent teacher conferences.

(K) Development and implementation, through the Board of Education and the Superintendent, of a uniform dress code for the District of Columbia public schools, that—

(i) shall include a prohibition of gang membership symbols;

(ii) shall take into account the relative costs of any such code for each student; and

(iii) may include a requirement that students wear uniforms.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively.

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools.

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school.

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in section 2421.

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders.

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals).

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions.

(S) The implementation of policies regarding alternative teacher certification requirements.

(T) The implementation of testing requirements for teacher licensing renewal.

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995.

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) OTHER INFORMATION.—For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals shall be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Subtitle B—Public Charter Schools

SEC. 2201. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert a District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) PRIVATE OR INDEPENDENT SCHOOL.—An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2202.

SEC. 2202. CONTENTS OF PETITION.

A petition under section 2201 to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school and the manner in which the school will meet the content standards, and conduct the districtwide assessments, described in section 2411(b).

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum—

(A) the area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;

(B) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(C) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level.

(5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(7) A description of the proposed rules and policies for governance and operation of the proposed school.

(8) Copies of the proposed articles of incorporation and bylaws of the proposed school.

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees.

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia.

(12) An explanation of the qualifications that will be required of employees of the proposed school.

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school.

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school.

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools.

(B) The Association of Independent Maryland Schools.

(C) The Southern Association of Colleges and Schools.

(D) The Virginia Association of Independent Schools.

(E) American Montessori Internationale.

(F) The American Montessori Society.

(G) The National Academy of Early Childhood Programs.

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school.

(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences.

(18) An explanation of the relationship that will exist between the public charter school and the school's employees.

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

SEC. 2203. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.

(a) SCHEDULE.—An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL.—Subject to subsection (i), an eligible chartering authority may approve a petition to establish a public charter school, if—

(1) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition; and

(3) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that shall not exceed 30 days.

(g) DENIAL EXPLANATION.—If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) CHARTER.—The provisions described in paragraphs (1), (7), (8), (11), (16), (17), and (18) of section 2202 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the eligible chartering authority.

(i) NUMBER OF PETITIONS.—

(1) FIRST YEAR.—For academic year 1996–1997, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

(2) SUBSEQUENT YEARS.—For academic year 1997–1998 and each academic year thereafter each eligible chartering authority shall not approve more than 5 petitions to establish a public charter school under this subtitle.

(j) EXCLUSIVE AUTHORITY OF THE ELIGIBLE CHARTERING AUTHORITY.—No governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except for officers or employees of the eligible chartering authority with which the petition is filed.

SEC. 2204. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as the public charter school's facilities, from public or private sources.

(3) To receive and disburse funds for public charter school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds.

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) maintains for financial reporting purposes separate accounts for grants or gifts.

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in the public charter school's own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding $10,000, the

school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO THE AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students, or for field trips or similar activities.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subtitle; and

(B) shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subtitle.

(4) HEALTH AND SAFETY.—A public charter school shall maintain the health and safety of all students attending such school.

(5) CIVIL RIGHTS AND IDEA.—The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subtitle.

(7) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(9) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(10) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of section 2203 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Consensus Commission. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school.

(ii) Student performance on any districtwide assessments.

(iii) Grade advancement for students enrolled in the public charter school.

(iv) Graduation rates, college admission test scores, and college admission rates, if applicable.

(v) Types and amounts of parental involvement.

(vi) Official student enrollment.

(vii) Average daily attendance.

(viii) Average daily membership.

(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(x) A report on school staff indicating the qualifications and responsibilities of such staff.

(xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in clauses (i) through (ix) of subparagraph (B) that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31–404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Preschool.

(B) Prekindergarten.

(C) Any grade or grades from kindergarten through grade 12.

(D) Residential education.

(E) Adult, community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2205. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be parents of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the election or selection criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subtitle, and other applicable law.

SEC. 2206. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert a District of Columbia public school or a private or independent school into a public charter school, is approved, the school may give priority in enrollment to—

(1) students enrolled in the school at the time the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2207. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2–139, effective March 3, 1979 (D.C. Code, sec. 1–627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2).

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

SEC. 2208. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2–152, effective March 9, 1979 (D.C. Code, sec. 44–216 et seq.), to a student attending a District of Columbia public school.

SEC. 2209. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2210. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) DEFINITION.—For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in section 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D).

(C) NUMBER OF ELIGIBLE STUDENTS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) AGGREGATE NUMBER OF ELIGIBLE STUDENTS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made—

(I) were enrolled in a private or independent school; and

(II) resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the aggregate total described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) ESEA REQUIREMENTS.—Except as provided in paragraph (6), a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of section 1112(b) (20 U.S.C. 6312(b)).

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of section 1112(c) (20 U.S.C. 6312(c)).

(C) Section 1113 (20 U.S.C. 6313).

(D) Section 1115A (20 U.S.C. 6316).

(E) Subsections (a), (b), and (c) of section 1116 (20 U.S.C. 6317).

(F) Subsections (d) and (e) of section 1118 (20 U.S.C. 6319).

(G) Section 1120 (20 U.S.C. 6321).

(H) Subsections (a) and (c) of section 1120A (20 U.S.C. 6322).

(I) Section 1126 (20 U.S.C. 6337).

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) EDUCATION OF CHILDREN WITH DISABILITIES.—Notwithstanding any other provision of this title, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

SEC. 2211. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subtitle.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) ANNUAL REPORT.—On or before July 30 of each year, each eligible chartering authority that issues a charter under this subtitle shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

(1) A list of the members of the eligible chartering authority and the addresses of such members.

(2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report.

(3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school.

(4) The number of petitions described in paragraph (3) that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied.

(5) A description of any new charters issued by the eligible chartering authority during the year preceding the report.

(6) A description of any charters renewed by the eligible chartering authority during the year preceding the report.

(7) A description of any charters revoked by the eligible chartering authority during the year preceding the report.

(8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report.

(9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools.

SEC. 2212. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of times, each time for a 5-year period.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b), except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that—

(1) the school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in its charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the eligible chartering authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) ALTERNATIVES UPON NONRENEWAL.—If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2213. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the eligible chartering authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) ALTERNATIVES UPON REVOCATION.—If an eligible chartering authority revokes a charter granted to a public charter school, the Board of Education may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2214. PUBLIC CHARTER SCHOOL BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia City Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools.

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise.

(C) The educational, social, and economic development needs of the District of Columbia.

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) VACANCIES.—Any time there is a vacancy in the membership of the Board, the Secretary of Education shall present the Mayor a list of 3 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 individual from the list to serve on the Board. The Secretary shall recommend and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days of receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary shall make such appointments as are necessary to bring the membership of the Board to 7.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2), the Mayor shall designate—

(i) 2 members to serve terms of 3 years;

(ii) 2 members to serve terms of 2 years; and

(iii) 1 member to serve a term of 1 year.

(B) REAPPOINTMENT.—Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) INDEPENDENCE.—No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) OPERATIONS OF THE BOARD.—

(1) CHAIR.—The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) QUORUM.—A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) MEETINGS.—The Board shall meet at the call of the Chair, subject to the hearing requirements of sections 2203, 2212(d)(3), and 2213(c)(3).

(c) NO COMPENSATION FOR SERVICE.—Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) PERSONNEL AND RESOURCES.—

(1) IN GENERAL.—Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level EG–16 of the Educational Service of the District of Columbia.

(2) SPECIAL RULE.—The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(e) EXPENSES OF BOARD.—Any expenses of the Board shall be paid from such funds as may be available to the Mayor.

(f) AUDIT.—The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subtitle, there are authorized to be appropriated $300,000 for fiscal year 1996 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 2215. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally established entities are encouraged to explore whether it is feasible for the agency or entity to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Administration.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Department of Education.

(8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) REPORT.—Not later than 120 days after date of enactment of this Act, any agency or institution described in subsection (a) that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate committees of the Congress.

Subtitle C—Even Start

SEC. 2301. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302) is amended by striking subsection (b) and inserting the following:

"(b) EVEN START.—

"(1) IN GENERAL.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia described in section 1211, there are authorized to be appropriated—

"(A) $2,000,000 for fiscal year 1996;

"(B) $3,500,000 for fiscal year 1997;

"(C) $5,000,000 for fiscal year 1998;

"(D) $5,000,000 for fiscal year 1999; and

"(E) $5,000,000 for fiscal year 2000.".

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended—

(1) in section 1202(a)(1) (20 U.S.C. 6362(a)(1)), by inserting "(1)" after "1002(b)";

(2) in section 1202(b) (20 U.S.C. 6362(b)), by inserting "(1)" after "1002(b)";

(3) in section 1202(d)(3) (20 U.S.C. 6362(d)(3)), by inserting "(1)" after "1002(b)";

(4) in section 1204(a) (20 U.S.C. 6364(a)), by inserting "intensive" after "cost of providing";

(5) in section 1205(4) (20 U.S.C. 6365(4)), by inserting ", intensive" after "high-quality"; and

(6) by adding at the end the following new section:

"SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

"(a) DISTRICT OF COLUMBIA PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—In addition to any grant for the District of Columbia authorized under

section 1202, the Secretary shall provide grants, on a competitive basis, to eligible entities to enable such entities to carry out Even Start programs in the District of Columbia that build on the findings of the National Evaluation of the Even Start Family Literacy Program, such as providing intensive services in early childhood education, parent training, and adult literacy or adult education.

"(2) NUMBER OF GRANTS.—The Secretary shall award—

"(A) not more than 8 grants under this section for fiscal year 1996;

"(B) not more than 14 grants under this section for fiscal year 1997;

"(C) not more than 20 grants under this section for each of the fiscal years 1998 and 1999; and

"(D) not more than 20 grants under this section, or such number as the Secretary determines appropriate taking into account the results of evaluations described in subsection (i), for fiscal year 2000.

"(b) DEFINITION.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

"(1) a District of Columbia public school;

"(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))); and

"(3) a private nonprofit community-based organization.

"(c) USES OF FUNDS; FEDERAL SHARE.—

"(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

"(2) FEDERAL SHARE.—Each program funded under this section is subject to the Federal share requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

"(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

"(A) such entity needs additional funds to be effective; and

"(B) the increase will not reduce the amount of funds available to other eligible entities that receive funds under this section.

"(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each eligible entity receiving a grant under this section for such year in an amount that bears the same relation to such funds as the amount each such entity received under this section bears to the amount all such entities received under this section.

"(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of early childhood education, parent training, and adult literacy or adult education.

"(e) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

"(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, if such parent or adult—

"(i) is eligible to participate in an adult education program under the Adult Education Act; or

"(ii) is attending, or is eligible by age to attend, a District of Columbia public school; and

"(B) any child, from birth through age 7, of an individual described in subparagraph (A).

"(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section, except that for purposes of this section—

"(A) the reference in paragraph (1) to subsection (a) shall be read to refer to paragraph (1); and

"(B) references in such section to this part shall be read to refer to this section.

"(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

"(1) use the selection criteria described in subparagraphs (A) through (F), and (H), of section 1208(a)(1); and

"(2) give priority to applications for programs that—

"(A) target services to schools in which a schoolwide program is being conducted under section 1114; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(a)(2), and the progress requirement described in section 1208(b)(4), shall apply to grants made under this section, except that—

"(1) references in those sections to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

"(2) notwithstanding section 1208(b), the Secretary shall not provide continuation funding to a grant recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress in accomplishing the objectives of this section.

"(i) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year—

"(i) to provide technical assistance to eligible entities, including providing funds to one or more District of Columbia nonprofit organizations to enable such organizations to provide technical assistance to eligible entities in the areas of community development and coalition building; and

"(ii) for the evaluation conducted pursuant to paragraph (2).

"(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to enter into a contract with the National Center for Family Literacy for the provision of technical assistance to eligible entities.

"(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A)—

"(i) to provide for independent evaluations of programs under this section in order to determine the effectiveness of such programs in providing high quality family literacy services, including—

"(I) intensive and high quality early childhood education;

"(II) intensive and high quality services in adult literacy or adult education;

"(III) intensive and high quality services in parent training;

"(IV) coordination with related programs; and

"(V) training of related personnel in appropriate skill areas; and

"(ii) to determine if the grant amount provided to eligible recipients to carry out such projects is appropriate to accomplish the objectives of this section.

"(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

"(ii) In order to determine a program's effectiveness, each evaluation shall contain objective measures of such effectiveness, and whenever feasible, shall contain the specific views of program participants about such programs.

"(C) The Secretary shall prepare and submit to the appropriate congressional committees a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report regarding the results of such evaluations by March 1, 1998.".

Subtitle D—World Class Schools Task Force, Core Curriculum, Content Standards, Assessments, and Promotion Gates

PART 1—WORLD CLASS SCHOOLS TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, AND ASSESSMENTS

SEC. 2411. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b).

(2) DEFINITION.—For the purpose of this subtitle, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that—

(A) has a national reputation for advocating content standards;

(B) has a national reputation for advocating a strong liberal arts curriculum;

(C) has experience with at least 4 urban school districts for the purpose of establishing content standards;

(D) has developed and managed professional development programs in science, mathematics, the humanities and the arts; and

(E) is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

(b) RECOMMENDATION REQUIRED.—

(1) IN GENERAL.—The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

(A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after the date of enactment of this Act.

(B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.

(C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A). Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under section 2421. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between—

(i) individual District of Columbia public schools and public charter schools; and

(ii) individual students attending such schools.

(D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B).

(2) SPECIAL RULE.—The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) that permit comparisons among—

(A) individual District of Columbia public schools and public charter schools, and individual students attending such schools; and

(B) students of other nations.

(c) CONTENT.—The content standards and assessments recommended under subsection (b) shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) SUBMISSION TO BOARD OF EDUCATION FOR ADOPTION.—If the content standards, curriculum, assessments, and programs recommended under subsection (b) are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

SEC. 2412. CONSULTATION.

The World Class Schools Task Force shall conduct its duties under this part in consultation with—

(1) the District of Columbia Goals Panel;

(2) officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;

(3) the District of Columbia community, with particular attention given to educators, and parent and business organizations; and

(4) any other persons or groups that the task force deems appropriate.

SEC. 2413. ADMINISTRATIVE PROVISIONS.

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that are relevant to its duties under this part and shall make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 2414. CONSULTANTS.

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this part.

SEC. 2415. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1996 to carry out this part. Such funds shall remain available until expended.

PART 2—PROMOTION GATES

SEC. 2421. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than one year after the date of adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than 1 grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) 5TH THROUGH 8TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) 9TH THROUGH 12TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2501. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish on or before April 15, 1996, a formula to determine the amount of—

(A) the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) the annual payment to each public charter school for the operating expenses of each public charter school.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2502 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2502 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTIONS.—

(A) FORMULA.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels.

(B) PAYMENT.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students—

(i) with special needs; or

(ii) who do not meet minimum literacy standards.

SEC. 2502. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the Board of Education containing the information described in subsection (b) that is applicable to such school.

(2) SPECIAL RULE.—Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2503(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Board of Education shall arrange with the Authority to provide for the conduct of an independent audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the independent auditor—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the Board of Education under subsection (c), the Authority shall submit to the Board of Education, the Mayor, the District of Columbia Council, and the appropriate congressional committees, the audit conducted under this subsection.

(4) COST OF THE AUDIT.—The Board of Education shall reimburse the Authority for the cost of the independent audit, solely from amounts

appropriated to the Board of Education for staff, stipends, and other-than-personal-services of the Board of Education by an Act making appropriations for the District of Columbia.

SEC. 2503. PAYMENTS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of an Act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2501(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) INITIAL PAYMENT.—Not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2501(b) to a bank designated by such school.

(B) FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under section 2502(a), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) PRO RATA REDUCTION.—If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in section 2501(b).

(ii) INCREASE.—If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for each fiscal year to carry out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the fiscal years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) and not paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by ${}^{1}/_{12}$ *of the total anticipated enrollment as set forth in the petition to establish the public charter school; and*

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under section 2501(b) by ${}^{1}/_{12}$ *of the total anticipated enrollment as set forth in the petition to establish the public charter school.*

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection, except that for purposes of this subparagraph references to District of Columbia public schools in such subparagraphs (C) and (D) shall be read to refer to public charter schools.

Subtitle F—School Facilities Repair and Improvement

SEC. 2550. DEFINITIONS.

For purposes of this subtitle—

(1) the term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in a building containing classrooms; and

(2) the term "repair and improvement" includes administration, construction, and renovation.

PART 1—SCHOOL FACILITIES

SEC. 2551. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act the Administrator of the General Services Administration shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") with the Superintendent regarding the terms under which the Administrator will provide technical assistance and related services with respect to District of Columbia public schools facilities management in accordance with this section.

(b) TECHNICAL ASSISTANCE AND RELATED SERVICES.—The technical assistance and related services described in subsection (a) shall include—

(1) the Administrator consulting with and advising District of Columbia public school personnel responsible for public schools facilities management, including repair and improvement with respect to facilities management of such schools;

(2) the Administrator assisting the Superintendent in developing a systemic and comprehensive facilities revitalization program, for the repair and improvement of District of Columbia public school facilities, which program shall—

(A) include a list of facilities to be repaired and improved in a recommended order of priority;

(B) provide the repair and improvement required to support modern technology; and

(C) take into account the Preliminary Facilities Master Plan 2005 (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century);

(3) the method by which the Superintendent will accept donations of private goods and services for use by the District of Columbia public schools without regard to any law or regulation of the District of Columbia;

(4) the Administrator recommending specific repair and improvement projects in District of Columbia public school facilities to the Superintendent that are appropriate for completion by members and units of the National Guard and the Reserves in accordance with the program developed under paragraph (2);

(5) upon the request of the Superintendent, the Administrator assisting the appropriate District of Columbia public school officials in the preparation of an action plan for the performance of any repair and improvement recommended in the program developed under paragraph (2), which action plan shall detail the technical assistance and related services the Administrator proposes to provide in the accomplishment of the repair and improvement;

(6) upon the request of the Superintendent, and if consistent with the efficient use of resources as determined by the Administrator, the coordination of the accomplishment of any repair and improvement in accordance with the action plan prepared under paragraph (5), except that in carrying out this paragraph, the Administrator shall not be subject to the requirements of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), nor shall such action plan be subject to review under the bid protest procedures described in sections 3551 through 3556 of title 31, United States Code, or the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.);

(7) providing access for the Administrator to all District of Columbia public school facilities as well as permitting the Administrator to request and obtain any record or document regarding such facilities as the Administrator determines necessary, except that any such record or document shall not become a record (as defined in section 552a of title 5, United States Code) of the General Services Administration; and

(8) the Administrator making recommendations regarding how District of Columbia public school facilities may be used by the District of Columbia community for multiple purposes.

(c) AGREEMENT PROVISIONS.—The Agreement shall include—

(1) the procedures by which the Superintendent and Administrator will consult with respect to carrying out this section, including reasonable time frames for such consultation;

(2) the scope of the technical assistance and related services to be provided by the General Services Administration in accordance with this section;

(3) assurances by the Administrator and the Superintendent to cooperate with each other in any way necessary to ensure implementation of the Agreement, including assurances that funds available to the District of Columbia shall be used to pay the obligations of the District of Columbia public school system that are incurred as

a result of actions taken under, or in furtherance of, the Agreement, in addition to funds available to the Administrator for purposes of this section; and

(4) the duration of the Agreement, except that in no event shall the Agreement remain in effect later than the day that is 24 months after the date that the Agreement is signed, or the day that the agency designated pursuant to section 2552(a)(2) assumes responsibility for the District of Columbia public school facilities, whichever day is earlier.

(d) LIMITATION ON ADMINISTRATOR'S LIABILITY.—No claim, suit, or action may be brought against the Administrator in connection with the discharge of the Administrator's responsibilities under this subtitle.

(e) SPECIAL RULE.—Notwithstanding any other provision of law, the Administrator is authorized to accept and use a conditioned gift made for the express purpose of repairing or improving a District of Columbia public school, except that the Administrator shall not be required to carry out any repair or improvement under this section unless the Administrator accepts a donation of private goods or services sufficient to cover the costs of such repair or improvement.

(f) EFFECTIVE DATE.—This subtitle shall cease to be effective on the earlier day specified in subsection (c)(4).

SEC. 2552. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall—

(1) design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in section 2551(b)(2); and

(2) designate a new or existing agency or authority within the District of Columbia Government to administer such program.

(b) PROCEEDS.—Such program shall include—

(1) identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identifying and designating long-term funding for capital and maintenance of facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for the repair and improvement, and maintenance and management, of District of Columbia public schools.

SEC. 2553. AUTHORIZATION OF APPROPRIATIONS FOR ENGINEERING PLANS.

There are authorized to be appropriated to the Administrator, $500,000 for fiscal year 1996, which funds only shall be available for the costs of engineering plans developed to carry out this subtitle.

PART 2—WAIVERS

SEC. 2561. WAIVERS.

(a) IN GENERAL.—

(1) REQUIREMENTS WAIVED.—Subject to subsection (b), all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on the date of enactment of this Act and ending 24 months after such date.

(2) DONATIONS.—An employer may accept, and persons may voluntarily donate, materials and services for the repair and improvement of a District of Columbia public school facility: Provided, That the provision of voluntary labor meets the requirements of 29 U.S.C. 203(e)(4).

(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 276a–276a–7.

PART 3—GIFTS, DONATIONS, BEQUESTS, AND DEVISES

SEC. 2571. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.

(a) IN GENERAL.—A District of Columbia public school or a public charter school may accept directly from any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) TAX LAWS.—For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

Subtitle G—Residential School

SEC. 2601. RESIDENTIAL SCHOOL AUTHORIZED.

(a) IN GENERAL.—The Superintendent is authorized to develop a plan to establish for the District of Columbia a residential school for academic year 1997–1998 and to assist in the startup of such school.

(b) PLAN REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including the renovation or construction of a facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2602. USE OF FUNDS.

Funds under this subtitle may be used—

(1) to develop the plan described in section 2601; and

(2) for capital costs associated with the startup of a residential school, including the purchase of real and personal property and the renovation or construction of facilities.

SEC. 2603. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees, non-Federal funding sources for the operation of the residential school.

SEC. 2604. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of the residential school.

SEC. 2605. AUTHORIZATION OF APPROPRIATIONS.

(a) PLAN.—There are authorized to be appropriated to the District of Columbia $100,000 for fiscal year 1996 to develop the plan described in section 2601.

(b) CAPITAL COSTS.—There are authorized to be appropriated $1,900,000 for fiscal year 1997 to carry out section 2602(2).

Subtitle H—Progress Reports and Accountability

SEC. 2651. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

SEC. 2652. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

Subtitle I—Partnerships With Business

SEC. 2701. PURPOSE.

The purpose of this subtitle is—

(1) to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;

(2) to establish a regional job training and employment center;

(3) to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;

(4) to coordinate private sector investments in carrying out this title; and

(5) to assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

SEC. 2702. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2703 for the purposes of carrying out the duties under sections 2704 and 2707.

SEC. 2703. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2702 if the corporation is a national business organization incorporated in the District of Columbia, that—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational agencies throughout the United States with respect to the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2704. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning Technologies Advancement Council" (in this subtitle referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The private, nonprofit corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (e) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) ELECTRONIC DATA TRANSFER SYSTEM.—The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on the date of enactment of this Act, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the private, nonprofit corporation—

(i) shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including—

(i) the extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(4) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (3), the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) IMPLEMENTATION.—The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(5) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term technology plan under paragraph (4), the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subtitle referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on the date of enactment of this Act, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The private, nonprofit corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and the consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act), for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the task force established under subtitle D and the Superintendent, at a minimum, shall provide for the following:

(A) Professional development for teachers consistent with the model professional development programs for teachers under section 2411(b)(4), or consistent with the core curriculum developed by the Superintendent under section 2411(b)(2), as the case may be, except that for fiscal year 1996, such professional development shall focus on curriculum for elementary school grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Professional development for principals, with a special emphasis on middle school principals, focusing on effective practices that reduce the number of students who drop out of school.

(C) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(D) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools, and training in the management of public charter schools established in accordance with this title.

SEC. 2705. MATCHING FUNDS.

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2704, as follows:

(1) For fiscal year 1996, the nonprofit corporation shall provide matching funds or in-kind contributions of $1 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(2) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind contributions of $3 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(3) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of $5 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

SEC. 2706. REPORT.

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with *respect to fiscal year 1996, on a biannual basis, a report which shall contain—*

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2704, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2704(b)(3); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2707. JOBS FOR D.C. GRADUATES PROGRAM.

(a) In General.—The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) Conduct of Program.—In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall—

(1) establish performance standards for such program;

(2) provide ongoing enhancement and improvements in such program;

(3) provide research and reports on the results of such program; and

(4) provide preservice and inservice training.

SEC. 2708. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—

(1) Delta Council; Access to State-of-the-Art Educational Technology; and Workforce Preparation Initiatives.—There are authorized to be appropriated to carry out subsections (a), (b), and (d) of section 2704, $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) Deal Center.—There are authorized to be appropriated to carry out section 2704(c), $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) Professional Development Program for Teachers and Administrators.—There are authorized to be appropriated to carry out section 2704(e), $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) Jobs for D.C. Graduates Program.—There are authorized to be appropriated to carry out section 2707—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) Availability.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2709. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) Termination of Federal Support.—The authority under this subtitle to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subtitle shall terminate on October 1, 1998.

(b) Sense of the Congress Relating to Continuation of Activities.—It is the sense of the Congress that—

(1) the activities of the private, nonprofit corporation under section 2704 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination for such activities after such date.

Subtitle J—Management and Fiscal Accountability

SEC. 2751. MANAGEMENT SUPPORT SYSTEMS.

(a) Food Services and Security Services.—Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995–1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) Development of New Management and Data Systems.—Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995–1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on the date of enactment of this Act.

SEC. 2752. ANNUAL REPORTING REQUIREMENTS.

(a) In General.—The Board of Education shall annually compile an accurate and verifiable report on the positions and employees in the District of Columbia public school system. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia public schools for fiscal year 1995, fiscal year 1996, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia public schools as of December 31, of the year preceding the year for which the report is made, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) Submission.—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 8, 1996, and each February 8 thereafter.

SEC. 2753. ANNUAL BUDGETS AND BUDGET REVISIONS.

(a) In General.—Not later than October 1, 1996, or prior to 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs first, and each succeeding year thereafter, the Board of Education shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the District of Columbia public school system for such fiscal year that is consistent with the total amount appropriated in an Act making appropriations for the District of Columbia for such fiscal year and that realigns budgeted data for personal services and other than personal services, with anticipated actual expenditures.

(b) Submission.—The revised budget required by subsection (a) shall be submitted in the format of the budget that the Board of Education submits to the Mayor for inclusion in the Mayor's budget submission to the District of Columbia Council pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198 (D.C. Code, sec. 47–301).

SEC. 2754. ACCESS TO FISCAL AND STAFFING DATA.

(a) In General.—The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) Access.—The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

SEC. 2755. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.

(a) In General.—The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) Fiscal Year 1996 Budget Revision.—Not later than February 15, 1996, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which—

(1) is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) Zero-Base Budget.—For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) School-by-School Budgets.—The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also—

(1) be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;

(2) indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and

(3) indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b).

SEC. 2756. TECHNICAL AMENDMENTS.

Section 1120A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6322) is amended—

(1) in subsection (b)(1), by—

(A) striking "(A) Except as provided in subparagraph (B), a State" and inserting "A State"; and

(B) striking subparagraph (B); and

(2) by adding at the end thereof the following new subsection:

"(d) Exclusion of Funds.—For the purpose of complying with subsections (b) and (c), a

State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.".

Subtitle K—Personal Accountability and Preservation of School-Based Resources

SEC. 2801. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.

(a) RESTRICTIONS ON REDUCTIONS OF SCHOOL-BASED EMPLOYEES.—To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the number of full-time equivalent positions established for the public schools in appropriations Acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of fiscal year 1995, unless the Authority makes a determination based on student enrollment that—

(1) fewer school-based positions are needed to maintain established pupil-to-staff ratios; or

(2) reductions in positions for other than school-based employees are not practicable.

(b) DEFINITION.—The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

SEC. 2802. MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES.

The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L))—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 2803. PUBLIC SCHOOL EMPLOYEE EVALUATIONS.

Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia public school employees shall be a nonnegotiable item for collective bargaining purposes.

SEC. 2804. PERSONAL AUTHORITY FOR PUBLIC SCHOOL EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, rule, or regulation, an employee of a District of Columbia public school shall be—

(1) classified as an educational service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) SCHOOL-BASED PERSONNEL.—School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

Subtitle L—Establishment and Organization of the Commission on Consensus Reform in the District of Columbia Public Schools

SEC. 2851. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Commission on Consensus Reform in the District of Columbia Public Schools, consisting of 7 members to be appointed in accordance with paragraph (2).

(2) MEMBERSHIP.—The Consensus Commission shall consist of the following members:

(A) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Majority Leader of the Senate.

(B) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Speaker of the House of Representatives.

(C) 2 members to be appointed by the President, of which 1 shall represent the local business community and 1 of which shall be a teacher in a District of Columbia public school.

(D) The President of the District of Columbia Congress of Parents and Teachers.

(E) The President of the Board of Education.

(F) The Superintendent.

(G) The Mayor and District of Columbia Council Chairman shall each name 1 nonvoting ex officio member.

(H) The Chief of the National Guard Bureau who shall be an ex officio member.

(3) TERMS OF SERVICE.—The members of the Consensus Commission shall serve for a term of 3 years.

(4) VACANCIES.—Any vacancy in the membership of the Consensus Commission shall be filled by the appointment of a new member in the same manner as provided for the vacated membership. A member appointed under this paragraph shall serve the remaining term of the vacated membership.

(5) QUALIFICATIONS.—Members of the Consensus Commission appointed under subparagraphs (A), (B), and (C) of paragraph (2) shall be residents of the District of Columbia and shall have a knowledge of public education in the District of Columbia.

(6) CHAIR.—The Chair of the Consensus Commission shall be chosen by the Consensus Commission from among its members, except that the President of the Board of Education and the Superintendent shall not be eligible to serve as Chair.

(7) NO COMPENSATION FOR SERVICE.—Members of the Consensus Commission shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Consensus Commission.

(b) EXECUTIVE DIRECTOR.—The Consensus Commission shall have an Executive Director who shall be appointed by the Chair with the consent of the Consensus Commission. The Executive Director shall be paid at a rate determined by the Consensus Commission, except that such rate may not exceed the highest rate of pay payable for level EG–16 of the Educational Service of the District of Columbia.

(c) STAFF.—With the approval of the Chair and the Authority, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(d) SPECIAL RULE.—The Board of Education, or the Authority, shall reprogram such funds, as the Chair of the Consensus Commission shall in writing request, from amounts available to the Board of Education.

SEC. 2852. PRIMARY PURPOSE AND FINDINGS.

(a) PURPOSE.—The primary purpose of the Consensus Commission is to assist in developing a long-term reform plan that has the support of the District of Columbia community through the participation of representatives of various critical segments of such community in helping to develop and approve the plan.

(b) FINDINGS.—The Congress finds that—

(1) experience has shown that the failure of the District of Columbia educational system has been due more to the failure to implement a plan than the failure to develop a plan;

(2) national studies indicate that 50 percent of secondary school graduates lack basic literacy skills, and over 30 percent of the 7th grade students in the District of Columbia public schools drop out of school before graduating;

(3) standard student assessments indicate only average performance for grade level and fail to identify individual students who lack basic skills, allowing too many students to graduate lacking these basic skills and diminishing the worth of a diploma;

(4) experience has shown that successful schools have good community, parent, and business involvement;

(5) experience has shown that reducing dropout rates in the critical middle and secondary school years requires individual student involvement and attention through such activities as arts or athletics; and

(6) experience has shown that close coordination between educators and business persons is required to provide noncollege-bound students the skills necessary for employment, and that personal attention is vitally important to assist each student in developing an appropriate career path.

SEC. 2853. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.

(a) PRIMARY RESPONSIBILITY.—The Board of Education and the Superintendent shall have primary responsibility for developing and implementing the long-term reform plan for education in the District of Columbia.

(b) DUTIES.—The Consensus Commission shall—

(1) identify any obstacles to implementation of the long-term reform plan and suggest ways to remove such obstacles;

(2) assist in developing programs that—

(A) ensure every student in a District of Columbia public school achieves basic literacy skills;

(B) ensure every such student possesses the knowledge and skills necessary to think critically and communicate effectively by the completion of grade 8; and

(C) lower the dropout rate in the District of Columbia public schools;

(3) assist in developing districtwide assessments, including individual assessments, that identify District of Columbia public school students who lack basic literacy skills, with particular attention being given to grade 4 and the middle school years, and establish procedures to ensure that a teacher is made accountable for the performance of every such student in such teacher's class;

(4) make recommendations to improve community, parent, and business involvement in District of Columbia public schools and public charter schools;

(5) assess opportunities in the District of Columbia to increase individual student involvement and attention through such activities as arts or athletics, and make recommendations on how to increase such involvement; and

(6) assist in the establishment of procedures that ensure every District of Columbia public school student is provided the skills necessary for employment, including the development of individual career paths.

(c) POWERS.—The Consensus Commission shall have the following powers:

(1) To monitor and comment on the development and implementation of the long-term reform plan.

(2) To exercise its authority, as provided in this subtitle, as necessary to facilitate implementation of the long-term reform plan.

(3) To review and comment on the budgets of the Board of Education, the District of Columbia public schools and public charter schools.

(4) To recommend rules concerning the management and direction of the Board of Education that address obstacles to the development or implementation of the long-term reform plan.

(5) To review and comment on the core curriculum for kindergarten through grade 12 developed under subtitle D.

(6) To review and comment on a core curriculum for prekindergarten, vocational and technical training, and adult education.

(7) To review and comment on all other educational programs carried out by the Board of Education and public charter schools.

(8) To review and comment on the districtwide assessments for measuring student achievement in the core curriculum developed under subtitle D.

(9) To review and comment on the model professional development programs for teachers using the core curriculum developed under subtitle D.

(d) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the Consensus Commission shall have no powers to involve itself in the management or operation of the Board of Education with respect to the implementation of the long-term reform plan.

(2) SPECIAL RULE.—If the Consensus Commission determines that the Board of Education has failed to take an action necessary to develop or implement the long-term reform plan or that the Board of Education is unable to do so, the Consensus Commission shall request the Authority to take appropriate action, and the Authority shall take such action as the Authority deems appropriate, to develop or implement, as the case may be, the long-term reform plan.

SEC. 2854. IMPROVING ORDER AND DISCIPLINE.

(a) COMMUNITY SERVICE REQUIREMENT FOR SUSPENDED STUDENTS.—

(1) IN GENERAL.—Any student suspended from classes at a District of Columbia public school who is required to serve the suspension outside the school shall perform community service for the period of suspension. The community service required by this subsection shall be subject to rules and regulations promulgated by the Mayor.

(2) EFFECTIVE DATE.—This subsection shall take effect on the first day of the 1996–1997 academic year.

(b) EXPIRATION DATE.—This section, and sections 2101(b)(1)(K) and 2851(a)(2)(H), shall cease to be effective on the last day of the 1997–1998 academic year.

(c) REPORT.—The Consensus Commission shall study the effectiveness of the policies implemented pursuant to this section in improving order and discipline in District of Columbia public schools and report its findings to the appropriate congressional committees not later than 60 days prior to the last day of the 1997–1998 academic year.

SEC. 2855. EDUCATIONAL PERFORMANCE AUDITS.

(a) IN GENERAL.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of the Board of Education to ensure, monitor, and evaluate the performance of the Board of Education with respect to compliance with the long-term reform plan and such plan's overall educational achievement. The Consensus Commission shall conduct an annual review of the educational performance of the Board of Education with respect to meeting the goals of such plan for such year. The Board of Education shall cooperate and assist in the review or audit as requested by the Consensus Commission.

(b) AUDIT.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of any public charter school to assure, monitor, and evaluate the performance of the public charter school with respect to the content standards and districtwide assessments described in section 2411(b). The Consensus Commission shall receive a copy of each public charter school's annual report.

SEC. 2856. INVESTIGATIVE POWERS.

The Consensus Commission may investigate any action or activity which may hinder the progress of any part of the long-term reform plan. The Board of Education shall cooperate and assist the Consensus Commission in any investigation. Reports of the findings of any such investigation shall be provided to the Board of Education, the Superintendent, the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees.

SEC. 2857. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.

(a) IN GENERAL.—The Consensus Commission may at any time submit recommendations to the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Board of Trustees of any public charter school and the Congress with respect to actions the District of Columbia Government or the Federal Government should take to ensure implementation of the long-term reform plan.

(b) AUTHORITY ACTIONS.—Pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995 or upon the recommendation of the Consensus Commission, the Authority may take whatever actions the Authority deems necessary to ensure the implementation of the long-term reform plan.

SEC. 2858. EXPIRATION DATE.

Except as otherwise provided in this subtitle, this subtitle shall be effective during the period beginning on the date of enactment of this Act and ending 7 years after such date.

Subtitle M—Parent Attendance at Parent-Teacher Conferences

SEC. 2901. POLICY.

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all residents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $567,753,000, to remain available until expended, of which $2,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150), and of which $4,000,000 shall be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors; and in addition, $27,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $567,753,000: Provided further, That in addition to funds otherwise available, and to remain available until expended, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, emergency presuppression, suppression operations, emergency rehabilitation, and renovation or construction of fire facilities in the Department of the Interior, $235,924,000, to remain available until expended, of which not to exceed $5,025,000, shall be available for the renovation or construction of fire facilities: Provided, That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That unobligated balances of amounts previously appropriated to the Fire Protection and Emergency Department of the Interior Firefighting Fund may be transferred or merged with this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $10,000,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account *and shall be available without further appropriation and shall remain available until expended: Provided further, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.*

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,115,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07), $101,500,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $12,800,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $97,452,000, to remain available until expended: Provided, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: Provided further, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $499,100,000, to remain available for obligation until September 30, 1997, of which $2,000,000 shall be available for activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), of which $11,557,000 shall be available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River: Provided, That unobligated and unexpended balances in the Resource Management account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 Resource Management appropriation, and shall remain available for obligation until September 30, 1997: Provided further, That no monies appropriated under this Act or any other law shall be used by the Secretary of the Interior to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $37,655,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $4,000,000, to remain available until expended: Provided, That sums provided by any party in fiscal year 1996 and thereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $36,900,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $8,085,000 for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,779,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $600,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, $6,750,000, to remain available until expended.

LAHONTAN VALLEY AND PYRAMID LAKE FISH AND WILDLIFE FUND

For carrying out section 206(f) of Public Law 101–618, such sums as have previously been credited or may be credited hereafter to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, to be available until expended without further appropriation.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $200,000, to remain available until expended, to be available to carry out the provisions of the Rhinoceros and Tiger Conservation Act of 1994 (Public Law 103–391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 113 passenger motor vehicles; not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551: Provided further, That none of the funds made available in this Act may be used by the U. S. Fish and Wildlife Service to impede or delay the issuance of a wetlands permit by the U. S. Army Corps of Engineers to the City of Lake Jackson, Texas, for the development of a public golf course west of Buffalo Camp Bayou between the Brazos River and Highway 332: Provided further, That the Director of the Fish and Wildlife Service may charge reasonable fees for expenses to the Federal Government for providing training by the National Education and Training Center: Provided further, That all training fees collected shall be available to the Director, until expended, without further appropriation, to be used for the costs of training and education provided by the National Education and Training Center: Provided further, That with respect to lands leased for farming pursuant to Public Law 88–567, if for any reason the Secretary disapproves for use in 1996 or does not finally approve for use in 1996 any pesticide or chemical which was approved for use in 1995 or had been requested for use in 1996 by the submission of a pesticide use proposal as of September 19, 1995, none of the funds in this Act may be used to develop, implement, or enforce regulations or policies (including pesticide use proposals) related to the use of chemicals and pest management that are more restrictive than the requirements of applicable State and Federal laws related to the use of chemicals and pest management practices on non-Federal lands.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,593,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,084,755,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $72,000,000, to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $37,649,000: Provided, That $236,000 of the funds provided herein are for the William O. Douglas Outdoor Education Center, subject to authorization.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $36,212,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1997.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $143,225,000, to remain available until expended: Provided, That not to exceed $4,500,000 of the funds provided herein shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: Provided further, That funds provided under this head, derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), may be available until expended to render sites safe for visitors and for building stabilization.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1996 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $49,100,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and of which $1,500,000 is to administer the State assistance program: Provided, That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 518 passenger motor vehicles, of which 323 shall be for replacement only, including not to exceed 411 for police-type use, 12 buses, and 5 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs.

The National Park Service shall, within existing funds, conduct a Feasibility Study for a northern access route into Denali National Park and Preserve in Alaska, to be completed within one year of the enactment of this Act and submitted to the House and Senate Committees on Appropriations and to the Senate Committee on Energy and Natural Resources and the House Committee on Resources. The Feasibility Study shall ensure that resource impacts from any plan to create such access route are evaluated with accurate information and according to a process that takes into consideration park values, visitor needs, a full range of alternatives, the viewpoints of all interested parties, including the tourism industry and the State of Alaska, and potential needs for compliance with the National Environmental Policy Act. The Study shall also address the time required for development of alternatives and identify all associated costs.

This Feasibility Study shall be conducted solely by the National Park Service planning personnel permanently assigned to National Park Service offices located in the State of Alaska in consultation with the State of Alaska Department of Transportation.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands *as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $730,330,000, of which $62,130,000 shall be available for cooperation with States or municipalities for water resources investigations, and of which $137,000,000 for resource research and the operations of Cooperative Research Units shall remain available until September 30, 1997, and of which $16,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries: Provided, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That funds available herein for resource research may be used for the purchase of not to exceed 61 passenger motor vehicles, of which 55 are for replacement only: Provided further, That none of the funds available under this head for resource research shall be used to conduct new surveys on private property, including new aerial surveys for the designation of habitat under the Endangered Species Act, except when it is made known to the Federal official having authority to obligate or expend such funds that the survey or research has been requested and authorized in writing by the property owner or the owner's authorized representative: Provided further, That none of the funds provided herein for resource research may be used to administer a volunteer program when it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified: Provided further, That no later than April 1, 1996, the Director of the United States Geological Survey shall issue agency guidelines for resource research that ensure that scientific and technical peer review is utilized as fully as possible in selection of projects for funding and ensure the validity and reliability of research and data collection on Federal lands: Provided further, That no funds available for resource research may be used for any activity that was not authorized prior to the establishment of the National Biological Survey: Provided further, That once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey: Provided further, That if specific authorizing legislation is enacted during or before the start of fiscal year 1996, the resource research component of the Survey should comply with the provisions of that legislation: Provided further, That unobligated and unexpended balances in the National Biological Survey, Research, inventories and surveys account at the end of fiscal year 1995, shall be merged with and made a part of the United States Geological Survey, Surveys, investigations, and research account and shall remain available for obligation until September 30, 1996: Provided further, That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94–579 is hereby transferred to, and vested in, the Director of the United States Geological Survey.*

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $182,771,000, of which not less than $70,105,000 shall be available for royalty management activities; and an amount not to exceed $15,400,000 for the Technical Information Management System and Related Activities of the Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: Provided, That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3): Provided further, That $1,500,000 for computer acquisitions shall remain available until September 30, 1997: Provided further, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments: Provided further, That beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for, and incidental to, the closure of the United States Bureau of Mines, $64,000,000, to remain available until expended, of which not to exceed $5,000,000 may be used for the completion and/or transfer of certain ongoing projects within the United States Bureau of Mines, such projects to be identified by the Secretary of the Interior within 90 days of enactment of this Act: Provided, That there hereby are transferred to, and vested in, the Secretary of Energy: (1) the functions pertaining to the promotion of health and safety in mines and the mineral industry through research vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania, and at its Spokane Research Center in Washington; (2) the functions pertaining to the conduct of inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines under the minerals and materials science programs at its Pittsburgh Research Center in Pennsylvania, and at its Albany Research Center in Oregon; and (3) the functions pertaining to mineral reclamation industries and the development of methods for the disposal, control, prevention, and reclamation of mineral waste products vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania: Provided further, That, if any of the same functions were performed in fiscal year 1995 at locations other than those listed above, such functions shall not be transferred to the Secretary of Energy from those other locations: Provided further, That the Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Secretary of the Interior, is authorized to make such determinations as may be necessary with regard to the transfer of functions which relate to or are used by the Department of the Interior, or component thereof affected by this transfer of functions, and to make such dispositions of personnel, facilities, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with, the functions transferred herein as are deemed necessary to accomplish the purposes of this transfer: Provided further, That all reductions in personnel complements resulting from the provisions of this Act shall, as to the functions transferred to the Secretary of Energy, be done by the Secretary of the Interior as though these transfers had not taken place but had been required of the Department of the Interior by all other provisions of this Act before the transfers of function became effective: Provided further, That the transfers of function to the Secretary of Energy shall become effective on the date specified by the Director of the Office of Management and Budget, but in no event later than 90 days after enactment into law of this Act: Provided further, That the reference to "function" includes, but is not limited to, any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral products that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: Provided further, That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska, to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to the University of Alabama; in Rolla, Missouri, to the University of Missouri-Rolla; and in other localities to such university or government entities as the Secretary deems appropriate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $95,470,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1996: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1996 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That notwithstanding any other provision of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $173,887,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That grants to minimum program States will be $1,500,000 per State in fiscal year 1996: Provided further, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: Provided further, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: Provided further, That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available to States under title IV of Public Law 95–87 may be used, at their discretion, for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,384,434,000, of which not to exceed $100,255,000 shall be for welfare assistance grants and not to exceed $104,626,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau of Indian Affairs prior to fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975, as amended, and up to $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act; and of which not to exceed $330,711,000 for school operations costs of Bureau-funded schools and other education programs shall become available for obligation on July 1, 1996, and shall remain available for obligation until September 30, 1997; and of which not to exceed $68,209,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1997; and of which not to exceed $71,854,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi Settlement Program: Provided, That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements: Provided further, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: Provided further, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: Provided further, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: Provided further, That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: Provided further, That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1996, may be transferred during fiscal year 1997 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 1997: Provided further, That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1996: Provided further, That funds made available in this or any other Act for expenditure through September 30, 1997 for schools funded by the Bureau of Indian Affairs shall be available only to the schools which are in the Bureau of Indian Affairs school system as of September 1, 1995: Provided further, That no funds available to the Bureau of Indian Affairs shall be used to support expanded grades for any school beyond the grade structure in place at each school in the Bureau of Indian Affairs school system as of October 1, 1995: Provided further, That notwithstanding the provisions of 25 U.S.C. 2011(h)(1)(B) and (c), upon the recommendation of a local school board for a Bureau of Indian Affairs operated school, the Secretary shall establish rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and homeliving counselors) at the school at a level not less than that for comparable positions in public school districts in the same geographic area, to become effective on July 1, 1997: Provided further, That of the funds available only through September 30, 1995, not to exceed $8,000,000 in unobligated and unexpended balances in the Operation of Indian Programs account shall be merged with and made a part of the fiscal year 1996 Operation of Indian Programs appropriation, and shall remain available for obligation for employee severance, relocation, and related expenses, until September 30, 1996.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $100,833,000, to remain available until expended: Provided, That *such amounts as may be available for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: Provided further, That for the fiscal year ending September 30, 1996, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).*

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $80,645,000, to remain available until expended; of which $78,600,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87–483, 97–293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $1,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $500,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $35,914,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $500,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs shall be available for expenses of exhibits, and purchase of not to exceed 275 passenger carrying motor vehicles, of which not to exceed 215 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $65,188,000, of which (1) $61,661,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,527,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding: Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): Provided further, That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $24,938,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658: Provided, That notwithstanding section 112 of Public Law 101–219 (103 Stat. 1873), the Secretary of the Interior may agree to technical changes in the specifications for the project described in the subsidiary agreement negotiated under section 212(a) of the Compact of Free Association, Public Law 99–658, or its annex, if the changes do not result in increased costs to the United States.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $57,340,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $34,516,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,939,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $500,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000: Provided, That on March 1, 1996, the Chairman shall submit to the Secretary a report detailing those Indian tribes or tribal organizations with gaming operations that are in full compliance, partial compliance, or noncompliance with the provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701, et seq.): Provided further, That the information contained in the report shall be updated on a continuing basis.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $16,338,000, of which $15,891,000 shall remain available until expended for trust funds management: Provided, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That obligated and unobligated balances provided for trust funds management within "Operation of Indian programs", Bureau of Indian Affairs are *hereby transferred to and merged with this appropriation.*

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. Appropriations made in this title from the Land and Water Conservation Fund for acquisition of lands and waters, or interests therein, shall be available for transfer, with the approval of the Secretary, between the following accounts: Bureau of Land Management, Land acquisition, United States Fish and Wildlife Service, Land acquisition, and National Park Service, Land acquisition and State assistance. Use of such funds are subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 108. Prior to the transfer of Presidio properties to the Presidio Trust, when authorized, the Secretary may not obligate in any calendar month more than 1/12 of the fiscal year 1996 appropriation for operation of the Presidio: Provided, That this section shall expire on December 31, 1995.

SEC. 109. Section 6003 of Public Law 101–380 is hereby repealed.

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of the Interior for developing, promulgating, and thereafter implementing a rule concerning rights-of-way under section 2477 of the Revised Statutes.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 115. (a) Of the funds appropriated by this Act or any subsequent Act providing for appropriations in fiscal years 1996 and 1997, not more than 50 percent of any self-governance funds that would otherwise be allocated to each Indian tribe in the State of Washington shall actually be paid to or on account of such Indian tribe from and after the time at which such tribe shall—

(1) take unilateral action that adversely impacts the existing rights to and/or customary uses of, nontribal member owners of fee simple land within the exterior boundary of the tribe's reservation to water, electricity, or any other similar utility or necessity for the nontribal members' residential use of such land; or

(2) restrict or threaten to restrict said owners use of or access to publicly maintained rights-of-way necessary or desirable in carrying the utilities or necessities described above.

(b) Such penalty shall not attach to the initiation of any legal actions with respect to such rights or the enforcement of any final judgments, appeals from which have been exhausted, with respect thereto.

SEC. 116. Within 30 days after the enactment of this Act, the Department of the Interior shall issue a specific schedule for the completion of the Lake Cushman Land Exchange Act (Public Law 102–436) and shall complete the exchange not later than September 30, 1996.

SEC. 117. Notwithstanding Public Law 90–544, as amended, the National Park Service is authorized to expend appropriated funds for maintenance and repair of the Company Creek Road in the Lake Chelan National Recreation Area: Provided, That appropriated funds shall not be expended for the purpose of improving the property of private individuals unless specifically authorized by law.

SEC. 118. Section 4(b) of Public Law 94–241 (90 Stat. 263) as added by section 10 of Public Law 99–396 is amended by deleting "until Congress otherwise provides by law." and inserting in lieu thereof: "except that, for fiscal years 1996 through 2002, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be $11,000,000 annually, subject to an equal local match and all other requirements set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments in this subsection to be provided as set forth in *subsection (c) until Congress otherwise provides by law.*

"(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

"(1) for fiscal years 1996 through 2001, $4,580,000 annually for capital infrastructure projects as Impact Aid for Guam under section 104(c)(6) of Public Law 99–239;

"(2) for fiscal year 1996, $7,700,000 shall be provided for capital infrastructure projects in American Samoa; $4,420,000 for resettlement of Rongelap Atoll; and

"(3) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands: Provided, That, in fiscal year 1997, $3,000,000 of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed $3,000,000 may be allocated, as provided in appropriations Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands. The specific projects to be funded in American Samoa shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with the American Samoa Government and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing budget recommendations for capital infrastructure funding, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent to which a set-aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set-aside, not to exceed $2,000,000 per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: Provided further, That the cumulative amount set aside for such emergency fund may not exceed $10,000,000 at any time.

"(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in appropriations Acts, to assist in the resettlement of Rongelap Atoll: Provided, That the total of all contributions from any Federal source after enactment of this Act may not exceed $32,000,000 and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelop Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (Public Law 99–239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.".

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $177,757,000, to remain available until September 30, 1997.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $136,695,000, to remain available until expended, as authorized by law: Provided, That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations Acts, $200,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin Region.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Fire Protection and Emergency Suppression", and "Land Acquisition", $1,255,004,999, to remain available for obligation until September 30, 1997, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)), of which not more than $81,249,999 shall be available for travel expenses: Provided, That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 National Forest System appropriation, and shall remain available for obligation until September 30, 1997: Provided further, That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to National Forest System lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, $385,485,000, to remain available until expended: Provided, That unexpended balances of amounts previously appropriated under any other headings for Forest Service fire activities may be transferred to and merged with this appropriation: Provided further, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, $163,384,000, to remain available until expended, for construction and acquisition of buildings and other facilities, and for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: Provided, That funds becoming available in fiscal year 1996 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: Provided further, That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: Provided further, That $2,500,000 of the funds appropriated herein shall be available for a grant to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" for the construction of the Columbia Gorge Discovery Center: Provided further, That the Forest Service is authorized to grant the unobligated balance of funds appropriated in fiscal year 1995 for the construction of the Columbia Gorge Discovery Center and related trail construction funds to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" to be used for the same purpose: Provided further, That the Forest Service is authorized to convey the land needed for the construction of the Columbia Gorge Discovery Center without cost to the "Non-Profit Citizens for the Columbia Gorge Discovery Center": Provided further, That notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101–512 for the Forest Service share of a new research facility at the University of Missouri, Columbia, shall be available for a grant to the University of Missouri, as the Federal share in the construction of the new facility: Provided further, That agreed upon lease of space in the new facility shall be provided to the Forest Service without charge for the life of the building.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $41,200,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 183 passenger motor vehicles of which 32 will be used primarily for law enforcement purposes and of which 151 shall be for replacement; acquisition of 22 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, or to implement any reorganization, "reinvention" or other type of organizational restructuring of the Forest Service, other than the relocation of the Regional Office for Region 5 of the Forest Service from San Francisco to excess military property at Mare Island, Vallejo, California, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources in the United States Senate and the Committee on Agriculture and the Committee on Resources in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Fire and Emergency Suppression appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: Provided, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

Any funds available to the Forest Service may be used for retrofitting Mare Island facilities to accommodate the relocation: Provided, That funds for the move must come from funds otherwise available to Region 5: Provided further, That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103-551.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93-153 (30 U.S.C. 185(l)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: Provided, That this limitation shall not apply to hardwood stands damaged by natural disaster: Provided further, That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, eighty percent of the funds appropriated to the Forest Service in the National Forest System and Construction accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

For one year after enactment of this Act, the Secretary shall continue the current Tongass Land Management Plan (TLMP) and may accommodate commercial tourism (if an agreement is signed between the Forest Service and the Alaska Visitors' Association) except that during this period, the Secretary shall maintain at least the number of acres of suitable available and suitable scheduled timber lands, and Allowable Sale Quantity as identified in the Preferred Alternative (Alternative P) in the Tongass Land and Resources Management Plan and Final Environmental Impact Statement (dated October 1992) as selected in the Record of Decision Review Draft #3-2/93. Nothing in this paragraph shall be interpreted to mandate clear-cutting or require the sale of timber and nothing in this paragraph, including the ASQ identified in Alternative P, shall be construed to limit the Secretary's consideration of new information or to prejudice future revision, amendment or modification of TLMP based upon sound, verifiable scientific data.

If the Forest Service determines in a Supplemental Evaluation to an Environmental Impact Statement that no additional analysis under the National Environmental Policy Act or section 810 of the Alaska National Interest Lands Conservation Act is necessary for any timber sale or offering which has been prepared for acceptance by, or award to, a purchaser after December 31, 1988, that has been subsequently determined by the Forest Service to be available for sale or offering to one or more other purchaser, the change of purchasers for whatever reason shall not be considered a significant new circumstance, and the Forest Service may offer or award such timber sale or offering to a different purchaser or offeree, notwithstanding any other provision of law. A determination by the Forest Service pursuant to this paragraph shall not be subject to judicial review.

None of the funds appropriated under this Act for the Forest Service shall be made available for the purpose of applying paint to rocks, or rock colorization: Provided, That notwithstanding any other provision of law, the Forest Service shall not require of any individual or entity, as part of any permitting process under its authority, or as a requirement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the painting or colorization of rocks.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for promoting health and safety in mines and the mineral industry through research (30 U.S.C. 3, 861(b), and 951(a)), for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), and for the development of methods for the disposal, control, prevention, and reclamation of waste products in the mining, minerals, metal, and mineral reclamation industries (30

U.S.C. 3 and 21a), $417,092,000, to remain available until expended: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1995, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $148,786,000, to remain available until expended: Provided, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1996: Provided further, That section 501 of Public Law 101–45 is hereby repealed.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $553,240,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1996 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502), and of which $16,000,000 shall be derived from available unobligated balances in the Biomass Energy Development account: Provided, That $140,696,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): Provided further, That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $114,196,000 for the weatherization assistance program and $26,500,000 for the State energy conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $6,297,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $287,000,000, to remain available until expended, of which $187,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account" and $100,000,000 shall be derived by transfer from the "SPR Decommissioning Fund": Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell up to seven million barrels of oil from the Strategic Petroleum Reserve: Provided further, That the proceeds from the sale shall be deposited into a special account in the Treasury, to be established and known as the "SPR Decommissioning Fund", and shall be available for the purpose of removal of oil from and decommissioning of the Weeks Island site and for other purposes related to the operations of the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: Provided, That outlays in fiscal year 1996 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $72,266,000, to remain available until expended: Provided, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading hereafter may be used to enter into a contract for end use consumption surveys for a term not to exceed eight years: Provided further, That notwithstanding any other provision of law, hereafter the Manufacturing Energy Consumption Survey shall be conducted on a triennial basis.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $1,747,842,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: Provided, That of the funds provided, $800,000 shall be used for inhalant abuse treatment programs to treat inhalant abuse and to provide for referrals to specialized treatment facilities in the United States: Provided further, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $350,564,000 for contract medical care shall remain available for obligation until September 30, 1997: Provided further, That of the funds provided, not less than $11,306,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1997: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $238,958,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may *be used to purchase land for sites to construct, improve, or enlarge health or related facilities.*

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: Provided further, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: Provided further, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: Provided further, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX, part A, subpart 1 of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $52,500,000.

OTHER RELATED AGENCIES

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $20,345,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

Institute of American Indian and Alaska Native Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498 (20 U.S.C. 4401 et seq.), $5,500,000.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $308,188,000, of which not to exceed $30,472,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,250,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $33,954,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $27,700,000, to remain available until expended.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $51,844,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $6,442,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

John F. Kennedy Center for the Performing Arts

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,323,000: Provided, That 40 U.S.C. 193n is hereby amended by striking the word "and" after the word "Institution" and inserting in lieu thereof a comma, and by inserting "and the Trustees of the John F. Kennedy Center for the Performing Arts," after the word "Art,".

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $8,983,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $82,259,000, shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $17,235,000, to remain available until September 30, 1997, to the National Endowment for the Arts, of which $7,500,000 shall be available for purposes of section 5(p)(1): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $94,000,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,000,000, to remain available until September 30, 1997, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,000,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $6,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses necessary for the Advisory Council on Historic Preservation, $2,500,000.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $5,090,000: Provided, That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $147,000, to remain available until September 30, 1997.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PUBLIC DEVELOPMENT

Funds made available under this heading in prior years shall be available for operating and administrative expenses and for the orderly closure of the Corporation, as well as operating and administrative expenses for the functions transferred to the General Services Administration.

(RESCISSION)

Of the available balances under this heading, $2,172,000 are rescinded.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $28,707,000; of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibition program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103–413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93–638, as amended, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: Provided, That if no funds are provided for the AmeriCorps program by the VA-HUD and Independent Agencies fiscal year 1996 appropriations bill, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 313. (a) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall—

(1) transfer and assign in accordance with this section all of its rights, title, and interest in and to all of the leases, covenants, agreements, and easements it has executed or will execute by March 31, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) to the General Services Administration, National Capital Planning Commission, or the National Park Service; and

(2) except as provided by subsection (d), transfer all rights, title, and interest in and to all property, both real and personal, held in the name of the Pennsylvania Avenue Development Corporation to the General Services Administration.

(b) The responsibilities of the Pennsylvania Avenue Development Corporation transferred to the General Services Administration under subsection (a) include, but are not limited to, the following:

(1) Collection of revenue owed the Federal Government as a result of real estate sales or lease agreements entered into by the Pennsylvania Avenue Development Corporation and private parties, including, at a minimum, with respect to the following projects:

(A) The Willard Hotel property on Square 225.

(B) The Gallery Row project on Square 457.

(C) The Lansburgh's project on Square 431.

(D) The Market Square North project on Square 407.

(2) Collection of sale or lease revenue owed the Federal Government (if any) in the event two undeveloped sites owned by the Pennsylvania Avenue Development Corporation on Squares 457 and 406 are sold or leased prior to April 1, 1996.

(3) Application of collected revenue to repay United States Treasury debt incurred by the Pennsylvania Avenue Development Corporation in the course of acquiring real estate.

(4) Performing financial audits for projects in which the Pennsylvania Avenue Development Corporation has actual or potential revenue expectation, as identified in paragraphs (1) and (2), in accordance with procedures described in applicable sale or lease agreements.

(5) Disposition of real estate properties which are or become available for sale and lease or other uses.

(6) Payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 to which persons in the project area squares are entitled as a result of the Pennsylvania Avenue Development Corporation's acquisition of real estate.

(7) Carrying out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109), including responsibilities for managing assets and liabilities of the Corporation under such Act.

(c) In carrying out the responsibilities of the Pennsylvania Avenue Development Corporation transferred under this section, the Administrator of the General Services Administration shall have the following powers:

(1) To acquire lands, improvements, and properties by purchase, lease or exchange, and to sell, lease, or otherwise dispose of real or personal property as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874) if a notice of intention to carry out such acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(2) To modify from time to time the plan referred to in paragraph (1) if such modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(3) To maintain any existing Pennsylvania Avenue Development Corporation insurance programs.

(4) To enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation as may be necessary to carry out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109).

(5) To request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457.

(6) To use all of the funds transferred from the Pennsylvania Avenue Development Corporation or income earned on Pennsylvania Avenue Development Corporation property to complete any pending development projects.

(d)(1)(A) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall transfer all its right, title, and interest in and to the property described in subparagraph (B) to the National Park Service, Department of the Interior.

(B) The property referred to in subparagraph (A) is the property located within the Pennsylvania Avenue National Historic Site depicted on a map entitled "Pennsylvania Avenue National Historic Park", dated June 1, 1995, and numbered 840–82441, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Pennsylvania Avenue National Historic Site includes the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials.

(2) Jurisdiction of Pennsylvania Avenue and all other roadways from curb to curb shall remain with the District of Columbia but vendors shall not be permitted to occupy street space except during temporary special events.

(3) The National Park Service shall be responsible for management, administration, maintenance, law enforcement, visitor services, resource protection, interpretation, and historic preservation at the Pennsylvania Avenue National Historic Site.

(4) The National Park Service may enter into contracts, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia or with any person, firm, association, or corporation as may be deemed necessary or appropriate for the conduct of special events, festivals, concerts, or other art and cultural programs at the Pennsylvania Avenue National Historic Site or may establish a nonprofit foundation to solicit funds for such activities.

(e) Notwithstanding any other provision of law, the responsibility for ensuring that development or redevelopment in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan—1974, as amended, is transferred to the National Capital Planning Commission or its successor commencing April 1, 1996.

(f) SAVINGS PROVISIONS.—

(1) REGULATIONS.—Any regulations prescribed by the Corporation in connection with the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall continue in effect until suspended by regulations prescribed by the Administrator of the General Services Administration.

(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the transfers under subsection (a).

(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Corporation in connection with administration of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall abate by reason of enactment and implementation of this Act, except that the General Services Administration shall be substituted for the Corporation as a party to any such action or proceeding.

(g) Section 3(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(b)) is amended as follows:

"(b) The Corporation shall be dissolved on or before April 1, 1996. Upon dissolution, assets, obligations, indebtedness, and all unobligated and unexpended balances of the Corporation shall be transferred in accordance with the Department of the Interior and Related Agencies Appropriations Act, 1996.".

SEC. 314. (a) Except as provided in subsection (b), no part of any appropriation contained in this Act or any other Act shall be obligated or expended for the operation or implementation of the Interior Columbia Basin Ecosystem Management Project (hereinafter "Project").

(b) From the funds appropriated to the Forest Service and Bureau of Land Management: a sum of $4,000,000 is made available for the Executive Steering Committee of the Project to publish, and submit to the Congress, by May 31, 1996, an assessment of the National Forest System lands and lands administered by the Bureau of Land Management within the area encompassed by the Project. The assessment shall be accompanied by two draft Environmental Impact Statements that: are not decisional and not subject to judicial review; contain a range of alternatives, without the identification of a preferred alternative or management recommendation; and provide a methodology for conducting any cumulative effects analysis required by section 102(2) of the National Environmental Policy Act (42 U.S.C. 433(2)) in the preparation of amendments to resource management plans pursuant to subsection (c). The assessment shall incorporate all existing relevant scientific information including, but not limited to, information on landscape dynamics, forest and rangeland health conditions, fisheries, and watersheds and the implications of each as they relate to federal forest and rangeland health. The assessment and draft Environmental Impact Statements shall not be: the subject of consultation or conferencing pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); accompanied by any record of decision or other National Environmental Policy Act documentation; or applied or used to regulate non-federal

lands. The Executive Steering Committee shall release the draft Environmental Impact Statements for a ninety day public comment period and include a summary of the public comments received in the submission to Congress.

(c)(1) From the funds appropriated to the Forest Service and the Bureau of Land Management, based on the documents prepared pursuant to subsection (b) and any other guidance or policy issued prior to the date of enactment of this section, and in consultation with the affected Governor, and county commissioners, each Forest Supervisor and District Manager with responsibility for a national forest or a unit of land administered by the Bureau of Land Management (hereinafter "forest") within the area encompassed by the Project shall review the resource management plan (hereinafter "plan") for such forest and develop, by an amendment to such plan, a modification of or alternative to any policy which is applicable to such plan upon the date of enactment of this section (whether or not such policy has been added to such plan by amendment), including any policy which is, or is intended to be, of limited duration, and which the Project addresses, to meet the specific conditions of such forest. Each amendment shall: contain the modified or alternative policy developed pursuant to this paragraph, be directed solely to and affect only such plan; address the specific conditions of the forest to which the plan applies and the relationship of the modified or alternative policy to such conditions; and, to the maximum extent practicable, establish site-specific standards in lieu of imposing general standards applicable to multiple sites.

(2)(A) Each amendment prepared pursuant to paragraph (1) shall comply with any applicable requirements of section 102(2) of the National Environmental Policy Act, except that any cumulative effects analysis conducted in accordance with the methodology provided pursuant to subsection (b) shall be deemed to meet any requirement of such Act for such analysis.

(B) Any policy adopted in an amendment prepared pursuant to paragraph (1) which is a modification of or alternative to a policy referred to in paragraph (1) upon which consultation or conferencing has occurred pursuant to section 7 of the Endangered Species Act of 1973 shall not again be subject to the consultation or conferencing provisions of such section 7. Any other consultation or conferencing required by such section 7 shall be conducted separately on each amendment prepared pursuant to paragraph (1): Provided, That, except as provided in this subparagraph, no other consultation shall be undertaken on such amendments, on any project or activity which is consistent with an applicable amendment, on any policy referred to in paragraph (1), or on any portion of any plan related to such policy or the species to which such policy applies.

(3) Each amendment prepared pursuant to paragraph (1) shall be adopted on or before March 31, 1997, and no policy referred to in paragraph (1), or any provision of a plan or other planning document incorporating such policy, shall be effective in any forest subject to the Project on or after such date, or after an amendment to the plan which applies to such forest is adopted pursuant to this subsection, whichever occurs first.

(4) On the signing of a record of decision or equivalent document making an amendment for the Clearwater National Forest pursuant to paragraph (1), the requirement for revision referred to in this Stipulation of Dismissal dated September 13, 1993, applicable to such Forest is deemed to be satisfied, and the interim management direction provisions contained in the Stipulation of Dismissal shall be of no further effect with respect to such Forest.

SEC. 315. RECREATIONAL FEE DEMONSTRATION PROGRAM.—(a) The Secretary of the Interior (acting through the Bureau of Land Management, the National Park Service and the United States Fish and Wildlife Service) and the Secretary of Agriculture (acting through the Forest Service) shall each implement a fee program to demonstrate the feasibility of user-generated cost recovery for the operation and maintenance of recreation areas or sites and habitat enhancement projects on Federal lands.

(b) In carrying out the pilot program established pursuant to this section, the appropriate Secretary shall select from areas under the jurisdiction of each of the four agencies referred to in subsection (a) no fewer than 10, but as many as 50, areas, sites or projects for fee demonstration. For each such demonstration, the Secretary, notwithstanding any other provision of law—

(1) shall charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services by individuals and groups, or any combination thereof;

(2) shall establish fees under this section based upon a variety of cost recovery and fair market valuation methods to provide a broad basis for feasibility testing;

(3) may contract, including provisions for reasonable commissions, with any public or private entity to provide visitor services, including reservations and information, and may accept services of volunteers to collect fees charged pursuant to paragraph (1);

(4) may encourage private investment and partnerships to enhance the delivery of quality customer services and resource enhancement, and provide appropriate recognition to such partners or investors; and

(5) may assess a fine of not more than $100 for any violation of the authority to collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services.

(c)(1) Amounts collected at each fee demonstration area, site or project shall be distributed as follows:

(A) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, eighty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditures in accordance with paragraph (2)(A).

(B) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, twenty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(B).

(C) For agencies other than the Fish and Wildlife Service, up to 15% of current year collections of each agency, but not greater than fee collection costs for that fiscal year, to remain available for expenditure without further appropriation in accordance with paragraph (2)(C).

(D) For agencies other than the Fish and Wildlife Service, the balance to the special account established pursuant to subparagraph (A) of section 4(i)(1) of the Land and Water Conservation Fund Act, as amended.

(E) For the Fish and Wildlife Service, the balance shall be distributed in accordance with section 201(c) of the Emergency Wetlands Resources Act.

(2)(A) Expenditures from site specific special funds shall be for further activities of the area, site or project from which funds are collected, and shall be accounted for separately.

(B) Expenditures from agency specific special funds shall be for use on an agency-wide basis and shall be accounted for separately.

(C) Expenditures from the fee collection support fund shall be used to cover fee collection costs in accordance with section 4(i)(1)(B) of the Land and Water Conservation Fund Act, as amended: Provided, That funds unexpended and unobligated at the end of the fiscal year shall not be deposited into the special account established pursuant to section 4(i)(1)(A) of said Act and shall remain available for expenditure without further appropriation.

(3) In order to increase the quality of the visitor experience at public recreational areas and enhance the protection of resources, amounts available for expenditure under this section may only be used for the area, site or project concerned, for backlogged repair and maintenance projects (including projects relating to health and safety) and for interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement relating to public use. The agencywide accounts may be used for the same purposes set forth in the preceding sentence, but for areas, sites or projects selected at the discretion of the respective agency head.

(d)(1) Amounts collected under this section shall not be taken into account for the purposes of the Act of May 23, 1908 and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937 and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l), and any other provision of law relating to revenue allocation.

(2) Fees charged pursuant to this section shall be in lieu of fees charged under any other provision of law.

(e) The Secretary of the Interior and the Secretary of Agriculture shall carry out this section without promulgating regulations.

(f) The authority to collect fees under this section shall commence on October 1, 1995, and end on September 30, 1998. Funds in accounts established shall remain available through September 30, 2001.

SEC. 316. Section 2001(a)(2) of Public Law 104–19 is amended as follows: Strike "September 30, 1997" and insert in lieu thereof "December 31, 1996".

SEC. 317. None of the funds made available in this Act may be used for any program, project, or activity when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any applicable Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 318. None of the funds provided in this Act may be made available for the Mississippi River Corridor Heritage Commission.

SEC. 319. GREAT BASIN NATIONAL PARK.—Section 3 of the Great Basin National Park Act of 1986 (16 U.S.C. 410mm–1) is amended—

(1) in the first sentence of subsection (e) by striking "shall" and inserting "may"; and

(2) in subsection (f)—

(A) by striking "At the request" and inserting the following:

"(1) EXCHANGES.—At the request";

(B) by striking "grazing permits" and inserting "grazing permits and grazing leases"; and

(C) by adding after "Federal lands." the following:

"(2) ACQUISITION BY DONATION.—

(A) IN GENERAL.—The Secretary may acquire by donation valid existing permits and grazing leases authorizing grazing on land in the park.

(B) TERMINATION.—The Secretary shall terminate a grazing permit or grazing lease acquired

under subparagraph (A) so as to end grazing previously authorized by the permit or lease.".

SEC. 320. None of the funds made available in this Act shall be used by the Department of Energy in implementing the Codes and Standards Program to propose, issue, or prescribe any new or amended standard: Provided, That this section shall expire on September 30, 1996: Provided further, That nothing in this section shall preclude the Federal Government from promulgating rules concerning energy efficiency standards for the construction of new federally-owned commercial and residential buildings.

SEC. 321. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 322. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) PROCESSING SCHEDULE.—For those applications for patents pursuant to subsection (b) which were filed with the Secretary of the Interior, prior to September 30, 1994, the Secretary of the Interior shall—

(1) Within three months of the enactment of this Act, file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details how the Department of the Interior will make a final determination as to whether or not an applicant is entitled to a patent under the general mining laws on at least 90 percent of such applications within five years of the enactment of this Act and file reports annually thereafter with the same committees detailing actions taken by the Department of the Interior to carry out such plan; and

(2) Take such actions as may be necessary to carry out such plan.

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 323. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

SEC. 324. No part of any appropriation contained in this Act or any other Act shall be expended or obligated to fund the activities of the Office of Forestry and Economic Development after December 31, 1995.

SEC. 325. Amend section 2001(k) of Public Law 104–19 by striking "in fiscal years 1995 and 1996" in paragraph (1) and adding paragraph (4) to read:

"(4) TIMING AND CONDITIONS OF ALTERNATIVE VOLUME.—For any sale subject to paragraph (2) of this subsection, the Secretary concerned shall, and for any other sale subject to this subsection, the Secretary concerned may, within 45 days of the date of enactment of this paragraph, reach agreement with the purchaser to identify and provide, by a date agreed to by the purchaser, a volume, value and kind of timber satisfactory to the purchaser to substitute for all or a portion of the timber subject to the sale, which shall be subject to the original terms of the contract except as otherwise agreed, and shall be subject to paragraph (1). After the agreed date for providing alternative timber the purchaser may operate the original sale under the terms of paragraph (1) until the Secretary concerned designates and the purchaser accepts alternative timber under this paragraph. Any sale subject to this subsection shall be awarded, released, and completed pursuant to paragraph (1) for a period equal to the length of the original contract, and shall not count against current allowable sale quantities or timber sales to be offered under subsections (b) and (d).

"(5) BUY-OUT AUTHORIZATION.—The Secretary concerned is authorized to permit a requesting purchaser of any sale subject to this subsection to return to the Government all or a specific volume of timber under the sale contract, and shall pay to such purchaser upon tender of such volume a buy-out payment for such volume from any funds available to the Secretary concerned except from accounts governing or related to forest land management, fire fighting, timber sale preparation, harvest administration, road construction and maintenance, timber sale program support; any accounts associated with preparing or administering the sale of timber from any public lands under the jurisdiction of the Secretary concerned, range or minerals management; or any permanent appropriation or trust funds. Such volume and such payment shall be mutually agreed to by the Secretary and the purchaser. The authority provided by this paragraph to reach such agreement shall expire 45 days after the enactment of this paragraph."

SEC. 326. (a) LAND EXCHANGE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

(b) APPRAISAL.—The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: Provided, That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: Provided further, That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

(c) ADMINISTRATIVE COSTS.—Costs of conducting the necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—(1) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Act after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 327. TIMBER SALES PIPELINE RESTORATION FUNDS.—(a) The Secretary of Agriculture and the Secretary of the Interior shall each establish a Timber Sales Pipeline Restoration Fund (hereinafter "Agriculture Fund" and "Interior Fund" or "Funds"). Any revenues received from sales released under section 2001(k) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, minus the funds necessary to make payments to States or local governments under other law concerning the distribution of revenues derived from the affected lands, which are in excess of $37,500,000 (hereinafter "excess revenues") shall be deposited into the Funds. The distribution of excess revenues between the Agriculture Fund and Interior Fund shall be calculated by multiplying the total of excess revenues times a fraction with a denominator of the total revenues received from all sales released under such section 2001(k) and numerators of the total revenues received from such sales on lands within the National Forest System and the total revenues received from such sales on lands administered by the Bureau of Land Management, respectively: Provided, That revenues or portions thereof from sales released under such section 2001(k), minus the amounts necessary for State and local government payments and other necessary deposits, may be deposited into the Funds immediately upon receipt thereof and subsequently redistributed between the Funds or paid into the United States Treasury as miscellaneous receipts as may be required when the calculation of excess revenues is made.

(b)(1) From the funds deposited into the Agriculture Fund and into the Interior Fund pursuant to subsection (a)—

(A) seventy-five percent shall be available, without fiscal year limitation or further appropriation, for preparation of timber sales, other

than salvage sales as defined in section 2001(a)(3) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, which—

(i) are situated on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively; and

(ii) are in addition to timber sales for which funds are otherwise available in this Act or other appropriations Acts; and

(B) twenty-five percent shall be available, without fiscal year limitation or further appropriation, to expend on the backlog of recreation projects on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively.

(2) Expenditures under this subsection for preparation of timber sales may include expenditures for Forest Service activities within the forest land management budget line item and associated timber roads, and Bureau of Land Management activities within the Oregon and California grant lands account and the forestry management area account, as determined by the Secretary concerned.

(c) Revenues received from any timber sale prepared under subsection (b) or under this subsection, minus the amounts necessary for State and local government payments and other necessary deposits, shall be deposited into the Fund from which funds were expended on such sale. Such deposited revenues shall be available for preparation of additional timber sales and completion of additional recreation projects in accordance with the requirements set forth in subsection (b).

(d) The Secretary concerned shall terminate all payments into the Agriculture Fund or the Interior Fund, and pay any unobligated funds in the affected Fund into the United States Treasury as miscellaneous receipts, whenever the Secretary concerned makes a finding, published in the Federal Register, that sales sufficient to achieve the total allowable sales quantity of the National Forest System for the Forest Service or the allowable sales level for the Oregon and California grant lands for the Bureau of Land Management, respectively, have been prepared.

(e) Any timber sales prepared and recreation projects completed under this section shall comply with all applicable environmental and natural resource laws and regulations.

(f) The Secretary concerned shall report annually to the Committees on Appropriations of the United States Senate and the House of Representatives on expenditures made from the Fund for timber sales and recreation projects, revenues received into the Fund from timber sales, and timber sale preparation and recreation project work undertaken during the previous year and projected for the next year under the Fund. Such information shall be provided for each Forest Service region and Bureau of Land Management State office.

(g) The authority of this section shall terminate upon the termination of both Funds in accordance with the provisions of subsection (d).

SEC. 328. Of the funds provided to the National Endowment for the Arts:

(a) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(b) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(c) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 329. DELAY IN IMPLEMENTATION OF THE ADMINISTRATION'S RANGELAND REFORM PROGRAM.—None of the funds made available under this or any other Act may be used to implement or enforce the final rule published by the Secretary of the Interior on February 22, 1995 (60 Fed. Reg. 9894), making amendments to parts 4, 1780, and 4100 of title 43, Code of Federal Regulations, to take effect August 21, 1995, until November 21, 1995. None of the funds made available under this or any other Act may be used to publish proposed or enforce final regulations governing the management of livestock grazing on lands administered by the Forest Service until November 21, 1995.

SEC. 330. Section 1864 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "twenty" and inserting "40";

(B) in paragraph (3), by striking "ten" and inserting "20";

(C) in paragraph (4), by striking "if damage exceeding $10,000 to the property of any individual results," and inserting "if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate,"; and

(D) in paragraph (4), by striking "ten" and inserting "20";

(2) in subsection (c) by striking "ten" and inserting "20";

(3) in subsection (d), by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting "; and"; and

(C) adding at the end the following:

"(4) the term 'avoidance costs' means costs incurred by any individual for the purpose of—

"(A) detecting a hazardous or injurious device; or

"(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a)."; and

(4) by adding at the end thereof the following:

"(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.".

SEC. 331. (a) PURPOSES OF NATIONAL ENDOWMENT FOR THE ARTS.—Section 2 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951), sets out findings and purposes for which the National Endowment for the Arts was established, among which are—

(1) "The arts and humanities belong to all the people of the United States";

(2) "The arts and humanities reflect the high place accorded by the American people . . . to the fostering of mutual respect for the diverse beliefs and values of all persons and groups";

(3) "Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money [and] such funding should contribute to public support and confidence in the use of taxpayer funds"; and

(4) "Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines".

(b) ADDITIONAL CONGRESSIONAL FINDINGS.—Congress further finds and declares that the use of scarce funds, which have been taken from all taxpayers of the United States, to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

is contrary to the express purposes of the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(c) PROHIBITION ON FUNDING THAT IS NOT CONSISTENT WITH THE PURPOSES OF THE ACT.—Notwithstanding any other provision of law, none of the scarce funds which have been taken from all taxpayers of the United States and made available under this Act to the National Endowment for the Arts may be used to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

and this prohibition shall be strictly applied without regard to the content or viewpoint of the material or performance.

(d) SECTION NOT TO AFFECT OTHER WORKS.—Nothing in this section shall be construed to affect in any way the freedom of any artist or performer to create any material or performance using funds which have not been made available under this Act to the National Endowment for the Arts.

SEC. 332. For purposes related to the closure of the Bureau of Mines, funds made available to the United States Geological Survey, the United States Bureau of Mines, and the Bureau of Land Management shall be available for transfer, with the approval of the Secretary of the Interior, among the following accounts: United States Geological Survey, Surveys, investigations, and research; Bureau of Mines, Mines and minerals; and Bureau of Land Management, Management of lands and resources. The Secretary of Energy shall reimburse the Secretary of the Interior, in an amount to be determined by the Director of the Office of Management and Budget, for the expenses of the transferred functions between October 1, 1995 and the effective date of the transfers of function. Such transfers shall be subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 333. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 Subpart D, 36 CFR 223 Subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1996, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1996.

SEC. 334. The National Park Service, in accordance with the Memorandum of Agreement between the United States National Park Service and the City of Vancouver dated November 4, 1994, shall permit general aviation on its portion of Pearson Field in Vancouver, Washington until the year 2022, during which time a plan and method for transitioning from general aviation aircraft to historic aircraft shall be completed; such transition to be accomplished by that date. This action shall not be construed to limit the authority of the Federal Aviation Administration over air traffic control or aviation activities at Pearson Field or limit operations and airspace of Portland International Airport.

SEC. 335. The United States Forest Service approval of Alternative site 2 (ALT 2), issued on December 6, 1993, is hereby authorized and approved and shall be deemed to be consistent with, and permissible under, the terms of Public Law 100–696 (the Arizona-Idaho Conservation Act of 1988).

SEC. 336. Notwithstanding any other provision of law, no funds made available to the Department of the Interior or the Department of Agriculture by this or any other act, through May 15, 1997, may be used to prepare, issue, or implement regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

SEC. 337. Upon enactment of this Act, the following provisions of Public Law 104–92, Public Law 104–91, and Public Law 104–99 that would continue to have effect after March 15, 1996, are superseded:

Section 101 of Public Law 104–92, as amended: (1) the paragraph dealing with general welfare assistance payments and foster care payments funded under the account heading "Operations of Indian Programs"; and (2) the paragraph dealing with the visitor services in the National Park System, the National Wildlife Refuges, the National Forests, the Smithsonian Institution facilities, the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the United States Holocaust Memorial.

Section 101(a) of Public Law 104–91: (1) the paragraph dealing with visitor services on the public lands managed by the Bureau of Land Management; and (2) the paragraph dealing with Self-Determination and Self-Governance projects and activities under the account heading "Operations of Indian Programs" and the account heading "Indian Health Service".

Section 123 of Public Law 104–99.

Section 124 of Public Law 104–99.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1996".

(d) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1996 and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; the Women in Apprenticeship and Nontraditional Occupations Act; National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $3,108,978,000 plus reimbursements, of which $2,891,759,000 is available for obligation for the period July 1, 1996 through June 30, 1997; of which $121,467,000 is available for the period July 1, 1996 through June 30, 1999 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which $95,000,000 shall be available from July 1, 1996 through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act: Provided, That $52,502,000 shall be for carrying out section 401 of the Job Training Partnership Act, $69,285,000 shall be for carrying out section 402 of such Act, $7,300,000 shall be for carrying out section 441 of such Act, $8,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $745,700,000 shall be for carrying out title II, part A of such Act, and $126,672,000 shall be for carrying out title II, part C of such Act and $5,000,000 shall be available for obligation for the period July 1, 1995 through June 30, 1996 for employment-related activities of the 1996 Paralympic Games: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: Provided further, That notwithstanding any other provision of law, the Secretary of Labor may waive any of the requirements contained in sections 4, 104, 105, 107, 108, 121, 164, 204, 253, 254, 264, 301, 311, 313, 314, and 315 of the Job Training Partnership Act in order to assist States in improving State workforce development systems, pursuant to a request submitted by a State that has prior to the date of enactment of this Act executed a Memorandum of Understanding with the United States requiring such State to meet agreed upon outcomes: Provided further, That funds used from this Act to carry out title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver allowing a reduction in the cost limitation relating to retraining services described in subsection (a)(2) of such section 315 may be granted with respect to funds from this Act if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services and that funds used from this Act to carry out the Secretary's discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the requirements relating to enrollment in training under section 314(e) of such Act, are enrolled in training by the end of the sixth week after funds have been awarded: Provided further, That service delivery areas may transfer funding provided herein under authority of title II–C of the Job Training Partnership Act to the program authorized by title II–B of that Act, if such transfer is approved by the Governor: Provided further, That service delivery areas and substate areas may transfer funding provided herein under authority of title II–A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: Provided further, That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps Center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $273,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $77,000,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $346,100,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235, 243–244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out section 221(a) of the Immigration Act of 1990, $117,328,000, together with not to exceed $3,104,194,000 (including not to exceed $1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1996, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1998; and of which $115,452,000, together with not to exceed $738,283,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1996, through June 30, 1997, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $216,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1996 is projected by the Department of Labor to exceed

2.785 million, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1997, $369,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1996, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

ADVANCES TO THE EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT OF THE UNEMPLOYMENT TRUST FUND

(RESCISSION)

Amounts remaining unobligated under this heading as of September 30, 1995, are hereby rescinded.

PAYMENTS TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(RESCISSION)

Of the amounts remaining unobligated under this heading as of September 30, 1995, $266,000,000 are hereby rescinded.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $83,054,000, together with not to exceed $40,793,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $65,198,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1996, for such Corporation: Provided, That not to exceed $10,603,000 shall be available for administrative expenses of the Corporation: Provided further, That expenses of such Corporation in connection with the collection of premiums, the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $254,756,000, together with $978,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): Provided further, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $218,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That such sums as are necessary may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 1995, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1996: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $19,383,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., chapter 81, or under subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $996,763,000, of which $949,494,000 shall be available until September 30, 1997, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $27,350,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $298,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: Provided, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: Provided further, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $288,985,000 including not to exceed $70,615,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less *than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—*

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $196,673,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $292,462,000, of which $11,549,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1997, together with not to exceed $49,997,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $4,358,000 for the President's Committee on Employment of People With Disabilities, $140,077,000; together with not to exceed $303,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: Provided, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under Section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278, (1995): Provided further, That no funds made available by this Act may be used by the Secretary of Labor after September 12, 1996, to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: Provided further, That any such decision pending a review by the Benefits Review Board for more than one year shall, if not acted upon by the Board before September 12, 1996, be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: Provided further, That beginning on September 13, 1996, the Benefits Review Board shall make a decision on an appeal of a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) not later than 1 year after the date the appeal to the Benefits Review Board was filed; however, if the Benefits Review Board fails to make a decision within the 1-year period, the decision under review shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals.

WORKING CAPITAL FUND

The language under this heading in Public Law 85–67, as amended, is further amended by adding the following before the last period: ": Provided further, That within the Working Capital Fund, there is established an Investment in Reinvention Fund (IRF), which shall be available to invest in projects of the Department designed to produce measurable improvements in agency efficiency and significant taxpayer savings. Notwithstanding any other provision of law, the Secretary of Labor may retain up to $3,900,000 of the unobligated balances in the Department's annual Salaries and Expenses accounts as of September 30, 1995, and transfer those amounts to the IRF to provide the initial capital for the IRF, to remain available until expended, to make loans to agencies of the Department for projects designed to enhance productivity and generate cost savings. Such loans shall be repaid to the IRF no later than September 30 of the fiscal year following the fiscal year in which the project is completed. Such repayments shall be deposited in the IRF, to be available without further appropriation action."

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $170,390,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 1996.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $44,426,000, together with not to exceed $3,615,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

SEC. 102. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard or guideline regarding ergonomic protection. Nothing in this section shall be construed to limit the Occupational Safety and Health Administration from conducting any peer reviewed risk assessment activity regarding ergonomics, including conducting peer reviews of the scientific basis for establishing any standard or guideline, direct or contracted research, or other activity necessary to fully establish the scientific basis for promulgating any standard or guideline on ergonomic protection.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: Provided, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfers.

This title may be cited as the "Department of Labor Appropriations Act, 1996".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, and the Native Hawaiian Health Care Act of 1988, as amended, $2,954,864,000, of which $411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: Provided, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative, and occupational health professionals: Provided further, That of the funds made available under this heading, $858,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That no more than $5,000,000 is available for carrying out the provisions of Public Law 102–501 as amended: Provided further, That of the funds made available under this heading, $193,349,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity *(including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: Provided further, That the Secretary shall use amounts available for section 2603(b) of the Public Health Service Act as necessary to ensure that fiscal year 1996 grant awards made under section 2603(a) of such Act to eligible areas that received such grants in fiscal year 1995 are not less than the fiscal year 1995 level: Provided further, That of the amounts available for Area Health Education Centers, $24,125,000 shall be for section 746(i)(1)(A) of the Health Professions Education Extension Amendments of 1992, notwithstanding section 746(i)(1)(C).*

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $8,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $210,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $1,800,469,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $65,390,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $63,080,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $55,094,355,000, to remain available until expended.

For making, after May 31, 1996, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1996 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1997, $26,155,350,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $63,313,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100–203, not to exceed $2,111,406,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, the $2,111,406,000, to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1996, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $13,614,307,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1997, $4,800,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1995 under this heading in Public Law 103–333, $100,000,000 are hereby rescinded.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000, to be available for obligation in the period October 1, 1996 through September 30, 1997.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $300,000,000 to remain available until expended: Provided, That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $397,872,000: Provided, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 103–112 for fiscal year 1994 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1995 and 1996.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $934,642,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act,

$2,380,000,000: Provided, That notwithstanding section 2003(c) of such Act, the amount specified for allocation under such section for fiscal year 1996 shall be $2,380,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, and part B(1) of title IV of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100–485, $4,585,546,000; of which $435,463,000 shall be for making payments under the Community Services Block Grant Act: Provided, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.

In addition, $21,358,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211, 40241, and 40251 of Public Law 103–322.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $225,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, $4,322,238,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $831,027,000: Provided, That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $130,499,000, together with $6,628,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $58,492,000, together with not to exceed $20,670,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, together with any funds, to remain available until expended, that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and which are transferred to the Office of the Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,153,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $9,000,000.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to prepare to respond to the health and medical consequences of nuclear, chemical, or biologic attack in the United States, $7,000,000, to remain available until expended and, in addition, for clinical trials, applying imaging technology used for missile guidance and target recognition to new uses improving the early detection of breast cancer, $2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act.

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act or upon September 30, 1996, whichever occurs first.

SEC. 205. None of the funds appropriated in this or any other Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

Sec. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

(TRANSFER OF FUNDS)

SEC. 207. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1996, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 208. Notwithstanding section 106 of Public Law 104–91, appropriations for the National Institutes of Health and the Centers for Disease Control and Prevention shall be available for fiscal year 1996 as specified in section 101 of Public Law 104–91.

(RESCISSION)

SEC. 209. Of the amounts made available under the account heading "Disease Control, Research, and Training" under the Centers for Disease Control and Prevention, Department of Health and Human Services in Public Law 103–333, Public Law 103–112, and Public Law 102–394 for immunization activities, $53,000,000 are hereby rescinded.

SEC. 210. Of the funds provided for the account heading "Disease Control, Research, and Training" in Public Law 104–91, $31,642,000, to be derived from the Violent Crime Reduction Trust Fund, is hereby available for carrying out sections 40151, 40261, and 40293 of Public Law 103–322 notwithstanding any provision of Public Law 104–91.

SEC. 211. The Director of the Centers for Disease Control and Prevention may redirect the total amount made available under the authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided, That the Congress is to be notified promptly of any such transfer.

(TRANSFER OF FUNDS)

SEC. 212. Notwithstanding any other provision of this Act or of Public Law 104–91, the Director of the Office of AIDS Research, National Institutes of Health, in consultation with the Director, National Institutes of Health, may transfer up to 3 percent among Institutes from the total amounts identified in each Institute for AIDS research: Provided, That such transfers shall be within 30 days of enactment of this Act and be based on the scientific priorities established in the plan developed by the Director in accordance with section 2353 of Public Law 103–43: Provided further, That the Congress is promptly notified of the transfer.

SEC. 213. If the Secretary fails to approve the application for waivers related to the Achieving Change for Texans, a comprehensive reform of the Texas Aid To Families With Dependent Children program designed to encourage work instead of welfare, a request under section 1115(a) of the Social Security Act submitted by the Texas Department of Human Services on September 30, 1995, by the date of enactment of this Act, notwithstanding the Secretary's authority to approve the applications under such section, the application shall be deemed approved.

SEC. 214. (a) REIMBURSEMENT OF CERTAIN CLAIMS UNDER THE MEDICAID PROGRAM.—Notwithstanding any other provision of law, and subject to subsection (b), in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996, (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

(b) LIMITATION ON RESCISSION OR REIMBURSEMENT OF CLAIMS.—The total amount of payment reductions rescinded or reimbursement of claims allowed under subsection (a) shall not exceed $54,000,000.

(c) OFFSET OF FUNDS.—Notwithstanding any other provision of this Act, the amounts on lines 5 and 8 of page 570 (relating to the Social Services Block Grant) shall each be reduced by $70,000,000.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1996".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act and the School-to-Work Opportunities Act, $385,000,000, of which $290,000,000 for the Goals 2000: Educate America Act and $95,000,000 for the School-to-Work Opportunities Act which shall become available on July 1, 1996, and remain available through September 30, 1997: Provided, That notwithstanding section 311(e) of Public Law 103–227, the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $6,513,511,000, of which $6,497,172,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997: Provided, That $5,266,863,000 shall be available for basic grants under section 1124: Provided further, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 1995, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $692,341,000 shall be available for concentration grants under section 1124(A) and $3,370,000 shall be available for evaluations under section 1501.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $691,159,000, of which $581,170,000 shall be for basic support payments under section 8003(b), $40,000,000 shall be for payments for children with disabilities under section 8003(d), $50,000,000, to remain available until expended, shall be for payments under section 8003(f), $5,000,000 shall be for construction under section 8007, and $14,989,000 shall be for Federal property payments under section 8002.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV–A–1, V–A, VI, VII–B, and titles IX, X and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964; $948,987,000 of which $775,760,000 shall become available on July 1, 1996, and remain available through September 30, 1997: Provided, That of the amount appropriated, $275,000,000 shall be for Eisenhower professional development State grants under title II–B and $275,000,000 shall be for innovative education program strategies State grants under title VI–A: Provided further, That not less than $3,000,000 shall be for innovative programs under section 5111.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), $150,000,000 of which $50,000,000 shall be for immigrant education programs authorized by part C: Provided, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

SPECIAL EDUCATION

For carrying out parts B, C, D, E, F, G, and H and section 610(j)(2)(C) of the Individuals with Disabilities Education Act, $3,245,447,000, of which $3,000,000,000 shall become available for obligation on July 1, 1996, and shall remain available through September 30, 1997: Provided, That the Republic of the Marshall Islands and the Federated States of Micronesia shall be considered jurisdictions for the purposes of section 611(e)(1), of the Individuals with Disabilities Education Act: Provided further, That notwithstanding section 621(e), funds made available for section 621 shall be distributed among each of the regional centers and the Federal center in proportion to the amount that each such center received in fiscal year 1995.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,452,620,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,680,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $42,180,000: Provided, That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $77,629,000: Provided, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the National Literacy Act of 1991, $1,257,888,000, of which $4,869,000 shall be for the National Institute for Literacy, and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991; and of which $1,254,969,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $5,000,000 shall be for national programs under title IV without regard to section 451 and $350,000 shall be for evaluations under section 346(b) of the Act and no funds shall be available for State councils under section 112.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C, and part E of title IV of the Higher Education Act of 1965, as amended, $6,165,290,000, which shall remain available through September 30, 1997: Provided, That notwithstanding section 401(a)(1) of the Act, there shall be not to exceed 3,634,000 Pell Grant recipients in award year 1995–1996.

The maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be $2,440: Provided, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1996–1997, that the $4,814,000,000 included within this appropriation for Pell Grant awards for award year 1996–1997, and any funds available from the fiscal year 1995 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $30,066,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), chapters I and II of subpart 2 and subpart 6 of part A of title IV, subpart 2 of part E of title V, parts A, B and C of title VI, title VII, parts C, D, and G of title IX, part A and subpart 1 of part B of title X, and part A of title XI of the Higher Education Act of 1965, as amended, Public Law 102–423, and the Mutual Educational and Cultural Exchange Act of 1961; $836,964,000, of which $16,712,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended: Provided, That notwithstanding sections 419D, 419E, and 419H of the Higher Education Act, as amended, scholarships made under title IV, part A, subpart 6 shall be prorated to maintain the same number of new scholarships in fiscal year 1996 as in fiscal year 1995.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $174,671,000: Provided, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under the Howard University Endowment Act (Public Law 98–480).

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $700,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment *of costs for inspections and site visits, shall be available for the operating expenses of this account.*

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $166,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the National Education Statistics Act; sections 2102, 3134, and 3136, parts B, C, and D of title III, parts A, B, I, and K, and section 10601 of title X, part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of the Goals 2000: Educate America Act, $328,268,000: Provided, That $4,000,000 shall be for section 10601 of the Elementary and Secondary Education Act: Provided further, That $25,000,000 shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act: Provided further, That $51,000,000 shall be for regional laboratories, $5,000,000 shall be for International Education Exchange, and $3,000,000 shall be for the elementary mathematics and science equipment projects under the fund for the improvement of education: Provided further That funds shall be used to extend star schools partnership projects that received continuation grants in fiscal year 1995.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, and III of the Library Services and Construction Act, and title II–B of the Higher Education Act, $131,505,000, of which $16,369,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and $2,500,000 shall be for section 222 and $2,000,000 shall be for section 223 of the Higher Education Act: Provided, That $1,000,000 shall be awarded to a nonprofit foundation using multi-media technology to document and archive not less than 40,000 holocaust survivors' testimony: Provided further, That $1,000,000 shall be for the continued funding of an existing demonstration project making information available for public use by connecting Internet to a multistate consortium.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $327,319,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,451,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $28,654,000.

HEADQUARTERS RENOVATION

For necessary expenses for the renovation of the Department of Education headquarters building, $7,000,000, to remain available until September 30, 1998.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 304. Notwithstanding any other provision of law, funds available under section 458 of the Higher Education Act shall not exceed $460,000,000 for fiscal year 1996. The Department of Education shall pay (i) administrative cost allowances owed to guaranty agencies for fiscal year 1995 estimated at $95,000,000. The Department of Education shall pay administrative cost allowances to guaranty agencies, payable quarterly, calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued on or after October 1, 1995 by such guaranty agency. Receipt of such funds and uses of such funds shall be in accordance with section 428(f).

Notwithstanding section 458 of the Higher Education Act, the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program during fiscal year 1996, nor may the Secretary require the return of guaranty agency reserve funds during fiscal year 1996, except after consultation with appropriate committees of Congress.

No funds available to the Secretary may be used for payment of administrative fees relating to the William D. Ford Direct Loan Program to institutions of higher education.

SEC. 305. (a)(1) From any unobligated funds that are available to the Secretary of Education to carry out section 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994) not less than $11,500,000 shall be available to the Secretary of Education to carry out subsection (b).

(2) Any unobligated funds described in paragraph (1) that remain unobligated after the Secretary of Education carries out such paragraph shall be available to the Secretary of Education to carry out section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(b)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term "construction" has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary of Education not later than 30 days after the date of enactment of this Act.

SEC. 306. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

This title may be cited as the "Department of Education Appropriations Act, 1996".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $55,971,000, of which $1,954,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $201,294,000, of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1998, $250,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is *excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.*

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $32,396,000 including $1,500,000, to remain available through September 30, 1997, for activities authorized by the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged for special training activities up to full-cost recovery shall be credited to and merged with this account, and shall remain available until expended: Provided further, That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $829,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $1,000,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $167,245,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,837,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $8,100,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,923,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,267,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $22,641,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $485,396,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1997, $170,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $18,595,012,000, to remain available until expended, of which $1,500,000 shall be for a demonstration program to foster economic independence among people with disabilities through disability sport, in connection with the Tenth Paralympic Games: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1997, $9,260,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two medium size passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,271,183,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: Provided, That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1997: Provided further, That unobligated balances at the end of fiscal year 1996 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

In addition to funding already available under this heading, and subject to the same terms and conditions, $407,000,000, for disability caseload processing.

In addition to funding already available under this heading, and subject to the same terms and conditions, $167,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,816,000, together with not to exceed $21,076,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $239,000,000, which shall include amounts becoming available in fiscal year 1996 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $239,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1997, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board in administering the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $89,094,000, to be derived as authorized by section 15(h) of the Railroad Retirement Act and section 10(a) of the Railroad Unemployment Insurance Act, from the accounts referred to in those sections.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $659,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,673,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,500,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

SEC. 509. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purposes for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 510. LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than $5,000,000.

SEC. 512. None of the funds made available in this Act may be used for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 to students attending an institution of higher education that is ineligible to participate in a loan program under such title as a result of a default determination under section 435(a)(2) of such Act, unless such institution has a participation rate index (as defined at 34 CFR 668.17) that is less than or equal to 0.0375.

SEC. 513. No more than 1 percent of salaries appropriated for each Agency in this Act may be expended by that Agency on cash performance awards: Provided, That of the budgetary resources available to Agencies in this Act for salaries and expenses during fiscal year 1996, $30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: Provided further, That the foregoing proviso shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 514. (a) HIGH COST TRAINING EXCEPTION.—Section 428H(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)(2)) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

> *"except in cases where the Secretary determines, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.".*

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996".

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $18,331,561,000, to remain available until expended: Provided, That not to exceed $25,180,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55): Provided further, That $12,000,000 previously transferred from "Compensation and pensions" to "Medical facilities revolving fund" shall be transferred to this heading.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,345,300,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,890,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $52,138,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during 1996, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $459,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $377,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $205,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,564,000,000, plus reimbursements: Provided, That of the funds made available under this heading, $789,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1996, and shall remain available for obligation until September 30, 1997.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1997, $257,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $63,602,000, plus reimbursements.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $848,143,000: Provided, That of the amount appropriated and any other funds made available from any other source for activities funded under this heading, except reimbursements, not to exceed $214,109,000 shall be available for General Administration; including not to exceed (1) $50,000 for travel in the Office of the Secretary, (2) $75,000 for travel in the Office of the Assistant Secretary for Policy and Planning, (3) $33,000 for travel in the Office of the Assistant Secretary for Congressional Affairs, and (4) $100,000 for travel in the Office of Assistant Secretary for Public and Intergovernmental Affairs: Provided further, That during fiscal year 1996, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: Provided further, That not to exceed $6,000,000 of the amount appropriated shall be available for administrative expenses to carry out the direct and guaranteed loan programs under the Loan Guaranty Program Account: Provided further, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: Provided further, That none of the funds under this heading may be obligated or expended for the acquisition of automated data processing equipment and services for Department of Veterans Affairs regional offices to support Stage III of the automated data equipment modernization program of the Veterans Benefits Administration.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,604,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,900,000.

CONSTRUCTION, MAJOR PROJECTS
(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $136,155,000, to remain available until expended: Provided, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 1996, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1996, and (2) by the awarding of a construction contract by September 30, 1997: Provided further, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): Provided further, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: Provided further, That of the funds made available under this heading in Public Law 103–327, $7,000,000 shall be transferred to the "Parking revolving fund".

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $190,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: Provided, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $47,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $1,000,000, to remain available until September 30, 1998.

ADMINISTRATIVE PROVISIONS
(INCLUDING TRANSFER OF FUNDS)

Sec. 101. Any appropriation for 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Sec. 102. Appropriations available to the Department of Veterans Affairs for 1996 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

Sec. 103. No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

Sec. 104. No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Sec. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1995.

Sec. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1996 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Sec. 107. Notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to transfer, without compensation or reimbursement, the jurisdiction and control of a parcel of land consisting of approximately 6.3 acres, located on the south edge of the Department of Veterans Affairs Medical and Regional Office Center, Wichita, Kansas, including buildings Nos. 8 and 30 and other improvements thereon, to the Secretary of Transportation for the purpose of expanding and modernizing United States Highway 54: Provided, That if necessary, the exact acreage and legal description of the real property transferred shall be determined by a survey satisfactory to the Secretary of Veterans Affairs and the Secretary of Transportation shall bear the cost of such survey: Provided further, That the Secretary of Transportation shall be responsible for all costs associated with the transferred land and improvements thereon, and compliance with all existing statutes and regulations: Provided further, That the Secretary of Veterans Affairs and the Secretary of Transportation may require such additional terms and conditions as each Secretary considers appropriate to effectuate this transfer of land.

TITLE II
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Housing Programs
ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,103,795,000, to remain available until expended: Provided, That of the total amount provided under this head, $160,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb): Provided further, That of the total amount provided under this head, $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to $20,000,000 for the inspection of public housing units, contract expertise, and training and technical assistance, directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public and Indian housing program, or for carrying out activities under section 6(j) of the Act: Provided further, That of the total amount provided under this head, $400,000,000 shall be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the Act, except that such amounts shall be used only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements, for the conversion of section 23 projects to assistance under section 8, for public housing agencies to implement allocation plans approved by the Secretary for designated housing, for funds to carry out the family unification program, and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount provided under this head, $4,350,862,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, such amounts shall be merged with all remaining obligated and unobligated balances heretofore appropriated under the heading "Renewal of expiring section 8 subsidy contracts": Provided further, That notwithstanding any other provision of law, assistance reserved under the two preceding provisos may be used in connection with any provision of Federal law enacted in this Act or after the enactment of this Act that authorizes the use of *rental assistance amounts in connection with such terminated or expired contracts: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1996: Provided further, That of the total amount provided under this head, $610,575,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; and $209,000,000 shall be for section 8 assistance and rehabilitation grants for property disposition: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: Provided further, That of the total amount provided under this head, $171,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; and $65,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992: Provided further, That the Secretary may make up to $5,000,000 of any amount recaptured in this account available for the development of performance and financial systems.*

Of the total amount provided under this head, $624,000,000, plus amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1996 (which amounts shall be transferred and merged with this account), shall be for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA): Provided, That prior to August 15, 1996, funding to carry out plans of action shall be limited to sales of projects to non-profit organizations, tenant-sponsored organizations, and other priority purchasers: Provided further, That of the amount made available by this paragraph, up to $10,000,000 shall be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended: Provided further, That with respect to amounts made available by this paragraph, after August 15, 1996, if the Secretary determines that the demand for funding may exceed amounts available for such funding, the Secretary (1) may determine priorities for distributing available funds, including giving priority funding to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action; and (2) may impose a temporary moratorium on applications by potential recipients of such funding: Provided further, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: Provided further, That an owner of eligible low-income housing who has not timely filed a second notice under section 216(d) prior to the effective date of this Act may file such notice by April 15, 1996: Provided further, That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: Provided further, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: Provided further, That the Secretary may give priority to funding and processing the following projects provided that the funding is obligated not later than September 15, 1996: (1) projects with approved plans of action to retain the housing that file a modified plan of action no later than August 15, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; and (4) projects whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993: Provided further, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: Provided further, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: Provided further, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: Provided further, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): Provided further, That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded: Provided further, That up to $10,000,000 of the amount made available by this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: Provided further, That, notwithstanding any other provision of law, effective October 1, 1996, the Secretary shall suspend further processing of preservation applications which do not have approved plans of action.

Of the total amount provided under this head, $780,190,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $233,168,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

For grants to public housing agencies for the purposes of enabling the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937 for the purpose of providing replacement housing and assisting tenants to be displaced by the demolition, $380,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall award such funds to public housing agencies based upon, among other relevant criteria, the local and national impact of the proposed demolition and revitalization activities and the extent to which the public housing agency could undertake such *activities without the additional assistance to be provided hereunder: Provided further, That eligible expenditures hereunder shall be those expenditures eligible under section 8 and section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f and l): Provided further, That the Secretary may impose such conditions and requirements as the Secretary deems appropriate to effectuate the purposes of this paragraph: Provided further, That the Secretary may require an agency selected to receive funding to make arrangements satisfactory to the Secretary for use of an entity other than the agency to carry out this program where the Secretary determines that such action will help to effectuate the purpose of this paragraph: Provided further, That in the event an agency selected to receive funding does not proceed expeditiously as determined by the Secretary, the Secretary shall withdraw any funding made available pursuant to this paragraph that has not been obligated by the agency and distribute such funds to one or more other eligible agencies, or to other entities capable of proceeding expeditiously in the same locality with the original program: Provided further, That of the foregoing $380,000,000, the Secretary may use up to .67 per centum for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided further, That any replacement housing provided with assistance under this head shall be subject to section 18(f) of the United States Housing Act of 1937, as amended by section 201(b)(2) of this Act.*

FLEXIBLE SUBSIDY FUND

(INCLUDING TRANSFER OF FUNDS)

From the fund established by section 236(g) of the National Housing Act, as amended, all uncommitted balances of excess rental charges as of September 30, 1995, and any collections during fiscal year 1996 shall be transferred, as authorized under such section, to the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1996 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: Provided, That up to $163,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 1996.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,800,000,000.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901–11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which $2,500,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development: Provided, That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants: Provided further, That an additional $30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this purpose under this heading, without regard to any percentage limitation otherwise applicable.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,400,000,000, to remain available until expended.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $36,900,000.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1998: Provided, That $50,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $2,000,000 shall be available as a grant to the Housing Assistance Council, $1,000,000 shall be available as a grant to the National American Indian Housing Council, and $27,000,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: Provided further, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: Provided further, That section 105(a)(25) of such Act, as added by section 907(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, shall continue to be effective after September 30, 1995, notwithstanding section 907(b)(2) of such Act: Provided further, That section 916 of the Cranston-Gonzalez National Affordable Housing Act shall apply with respect to fiscal year 1996, notwithstanding section 916(f) of that Act.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $53,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: Provided, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of the household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services shall include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applicants to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches), the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary.

Of the amount made available under this heading, notwithstanding any other provision of law, $12,000,000 shall be available for contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners both current and prospective, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act *of 1968, as amended, notwithstanding section 106(c)(9) and section 106(d)(13) of such Act.*

Of the amount made available under this heading, notwithstanding any other provision of law, $15,000,000 shall be available for the tenant opportunity program.

Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading.

Of the amount otherwise made available under this heading in this Act, notwithstanding any other provision of law, $80,000,000 shall be available for Economic Development Initiative grants as authorized by section 232 of the Multifamily Housing Property Disposition Reform Act of 1994, Public Law 103–233, on a competitive basis as required by section 102 of the HUD Reform Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $13,000,000 shall be for a grant to Watertown, South Dakota for the construction of wastewater treatment facilities.

For the cost of guaranteed loans, $31,750,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,500,000,000: Provided further, That the Secretary of Housing and Urban Development may make guarantees not to exceed the immediately foregoing amount notwithstanding the aggregate limitation on guarantees set forth in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $675,000 which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

The amount made available for fiscal year 1995 for a special purpose grant for the renovation of the central terminal in Buffalo, New York, shall be made available for the central terminal and for other public facilities in Buffalo, New York.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $34,000,000, to remain available until September 30, 1997.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and for contracts with qualified fair housing enforcement organizations, as authorized by section 561 of the Housing and Community Development Act of 1987, as amended by the Housing and Community Development Act of 1992, $30,000,000, to remain available until September 30, 1997.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $962,558,000, of which $532,782,000 shall be provided from the various funds of the Federal Housing Administration, and $9,101,000 shall be provided from funds of the Government National Mortgage Association, and $675,000 shall be provided from the Community Development Grants Program account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,850,000, of which $11,283,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $14,895,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: Provided, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f) of such Act.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1996, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000: Provided, That during fiscal year 1996, the Secretary shall sell assigned mortgage notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally insured under section 203(b) of the National Housing Act: Provided further, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996 for the disposition of properties or notes under this heading.

During fiscal year 1996, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $341,595,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $334,483,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $7,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of modifying such loans, $85,000,000, to remain available until expended: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $17,400,000,000: Provided further, That during fiscal year 1996, the Secretary shall sell assigned notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally obligations of the funds established under sections 238 and 519 of the National Housing Act: Provided further, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996, in addition to amounts otherwise provided, for the disposition of properties or notes under this heading (including the credit subsidy for the guarantee of loans or the reduction of positive credit subsidy amounts that would otherwise be required for the sale of such properties or notes), and for any other purpose under this heading: Provided further, That any amounts made available in any prior appropriation Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $202,470,000, of which $198,299,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1996, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $110,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,101,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,101,000 shall be transferred to the appropriation for departmental salaries and expenses.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

EXTEND ADMINISTRATIVE PROVISIONS FROM THE RESCISSION ACT

SEC. 201. (a) PUBLIC AND INDIAN HOUSING MODERNIZATION.—

(1) EXPANSION OF USE OF MODERNIZATION FUNDING.—Subsection 14(q) of the United States Housing Act of 1937 is amended to read as follows:

"(q)(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the Secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement, replacement of public housing, other capital purposes, and for associated management improvements, and such other extraordinary purposes as may be approved by the Secretary. Low-income and very low-income units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects do not meet other requirements of this Act.

"(2) A public housing agency may provide assistance to developments that include units for other than units assisted under this Act (except for units assisted under section 8 hereof) ('mixed income developments'), in the form of a grant, loan, operating assistance, or other form of investment which may be made to—

"(A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or

"(B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended.

"Units shall be made available in such developments for periods of not less than 30 years, by master contract or by individual lease, for occupancy by low-income and very low-income families referred from time to time by the public housing agency from its central or site-based waiting list. The number of such units shall be:

"(i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or

"(ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or

"(iii) as may otherwise be approved by the Secretary.

"(3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.

"(4) If an entity that owns or operates a mixed-income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.".

(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937, as amended by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1996 or any preceding fiscal year.

(3) APPLICABILITY TO IHAS.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by this subsection shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—

(1) EXTENDED AUTHORITY.—Section 1002(d) of Public Law 104–19 is amended to read as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and before September 30, 1996.".

(2) Section 18(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence:

"No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved by, a court.".

(3) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subsection and by sections 1002 (a), (b), and (c) of Public Law 104–19 shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

SEC. 203. (a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify any public housing developments—

(1) that are on the same or contiguous sites;

(2) that total more than—

(A) 300 dwelling units; or

(B) in the case of high-rise family buildings or substantially vacant buildings; 300 dwelling units;

(3) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on schedule modernization programs;

(4) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(5) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(b) IMPLEMENTATION AND ENFORCEMENT.—

(1) STANDARDS FOR IMPLEMENTATION.—The Secretary shall establish standards to permit implementation of this section in fiscal year 1996.

(2) CONSULTATION.—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing developments under subsection (a).

(3) FAILURE OF PHAS TO COMPLY WITH SUBSECTION (a).—Where the Secretary determines that—

(A) a public housing agency has failed under subsection (a) to identify public housing developments for removal from the inventory of the agency in a timely manner;

(B) a public housing agency has failed to identify one or more public housing developments which the Secretary determines should have been identified under subsection (a); or

(C) one or more of the developments identified by the public housing agency pursuant to subsection (a) should not, in the determination of the Secretary, have been identified under that subsection;

the Secretary may designate the developments to be removed from the inventory of the public housing agency pursuant to this section.

(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

(1) Each public housing agency shall develop and carry out a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) or subsection (b)(3), over a period of up to five years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved by the relevant local official as not inconsistent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

(2) The Secretary may extend the deadline in paragraph (1) for up to an additional five years where the Secretary makes a determination that the deadline is impracticable.

(3) The Secretary shall take appropriate actions to ensure removal of developments identified under subsection (a) or subsection (b)(3) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under paragraph (1), or fails to adequately implement such plan in accordance with the terms of the plan.

(4) To the extent approved in appropriations Acts, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

(5) Notwithstanding any other provision of law, if a development is removed from the inventory of a public housing agency and the annual contributions contract pursuant to paragraph (1), the Secretary may authorize or direct the transfer of—

(A) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such development pursuant to section 14 of the United States Housing Act of 1937;

(B) in the case of an agency receiving public and Indian housing modernization assistance by formula pursuant to section 14 of the United States Housing Act of 1937, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to the development removed from the inventory of that agency; and

(C) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of the development pursuant to section 5 of such Act,

to the tenant-based assistance program or appropriate site revitalization of such agency.

(6) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if,

in the determination of the Secretary, a development meets or is likely to meet the criteria set forth in subsection (a), the Secretary may direct the public housing agency to cease additional spending in connection with the development, except to the extent that additional spending is necessary to ensure decent, safe, and sanitary housing until the Secretary determines or approves an appropriate course of action with respect to such development under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

(2) Each conversion plan under subsection (c) shall—

(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based or project-based assistance, and to provide any necessary counseling for families; and

(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated, as necessary, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice.

(e) IN GENERAL.—

(1) The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

(2) As used in this section, the term "development" shall refer to a project or projects, or to portions of a project or projects, as appropriate.

(3) Section 18 of the United States Housing Act of 1937 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.

STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE

SEC. 204. (a) "TAKE-ONE, TAKE-ALL".—Section 8(t) of the United States Housing Act of 1937 is hereby repealed.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after "section" the following: "(other than a contract for assistance under the certificate or voucher program)"; and

(2) in the first sentence of paragraph (9), by striking "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))" and inserting ", other than a contract under the certificate or voucher program".

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting "during the term of the lease," after "(ii)"; and

(2) in clause (iii), by striking "provide that" and inserting "during the term of the lease,".

(d) APPLICABILITY.—The provisions of this section shall be effective for fiscal year 1996 only.

PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION

SEC. 206. (a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAM

SEC. 208. (a) The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 10,000 units during fiscal year 1996".

FORECLOSURE OF HUD-HELD MORTGAGES THROUGH THIRD PARTIES

SEC. 209. During fiscal year 1996, the Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

RESTRUCTURING OF THE HUD MULTIFAMILY MORTGAGE PORTFOLIO THROUGH STATE HOUSING FINANCE AGENCIES

SEC. 210. During fiscal year 1996, the Secretary of Housing and Urban Development may sell or otherwise transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency in connection with a program authorized under section 542 (b) or (c) of the Housing and Community Development Act of 1992 without regard to the unit limitations in section 542(b)(5) or 542(c)(4) of such Act.

TRANSFER OF SECTION 8 AUTHORITY

SEC. 211. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end:

"(bb) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.".

DOCUMENTATION OF MULTIFAMILY REFINANCINGS

SEC. 212. Notwithstanding the 16th paragraph under the item relating to "administrative provisions" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2316), the amendments to section 223(a)(7) of the National Housing Act made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

SEC. 213. (a) On and after October 1, 1995, and before October 1, 1997, the Secretary of Housing and Urban Development shall initiate a demonstration program with respect to multifamily projects whose owners agree to participate and whose mortgages are insured under the National Housing Act and that are assisted under section 8 of the United States Housing Act of 1937 and whose present section 8 rents are, in the aggregate, in excess of the fair market rent of the locality in which the project is located. These programs shall be designed to test the feasibility and desirability of the goal of ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents and utilizing project-based assistance or, with the consent of the property owner, tenant-based assistance, while taking into account the need for assistance of low- and very low-income families in such projects. In carrying out this demonstration, the Secretary may use arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(1) GOALS.—The Secretary of Housing and Urban Development shall carry out the demonstration programs under this section in a manner that—

(A) will protect the financial interests of the Federal Government;

(B) will result in significant discretionary cost savings through debt restructuring and subsidy reduction; and

(C) will, in the least costly fashion, address the goals of—

(i) maintaining existing housing stock in a decent, safe, and sanitary condition;

(ii) minimizing the involuntary displacement of tenants;

(iii) restructuring the mortgages of such projects in a manner that is consistent with local housing market conditions;

(iv) supporting fair housing strategies;

(v) minimizing any adverse income tax impact on property owners; and

(vi) minimizing any adverse impact on residential neighborhoods.

In determining the manner in which a mortgage is to be restructured or the subsidy reduced, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(2) DEMONSTRATION APPROACHES.—In carrying out the demonstration programs, subject to the appropriation in subsection (f), the Secretary may use one or more of the following approaches:

(A) Joint venture arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(B) Subsidization of the debt service of the project to a level that can be paid by an owner receiving an unsubsidized market rent.

(C) Renewal of existing project-based assistance contracts where the Secretary shall approve proposed initial rent levels that do not exceed the greater of 120 percent of fair market rents or comparable market rents for the relevant metropolitan market area or at rent levels under a budget-based approach.

(D) Nonrenewal of expiring existing project-based assistance contracts and providing tenant-based assistance to previously assisted households.

(b) For purposes of carrying out demonstration programs under subsection (a)—

(1) the Secretary may manage and dispose of multifamily properties owned by the Secretary as of October 1, 1995 and multifamily mortgages held by the Secretary as of October 1, 1995 for properties assisted under section 8 with rents above 110 percent of fair market rents without regard to any other provision of law; and

(2) the Secretary may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

(c) For purposes of carrying out demonstration programs under subsection (a), subject to such third party consents (if any) as are necessary including but not limited to (i) consent by the Government National Mortgage Association where it owns a mortgage insured by the Secretary; (ii) consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program; and (iii) parties to any contractual agreement which the Secretary proposes to modify or discontinue, and subject to the appropriation in subsection (c), the Secretary or one or more third parties designated by the Secretary may take the following actions:

(1) Notwithstanding any other provision of law, and subject to the agreement of the project owner, the Secretary or third party may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or third party determines would interfere with the ability of the project to operate without above market rents. The Secretary or third party may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program to apply any accumulated residual receipts toward effecting the purposes of this section.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance to third parties, on such terms and conditions as the Secretary may determine.

(3) The Secretary may offer project-based assistance with rents at or below fair market rents for the locality in which the project is located and may negotiate such other terms as are acceptable to the Secretary and the project owner.

(4) The Secretary may offer to pay all or a portion of the project's debt service, including payments monthly from the appropriate Insurance Fund, for the full remaining term of the insured mortgage.

(5) Notwithstanding any other provision of law, the Secretary may forgive and cancel any FHA-insured mortgage debt that a demonstration program property cannot carry at market rents while bearing full operating costs.

(6) For demonstration program properties that cannot carry full operating costs (excluding debt service) at market rents, the Secretary may approve project-based rents sufficient to carry such full operating costs and may offer to pay the full debt service in the manner provided in paragraph (4).

(d) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(e) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary may carry out demonstration programs under this section with respect to mortgages not to exceed 15,000 units. The demonstration authorized under this section shall not be expanded until the reports required under subsection (g) are submitted to the Congress.

(f) APPROPRIATION.—For the cost of modifying loans held or guaranteed by the Federal Housing Administration, as authorized by this subsection (a)(2) and subsection (c), $15,000,000, to remain available until September 30, 1997: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

(g) REPORT TO CONGRESS.—The Secretary shall submit to the Congress every six months after the date of enactment of this Act a report describing and assessing the programs carried out under the demonstrations. The Secretary shall also submit a final report to the Congress not later than six months after the end of the demonstrations. The reports shall include findings and recommendations for any legislative action appropriate. The reports shall also include a description of the status of each multifamily housing project selected for the demonstrations under this section. The final report may include—

(1) the size of the projects;

(2) the geographic locations of the projects, by State and region;

(3) the physical and financial condition of the projects;

(4) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

(5) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the transfer or sale of multifamily housing projects;

(6) a description of the extent to which the demonstrations under this section have displaced tenants of multifamily housing projects;

(7) a description of any of the functions performed in connection with this section that are transferred or contracted out to public or private entities or to States;

(8) a description of the impact to which the demonstrations under this section have affected the localities and communities where the selected multifamily housing projects are located; and

(9) a description of the extent to which the demonstrations under this section have affected the owners of multifamily housing projects.

ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SEC. 216. Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1 and April 1.".

MERGER LANGUAGE FOR ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS AND ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

SEC. 217. All remaining obligated and unobligated balances in the Renewal of Expiring Section 8 Subsidy Contracts account on September 30, 1995, shall immediately thereafter be transferred to and merged with the obligated and unobligated balances, respectively, of the Annual Contributions for Assisted Housing account.

DEBT FORGIVENESS

SEC. 218. (a) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hubbard Hospital Authority of Hubbard, Texas, relating to the public facilities loan for Project Number PFL–TEX–215, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(b) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Groveton Texas Hospital Authority relating to the public facilities loan for Project Number TEX–41–PFL0162, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(c) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hepzibah Public Service District of Hepzibah, West Virginia, relating to the public facilities loan for Project Number WV–46–PFL0031, issued under title II of the Housing Amendments of 1955. Such public service district is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

CLARIFICATIONS

SEC. 219. For purposes of Federal law, the Paul Mirabile Center in San Diego, California, including areas within such Center that are devoted to the delivery of supportive services, has been determined to satisfy the "continuum of care" requirements of the Department of Housing and Urban Development, and shall be treated as—

(a) consisting solely of residential units that (i) contain sleeping accommodations and kitchen and bathroom facilities, (ii) are located in a building that is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on December 19, 1989) to independent living within 24 months, (iii) are suitable for occupancy, with each cubicle constituting a separate bedroom and residential unit, (iv) are used on other than a transient basis, and (v) shall be originally placed in service on November 1, 1995; and

(b) property that is entirely residential rental property, namely, a project for residential rental property.

EMPLOYMENT LIMITATIONS

SEC. 220. (a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than eight Assistant Secretaries, notwithstanding section 4(a) of the Department of Housing and Urban Development Act.

(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 85 schedule C and 20 noncareer senior executive service employees.

USE OF FUNDS

SEC. 221. (a) Of the $93,400,000 earmarked in Public Law 101–144 (103 Stat. 850), as amended by Public Law 101–302 (104 Stat. 237), for special projects and purposes, any amounts remaining of the $500,000 made available to Bethlehem House in Highland, California, for site planning and loan acquisition shall instead be made available to the County of San Bernardino in California to assist with the expansion of the Los Padrinos Gang Intervention Program and the Unity Home Domestic Violence Shelter.

(b) The amount made available for fiscal year 1995 for the removal of asbestos from an abandoned public school building in Toledo, Ohio shall be made available for the renovation and rehabilitation of an industrial building at the University of Toledo in Toledo, Ohio.

LEAD-BASED PAINT ABATEMENT

SEC. 222. (a) Section 1011 of Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 is amended as follows: Strike "priority housing" wherever it appears in said section and insert "housing".

(b) Section 1011(a) shall be amended as follows: At the end of the subsection after the period, insert: "Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

"(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

"(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

"(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.".

EXTENSION PERIOD FOR SHARING UTILITY COST SAVINGS WITH PHAS

SEC. 223. Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by striking "for a period not to exceed 6 years".

MORTGAGE NOTE SALES

SEC. 223A. The first sentence of section 221(g)(4)(C)(viii) of the National Housing Act is amended by striking "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

REPEAL OF FROST-LELAND

SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100–202; 101 Stat. 1329–213) is repealed effective the date of enactment of Public Law 104–19. The Secretary is authorized to demolish the structures identified in such section. The Secretary is also authorized to compensate those local governments which, due to this provision, expended local revenues demolishing the developments identified in such provision.

FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM

SEC. 223C. (a) CORRECTION TO FORECLOSURE AVOIDANCE PROVISION.— The penultimate proviso of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)). As added by section 407(a) of the Balanced Budget Downpayment Act, I, is amended by striking "special foreclosure" and inserting in lieu thereof "special forebearance".

(b) CORRECTION TO SAVINGS PROVISION.—Section 230(d) of the National Housing Act, as amended by section 407(b) of the Balanced Budget Downpayment Act, I, is amended to read as follows:

"(d) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before March 15, 1996, for assignment pursuant to subsection (b) of this section as in effect before enactment of the Balanced Budget Downpayment Act, I, shall continue to be governed by the provisions of this section as in effect immediately before enactment of the Balanced Budget Downpayment Act, I."

(c) CORRECTION TO DATE FOR REGULATIONS.—Section 407(d) of the Balanced Budget Downpayment Act, I, is amended to read as follows:

"(d) REGULATIONS.—Not later than April 15, 1996, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section."

SPENDING LIMITATIONS

SEC. 223D. (a) None of the funds in this Act may be used by the Secretary to impose any sanction, or penalty because of the enactment of any State or local law or regulation declaring English as the official language.

(b) No part of any appropriation contained in this Act shall be used for lobbying activities as prohibited by law.

TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF JUSTICE

SEC. 223E. All functions, activities and responsibilities of the Secretary of Housing and Urban Development relating to title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the Fair Housing Act, including any rights guaranteed under the Fair Housing Act (including any functions relating to the Fair Housing Initiatives program under section 561 of the Housing and Community Development Act of 1987), are hereby transferred to the Attorney General of the United States effective April 1, 1997: Provided, That none of the aforementioned authority or responsibility for enforcement of the Fair Housing Act shall be transferred to the Attorney General until adequate personnel and resources allocated to such activity at the Department of Housing and Urban Development are transferred to the Department of Justice.

SEC. 224. None of the funds provided in this Act may be used during fiscal year 1996 to investigate or prosecute under the Fair Housing Act (42 U.S.C. 3601, et seq.) any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of non-frivolous legal action, that is engaged in solely for the purposes of achieving or preventing action by a Government official, entity, or court of competent jurisdiction.

SEC. 225. None of the funds provided in this Act many be used to take any enforcement action with respect to a complaint of discrimination under the Fair Housing Act (42 U.S.C. 3601, et seq.) on the basis of familial status and which involves an occupancy standard established by the housing provider except to the extent that it is found that there has been discrimination in contravention of the standards provided in the March 20, 1991 Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel or until such time that HUD issues a final rule in accordance with section 553 of title 5, United States Code.

CDBG ELIGIBLE ACTIVITIES

SEC. 226. Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (4)—

(A) by inserting "reconstruction," after "removal,"; and

(B) by striking "acquisition for rehabilitation, and rehabilitation" and inserting "acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation";

(2) in paragraph (13), by striking "and" at the end;

(3) by striking paragraph (19);

(4) in paragraph (24), by striking "and" at the end;

(5) in paragraph (25), by striking the period at the end and inserting "; and";

(6) by redesignating paragraphs (20) through (25) as paragraphs (19) through (24), respectively; and

(7) by redesignating paragraph (21) (as added by section 1012(f)(3) of the Housing and Community Development Act of 1992) as paragraph (25).

SEC. 227. (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: Provided, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: Provided further, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: Provided further, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development financial institutions, and administrative expenses of the Fund, $50,000,000, to remain available until September 30, 1997: Provided, That of the funds made available under this heading not to exceed $4,000,000 may be used for the cost of direct loans, and not to exceed $400,000 may be used for administrative expenses to carry out the direct loan program: Provided further, That the cost of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: Provided further, That such funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $31,600,000: Provided further, That none of these funds shall be used to supplement existing resources provided to the Department for activities such as external affairs, general counsel, administration, finance, or office of inspector general: Provided further, That none of these funds shall be available for expenses of an Administrator as defined in section 104 of the Community Development Banking and Financial Institutions Act of 1994 (CDBFI Act): Provided further, That notwithstanding any other provision of law, for purposes of administering the Community Development Financial Institutions Fund, the Secretary of the Treasury shall have all powers and rights of the Administrator of the CDBFI Act and the Fund shall be within the Department of the Treasury.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $40,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $383,500,000, of which $234,000,000 shall be available for obligation from September 1, 1996, through August 21, 1997: Provided, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12681(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): Provided further, That not more than $175,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program): Provided further, That not more than $3,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That not more than $40,000,000 of the funds made available under this heading may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)), and none of such funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): Provided further, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $15,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12653 et seq.): Provided further, That not more than $5,000,000 *shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title 1, and shall reduce the total Federal cost per participant in all programs.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,000,000, of which not to exceed $678,000, to remain available until September 30, 1997, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $11,946,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $525,000,000, which shall remain available until September 30, 1997.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,590,300,000, which shall remain available until September 30, 1997: Provided, That, notwithstanding any other provision of law, for this fiscal year and hereafter, an industrial discharger that is a pharmaceutical manufacturing facility and discharged to the Kalamazoo Water Reclamation Plant (an advanced wastewater treatment plant with activated carbon) prior to the date of enactment of this Act may be exempted from categorical pretreatment standards under section 307(b) of the Federal Water Pollution Control Act, as amended, if the following conditions are met:

(1) the owner or operator of the Kalamazoo Water Reclamation Plant applies to the State of Michigan for an exemption for such industrial discharger,

(2) the State or Administrator, as applicable, approves such exemption request based upon a determination that the Kalamazoo Water Reclamation Plant will provide treatment and pollution removal equivalent to or better than that which would be required through a combination of pretreatment by such industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption, and

(3) compliance with paragraph (2) is addressed by the provisions and conditions of a permit issued to the Kalamazoo Water Reclamation Plant under section 402 of such Act, and there exists an operative financial contract between the City of Kalamazoo and the industrial user and an approved local pretreatment program, including a joint monitoring program and local controls to prevent against interference and pass through.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,500,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or use by, the Environmental Protection Agency, $60,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,263,400,000, to remain available until expended, consisting of $1,013,400,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508 (of which, $100,000,000 shall not become available until September 1, 1996), and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That $11,000,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $59,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: Provided further, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1996: Provided further, That none of the funds made available under this heading may be used by the Environmental Protection Agency to propose for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $45,827,000, to remain available until expended: Provided, That no more than $7,000,000 shall be available for administrative expenses: Provided further, That $500,000 shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: Provided, That not more than $8,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $2,423,000,000, to remain available until expended, of which $1,500,000,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing; $100,000,000 for architectural, engineering, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; $15,000,000 for *grants to the State of Alaska, subject to an appropriate cost share as determined by the Administrator, to address wastewater infrastructure needs of rural and Alaska Native villages; and $100,000,000 for making grants for the construction of wastewater treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the Conference Report accompanying this Act (H.R. 2099): Provided, That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe: Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs: Provided further, That of the $1,500,000,000 for capitalization grants for State revolving funds to support water infrastructure financing, $325,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: Provided further, That of the funds made available in Public Law 103–327 and in Public Law 103–124 for capitalization grants for State revolving funds to support water infrastructure financing, $225,000,000 shall be made available for capitalization grants for State revolving funds under title VI of the Federal Water Pollution Control Act, as amended, if no drinking water State revolving fund legislation is enacted by June 1, 1996: Provided further, That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, $50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995: Provided further, That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources: Provided further, That the funds made available in Public Law 103–327 for a grant to the City of Mt. Arlington, New Jersey, in accordance with House Report 103–715, shall be available for a grant to that city for water and sewer improvements.*

ADMINISTRATIVE PROVISIONS

SEC. 301. None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

SEC. 302. None of the funds provided in this Act may be used during fiscal year 1996 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

SEC. 303. None of the funds appropriated to the Environmental Protection Agency for fiscal year 1996 may be used to implement section 404(c) of the Federal Water Pollution Control Act, as amended. No pending action by the Environmental Protection Agency to implement section 404(c) with respect to an individual permit shall remain in effect after the date of enactment of this Act.

SEC. 304. None of the funds appropriated under this Act may be used to implement the requirements of section 186(b)(2), section 187(b) or section 211(m) of the Clean Air Act (42 U.S.C. 7512(b)(2), 7512a(b), or 7545(m)) with respect to any moderate nonattainment area in which the average daily winter temperature is below 0 degrees Fahrenheit. The preceding sentence shall not be interpreted to preclude assistance from the Environmental Protection Agency to the State of Alaska to make progress toward meeting the carbon monoxide standard in such areas and to resolve remaining issues regarding the use of oxygenated fuels in such areas.

SEC. 305. Notwithstanding any other provision of law, the Environmental Protection Agency shall: (1) transfer all real property acquired in Bay City, Michigan, for the creation of the Center for Ecology, Research and Training (CERT) to the City of Bay City or other local public or municipal entity; and (2) make a grant in fiscal year 1996 to the recipient of the property of not less than $3,000,000 from funds previously appropriated for the CERT project for the purpose of environmental remediation and rehabilitation of real property included in the boundaries of the CERT project. The disposition of property shall be by donation or no-cost transfer and shall be made to the City of Bay City, Michigan or other local public or municipal entity.

Further, notwithstanding any other provision of law, the agency shall have the authority to demolish or dispose of any improvements on such real property, or to donate, sell, or transfer any personal property or improvements on such real property to members of the general public, by auction or public sale, and to apply any funds received to costs related to the transfer of the real property authorized hereunder.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Improvement Act of 1970 and Reorganization Plan No. 1 of 1977, $2,180,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $222,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,155,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $95,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $168,900,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,673,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $203,044,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $100,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: Provided, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $20,562,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $70,464,000 for flood mitigation, including up to $12,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968, as amended, which amount shall be available until September 30, 1997. In fiscal year 1996, no funds in excess of (1) $47,000,000 for operating expenses, (2) $292,526,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1996 applicable to persons subject to the Federal Emergency Management

Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1996 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1996.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,061,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1996 shall not exceed $2,602,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1996 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,456,600,000, to remain available until September 30, 1997.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,845,900,000, to remain available until September 30, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $2,502,200,000, to remain available until September 30, 1997.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1998.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1996 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $50,000,000 of funds made available in this Act to the National Aeronautics and Space Administration between such appropriations or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen requirements, than those for which originally appropriated: Provided further, That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1996, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 1996 shall not exceed $560,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,274,000,000, of which not to exceed $235,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1997: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction projects, and related expenses, pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $70,000,000, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $100,000,000, to remain available until September 30, 1997.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $599,000,000, to remain available until September 30, 1997: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as *authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $127,310,000: Provided, That contracts may be entered into under salaries and expenses in fiscal year 1996 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,490,000, to remain available until September 30, 1997.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: Provided, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by the Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1996 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $11,400,000.

TITLE V

GENERAL PROVISIONS

SEC. 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 510. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 511. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 512. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 513. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 514. Such sums as may be necessary for fiscal year 1996 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 515. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 516. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased *with funds made available in this Act should be American-made.*

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 517. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A–21.

SEC. 518. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 519. In fiscal year 1996, the Director of the Federal Emergency Management Agency shall sell the disaster housing inventory of mobile homes and trailers, and the proceeds thereof shall be deposited in the Treasury.

SEC. 520. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1996.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996".

TITLE II—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations" to repair damages to waterways and watersheds resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, and other natural disasters, $107,514,000, to remain available until expended: Provided, That if the Secretary determines that the cost of land and farm structures restoration exceeds the fair market value of an affected cropland, the Secretary may use sufficient amounts from funds provided under this heading to accept bids from willing sellers to provide conservation easements for such cropland inundated by floods as provided for by the Wetlands Reserve Program, authorized by subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837): Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSOLIDATED FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205) for expenses resulting from floods in the Pacific Northwest and other natural disasters, $30,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund Program Account" for the cost of direct loans to assist in the recovery from floods in the Pacific Northwest and other natural disasters, to remain available until expended, $5,000,000 for the cost of section 502 direct loans; and $1,500,000 for the cost of section 504 housing repair loans: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very Low-Income Housing Repair Grants" to make housing repairs needed as a result of floods and other natural disasters, pursuant to Section 504 of the Housing Act of 1949, as amended, $1,100,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL UTILITIES SERVICE

RURAL UTILITIES ASSISTANCE PROGRAM

For an additional amount for the "Rural Utilities Assistance Program" for the cost of direct loans and grants to assist in the recovery from floods in the Pacific Northwest and other natural disasters, $11,000,000, to remain available until expended: Provided, That such funds may be available for emergency community water assistance grants as authorized by 7 U.S.C. 1926b: Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ADMINISTRATIVE PROVISION

With the prior approval of the House and Senate Committees on Appropriations, funds appropriated to the Department of Agriculture under this chapter may be transferred by the Secretary of Agriculture between accounts of the Department of Agriculture included in this Act to satisfy emergency disaster funding requirements.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for emergency expenses resulting from flooding in the Pacific Northwest, and in the Devils Lake Basin in North Dakota $25,000,000, to remain available until expended for grants and related expenses pursuant to the Public Works and Economic Development Act of 1965, as amended; and in addition, $2,500,000 for administrative expenses to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": Provided, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

For an additional amount for "Construction" for emergency expenses resulting from flooding in the Pacific Northwest and other natural disasters, $10,000,000, to remain available until expended: Provided, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account", $69,700,000 for the cost of direct loans, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974; and for administrative expenses to carry out the direct loan program, $30,300,000, to remain available until expended: Provided, That both amounts are hereby designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 3

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $30,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget *and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $135,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for the "Construction Program", $18,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 4

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION AND ACCESS

For an additional amount for "Construction and Access", $5,000,000, to remain available until expended, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OREGON AND CALIFORNIA GRANT LANDS

For an additional amount for "Oregon and California Grant Lands", $35,000,000, to remain available until expended, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for Resource Management, $1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the United States Army Corps of Engineers and other agencies on fish and wildlife habitat issues related to damage caused by floods, storms and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $37,300,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature, and to protect natural resources in the Devils Lake Basin in North Dakota: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", $47,000,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,000,000, to remain available until September 30, 1997, for the costs related to hurricanes, floods and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", $500,000, to remain available until September 30, 1998, for emergency operations and repairs related to winter floods: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $16,500,000, to remain available until expended, for emergency repairs related to winter floods: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for "Assistance to Territories", $13,000,000, to remain available until expended, for recovery efforts from Hurricane Marilyn: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF AGRICULTURE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System", $26,600,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature, including $300,000 for the costs associated with response and rehabilitation, including access repairs, at the Amalgamated Mill site in the Willamette National Forest containing sulphur-rich and other mining tailings in order to prevent contamination of Battle Ax Creek, and the Little North Fork of the Santiam River, from which the City of Salem, Oregon, obtains its municipal water supply: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to

Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $60,800,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

The first proviso under the head "Payments to Air Carriers" in Title I of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50), is amended to read as follows: "Provided, That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $22,600,000 from the Airport and Airway Trust Fund for the Payments to Air Carriers program in fiscal year 1996:".

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For the Emergency Fund authorized by 23 U.S.C. 125 to cover expenses arising from the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States and other disasters, $300,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the provisions of 23 U.S.C. 125(b)(1) shall not apply to projects relating to the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States.

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

For expenses pursuant to subtitle 5 of the Department of Transportation Act (49 U.S.C.), to repair and rebuild rail lines of other than class I railroads as defined by the Surface Transportation Board or railroads owned or controlled by a class I railroad, having carried 5 million gross ton miles or less per mile during the prior year, and damaged as a result of the floods of 1996, $10,000,000: Provided, That for the purposes of administering this emergency relief, the Secretary of Transportation shall have authority to make funds available notwithstanding section 22101, (a)(1) and (3) and (d), sections 22102 to 22104, section 22105(a) and section 22108, (a) and (b) of 49 U.S.C. as the Secretary deems appropriate and shall consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loan funds: Provided further, That, notwithstanding 49 U.S.C. chapter 221, the Secretary may prescribe the form and time for applications for assistance made available herein: Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all funds made available under this head are to remain available until September 30, 1997.

FEDERAL TRANSIT ADMINISTRATION

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For an additional amount for payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $375,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

CHAPTER 6

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community development grants", $100,000,000, to remain available until September 30, 1998, for emergency expenses and repairs related to recent Presidentially declared disaster areas, including up to $10,000,000 which may be made for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the United States Housing Act of 1937, as amended, except that such amount shall be available only for temporary housing assistance, not in excess of one year in duration, and shall not be subject to renewal: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Disaster Relief", $150,000,000, to remain available until expended, which, in whole or in part, may be transferred to the Disaster Assistance Direct Loan Program Account for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): Provided, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $170,000,000 under section 417 of the Stafford Act: Provided further, That any such transfer of funds shall be made only upon certification by the Director of the Federal Emergency Management Agency that all requirements of section 417 of the Stafford Act will be complied with: Provided further, That the entire amount of this appropriation shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 7

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, $50,000,000: Provided, That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, $200,000,000, of which amount $5,000,000 shall be used for the administrative expenses of the U.S. Agency for International Development: Provided, That not to exceed $5,000,000 of such funds and any other funds appropriated under the same heading for fiscal year 1996 is available for the cost of modifying direct loans and loan guarantees, as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That contracts to carry out programs using such funds shall, to the maximum extent practicable, be entered into with companies organized under the laws of a State of the United States and organizations (including community chests, funds, foundations, non-incorporated businesses, and other institutions) organized in the United States: Provided further, That none of the funds appropriated or otherwise made available under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations: Provided further, That the entire amount appropriated is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds appropriated by this Act for economic reconstruction may only be made available for projects, activities, or programs within the sector assigned to American forces of the NATO Military Implementation Force (IFOR) and Sarajevo: Provided further, That priority consideration shall be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list": Provided further, That no funds made available under this Act, or any other Act, may be obligated for the purposes of rebuilding or repairing housing in areas where refugees or displaced persons are refused the right of return by Federation or local authorities due to ethnicity or political party affiliation: Provided further, That no funds may be made available under this heading in this Act, or any other Act, to any banking or financial institution in Bosnia and Herzegovina unless such institutions agree in advance, and in writing, to allow the United States General Accounting Office access for the purposes of audit of the use of United States assistance: Provided further, That effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for the purposes of economic reconstruction in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committee on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic reconstruction are at least equivalent to the United States bilateral contributions made under this Act and in the fiscal year 1995 and fiscal year 1996 Foreign Operations, Export Financing and Related Programs Appropriations bills.

Except for funds made available for demining activities, no funds may be provided under this heading in this Act until the President certifies to the Committees on Appropriations that:

(1) The Federation of Bosnia and Herzegovina is in compliance with Article III, Annex 1A of the Dayton Agreement; and

(2) Intelligence cooperation on training, investigations, or related activities between Iranian officials and Bosnian officials has been terminated.

MILITARY ASSISTANCE

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program" for grants for Jordan pursuant to section 23 of the Arms Export Control Act, $70,000,000: Provided, That such funds may be used for Jordan to finance transfers by lease of defense articles under chapter 6 of such Act.

CHAPTER 8

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $244,400,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $11,700,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $2,600,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $27,300,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $195,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $900,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $190,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $79,800,000.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $26,000,000.

GENERAL PROVISION

(TRANSFER OF FUNDS)

SEC. 801. Section 8005 of the Department of Defense Appropriations Act, 1996 (Public Law 104–61), is amended by striking out "$2,400,000,000" and inserting in lieu thereof "$2,700,000,000".

SEC. 802. Notwithstanding any other provision of law, funds appropriated in the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the heading "Aircraft Procurement, Air Force" may be obligated for advance procurement and procurement of F–15E aircraft.

SEC. 803. Funds appropriated under the heading, "Aircraft Procurement, Air Force," in Public Laws 104–61, 103–335, and 103–139 that are or remain available for C–17 airframes, C–17 aircraft engines, and complementary widebody aircraft/NDAA may be used for multiyear procurement contracts for C–17 aircraft: Provided, That the duration of multiyear contracts awarded under the authority of this section may be for a period not to exceed seven program years, notwithstanding section 2306b(1) of title 10, United States Code: Provided further, That the authority under this section may not be used to enter into a multiyear procurement contract until the earlier of (1) May 24, 1996, or (2) the day after the date of the enactment of an Act that contains a provision authorizing the Department of Defense to enter into a multiyear contract for the C–17 aircraft program.

SEC. 804. (a) In addition to the amounts made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $50,000,000 is hereby made available to continue the activities of the semiconductor manufacturing consortium known as Sematech.

(b) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Army", $7,000,000 are rescinded.

(c) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Navy", $12,500,000 are rescinded.

(d) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Air Force", $16,000,000 are rescinded.

(e) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $14,500,000 are rescinded.

(f) Of the funds rescinded under subsection (e) of this provision, none of the reduction shall be applied to the Ballistic Missile Defense Organization.

SEC. 805. Of the funds appropriated in title II of Public Law 104–61, under the heading "Overseas Humanitarian, Disaster, and Civic Aid", for training and activities related to the clearing of landmines for humanitarian purposes, up to $15,000,000 may be transferred to "Operations and Maintenance, Defense Wide", to be available for the payment of travel, transportation and subsistence expenses of Department of Defense personnel incurred in carrying out humanitarian assistance activities related to the detection and clearance of landmines.

SEC. 806. Notwithstanding any other provision of law, $15,000,000 made available for "Operations and Maintenance, Army" in P.L. 104–61 shall be obligated for the remediation of environmental contamination at the National Presto Industries, Inc. site in Eau Claire, Wisconsin. These funds shall be obligated only for the implementation and execution of the 1988 agreement between the Department of the Army and National Presto Industries, Inc.

SEC. 807. (a) Subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding after paragraph (3), flush to the subsection margin, the following:

"Notwithstanding any other provision of law, including the matter under the heading 'NATIONAL SECURITY EDUCATION TRUST FUND' in title VII of Public Law 104–61, the work of an individual accepting a scholarship or fellowship under the program shall be the work specified in paragraph (2), or such other work as the individual and the Secretary agree upon under an agreement having modified service requirements pursuant to subsection (f).".

(b) Such section is further amended by adding at the end the following:

"(f) AUTHORITY TO MODIFY SERVICE AGREEMENT REQUIREMENTS.—The Secretary shall have sole authority to modify, amend, or revise the requirements under subsection (b) that apply to service agreements.".

(c) Subsection (a) of such section is amended by adding at the end the following:

"(5) EMPLOYMENT OPPORTUNITY OUTREACH.—The Secretary shall take appropriate actions to make available to recipients of scholarships or fellowships under the program information on employment opportunities in the departments and agencies of the Federal Government having responsibility for national security matters.".

SEC. 808. (a)(1) Section 1177 of title 10, United States Code, relating to mandatory discharge or retirement of members of the Armed Forces infected with HIV–1 virus, is repealed.

(2) The table of sections at the beginning of chapter 59 of such title is amended by striking out the item relating to section 1177.

(b) Subsection (b) of section 567 of the National Defense Authorization Act for Fiscal Year 1996 is repealed.

(TRANSFER OF FUNDS)

SEC. 809. Of the funds appropriated or otherwise made available in title IV of the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the paragraph "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", $44,900,000 are transferred to and merged with funds appropriated or otherwise made available under title II of that Act under the paragraph "OPERATION AND MAINTENANCE, AIR FORCE" and shall be available for obligation and expenditure for the operation and maintenance of 94 B–52H bomber aircraft in active status or in attrition reserve.

SEC. 810. Of the funds made available in Public Law 104–61 under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $500,000 of the funds provided for the Advanced Research Projects Agency may be available to purchase photographic technology to support research in detonation physics: Provided, That the Director of Defense Research and Engineering shall provide the congressional defense committees on appropriations with a plan for the acquisition and use of this instrument no later than April 29, 1996.

SEC. 811. Of the funds made available in Public Law 104–61 under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", up to $2,000,000 of the funds provided for the Joint DoD-DoE Munitions Technology Development program element shall be used to develop and test an open-architecture machine tool controller.

CHAPTER 9

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for "North Atlantic Treaty Organization Security Investment Program", $37,500,000, to remain available until expended: Provided, That the Secretary of Defense may make additional contributions for the North Atlantic Treaty Organization as provided in section 2806 of title 10, United States Code: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

SEC. 901. LAND CONVEYANCE, ARMY RESERVE CENTER, GREENSBORO, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located at the Army Reserve Center, Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed dated September 12, 1988.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 10

RESCINDING CERTAIN BUDGET AUTHORITY

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–107, $25,000,000 are rescinded.

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

MISSILE PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $310,000,000 are rescinded.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $265,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $245,000,000 are rescinded.

CHAPTER 11

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses," $3,900,000.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available for installment acquisition payments under this heading in Public Law 104–52, $3,500,000 are rescinded: Provided, That of the funds made available for advance design under this heading in Public Law 104–52, $200,000 are rescinded: Provided further, That the aggregate amount made available to the Fund shall be $5,062,449,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in public law 104–52, $200,000 are rescinded.

CHAPTER 12

GENERAL PROVISIONS

SEC. 1201. In administering funds provided herein for domestic assistance, the Secretary of any involved department may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use of the recipient of these funds, except for the requirement related to civil rights, fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds would not be inconsistent with the overall purpose of the statute or regulation.

SEC. 1202. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1203. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Federal Bureau of Investigation's efforts in the United States to combat Middle Eastern terrorism, $7,000,000, to remain available until expended: Provided, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: Provided further, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Office of Foreign Assets Control's efforts in the United States to combat Middle Eastern terrorism, $3,000,000, to remain available until expended: Provided, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: Provided further, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount, shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

This title may be cited as the "Emergency Supplemental Appropriations Act of 1996".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 3001. The President may make available funds for population planning activities or other population assistance pursuant to programs under title II and title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, Public Law 104–107, notwithstanding the provisions of section 518A of such Act, if he determines and reports to the Congress that the effects of those restrictions would be that the demand for family planning services would be less likely to be met and that there would be a significant increase in abortions than would otherwise be the case in the absence of such restrictions.

SEC. 3002. Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended—

(1) in the heading, by striking "GRANTS" and inserting "ASSISTANCE";

(2) in paragraph (1), by striking "award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" and inserting "assist persons engaged in commercial fisheries by providing direct assistance to those persons or by providing indirect assistance to those persons through assistance to agencies of States and political subdivisions thereof and to nonprofit organizations, for projects or other measures designed to alleviate harm that the Secretary determines was incurred";

(3) in paragraph (3), by striking "a grant" and inserting "direct assistance to a person";

(4) by striking "gross revenues annually," in paragraph (3) and inserting "net annual revenue from commercial fisheries,";

(5) by striking paragraph (4) and inserting the following:

"(4) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that—

"(A) adequate conservation and management measures are in place in that fishery; and

"(B) adequate measures are in place to prevent the replacement of fishing capacity eliminated by the program in that fishery."; and

(6) in paragraph (5), by striking "for awarding grants" and all that follows through the end of the paragraph and inserting "for providing assistance under this subsection.".

SEC. 3003. BONNEVILLE POWER ADMINISTRATION REFINANCING.

(a) DEFINITIONS.—

For the purposes of this section—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) "old capital investment" means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—

(1) PRINCIPAL AMOUNT.—Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) DETERMINATION.—With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) OLD PAYMENT AMOUNTS.—For the purposes of this subsection, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—

(1) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1).

(3) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY.—

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law No. 103-436; 108 Stat. 4577) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY

So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment, in the amount and for each fiscal year as follows: $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; $18,550,000 in fiscal year 2001; and $4,600,000 in each succeeding fiscal year.".

(i) CONTRACT PROVISIONS.—

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Part; and

(4) the contract provisions specified in this Part do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—

(1) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in subsection (e), this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

SEC. 3004. Notwithstanding any other provision of law, of the amounts made available under the Federal Transit Administration's Discretionary Grants program for Kauai, Hawaii in Public Law 103–122 and Public Law 103–311, $3,250,000 shall be transferred to and administered in accordance with 49 U.S.C. 5307 and made available for operating expenses to Kauai, Hawaii.

SEC. 3005. The Secretary shall advance emergency relief funds to the State of Missouri for the replacement in kind of the Hannibal Bridge on the Mississippi River damaged by the 1993 floods notwithstanding the provisions of section 125 of title 23, United States Code: Provided, That this provision shall be subject to the Federal Share provisions of section 120, title 123, United States Code.

SEC. 3006. (a) SURFACE TRANSPORTATION PROGRAM.—Notwithstanding section 133 of title 23, United States Code, for fiscal year 1996 and each subsequent fiscal year, the State of Vermont may obligate funds apportioned to the State for the surface transportation program established under section 133 of the title for—

(1) construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for railroads, including any such construction or reconstruction necessary to accommodate other transportation modes;

(2) all eligible activities under section 5311 of title 49, United States Code, and publicly owned rail passenger terminals and facilities, including terminals and facilities owned by the National Railroad Passenger Corporation;

(3) capital costs for passenger rail services; and

(4) beginning in fiscal year 1997, operating costs for passenger rail services.

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Notwithstanding section 149 of title 23, United States Code, for fiscal year 1996 and each subsequent fiscal year, the State of Vermont may obligate funds apportioned to the State for the congestion mitigation and air quality improvement program established under the section for a transportation project or program that—

(1) is for an area in the State described in the matter preceding paragraph (1) of section 149(b) of the title; and

(2) will have air quality benefits through construction of, and operational improvements for, intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by the State for a fiscal year under this subsection may be obligated for operating support.

SEC. 3007. Any funds heretofore appropriated and made available in Public Law 102–104 and Public Law 102–377 to carry out the provisions for the project for navigation, St. Louis Harbor, Missouri and Illinois; may be utilized by the Secretary of the Army in carrying out the Upper Mississippi and Illinois Waterway System Navigation Study, Iowa, Illinois, Missouri, Wisconsin, Minnesota, in fiscal year 1996 or until expended.

SEC. 3008. The Secretary of Health and Human Services shall grant a waiver of the requirements set forth in section 1903(m)(2)(A)(ii) of the Social Security Act to D.C. Chartered Health Plan, Inc. of the District of Columbia: Provided, That such waiver shall be deemed to have been in place for all contract periods from October 1, 1991 through the current contract period or October 1, 1999, whichever shall be later.

SEC. 3009. Of the funds appropriated by Public Law 104–37 or otherwise made available to the Food Safety and Inspection Service for fiscal year 1996, not less than $363,000,000 shall be available for salaries and benefits of in-plant personnel: Provided, That this limitation shall not apply if the Secretary of Agriculture certifies to the House and Senate Committees on Appropriations that a lesser amount will be adequate to fully meet in-plant inspection requirements for the fiscal year.

SEC. 3010. The appropriation for the Arms Control and Disarmament Agency in Public Law 103–317 (108 Stat. 1768) is amended by deleting after "until expended" the following: "only for activities related to the implementation of the Chemical Weapons Convention": Provided, That amounts made available shall not be used to undertake new programs or to increase employment above levels on board at the time of enactment of this Act.

SEC. 3011. Section 347(b)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (P.L. 104–50), is amended to read as follows:

"(3) chapter 71, relating to labor-management relations,".

SEC. 3012. Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

SEC. 3013. ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standards that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions. The government involved shall formulate such regulations or other mechanisms, or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) EXCEPTIONS.—This section shall not—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

SEC. 3014. (a) The Senate finds that:

(1) Record low temperatures across the country this winter, coupled with record snowfalls in many areas, have generated substantial and sustained demand among eligible low-income Americans for home heating assistance, and put many who face heating-related crises at risk.

(2) Home heating assistance for working and low-income families with children, the elderly on fixed incomes, the disabled, and others who need such help is a critical part of the social safety net in cold-weather areas.

(3) The President has released approximately $900,000,000 in regular Low Income Home Energy Assistance Program (LIHEAP) funding for this year, compared to a funding level of $1,319,000,000 last year, and a large LIHEAP funding shortfall remains which has adversely affected eligible recipients in many cold-weather States.

(4) LIHEAP is a highly targeted, cost-effective way to help approximately 6 million low-income Americans to pay their energy bills. More than two-thirds of LIHEAP-eligible households have annual incomes of less than $8,000; more than one-half have annual incomes below $6,000.

(5) LIHEAP program funding has been substantially reduced in recent years, and cannot sustain any further spending cuts if the program is to remain a viable means of meeting the home heating and other energy-related needs of low-income people in cold-weather States.

(6) Traditionally, LIHEAP has received advance appropriations for the next fiscal year. This allows States to properly plan for the upcoming winter and best serve the energy needs of low-income families.

(7) Congress was not able to pass an appropriations bill for the Departments of Labor, Health and Human Services, and Education by the beginning of this fiscal year and it was only because LIHEAP received advance appropriations last fiscal year that the President was able to release the $578,000,000 he did in December—the bulk of the funds made available to the States this winter.

(8) There is currently available to the President up to $300,000,000 in emergency LIHEAP funding, which could be made available immediately, on a targeted basis, to meet the urgent home heating needs of eligible persons who otherwise could be faced with heating-related emergencies, including shut-offs, in the coming weeks.

(b) Therefore, it is the sense of the Senate that—

(1) the President should release immediately a substantial portion of available emergency funding for the Low Income Home Energy Assistance Program for fiscal year 1996, to help meet continuing urgent needs for home heating assistance during this unusually cold winter; and

(2) not less than the $1,000,000,000 in regular advance-appropriated LIHEAP funding for next winter provided for in this bill should be retained in a House-Senate conference on this measure.

SEC. 3015. LAND EXCHANGE

(a) SHORT TITLE.—This section may be cited as the "Greens Creek Land Exchange Act of 1996".

(b) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

(c) DEFINITIONS.—As used in this section—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96–487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

(d) RATIFICATION OF THE AGREEMENT.—The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

(e) IMPLEMENTATION OF THE AGREEMENT.—

(1) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(2) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the 'Greens Creek Land Exchange Account' into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to paragraph (3) of this subsection. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to paragraph (1) of this subsection.

(3) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(4) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(5) ADMNISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(6) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(7) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this section shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

(f) RECISION RIGHTS.—Within 60 days of the enactment of this section, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this section. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington. District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

SEC. 3016. SEAFOOD SAFETY.

Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that the Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainty that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

SEC. 3017. CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473: Provided, That the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall not be effective if—

(1) a competing license application is filed within 90 days of the date of enactment of this Act; or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this Act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

SEC. 3018. SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.—It is the sense of the Senate that the conference on S. 1594, making omnibus consolidated rescissions and appropriations for the fiscal year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any Federal disaster assistance.

SEC. 3019. SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.—It is the sense of the Senate that Congress and the relevant committees of the Senate shall examine the manner in which Federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any Federal assistance, providing for such funds out of existing budget allocation rather than taking the expenditures off budget and adding to the Federal deficit.

SEC. 3020. None of the funds made available by this Act or any previous Act shall be expended if such expenditure would cause total fiscal year 1996 non-defense discretionary expenditures for:

(1) Agriculture, rural development and related programs or activities contained in this or prior year Acts to exceed $13,581,000,000;

(2) Commerce, Justice, State, the Judiciary and related programs or activities contained in this or prior year Acts to exceed $23,762,000,000;

(3) Energy and water development programs or activities contained in this or prior year Acts to exceed $9,272,000,000;

(4) Foreign operations programs or activities contained in this or prior year Acts to exceed $13,867,000,000;

(5) Interior and related programs or activities contained in this or prior year Acts to exceed $13,215,000,000;

(6) Labor, Health and Human Services, Education and related programs or activities contained in this or prior year Acts to exceed $68,565,000,000;

(7) Transportation and related programs or activities contained in this or prior year Acts to exceed $36,756,000,000; and

(8) Veterans Affairs, Housing and independent agencies' programs or activities contained in this or prior year Acts to exceed $74,270,000,000: Provided, That the President shall report to the Committees on Appropriations within 30 days of the enactment into law of this Act on the implementation of this section: Provided further, That no more than 50 percent of the funds appropriated or otherwise made available for obligation for non-defense programs and activities in TITLE II—EMERGENCY APPROPRIATIONS—of this Act and containing an emergency designation shall be expended until the report mentioned in the preceding proviso is transmitted to the Committees on Appropriations.

SEC. 3021. WALLA WALLA MEDICAL CENTER.

(a) Designation.—The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in subsection (a) shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center".

SEC. 3022. PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

SEC. 3023. COMPOSITION OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 637(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, 109 Stat. 509) is amended—

(1) by striking "thirteen" and inserting "seventeen", and

(2) in subparagraphs (B) and (D)—

(A) by striking "Two" and inserting "Four", and

(B) by striking "one from private life" and inserting "three from private life".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996.

TITLE IV—CONTINGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

In addition to funds provided elsewhere in this Act, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $235,000,000, to remain available until expended: Provided, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: Provided further, That any unobligated balances from carryover of current and prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

In addition to funds provided elsewhere in this Act, $2,000,000, to remain available until October 30, 1997, for grants to be awarded by the United States-Israel Science and Technology Commission.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

In addition to funds provided elsewhere in this Act for Security and Maintenance of United States Missions and under the same terms and conditions as are applicable to those funds under this Act, $8,500,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

In addition to funds provided elsewhere in this Act for Contributions to International Organizations and under the same terms and conditions as are applicable to those funds under this Act, $223,000,000.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

In addition to funds provided elsewhere in this Act for Contributions for International Peacekeeping Activities and under the same terms and conditions as are applicable to those funds under this Act, $215,000,000.

RELATED AGENCY

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

In addition to funds provided elsewhere in this Act, for payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $9,000,000 for basic field programs.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

PAYMENTS IN LIEU OF TAXES

In addition to funds provided elsewhere in this Act, $12,500,000.

NATIONAL PARK SERVICE

OPERATIONS OF THE NATIONAL PARK SYSTEM

In addition to funds provided elsewhere in this Act, $35,000,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

In addition to funds provided elsewhere in this Act, $35,000,000, to remain available until expended.

DEPARTMENT OF ENERGY

ENERGY CONSERVATION

In addition to funds provided elsewhere in this Act, $35,000,000, to remain available until expended.

CHAPTER 3

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

SUBCHAPTER A—AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Training and Employment Services", $1,213,300,000, of which $487,300,000 is available for obligation for the period July 1, 1996 through June 30, 1997, and of which $91,000,000 is available from July 1, 1996, through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act, and of which $635,000,000 is for carrying out title II, part B of the Job Training Partnership Act;

Under the heading "State Unemployment Insurance and Employment Service Operations", $18,000,000, which shall be available for obligation for the period July 1, 1996 through June 30, 1997;

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Children and Families Services Programs", $136,700,000.

In addition to the amounts provided for in Title I of this Act for the Department of Education:

Under the heading "Education Reform", $151,000,000, which shall become available on October 1, 1996 and shall remain available through September 30, 1997: Provided, That $60,000,000 shall be for the Goals 2000: Educate Act and $91,000,000 shall be for the School-to-Work Opportunities Act.

Under the heading "Education for the Disadvantaged", $814,489,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997: Provided, That $700,228,000 shall be available for basic grants and $114,261,000 shall be for concentration grants.

Under the heading "School Improvement Programs", $208,000,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Vocational and Adult Education", $82,750,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Student Financial Assistance", the maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be increased by $60.00: Provided, That funding for title IV, part E shall be increased by $58,000,000 and funding for title IV, part A, subpart 4 shall be increased by $32,000,000.

Under the heading "Education Research, Statistics, and Improvement", $10,000,000 which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997, shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act.

SUBCHAPTER B—ADDITIONAL AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Departmental Management, Salaries and Expenses", $12,000,000, of which $10,000,000 shall be only for terminal leave, severance pay, and other costs directly related to the reduction of the number of employees in the Department.

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Health Resources and Services", $55,256,000: Provided, That $52,000,000 of such funds shall be used only for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act; and

Under the heading "Substance Abuse and Mental Health Services", $134,107,000.

SUBCHAPTER C—GENERAL PROVISIONS

Notwithstanding any other provision of this Act, section 4002 shall not apply to part 1 of chapter 3 of title IV.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading elsewhere in this Act, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as amended by Public Law 100–485) is amended by adding: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $616,000,000 are rescinded.

SUBCHAPTER D—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

SEC. 401. SHORT TITLE.

This subchapter may be cited as the "USEC Privatization Act".

SEC. 402. DEFINITIONS.

For purposes of this subchapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 405.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 404.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 403. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 404. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 405 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 403(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 405. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 406. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 407,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 408(a),

(4) the Corporation's right to purchase power from the Secretary under section 408(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 407. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c–2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 408. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 409. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 408 or any other action the Corporation is required to take under this subchapter.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 410. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 411. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 412. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}*. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.*

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 *equivalent per year.*

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an

amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users Year:

	(millions lbs. U_3O_8 equivalent)
1998	*2*
1999	*4*
2000	*6*
2001	*8*
2002	*10*
2003	*12*
2004	*14*
2005	*16*
2006	*17*
2007	*18*
2008	*19*
2009 and each year thereafter	*20.*

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 413. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 414. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without

charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 415. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 416. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code, and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 417. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1) is amended by inserting "or its successor" before the period.

SUBCHAPTER E—STRATEGIC PETROLEUM RESERVE

SEC. 431. SALE OF WEEKS ISLAND OIL.

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell in fiscal year 1996, $292,000,000 worth of oil formerly contained in the Weeks Island Strategic Petroleum Reserve.

CHAPTER 4

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

In addition to funds provided elsewhere in this Act, $16,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to carry out the design and construction of a medical research addition at the Department of Veterans Affairs Medical Center in Portland, Oregon in the amount of $32,100,000.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

In addition to funds provided elsewhere in this Act, $200,000,000, to remain available until expended: Provided, That $150,000,000 of such sum shall be available for purposes authorized by section 202 of the Housing Act of 1959, and $50,000,000 shall be available for purposes authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided further, That all such sums shall be available only to provide for rental subsidy terms of a longer duration than would otherwise be permitted by this Act.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

In addition to funds provided elsewhere in this Act, $120,000,000, to remain available until expended.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

In addition to funds provided elsewhere in this Act, $50,000,000.

MANAGEMENT AND ADMINISTRATION

DEPARTMENTAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, $20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: Provided, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: Provided further, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: Provided further, That by February 1, 1997 the Secretary shall certify to the

Congress that headquarters on-board staffing levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: Provided further, That if the certification of headquarters personnel reductions required by this Act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block Grant Program.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $12,000,000, to remain available until September 30, 1997.

BUILDINGS AND FACILITIES

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, EPA is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $232,000,000, and to obligate such monies as are made available by this Act, and hereafter, for this purpose.

STATE AND TRIBAL ASSISTANCE GRANTS

In addition to funds provided elsewhere in this Act, $100,000,000, to remain available until expended, for capitalization grants for State revolving funds to support water infrastructure financing: Provided, That of the funds made available by this paragraph, $50,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE, AERONAUTICS AND TECHNOLOGY

In addition to funds provided elsewhere in this Act, $83,000,000, to remain available until September 30, 1997.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

In addition to funds provided elsewhere in this Act, $40,000,000, to remain available until September 30, 1997.

GENERAL PROVISIONS

SEC. 4001. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 4002. No part of any appropriation contained in this title shall be made available for obligation or expenditure, nor any authority granted herein be effective, until the enactment into law of a subsequent Act entitled "An Act Incorporating an Agreement Between the President and Congress Relative to Federal Expenditures in Fiscal Year 1996 and Future Fiscal Years".

SEC. 4003. (a) This section may be cited as the "Federal Prohibition of Female Genital Mutilation Act of 1996".

(b) Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I of the Constitution, as well as under section 5 of the Fourteenth Amendment to the Constitution, to enact such legislation.

(c) It is the purpose of this section to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties for the performance of female genital mutilation.

(d)(1) Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(e)(1) The Secretary of Health and Human Services shall do the following:

(A) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(B) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(C) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(2) For purposes of this subsection, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

(f) Subsection (e) shall take effect on the date of enactment of this Act, and the Secretary of Health and Human Services shall commence carrying out such section not later than 90 days after the date of the enactment of this Act. Subsection (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

This title may be cited as the "Contingency Appropriations Act, 1996".

TITLE V—ENVIRONMENTAL INITIATIVES

CHAPTER 1—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCY

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $75,000,000, to remain available until September 30, 1997.

BUILDINGS AND FACILITIES

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended, for the construction of a consolidated research facility at Research Triangle Park, North Carolina: Provided, That pursuant to the provisions of section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)), that no funds shall be made available for construction of such project prior to April 19, 1996, unless such project is approved by resolutions of the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, respectively: Provided further, That in no case shall funds be made available for construction of such project if prior to April 19, 1996, the project has been disapproved by either the Senate Committee on Environment and Public Works or the House Committee on Transportation and Infrastructure: Provided further, That notwithstanding any other provision of this Act, the paragraph under this heading in chapter 4 of title IV of this Act shall not become effective.

STATE AND TRIBAL ASSISTANCE GRANTS

In addition to funds provided elsewhere in this Act, $200,000,000, to remain available until expended, for capitalization grants for State revolving funds to support water infrastructure financing: Provided, That of the funds made *available by this paragraph, $125,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended.*

HAZARDOUS SUBSTANCE SUPERFUND

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 5001. Notwithstanding any other provision of this Act, amounts provided in title IV of this Act for the Environmental Protection Agency, with the exception of amounts appropriated under the heading "BUILDINGS AND FACILITIES", shall become available immediately upon enactment of this Act.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: Provided, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): Provided further, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): Provided further, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): Provided further, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-Federal cost of supporting participants in community service activities: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs: Provided further, That prior to September 30, 1996, the General Accounting Office shall report to the Congress the results of a study of State commission programs which evaluates the cost per participant, the commission's ability to oversee the programs, and other relevant considerations: Provided further, That the matter under this heading in title I of this Act shall not be effective.

SENSE OF CONGRESS

It is the sense of the Congress that accounting for taxpayers' funds must be a top priority for all Federal agencies and Government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

FUNDING ADJUSTMENT

The total amount appropriated under the heading "Department of Housing and Urban Development, Housing Programs, Annual contribution for assisted housing", in title I of this Act is reduced by $17,000,000, and the amount otherwise made available under said heading for section 8 assistance and rehabilitation grants for property disposition is reduced to $192,000,000.

CHAPTER 2—SPENDING OFFSETS

SUBCHAPTER A—DEBT COLLECTION

SEC. 5101. SHORT TITLE.

This subchapter may be cited as the "Debt Collection Improvement Act of 1996".

SEC. 5102. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the provisions of this subchapter and the amendments made by this subchapter shall be effective on the date of enactment of this Act.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraph (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall—

"(i) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period; and

"(ii) consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under thestandards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based only on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations, and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7)(A) Any Federal agency that is owed by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

(c) Section 3701(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 5202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(f) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives.".

SEC. 5203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended in paragraph (8)(B)—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 5204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial, or legislative agency".

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

"(B) For purposes of this section 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate."; and

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by adding at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such persons's relationship with the government.

"(3) For purposes of this subsection:

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"§3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is resolved, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 5241. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103–387) is repealed.

(c) Section 631 of the Tariff Act of 1930 (19 U.S.C. 1631), is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by inserting after subsection (c) the following new subsection:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986.";

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(B) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

SEC. 5242. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from another account or from revenue received from Section 701. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of government-wide debt collection activities. Costs properly chargeable to the Account include, but are not limited to—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the

amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout. A taxpayer identification number shall be included with each claim provided if it is in the agency's possession.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) will be disposed of under the loan sales program of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or a disbursing official of the United States designated by the Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180-day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative, or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative, or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized—

"(A) to prescribe such rules, regulations, and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies.".

SEC. 5243. COMPROMISE OF CLAIMS.

(a) Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

(b) This section shall be effective as of October 1, 1995.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"§3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed five percent of the debt collection improvement amount as described in paragraph (3).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under section 502 of the Debt Collection Improvement Act of 1996), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation Acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practicable after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal Government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subpart H—Definitions, Due Process Rights, and Severability

SEC. 5281. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, non-appropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico where there is also a Federal monetary interest or in cases of court ordered child support."; and

(3) by adding after subsection (f) (as added in section 5202(a)) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any Federal department, agency, or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5282. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

Subpart I—Reporting

SEC. 5291. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later than three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding non-tax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

PART II—JUSTICE DEBT MANAGEMENT

Subpart A—Private Attorneys

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99–578, 100 Stat. 3305) are hereby repealed.

Subpart B—Nonjudicial Foreclosure

SEC. 5311. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure,

including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§3405. Notice of foreclosure sale; statute of limitations

"(a) IN GENERAL.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclosure shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§3406. Service of notice of foreclosure sale

"(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) NOTICE BY MAIL.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§3407. Cancellation of foreclosure sale

"(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender;

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at

the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

“(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

“(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

“(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

“§3410. Transfer of title and possession

“(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

“(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

“(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

“(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

“(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

“(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

“§3411. Record of foreclosure and sale

“(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

“(1) the date, time, and place of sale;

“(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

“(3) the persons served with the notice of foreclosure sale;

“(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

“(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

“(6) the sale amount.

“(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

“(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

“§3412. Effect of sale

“A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

“(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

“(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

“(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

“(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

“§3413. Disposition of sale proceeds

“(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

“(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

“(i) the sum of—

“(I) 3 percent of the first $1,000 collected, plus

“(II) 1.5 percent on the excess of any sum collected over $1,000; or

“(ii) $250; and

“(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

“(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

“(3) to pay for the costs of foreclosure, including—

“(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

“(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

“(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

“(D) necessary costs incurred by the foreclosure trustee to file documents;

“(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

“(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

“(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums; and

“(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

“(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

“(c) SURPLUS MONIES.—

“(1) After making the payments required by subsection (a), the foreclosure trustee shall—

“(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

“(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

“(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus

available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

SUBCHAPTER B—FAA GRANTS-IN-AID FOR AIRPORTS

FEDERAL AVIATION ADMINISTRATION GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORITY)

Of the available contract authority balances under this account, $48,000,000 are hereby rescinded, in addition to any such sums otherwise rescinded by this Act.

TITLE VI—FOOD AND DRUG EXPORT REFORM

SEC. 6001. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "FDA Export Reform and Enhancement Act of 1996".

(b) REFERENCE.—Wherever in this title (other than in section 6004) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act. (21 U.S.C. 321 et seq.)

SEC. 6002. EXPORT OF DRUGS AND DEVICES.

(a) EXPORT AND IMPORTS.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (d), by adding at the end thereof the following new paragraphs:

"(3) No component, part, or accessory of a drug, biological product, or device, including a drug in bulk inform, shall be excluded from importation into the United States under subsection (a) if—

"(A) the importer affirms at the time of initial importation that such component, part, or accessory is intended to be incorporated by the initial owner or consignee into a drug, biological product, or device that will be exported by such owner or consignee from the United States in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act;

"(B) the initial owner or consignee responsible for such imported articles maintains records that identify the use of such imported articles and upon request of the Secretary submits a report that provides an accounting of the exportation or the disposition of the imported articles, including portions that have been destroyed, and the manner in which such person complied with the requirements of this paragraph; and

"(C) any imported component, part or accessory not so incorporated is destroyed or exported by the owner or consignee."

"(4) The importation into the United States of blood, blood components, source plasma, and source leukocytes, is not permitted pursuant to paragraph (3) unless the importation complies with section 351(a) of the Public Health Service Act. The importation of tissue is not permitted pursuant to paragraph (3) unless the importation complies with section 361 of the Public Health Service Act.";

(2) in subsection (e)(1), by striking the second sentence;

(3) in subsection (e)(2)—

(A) by striking "the Secretary" and inserting "either (i) the Secretary"; and

(B) by inserting before the period at the end thereof the following: "or (ii) the device is eligible for export under section 802"; and

(4) in subsection (e), by adding at the end thereof the following new paragraph:;

"(3) A new animal drug that requires approval under section 512 shall not be exported pursuant to paragraph (1) if such drug has been banned in the United States.".

(b) EXPORT OF CERTAIN UNAPPROVED DRUGS AND DEVICES.—Section 802 (21 U.S.C. 382) is amended to read as follows:

"EXPORTS OF CERTAIN UNAPPROVED PRODUCTS

"SEC. 802. (a) A drug (including a biological product) intended for human use or a device for human use—

"(1) which, in the case of a drug—

"(A)(i) requires approval by the Secretary under section 505 before such drug may be introduced or delivered for introduction into interstate commerce; or

"(ii) requires licensing by the Secretary under section 351 of the Public Health Service Act or by the Secretary of Agriculture under the Act of March 4, 1913 (known as the Virus-Serum Toxin Act) before it may be introduced or delivered for introduction into interstate commerce; and

"(B) does not have such approval or license, is not exempt from such sections or Act, and is introduced or delivered for introduction into interstate commerce; or

"(2) which, in the case of a device—

"(A) does not comply with an applicable requirement under section 514 or 515;

"(B) under section 520(g) is exempt from either such section; or

"(C) is a banned device under section 516,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug or device is authorized under subsection (b), (c), (d), or (e), or under section 801(e)(2). If a drug (including a biological product) or device described in paragraphs (1) and (2) may be exported under subsection (b) and if an application for such drug or device under section 505 or 514 or section 351 of the Public Health Service Act was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug will be exported of such disapproval.

"(b)(1) Except as otherwise provided in this section, a drug (including a biological product) or device may be exported to any country, if the drug or device complies with the laws of that country and has valid marketing authorization by the appropriate approval authority—

"(A) in Australia, Canada, Israel, Japan, New Zealand, Switzerland, or South Africa; or

"(B) in the European Union or a country in the European Economic Area (the countries in the European Union and the European Free Trade Association) if the drug or device is marketed in that country or the drug or device is authorized for general marketing in the European Economic Area.

"(2) The Secretary may designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1). The Secretary shall not delegate the authority granted under this paragraph.

"(3) An appropriate country official, manufacturer, or exporter may request the Secretary to designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) by submitting documentation to the Secretary in support of such designation. Any person other than a country requesting such designation shall include along with the request a letter from the country indicating the desire of such country to be designated.

"(4) The Secretary shall designate a country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) if the Secretary finds that the valid marketing authorization system in such country or countries is equivalent to the systems in the countries described in subparagraphs (A) and (B) of paragraph (1).

"(c) A drug or device intended for investigational use in any country described in subsection (b) may be exported in accordance with the laws of that country and shall be exempt from regulation under section 505(i) or 520(g).

"(d) A drug or device intended for formulation, filling, packaging, labeling, or further processing in anticipation of market authorization in any country described in paragraph (1)(A) or (B) of subsection (b) may be exported to those countries for use in accordance with the laws of that country.

"(e)(1) A drug (including a biological product) or device which is to be used in the prevention or treatment of a tropical disease or other disease not prevalent in the United States and which does not otherwise qualify for export under this section may, upon approval of an application submitted under paragraph (2), be exported if—

"(A) the Secretary finds, based on credible scientific evidence, including clinical investigations, that the drug or device is safe and effective in the country to which the drug or device is to be exported in the prevention or treatment of a tropical disease or other disease not prevalent in the United States in such country;

"(B) the drug or device is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and is not adulterated under subsection (a)(1), (a)(2)(A), (a)(3), (c), or (d) of section 501;

"(C) the outside of the shipping package is labeled with the following statement: 'This drug or device may be sold or offered for sale only in the following countries: __________', the blank space being filled with a list of the countries to which export of the drug or device is authorized under this subsection;

"(D) the drug or device is not the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the manufacture of the drug or device in the United States for export to a country is contrary to the public health and safety of the United States; and

"(E) the requirements of subparagraphs (A) through (D) of section 801(e)(1) have been met.

"(2) Any person may apply to have a drug or device exported under paragraph (1). The application shall—

"(A) describe the drug or device to be exported;

"(B) list each country to which the drug or device is to be exported;

"(C) contain a certification by the applicant that the drug or device will not be exported to a country for which the Secretary cannot make a finding described in paragraph (1)(A);

"(D) identify the establishments in which the drug or device is manufactured; and

"(E) demonstrate to the Secretary that the drug or device meets the requirements of paragraph (1).

"(3) The holder of an approved application for the export of a drug or device under this subsection shall report to the Secretary—

"(A) the receipt of any information indicating that the drug or device is being or may have been exported from a country for which the Secretary made a finding under paragraph (1)(A) to a country for which the Secretary cannot make such a finding; and

"(B) the receipt of any information indicating any adverse reactions to such drug.

"(4)(A) If the Secretary determines that—

"(i) a drug or device for which an application is approved under paragraph (2) does not continue to meet the requirements of paragraph (1);

"(ii) the holder of such application has not made the report required by paragraph (3); or

"(iii) the manufacture of such drug or device in the United States for export is contrary to the public health and safety of the United States and an application for the export of such drug or device has been approved under paragraph (2),

then before taking action against the holder of an application for which a determination was made under clause (i), (ii), or (iii), the Secretary shall notify the holder in writing of the determination and provide the holder 30 days to take such action as may be required to prevent the Secretary from taking action against the holder under this subparagraph. If the Secretary takes action against such holder because of such a determination, the Secretary shall provide the holder a written statement specifying the reasons for such determination and provide the holder, on request, an opportunity for an informal hearing with respect to such determination.

"(B) If at any time the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that—

"(i) the holder of an approved application under paragraph (2) is exporting a drug or device from the United States to an importer;

"(ii) such importer is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A); and

"(iii) such export presents an imminent hazard to the public health in such country,

the Secretary shall immediately prohibit the export of the drug or device to such importer, provide the person exporting the drug or device from the United States prompt notice of the determination, and afford such person an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(C) If the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that the holder of an approved application under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), and that the export of the drug or device presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug or device to such country, give the holder prompt notice of the determination, and afford the holder an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(D) If the Secretary receives credible evidence that the holder of an application approved under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall give the holder 60 days to provide information to the Secretary respecting such evidence and shall provide the holder an opportunity for an informal hearing on such evidence. Upon the expiration of such 60 days, the Secretary shall prohibit the export of such drug or device to such country if the Secretary determines the holder is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A).

"(E) If the Secretary receives credible evidence that an importer is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall notify the holder of the application authorizing the export of such drug or device of such evidence and shall require the holder to investigate the export by such importer and to report to the Secretary within 14 days of the receipt of such notice the findings of the holder. If the Secretary determines that the importer has exported a drug or device to such a country, the Secretary shall prohibit such holder from exporting such drug or device to the importer unless the Secretary determines that the export by the importer was unintentional.

"(f) A drug or device may not be exported under this section if—

"(1) the drug or device is not manufactured, processed, packaged, and held in conformity with current good manufacturing practice or is adulterated under paragraph (1), (2)(A), or (3) of section 501(a) or subsection (c) or (d) of section 501;

"(2) the requirements of subparagraphs (A) through (D) of section 801(e)(1) have not been met;

"(3)(A) the drug or device is the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the possibility of reimportation of the exported drug or device would present an imminent hazard to the public health and safety of the United States and the only means of limiting the hazard is to prohibit the export of the drug or device;

"(B) the drug or device presents an imminent hazard to the public health of the country to which the drug or device would be exported; or

"(4) the drug or device is not labeled or promoted—

"(A) in accordance with the requirements and conditions for use in—

"(i) the country in which the drug or device received a valid marketing authorization under subsection (b)(2); and

"(ii) the country to which the drug or device would be exported; and

"(B) in the language of the country or designated by the country to which the drug or device would be exported.

"In making a finding under paragraph (3)(B), the Secretary shall, to the maximum extent possible, consult with the appropriate public health official in the affected country.

"(g) The exporter of a drug or device exported under this section shall provide a simple notification to the Secretary when the exporter first begins to export such drug or device to a country and shall maintain records of all products exported pursuant to this section.

"(h) For purposes of this section—

(1) a reference to the Secretary shall in the case of a biological product which is required to be licensed under the Act of March 4, 1913 (37 Stat. 832-833) (commonly known as the Virus-Serum Toxin Act) be considered to be a reference to the Secretary of Agriculture, and

(2) the term "drug" includes drugs for human use as well as biologicals under section 351 of the Public Health Service Act or the Act of March 4, 1913 (37 Stat. 832-833) (commonly known as the Virus-Serum Toxin Act)."

SEC. 6003. PROHIBITED ACT.

Section 301 (21 U.S.C. 331) is amended—

(1) by redesignating the second subsection (u) as subsection (v); and

(2) by adding at the end thereof the following new subsection:

"(w)(1) The failure to maintain records as required by section 801(d)(3), the making of a knowing false statement in any record or report required or requested under section 801(d)(3), the release into interstate commerce of any article imported into the United States under section 801(d)(3) or any finished product made from such article (except for export in accordance with subsection 801(e) or section 802 of the Act or section 351(h) of the Public Health Service Act), or the failure to export or destroy any component, part or accessory not incorporated into a drug, biological product or device that will be exported in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act."

SEC. 6004. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

"(h) A partially processed biological product which—

"(1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

"(2) is not intended for sale in the United States; and

"(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on the export of the product under this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and meets the requirements in section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)).".

This Act may be cited as the "Omnibus Consolidated Rescissions and Appropriations Act of 1996".

NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 260, S. 956, regarding the ninth circuit.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 956) to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1995".

SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out "thirteen" and inserting in lieu thereof "fourteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... California, Hawaii, Guam, Northern Mariana Islands.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth .... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington."

SEC. 3. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... 15";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... 13".

SEC. 4. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth .... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth .... Portland, Seattle, Phoenix.".

SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF THE COURT.

(a) CIRCUIT JUDGES.—No later than 60 days after the date of the enactment of this Act, the judicial council for the former ninth circuit shall make assignments of the circuit judges of the former ninth circuit to the new ninth circuit and the twelfth circuit, consistent with the provisions of this Act.

(b) CLERK OF THE COURT.—The Clerk of the Court for the Twelfth Circuit United States Court of Appeals shall be located in Phoenix, Arizona.

SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. DEFINITIONS.

For purposes of this Act, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

SEC. 10. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1997.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

AMENDMENT NO. 3558

(Purpose: To establish a Commission on Structural Alternatives for the Federal Courts of Appeals)

Mr. MURKOWSKI. Mr. President, on behalf of Senators FEINSTEIN, REID, BURNS, and others, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mrs. FEINSTEIN, for herself, Mr. REID, Mr. BURNS, Mr. BIDEN, Mr. KENNEDY, and Mr. AKAKA, proposes an amendment numbered 3558.

The text of the amendment follows:

Strike all after the enacting clause and insert;

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the Ninth Circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader, in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services; but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 per diem for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC. 4. PERSONNEL.

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC. 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out its functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC. 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purposes of this title. Such sums as are appropriated shall remain available until expended.

SEC. 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the report.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3558) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to engrossed for a third reading, was read the third time, and passed, as follows:

S. 956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION. 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) Establishment.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) Functions.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the ninth circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) Composition.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) Vacancy.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) Chair.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) Quorum.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) In General.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) Private Members.—Members of the Commission from private life shall receive $200 per diem for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC. 4. PERSONNEL.

(a) Executive Director.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) Staff.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS-15 of the General Schedule under section 5108 of title 5, United States Code.

(c) Experts and Consultants.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) Services.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC. 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out its functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC. 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purposes of this title. Such sums as are appropriated shall remain available until expended.

SEC. 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the report.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the title be amended to read: "A bill to Establish a Commission on Structural Alternatives for the Federal Courts of Appeals."

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read: "A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals."

PROVISION FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

AUTHORIZING THE USE OF THE ROTUNDA OF THE U.S. CAPITOL ON JANUARY 20, 1997

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 47 and Senate Concurrent Resolution 48, en bloc, resolutions submitted earlier by Senators Warner and Ford. I further ask unanimous consent that the resolutions be considered and agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating to those resolutions appear at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolutions (S. Con. Res. 47 and S. Con. Res. 48) were agreed to, as follows:

S. Con. Res. 47

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of 3 Senators and 3 Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1997.

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That (a) the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1997, by the Joint Congressional Committee on Inaugural Ceremonies (the "Joint Committee") in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and Vice President-elect of the United States.

(b) The Joint Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies. The Joint Committee may accept gifts and donations of goods and services to carry out its responsibilities.

ORDERS FOR THURSDAY, MARCH 21, 1996

Mr. MURKOWSKI. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, March 21; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired and the time for the two leaders be reserved for their use later in the day; and the Senate then proceed to the consideration of the conference report to accompanying H.R. 956, the product liability bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater occur immediately following the vote on adoption of the product liability conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, the Senate will debate the product liability conference report at 9 a.m. until 12 noon on Thursday. At 12 noon, a vote will occur on adoption of the product liability conference report.

Mr. President, following the two back-to-back votes, the Senate will resume the grazing fee bill, S. 1459, under a previous order. There will be 75 minutes of debate on the pending Bumpers amendment regarding increased fees with a vote occurring at approximately 2 p.m. on Thursday. Additional votes could therefore occur during Thursday's session of the Senate. Also, the Senate could be asked to consider a short-term continuing resolution if approved in the House of Representatives.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MURKOWSKI. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:44 p.m., adjourned until Thursday, March 21, 1996, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1996:

SMALL BUSINESS ADMINISTRATION

GINGER ELN LEW, OF CALIFORNIA, TO BE DEPUTY DIRECTOR OF THE SMALL BUSINESS ADMINISTRATION, VICE CASSANDRA M. PULLEY, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

GINA MCDONALD, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE LARRY BROWN, JR., TERM EXPIRED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10 UNITED STATES CODE, SECTION 624:

SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) EDWARD R. CHAMBERLIN [redacted]

SENIOR HEALTH CARE EXECUTIVE

To be rear admiral

REAR ADM. (LH) NOEL K. DYSART, JR. [redacted]
REAR ADM. (LH) DENNIS I. WRIGHT [redacted]

IN THE AIR FORCE

THE FOLLOWING MIDSHIPMEN, U.S. NAVAL ACADEMY FOR APPOINTMENT AS SECOND LIEUTENANT IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 531 AND 541, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

BRIAN H. BENEDICT [redacted]
SEAN P. BOLES [redacted]
FRANCHESCA J. MALZAHN [redacted]
DANIEL K. ROBERTS [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

MICHAEL G. COLANGELO [redacted]
GAYLORD G. H. DOWSON, [redacted]
KATHLEEN L. EASTBURN [redacted]
KEVIN J. FISCHER [redacted]
FRANCISCO A. FERNANDEZ [redacted]
ELDRIDGE J. JOHNSON, JR [redacted]
RICKY A. MANTEL [redacted]
JAMES A. MCGOVERN [redacted]
THOMAS G. MURGATROYD [redacted]
DAVID B. MUZZY [redacted]
DONALD W. PITTS [redacted]
THOMAS F. ROUNDTREE [redacted]
HURLEY R. TAYLOR [redacted]

JUDGE ADVOCATE GENERALS DEPARTMENT

CARLOS E. RODRIGUEZ [redacted]

CHAPLAIN CORPS

DENNIS E. YOCUM [redacted]

MEDICAL SERVICE CORPS

JAMES R. SANDMAN [redacted]
GERRY D. STOVER [redacted]

BIO-MEDICAL SCIENCE CORPS

JOHN J. BARLETTANO [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, U.S.C. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, U.S.C.

To be lieutenant colonel

DANIEL F. ABAHAZY [redacted]
CATHERINE E. ABBOTT [redacted]
CHRISTIAN A. ABBOTT [redacted]
DALE M. ABERNATHY [redacted]
MARK H. ABERNATHY [redacted]
JAMES C. ABNEY [redacted]
DAVID J. ABRAMOWITZ [redacted]
STEVEN D. ACENBRAK [redacted]
DOUGLASS S. ADAMS [redacted]
KAREN S. ADAMS [redacted]
JOHN F. AGOGLIA [redacted]
KENNETH B. AGOSTA [redacted]
DEWAYNE AHNER [redacted]
MARK W. AKIN [redacted]
GEORGE AKINS, JR. [redacted]
*JOSE R. ALBINO [redacted]
RICHARD A. ALBRECHT [redacted]
ELI T. ALFORD [redacted]
ROBERT ALGERMISSEN [redacted]
KERRY C. ALLEN [redacted]
BRADLEY G. ANDERSON [redacted]
DAVID S. ANDERSON [redacted]
JOEL D. ANDERSON [redacted]
MARK C. ANDERSON [redacted]
JEFFREY R. ANDREWS [redacted]
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THOMAS M. ARIELLY [redacted]
JOHN S. ARNOLD [redacted]
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MARK F. AVERILL [redacted]
MARK W. AVERY [redacted]
STEPHEN BACHINSKI [redacted]
JOE T. BACK, JR. [redacted]
MARK D. BAEHRE [redacted]
MICHAEL D. BAEHRE [redacted]
JAMES D. BAGWELL [redacted]
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MICAHEL R. CARAM [redacted]
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MARY W. CONYERS [redacted]
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ROBERT T. COOK [redacted]
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CORTEZ A. COOPER [redacted]
STEPHEN P. COOPER [redacted]
ALFRED A. COPPOLA [redacted]
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RENNIE M. CORY [redacted]
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JESSIE CRAWFORD, JR. [redacted]
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WID S. CRAWFORD [redacted]
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ANTHONY S. CUCCIA [redacted]
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ALEX C. DORNSTAUDER [redacted]
DOROTHY S. DOYLE, [redacted]
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SAM D. DOYLE [redacted]
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EMMETT H. DUBOSE [redacted]
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RONALD M. DUCAN [redacted]
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STEPHEN R. DWYER [redacted]
KAREN E. DYSON [redacted]
ELIZABETH A. EARLY [redacted]
JOHN A. ECONOM, [redacted]
ARVEL J. EDENS, JR. [redacted]
BRANT D. EDMISTER [redacted]
MICHAEL EDRINGTON [redacted]
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ADRIAN A. EICHHORN [redacted]
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ELY E. ELEFANTE [redacted]
PETER R. ELIASON [redacted]
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KELLY FITZPATRICK [redacted]
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ALLEN N. FORTE [redacted]
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BARRY G. HALVERSON, [redacted]
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CHARLES J. KACSUR [redacted]
VINCENT W. KAM [redacted]
JOHN S. KANE [redacted]
JAMES M. KANZENBACH [redacted]
JOHN C. KARCH [redacted]
KEITH W. KASPERSEN [redacted]
JOHN F. KEARNEY [redacted]
RICHARD F. KEARNEY [redacted]
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BILLIE W. KEELER [redacted]
BARRY L. KEITH [redacted]
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HARRY S. KELLAR [redacted]
SUS KELLETTFORSYTH [redacted]
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ANTERO LACOT, JR. [redacted]
KINARD J. LAFATE [redacted]
JONATHAN E. LAKE [redacted]
KURT G. LAMBERT [redacted]
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CHET C. YOUNG [redacted]
LAVERM YOUNG JR. [redacted]
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STEPHEN J. ZAPPALLA [redacted]
JERRY D. ZAYAS [redacted]
JACK C. ZEIGLER [redacted]
DONALD A. ZIMMER [redacted]
MARTIN T. ZIOBRO [redacted]
JOHN T. ZOCCOLA [redacted]
WILLIAM C. ZOLP [redacted]
[redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be colonel

MICHAEL C. ALBANO [redacted]
JAMES C. APLIN [redacted]
HENRY ATTANASIO [redacted]
RANDY B. BELL [redacted]
THOMAS A. BENES [redacted]
MICHAEL D. BOYD [redacted]
RANDY W. BRICKELL [redacted]
PAMELA A. BRILLS [redacted]
STEPHEN A. CARNES [redacted]
LYNN M. CHAMPAGNE [redacted]
ROCKY J. CHAVEZ [redacted]
JOHN T. COGGIN [redacted]
MARK E. CONDRA [redacted]
CHARLES E. COOKE [redacted]
DONALD K. COOPER [redacted]
MICHAEL L. COOPER [redacted]
CHRISTIAN B. COWDREY [redacted]
GLENN K. CUNNINGHAM [redacted]
CHARLES K. CURCIO [redacted]
JAMES W. DAVIS, JR. [redacted]
ROBERT K. DOBSON, JR. [redacted]
KENNETH D. DUNN [redacted]
RICHARD C. DUNN [redacted]
GEORGE P. FENTON [redacted]
FLETCHER W. FERGUSON, JR. [redacted]
DONALD E. FLEMING, JR. [redacted]
JAMES F. FLOCK [redacted]
GEORGE J. FLYNN [redacted]
MARC E. FREITAS [redacted]
JOHN M. GARNER [redacted]
WALTER E. GASKIN, SR. [redacted]
ROBERT E. GERLAUGH [redacted]
KENNETH J. GLUECK, JR. [redacted]
HENRY T. GOBAR [redacted]
BARNEY A. GRIMES, III [redacted]
JOHN L. GRIMMETT [redacted]
EDWARD J. HAMILTON [redacted]
ROBERT L. HAYES, III [redacted]
ELLEN B. HEALEY [redacted]
ALAN P. HEIM [redacted]
DENNIS J. HEJLIK [redacted]
MICHAEL K. HICKS [redacted]
RICHARD J. INGOLD [redacted]
CARL B. JENSEN [redacted]
MICHAEL J. JINNETT [redacted]
WILLIAM D. JOHNSON [redacted]
THOMAS R. KELLY [redacted]
DAVID B. KIRKWOOD [redacted]
KENT D. KOEBKE [redacted]
RICHARD W. KOKKO [redacted]
ANDREW KOWALSKI [redacted]
JOHN D. LEHOCKEY [redacted]
SCOTT E. LEITCH [redacted]
EDWARD J. LESNOWICZ, JR. [redacted]
GARRY W. LEWIS [redacted]
DAVID R. MALTBY [redacted]
JOSEPH J. MCMENAMIN [redacted]
MARK S. MCTAGUE [redacted]
TIMOTHY P. MINIHAN [redacted]
THOMAS E. MINOR [redacted]
RICHARD MONREAL [redacted]
WILLIAM J. NIEMASIK [redacted]
THOMAS M. O'LEARY [redacted]
JOHN M. PAXTON, JR. [redacted]
EARL W. POWERS [redacted]
JOHN R. PRIDDY [redacted]
DOUGLAS C. RAPE [redacted]
ROLAND G. RICHARDELLA [redacted]
JAMES D. RIEMER [redacted]
RONALD P. ROOK [redacted]
RICHARD C. ROTEN [redacted]
GLEN R. SACHTLEBEN [redacted]
RICHARD F. SCHALK [redacted]
PHILIP F. SHUTLER II [redacted]
LUCIANO S. SILVA [redacted]
WILLIAM L. SMITH [redacted]
HARRY C. SPIES [redacted]
RICHARD E. ST PIERRE [redacted]
JOHN F. SWEET [redacted]
DUANE D. THIESSEN [redacted]
JAMES E. THIGPEN [redacted]
RALPH F. TICE [redacted]
STEVEN J. TOMISEK [redacted]
GEORGE J. TRAUTMAN III [redacted]
PAUL A. TULLY [redacted]
WILLIAM D. TYRA III [redacted]
ROBERT M. WELTER [redacted]
PHILIP R. WESTCOTT III [redacted]
WILLIE J. WILLIAMS [redacted]
ROBERT O. WORK [redacted]
RICHARD H. ZALES [redacted]
RICHARD C. ZILMER [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF LIEUTENANT COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be lieutenant colonel

WILLIAM S. AITKEN [redacted]
GREGORY S. AKERS [redacted]
LARRY D. ALEXANDER [redacted]
JOHN M. ALLISON [redacted]
TERRY D. AMYX [redacted]
PHILIP ANDERSON [redacted]
SCOTT M. ANDERSON [redacted]
WILLIAM J. ANDERSON [redacted]
JUAN G. AYALA [redacted]
ROBERT J. BADER [redacted]
GREGORY A. BALLARD [redacted]
MARK H. BAMBERGER [redacted]
BRUCE K. BANCROFT [redacted]
RICHARD A. BARFIELD [redacted]
THOMAS G. BARTON [redacted]
PATRICK L. BEEKMAN [redacted]
LORINE E. BERGERON III [redacted]
BRENT D. BIELENBERG [redacted]
DEBRA M BIELY [redacted]
PAUL R. BLESS [redacted]
ROBERT J. BLEWIS [redacted]
ELVIS E. BLUMENSTOCK [redacted]
ROBERT BOLAND III [redacted]
THOMAS G. BOODRY [redacted]
RICHARD A. BOWEN [redacted]
FRANK R. BOYNTON [redacted]
TERRANCE C. BRADY [redacted]
THOMAS BRANDL [redacted]
JOHN M. BRANUM [redacted]
ROBERT J. BRENNAN [redacted]
RAYMOND T. BRIGHT [redacted]
WILLIE J. BROWN [redacted]
JOSEPH A. BRUDER IV [redacted]
PAUL A. BRYGIDER [redacted]
KENNETH R. BUNNING [redacted]
BERNARD T. BURCHELL JR [redacted]
CATKIN M. BURTON [redacted]
DANIEL T. BUTTON [redacted]
BARETT R. BYRD [redacted]
JOHN M. BYZEWSKI [redacted]
CARLOS J. CAMARENA [redacted]
JOHN J. CANHAM, JR. [redacted]
MICHAEL G. CANTERBURY [redacted]
BRADLEY E. CANTRELL [redacted]
THOMAS L. CARIKER [redacted]
GARY L. CARTER [redacted]
JEFFREY L. CASPERS [redacted]
EDWIN B. CASSADY [redacted]
JOSEPH D. CASSEL, JR. [redacted]
RONALD E. CHEZEM, JR. [redacted]
WILLIAM M. CIASTON [redacted]
GUY M. CLOSE [redacted]
NORMAN R. COBB [redacted]
WILLIAM C. COLLEY [redacted]
MICHAEL J. CONKLIN [redacted]
THOMAS M. CONNERS [redacted]
JAMES M. CONNOLLY, JR. [redacted]
LAWRENCE P. CORBETT [redacted]
GARY A. CORREIA [redacted]
STEPHEN R. COTE [redacted]
ROBERT E. CRANK [redacted]
CARL M. CRIBBS [redacted]
RICHARD J. CRUSH [redacted]
RICHARD C. DANIELS [redacted]
MATTHEW A. DAPSON [redacted]
DIANNE S. DAVIS [redacted]
KEVIN J. DELMOUR [redacted]
JAMES R. DERDA [redacted]
RICHARD L. DETRIQUET [redacted]
DOUGLAS J. DIEHL [redacted]
CALVIN R. DIXON [redacted]
JAMES G. DIXON, JR. [redacted]
MARK C. DOBBS [redacted]
JOHN D. DONAHUE [redacted]
JOE D. DOWDY [redacted]
ERIK N. DOYLE [redacted]
WARREN I. DRIGGERS [redacted]
GREGORY R. DUNLAP [redacted]
JOHN J. DUPRAS [redacted]
PAUL K. DURKIN [redacted]
MICHAEL A. DYER [redacted]
LAURIN P. ECK [redacted]
GREGORY J. EHRMANN [redacted]
PAUL A. EVANS [redacted]
JEFFREY D. EVEREST [redacted]
WILLIAM L. EZELL [redacted]
HARRY W. FARMER, JR. [redacted]
ROBERT W. FERGUSON, JR. [redacted]
KEITH B. FERRELL [redacted]
JUAN A. FIGUEROA [redacted]
MICHAEL E. FINNIE [redacted]
CHRISTOPHER M. FLECK [redacted]
GEORGE E. FLEMING III [redacted]
EDMUND F. FLORES [redacted]
WARREN J. FOERSCH [redacted]
GARY P. FONTAINE [redacted]
WILLIAM A. FRANCHI [redacted]
ADRIENNE F. FRASERDARLING [redacted]
KEVIN M. FRENCH [redacted]
LAWRENCE W. FRYER, JR. [redacted]
RAYMOND P. GANAS [redacted]
DAVID C. GARZA [redacted]
ROBERT A. GEARHART, JR. [redacted]
THOMAS D. GEHRKI [redacted]
PAUL C. GIBBONS [redacted]
HAROLD R. GIELOW [redacted]
EDWARD T. GILHOOLEY [redacted]
PAUL F. GILLIS [redacted]
THOMAS E. GLAZER [redacted]
TERRANCE A. GOULD [redacted]
ROBERT S. GRAHAM [redacted]
WILLIAM W. GRIFFEN, JR. [redacted]
JAMES M. GRIFFIN, JR. [redacted]
GREGORY L. HARBAC [redacted]
MARY M. HARBAC [redacted]
WILLIAM J. HARTIG [redacted]
MARK L. HASKETT [redacted]
MICHAEL L. HAWKINS [redacted]
DAVID E. HEILAND [redacted]
RICHARD B. HENSEL [redacted]
EUGENE A. HERRERA [redacted]
KEVIN G. HERRMANN [redacted]
JOSEPH F. HIGGINS [redacted]
DONALD H. HILDEBRAND, JR. [redacted]
LLOYD C. HOLBERT [redacted]
JOHN P. HOLDEN [redacted]
DARRELL A. HONEA [redacted]
TIMOTHY W. HOONAN [redacted]
GLENN M. HOPPE [redacted]
GREGG H. HORSTMAN [redacted]
JAMES R. HOWCROFT [redacted]
STEPHEN P. HUBBLE [redacted]

WILLIAM D. HUGHES III [redacted]
TIMOTHY L. HUNTER [redacted]
PETER J. HURAL [redacted]
RICHARD F. INGLETT [redacted]
DANIEL T. JACKSON [redacted]
JOHN J. JACKSON [redacted]
RODNEY J. JARVIS [redacted]
LEONARD A. JASCZAK [redacted]
CARL J. JENKINS [redacted]
DOUGLAS J. JEROTHE [redacted]
RONALD J. JOHNSON [redacted]
DAVID S. JONAS [redacted]
KEVIN L. JONES [redacted]
MICHAEL A. JONES [redacted]
STEVEN M. JONES [redacted]
WILLIE C. JONES [redacted]
RAYMOND B. JOSEPH [redacted]
ROBERT E. JOSLIN [redacted]
TIMOTHY E. JUNMETTE [redacted]
KEVIN M. KACHMAR, [redacted]
STEPHEN R. KACZMAR [redacted]
STEVEN M. KEIM [redacted]
RUSSELL A. KELLER [redacted]
KENNETH W. KEVERLINE [redacted]
LAWRENCE M. KING, JR. [redacted]
JOHN W. KIRKLAND III [redacted]
CHAD E. KIRKLEY [redacted]
LAWRENCE D. KNOSP [redacted]
JOHN G. KORAN III [redacted]
THOMAS R. KOVACH, JR. [redacted]
BRUCE T. KOWALSKI [redacted]
ROBERT A. KUHNERT [redacted]
MICHAEL D. KUSZEWSKI [redacted]
JOSEPH M. LANCE III [redacted]
JAMES B. LASTER [redacted]
KEITH A. LAWLESS [redacted]
KEVIN M. LEAHY [redacted]
TIMOTHY G. LEARN, [redacted]
BEVELY G. LEE [redacted]
ALAN R. LEWIS, [redacted]
MARC C. LIEBER [redacted]
CHAD LIENAU [redacted]
ERIC T. LITAKER [redacted]
DANIEL M. LIZZUL [redacted]
ROBERT G. LONGINO [redacted]
ROBERT M. LOTTIE, [redacted]
MICHAEL E. LOVE [redacted]
JEFFREY G. LUCAS [redacted]
STEPHEN P. LYNCH [redacted]
JOHN F. LYNN [redacted]
WILLIAM P. MACECEVIC, JR. [redacted]
JEAN T. MALONE [redacted]
THOMAS F. MANLEY II [redacted]
JEFFERY L. MARSHALL [redacted]
EDDIE D. MARTIN [redacted]
LYNETTE M. MARTIN [redacted]
CARL D. MATTER [redacted]
FRANK D. MAZUR [redacted]
SCOTT E. MCCLAY [redacted]
EDWARD M. MCCUE, II [redacted]
LAWRENCE J. MCENROE, JR., [redacted]
RICK T. MCFADDEN [redacted]
BERNARD W. MCGOWAN, JR. [redacted]
KENNETH F. MCKENZIE, JR. [redacted]
DENNIS M. MCNULTY [redacted]
CRAIG M. MCVAY [redacted]
JERRY G. MENGELKOCH [redacted]
LEO A. MERCADO, JR. [redacted]
JONATHAN G. MICLOT [redacted]
GEORGE F. MILBURN III [redacted]
WALTER L. MILLER [redacted]
GREGORY E. MINKS [redacted]
DAVID J. MOLLAHAN [redacted]
JOHN E. MONTEMAYOR [redacted]
MEDIO MONTI [redacted]
GARRETT W. MOORE, [redacted]
JOHN A. MORROW [redacted]
THOMAS M. MURRAY [redacted]
CHARLES R. MYERS [redacted]
GORDON F. MYERS [redacted]
CHAD F. NELSON [redacted]
JAMES L. NELSON, JR. [redacted]
SCOTT D. NELSON [redacted]
PAUL J. NUNEZ, [redacted]
ROBERT E. NUNLEY, [redacted]
CHRISTOPHER E. O'CONNOR [redacted]
KEITH A. OLIVER [redacted]
ROGER J. OLTMAN [redacted]
BERNARD E. O'NEIL [redacted]
MICHAEL E. O'NEIL [redacted]
MICHAEL E. OSTAPIEJ [redacted]
CHARLES E. OWENS [redacted]
ANTHONY B. PAIS, [redacted]
LEON M. PAPPA, [redacted]
JON E. PARIS [redacted]
WILLIAM E. PARRISH, [redacted]
DARRYL B. PATTON [redacted]
MICHAEL J. PAULOVICH [redacted]
ROBERT L. PELON [redacted]
CURTIS A. PERRY [redacted]
DANIEL J. PETERS [redacted]
RICHARD J. PETROFF [redacted]
TIMOTHY A. PHILLIPS [redacted]
ALLAN C. POLLEY [redacted]
BRIAN L. POOLER [redacted]
LYNN A. PRICE [redacted]
KAREN S. PROKOP [redacted]
JOHN C. PROSS [redacted]
THOMAS F. QUALLS, JR. [redacted]
WILLIAM A. REED, JR. [redacted]
PATRICK C. REGAN [redacted]
RICHARD C. REINECKE [redacted]
BRUCE A. REXROAD [redacted]
JACKIE L. RICKMAN [redacted]
VICKI A. RILEY [redacted]
WILLIAM H. RITCHIE III [redacted]
JOSE E. RIVERA [redacted]
WILLIAM E. RIZZIO, JR. [redacted]
GRADY H. ROBY, JR. [redacted]
DAVID L. ROGERS [redacted]
THOMAS L. ROLLANDINI [redacted]
GLENN W. ROSENBERGER [redacted]
MICHAEL O. ROWELL [redacted]
ROGER R. ROYSTON [redacted]
ROBERT L. RUSCH [redacted]
DENNIS G. SABAL [redacted]
MICHAEL L. SAUNDERS [redacted]
MICHAEL L. SAWYERS [redacted]
WILLIAM A. SAWYERS [redacted]
HUBERT J. SCALLON [redacted]
SHEILA M. SCANLON [redacted]
STEVEN J. SCHAD [redacted]
MICHAEL H. SCHMITT [redacted]
CHRISTOPHER P. SCHUCHARDT [redacted]
DOUGLAS E. SCHUMICK [redacted]
JOEL G. SCHWANKL [redacted]
KEITH A. SEIWELL [redacted]
DAVID L. SEMPLE [redacted]
MARK S. SHAFER [redacted]
JAMES K. SHANNON [redacted]
THOMAS R. SHAW [redacted]
STEPHEN M. SHEEHAN, [redacted]
ROLF A. SIEGEL [redacted]
BRANTLEY O. SMITH III [redacted]
ROBERT L. SMITH, [redacted]
JERRY W. SNEED [redacted]
CHRISTOPHER H. SONNTAG, [redacted]
COSMAS R. SPOFFORD [redacted]
ESTA L. STAPLES [redacted]
LAWRENCE P. STAWICKI [redacted]
BYRON F. STEBBINS [redacted]
WILLIAM T. STOOKSBURY [redacted]
JAMES D. STOREY [redacted]
THOMAS K. SUDBECK [redacted]
MARTIN J. SULLIVAN [redacted]
SUSAN G. SWEATT [redacted]
PETER J. TALLER [redacted]
WILLIAM E. TAYLOR [redacted]
DAVID G. THOMPSON [redacted]
ROBERT L. THOMPSON [redacted]
DONALD J. THORNLEY [redacted]
DAVID H. TIERNEY [redacted]
CHRISTOPHER M. TILTON, [redacted]
DWIGHT E. TRAFTON [redacted]
RAYMOND R. TROMBADORE JR. [redacted]
ROBERT S. TROUT [redacted]
PETER T. UNDERWOOD [redacted]
HENRY G. VANWINKLE II [redacted]
GREGORY J. VAUGHAN [redacted]
STEVEN E. VEYNA [redacted]
BRIAN J. VINCENT [redacted]
RONALD E. VONLEMBKE, [redacted]
RODERICK K. VONLIPSEY [redacted]
GLENN L. WAGNER [redacted]
ROBERT P. WAGNER III [redacted]
ROBERT E. WALDEN [redacted]
ALAN W. WALLACE, [redacted]
EDWARD M. WALSH [redacted]
ROBERT S. WALSH [redacted]
STEVEN L. WALSH [redacted]
DAVID L. WALTER [redacted]
GLENN M. WALTERS [redacted]
GARY A. WARNER. [redacted]
PATRICIA F. WARREN [redacted]
KENNETH L. WARTICK [redacted]
STEPHEN L. WATTERS [redacted]
MICHAEL M. WEBER [redacted]
LESLIE S. WEINHARDT [redacted]
STUART D. WEINSTEIN [redacted]
JAMES L. WELSH [redacted]
ANTHONY J. WENDEL III [redacted]
MARTIN M. WESTPHAL [redacted]
DERMOT C. WHELEHAN [redacted]
GLEN WHITE [redacted]
BRUCE A. WHITEHOUSE II [redacted]
WILLIAM W. WIGGINS [redacted]
ROBERT A. WILKINS, [redacted]
GREGORY K. WILKINSON, [redacted]
JEFFREY R. WILLIS [redacted]
GARY L. WILLISON [redacted]
DAVID L. WILSON [redacted]
SANDRA L. WILSON [redacted]
TIMOTHY B. WILSON, [redacted]
ALEC F. YASINSAC [redacted]
DOUGLAS P. YUROVICH [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, March 20, 1996*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. ROGERS].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 20, 1996.

I hereby designate the Honorable HAROLD ROGERS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O gracious God, that we should use our words in ways that point to the truth and in a manner that elicits conversation and discussion. May our expressions not bring forth only a concern that only promotes our place or advantage, but may our words bring hope to those who despair, light to those who cannot see, encouragement to those who feel alone, and a beacon for those who seek the truth. And may the words that we say with our lips, we believe in our hearts and all that we hold in our hearts, may we practice in our daily lives. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas [Ms. JACKSON-LEE] come forward and lead the House in the Pledge of Allegiance.

Ms. JACKSON-LEE of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side.

AGRICULTURE IN OKLAHOMA

(Mr. LUCAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUCAS. Mr. Speaker, in most years Rogers and Hammerstein hit the nail right on the head when they penned, "Oklahoma, where the wind comes sweeping down the plain, and the waving wheat can sure smell sweet when the wind comes right behind the rain."

Well, my friends, this is not a typical year. There has been no rain, there is no waving wheat, and it seems all we are getting this year is the wind. It is dry, my farmers and ranchers are facing another bad year, and I am just praying that most of them will make it through this tough time.

Now I know this might not be a proper place to give a Southern Plains crop and weather report, but it's the only forum I have got. On national agriculture day, we in unison should all tip our hats to the men and women that fight the elements to provide us with the cheapest and safest food and fiber supplies that this world has ever known. We can't bring them rain. But colleagues, we can give them a workable farm policy. While I have great faith in the conferees on the farm bill to do what is right for American agriculture, I take this floor to urge them to work expeditiously to make this happen.

REPEAL HIV-DISCHARGE PROVISION IN DEFENSE AUTHORIZATION ACT

(Ms. HARMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, last night the other body voted to repeal the hateful and punitive provision in the Defense Authorization Act requiring the immediate discharge of service men and women infected with the AIDS virus. I congratulate them.

Let us hope the House supports the other body's courageous action.

Mr. Speaker, requiring the discharge of HIV-positive personnel is unfair and punitive and is opposed by the Pentagon, including all the surgeons general of the military services. It is also opposed by the Veterans Administration, the Disabled American Veterans, the Veterans of Foreign Wars, the Air Force Association, former Senator Barry Goldwater and conservative columnists George Wills and Charles Krauthammer.

It is both unnecessary and bad policy for the Congress to interpose its own personnel policy on the military. As General Shalikashvili has testified, "discharging service members with HIV deemed fit for duty would waste the Government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role."

Let's join such prodefense Senators as SAM NUNN, JOHN MCCAIN and CONNIE MACK in repealing the requirement that HIV-positive personnel be immediately discharged.

LET US RECOGNIZE THE AMERICAN FARMER ON NATIONAL AGRICULTURE DAY

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, today on National Agriculture Day, I would like to express my appreciation for all the hard work that the American farmer does each year. Our Nation's food system is envied throughout the world. No where else is food produced and delivered with such remarkable quality and consistency, yet available at such a low price.

And in spite of the criticism leveled on the American farmer I am proud to say that this Congress, with the help of farmers across the Nation, worked within the new Republican framework and took a long hard look at the existing farm programs. We put in place a system that works effectively and efficiently, for our farmers, for our taxpayers, and for America. The result: A farm bill that costs the taxpayers less money and at the same time gives our farmers a safety net. A farm bill that is more flexible and market oriented than ever before and a farm bill that is the most environmentally friendly agriculture legislation in our history.

The road has not been easy. Farmers across the Nation struggle each year doing the most difficult work in the world. For this reason, on National Agriculture Day, it is important that we recognize the work they do and thank them greatly.

LEAVE THE AMERICAN WORKERS ALONE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, General Motors is on strike; some people are blaming the workers. Let us get off it. It is not about blame anyway. It is about jobs and outsourcing. The fact is, companies keep killing good paying jobs by buying products outside their company from nonunion, low-wage companies that pay no benefits.

Enough is enough. When Zenith moved to Mexico, did they drop the prices of their televisions? When Smith Corona moved to Mexico, did they cut the prices of their typewriters? The truth is, American workers have been trapped between GATT and NAFTA, imports and outsources. It is time, ladies and gentlemen, it is time for workers to take a stand. If not now, when, and if not outsourcing, what is it?

Now, General Motors wants to make some cuts. They could hire some of those high paid executives a whole hell of a lot cheaper from China. Think about that and leave the American workers alone.

Mr. Speaker, I yield back the balance of all that unemployment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind our guests in the gallery that they should remain quiet.

IN MEMORY OF NEW YORK CITY POLICE OFFICER KEVIN GILLESPIE

(Mr. LAZIO of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO of New York. Mr. Speaker, this past Saturday, I attended the funeral of Kevin Gillespie, a New York City police officer from Lindenhurst, Long Island, who was senselessly killed last Thursday while attempting to arrest three carjackers in the Bronx. Officer Kevin Gillespie, who was only 33 years old, was the father of two young sons, Danny, age 7, and Bobby, age 4.

What makes Kevin heroic is that he risked everything in an attempt to make the streets of New York City safer for people that he probably didn't even know. He had been a member of the elite Street Crime Unit for only 4 months. He was described by those in his unit as a hard worker who was good at what he did. He loved his work and loved his unit. The Street Crime Unit is responsible for fighting crime in some of the city's worst neighborhoods. He gave what Lincoln so aptly called the last, full measure of devotion, while trying to prevent violent criminals from escaping. As St. John the Apostle said in the Bible, "Greater love has no one than this, that he lay down his life for his friends."

I had the opportunity to meet Kevin Gillespie's mother and wife. There are no words that one can say in such a situation. As I looked into their eyes, and saw their pain, I was filled with a sense of deep personal loss. I was particularly moved when I learned that Kevin's son, Danny, wrote a note with a crayon and put it in his father's coffin which read, "Dad, I'm sorry that you died. I love you. You were a really good dad." Officer Gillespie truly is a hero, and after having seen his beautiful family, I can tell my colleagues that his death diminishes us all. But what is particularly tragic about this case is that the individuals responsible for the death of Officer Gillespie should never have been on the streets in the first place; all three had violent criminal records. All had been convicted of armed robbery, and one of the three had been convicted of attempted murder. Each was out on parole.

It is unconscionable to give early release to habitual violent criminals. Instead, we need to ensure that States have the resources to keep these violent offenders behind bars and off the streets for longer portions of their sentences. Through truth-in-sentencing, we can work to ensure tougher sentences for the most violent criminals, and hopefully avoid tragedies such as this. I do not want to have to go to any more funerals and see the pain in the eyes of another mother, wife, or child.

CLINTON'S BALANCED BUDGET

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, yesterday President Clinton submitted his new budget to Congress and I urge my Republican colleagues to examine it closely for two reasons.

First, President Clinton has blazed a trail to a balanced budget. Ronald Reagan never submitted a balanced budget. George Bush never submitted a balanced budget. But yesterday Bill Clinton did.

Second, and just as important, he has provided a plan that balances the budget while protecting our priorities like education.

The President protects basic reading, writing, and math skills. He protects college loans, safe and drug free schools and a program to help youngsters who do not want to go to a four-year liberal arts college to make the transition from school to work.

My Republican colleagues say the education cuts they are insisting on are necessary to balance the budget. Yesterday President Clinton proved that we can balance the budget without robbing our children of the skills and the training they need to compete in the 21st century.

A DISHONEST BALANCED BUDGET

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, the gentlewoman who spoke just before us talked with great glee about this President's balanced budget, but she did not tell the whole story. He also protected $7 million for foreign countries to teach their children how to measure rainfall and $10 million more for the National Endowment for the Arts. He also gave us a budget that indeed is balanced under CBO numbers, the Congressional Budget Office numbers, in 7 years. It just does not cut any spending until the sixth year and the seventh year, after he leaves office for his second term.

Does anybody in the sound of my voice believe that you can add to domestic spending for the next 5 years, and then hope a future Congress can come along and in 2 years make all the cuts that come to balance?

This is indeed a balanced budget, a dishonest balanced budget, and a cynical one at that.

CUTS IN EDUCATION FUNDING WILL NOT RAISE TEST SCORES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republican majority's assault on public education continues.

A few days ago, Republican members of the Economic and Educational Opportunities Committee charged that the Federal Government administers 760 education programs, and yet, test scores in math, reading, and science continue to fall.

This outrageous statement is typical of the Republican attack on public education and needs to be corrected.

Most of the programs listed have absolutely nothing to do with student achievement.

The Republican definition of "education programs" include: FBI advanced police training, disaster assistance, radiation control, and coal miners respiratory impairment treatment.

The FBI advance police training program was never intended to raise math, reading, and science test scores of our school children.

Instead of offering constructive solutions, the House Republicans have proposed the largest cuts in education funding in our Nation's history.

If Republicans are serious about securing a better future for our children, then they need to reevaluate their efforts to deny title I assistance; to eliminate Goals 2000; and to slash funding for safe and drug-free schools.

It's time to end the hypocrisy and put our money where our mouth is in education.

THE PRESIDENT'S NEW BUDGET

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the President has introduced a new budget designed to warm the heart of every liberal in Washington. It contains tax increases, more spending for Washington bureaucracy, and more for entitlements. Also, to the glee of liberals, the new budget has no serious welfare reform, no serious Medicare reform, no serious entitlement reform, and no cuts in spending until the out years.

Yes, Mr. Speaker, Washington liberals should be very proud of this new budget. It avoids tough choices. It protects the status quo, and, it expands big government.

I doubt, however, the rest of America will share in the enthusiasm of Washington liberals. The rest of America is tired of picking up the tab for Washington's 30-year Spend-a-Thon. The rest of America, plus all their children and grandchildren, are going to have to pay off the $5 trillion national debt.

Mr. Speaker, isn't it about time that Bill Clinton acted in the interest of the American people instead of Washington's liberals?

VOTING VALUES MORE IMPORTANT THAN TALKING VALUES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the conventional wisdom is that Democrats do not talk about values, and so I guess the assumption is we do not have values. Well, maybe we have not talked about values because we felt we were voting our values, and we felt that voting our values was a whole lot more relevant than talking values.

□ 1115

What do I mean by that? I think the value of education is one of the most fundamental values there is to every American family. Any American family who gets their child into the schools that they want to go in and see them go forward, it is like winning the lottery. It is better than winning the lottery, because you are what your children become.

Yet the people on the other side who love to talk values are gutting this educational value. They are gutting it by cutting $3.3 billion out of educational funding, going right at basic math skills, right at basic reading skills, and at drug-free schools. Those are the core of how we build a good public school system. They would rather build B-2 bombers.

Mrs. Speaker, something is wrong.

BIG GOVERNMENT IS NOT OVER WITH PRESIDENT'S SUBMITTED BUDGET

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the President has submitted his budget to Congress and here is the big surprise. The era of big government is not over. Once again, the President has said one thing and done another. His actions simply do not match his words. He said he would reduce spending and balance the budget, but what has he done? He has proposed more of the same old business that has piled up $5 trillion of debt.

The President's budget has it all: billions in unneeded spending for wasteful programs, cleverly hidden tax increases, a back door increase on capital gains that will hurt the little guy. I had hoped that the President would have used this opportunity to offer a serious plan and engage in good-faith negotiations to balance the budget and get the economy moving again. Instead, he chose to favor his own reelection over the country's business. Now we can only hope that this is the last Clinton budget we will ever have to deal with.

INVESTMENT IN OUR CHILDREN'S EDUCATION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, all across America on blackboards in all of our public schools and private schools, of course, we see something being written on the board and the word comes out "investment." If I might, I-N-V-E-S-T-M-E-N-T, investment. And a little hand is writing it. That is what the President's budget is promoting: investment in our children.

As I listened this morning as we pledged allegiance to the flag of the United States of America, there were some long and strong young voices in the echo, proud Americans. Yet we have a Congress that refuses to acknowledge the word "investment" on the blackboards of America. The budget by the President gives us $1 billion for title 1, for basic and advanced skills assistance, investment in our children; for those middle-class parents who are struggling to educate their college-aged children, with Pell grants. Whoever said the GI bill was not worth something when our young men came back from World War II and they were able to secure a college education—investment.

Mr. Speaker, we talk about the superhighway. We cannot get our young people into the superhighway and understanding the high technology without teaching the children and the teachers. Business tells us that—investment. Support the President's budget, but more importantly, tell the Republicans that we believe in investing in education for our children.

PRIVATE CONTRACTOR COLLECTS THOUSANDS FOR GOVERNMENT FOR ONLY $54

(Mr. EHRLICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHRLICH. Mr. Speaker, 3 weeks ago the Federal Government finally got around to using the services of the National Credit Management Corp. [NCMC] of Hunt Valley, MD, a company located in my congressional district.

Under the terms of the contract, NCMC would send collection letters to companies and individuals that owed the Government money.

The Nuclear Regulatory Commission turned over 100 accounts to NCMC and paid the company $54 for the entire project. These were accounts that the NRC had previously tried unsuccessfully to collect. In just 3 weeks, those initial 100 letters sent out by NCMC have brought in $63,000.

What I would like to know, Mr. Speaker, is why every agency of the Federal Government is not taking advantage of private debt-collection services? More than $50 billion in nontax debt is owed to the Federal Government. Another $60 to $70 billion in tax debt is owed to the IRS. Every day the Government does not collect its delinquent debt costs taxpayers millions of dollars, while many companies, such as the National Credit Management Corp., stand ready to collect that debt.

KENNEDY-KASSEBAUM HEALTH CARE REFORM BILL

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, in this era of corporate downsizing and mass layoffs, working families have to fear not only losing their jobs, but also their health insurance.

To allay this fear, 53 Senators have cosponsored the bipartisan Kennedy-Kassebaum health care reform bill which is likely to pass in the Senate. Here in the House, Mr. Speaker, 186 Members—from both parties—have cosponsored a similar health care reform bill sponsored by Republican Congresswoman MARGE ROUKEMA.

Fearing broad bipartisan support for health care reform, however, the ninjas in the Republican leadership have begun their clever sabotage of the only real chance that health care reform has in this Congress. Rather than supporting the Roukema bill, they are pushing their own bill which they know the President will have to veto. Sadly, Mr. Speaker, I am sure the insurance industry is standing by to handsomely reward this sabotage.

POMBO-CHAMBLISS AMENDMENT WILL HELP REDUCE ILLEGAL IMMIGRATION

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, after years of Congress failing to address out-of-control immigration, the 104th Congress is set to pass much-needed immigration reform. We all want to crack down on illegal immigration. There are two amendments to be offered today, which are very important to the agricultural community in America. The Pombo-Chambliss amendment will help reduce illegal immigration. The Goodlatte amendment only makes a bad program worse. The current guest worker program simply does not work and further tinkering will not help. We need a new program that will make sure seasonal agricultural workers do not stay in this country. The Pombo amendment assures that these legal temporary workers will only be hired when American workers cannot be found. They will only be admitted for the seasonal job for which they were hired, 25 percent of their pay will be withheld and paid to them in their home country. Nonworking family members are not eligible. Any worker that disobeys the rules will be permanently barred from the program.

Mr. Speaker, I urge my colleagues to vote "yes" on Pombo and "no" and Goodlatte.

TWO EXAMPLES OF BRAVERY

(Mr. HOLDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLDEN. Mr. Speaker, it is with great sadness that I rise today to pay my respects to two servicemen from my district who were recently killed in military training accidents. Two brave men, Marine Capt. David Holley, and Army CWO Walter Fox, were involved in aircraft crashes. Both of these men grew up in my district, Captain Holley in Pottsville and Chief Fox in Barnesville. Both had outstanding military records and gave their lives in service to this country.

Captain Holley was a member of the 533d Marine All-weather Attack Fighter Squadron and is presumed dead after his F-18 went down over the Atlantic Ocean. His father, Dave Holley, and mother Darly are good friends of mine. Captain Holley was an outstanding young man, and his loss is a true tragedy.

Chief Warrant Officer Fox was a member of the 160th Special Operations Air Regiment and was killed when his MH-47E Chinook helicopter crashed in Kentucky last week. He was a veteran of Operation Desert Storm and had a distinguished service record.

On behalf of the people of the Sixth District of Pennsylvania, I want to honor both Captain Holley and Chief Fox and let their families know that our thoughts and best wishes are with them. Chief Warrant Officer Fox and Captain Holley were great Americans, and their lives and sacrifices will not be forgotten.

CLINTON ADMINISTRATION MUST ENFORCE THE LAWS

(Mr. BARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR. Mr. Speaker, yesterday, I was the lead witness presenting testimony before the House International Operations and Human Rights Subcommittee on the matter of terrorist regimes influencing the U.S. political process. I urged hearings be held and investigations and prosecutions be initiated, if warranted, against American citizens such as Louis Farrakhan, for travels to terrorist regimes, and then acting to subvert the American political process.

The administration was called to testify and failed to appear. It is unacceptable that this administration would duck its responsibility to the American people and its obligation to the U.S. Congress to answer questions about the prosecution of American passport, visa, Federal election campaign laws, and others currently on the books.

It is ironic that just as Congress has begun fully debating whether current laws are adequate to protect us against acts of terrorism, our Government consciously takes a walk when presented with evidence that a U.S. citizen, like Louis Farrakhan and his organization in this country, are engaging in activities with known terrorist regimes.

EDUCATION IS AMERICA'S FUTURE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute.)

Mrs. CLAYTON. Mr. Speaker, in school districts across the Nation, teachers are being laid off, students face classrooms that will be even more crowded, needed equipment and supplies cannot be purchased, and parents are being told that they can no longer depend on afterschool programs.

We talk about restoring families and helping our young people. Yet, Members of this House seem ready to abandon education by making the largest cuts in America's history.

Now those who want to make these unprecedented cuts will argue that we are spending too much on education. To them I would say, "how quickly we forget."

How quickly we forget that when America led the world in educational achievement, for every $10 the Government spent, $1 went for education.

Today, however, for every $10 the Government spends, only 10 cents—one thin dime—goes for education.

We must restore these cuts, and they are cuts. We must invest in America's families, America's children, and America's future workers.

GET RID OF THE IRS

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, today the Committee on Ways and Means is in hearings to begin the process of replacing our current tax system.

I applaud the gentleman from Texas [Mr. ARCHER], the chairman, for addressing this issue head on. He said that we have got to pull the IRS out by the roots. We can no longer support a tax system that places enormous burdens on our families, businesses, and the future of this country.

Mr. Speaker, America deserves better. We deserve a new tax system that will reduce the role of the Federal Government and get the IRS out of our lives. It must be a system that promotes economic growth, savings, and investment. It must be simple and, most importantly, it has to be fair.

I believe that, guided by these principles, we can develop an entirely new tax system that will unleash the tremendous pent-up potential of this country's greatest resource, its people, and get rid of the IRS.

IMMIGRATION POLICY SHOULD PROTECT OUR LIBERTIES

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, I rise today to express my deep concern over the serious implications of the Immigration Act of 1995. We must all be concerned that the steps that are taken to address legal and undocumented immigration are reflective of the civil liberties and protections implicit in our democratic system of government and treasured by all Americans. As a native Chicagoan, I have personally witnessed the immense contributions that immigrants from immigrants from Ireland, Eastern Europe, Central and South America, and Africa have made to enrich our social fabric and economic vitality.

Unfortunately, today we are faced with a measure that unfairly capitalizes on public fears about illegal immigration in order to reduce the number of people who join our society, driving a wedge between those U.S. citizens who merely seek to be reunited with their family members. Attempting to resolve both legal and illegal immigration policies simultaneously serves only to convolute these issues of significant social import. For these reasons, Congress should instead pursue separate consideration of legal and undocumented immigration as has been recommended by many of our colleagues in this and the other body.

I am equally concerned about draconian attempts to deny education to undocumented children. The Supreme Court, in Plyler versus Doe held that children born on U.S. soil are entitled to 14th amendment protections. By barring children from the classroom, we will not only be preventing a lifetime of potential, but also, we will be working to deny them equal protection under the law. Punishing children on the basis of their parent's immigration status is not only unfair and mean-spirited, but its effects will no doubt negatively reverberate throughout our communities.

Mr. Speaker, I am likewise concerned about the so-called employee verification system which has been proffered as a means to enhance employment enforcement. As the representative from the Second Congressional District of Illinois, I am honored to represent the 24,342 foreign-born individuals who reside in my district. The possibility that these citizens may be selected for the pilot program frightens me because such a system would not only fail in protecting worker's rights but would in all likelihood lead to unauthorized uses of this database, posing new dangers to civil liberties for people who look foreign, thereby encouraging discriminatory and unconstitutional behavior.

Mr. Speaker, I strongly urge my colleagues to review these and other issues with care as we consider the future implications of this bill. As we today appreciate the richness of our social fabric we must likewise think of our legacy. Mr. Speaker, I urge us not to turn our backs on the many peoples which contribute to our cultural wealth, and for this reason will today oppose H.R. 2202 as it is drafted.

Let us extend the invitation to another generation. Give me your tired, your poor, your huddled masses who yearn to breathe free.

BOOST DOMESTIC PRODUCTION OF FUEL

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Mr. Speaker, 5 years have passed since American troops were sent to the Persian Gulf to fight a war that former Secretary of State Lawrence Eagleburger now calls "a classic example of the danger we face because we are so dependent on foreign oil."

Last year the United States imported over 50 percent of its crude oil—more than ever before—while domestic production fell to a 40-year low. Since the 1980's, we've lost one-half million high-skilled, high-wage oil related jobs.

According to the Department of Energy's Acting Deputy Assistant Secretary—that within a decade the U.S. will import nearly 60 percent of its oil. He added that our trade deficit in oil is expected to double to nearly $100 billion by that time.

We need to stimulate domestic oil and gas production by lifting Government regulations that provide no benefit to the environment but cost jobs and make industries less competitive. U.S. producers, are capable of developing untapped resources while protecting the environment if given the opportunity. We also need to develop tax incentives that stimulate domestic production.

Boosting domestic production will lead to a win-win situation—job creation and increased national security.

□ 1130

EDUCATION MUST BE OUR TOP PRIORITY

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise today to join my colleagues in expressing our concern at the continued majority attacks on education. Education comprises a mere 2 percent of our entire budget, yet the new majority has disproportionately targeted it for drastic cuts.

Without a doubt, education is the most important investment we can make in the future of our nation. Even with a balanced budget, our country cannot grow and prosper without an educated populace.

The current Republican proposals would cut more than $3 billion in education, $300 million in education funding for New York State alone. In addition to facing these huge cuts, our schools are currently trying to piece together their budgets for next year—and are being forced to estimate their funding because of the budget stalemate here in Washington. We need to pass a long-term spending measure to ensure that education is protected.

Balancing our budget forces us to make a list of our priorities. Our future is at risk. Education must be at the top of that list.

MR. CLINTON'S DISAPPEARING TAX CUT

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, this morning's Washington Times ran a lead editorial entitled "Mr. Clinton's Disappearing Tax Cut."

What an appropriate title, Mr. Speaker.

Let me quote the Times:

> For all the righteous rhetoric emanating from the White House deploring the squeeze on middle-class family incomes. President Clinton proved once again yesterday that he would rather spend middle-class taxpayers' money than refund it. That is the essential lesson to be gleaned from the 2,196 pages of the fiscal 1997 budget.

Mr. Speaker, when all is said and done, President Clinton is more worried about Washington bureaucracy and Washington spending than he is about the middle class taxpayer. The President has spent the last 3½ years breaking every campaign promise he ever made. And his new budget just proves that he is not serious about cutting taxes. What tax cut he does offer is temporary—but his tax increases are permanent.

The Times is right. President Clinton would rather spend money than cut taxes.

EDUCATION BUDGET CUTS IN TRIO PROGRAMS

(Mr. ROMERO-BARCELO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROMERO-BARCELO. Mr. Speaker, once again, some political leaders are trying to take away money needed for education. Republican Members of the House recently issued a list of Federal education programs which they say do not work.

The truth is that a majority of the programs they are talking about do not even have anything to do with educating children. Yet to justify the largest cuts in education funding in the Nation's history, they have resorted to scare tactis and deceiving the people by not mentioning the programs that do work.

The public should know the truth about this country's successful education programs, such as the TRIO programs which enable Americans from low-income families to graduate from college. Funded under Title IV of the Higher Education Act of 1965, TRIO programs go hand-in-hand with student financial aid programs.

When children of low-income families aspire to be teachers, doctors, lawyers, or to undertake doctoral studies, TRIO provides them with the support needed to achieve these career goals.

Many students who participate in TRIO come from America's broken urban-school systems, where inequality and segregation reign. They live in violent and drug-infested neighborhoods and are confronted with a myriad of obstacles which hinder academic pursuits. The truth is that many come from families who have had to depend on welfare. TRIO provides these students an opportunity to overcome these barriers and it enables the sons and daughters of low-income families to break the cycle of poverty and dependency.

Mr. Speaker, we need to keep investing in TRIO. And we need to keep investing in education.

TELECOM REFORM HAS ARRIVED IN OKLAHOMA

(Mr. WATTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, telecommunications reform has arrived in Oklahoma.

National telecommunication reform hit the ground yesterday for the first time when the Oklahoma Corporation Commission, in response to the Telecommunications Act of 1996, sent a proposal on local telephone competition rules to the Oklahoma legislature and Governor for their final approval.

I salute the commissioners for their rapid response to the new opportunities and choices that Congress provided America's consumers and businesses when we passed the Telecommunications Act of 1996 just last month.

Following final action by the Governor and the State legislature, Oklahoma will be leading the Nation in providing new telecommunication services to our citizens. Enhanced competition will provide Oklahomans and all other Americans with improved access and lower costs as we move the Nation's telecommunications systems into the 21st century.

I want to congratulate the Oklahoma Corporation Commission for its forward thinking and swift action in assuring Oklahomans the most modern communications available in the Nation.

FIGHTING THE GUN LOBBY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I have just received word that the Committee on Rules will have a hearing tomorrow on a bill to repeal the assault weapons ban. The House of Representatives will vote on a bill to repeal the ban in the next couple of days. No hearings, no markups.

This bill is headed straight to the floor faster than an Uzi's bullet. It is a sneak attack. Why? Because sunlight is the greatest disinfectant, and the gun lobby is afraid of a debate.

The assault weapons ban is simple. It says no more Uzis, no more AK–47's, no more street sweepers. Ask any hunter, any sportsman, any legitimate citizen whether the ban has interfered in any way with their right to bear arms. It has not. But if the gun lobby has its way, there will be no more ban, but there will be a lot more carnage, more police officers will be killed, more children will be caught in random gunfire, and this Congress will have blood on its hands.

Mark my words, my colleagues, we will not go down quietly. We will fight this vote by vote. We will fight it Member by Member. We will fight the rule, fight the bill, fight the gun lobby, and we will win. The American people will win as well.

HANG TOUGH AND BALANCE THE BUDGET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I also have been reading the President's budget that he gave us yesterday. I am very upset. If we look at what the President does, for example, on tax increases, he increases taxes $232 billion more than the Republican proposal. Then look at continued spending. He increases spending $350 billion more than the Republican proposal. It is the same old issue of tax and spend.

I call, Mr. Speaker, on my colleagues to hang tough, to not have an increase in the debt ceiling unless we are going to get on that glide path to a balanced budget. If we have to close down Government to move ahead, to get politicians to do what every family in this country has to do, balance their budget, then let us do it.

Mr. Speaker, I say stick to our guns, hang tough, let us do what we have to do. Stop spending the money that our kids and our grandkids have not even earned yet to pay for today's problems. Let us be reasonable, let us be fair, let us do what we have to do and balance the budget.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. BUNNING of Kentucky. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on International Relations, the Committee on National Security, the Committee on Resources, the Committee on Transportation and Infrastructure, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there are no objections to these requests.

The SPEAKER pro tempore (Mr. ROGERS). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

BACK TO THE FUTURE: U.S. DEPENDENCE ON FOREIGN ENERGY

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, the German philosopher Hegel once wrote: "What experience and history teach is this: that people and governments never have learned anything from history, or acted on principles deduced from it." Unfortunately, this has been the case with U.S. energy policy.

Few people serving in this Congress do not remember the impact of the two oil crises in the 1970's. Millions of jobs were lost, and the economy experienced billions of dollars in lost production and income.

The domestic energy industry, which has historically been a boom-or-bust industry, has never recovered from the drop in oil prices in the 1980's. Hundreds of thousands of jobs were lost, domestic exploration and production declined, with the result that we are even more dependent than ever on foreign sources of energy.

As we mark the 5-year anniversary of the Persian Gulf war, U.S. oil imports now approach 50 percent of domestic oil consumption and this is expected to reach 60 to 75 percent by 2010. While we currently have ready access to oil from Venezuela and Mexico, there are no certainties about what happens globally on down the line when it comes to Russian politics, the Iraqi oil embargo, and the future stability of the Middle East.

Oil imports affect national security, American jobs, the balance of trade, interest rates, the stability of the dollar, and the economy. Unless we develop a realistic and bipartisan energy policy, we will remain vulnerable to future supply disruptions, economic problems, and threats to our national security.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 384 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2202.

□ 1142

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, March 19, 1996, amendment No. 5, printed in part 2 of House Report 104–483, offered by the gentleman from Washington [Mr. TATE], had been disposed of.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 3 offered by the gentleman from California [Mr. BEILENSON]; amendment No. 4 offered by the gentleman from Florida [Mr. McCOLLUM].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. BEILENSON

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. BEILENSON], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 120, noes 291, not voting 20, as follows:

[Roll No. 71]

AYES—120

Abercrombie
Ackerman
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
de la Garza
DeLauro
Dellums
Diaz-Balart
Dicks
Dixon
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kolbe
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Manton
Markey
Martinez
Matsui
McCarthy
McKinney
McNulty
Miller (CA)
Mink
Mollohan
Moran
Nadler
Neal
Oberstar
Ortiz
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Roybal-Allard
Sabo
Sawyer
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stupak
Tejeda
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—291

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Deutsch
Dickey
Dingell
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Maloney
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
Meek
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—20

Collins (IL)
Durbin
Hayes
Hostettler
Johnston
Kasich
Kennedy (MA)
Meehan
Minge
Moakley
Olver
Porter
Pryce
Radanovich
Rush
Smith (NJ)
Stokes
Studds
Walker
Waters

□ 1203

Messrs. BONO, THORNBERRY, BARR of Georgia, and HOLDEN, Mrs. MALONEY, and Messrs. BALDACCI, WARD, and LATHAM changed their vote from "aye" to "no."

Ms. PELOSI, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. FLAKE, NEAL of Massachusetts, GENE GREEN of Texas, and KENNEDY of Rhode Island changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. MCCOLLUM

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. McCOLLUM] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 191, noes 221, not voting 19, as follows:

[Roll No. 72]

AYES—191

Ackerman
Andrews
Baker (CA)
Baker (LA)
Baldacci
Barr
Barton
Bass
Bateman
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Boucher
Browder
Brown (CA)
Bryant (TN)
Bryant (TX)
Burr
Calvert
Campbell
Canady
Castle
Clayton
Clement
Clinger
Clyburn
Coble
Condit
Cramer
Cunningham
Danner
Deal
DeFazio
DeLauro
Deutsch
Dicks
Dixon
Doggett
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Eshoo
Ewing
Farr
Fawell
Fields (LA)
Foley
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Harman
Hastings (WA)
Hefner
Hobson
Hoekstra
Holden
Horn
Hunter
Hyde
Istook
Jackson-Lee (TX)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kildee
Kim
Klink
Kolbe
Lantos
Largent
Latham
LaTourette
Leach
Levin
Lightfoot
Lincoln
LoBiondo
Lowey
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McHale
McHugh
McKeon
McKinney
McNulty
Meyers
Mica
Miller (CA)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myrick
Nadler
Neal
Norwood
Obey
Orton
Packard
Pallone
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Quillen
Rahall
Rangel
Reed
Riggs
Rogers
Rohrabacher
Roth
Roukema
Royce
Sabo
Salmon
Saxton
Schiff
Schroeder
Schumer
Seastrand
Shays
Sisisky
Skelton
Smith (NJ)
Smith (TX)
Stenholm
Tanner
Tauzin
Taylor (MS)
Thurman
Torkildsen
Torricelli
Traficant
Upton
Vento
Volkmer
Waldholtz
Walsh
Ward
Waxman
Weldon (PA)
Weller
Wicker
Wilson
Wolf
Young (AK)
Zeliff
Zimmer

NOES—221

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Becerra
Bentsen
Bevill
Bonilla
Bonior
Borski
Brewster
Brown (FL)
Brown (OH)
Brownback
Bunn
Bunning
Burton
Buyer
Callahan
Camp
Cardin
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
DeLay
Dellums
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Dunn
Emerson
Engel
English
Ensign
Evans
Everett
Fattah
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Frisa
Funderburk
Furse
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hoke
Houghton
Hoyer
Hutchinson
Inglis
Jackson (IL)
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kennedy (RI)
Kennelly
King
Kingston
Kleczka
Klug
Knollenberg
LaFalce
LaHood
Laughlin
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Longley
Lucas
Luther
Manzullo
McCarthy
McCrery
McDade
McDermott
McInnis
McIntosh
Meek
Menendez
Metcalf
Miller (FL)
Morella
Myers
Nethercutt
Neumann
Ney
Nussle
Oberstar
Ortiz
Owens
Oxley
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Petri
Pickett
Pombo
Portman
Poshard
Quinn
Ramstad
Regula
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Roybal-Allard
Sanders
Sanford
Sawyer
Scarborough
Schaefer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shuster
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stockman
Stump
Stupak
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torres
Towns
Velazquez
Visclosky
Vucanovich
Walker
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
White
Whitfield
Williams
Wise
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—19

Collins (IL)
Durbin
Hayes
Hostettler
Johnston
Kasich
Kennedy (MA)
Meehan
Minge
Moakley
Olver
Porter
Pryce
Radanovich
Rose
Rush
Stokes
Studds
Waters

☐ 1215

The Clerk announced the following pair:

On this vote:

Mr. RADANOVICH for, with Mr. PORTER against.

Messrs. NETHERCUTT, JEFFERSON, CHRYSLER, GONZALEZ, and TOWNS changed their vote from "aye" to "no."

Mr. FOX of Pennsylvania, Ms. McKINNEY, and Mr. NADLER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MINGE. Mr. Speaker, due to unforeseen circumstances I was unable to vote on rollcall votes 71 and 72 to amend H.R. 2202. Had I been able to vote, I would have voted "no" on rollcall vote 71 and "yes" on rollcall vote 72.

The CHAIRMAN. It is now in order to consider amendment No. 6.

Amendment No. 6 will not be offered.

It is now in order to consider amendment No. 7 printed in part 2 of House Report 104–483.

AMENDMENT NO. 7 OFFERED BY MR. LATHAM

Mr. LATHAM. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LATHAM: At the end of subtitle D of title III insert the following new section:

SEC. 365. AUTHORITY FOR STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE IN DEPORTATION.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Attorney General may deputize any law enforcement officer of any State or of any political subdivision of any State to seek, apprehend, detain, and commit to the custody of an officer of the Department of Justice aliens subject to a final order of deportation or exclusion under this Act, if—

"(1) actions pursuant to such deputization are subject to the direction and supervision of an officer of the Department of Justice;

"(2) any deputization, its duration, an identification of the supervising officer of the Department of Justice, and the specific powers, privileges, and duties to be performed or exercised are set forth in writing; and

"(3) the Governor of the State, or the chief elected or appointed official of a political subdivision (as may be appropriate) consents to the deputization.

"(2) No deputization under this subsection shall entitle any State, political subdivision, or individual to any compensation or reimbursement from the United States, except where the amount thereof and the entitlement thereto are set forth in the written deputization or where otherwise explicitly provided by law.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Iowa [Mr. LATHAM] and a Member opposed will each control 20 minutes.

The Chair recognizes the gentleman from Iowa, Mr. LATHAM.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer this amendment in remembrance of Justin Younie, the 19-year-old son of Rick and Vicki Younie, who was brutally attacked, stabbed, and murdered in the small Iowa town in which he was born and raised. Justin's killers were illegal aliens to our country, our State, and to the quiet community of Hawarden.

While Justin's murder is the real tragedy from that night, many in the community were further incensed that the crime was committed by illegal aliens. In fact, one of his attackers had been through the deportation process with the Immigration and Naturalization Service.

Just as in Hawarden, many communities are fighting an increasing battle of illegal immigration. Local law enforcement agencies are understandably frustrated by this problem because there is legally nothing that a State or local law enforcement agency can do about a violation of immigration law other than calling the local INS officer to report the case.

State and local officials are further frustrated when a deported illegal alien reappears in their jurisdiction. The only recourse in this scenario is to again call the INS office and wait.

I offer this amendment today to empower State and local law enforcement agencies with the ability to actively fight the problem of illegal immigration.

My amendment will allow State and local law enforcement agencies to enter into voluntary agreements with the Justice Department to give them the authority to seek, apprehend, and detain those illegal aliens who are subject to an order of deportation.

By allowing—not mandating—State and local agencies to join the fight against illegal immigration, we will begin to slow down the revolving door at our country's borders, and will hopefully prevent tragedies such as the incident in Hawarden, IA.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BECERRA. Mr. Chairman, I seek time in opposition.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 20 minutes.

Mr. BECERRA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first begin by saying that for anyone who has lost a member of the family as a result of some crime or has at the hands of someone committing criminal activity suffered harm or injury, let us all say that we are in grief for that individual and that we should express grave concern and take action to ensure that those types of criminal activities do not occur and that people are not hurt or injured.

There is nothing wrong with trying to use our law enforcement capacity, whether at a Federal, State or local level, to try to ensure that our citizens are able to live in safety and in harmony. But this amendment takes a step beyond that, and it does not just talk about making sure we have proper, safeguarded law enforcement activity. It actually breaks the ground of what we have had in this entire country of jurisdictional responsibility for law enforcement in the hands of our various law enforcement authorities.

You never find the FBI, you never find the border patrol, trying to give someone a speeding ticket for speeding. You do not find the California Highway Patrol or any other State's highway patrol trying to enforce national immigration law. And that is because those are separate and distinct activities.

A California Highway Patrol officer is trained to know what the laws on the roads are, to be able to handle situations that occur on the road. A police officer is trained to deal with all the different types of activities he or she may encounter on the streets of his particular city.

A law enforcement officer with the border patrol is taught and trained on how to conduct himself and to be able to deal with the situation along the border and in the interior of our country when it comes to apprehending those who might be in this country without permission or those who are violating our Federal immigration laws.

But to now break those clear lines of division would have us allow a local law enforcement officer do the work of a Federal law enforcement officer. This amendment does not say that the local law enforcement officer has been trained on the laws of border enforcement or that that individual has been trained to deal with activities involving border enforcement or immigration law enforcement.

It is something that for the longest time this country has tried to avoid. Even recently in the last couple of years, we have seen how even Members of Congress here have expressed grave concern in expanding the powers of certain agencies, whether it is the ATF or the FBI or any other law enforcement agency. We even see at a local level how our police commissions and other agencies that oversee our law enforcement authorities are trying to ensure that, one, they have the capacity and resources to conduct the activity in their jurisdiction as law enforcement authorities, and, two, that they remain within the bounds of their jurisdiction.

This amendment breaches that jurisdictional limit. I believe it will lead to situations where we have people who are not trained to do the work doing the work beyond their capacity as local law enforcement trying to do Federal enforcement activities.

I must say as someone who is a member of an ethnic minority, it disturbs me when I hear that we will now have people who are not trained to do a specific type of law enforcement work out there doing something which has in the past caused harm, injury, and discrimination against certain classes of individuals.

I would urge Members to look closely at the amendment. I think it is well-intentioned. I think the gentleman is trying to deal with a situation out there in our country. But I do not believe at this stage we should be reaching the stage where we breach those very clear lines that have been delegated to our different law enforcement authorities from the Federal Government down to the local government.

Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to make a couple of comments. This actually empowers the local law enforcement agencies. They are the ones who are out there every day in the small communities in Iowa. They know who is there illegally, under deportation orders, that they are criminals, and they are in the front line of law enforcement. That is why I think this is not an extension of the Federal control, but it is empowering us locally. That is why it is so important.

Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Iowa [Mr. LATHAM]. I offered a similar amendment last week in the House to the effective death penalty bill, and it was adopted.

Mr. Chairman, if our State is illustrative of anything, it is that illegal immigration is seriously out of control. Consider these statistics that the California Department of Justice has provided. Ninety-eight percent of all illegal immigrants who are deported for committing felonies in California will eventually return to the State. Of that number, 40 percent will commit crimes again.

I pointed out last week and I just observe again, we are seeing this in rural America as well. Indeed, the first drive-by shooting in a rural town in my district was committed by an illegal alien. He was convicted and served his sentence, and within one week after he was deported, he was back in the country.

Now, it turned out that he committed another crime. Interestingly enough, the local law enforcement officer had apprehended this individual before the second crime was committed, but he could not hang onto him because, and I find this amazing, I do not think most people really realize this, even if you are a criminal alien not entitled to be in the United States, if a local law enforcement officer discovers that, the Federal law does not allow this individual to be held. All the local law enforcement can do is call up the INS and notify them that they have observed this individual in the area and say where they saw him, and that is it.

Well, the INS is overwhelmed right now, Mr. Chairman, with problems related to illegal immigrants. It seems absurd to me that the Federal law precludes law enforcement from dealing with this situation when they discover it.

The amendment of the gentleman from Iowa [Mr. LATHAM], which I am proud to be a cosponsor of, will give them the tools that they need to deal with this. It does not require anything.

Only if the local law enforcement wishes to assume this responsibility may they under the provisions of this bill.

But the fact of the matter is in the illustration that I gave, had local law enforcement had this power thanks to the amendment of the gentleman from Iowa [Mr. LATHAM], then this individual could have been detained right then when they found him, instead of being released, where he then went and committed a new crime. We all know that this country is awash in crime as it is, and maybe this points to one of the reasons, because our laws in certain respects are not as strong as they ought to be.

So I think this is an amendment whose time has really arrived, and I would strongly urge support for the Latham-Doolittle amendment.

Mr. BECERRA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank my colleague for yielding me time, and especially for his leadership on this issue. I am trying to understand this amendment, and certainly I think all of us come to this issue of immigration and the question of illegal and legal immigration hopefully with somewhat of an open mind, but with a sense of fairness.

□ 1230

Mr. Chairman, I heard the gentleman who just spoke cite crime statistics. I would like us to look at that, because we are told and we have documentation by the Justice Department, FBI, and many local law enforcements that indicate that over the last couple of years, crime has gone down. One of the reasons it has gone down, of course, is the proponents and supporters of community-oriented policing, which combines prevention along with law enforcement. It means that our law enforcement officers on the local level can be focused on dealing with local crime issues and becoming part of the community.

I think this amendment may have good intentions, but it certainly is paved wrongly and the road goes in the completely wrong direction. This is not the direction we should send local law enforcement, to make them the entrappers of individuals who may look different or speak a different language. They have worked very well with the INS, the Border Patrol, and others in the local communities. But it is perfectly obvious that if anyone in a local jurisdiction is committing a crime, that local law enforcement can, in fact, act upon that crime. They can arrest that person. They can take him down to jail. The person can be indicted. That crime can be stopped.

Mr. Chairman, why should we engage local law enforcement officers in jobs they really do not want to be involved in? They have the responsibility of bringing law and order to a community, safety to a community. They need to do that job. It is the same unnecessary burden that we might put on teachers in our public school system for them to point out some young child who may be an illegal as they may perceive it.

We force them to do a job that is not theirs. This amendment forces local law enforcement, sheriffs and constables and police officers, to do a job that is not theirs.

Mr. Chairman, as someone who has participated in local government and worked extensively with our local law enforcement, supporting them through safety measures in terms of real gun laws that protect them against assault weapons, someone who has been a strong proponent of community-oriented policing and prevention activities, I know how important it is for local law enforcement to establish trust with all of the ethnic and minority groups and communities in their cities. In particular, our large cities, like a Houston that has a multicultural community, it is important that those communities who speak a different language realize that when the police come, they are there to enforce the universal laws and prevent crime against those citizens, and anyone who is doing a crime will be arrested.

It is dangerous to put immigration authority in these local law enforcements so that they cannot do their real job, which is to protect those communities and protect the larger communities and to engender trust in the community so that they can get the job done. I appreciate the direction of the gentleman, however, I think it is the wrong direction. I think we are doing wrong on behalf of our local law enforcement to burden them with this responsibility, and I think we are also endangering our ethnic and minority communities across the Nation who want to work cooperatively with the police.

Mr. Chairman, I yield back and I ask Members not to support this amendment.

Mr. LATHAM. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I would like to just sort of comment to the fact that I support this amendment. As somebody who has spent 20 years supervising law enforcement agencies, not just in local government but local government along the border, I must remind my dear colleague from Texas that this amendment does not make it mandatory that local law enforcement enforce the immigration aspect of the crimes that are being committed by illegal entering. It is voluntary.

Mr. Chairman, I want to remind my colleagues from both California and Texas we are talking about the commission of a crime. When somebody violates immigration law and comes into this country, they are not illegal only when they break another civil law, a local law enforcement, they are illegal because they have broken the laws of the United States.

It is, I just have to say, sort of interesting the fact that I do not know if my colleague from Texas or California are aware of things like the San Diego border task force, which is San Diego police officers patrolling the international border and getting in fire fights, gun fights with smugglers and other illegal activity that is related to the alien problem. I am not so sure that they have talked to the people that live along the frontier of this country and watch people jumping fences, violating their jurisdiction, but only being told that, well, this is a Federal issue and so local government should not be involved in the issue.

In fact, I would ask, Mr. Chairman, that some of these people may be interested in the fact that 2 years ago, while there was flooding along the Tijuana River Valley that citizens were told that their local law enforcement should not intervene and stop illegal aliens from walking through their areas while looting was going on because somehow this might violate the jurisdictional lines between the two.

Mr. Chairman, I would have to say to my colleague from California this is not an issue of the Federal Government encroaching out into the community. This is not an expansion of Federal jurisdiction. We are talking about the fact of doing what we talk about here, allowing the local community to contribute to the Federal effort. That is all we are saying, allow them to do it, Mr. Chairman. I strongly support the amendment.

Mr. BECERRA. Mr. Chairman, I yield myself 1 minute and 30 seconds.

In response to my friend from California, let me just say that the situation, the example that he cites, is one where currently we have the authority to do what is necessary to stop any looting activity, any violations that may occur in the neighborhoods of his community, my community, any community. We do not need to have the INS go out to any community if someone is looting a neighborhood. We do not need to have the INS go out if there is an individual that is breaking curfews. All those things are currently taken care of. What we are saying, however, is that we have to be very careful in having law enforcement try to do the work of the INS and Border Patrol officers.

If I can just cite for my colleagues' consideration at some point the reports by the Commission on Civil Rights, which has said that in the past there have been occasions when some very aggressive, zealous local law enforcement officials have actually detained people because of their foreign-looking appearance or because of their racial or ethnic appearance.

We have had instances where local law enforcement officials, believing they have the authority, have taken some of these measures without that authority and in fact caused the violation of certain rights that individuals have in maintaining their own privacy and being free of government intrusion, especially if they have committed no wrong. Just because one may look foreign does not mean one should be apprehended or stopped.

Those are some of the concerns that a number of communities have expressed with this legislation. Also, local law enforcement has expressed the concern of having the Federal Government allow the local governments to go into that particular field as well.

Mr. LATHAM. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I appreciate the concerns. I wish my colleague from California was worried about the civil liberties of the people that are stopped by Federal agents, 70, 100 miles from the border, having their cars searched and being reviewed basically because Federal agents are now in our neighborhoods stopping all Americans. Frankly, if someone is going to stop and take a look at the immigration status, I think there is a level of comfort that, if we are going to have Federal agents doing it, it is not an intrusion on the community to allow, not to mandate but to allow local government to do the same.

Mr. LATHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, I rise in strong support of the amendment presented by my fellow Iowan. The Latham amendment would give State and local law enforcement officials authority to detain aliens violating deportation requirements in order to put them in the hands of proper INS authorities. This is in response to the brutal murder of Justin Younie in January 1995. Two illegal aliens stabbed Justin to death at a party in Hawarden, IA. These same individuals were also responsible for attacks on four others.

Mr. Chairman, I would like to express my deepest sympathies to the Younie family and the people of Hawarden for their terrible loss.

When we discuss the immigration problem plaguing our country, we immediately think of California, Florida, and Texas. What many may not realize is that this crisis also affects America's heartland. It is not just Miami, Los Angeles, and New York, but it is also Des Moines, Perry, and Hawarden.

Iowa is currently one of only seven States without an INS office.

For this reason, over the past year, I have been working diligently to get an INS office located in Des Moines, a centrally located office to help combat problems like this. A single INS office located in Nebraska serves all of Nebraska and Iowa. Federal immigration officials admit they are swamped and they cannot keep up with the increasing number of undocumented workers in these States. The director of Nebraska-Iowa INS says the number of noncitizens committing crimes is increasing at, quote, "an alarming rate," about 10 percent a year over the last 10 years.

One of the primary causes of this influx is that displaced migrant farm workers have found numerous employment opportunities in agribusiness located in Iowa. Jobs at Iowa meat packing plants continue to attract large numbers of migrant workers.

Mr. Chairman, the Latham amendment helps address the problem of the paucity of INS officers by giving local law enforcement officers authority to apprehend illegal aliens when the INS just is not there to do it.

For the Younie family, Iowa and our Nation, I urge Members to support the Latham amendment.

Mr. BECERRA. Mr. Chairman, I reserve the balance of my time.

Mr. LATHAM. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Chairman, let us get down to brass tacks. What is this debate really about? There are those of us that really want to solve illegal immigration problems, and there are those that would like to keep it watered down and make sure that we do not have the resources to deal with illegal aliens. They would rather put their head in the sand than confront this vital issue to America.

We have been passing the costs on for illegal immigration down to State and local governments for years and years and years through our Federal mandates in requiring that certain services be provided for illegal aliens. Now that they have an opportunity to help us to get our hands, our arms around the problem, they want to say no. We are not mandating on to the States or the local community. We are simply giving them the opportunity.

Mr. Chairman, what this gets down to is that the other side would rather put its confidence in the Federal arm of law enforcement rather than the local arm, because they do not have confidence in the local arm of law enforcement. They believe that they are incompetent, that they cannot get the job done. We believe that local governments do a much more effective job. We would rather have them than those that brought us Ruby Ridge and Waco handling these types of affairs rather than the Federal Government ultimately. I think it would be a good idea.

Mr. Chairman, this amendment would allow the State and local government officials to apprehend and detain illegal aliens who are caught violating deportation orders. Currently these officials are allowed to notify the INS but not anything else. INS just does not have the manpower to apprehend the illegals that are flooding the border States, like Arizona, and would welcome the help from local law enforcement.

I have a citizen's task force composed of the chiefs of police from all over our valley of Phoenix, and they wholeheartedly endorse this measure. They believe they are competent law enforcement officials, and this would not run rampant over people's rights, as I think the other side who has no confidence in local law enforcement would allege.

Mr. BECERRA. Mr. Chairman, I yield myself 2 minutes to respond.

Mr. Chairman, I am disappointed that the gentleman would demean the debate here by saying that there are some of us who would rather see criminal activity run rampant and that we are not just as concerned as he is about making sure that everyone has a chance to live and work in safety. No one here wishes to have anyone worry about being assaulted or anything else having to do with criminal conduct.

What we are saying is that there are some legitimate concerns here. There are people that I know who have been apprehended by law enforcement for improper reasons, and I want to make sure that that never happens. Do I have faith in the local law enforcement agencies that I know? Of course I do. I work very closely with them, both the Los Angeles Police Department, the LA County Sheriff's Department. They are very helpful in many activities that we work on together within our community.

To say that we are not interested in trying to reduce crime and to say that we do not trust our local law enforcement agencies, I think, just demeans this debate and gets us away from the substance of what we are trying to say.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from California.

Mr. BERMAN. This may have been raised already, and if it is, I apologize. I see a potential for a problem in this in that we certainly do not want to discourage victims of violent crimes or robberies or burglaries from reporting their conduct to the police. I am a little concerned, if this were fully implemented, it may end up having serious crimes not reported, which will lead to criminals not being apprehended. So I just wanted to raise that particular issue, Mr. Chairman.

Mr. BECERRA. Mr. Chairman, I reserve the balance of my time.

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Mr. LATHAM. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I have worked very closely with the gentleman from California, and I know that he does not support criminal activities and those kinds of things, and what I would say is that we are not having an attempt for police departments to take over the job of INS and Border Patrol. But I think, just like in the military, where the Air Force, and the Navy, and the Army, and the Marine Corps not working together, there is a detriment to what their goals are, and that is national security. The more that we can encourage the interoperability of INS, of DEA, of our police departments, and all our forces that are dedicated to securing our borders to making sure that crime is not illicit and running rampant in the streets, to stop the muling of drugs, we need to work together.

Let me give my colleagues a couple of classic examples. Down in San Diego I had an apartment house down in South Bay, San Diego, not even my district, but I go along on the San Diego police department drug ride-alongs. About 90 percent of the apartment was illegals, and INS would go in there and bust some of them, and they would get word, they would move out, they would not be there, and we knew that they were illegals. But yet San Diego P.D. could not go in there and bust those people.

We went into the place, and I mean it was so bad, the conditions, that it was unbelievable; I mean the filth, the debris, and I could see needles where druggers were using it. We would see a mattress where prostitutes were using it, and in the corner was a teddy bear, and yet we could not go in. There were violations, and it seemed like there were more rules to keep us from resolving the problem.

Mr. Chairman, that is the problem we are talking about, and we see potential problems.

We are fighting in California a monumental problem with illegal immigration, and we are trying to stop that. We look at the drugs coming across the flow, and on those drug ride-alongs, 99 percent have involved illegal aliens. American citizens that are dealing in drugs know that if an illegal is caught, then there is not as much penalty that is going to go to them versus if they are an American citizen.

So they use, I mean they use these people to sell the drugs, and they get busted, and it is a disaster in what is happening.

In shipping, we have ships coming in, and the preferred method of getting drugs now into the United States is with cargo because we cannot check all those containers. And we have police department, we have INS, we have Border Patrol with their dogs, all going through the containers from shipping. Now, this is not just our southern border, but coming in from all different countries, and they are working hand in hand to combat the problems that we have.

My wife is a principal in Encinitas, and we have many of the illegals living in the canyons, and yet the police department cannot go in there and bust or arrest these individuals. They are coming up at night, they are defecating on the lawn, they are using the water systems because they do not have showers down in the canyons, and the teachers are literally afraid to go into the classrooms at night and work with people in the school system.

If we cannot put and tie and make it legal to where all law enforcement agencies work together in an interoperability and not violate the rights of different people, I think that we can move in the same direction.

I wish I could get, as my colleagues know, the support of my friend from California because I know he is genuine in his interests. But we feel that every time we bring something like this up, that there is always a reason not to do it, and proposition 187, people from the gentleman's side, it is drastic, but we have a drastic problem and we are trying to solve it.

Mr. BECERRA. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from California.

Mr. BECERRA. Mr. Chairman, I appreciate the gentleman's words because I do wish to be able to work with him, and we have been able to work together on other issues. The problem we have——

The CHAIRMAN. The time of the gentleman from California [Mr. CUNNINGHAM] has expired. Does the gentleman from Iowa yield further time?

Mr. LATHAM. Mr. Chairman, I yield another minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, the problem some of us have with the amendment, though, is it goes beyond what the gentleman just spent several minutes discussing, and that is the ability to go in there and detain and arrest someone who they know has committed wrongful activity, but actually allows now for law enforcement, local law enforcement, to seek out.

Now, my concern is how do we seek out someone who we believe might be an undocumented immigrant? How is a local law enforcement agency, do they have the information, unless they have been fully advised by the Immigration Service that they are doing some of these things?

Mr. CUNNINGHAM. Reclaiming my short time, Mr. Chairman, what we are asking is that our police department be allowed to work with Border Patrol, be able to work with INS, be able to work with those agencies so when they go in and help, that they can work in interoperability to resolve the problem. When there is violation of the law, we got somebody there that can really take care of it, and I do not believe that is asking too much. I thank the gentleman for the extra time.

Mr. BECERRA. Mr. Chairman, I yield myself a further minute.

Again, in response to what the gentleman said, if, in fact, there are these apartment complexes where there are needles laying around, if there is debris and filth, those are violations of our current State or local laws which would permit any local law enforcement agency to go in there, if for no other reason than to investigate. They would have the powers to do that. We would not have to wait for the INS to go in there and to do that.

So we have to be clear. And many times someone viewing this debate would say, well, why do these folks not want to let local law enforcement agencies uphold the law? That is not the case. Local law enforcement agencies currently have that authority.

What we are saying is, careful, we set up these boundaries for a reason. We should not break them unless we have compelling reasons. And when we have an amendment that says do not just help the INS apprehend people who are here as undocumented, but go out there and actively seek them out, that is a big concern. Because my father probably looks like someone who would be sought out, and I wonder what it would take to have a local law enforcement official say I better stop him.

And at the end of this debate I hope to be able to bring up one final example.

The CHAIRMAN. The Chair would advise the gentleman from Iowa [Mr. LATHAM] that he has 3 minutes remaining, and the gentleman from California [Mr. BECERRA] that he has 8 minutes remaining.

Mr. BECERRA. Mr. Chairman, I have no further requests for time that I am aware of, and I will reserve the balance of my time.

The CHAIRMAN. The Chair would also advise that the gentleman from California [Mr. BECERRA] does have the privilege of closing.

Mr. LATHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would like to thank the chairman, the gentleman from Texas [Mr. SMITH], and his staff at the Subcommittee on Immigration Claims for all their assistance in drafting this amendment.

I would also like to thank the gentleman from California [Mr. DOOLITTLE] for his continued support in efforts to empower local law enforcement in the fight against illegal immigration.

I would also like to thank my staff, and especially Kate Coler, for working so hard on this amendment.

I just want to reemphasize this is a voluntary program where the INS, on a voluntary basis, with local law enforcement, or the State, join in an agreement, and whatever controls or restrictions put in that agreement, it is up to that agreement.

All we are saying is that the local law enforcement agencies should have an opportunity to work with INS, to be their eyes and ears out in the local communities. These people are on the frontline. These people are the ones who know if someone has violated a deportation order and is in their community under a criminal act by violating that order, and they should, in fact, have the power to detail, arrest, and transport that individual to INS so that they can be deported.

Quite honestly, we have to empower our local law enforcement. We cannot maintain this big control from a Washington base here, and this is what we should be looking forward to, have more people at the local level empowered to protect their communities.

Mr. Chairman, I move adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BECERRA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I believe I began with this debate, I would say again, I have no doubt about the gentleman's intentions and his good faith in trying to ensure that we do everything we can to make sure that law enforcement, whether local or Federal or State, has the opportunity to apprehend people who have committed crimes or who we strongly suspect of having committed a crime. And if the amendment, perhaps, had been tailored a little narrower to deal with just that, then perhaps the objections being raised by some of us would not then be as strong.

Mr. LATHAM. Mr. Chairman, would the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Iowa.

Mr. LATHAM. Mr. Chairman, I say this does apply specifically to individuals who are violating a deportation order. It is very narrow, very specific.

Mr. BECERRA. Mr. Chairman, I understand that, and I appreciate that the gentleman did narrow the amendment to that degree.

But it allows local law enforcement to seek out individuals. And the concern that some of us have is that by going beyond the ability to arrest or detain and actually go out there and proactively seek out individuals, there is a concern, and it lies on a couple of fronts. One, in local communities where we have large immigrant populations or large populations of individuals, as I mentioned, like my parents who might look or sound foreign, there is a concern that some officials within the local law enforcement agencies may be a little bit too zealous in their enforcement.

Now, if the gentleman is trying to ensure that all communities have the most effective law enforcement possible, the last thing we want to do is deter someone from wanting to report a crime, if he or she may have witnessed a crime, because they are afraid that the local law enforcement agent will be more concerned about the person's legal status than about what they witnessed.

The second matter is one that personally affected someone in the southern California area. This is an individual who happened to be driving home from work. He was in a pickup truck. He was dressed casually. He was pulled over, and in this case in fact, by the Immigration and Naturalization Service. He was pulled over, asked for identification. He was told that he would have to go with the INS officers for detention, and I believe that he did not have his particular identification on him except one form of identification, and that was his city badge that showed he was the mayor of the city of Pomona.

This was a gentleman from a city of about 95,000 people who was elected to be the mayor of the city of Pomona, and he was detained and was about to be taken in by these agents because they suspected that he might be undocumented.

Now, I grant that that is an isolated case that rarely occurs, and most individuals who are in our law enforcement agencies do their utmost to protect all of us, and we should appreciate that. But it does happen.

What we are saying is, careful, if there is a reason to breach that division, then let it be a compelling reason because local law enforcement agencies under current law are not prevented from being able to enforce the laws to stop criminal activity. And Federal law enforcement agencies have every right to go into the situation, as was expressed by the gentleman from California [Mr. CUNNINGHAM], earlier of a situation where 90 percent of the people in a housing complex may be undocumented. If, in fact, they are undocumented, the INS should be up on top of that building in a minute, and if they are not, then we should be getting on the INS for not doing its job.

It does not require local law enforcement agencies to pull people off from patrolling the street and stopping folks who are committing other crimes to go out there enforcing the laws that the INS is supposed to enforce. We have the ability to let local law enforcement agencies protect the citizenry, make sure we are secure. And we have, and we should provide the INS the resources so they have adequate resources to put border patrol and law enforcement agents from the INS in the field to protect us from violations of our immigration laws.

So I would just say to the Members, please, consider what this is. I do not doubt, as I said, the intentions of the gentleman. I think, though, in practice, the intentions will not play out the way he believes, and there would be problems.

So I would encourage Members to oppose this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. LATHAM. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I stand in strong support of this amendment.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Latham amendment, giving State and local law enforcement officials authority to apprehend immigrants violating deportation orders.

Giving this important authority to local law enforcement agencies will do more to increase the public's distrust of the law rather than to increase the effectiveness of immigration enforcement.

Our local law enforcement agencies are charged with the great responsibility of protecting citizens from crime. With this authority, the police will lose their effectiveness.

This amendment endangers the life and health of many people. A particular concern is the case of victims of domestic violence or spousal abuse. Women who fear the repercussions for their husbands or themselves will not venture forward to seek help or report abuse.

This provision also will serve to obstruct justice. Witnesses of violent crimes who fear deportation for themselves or someone close to them will choose not to come forward and cooperate with police because it would be too great a risk.

I urge my colleagues to vote against the Latham amendment, and allow our State and local law enforcement officials to protect and serve within communities, rather than to increase the fear.

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The CHAIRMAN. All time has expired on this amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Before putting the question, the Chair will make a brief announcement. The Chair must reiterate a portion of the Speaker's announcement of September 27, 1995, concerning the use of handouts on the floor.

In addition to meeting the standards of decorum, each handout must bear the name of the Member who authorizes its distribution.

The question is on the amendment offered by the gentleman from Iowa [Mr. LATHAM].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. BRYANT OF TENNESSEE

Mr. BRYANT of Tennessee. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BRYANT of Tennessee: At the end of section 604(b), add the following: "Such procedures shall include, in the case of such an individual who is 18 years of age or older and not lawfully present in the United States, the hospital or facility promptly providing the Service with the individual's name, address, and name of employer and other identifying information that the hospital or facility may have that may assist the Service in its efforts to locate the individual.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Tennessee [Mr. BRYANT] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a simple amendment that I believe fits with the philosophy of this Congress and of the American people. It certainly fits with the intent of H.R. 2202, which is to reform this country's immigration policy in the national interest, and I stress, in the national interest.

This amendment would do two things. First, it would require medical facilities to provide the INS with identifying information about illegal aliens who have received free emergency medical treatment from that medical facility which seeks reimbursement from the Federal Government. Second, it would waive this requirement in cases if the patient is a child under the age of 18 years old.

Currently, Mr. Chairman, this bill allows public medical facilities to seek to obtain Federal reimbursement for the cost of providing emergency medical services to illegal aliens. The bill also requires medical facilities to confirm the patient's identity and immigration status with the INS as a condition of reimbursement.

Now, Mr. Chairman, we want to get around the argument right now that we are asking hospitals and medical providers to serve as policemen. Already they are required to obtain the patient's identity and immigration status in connection with the furnishing of this medical treatment.

My amendment simply takes the next step. It would require the medical facility, as a condition to obtaining Federal reimbursement from taxpayer dollars that we are pay in this country, it requires this medical facility to provide the INS with this information it already has; again, identifying information, such as the name, address, and employer of this person. Hopefully, this information will allow the INS to then come out and find that illegal alien and send that person out of the country.

Again, Mr. Chairman, this requirement would be waived if the patient, the illegal alien, is under the age of 18 years old. Also, Mr. Chairman, the requirement of information disclosure would only apply when the medical facility is actually seeking to obtain Federal reimbursement, again, from taxpayer dollars.

This amendment is intended to ensure that the INS receives the name, address, last known employer, and any sort of information that might be available on the illegal aliens. This information would certainly help them to locate these illegal aliens and enforce our immigration laws.

Let me state what this amendment does not do. It would not impose any additional paperwork burden on the hospitals or other medical providers. This information is already gathered, probably upon the patient'sadmittance, and certainly when the medical provider is ready to fulfill the bill's requirement of confirming the individual's immigration status when they seek to obtain Federal reimbursement from taxpayers' dollars. Further, this amendment would not pose any threat to the quality of medical care the illegal alien receives. This information disclosed is simply identifying information and not medical records.

Mr. Chairman, I believe the Federal Government should get something in return for its payment of taxpayer dollars. That something in this case is information that may help in the enforcement of our laws against illegal immigration.

Half of H.R. 2202 deals with cracking down on illegal immigrants. Opponents may argue that requiring disclosure of the patient's identity and location would deter illegal aliens from seeking medical care for fear of getting caught. I understand how a minor child of an illegal alien would be caught up in the middle of this situation and, therefore, my amendment does waive or exempt this disclosure requirement when the patient is under the age of 18.

However, when the injured person is an adult, he or she is fully responsible for their presence in this country. They are aware that they are here illegally, and they assume the risk all the time they are in this country of getting caught. Mr. Chairman, this argument with respect to adult illegals, that they would not seek needed medical care, certainly does not hold water. Illegal aliens need goods and services which they buy at public places where they could be caught, yet they go out and buy these. They often come into this country for jobs and use fraudulent documents to obtain jobs, and they take the risk of getting caught there.

Mr. Chairman, this amendment and this issue are not about a denial of medical care to illegal aliens. The bill already specifies that they may receive emergency medical services and public health immunizations, though the bill makes the illegal aliens ineligible for public assistance, contracts, and licenses.

We would never deny emergency medical care to another human being, even to a lawbreaker, but that is a separate issue. The issue here is that an illegal alien, healthy, sick, or injured, is still an illegal alien. Anyone present in the United States illegally is a lawbreaker, and should expect to suffer the consequences if caught. Mr. Chairman, an illegal alien assumes the risk of getting caught. If he is injured while here, it is merely incident to his unlawful immigration status.

Still, I think the national interest now, the national interest, is best served by helping the INS do a better job of catching these people who may be illegally in the country, to enforce our Nation's immigration laws. Certainly, hospitals would report an escaped criminal who came into the emergency room for treatment. We would expect a citizen to report a robbery in progress, and to tell the policeman the direction the robber ran and give a description of him. We call this civic duty.

Why would we not require such identifying information to be disclosed from an illegal alien when a facility is seeking reimbursement for having treated him from the Federal Government, from all our taxpayers in this country? Is that too much to ask of one who will receive Federal dollars? Surely the medical provider has an obligation to cooperate with the Federal Government if seeking these Federal dollars.

In closing, Mr. Chairman, I believe this amendment would further improve on an already very good bill, of which I am proud to be a cosponsor, and I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BECERRA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 10 minutes.

Mr. BECERRA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I must say that we have an amendment that sounds reasonable on its face, as something that we would want to make sure we could do to try to help curtail illegal immigration. And certainly the gentleman from Tennessee, whom I serve with on the Committee on the Judiciary, has always proven himself as someone who is interested in trying to do the right thing. Again, I do not doubt whatsoever that he is, again, attempting to do so.

This is an amendment that I know he had in committee that did not pass. It did fail in committee. I would say that the reason it failed was because, as the hospitals had expressed to us and as others have said, this would cause a dramatic chilling effect within our medical care system. What we would have is a situation where people may in fact not go for treatment or take a family member for treatment for fear of what would happen as a result of trying to approach a hospital.

Mr. Chairman, let me read from a letter which I will later submit for the RECORD. This is a letter from the Secretary of Health and Human Services, the Clinton administration in this letter indicating that it is opposing the Bryant amendment.

The letter from Secretary Donna Shalala says as follows:

> While the administration strongly opposes undocumented immigration and supports the denial of means-tested government benefits to undocumented immigrants, the Bryant amendment would impose burdensome unfunded mandates on health care providers, seriously jeopardize the health of many U.S. citizens and legal immigrant children, and endanger overall public health.

The concern that the administration and others have expressed here, including hospitals, is that we would, in essence, chill the ability of health care providers to conduct the primary purpose of their being in our hospitals and our health care facilities, and that is, to provide medical assistance. What would happen in many cases is you would have to have these facilities acting as INS agents to try to find out if, indeed, the individual they are treating or are about to treat is here legally or is a U.S. citizen.

Mr. Chairman, I ask Members to take the example of someone, a friend, a relative in your family, who gets into a car accident and has to be rushed to a hospital. If a hospital looks at this individual and knows that it is under an obligation to do some reporting on status, immigration status of an individual, what will this hospital do or have to do in order to satisfy that requirement as it looks at a person who is seeking emergency medical care?

I would say that we are placing something that is of less importance—status—above health. I would hope that what we would do is first understand that the primary purpose of being a doctor, a nurse, a medical provider, is to be able to help those who are in need of medical assistance.

Mr. Chairman, this is an amendment that, again, it is difficult on its face to argue against because it seems like this is something that could easily be done, but in practice, again, the effects will be very difficult, or will have a very dramatic effect on both the provider of the health care and the recipient, the prospective recipient, of the health care. I would say, as well-intentioned as I know the gentleman from Tennessee [Mr. BRYANT] is, I must stand in opposition to the amendment, and urge Members to vote against it.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Tennessee. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would pay the same compliment to the gentleman from California [Mr. BECERRA]. Again, I respect him a great deal, and he is certainly a strong spokesman for these issues of immigration. We simply have a disagreement here.

Mr. Chairman, I might say, in quick comment to the administration's letter saying this would be in effect an unfunded mandate, I would disagree with that position. Again, keep in mind what we are talking about here are public hospitals operated by the State who are seeking Federal reimbursement. They are seeking taxpayers' money, including their State and from the other 49 States, to help offset their costs. If they do not want to get into this business of trying to help us catch illegals in this country, then they simply do not have to seek that reimbursement. It is strictly voluntary.

Mr. Chairman, second, the hospitals would complain, and I would expect that, I guess, but they are already accumulating this information. They already have it. In fact, they must submit this information in order to claim reimbursement. We are just asking them to also send it over to the INS.

I would like to think, again, that there is some degree of civic duty left in this country. If we saw a crime committed, we certainly would report that. We do not even get any money for it. The hospitals are actually getting paid for this, so I certainly would hope that that would not be their real motivation for not wanting to abide by this type of amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. BRYANT] has 2 minutes and 30 seconds remaining.

Mr. BRYANT of Tennessee. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, in my district we had a gentleman named Fernando Pedrosa who came from El Salvador several years ago. He was a fine man, a wonderful human being, Fernando Pedrosa was a wonderful human being, but he had leukemia. By the time he died at a hospital in my district, hundreds of thousands of dollars had been spent. That is hundreds of thousands of dollars that he had never contributed to whatsoever.

We owe it to the people of the United States to see that this problem is dealt with. We cannot have people coming in here from all over the world, no matter how wonderful they are, and they are good people, and getting cancer treated, getting leukemia treated, getting new kidneys, getting new hearts, whatever it is; and event if they are in an automobile accident, yes, they should be taken care of if it is an emergency. We are never going to throw someone out in that situation.

But if they are in this country illegally, I have no apologies, we have no apologies, that person should be treated for the emergency and then they should be sent home to their native country, because they are here illegally.

In Los Angeles, there was a breakdown in the Los Angeles County public health care system. It required a $364 million bailout of our health care system in Los Angeles, mainly due to the fact that we have been treating so many millions of people who are in this country illegally. We cannot let this go on. We owe it to our own citizens to be responsible, and at the very least, we should say if people are being treated and the taxpayers are being given the bill, that the hospitals provide information to those who are trying to enforce the law so this problem does not get bigger and bigger and bigger. We do not want to encourage people to come from other countries here in order to get hundreds of thousands of dollars of medical treatment. This bill goes a long way. I compliment the gentleman from Tennessee [ED BRYANT] on his diligence and responsibility.

Mr. BECERRA. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in response to my friend, the gentleman from California [Mr. ROHRABACHER], he probably is aware, as I am aware, that the only medical services that someone who is undocumented is entitled to are emergency services. Someone who goes in for leukemia treatment cannot go in and get this treatment and get it covered unless they are going in under an emergency. It is not an emergency if you are about to die in a year or in 6 months. An emergency is something where your life is in danger at the moment that you are going into the hospital.

☐ 1315

So the situation the gentleman has just brought up, if it occurs, should not have occurred.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Tennessee. Mr. Chairman, I would simply make a point of order as to who has the right to close.

The CHAIRMAN. The Chair advises the gentleman from Tennessee that the gentleman from California [Mr. BECERRA] has the right to close.

Mr. BRYANT of Tennessee. Mr. Chairman, yielding myself such time as I may consume, I would just simply state that this is a very commonsense measure. Again, the States that are at issue here are asking the other States in this country to spend taxpayer money to reimburse their public hospitals for this type of treatment.

Again, any type of immigration bill which is geared toward the national interest, the interest of this entire country, ought to respect this type of amendment and ought to agree to it. It simply just states that if we are going to help fund this type of treatment, then we ought to be able to be given the necessary information to locate these folks who are violating the laws of this country and to apprehend them.

I think it is a reasonable measure. I urge my colleagues to vote in support of this amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I rise in strong support of the gentleman's amendment.

Mr. BECERRA. Mr. Chairman, I yield myself 30 seconds.

Just for the purposes of edification for the Members here, let me read another paragraph from the letter from Secretary Shalala:

> Under current law as well as under H.R. 2202, the only Federal public health benefits and services for which undocumented immigrants are eligible are emergency medical services, immunizations, and testing for communicable diseases. These exceptions are made to provide immediate protection for the seriously ill and to protect the public health from disease that may otherwise go untreated in the community.

The situation the gentleman from California [Mr. ROHRABACHER] raised cannot occur under current law. We do not need this amendment to address that. Therefore, we should not be misled by the mischaracterization by the gentleman from California.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. BRYANT].

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 5½ minutes.

Mr. BRYANT of Texas. Mr. Chairman, I have, I think, as consistent and as tough a record in trying to deal with the problem of illegal immigration as any Member of this House of either party. But there have been two exceptions that we have always made with regard to this question. One of them is emergency rooms, and the other has been education of children. They are critical exceptions and they are in the interest of the United States. They are not simply compassionate exceptions. They are exceptions that are in the interest of the United States.

As the gentleman from California [Mr. BECERRA] said a moment ago, this amendment deals with one narrow area only, and, that is, emergency rooms, because that is the only kind of medical care to which an illegal immigrant is entitled. That is because we do not want anybody to be wandering around out there who has just been injured and not able to go get care in an emergency situation.

The fact of the matter is that this is in the law for the benefit of our public. Think about two things. First of all, if one has been to an emergency room anytime in recent years, he knows what a chaotic situation they are in. Our hospitals are understaffed, they are overworked, they have a great deal of difficulty just getting to the service of the patients that are there.

Imposing upon them the additional requirement of checking the papers of somebody who has just come in on a gurney or somebody who has just staggered into the emergency room needing assistance is outrageous. For that reason, the medical community has spoken out loudly against this amendment. They did so when it was presented in California in the form of proposition 187 and they have done so since.

I think we ought to ask ourselves also as Americans if it is not a departure from our normal basic view of our obligation to each other as human beings to discourage an illegal immigrant who has been in a car wreck or has suddenly been stricken by a heart attack or by any other emergency to tell them, "You better not go to the emergency room, because if you do they're going to give your name and address to the INS and you're going to be deported."

In every other instance we ought to do all we can to catch them and deport them if they are not here legally. In the instance of emergency rooms, it is cruel and wrong to do it.

We have tried to put together a bill here that leaves off the extremes of proposition 187 and leaves off whatever extremes might have been brought to the bill from the left, as well. This is an extreme from the right. It is wrong for our people, it is very bad for public health, it is a nightmare for hospitals, and it is flatly wrong, morally wrong, to have a system in place where somebody who has been badly injured cannot go and get treatment, is afraid to go and get treatment.

The sponsor says, "Well, this is different because it doesn't involve children." Members know very well that the word is going to go out to people that are here as undocumented aliens that "you can't go to the hospital because no matter what your reason for going, they're going to turn you in to the INS," and that is going to end up applying to children as well.

For goodness sakes, let us leave sacrosanct the two things that we have always made as exceptions to this whole debate, and, that is, education of children and emergency room treatment. I reiterate one more time, the law does not allow for medical care or any other public service to be extended to people that are here illegally. The exception is education of children and emergency rooms. Emergency rooms is all that this amendment affects.

I strongly urge Members to vote down the BRYANT of Tennessee amendment, to vote with BRYANT of Texas and the gentleman from California [Mr. BECERRA]. Let us keep this bill in the middle and make it able to be passed. Do not add provisions to it that are going to cause Members not to be able to vote for it because it is just plain fundamentally, morally wrong.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to the BRYANT of Tennessee amendment, which would require public medical facilities to provide the Immigration and Naturalization Service [INS] with identifying information about illegal aliens who are over 18 years old that they have treated.

This amendment is a threat to public health. It will discourage sick people from seeking treatment, and healthy people from seeking preventative care. When this issue was presented in California in the form of proposition 187, the medical community was overwhelmingly opposed to it, on the grounds that it would place an undue burden on medical personnel.

This amendment will undermine immigration enforcement by undercutting the existing enforcement priorities of the INS. The INS is already overburdened. If enforcement personnel cannot move quickly enough to deport persons who have been convicted of crimes, it makes little sense to expect them to divert resources to follow up on reports made by medical clinics.

This amendment will be difficult and costly for medical facilities to implement. Under this provision, hospitals and medical clinics will be forced to go through extensive documentation procedures for everyone they treat. Medical personnel are not immigration experts. This amendment places unnecessary burdens on already overworked medical facilities and their personnel.

In addition, medical personnel are likely to be confused about immigration status and immigration documents. This confusion could lead to the harassment of U.S. citizens and legal residents. U.S. citizens often do not carry documents which prove their citizenship. Individuals who are mistaken for undocumented immigrants may be harassed when they seek medical care for themselves or their children. This will only contribute to a climate of fear which already negatively affects Americans whose appearance or speech leads others to mistake them as illegal aliens.

Mr. Chairman, I would hope that this country could address its immigration concerns without resorting to chasing immigrants in the emergency room and burying this country's medical personnel in paperwork. I urge my colleagues to defeat this amendment.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Bryant amendment, which would require public medical facilities to report cases of patients who appear to be undocumented.

This amendment risks lives, threatens public health, and harasses U.S. citizens and legal immigrants. Medical personnel have devoted their lives to treating and preventing illnesses. They cannot effectively perform their duties if they are constantly concerned with policing their patients based solely on suspicion of undocumented status.

Medical professionals are also unable to perform their duties if patients who need their help are so fearful of being caught and deported that they neglect to seek treatment for serious or infectious disease. The spread of infectious disease could increase dramatically in this country because of this requirement.

Medical personnel are not immigration experts. Imposing this requirement on medical facilities would feed the climate of fear and zenophobia in this country. People who are mistaken for undocumented immigrants because of their appearance or their accent face the possibility of harassment when they seek needed medical care for themselves and their families.

When a person is ill or suffering, it is not appropriate or humane to ask him or her to brandish the necessary immigration documents prior to treatment. If we are to remain a country of compassion, I ask my colleagues to defeat this harmful amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. BRYANT]

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BACERRA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Tennessee [Mr. BRYANT] will be postponed.

It is now in order to consider amendment No. 9 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. VELÁZQUEZ:

Strike section 607 and redesignate the succeeding sections accordingly.

The CHAIRMAN. Pursuant to the rule, the gentlewoman from New York [Ms. VELÁZQUEZ] and a Member opposed, the gentleman from California [Mr. GALLEGLY], each will control 10 minutes.

The Chair recognizes the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, today every Member of this body has a chance to show their support for our children, not just immigrant children but U.S.-born children who are U.S. citizens. In a rush to show our constituents that this Congress can be tough on illegal immigration, something much worse has been achieved. This body is about to prove how harsh it can be, not on illegal immigration, but on American children.

These antichild provisions are contained in section 607, whose supposed purpose is to bar illegal immigrants from receiving benefits. I would like to remind my colleagues that illegal immigrants are already barred from receiving benefits by current law. The only law this provision can claim to change is the 14th amendment of the Constitution.

The actual effect of section 607 would be to keep over 100,000 U.S.-born children from having full access to public aid programs. And as Republican Mayor Rudolph Giuliani of New York has stated, this section is "punitive and will result in enormous costs to State and local governments."

Mr. Chairman, our amendment fixes this problem by striking these provisions from the bill and allowing all U.S.-born children full access to benefits. If Members care about our children and about their constitutional rights, then vote "yes" on this amendment.

This section of the bill makes it virtually impossible for many American children to receive public benefits. It creates a two-tier caste system where U.S.-born children of immigrants are treated differently from the children of U.S. citizens. This ignores the premise of equal protection, a blatant violation of these children's constitutional rights.

This provision affects far more than just the children of undocumented parents. It also affects the U.S.-born children of legal permanent residents. These are American children of parents who work hard and pay taxes, who start businesses and create jobs. Under these provisions, they too would be unable to file for benefits on behalf of their U.S. citizen children.

If these provisions are not removed, Congress will create a costly and overburdened administrative system. Our children will be forced to choose between a bureaucratic nightmare or relying on the kindness of strangers. This surely is a recipe for disaster.

I am sure that everyone will agree that our No. 1 priority should be keeping children healthy and safe. But by preventing parents from filing for assistance on behalf of their U.S.-born children, we will be victimizing the most vulnerable members of society, our kids. By doing so, we will be devastating the future of our Nation.

Let us fix one of the worst problems of this legislation. Vote "yes" for the Velázquez/Roybal-Allard amendment and show that this Congress truly cares about protecting the constitutional rights and welfare of our children.

Mr. Chairman, I yield 5 minutes to my good friend, the gentlewoman from California [Ms. ROYBAL-ALLARD], the cosponsor of this amendment.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in strong support of the Velázquez/Roybal-Allard amendment.

My colleague, Ms. VELÁZQUEZ, has ably highlighted the injustices to American children that will result from section 607.

I would therefore like to focus on an additional three compelling reasons to strike this section.

First, section 607 will create an administrative nightmare.

Under the equal protection clause of the U.S. Constitution, local governments will be required to provide services to American children whose parents have been deemed ineligible.

The result will be a tremendous administrative burden on local governments, who will be forced to create a huge bureaucracy to manage and allocate benefits for these citizen children.

Most likely this will be accomplished by instituting a costly guardianship system.

Local government agencies will be required to locate, screen, and appoint a guardian for these American children.

Furthermore, they will have to provide continued oversight to prevent fraud by these third-party guardians.

Second, it is important to note that there is no funding authorization provided under this bill for reimbursement to local governments.

Therefore, section 607 would impose a costly unfunded mandate at a time when States and local governments are already struggling with limited resources and expanded demands for services.

The Congressional Budget Office has estimated the cost of establishing the guardianship system to be approximately $250 for each individual case.

Localities with large numbers of affected American children, such as Los Angeles County, will be forced to maintain thousands of guardianship caseloads.

And third, section 607 abandons Congress' earlier commitment to relieve States and local governments of Federal unfunded mandates.

If section 607 is not deleted, States and local governments will be forced to deny needy American children the benefits they are guaranteed as citizens under Federal statute and the U.S. Constitution or to divert already scarce social dollars from programs critical to the well-being of local communities.

Simply put, section 607 is a costly and an unworkable, unnecessary, unfunded mandate that serves absolutely no legitimate national interest.

We must not punish innocent American citizen children.

I urge my colleagues to vote for the Velázquez/Roybal-Allard amendment.

□ 1330

Simply put, section 607 is a costly and an unworkable, unnecessary, unfunded mandate that serves absolutely no legitimate national interest.

We must not punish innocent American citizen children. I urge my colleagues to vote for the Velázquez-Roybal-Allard amendment.

Mr. GALLEGLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to this amendment, which seeks to overturn a provision I sponsored during the Committee on the Judiciary markup of H.R. 2202. The basic idea behind my original amendment was that the Federal Government should, under no circumstances, make benefit payments directly to those who we know are in this country illegally.

This is precisely what is happening today. When an illegal alien present in this country gives birth to a child who, under the 14th amendment, becomes an instant American citizen, the American citizen is eligible for a whole range of social benefits. Today these benefits are awarded directly to the illegal immigrant with the intention that she pass them on to her child.

While I believe that only a small portion of these Federal funds find their way to the desired recipient, I have a deeper problem with the status quo. I simply do not believe that the Federal Government should, under any circumstances, cut checks to those who have qualified for the aid by violating the laws of our Nation.

Approving the amendment before us today will do nothing but preserve the status quo and perpetuate the message we have issued all too often to those who violate our laws by coming here illegally. That message is clear. It is illegal for you to violate our borders, but if you somehow can successfully do so, then you can have whatever you want. It is illegal for you to break into a candy store, but if somehow you find a way to smash the door down and get inside, then by all means, clear the shelves with impunity.

I for one think this is wrong. I do not believe that we should reward those who break our laws and then remain here illegally with generous welfare checks. My feeling is that if we can find illegal immigrants to send them a check, we should find a way to provide bus service to return them to their homeland.

Supporters of this amendment say that we should not punish the children for acts of the parents, that isolating illegal immigrants from benefits many improperly receive will somehow separate families.

My response is that we are not trying to separate families under any circumstances. What we are trying to do is reunite the families and allow them to celebrate their status as legal residents of their respective countries and see that they be returned to their country of origin.

Mr. Chairman, I urge my colleagues to defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 15 seconds to respond to some of the gentleman's remarks.

My amendment is not about letting undocumented immigrants receive benefits. It is about keeping the U.S. Congress from creating a two-tier system that puts U.S.-born children of immigrant parents in another category and children born to U.S. citizens in another category.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, our duty as Members of the House of Representatives is to uphold and defend the Constitution of the United States. Sometimes this is not popular. If it were popular, we would not have to take an oath to uphold and defend the Constitution of the United States, but we do occasionally what we must, even when it is not popular.

It is not popular to stand up and say anything good in favor of the children of those who have come here illegally. But it matters as an issue of law and our Constitution that such children born here are American citizens. There is no debate on this issue. There is no dispute on this between both sides. Both sides have agreed these are American citizens.

Now, what do you do with the child who is an American citizen? The child cannot receive benefits except through the parent. There is no other way. You do not give benefits directly to children.

Accordingly, the bill as presently presented and without the amendment of the gentlewoman from New York would constitute a violation of the 14th amendment. It would deny to some citizens, on the basis of nothing they have done wrong, benefits to which other citizens are entitled.

Mr. Chairman, it is unconstitutional; we must vote against this policy and for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], the chairman of our subcommittee.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I would ask, as I listened to my colleague from California, that my colleagues from all over the country recognize that for those of us that operated public assistance programs locally, this law, this amendment, is an amendment to mandate welfare fraud. You do not understand this. Let me correct you.

The fact here is if this mandate passes, you have somebody who is illegally in the country, who will be getting a public assistance payment only for their child; and the Federal law says that it is illegal for that person to work, it is illegal for that person to be in the country, and it is illegal for the parent to use the welfare check to support themselves.

This is what we run into in southern California many times. You have parents of legal citizens who are taking checks. It is illegal for them to work, it is illegal to support themselves with the check, and that, Mr. Chairman, is why in one study we found 75 percent fraud in this category, and the rest of it basically is obviously fraud because it is a catch-22.

So you are in a situation that when you say you are going to give illegal aliens public assistance funds for their children, you are de facto either giving them money to support themselves in violation of the welfare law, or you are condoning the fact that they are working in violation of the law. They are not declaring income, which is a violation of their welfare status for their child. So what we have is a catch-22 in an absurd situation.

I know theoretically for the lawyers and the rest of them this thing should be handled a certain way. But I am telling you in practical application, common sense says that we should not have a Federal law that mandates fraud, and this amendment would encourage us to go back to a system that mandates welfare fraud.

Mr. Chairman, I ask that the amendment be defeated.

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from San Diego, CA, Mr. CUNNINGHAM.

Mr. CUNNINGHAM. Mr. Chairman, I would say to my friend from California, this is a system that is working backwards. We spend millions and millions of dollars in border patrol and INS and signs at the border saying "Do not come across." It is illegal to cross into this country illegally. It is illegal. But yet once they get here, we say once you have run that gauntlet, we are going to give you all kinds of services. That is an oxymoron in itself.

The American public is saying that we want a priority, we want a priority on American citizens for limited dollars, and our deficits are going up. We want priority on those that are legally immigrating into this country, that those services are being taken away from. We want priority for our chronologically gifted people, because they are taken away from Medicaid dollars and they are taken away from welfare dollars we are trying to get down to help those people.

It is working backward, and we are saying that has got to come to a stop. Illegals, if we can identify who they are, then we ought to give them a ticket out of here, out of this country. We ought to stop them at the border. If they are illegal in this country, I do not care if they are from China or Ireland, my national heritage, or whatever country, they ought to go back. The only thing they deserve is a ticket out of here.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, this is not about undocumented aliens, this is about children. How do we value American children?

Mr. Chairman, I yield 1 minute to the gentleman from California, Mr. BERMAN.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, I would just like to follow up on the points made by the two gentlemen from San Diego. First of all, as to the comments by the gentleman from California [Mr. BILBRAY], in theory there is a great deal of validity to what the gentleman says. But the notion that undocumented aliens, illegal aliens, are not here in this country working, is a fiction, because employer sanctions in their present state without verification is a fiction. So the notion that everyone who is here undocumented has children on AFDC is nonsense, pure nonsense. The GAO reported back in 1992 that 2 percent of the funds are going to the children of undocumented aliens, two percent of the funds. That puts it in perspective.

Remember what the gentleman from California [Mr. CAMPBELL] said. If you want to get to this issue, propose a constitutional amendment to change the 14th amendment. Do not create a big government, cumbersome, guardian process to deny U.S. citizens their rights. Change the Constitution which makes them citizens. I will fight it with every ounce of my energy, but that is the honest way to go.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds to respond to the remarks of the gentlewoman from New York, when she said this was not about illegal aliens, it was about children. That could be the furthest thing from the truth. This provision does one thing and one thing only: It denies anyone illegally in this country from being paid directly a check from the Federal Government. It says nothing about children; only that an illegal alien cannot receive a check.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, to my good friend from California I would say again, I know we have talked about these issues many times, and I know he is very sincere and has legitimate concerns. But I must go along with what my colleague from California [Mr. CAMPBELL] said earlier, and again reiterate: There is a Constitution in this country, and thank God for it, because over the years we have found that it has held us in good stead. As much as there is a concern in having someone as an adult who is not legally in this country going in to receive a benefit for a child who is a U.S. citizen, I must say to you that ultimately the Constitution says if you have a citizen, there is an entitlement to a particular benefit, a particular protection, and we should not start attacking the Constitution.

If we are going to attack the Constitution, let us remember why we are attacking it. In this case we are attacking it because we are attacking children. In this Congress, when we get to the stage where we are going after kids and penalizing them for the sins of adults, I believe that we have not only sinned against the Constitution, but, quite honestly, we have forgotten what our task is as Members representing this country.

□ 1345

Ms. VELÁZQUEZ. Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I think this debate highlights the fact that we have a serious problem in this country in terms of those who come into the country, give birth to children and citizenship being granted upon that birth and, obviously, it will require apparently a constitutional amendment. I think this highlights the necessity for that.

I think we have all seen situations in which we have heard the traditional description of bootstrapping your way into a benefit. This is booty-strapping. This is a situation in which, by virtue of the act of illegal entry on the part of a parent, the birth of the child gives the right to benefits from the taxpayers' coffers.

I rise in opposition to this amendment, and I think that it does highlight the fact that we have a situation of rewarding those who would violate our immigration laws.

I thank the gentleman for yielding time to me.

Mr. GALLEGLY. Mr. Chairman, I yield 30 second to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I must oppose the Velázquez amendment. This is under the category of if only the American people understood. With budget costs out of control, with so many American citizens not getting the benefits for which they logically and rightfully qualify, we have no alternative but to cut off these welfare payments. Besides, the law is the law. We define legal and illegal, then we should apply the law.

Ms. VELÁZQUEZ. Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. I yield 1 minute to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I agree with my colleague, the gentleman from California [Mr. BERMAN]. We do need a verification for employers, and we will be voting on that later today. But in the meantime, we make decisions here to cut spending both nationally and locally on programs that are important to all American citizens in this country. Now we have an amendment to pay tax dollars to people who have entered this country illegally. All I can say, Mr. Chairman, that is wrong, and we should oppose this amendment as it comes forward.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself the balance of my time.

We have heard the opposition claim that section 607 of the bill will keep illegal immigrants from receiving benefits. But current law already does that. The only thing that this section can claim to do is violate the Constitution and hurt children.

If what Members want to do is to deny benefits to kids, then amend the Constitution, then say that. If we here in Congress are concerned about our children and committed to protecting family values, then vote yes on this amendment and protect the right of American children.

Mr. GALLEGLY. Mr. Chairman, I yield myself the balance of my time.

In closing, I would just like to say there have been a lot of things said here in the past few minutes, but, very simply put, this issue is very straightforward. The issue simply put is that we, as U.S. taxpayers, should not be using our Federal dollars to reward those that have illegally come to this country, broken the laws, and reward them with a welfare check.

Mr. Chairman, I ask my colleagues to join me in strongly opposing this amendment that would provide welfare benefits to those that have broken the law and illegally come to this country. Please vote no on this amendment and put sanity back into the bill where it was passed out of the full committee.

Ms. PELOSI. Mr. Chairman, I rise in support of the amendment by Representatives VELÁZQUEZ and ROYBAL-ALLARD, which would strike provisions in this bill prohibiting legal immigrant and citizens children from obtaining Government assistance through their parents if their parents are ineligible for benefits.

This provision is mean-spirited, unnecessary, and does nothing to advance immigration enforcement efforts. It also violate constitutional rights. Children born in the United States are entitled to equal protection under the law. Preventing U.S. citizens from obtaining benefits because their parents are ineligible violates equal protection laws.

This provision would necessitate State and local governments implementing a complex guardian system for children who already have capable, competent, and loving parents. This provision would not save money or improve enforcement efforts. The only purpose it would serve is a political one—making needy and hungry children an example because of the immigration status of their parents.

Children should not be held responsible in this debate. I urge my colleague to vote for the Velázquez/Roybal-Allard amendment and strike this provision from the bill.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chairman, I demand a recorded vote and, pending that, I make a point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ], will be postponed.

The point of order of no quorum is considered withdrawn.

It is now in order to consider amendment No. 10 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GALLEGLY: At the end of subtitle A of title VI insert the following new part:

PART 3—PUBLIC EDUCATION BENEFITS

SEC. 615. AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FOR PUBLIC EDUCATION BENEFITS

"SEC. 601. (a) Because Congress views that the right to a free public education for aliens who are not lawfully present in the United States promotes violations of the immigration laws and because such a free public education for such aliens creates a significant burden on States' economies and depletes States' limited educational resources, Congress declares it to be the policy of the United States that—

"(1) aliens who are not lawfully present in the United States not be entitled to public education benefits in the same manner as United States citizens and lawful resident aliens; and

"(2) States should not be obligated to provide public education benefits to aliens who are not lawfully present in the United States.

"(b) Nothing in this section shall be construed as expressing any statement of Federal policy with regard to—

"(1) aliens who are lawfully present in the United States, or

"(2) benefits other than public education benefits provided under State law.

"AUTHORITY OF STATES

"SEC. 602. (a) In order to carry out the policies described in section 601, each State may provide that an alien who is not lawfully present in the United States is not eligible for public education benefits in the State or, at the option of the State, may be treated as a non-resident of the State for purposes of provision of such benefits.

"(b) For purposes of subsection (a), an individual shall be considered to be not lawfully present in the United States unless the individual (or, in the case of an individual who is a child, another on the child's behalf)—

"(1) declares in writing under penalty of perjury that the individual (or child) is a citizen or national of United States and (if required by a State) presents evidence of United States citizenship or nationality; or

"(2)(A) declares in writing under penalty of perjury that the individual (or child) is not a citizen or national of the United States but is lawfully present in the United States, and

"(B) presents either—

"(i) alien registration documentation or other proof of immigration registration from the Service, or

"(ii) such other documents as the State determines constitutes reasonable evidence indicating that the individual (or child) is lawfully present in the United States.

If the documentation described in paragraph (2)(B)(i) is presented, the State may (at its option) verify with the Service the alien's immigration status through a system described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b–7(d)(3)).

"(c) If a State denies public education benefits under this section with respect to an alien, the State shall provide the alien with an opportunity for a fair hearing to establish that the alien is lawfully present in the United States, consistent with subsection (b) and Federal immigration law.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end the following new items:

"TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

"Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully present in the United States for public education benefits.

"Sec. 602. Authority of States.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from California, [Mr. GALLEGLY], and a Member opposed, each will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

Mr. BECERRA. Mr. Chairman, I ask unanimous consent that we add an additional 20 minutes total time to the debate on this particular amendment, 10 minutes split evenly between those in support and those in opposition to the amendment. I do so in recognition of the fact that we have numerous speakers, too many to be accommodated with only the 10 minutes that are available.

The CHAIRMAN. The gentleman's unanimous-consent request is to extend the debate by 20 minutes to be split evenly by each side, therefore making debate time on each side 25 minutes; is that correct?

Mr. BECERRA. That is correct, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. GALLEGLY. Reserving the right to object, Mr. Chairman, I am not sure what the policy is, and I would ask for a parliamentary ruling. Is a unanimous-consent request in order for the purpose of extending the time period?

The CHAIRMAN. A unanimous-consent request is in order as long as the time would apply equally to each side.

Mr. GALLEGLY. Understanding that, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. GALLEGLY], and a Member opposed, each will be recognized for 25 minutes.

The Chair recognizes the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that most of my colleagues here share my view that the Nation's education system is in crisis. Classrooms are overcrowded. Teachers are in many cases overburdened and resources are in short supply. Experts in the field agree that we are barely able to provide a basic education to American students today.

We know that there is a problem, but the body has historically refused to acknowledge the devastating effect of illegal immigration on our education system. This amendment would change that by giving States the option of denying free taxpayer-funded education to those with no legal right to be in this country. Last year, more than 40,000 Pell grants worth a combined $70 million were awarded to illegal immigrants. It is estimated that California alone spends more than $2 billion each year to educate illegal immigrants at the primary, secondary, and post-secondary level. New York spends $634 million; Florida, $424 million; Texas, $419 million.

Mr. Chairman, the list goes on and on, but the dollars and cents are only part of the story. Equally important is the fact that illegal immigrants in our classrooms are having an extremely detrimental effect on the quality of education we are able to provide to the legal residents. When illegal immigrants sit down in public school classrooms, the desk, textbooks, blackboards in effect become stolen property, stolen from the students rightfully entitled to those resources.

I want to be very clear here. This amendment does not apply to the children of illegal immigrants who were born in this country and instantly became citizens under the 14th amendment to our Constitution. My amendment applies only to those who have themselves illegally entered this country or who have entered legally and then remained beyond the valid terms of their visa. In its 1982 decision in the case of Plyler versus Doe, the Supreme Court ruled by 5 to 4 that States were required to provide a free education to all students, regardless of their legal status under the equal protection clause to the Constitution.

Many of my friends who oppose this amendment will invoke this constitutional mandate as justification for their opposition. But something that the defenders of the status quo ignore is that in the 1982 decision the court also ruled that Congress had failed to do its job. In the court's majority opinion, Justice William Brennan said Congress shared some responsibility for illegal immigrants occupying public schools. He wrote:

> Faced with an equal protection challenge respecting the treatment of aliens, we agree that the courts must be attentive to the congressional policy. The exercise of congressional power might well affect the States' prerogatives to afford differential treatment to a particular class of alien.

Today the House takes up Justice Brennan on this invitation and exercises that power. Some will argue that we have a responsibility to educate illegal immigrants simply by virtue of the fact that they have successfully broken into our country. My feeling is that an act of geography is not the same as an act of jurisprudence. Just because someone has busted through the front door, that does not entitle them to the contents of your home.

The promise of free education is only one of the magnets we hold up to those who would break our laws by violating our borders. It is clear to me that any solution to our immigration crisis must include an elimination of such incentives. Allowing our States to make their own decision on this education serves this purpose.

Mr. Chairman, this amendment has received strong endorsement of the Republican Governors Association, National Taxpayers Union and many others.

Mr. Chairman, illegal immigrants belong back in their countries of origin, and we should do everything possible to encourage them to embrace that simple truth. I encourage my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as stated earlier when we debated the Bryant of Tennessee amendment, there have been two areas which we have always excepted from our hardline approach to trying to deal with the question of illegal immigrants. Those have been emergency room care and education of children. We have always done that.

It would be a tragedy if the Gallegly amendment were added to this immigration bill. We have tried to write a bill that deals constructively with the problems facing the country, that leaves off the extremes of the right or the left. This is one of the extremes of the right. This is a proposition 187 type proposal. It is not in the interest of the American people. It is not in the interest of our future as a country. It is absolutely illegal.

Mr. Chairman, the fact of the matter is that for good reasons the Supreme Court ruled a long time ago that we will not visit the sins of the father and the mother upon the children when it comes to the question of education. This bill should not contain a provision that does this even if it were constitutional, but it is not constitutional. It will not save anybody any money.

Bear in mind that, in order to implement the Gallegly proposal to let States deny education to little children who have no responsibility for their status at all, would mean that the schools would have to document the immigration status of every student in order to know which of those are in an undocumented status. The school systems do not have the money or the time to do this. The obvious impact on them is one that they do not welcome and do not need, and it is not in our interest.

Why would we want a population of children to be in this country not in school? What will they be doing if they were not in school? Well, certainly nothing that we want them to be doing.

This promotion of ignorance on the part of any category of immigrants is an outrage. These are children. We have exempted them from the efforts that we have made over the years to try to deal with illegal immigration, starting back in 1986. We should continue to do so.

Mr. Chairman, I want a tough illegal immigration bill. I am the cosponsor of this bill. But do not add these kinds of amendments that are unreasonable, illegal and not in the interest of the public.

Mr. Chairman, I reserve the balance of my time.

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Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Gallegly amendment giving States the option of denying public education to illegal aliens.

As many of you know, in 1982 the Supreme Court ruled in Plyler versus Doe that, based on the 14th amendment to the Constitution which makes anyone born in the United States a citizen, illegal alien children are entitled to a public and secondary education. This has proved to be a powerful magnet or open invitation, if my colleagues will, to break the laws of this country.

However, last November, in ruling against California's proposition 187 which allowed California to deny public benefits to illegal aliens, a Federal judge said that the authority to regulate immigration belongs exclusively to the Federal Government. In other words, in the absence of Federal action, the State must provide public benefits, including education, to illegal aliens.

This amendment is entirely consistent with this decision. Through congressional action, each State would be able to decide whether or not it wants to divert resources away from educating the children of its hard-working taxpayers.

In the case of New Jersey, if the State chose this option this would mean having an additional $150 million available to improve public education for the State's children of taxpaying citizens. These are the people who are paying taxes to fund State and local education services. Unfortunately, the additional $150 million that could be going toward improvement in school programs and infrastructure to better our children's education is instead being spent on the children of illegal aliens. This is just plain wrong. Add to this the fact that New Jersey is straining to provide a change in funding that is putting in direct competition urban, suburban, and rural school systems. We can not further strain our resources and community support by demanding that the children of illegals are being educated.

And, if a State is found to be in violation of the Constitution by denying public education to these children, then I would suggest that it might be time to explore a constitutional remedy to correct this problem.

Again, this comes under the category that if only the American public knew they would opt for this choice.

The Supreme Court made the wrong decision 14 years ago. The bottomline is that we are talking about illegal aliens, and they are not entitled to hard-working American taxpayer money when there is not even enough money to go around for the taxpayer.

Give States the option. Support the Gallegly amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BEILENSON].

Mr. BEILENSON. Mr. Chairman, I thank my friend for yielding this time to me.

I rise in opposition to the amendment offered by the gentleman from California [Mr. GALLEGLY].

With respect to illegal immigration, if I may say so, there are very few areas where the gentleman from California [Mr. GALLEGLY] and I disagree. We have worked together for several years on many of the issues that are addressed in this bill, but denying public education to the children of illegal immigrants would, in my opinion, be an ineffective and overly punitive way to try to stem the flow of illegal immigrants into this country.

Let me make two brief points about the amendment. First, the provisions of the bill itself, if enacted, will go a long way toward stopping illegal immigration at the border, and, even more importantly, reducing the lure of job opportunities. The denial of access of education for children here illegally, children who have not chosen themselves to break our laws, will not act as a further disincentive for illegal immigration. People cross our borders illegally in search of employment. The fact that they bring their children along is usually incidental.

Furthermore, supporters of this proposal often mention the cost to our school systems, and, of course, they, are substantial. But the societal costs, Mr. Chairman, of allowing States to deny public education to children are even greater. Such a policy would contribute to crime, to illiteracy, to ignorance, to discrimination. It would clearly run counter to the long-term interests of American communities and American society. Denying an education to any child, I think, is unwise and inhumane.

A second point is about this bill in general. Our colleagues from Texas, Mr. SMITH and Mr. BRYANT, have done an outstanding job in managing a fragile bipartisan coalition in support of H.R. 2202. In addition, there are many of us on both sides of the aisle who have worked long and hard for legislation that deals thoughtfully with the problem of illegal immigration. It also makes meaningful reforms in our legal immigration system.

However, adoption of this amendment would make it very difficult for Members on both sides of the aisle who would otherwise do so to support this bill and, therefore, I think would seriously jeopardize our goal of passing substantial immigration reform legislation this year.

Mr. Chairman, for those reasons I ask our colleagues to oppose this amendment.

Mr. GALLEGLY. Mr. Chairman, may I inquire as to the remaining time on both sides?

The CHAIRMAN. The gentleman from California [Mr. GALLEGLY] has 19 minutes remaining, and the gentleman from Texas [Mr. BRYANT] has 21 minutes remaining.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, we are talking about the United States, the people of the United States, spending $2 billion to educate illegal aliens just in California, $634 million just in New York, $424 million in Florida, and $419 million in Texas. We are talking about $70 million worth of Pell grants being given to illegal alien children.

Whose children do we care about? Why are we here? Who are we representing? We are supposed to care about the people of the United States of America. All of these children are wonderful children who have been brought here by illegal aliens. We care about them. But we have to care about our own kids first.

That is what this debate is all about. That is why we could never get through any illegal immigration legislation when the Democrats were in control of this body. We care about our children first, and we have no apologies about it. If we keep educating everybody in the world who can sneak across our border and bring their families, anybody who cares about their children throughout the entire planet will do everything they can possibly do to get their kids into our country, and who can blame them?

Mr. Chairman, they are wonderful people, they care about their children. We cannot afford to spend all of these billions of dollars, when our own education system is going broke, on educating the children of other people who are not citizens of the United States and have come here illegally. It makes no sense.

This amendment that the gentleman from California [Mr. GALLEGLY] is offering, is a salvation to Americans who want their kids educated, and know that their local communities are lacking the dollars to do so.

What makes sense; to keep subsidizing this education of illegal alien children and having more and more and more children come from all over the world? That makes no sense at all. Let us protect the people of the United States of America. Let us protect our own families and our own children. Let us educate those kids. Let us not spend all of our money on illegal aliens' children and then attract more and more here until our system totally breaks down.

Mr. Chairman, I support the amendment offered by the gentleman from California [Mr. GALLEGLY] wholeheartedly.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Chairman, if we have illegal children and illegal families in this country, it is our duty to deport the family and deport those who came here illegally. If we do not do that because we have not devoted enough resources to immigration and naturalization, then at the very least we should not impose the cost upon our States. It is a Federal failure that has led to this influx, and the Federal Government owes the States its support. But if both of these have not occurred, and that is the case today, we are left with children in this country.

Now in that world it is far better that those children be educated and be in school than that they be on a street corner or in a gang. The first best preferred outcome is, of course, that those who came here illegally be returned to the country of their origin with their children, and that would be constitutional to do because the children are under the custody of the parent. But we do not have the resources to do that. This bill does not give us the resources to do that. We are not hiring INS agents to expel every illegal family that is here.

So, Mr. Chairman, I put to my colleagues the essential tradeoff. Is it better to have such children in school, or kept out of school at the risk that their parents would be turned in to the Immigration and Naturalization Service? Are there gangs in Los Angeles waiting to recruit such children? Are there gangs in San Jose willing to recruit such children? Are there gangs in San Francisco and every major city of my State of California? Of course there are. If these children are here, we must educate them rather than have them be recruited, if those are our options.

Finally, I want to compliment the author of this bill, the gentleman from Texas [Mr. SMITH]. In the structure and fabric of his bill he exempted Head Start and school lunch programs. I surely appreciate his doing so, and he did it because he realized the importance of not having the termination of Federal programs that apply to education.

Mr. Chairman, it is inconsistent with the fabric of this bill to adopt the Gallegly amendment. With reluctance, because of my high regard for the author, I urge a "no" vote on the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 brief seconds to respond to a couple comments of the gentleman from California [Mr. CAMPBELL].

Mr. Chairman, the gentleman from California said far better to have the children in school than out in the streets and gangs. I could not agree with him more. He says that we do not have the resources, the financial resources, to incarcerate or deport these children. I would say, if we have the resources to educate, we should have the resources to deport.

Mr. Chairman, I yield 1 minute to the gentleman from San Diego [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I would like to comment to my colleague from California, too. We will hear the business community say that if the illegals are here, it is better if they have a job than to just be hanging around unemployed, and so there are always excuses for encouraging the violation of immigration law.

Mr. Chairman, my high school, Mara Vista, had many people coming to it that lived in Mexico, crossed the border and came to our high school. That was against the law, and it is against the law. But the absurdity of the Federal system, if we do not approve this amendment, is that it will be illegal to come into the country legally and go to a public school, but it will be legal to enter the country illegally, and then they have a guaranteed right to go to public education, and this is a $1.5 billion price tag to the people of California.

Let me remind our colleagues, Mr. Chairman, this is not an issue that affects the rich, white people of this country. This is an issue that hits the school districts of the working class in this country. It is something that disproportionately is being placed on the working class school districts, and the Federal Government wants to put this mandate on and pay for the mandate totally. Do not ask the working class of this country to bear this responsibility.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise to oppose this amendment because it is unconstitutional, runs counter to our Nation's commitment to the value of education, and is morally repugnant.

First, it violates the equal protection clause by granting States the option of denying undocumented children the same rights to a public education extended to other children residing in their States history documents the idiocy of challenging the constitutional and moral right of children to a free public education?

Second, 2 years ago, when the Congress reauthorized the elementary and secondary education act, we inserted the following statement of principle into that law:

> That a high-quality education for all individuals and a fair and equitable opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

We did not qualify that principled position. We did not say that it applied to some children, and not to others; we did not say that it did not apply to undocumented children. We applied that statement to all individuals.

Finally, Mr. Chairman there is no moral currency in denying undocumented children an education. We have no right to use education as a tool to enforce our immigration laws. All we will succeed in doing is punishing innocent children for the transgressions of their parents. We have no right to impose responsibility for enforcement of our immigration laws on our schools. All we will succeed in doing is turning our teachers into de facto INS agents. We have to no right to point fingers at children and block their entrance to the schoolhouse. All we will succeed in doing is stigmatizing children and encouraging negative behavior.

In defense of our Constitution and our values, and for the sake of humanity and compassion, I urge my colleagues to oppose the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, California [Mr. CUNNINGHAM], the distinguished chairman of the Subcommittee on Education that deals with our elementary education K through 12, who has been long-time committed to education.

Mr. CUNNINGHAM. Mr. Chairman, the teachers in San Diego County just recently went through a strike, and I think up in Santa Barbara they are going through a strike also. We have times when our State Colleges have to increase their tuition costs, and we look at less than 12 percent of the schools in this Nation have got a single phone jack, whey we are trying to proceed into the 21st century and do what the President says, which I support, is getting the fiber optics and the computers and high-technology education into the system.

But quite often, when they argue for higher pay or classroom upgrades or even bond elections to extend taxes, they do not look and see why they do not have the dollars available. There are, just in the State of California, 800,000, 800,000 illegal children in our school system K through 12.

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Take just half of that, just half, 400,000. At $5,000 each to educate a child, and of course in New York it is much higher than that, that is $2 billion a year. Take 5 years, that is $10 billion with which we could upgrade all of our schools in California, we could pay teachers, we could hold down the cost of tuition. The school meals program, take two meals, not three. That is $1 million a day for illegals.

Mr. Chairman, the vote, the very famous ruling by the Supreme Court, was based on a decision because Congress did not have a position on illegal immigration. What we are saying is that as of today, when this bill passes, we will have the congressional response for that court decision, and we prioritize American citizens and those that are coming into this country legally, and I think that ought to be the priority, not illegals.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply like to ask, we do not accept the figures offered by the gentleman from California [Mr. CUNNINGHAM], and I dispute them, but assuming that they were true, what would those kids be doing if they were not in school? Would they be on the streets, joining up in gangs, just withering away? How is that in the interests of the country?

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank the chairman of the committee.

Mr. Chairman, as all of us know, a free public education is a hallmark of our American society. It is, indeed, an essential ingredient in the foundation of our diverse, and, yes, inclusive democracy. The Gallegly amendment would seek to deny a number of our children the opportunity to go to a free public education system. Why? Because their parents made a choice on behalf of their children. But the children did not choose to be in the United States illegally. They do not deserve, therefore, to be punished for the actions of their parents.

The assumption here, Mr. Chairman, is that there is a financial burden to the schools for having illegals in our system, but I would counter that the cost to us as a nation would be far greater by excluding these children from our schools. Schools would then assume a law enforcement burden that is both costly and counterproductive.

These children will not leave the United States simply because they are not in school. They will be, as all of our speakers pointed out, on the streets, joining gangs, left at home alone, for there is a price to be paid in terms of community health and community well-being, not to mention the harm to the children themselves.

Mr. Chairman, I urge my colleagues to reject this mean-spirited attempt that will hold children responsible for their parents' actions. They are the innocent ones in this battle. Let us not punish them for something they cannot control.

Mr. GALLEGLY. Mr. Chairman, I yield myself 30 seconds to respond to a couple of comments that the gentlewoman made.

First of all, the gentlewoman is a friend of mine, and I take some personal dissatisfaction with a comment made, "mean-spirited." As a parent of four and as someone who is a product of the city school system in Los Angeles, I am a strong supporter of public education.

But one of the comments that she made was that these people were not participants in the decisionmaking process. I would submit to her that there were 40,000 adults that came to this country last year, illegally to this country, and received Pell grants that cost this country $70 billion. That was a decision they made, not their parents.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague, the gentleman from Texas, for yielding time to me.

Mr. Chairman, the concern I have about this amendment is the way it is drawn and the actual application when it is out in the schools. This amendment, I think, could create a violation of the Constitution, specifically the 5th and 14th amendments, and the equal protection. I think it sets up a good equal protection argument, that it gives the States the ability to decide, whether it is in Texas or California, New Mexico or Arizona. It think we would see that come back to the Supreme Court, and they would probably rule the same way they did on an earlier Texas case. The amendment would give the power of Congress to the States to decide whether they could deny that education to the children of illegals.

Mr. Chairman, the other concern I have is the procedure in the amendment. Again, I am trying to bring what we do on the floor down into what is going to happen into the Houston Independent School District, or the Alvin District, or any of the districts in the country.

A child may be a citizen, but their parents may be illegal. What is the procedure in this amendment to the affidavit that is going to be signed? Are the parents going to sign? That that child is entitled to an education because that child is a citizen, even though the parents may not be here legally. I think there are so many questions about this amendment that cause us concern. It would place an enormous burden on our educational system.

Mr. Chairman, we want teachers to be teaching. We want to take away some of the paperwork that is being required, not just by Federal law, but by State and local rules, and we want teachers to be teaching. What this amendment sets up is that our teachers would be doing more administrative work than they should be. We want them to be teaching those children, because those are the problems we have with public education. The education is done in the classroom, and that is where it should be. We do not punish our small children by taking away their ability to get education.

Mr. Chairman, I thank my colleague for yielding time to me.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I rise in strong support of the Gallegly amendment. I want to congratulate him for his hard work as chairman of the Speaker's task force on illegal immigration.

Mr. Chairman, there are many arguments that have been made very eloquently by a number of my colleagues in opposition to this. One of the points that has been made consistently by those who would oppose this amendment out in California is that as we look at people who have come into this country illegally, we have a choice of having them on the streets committing crime or in the classrooms; which would we rather have? Well, of course we do not want to have people on the streets committing crime. One of the major reasons that we are dealing with this legislation is to comprehensively reform, reform our law as it relates to illegal immigration.

We have amendments that I am pleased to say have passed and will go a long way toward dealing with that, but quite frankly, we need to recognize that this is not a mean-spirited amendment. This is an amendment that simply follows down the road that we have been pursuing over the past 15 months; that is, trying to allow State and local governments to have the opportunity to make decisions for themselves.

Clearly, the Plyler decision that was made in 1982 was a bad decision. I believe that as we look at this question, the cost that has been imposed by way of this unfunded Federal mandate on States has been overwhelming. The Urban Institute did a study for this administration. They found in looking at only seven States that the cost was over $3 billion.

We obviously want to have the best educated people. I suspect there will be more than a few States who, when this amendment passes and becomes law, will make the decision that they want to continue to provide education to those who have come into this country illegally, but we should not be forcing them, through an unfunded Federal mandate, to do that. Unfortunately, that is what the Plyler decision has done. Fortunately, the gentleman from California [Mr. GALLEGLY], has been courageous enough to step forward and say that we need to make some kind of modification.

If we look at where we are headed, we are trying to decrease the magnet which draws people illegally into this country. There are a wide range of reasons they come in. Seeking family members, I remember the President of Mexico told me at one point, was the No. 1 reason; job opportunities, obviously, another very important reason. But the tremendous flow of government services is obviously another magnet which draws people illegally into this country.

We need to do what we can to encourage economic improvement, following President Kennedy's great line that a rising tide lifts all ships. We need to improve the economies of countries throughout this hemisphere, not through foreign aid but by engaging with them more through trade and other opportunities, so their economies will improve and people will not be encouraged to come across the border illegally. But if we continue to provide this magnet of more and more government service, we will be in a position where they will continue to flow.

Strongly, strongly support the Gallegly amendment. I hope my colleagues will jointly, in a bipartisan way, do it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I cannot believe what I just heard from the previous speaker. He referred to the problem of unfunded mandates. If he is so concerned about those unfunded mandates, why did he oppose my amendment in the Committee on Rules that would have required that for all refugees who come into this country, that the Federal Government assume the full cost of educating and training those refugees, rather than dumping those very same costs onto the local units of government?

I would also like to know why they refused to support the idea that we ought to have the Federal Government provide for the education costs, rather than dumping those costs, as we do now for legal refugees, onto the backs of local school districts. I know I am talking about legal refugees, as opposed to illegal immigrants, but the fact is every time a refugee is allowed into this country, that is a foreign policy decision made by the national Government. Why should local governments be stuck with meeting the costs of those foreign policy decisions?

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, one would think that we would not need an amendment like this in this bill. One would think that the law would already provide that if somebody is illegally in this country, they would not be entitled to receive Government benefits; that they would, instead, once known, be required to depart from the country.

Unfortunately, we have a court decision that makes it necessary to enact this amendment to make very clear the will of the Congress that when someone is unlawfully in the United States, they are not entitled to Government benefits except under certain emergency circumstances that this bill provides for; for example, with regard to emergency medical care.

Mr. Chairman, this is a situation where we have already put into this bill a very fine amendment offered by the gentleman from California [Mr. COX] that enables local law enforcement authorities to be designated by the Attorney General of the United States to assist in the apprehension and the deportation process of removing people who have entered this country illegally, or have entered this country legally and have overstayed their legal admission period, and therefore are not entitled to be in the country any longer.

That authority, giving to local governments the ability to remove people who are in the country improperly, would contradict an amendment that says that nonetheless, if they are here illegally, they would be entitled to free public education.

We need to have local government working hand in hand with the Federal Government, and we need to make sure that we do not have magnets that draw people to this country, and free public education, free health care, other welfare benefits, are exactly the kinds of things that attract people to the country and cause them to violate our laws in entering the country. So I strongly support the position offered by the gentleman from California [Mr. GALLEGLY], regarding this issue, and I thank him for his efforts.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, putting aside the fact that this amendment appears to be unconstitutional, and also putting aside—for discussion purposes—whether it is good for our country to have an entire class of people who are likely to live here their whole lives who are uneducated, I would just like to mention those in my county that opposed this provision when we had this discussion in California a few years back: our Republican sheriff opposed it, our Republican district attorney opposed it, the police chief opposed it, and the Chamber of Commerce opposed it.

We know that most juvenile crime occurs between the hours of 3 p.m. and 6 p.m., when kids are out of school and their parents are still at work.

□ 1430

If we think we have trouble with juvenile crime now, try throwing several thousand kids out of school to hang around all day long and get into nothing but trouble. That is why our police chief opposes this. I urge Members to consider that aspect of this very ill-advised and, I would say, mean-spirited amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 30 seconds to the gentleman from San Diego, California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, in the San Diego Union there was an article a few months ago that really pointed out the problem here. That is, there was a woman from the interior of Mexico who had actually taken the time to write three letters to the school district to make sure that her children could get a public education in the United States even if they were illegal. She could not believe it, so she waited three times to get an answer back that says, "If I bring my children here, from Mexico, do I have to show they're legally here?" And they said, "No, you have no problem at all getting them educated in this country." I think that is the message we must stop sending.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I think it is important as we look at this particular amendment to really ask where the impact will be felt.

First of all, I am very proud of the leadership in the State of Texas that has chosen not to make a whipping boy out of the children of immigrants, legal or illegal. In essence, this amendment does that. It ignores the Plyler versus Doe decision of the Supreme Court that says making access to education dependent on immigration status is a violation of the equal protection clause. It clearly makes armed guards out of principals and teachers.

It also says that rather than investing in children who are here, this in some way is going to prevent illegal immigration. That is not correct. What it simply does is create an unfunded mandate by requiring local jurisdictions now to scratch their heads and ask the question, what do we do with these children who need education? Ban them?

This is a bad amendment. It is bad for the future of America, it is bad for those who believe in education, and it certainly is bad for those who have to provide education to children in their communities.

Mr. Chairman, I rise in opposition to the Gallegly amendment which would allow States the option of denying education benefits to undocumented children. This amendment is unconstitutional. It is a direct attack on Plyer versus Doe, the Supreme Court decision which said that making access to education dependent on immigration status is a violation of the equal protection clause.

This amendment runs counter to the goals of American public education. Any State that makes access to education dependent on immigration status would remove school employees from their traditional role as educators and turn them into quasi-INS agents. Financially strapped schools would be forced to shift scarce resources from teachers, books, and infrastructure to the training of school personnel and enforcement costs.

The Gallegly amendment unfairly punishes undocumented children for the actions of their parents. Denying children access to education will create an underclass of illiterate, uneducated individuals, at a moment when America needs a skilled work force to compete in the global economy. Ultimately, it makes more sense to have children in the classroom rather than on the streets.

The goal of American public education is to impart the values of democracy such as equal opportunity and justice for all people, and a respect for your neighbor, no matter what his or her ethnicity, race, or religion. Public education prepares our young people to become productive citizens and mature adults.

As a nation, we must turn our attentions to strengthening our public education system and making it work better for our children. Instead, we are debating an amendment which seeks to restrict the access to education for children who are already in this country.

The Gallegly amendment would create an atmosphere of suspicion and hostility in our schools. Our schools are intended to have a climate conducive to open minds and learning. This amendment however, promotes an atmosphere of animosity toward children who look or sound foreign.

I urge my colleagues to vote against this amendment, which does nothing to control undocumented immigration. The Gallegly amendment is unconstitutional, but we must not allow it to pass and wait for the Supreme Court to strike it down as such. We cannot, in good conscience, deny young people the opportunity to learn. I believe that we all know in our hearts that this amendment is unfair and that it violates our sense of justice. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds for a clarification.

The point that needs to be made, that has not been made so far, is that this amendment does not deny educational benefits to anyone. It does not require schools to do anything. It simply gives the State the discretion to decide whether it wants to continue to provide illegal aliens with a free public education at taxpayers' expense. Nothing less, nothing more.

Mr. Chairman, I yield 2 minutes to the gentleman from San Diego, CA [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, several points have been brought up that I think need to be addressed.

One, it is better that the children of illegals not go to gangs, better to have them in the classroom. The last thing that illegal children want to do is to be picked up and arrested, because they will be sent home and they do not want that. The vast majority of the gangs in this country are made up of citizen youth, not illegals.

Second, we ought to educate them so that they will be qualified to get a job. Illegals cannot legally work in this country. If we educate them, they still cannot work legally here in this country.

We have school buses going to the border in San Diego to pick up children that walk across the border and get on the buses to fill the classrooms. We already have classrooms that are overcrowded, oversized. We cannot get new textbooks. We cannot build new classrooms for those that are here legally.

Gov. Pete Wilson points out that the largest single fiscal burden to the California taxpayers is the mandate that States provide a public education to illegal children. Over 355,000 of them are educated in our schools at a cost of almost $2 billion. If we could put that into lowering classroom sizes and buying better and more modern textbooks and building facilities for our citizen children, then we would have less gangs from citizen children and we would not have to worry about the illegals.

I strongly support the Gallegly amendment and urge my colleagues to vote for it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Chairman, one of the most admirable characteristics about the United States is that our Nation distinguishes between the conduct of parents and their children. So many times I have seen in, for example, European countries, the children of immigrants in the streets because in those nations there is no distinguishing between the illegal conduct of their parents and the children.

We do not blame the children for the conduct of their parents. That, among other reasons, is why we are the moral leader of the world. I truly believe, Mr. Chairman, that we would be making a very grave mistake by adopting this amendment today, and that is why I have risen in opposition to it.

Mr. GALLEGLY. Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this amendment would create more problems than it will ever solve.

At a time when juvenile violence is on the rise, this amendment would deprive a large group of children in our communities of the only thing that can keep them out of trouble, and that is an education.

This amendment will not save States money but it will pose a significant community health and safety hazard. Children thrown into the streets by this amendment will not simply disappear. They will be left with nothing to do during school hours, tempting them to pursue a host of noneducational activities. One can only imagine the possibilities.

In addition, depriving children of their fundamental human right to learn how to read and write will wreak havoc on their life. These future men and women will be incapable of performing the most basic public responsibilities and will be unable to contribute to the society at large.

Let us not fool ourselves. The money this amendment is trying to save by depriving kids of an education will have to be spent on more law enforcement, more incarceration and more rehabilitation. With this amendment, we are doing nothing more than just trading schools for prison, a policy wrought with problems.

Mr. Chairman, the author of this amendment is a very good Member of this body. But this is not the right approach. This is an amendment that does not strike at the core of the basic decency of our country. These are kids. They do not have lobbyists. They do not have those protecting them. This is not the right thing to do. We should reject this amendment.

Let us retain at least this basic element of education. This is what will teach these young men and women to be productive citizens, maybe not in this country but in the country that they came from.

Mr. Chairman, this is not a good amendment and it should be defeated.

Mr. BRYANT of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I have only one speaker remaining before closing. I do believe I have the right to chose; is that correct?

The CHAIRMAN. The gentleman from Texas [Mr. BYRANT] has the right to chose.

Mr. GALLEGLY. That being the case, Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. RIGGS].

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, I would just like to confirm that the gentleman from California [Mr. GALLEGLY] as the offeror of the amendment has the right to close and is reserving the right to close.

The CHAIRMAN. The minority manager in this case is supporting the committee's position on the amendment and, therefore, has the right to close.

Mr. RIGGS. Mr. Chairman, I strongly support the Gallegly amendment which would reverse the Supreme Court Plyler versus Doe decision and permit the States to decide for themselves whether to provide a free public education to illegal aliens.

Those in this country without the knowledge or permission of our Federal, State and local governments take advantage of our public assistance programs. They do not pay into the tax base, and they actually defraud our own taxpaying citizens of critical education, health and welfare assistance. I would simply point out that providing a free public education to illegal aliens cost California taxpayers $1.7 billion last year.

I strongly urge support of the Gallegly amendment. I would authorize States to put the needs of their own citizens above those of illegal aliens, and it is good, sound public policy.

Mr. Chairman, as we begin the debate on the Immigration in the National Interest Act, I want to bring to your attention an amendment that my colleague from California, [Mr. GALLEGLY] will be offering. Other members of the California delegation and I strongly support this amendment.

Our amendment is fashioned after California's widely supported proposition 187, which received 59 percent of the vote on November 7, 1994. It will allow States the option of not providing illegal aliens with a free public education in much the same way that they are currently not obligated to do so for residents of other States. This will remove a substantial incentive for illegal aliens to come to this country. Most importantly, it will allow the States to spend very limited educational dollars on its own citizens and legal residents.

The widespread support for proposition 187 is only one manifestation of a new social climate across the Nation. This new attitude demands accountability from Federal, State, and local governments. It recognizes the inability of government to pay for many public services. Illegal immigrants have been identified as major contributors to the demands placed on these public programs, and thus to the budget deficits facing several States and localities.

In the 1982 court case of, Plyler versus Doe, the Supreme Court ruled against the State of Texas, saying that there was nothing in Federal law authorizing denial of educational benefits to illegal immigrants.

The Gallegly amendment would overturn this Supreme Court decision and permit States to mirror Federal law, denying illegal aliens a free public education. It would eliminate one of the more egregious of border magnets: free public education.

The issue, Mr. Chairman, is whether States have the right to decide for themselves whether or not to provide a free public education to illegal aliens.

Those in this country without the knowledge of or permission from our Federal, State of local governments, take advantage of our public assistance programs. Illegal immigrants defraud our own taxpaying citizens of critical education, health and welfare assistance.

Our amendment would provide Federal affirmation of the States' right to deny a free public education. It would authorize States to put the needs of its own citizens above those of illegal aliens.

We must end the free lunch for illegal immigrants. Unlike citizens or legal aliens, they do not pay into the tax base and, therefore, have no right to claim any public education benefits.

States which are already struggling with tight budgets, are forced, by Federal mandate, to spend billions of dollars each year educating illegal aliens while basic services for U.S. citizens and legal immigrants are being reduced or eliminated. It is time that this Federal Government removes this huge unfunded mandate on the States.

In the seven States most heavily impacted, education benefits for illegal immigrants are costing taxpayers over $3.5 billion annually—not including the cost of higher education or adult education.

California alone is home to 1.7 million illegal immigrants—43 percent of the Nation's total. It will cost California over $2.9 billion to provide federally mandated services to these illegal immigrants: including $563 million for incarceration costs, $395 million for health cost, and $1.8 billion for fiscal year 1996 for education. Imagine the cost to our taxpayers by the year 2000.

To illustrate my point, let's look at what we, in the State of California, could do for our own students with $2.9 billion.

We could hire 80,555 more teachers at an average annual salary of $36,000. We could significantly reduce class sizes, and we could infuse our public education system with more text books, computers and desperately needed classroom supplies.

By removing this mandate, we are ending a long-standing policy that encourages illegal immigration, bankrupts States and results in a less than quality education for our own children.

Let's remember, every dollar spent on educating illegal aliens is a dollar we don't spend on our own children. Every teaching hour spent on instruction for illegal immigrants is an hour lost to our own students.

A child must have access to a comprehensive basic education to give children a fighting chance at life. We must guarantee that right for our own children. The only way to ensure that right is to enable the States to make the most prudent fiscal decisions possible. Aliens who are in the United States illegally should not be entitled to receive any of the privileges or benefits of membership in American society. It is simply unfair to our citizens and legal residents. Poll after poll shows that American people are tired of footing the bill for those who are in the country illegally. The passage or proposition 187 in California, and other similar movements in Florida and Arizona are evidence of this.

The availability of public education benefits is one of the most powerful magnets for illegal aliens. As a matter of immigration policy, Congress must remove all of the incentives that lure illegal aliens to the United States—that means giving the States the right to deny public education benefits.

I urge this House to carefully consider the Gallegly amendment and vote in favor of it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, not coming from a State that has a serious immigration problem, I have tried to listen and learn about this issue. I have been particularly intrigued by this amendment because I was a teacher before I came to Congress, will be a teacher after I leave, and have served on the Education Committee while I have been here.

It seems to me it is inherently wrong and the majority of the American people would not want to kick any kid out of school, including the child of parents who have illegally come to this country. But let us all understand something. The question here is not whether people can come to this country, be here illegally and then just stay, put their child in school, get all kinds of services from the government, from the taxpayer, and stay in this country. That is not at issue here. Families who are found to be here illegally are sent back. They are deported.

The question is, while we are finding them and while the deportation process is going forward, should their children be on the streets unsupervised or in the schools? I think the vast majority of American people would say, "well, they should be in the schools. They should not be out running loose as gangs unsupervised on the streets." That is all this amendment is about. It does not have to do with the parents being here illegally. It has to do with unsupervised children.

□ 1445

So I would encourage my colleagues to support a bill that is tough on enforcement, that is tough on finding the parents who are here illegally, but let us not be tough in a way that is going to cut off society's nose to spite its face. Let us not say that while we are looking for these parents, we are going to assure that their children run loose on the streets. At least let us provide this general use of American education to try to contain, and, yes, improve those children, remembering that their parents are here illegally, and, when found, are sent back.

Nobody has a right to be here illegally, to receive all of these services, and stay here, even after they are found. Once the are found, they are deported. The only question is what shall we do with their children in the meantime.

The Republican answer is to put them on the street, leave them out there unsupervised, and create these gangs, I suppose. We Democrats are saying that the children should be in school. I agree with the position of the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California, [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in opposition to my friend's amendment. Except for possibly emergency medical services, the only other public benefit that I think it is wrong to deal with on this basis is public education, for all the reasons the gentleman from Montana just eloquently stated.

But the real question I have for the gentleman is why do you think, if your amendment passes and becomes law, why do you think that there is any chance in the world this will be more seriously enforced, more effective in doing what the gentleman wants to do, even though I think what you want to do is wrong, than employer sanctions are?

Without an adequate verification system in place, this is all a game. Proposition 187 was a game because it sent a message, but it had nothing to do with verification. And until you do something here on verification, you have already collapsed a mandatory verification system; you have an amendment in a minute to wipe out any verification system; and then you are going to say we were tough. We got them out of the schools. You are not going to get anybody out of the schools without verification. That is why this amendment standing alone is really empty.

Mr. GALLEGLY. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia, [Mr. GINGRICH] the Honorable Speaker of the House.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 3½ minutes.

Mr. GINGRICH. Mr. Chairman, I thank my friend from California for yielding me time.

Mr. Chairman, I want to start by, at least in part I think, answering the very good question of the gentleman from California [Mr. BERMAN]. The gentleman and I, I think, agree that we want to strengthen and support legal immigration to the United States, that this is a Nation of legal immigrants, and that we in no way want to send any signal to legal immigrants who are willing to obey the law.

But I think there are five questions you have to answer before you decide to vote "no" on the Gallegly amendment. The first one is very simple, and it keeps getting asked rhetorically, and I cannot quite believe the answers the liberal friends give themselves.

Does offering money and services attract people? This used to be the land of opportunity. It is now the land of welfare. Do we believe people in some countries might say "I would like to go to America and get free goods from the American taxpayer?"

Now, if you believe people are totally coming to America with no knowledge of the free, tax-paid goods they are going to get, then I think you are living in a fantasy land. I think there is no question that offering free, tax-paid goods to illegals has increased the number of illegals. That is question No. 1.

Question No. 2: Is it the United States Federal Government's responsibility to close and protect the borders? This is not California's failure, this is not Florida's failure; this is a Federal failure.

If it is a Federal failure, then question number three is, should we impose an unfunded mandate? Last year the House voted 394 to 28 against unfunded mandates. By 394 to 28 we said the U.S. Congress should not impose on State and local governments those things the U.S. Congress refuses to pay for.

Well, guess what this is? This is a Federal unfunded mandate, which, by my calculation, for four States alone, is $3.2 billion a year. It is the U.S. Congress saying "You will spend your taxpayers' money." I want to come back in a second.

Fourth, are we really prepared to overrule the citizens of California? Sixty-four percent of the citizens of California said they are fed up with their State becoming a welfare capital for illegal immigrants, and 64 percent of the people of California, after a long and open campaign, voted for proposition 187. The fact is that they voted to say they are tired of their tax money paying for illegals. But we are now being told we should overrule the voters of California, we should impose an unfunded mandate.

So here is my proposition. If this amendment goes down, I move that we take the money out of the rest of the budget and we absorb federally the cost of these children. I am going to tell you, you start going out there in a tight budget when we are trying to get to a balanced budget and you start telling your citizens, "I want to take care of illegal immigrants so much that I am going to give up my grant, I am going to give up money coming to my schools, I am going to give up money coming to my colleges, so I can send it."

But it is totally unfair. The State of California spends a minimum of $1.7 billion a year, the State of New York spends a minimum of $634 million a year, the State of Florida spends $424 million, and the State of Texas spends $419 million.

Now, if they want to spend it, that is fine. Texas said they want to spend it. That is their right, to voluntarily in their State legislature decide do tax themselves. But for this Congress to say we are going to impose on you this mandate, we are going to require you to tax your citizens for a Federal Government failure, is absurd.

It is the Federal Government that has failed. I think it is wrong for us to be the welfare capital of the world. I think it is wrong for us to degrade immigration, from the pursuit of opportunity to the pursuit of tax-paid welfare.

I think that this is a totally legitimate request by the people of California, and I hope that every Member will vote yes for Gallegly, because this is the right thing to do, to send the right signal around the world. Come to America for opportunity; do not come to America to live off the law abiding American taxpayer.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 4¾ minutes.

Mr. BRYANT of Texas. Mr. Chairman, every American, every American, should despair of our ability as a Congress to act in any significant way in a bipartisan fashion after that speech by Mr. GINGRICH, the Speaker of the House. We have tried to bring a bill out here that would address the problem of legal and illegal immigration in a bipartisan fashion, Mr. SMITH and I did, and we worked very hard on it. We have Members of both parties trying to make it pass.

There are about three things that will kill this bipartisan consensus, one of which is this pernicious proposal, which is also unconstitutional, to provide that States can deny education to kids they think happen to be the children of illegal immigrants. Mr. GINGRICH knew that when he came to the floor. He asked a question. He said, Should the States have to pay the costs of what is the result of the failure of a Federal responsibility?

I agree with the answer. No, they should not. But, Mr. GINGRICH, if you really believe what you said, and you do not, if you really believe what you said, you would not have instructed your Committee on Rules to forbid the offering of an amendment that would do exactly that.

It is an outrage that the Speaker of this House would come down and seize upon this bill to make partisan gain. We have tried to put together a bill that is in the interests of all the people and that can pass. And of all people in this body to come forward and try to seize upon it to try to draw a line between us, it should not be the Speaker of the House. For what he just said, I say shame on you, Mr. Speaker.

The fact of the matter is that we have made two major exceptions to the entire question of illegal immigration from the very beginning, and that has been emergency medical care and little kids who show up at the schoolhouse. And for the Republican majority now to come forward, I might say except a few brave ones over here who have been reasonable and courageous and stood up today, but for the Speaker of this side to come forward and say we ought to abandon that and jeopardize the ability to pass this bill, smacks of nothing more than raw political opportunism. It is an outrage.

I hope that this House will vote resoundingly against the Gallegly amendment, not only to repudiate a very bad policy that is not in the interest of the public, but to repudiate a total failure of leadership by the Speaker of the House himself.

Mr. Speaker, with that, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RIGGS. Mr. Chairman, in response to the last speaker's comments, I would point out the Speaker of the House certainly did not personalize his comments. But I am wondering, given the fact that the last speaker attempted to impugn the integrity of the Speaker, whether it would be appropriate to take that gentleman's words down if he were to repeat those same remarks, or whether those remarks constitute a violation of the House rules?

The CHAIRMAN. The Chairman of the Committee of the Whole cannot respond to the parliamentary inquiry. A demand by the gentleman was not made at the appropriate time.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Gallegly amendment, which would deny a public education to undocumented immigrant children.

This amendment is cruel, does not save money, and does nothing to advance immigration control. Once more, we see innocent children being made the scapegoat in the immigration policy debate. The plan seems to be to use any means to punish the children of undocumented immigrants.

To deny anyone the opportunity to be educated is short-sighted and inhumane. If undocumented children cannot be educated, they will have nowhere to go but the streets. These children will not just go away if we continue to deny them benefits. They will be sent reeling into the cycle of poverty that we are seeking to end.

Moreover, this particular provision will be a nightmare for already overburdened school districts to enforce. It will take an enormous investment of funds and time to document the status of every child enrolled in public schools.

Schools should be a safe place of learning and opportunity for young people. The doors should not be shut to innocent children in order to punish their parents. Children should not grow up learning that only some of them are fit or qualified to receive an education. I urge my colleagues to defeat the Gallegly amendment.

Mr. RADANOVICH. Mr. Chairman, I support the Gallegly amendment to allow a State to exercise the right to refuse illegal immigrants admission to public schools.

Public schools are supported by taxpayers. The children of these men and women properly derive the benefit of education in public schools.

By telling illegal immigrants that the attraction of free education for their children no longer exists, we send a powerful message. It says those who are lawfully present in the United States are welcome to participate in its privileges. But, those who have broken the law to enter our country or to remain here after their lawful entry expired deserve no benefit from the taxpayer.

Illegal immigration is a threat to our national security. By adopting this amendment, we can enlist the States—and I assure my colleagues that California will move on it immediately—in a concerted and comprehensive campaign to end this menace.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. GALLEGLY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BRYANT of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from California [Mr. GALLEGLY], will be postponed.

It is now in order to consider amendment No. 12 printed in part 2 of House report 104–483, as modified by the order of the House of March 19, 1996.

AMENDMENT NO. 12, AS MODIFIED, OFFERED BY MR. CHABOT

Mr. CHABOT. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CHABOT: Modify the amendment to read as follows: Strike section 401.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. CHABOT], will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. CHABOT. Mr. Chairman, I yield one-half of the time in support of the amendment to the gentleman from Michigan [Mr. CONYERS], and I ask unanimous consent that he be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to request of the gentleman from Ohio?

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment and claim the 30 minutes. I yield 10 minutes of my time to the gentleman from Texas [Mr. BRYANT] and I ask unanimous consent that he may be allowed to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to offer this amendment with the extremely distinguished ranking member of the Committee on the Judiciary, the gentleman from Michigan [Mr. CONYERS]. It is a real honor for me to be associated with the gentleman in this bipartisan effort.

Despite all the tactical shifts, Mr. Chairman, there really are only two sides to this debate. There are some people, some very well-intentioned people, who believe that we need a national computerized system through which the Federal Government would specifically approve or disapprove every hiring decision that is made in this country. Then there are those of us, myself and the gentleman from Michigan included, who do not believe that such a system is appropriate.

That is the issue. The Chabot-Conyers amendment would strike from the bill that section which asserts the Federal Government's power to sign off on new employment decisions as they are made.

Now, because of massive opposition to this scheme, its proponents have decided to get a foot in the door by starting with an initial so-called voluntary pilot project. But the system that it establishes is neither really voluntary nor a simple pilot. I will expand upon that point in a minute.

More importantly, we know where this program is designed to lead. The end goal is and always has been a national mandatory system by which the Federal Government would assert the power to sign off on the employment of every U.S. citizen. That was what was in the bill to start with, and that is what its proponents have said they want. In fact, some of them cannot even wait beyond today to ratchet up a level of coercion. The very next amendment with its very explicit employer mandate clearly shows where all this is headed.

As former Senator Malcolm Wallop has written, he calls this "One of the most intrusive government programs America has ever seen." The Wall Street Journal calls it odious. The Washington Times asks in editorializing against the system and for our amendment, "Since when did Americans have to ask the government's permission to go to work?"

Now, even if the Government always worked perfectly, we would have huge philosophical objections to this procedure. But, as Senator Wallop says, "Americans can spend eight months just trying to prove to the Social Security Administration that they are not dead."

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Mr. Chairman, here, remember, we are talking about citizen's ability to work, about their very livelihood. And no one has argued that errors will not be made, causing heartache for those citizens who lose their jobs.

The L.A. Times reported just last month that anonymous sources within Social Security fear that, quote, 20 percent of legal workers might be turned down by the system when it is first implemented. Over time, that 270 percent error rate would fall to around 57 percent, officials estimate. Officially, Social Security now says that it, and I quote again, cannot predict the verification results for a pilot project. The Social Security Administration further states that in addition to attempted fraud, quote, nonmatches can occur for many reasons, including keying errors, missing information, erroneous information and failure of the individual to notify Social Security of legal name changes, et cetera.

Indeed, a constituent of mine was in my office just yesterday on another issue and told me that he and his new bride have been trying for 4 months now to get Social Security to record her married name, and they still have not got it straightened out, although we are trying.

The bill in fact explicitly contemplates errors that deprive American citizens of their jobs. Its answer? More litigation. Victims could sue the Government under the Federal Tort Claims Act. That prospect should be cold comfort, either to somebody who has lost a long-sought job because of this program or to the taxpayers who will have to foot the bill. Well, at least this new Government program is voluntary, we are told. Not for the employees, it is not.

Let me repeat. Employees, American citizens, have absolutely no choice whatsoever about whether they are covered under this section, nor is it truly voluntary for employers. To quote Senator Wallop again, the strong-arm incentive for the business owners to join the system is that they will be targeted for additional Federal enforcement if they choose not to participate.

The Small Business Survival Committee says the system would create unprecedented employer liability. They oppose it, as do, for example, the Associated General Contractors, the National Retail Federation, and many, many others.

As for this being a pilot, well, as Stuart Anderson notes, the covered States have a population in excess of 90 million Americans, about one-third of this country. Together, these so-called pilot States would be the 11th largest nation in the entire world.

Mr. Chairman, this system is to be added on top of the burdensome I-9 document review requirements that started us down the road, down the path of making employers into basically Federal agents. Congress was assured in 1986 that that program would, quote, terminate the problem. Well, it has not. Remarkably, that program's very failure is advanced as a justification for proceeding further down that path. So this addition is proposed.

Do my colleagues know what? It will not work, either. We will hear shortly from the gentleman from California [Mr. GALLEGLY], and others that it cannot work unless it is explicitly made mandatory on employers. Even then employers who knowingly hire illegals simply call the 800 number. Moreover, others in this body argued that without a national ID, anyone could buy fake documents with corresponding numbers and cheat the system. So we know what is coming next, a national ID card in all likelihood.

The bottom-line question, though, Mr. Chairman, is whether this Government of ours should be in the business of saying yea or nay whenever an American citizen takes a new job. I say no. So do the Catholic Conference, the ACLU, the National Center for Home Education, Americans for Tax Reform, Citizens for a Sound Economy, the Cato Institute, Concerned Women for America, the Eagle Forum, the Christian Coalition, and virtually all the legal experts who have taken a look at this, including the American Bar Association.

All these groups and others that I will try to mention later support the Chabot-Conyers amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would totally undermine our efforts to stop illegal immigration. A vote for this amendment is a vote for continued illegal immigration. A vote for this amendment is a vote against protecting jobs for American citizens. In order to cut illegal immigration, controls at the border are not enough.

Almost half of all illegal aliens come into this country legally and stay after their jobs, after their visas have expired. Why? Jobs. Jobs are the No. 1 attraction for illegal aliens coming to this country. If we can reduce the attraction of this magnet, we can save taxpayers untold millions of dollars and improve the prospects of vulnerable American workers now competing with illegal aliens for jobs.

For the past decade, employers have checked the identity and work eligibility documents of new employees. Unfortunately, the easy availability of counterfeit documents has made a mockery of the law. Fake documents are produced in mass quantities in southern California. Just from 1989 to 1992, there were 2.5 million bogus documents seized. This amendment would strike the quick check system in the bill that allows employers to verify the identity and work eligibility of new hires.

The bill proposes only that we have a pilot program to be set up for 3 years in five States and then it expires. The amendment would deny employers the opportunity to choose to do what is in their own interest. It says that Congress knows better than businesses what is best for them. Now talk about big brother. American workers will benefit from the quick check system. It will ensure that they will not be competing for jobs with illegal aliens.

Confirmation systems like that in the bill have been tested. Since 1992, the INS has tested a telephone verification system with over 200 employers. Every single employer who has tried this system tried the INS pilot program, was pleased with the results. In fact they recommended that the pilot program be implemented on a permanent basis.

Mr. Chairman, electronic confirmation requires no national ID card, no new data base, and it ends in 3 years. This is not a first step toward anything. That is also why the National Federation of Independent Business, the National Rifle Association, and the Traditional Values Coalition do not oppose the voluntary quick check system.

Now let me set the record straight on one other matter, and that is the alleged error rates that we have been hearing about. These percentages are not error rates. There is no such error rate. These refer to a secondary verification. Secondary verification is understandably ordered whenever employees provide information that is not accurate. They have to double check on the inaccurate information.

Secondary verification does not necessarily mean inaccurate data. It more often means that it is the fault of employees mistakenly providing erroneous information or, quite frankly, being caught providing fraudulent information. In short, the ultimate big brother is Congress saying they know better than employers how to run their businesses. Let us trust business owners to decide what is best for them. The quick check system is a convenience many want, and that is why the National Federation of Independent Business does not oppose this quick check verification system.

Let us follow the lead of the U.S. Commission on Immigration Reform which recommended a verification system very similar to the one we have in this bill. The commission found that such a system would reduce the use of fraudulent documents, would protect American jobs and would reduce discrimination. That is exactly what this volunteer pilot program that expires in 3 years will do, and I urge my colleagues to vote very strongly against this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

OK, this is the famous camel's nose under the tent amendment. This is the one where it starts off real nice. Not to worry, folks. It is OK. Trust us. We will make it a pilot project. Will that make it OK? We will make it a temporary project. We will make it voluntary. We will do it just like we did the Japanese internment program when we said we are going to find out who the Japanese are that need to be rounded up. And how did they do that so quickly? They used the census data. Government trusters, that is where that came from. So congratulations, voluntary, temporary program for employment verification.

Mr. Chairman, I think the gentleman from Ohio [Mr. CHABOT] and others on this side should be congratulated, because there is a simple problem here. The basic flaw in the verification scheme in this bill is an assumption that we have got to impinge upon the privacy of law-abiding citizens in hiring illegal aliens. The problem is the few unscrupulous employers who evade the law today will continue to do it tomorrow, even if we pass this verification scheme in whatever form. How? Because they can simply continue to hire illegals underground and off the record as they do today. That is how we get illegals in, not that all the people that are busy breaking the law are now going to come forward and call the U.S. Government to determine whether one is an illegal or not and they should hire them. They are going to continue it in the underground economy.

Is that difficult, complex? No. But this is the beginning of the progress of the system that will maybe ID everybody in the country. Now maybe it will not. But I am not here to take a chance today. This is not my job, to bank on what the future is going to do when we let these lousy programs get started. I think it is unnecessary.

Why, oh why did the gentleman from Texas [Mr. SMITH] omit the tester program? Was there something wrong with that? The tester program would at least keep us honest, because that would allow people that were supposed to look foreign looking, whatever that is, to go in and see if they are really being treated the same way. But in the manager's amendment, carefully the gentleman took that out.

Should I be alarmed? Oh, not to worry. Hey, what is the problem? You are getting a little sensitive. Let us just go ahead with the ID program and we will make it pilot program. We will make it temporary. We make it voluntary. We will make it anything, but get the nose under the tent today.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, as much as I admire my friend the ranking member, his talking about the camel's nose under the tent reinforces my view that, if we were to restrict free speech at all, we should make it illegal to use metaphors in the discussion of public policy. We are not talking about camels, noses and tents. We are talking about whether or not we have a rational approach to enforcing the laws against illegal immigration.

I have to say that, of all the things in my life that puzzle me, why so many of my liberal friends have such an aversion to this simple measure is the greatest. As a matter of fact, if we do not use an identification system, let us be very clear, we are not talking about a card anybody has to carry anywhere. What we are saying is what would seem to be the very noncontroversial principle, if one were applying for a job, one of the things one should be asked to do is to verify that one is legally eligible to take the job and is in this country legally.

During the great period of time in life when one is not applying for a job, which for most of us is most of the time, then one will not be bothered with this. It only applies when applying for a job.

Now, Mr. Chairman, what are the alternatives? If we do not do this, what are the alternatives? The alternatives are much more interference with liberty. If in fact we do not try to break the economic nexus that has people hired illegally and the only way we can do that is by simply requiring that people identify, that they are here legally, then we get into much more repressive efforts. We get into much more interference with liberty.

A free society like ours with enormous numbers of people coming and going, with enormous amounts of goods flowing in and out cannot physically bar entry. We understand that most people who come here come here to work. What this says is all we are going to say is that if you in fact come here to get a job, one of the things you will have to do when you give all this information—by the way, the notion that you are now allowed to apply for a job in perfect anonymity seems puzzling. This is an invasion of privacy. What the invasion of privacy? When going and applying for a job, one has to prove that one is here legally.

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Now, I think they have to prove maybe what their education is, maybe they have to prove their age, maybe they have to prove a lot of things. How can it be logically argued that it is an invasion of privacy to add to all the information they already have to give, their social security number, and et cetera; and, oh, by the way, can we please establish that they are here legally? It does not make any sense. I have friends on the left who react; I do not understand why.

Mr. Chairman, the gentleman talked about the Japanese roundup, one of the worst periods in American history and wholly irrelevant to this. It has absolutely nothing in common, absolutely nothing in common at all. Locking people up because of their ancestry has nothing in common with saying, by the way, in addition to social security, educational qualifications and everything else, we want to make sure that they are here legally.

That puzzles me. As a matter of fact, the only way to prevent discrimination based on national origin, or to minimize it; we can never prevent anything; but the way to minimize it is to, in fact, have a better system of identification. The better the system of identification, the less likely we are to have this discrimination.

So I do not understand. Yes, people are afraid of forms of national identification. That is not what we are talking about. And on the other side we have the conservative trend that has grown up that we saw in the terrorism bill, and apparently on the right wing we now have this increasing view that the American Government is the enemy and is to be prevented from enforcing any of its laws.

Now, I do not believe that a purely voluntary system makes sense. If, in fact, we cannot go beyond this to adopt an amendment that makes this a binding thing, we are talking about simple rhetoric. But this is obviously the first step in that war. And let us be clear what we are talking about. We are requiring that when one applies for a job or applies for a benefit, where being legally in this country is a prerequisite under the law, they have to prove it. To turn this into some act of oppression makes no sense whatsoever, and, as a matter of fact, the opposite is the case. If we do not allow ourselves to use this simple, straightforward system of requiring verification when one applies, we will be inviting a great deal more in the way of repression.

Unless my colleagues are prepared to say that all the laws on the books about illegal immigration can be flattened at will because, without this kind of verification, that is what happens, then my colleagues are to vote against this amendment and vote later for an amendment that will begin to make this a requirement.

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. SENSENBRENNER] a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Chairman, I rise today in support of the Chabot amendment to strike the telephone verification system for prospective new employees. I am a strong supporter of turning off the economic magnet that draws illegal workers into our country. However, we cannot turn off this magnet with a system that is flawed. If we do, we are asking for trouble.

An error rate in the data base on even the smallest percent means thousands of people will be denied the ability to earn a living. With 65 million hiring decisions made each year, an error rate of only 1 percent would deny 650,000 American citizens their jobs. The Social Security Administration says it cannot predict what the error rate might be. However, in 1994 there was a 2½-percent nonmatch rate with social security.

We all employ case workers in our offices, and we all know firsthand how difficult and time-consuming it can be to correct an error in an official government record. Try convincing the Internal Revenue Service that they have made a mistake, for example. Yet the employee has only 10 days to correct any errors made by Social Security before being fired.

While the employer can hire someone else, what happens to the person who needs a job and is denied it because Social Security has made a mistake?

Some have said no new data bases are created by phone-in verification. But that is not correct. Employers must keep a permanent record of each approval code they obtain from the government. In order to know which approval matches which employee, there must be a new data base. To avoid further liability, employers also need to keep records of any negative responses they receive.

Whether we like it or not, this is an unfunded mandate, an increased paperwork burden on American business. Phone-in verification is an addition to the I–9, not a substitute. Employers must keep this additional information in order to prove they obey the law.

Even though the bill calls for a voluntary pilot program, it also calls for additional inspectors for enforcement to check the records of employers who choose not to participate in the program. That is not what I call voluntary. And I urge the approval of this amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a member of the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding the time to me.

Mr. Chairman, this is an amendment that we must pass, because if we do not, we set in motion some omnious measures that will not only affect our privacy, but our job security.

Let me first say that we have to remember that there are 66 million job transactions that occur in this country every single year. In other words, someone is either hired or somebody changes jobs and gets a new job 66 million times every year in this country.

Are there errors that occur in the systems that we have in place with the Social Security Administration and with the INS' own data base? I must answer the chairman's, the gentleman from Texas [Mr. SMITH], own statement that there are no errors and say, Mr. Chairman, there are. We know it.

The Social Security Administration itself has said that they cannot guarantee anything better than probably a 20-percent error rate in the first couple of years. And they are hoping they are lucky enough get it down to a 5-percent error rate in providing information. Why? Because the Social Security number was never meant to be an identifying number, but that is what we are using it for.

The INS admits that in its own worker verification pilot programs 9 percent of the time the people that they say were authorized to work were, in fact, not authorized to work.

In addition, in the INS's own pilot program, they tell us that 28 percent of the time they could not give the accurate information or information whatsoever to be able to make a hiring decision, and they had to go through a second, more complicated, more consuming step.

Then we have the whole issue of, well, verification is going to be. OK. The gentleman from Massachusetts, [Mr. FRANK] is arguing that this is not going to harm anyone. Well, let me tell my colleagues something. If it is not going to harm anyone, what would be the harm of leaving in, as the gentleman from Michigan [Mr. CONYERS], said, the tester program that allows us to send a decoy in who acts like a prospective applicant for the job and check to see that employers are abiding by the law? No, that was taken out of the bill even though in committee, with the chairman's support, it was put in. In the dead of night, behind closed doors, it was taken out.

Mr. Chairman, this is something my colleagues better be concerned about because it leads us along the lines of big brother telling us, "Show me your ID before not only I give you a job, but anything else in this country."

Vote for the Chabot amendment. Vote against any worker identification program.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I just wanted to respond to one point the gentleman from California just made, and that is the Social Security Administration testified before the subcommittee that they would guarantee 99.5 percent accuracy if all we were asking was the person's name and number, not address, nothing else like that. All we are asking for in this pilot program, 99.5 percent accuracy.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, it is my pleasure to rise and speak in opposition to this amendment. Even though I am a colleague of the gentleman from Ohio [Mr. CHABOT], who is a sponsor of it, I disagree with him on this one.

I have concern about some of the arguments that have been made about the Government approval, and how they are going to make mistakes, and how we are asking employers to do all these things. In reality, we all know that the I-9 process already exists out there that the employers must use with potential employees. But right now we put these employers in a catch box. As my colleagues know, if they ask too many questions of a potential applicant for a job, they question the documents as to whether they are counterfeit, they can be sued by these applicants. But on the other hand, if they do not ask enough questions and they hire an illegal, then the INS can come in and fine them.

So we are putting these employers in difficult situations, which this process, by use of the 1-800 number on a voluntary basis, will help alleviate. It will be a defense to those employers, and again it is a voluntary situation, using existing data, the Social Security number, which is used on income tax forms already by the Government in so many ways.

I think it is a reasonable provision within the bill, and I hope this amendment goes to defeat. I urge my colleagues to vote against it.

Mr. BRYANT of Texas. I yield myself 3 minutes.

Mr. Chairman, we have a pilot program working in this area already. The result is that employers who have been in the pilot program like it, and the other result is that there have been no claims of discrimination come out of the pilot program. So the fears raised both on the part of prospective employers that might be placed under this provision and the fears raised by potential discrimination simply do not have any basis in our experience, having operated pilot programs elsewhere already.

The fact of the matter is that employer sanctions now in the law; that is to say, the law that says it is against the law for an employer to hire someone who is not legally present in the United States, those sanctions are not working any longer. They used to work, but they do not work any longer because job applicants have discovered how to counterfeit any one of or all of the 29 documents which can be presented to prove one's legal status.

Without verification in this bill, we really have no way to make this most significant improvement, and that is how to get around document fraud that completely undermines the law that prohibits employers from hiring somebody who is not a legally present individual.

It is a simple system. The Social Security number is looked at, and a check is made to see if a number is valid and if it belongs to the name on the card. That is all there is to it. It is not an intrusion on civil liberties. It is not a threat to anybody's employability. It is certainly not an inconvenience to employers. If anything, it is a convenience to them and a protection to them against getting involved in some type of a dispute over whether or not they hired someone knowing that their documents were not valid.

Mr. Chairman, I think that if we are serious, we have to keep this provision in the bill, and I urge Members to vote against this Chabot amendment. If the Chabot amendment succeeds, we are right back to the status quo, we are right back to where we started about 16 months ago. Illegal workers will still be working, and they will still be working and taking American jobs.

This is a simple procedure. It is one that has worked in the pilot programs that have tested it. It has worked for the benefit of those applying for the jobs as well as for the benefit of those doing the hiring.

I urge Members to vote against the Chabot amendment and maintain the Smith language that is in the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CHABOT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FLANAGAN], a very distinguished member of the Committee on the Judiciary.

Mr. FLANAGAN. Mr. Chairman, I rise in support of the Chabot amendment.

At a time when our Government is trying to get smaller, get out of people's lives, at a time when big brother is finally moving away from the direction it has gone, when it is trying to be less intrusive, I think that this is not the direction we need to be going.

The gentleman from Wisconsin [Mr. SENSENBRENNER] gave us some very excellent practical arguments against this system. Mr. BRYANT gave us the alternative argument, which is very good as well. It says, if we are going to have a rule that is going to make employers be required to be INS agents or have some of those functions, at least let us make it easy for them. Mr. BRYANT on this side then went on further still and said let us make it a convenience for that employer to be able to do that better so they are not held up by the system.

I say to my colleagues that this is not the direction we need to go to make it easier for private citizens to have to do the job of Government, to be able to stand up and say, no, we are not going to require citizens of the United States to get permission from the Federal Government to work. And that is what this pilot program, if it becomes a total program, would do.

To have the Federal Government of the United States be a last word on whether someone works today or whether someone does not is particularly odious. It is anathema to the reason most of us came here. To have the Federal Government of the United States say, "You may work today because we have decided that you're here legally, and we're going to trust that all the records are right, that we're going to go ahead and say that there's no glitch in it," and all in an effort to make the I-9 form, odious by itself, work better is wrong-headed as well as being merely wrong.

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We should go the step in the other direction, to provide positive incentives for employers to help us solve the problem of illegal immigrants working. We should go in the direction of bringing the employers enlisted into the battle against illegal workers, rather than impressing them into the battle and making it as harmful as possible to the people who work for them, but as harmless to them as possible. We are not going in the right direction. We must reject this portion of the bill. I urge a vote for the Chabot amendment.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I tried the metaphor, but when the gentleman from Massachusetts does not use it himself, it should be outlawed. I will try another one, the Ponzi scheme. That is that whatever amendment is on the floor, if we do not pass this, we will never stop illegals from coming in.

Remember the McCollum amendment that would put your picture on an ID card, on a Social Security card and make it tamper-proof? Have we forgotten that one already? That was the one we had to have or we would never stop illegals. We moved that one on. Now we have the nose under the tent, and if we do not get this one in, we will never stop illegals.

Forget the fact that all the fraudulent employers that want to use illegals are never going to report them through the proper methods anyway. They will all be violating not only this amendment, but all the other immigration laws. So the underground economy is laughing as we finally put the nail on illegal immigrants by a foolproof ID card.

Mr. Chairman, what does the Japanese internment program have to do with this? Some say nothing, and some say it has something to do. Where did they find out who the Japanese were and where they were to go get them? They found out through the census program, which was not started out for that, I would say to the gentleman from Massachusetts [Mr. FRANK]. The census system was not started off for that purpose. It got to be used that way.

Social Security was not started off to be ID. It was for Social Security. Now it is ID. It is on your driver's license. Now we have deteriorated a little bit more and a little bit more, and then someone says, "This is not the nose under the tent, the camel's nose under the tent, this is innocent, freestanding, vital to the immigration bill; we have to get it or we will never stop illegal immigrants."

I say hogwash. Support Chabot.

Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I would just say to my friend that apparently we have now found out that the serious threat to civil liberties is the census. I would say in that case it is too late to worry. I do not myself regard the census as a threat, but if it is a threat, it is already there, so if people were going to manipulate things like the census, they would already have it and they would not need anything else.

Mr. CONYERS. Mr. Chairman, I will throw up my hands, then. It is all over; we have had it.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, let us be up front about this. There are those who do not want us to be able to enforce our immigration law and want to remove every reasonable tool. They want to find excuses for that. There are those that say that somehow it is terrible to the employer.

Mr. Chairman, let me give a letter from Virginia, who works for G.T. Bicycles. She said that the telephone verification program has given her peace of mind with the knowledge that G.T. Bicycles is complying with the law regarding employment, because if you are an employer, you have no way of knowing that the law requires you to get a Social Security number and to fill out an I-9 form, but you do not know if that number belongs to the person.

There are those that are going to try to find excuses to strike this system and eliminate any reasonable point of enforcement of our immigration laws. So please do not say you are against illegal immigration, do not say you are against illegals getting public assistance, do not say you are against illegals taking jobs from people, but then say, Oh, but I am against having a reasonable enforcement vehicle. It is a cop-out. Let us be up front about it. Let us say, I really do not think illegal immigration is a real problem. I think these people ought to be allowed to come into our borders.

But this system is a system that is the most nonobtrusive approach we can possibly do, in a system where we require reporting so we can raise taxes, so we can get money for the Federal Government.

Mr. Chairman, when it comes time for us to participate in the securing of our national frontiers, of our national sovereignty, the Federal Government's number one obligation and responsibility, when it comes to that responsibility, Members are willing to walk away and find excuses to cop out. All I have to say is, if it is good enough and it is reasonable enough for us to move forward with some programs so we can enhance our coffers, then doggone it, it is time that we do the reasonable thing to control illegal immigration. But let us not sit there and vote for this amendment and then say, I really am against illegal immigration. This amendment will decide which way you stand, and the American people will know it.

Mr. BRYANT of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in opposition to this Chabot amendment. What I would love to see, Mr. Chairman, is to get the rollcall of the Chabot amendment and the people who voted in favor of striking the verification system, and then the people who vote for the Gallegly amendment to knock all the children of illegal immigrants out of the public schools, and the Bryant amendment, to report all the names of illegal immigrants to the INS, and all these other Prop 187 amendments, and match the two, because there will be a lot of people who vote "yes" on Chabot and then "yes" on Gallegly on the public education and "yes" on Bryant, and then we will know how rhetorical the discussion on doing something on illegal immigration is; because they will have sat there and gone back to their districts and said, "We did something about public services, employment, and illegal aliens. We just knocked out any way of ever enforcing it," the Chabot amendment.

I have great respect for the gentleman, I have listened to him both in committee and on the floor, and I know he feels this passionately, but it is intellectually flawed, because there should be one additional provision. It should repeal employer sanctions. If we do not have verification, we have no meaning in employer sanctions. We have the present situation.

Mr. Chairman, I cannot think of what creates a more cynical public than the notion that the Government saying, as we said in 1986, "We are doing something about this," and then denying the mechanisms to try and do anything about it. That will only intensify the hostility between the public and their elected officials.

If employer sanctions are going to mean anything, Mr. Chairman, verification is at the heart of what we are supposed to do. The problem with the amendment of my friend, the gentleman from Texas, is that ideally I think we have to do some pilot projects before we can implement a full 800-telephone verification system. But the problem with the amendment of the gentleman from Texas, which CHABOT seeks to strike, and which GALLEGLY seeks to strengthen in a subsequent amendment, is that it has none of the protections that we put in. And as the gentleman from Ohio [Mr. CHABOT] pointed out, it may be voluntary for employers, but it is mandatory for employees.

There are no protections on privacy, there are no protections on errors, there is no enforcement of discrimination in that particular program. A mandatory system at the point where it is feasible and implemented, if done right, will stop discrimination which now exists, because the person who wants to comply with the law is not going to accept the documents coming in under the I-9 requirements, is going to assume that person is illegal and is going to discriminate, not because that person is racist, but because that person does not want to run afoul of employer sanctions and does not understand that employer sanctions have no meaning under the present situation.

It can protect against privacy innovations, just like we did in 1986 with the legalization program, where we had INS legalize 1.8 million people and never once give the names of the people that came forward to the enforcement wing. You can protect against all of those kinds of things.

The amendment in front of us is bad because it, without repealing employer sanctions, renders employer sanctions totally meaningless. The base language is bad because it has none of the protections we need. That is why the Gallegly amendment, I am forced to conclude, is the only feasible fashion for dealing meaningfully with this whole subject.

Mr. Chairman, I urge a "no" vote on the Chabot amendment.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to the very distinguished gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I rise in support of the Chabot-Conyers amendment. I found it very interesting that the good gentleman from Texas [Mr. BRYANT] indicated there were no examples of abuse by the Government in the present system.

Whereas I agree that illegal immigration is a very serious problem, there has also been a very serious problem in the enforcement of the existing rules and regulations, and as currently stated in the bill, the employment verification system will add to and not replace the current I-9 verification.

Mr. Chairman, in my district there is a fruit farmer, Mr. Stanley Robison, who has been in business for 60 years. Whereas the INS requires all kinds of verifications, Mr. Robison set about acquiring those verifications. They were all in a separate file, according to the laborer or the worker. When the Department of Labor came in and audited his files, they found that he had asked for too much verification, and that had consisted of employer and worker harassment. This man was fined $72,000 before he ever had a day in court.

Mr. Chairman, this kind of abuse cannot go on. Please support the Chabot-Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I stand in strong support of the Chabot-Conyers amendment to strike the so-called voluntary employment verification system. I ask my colleagues here today to listen and to listen closely as I relate a personal story about the dark side of employment verification, because no matter how well-intentioned this system appears, the consequences can be ominous.

I raised my kids in France for a few years while I served as the U.S. Ambassador to UNESCO in Paris. One day my son was coming home from school alone. He was apprehended by the French police and asked to produce his national identity card. He did not have it with him. He was detained, arrested, and taken to jail. I had to go take him out, simply because he did not have a card. He did not look French.

Are we ready, as a bastion of freedom and democracy, to subject the citizens of this country to the same type of insidious mistakes? If we do not pass the Chabot-Conyers amendment to strike, I think we will be doing that. Do we want to impose a so-called voluntary system on employers that has no protection for employees? From my own family's experience in Paris, I can assure the Members that individuals that appear foreign will be unfairly treated. In this so-called era of less government, why would we want to impose costly regulations upon the engine of our economy and our Nation's job creators?

Mr. Chairman, do not be deluded. This employment verification is only the first step. As the gentleman from Michigan [Mr. CONYERS] has said, this is the nose under the tent towards a national identification card, a first step towards the loss of our freedom. Remember this, only a small percentage of employers knowingly hire undocumented workers.

We have laws on the books that require reporting for every new hire, the I-9, but we do not spend any money on enforcement. We have a law that requires that employers pay minimum wage and withhold Social Security, the Fair Labor Standards Act, but we do not spend any money on enforcement. These employers are violating the law now, and nothing in this bill will force them to comply with a new verification law.

Mr. Chairman, I urge my colleagues here today to vote yes on the Chabot-Conyers amendment to strike.

Mr. SMITH of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. GALLEGLY].

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Mr. GALLEGLY. Mr. Chairman, I rise in very strong opposition to this amendment offered by my good friend the gentleman from Ohio. The author may be well meaning but he is simply wrong on this issue of verification, and his amendment will only serve to protect those special interest businesses who currently violate U.S. immigration laws.

Mr. Chairman, this amendment is truly a litmus test of our seriousness to curtail illegal immigration, protect jobs for Americans, and stifle low wages.

Mr. Chairman, preventing illegal entry is a key to prevention and deterrence, but Congress can ill afford to ignore the 4 to 6 million illegal immigrants already residing and working in this country.

This is where the gentleman from Ohio is misinformed. He completely ignores the fact that the illegal immigration problem must also be addressed in the Nation's interior, well away from the border.

I agree that enhanced border enforcement is important. This bill addresses that. I also agree that stiff fines and employer sanctions are very helpful. These measures are fine, but simply not enough.

Like it or not, Mr. Chairman, there are businesses in this country who knowingly break U.S. law and hire illegal immigrants. Short of more random checks and unannounced raids, alternatives that I am sure the gentleman from Ohio would oppose, a verification system is direly needed, and a 1-800 number is by far the easiest way to do this.

The gentleman in his remarks makes inaccurate, misleading, unsubstantiated and maybe even ridiculous arguments against verification. A system of verification does not establish a data base. It does not create a Federal hiring approval process.

The gentleman's amendment would wipe out any type of verification and, in effect, would only serve to protect those unscrupulous businesses which break U.S. law. His amendment would perpetuate a system which replaces American workers with low-wage employees. I urge sound defeat of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, there is a truism that I think applies in life as it does in legislation, that one excuse is just as good as another if we do not want to do anything. We have heard a lot of excuses today. I am afraid that this amendment, as well intentioned as it may be, is just another excuse. If we really do not want to do anything about the immigration problem and the employment of those who are not legally in our country, then this excuse is just as good as another.

I cannot refute all of the excuses that have been offered as a support for this amendment, but let me take one, the idea that there is an error rate in the Social Security office and that somebody may be denied the opportunity to work because there has been some mixup in their Social Security number.

I want to suggest that if we put in place this bill without this amendment, we will do two things. First of all, let an American citizen who is legally in this country and legally entitled to be employed be denied an opportunity because somebody has made an error in his Social Security rate, two things are going to happen. First of all, they are going to correct his Social Security records, which ought to have been done in the first place, and second, he is going to get the job.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, the Chabot amendment takes the teeth out of this bill. Illegal immigrants come to this country for one reason, jobs.

The immigration bill of 1986 tried to move in the right direction, but it failed to maintain an adequate workplace enforcement provision. What it did was create a system where employers are forced to be pseudo INS agents. With the fear of fines, employers must decide which documents are fake and which are real.

This is an unfair, unrealistic burden. 1-800 is not big brother. It simply gives employers an easy, cost-effective way to make sure they are following Federal law.

As a former small businessman who ran several restaurants in southern California, I saw my share of suspicious documents over the years. 1-800 would give me peace of mind as a small employer.

When I first proposed a toll-free workplace verification system back in 1994, I had no idea it would attract such attention. I am glad that it has, but like many hot issues, certain untruths have cropped up.

1-800 is not big brother; it is not an intrusion into small business; it is not discriminatory; it is not an ID number or system. It is, however, cost-effective, nondiscriminatory, business-friendly and, most importantly, the most effective tool we have at stopping illegal immigration once and for all.

It may come as a surprise, but many employers knowingly hire illegal immigrants in this country. These employers hide behind the current law. The I-9 form, which I have used on thousands of occasions as an employer, is cover. Get your fake documents, xerox them on the back of the I-9 form and when the INS comes in, you are OK.

That is wrong. We need to have a verification system that employers can rely on. If you vote for Chabot, you are voting for the status quo. I urge Members to vote to support tough action against illegal immigration and oppose the Chabot amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

I would like to associate myself with the remarks of the last gentleman. They were points well made.

I want to also respond briefly to a comment made early by the gentlewoman from Idaho [Mrs. CHENOWETH]. I think she misheard me. I said that the pilot program now working to test this system that the Chabot amendment would eliminate has not yielded any complaints from employers and not yielded any instances of discrimination against potential employees.

The example the gentlewoman gave a moment ago is exactly the example we are trying to avoid. I do not know the specifics of her hypothetical situation, but we want employers to be able to rely upon this check to know that they do not have to worry about whether or not they have somehow violated the current laws with regard to all these documents.

We want them to be able to do what the provision says and that simply is, check the number and see if it is a valid number, and, second, see if it belongs to the name on the card. That is all this does. It is an effort to protect the employer and to protect the employee, as well, and to make the system simple.

We are left with the situation that if this is taken out of the bill by virtue of adoption of the Chabot amendment, we simply cannot enforce employer sanctions, and employer sanctions, which once worked before document counterfeiting became so widespread, are not working now. Please vote against the Chabot amendment. Let us keep some meaning in this bill with regard to employer sanctions.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Chairman, I want to rise in support of the Chabot amendment, and also in recognition of the fine job that the gentleman from Texas [Mr. SMITH] and others have done in working on this overall issue of illegal immigration. I think they have done an outstanding job. However, on this issue I have a dispute and a disagreement with them on it.

I think the Members in looking at this amendment should consider and ask themselves three questions in being up-front about what is going on. First, where are we headed with this? If there is a legitimate thought in your mind that where we are headed with this is a potential of a national identification card system, and you disagree with that, you should vote for the Chabot amendment.

Second is, what precedent are we setting in putting forward this provision? If you are questioning the precedent that we are setting is something that we are going to go toward a national ID system, again you should vote for the Chabot amendment.

Finally I would ask Members, the question is how competent is the Government to do this? If you have a question about the competency, call the IRS right now with a tax question. I think that might answer some questions about how competent is the Government to get this right when we have got a huge nation of so many people.

For those reasons and for the reason of which I think I was sent here to Congress, which is to get the Federal Government off of people's backs and out of their pockets, I am supporting the Chabot amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this is an issue of civil liberties and personal privacy. We do not need big brother to keep track of our citizens, and this is what we are doing with a national ID system. If you are blond and fair-skinned, you are not going to be asked to provide an identity. But if you are a member of the congressional Hispanic or Black or Asian Caucus, you probably are.

This is the nub of this argument. People whose accent, appearance, or family background make them look like foreigners would be screened out of jobs as employers attempt to avoid the inevitable problems which this verification process would cause. Why would an employer bother to hire somebody that, quote, looks foreign?

What makes everybody think that this system is going to work? I have heard Members on both sides rail about the inefficiency of Government, the IRS, IRS computers and verification system, that we are creating a gigantic bureaucracy. Yet for some reason many on that side and on our side think that it is going to work. This is a case of personal privacy. This is a case of civil liberties.

All Americans recognize that illegal immigration is a problem, but a solution to this problem is not the creation of a database of unprecedented scope that invades the privacy of all our citizens and requires employers to ask the Government's permission before they make hiring decisions. Business people should not be bureaucrats and INS officers. This is what we are doing.

The establishment of a massive and costly verification system to access information from existing Government databases, such as the INS and the Social Security Administration, is not going to solve the problem but just create new ones.

Once again, this is a violation of the privacy of all Americans. It is a good, bipartisan, left, right, center amendment that should be adopted.

Mr. CHABOT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Chairman, I rise today in support of the Chabot-Conyers amendment. As a business owner, I find it quite disturbing that the Federal Government would want to be involved in every hiring decision that I make. While I understand the bill now calls for a voluntary verification system, I believe this program is intentioned to become yet another big government mandate on businesses across America.

The cost of this new Government program will be unavoidably passed on to consumers through higher prices. I believe we were sent here to reduce the size and scope of the Federal Government and that this big government proposal simply goes in the opposite direction. To have to call a 1-800 number and ask permission of the Federal Government each and every time we hire an employee is simply wrong. A 1-800 big brother is not good for business, it is not good for employees, it is not good for the direction we should be taking America.

I strongly urge a "yes" vote on the Chabot amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER. Mr. Chairman, I thank my very dear friend from Texas for yielding me this time. I would like to again extend hearty congratulations to him for a job well done. He has been working 12 hours a day on this issue for many, many months. We are all grateful to finally see this issue coming forward.

Let me address the question that we have right now. Clearly the system that we have today has a very simple and basic message. It says, "Please go buy false identification papers before you get a job." That is what we have that exists today.

What we are proposing is clearly the least intrusive way to deal with this. Many arguments have been made that this is going to create a problem for business. Quite frankly, this will be very helpful to the business community. Why? Because they will not have any liability once they have utilized this 1-800 number to make the call and make the determination as to whether or not the verification is true and has taken place.

I think that as we look at this question, it is key for us to do everything that we possibly can to step up to the plate and encourage people to determine whether or not someone is, in fact, qualified for employment.

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This is a pilot program and it is based on a very successful test that has been utilized in my State of California. Participating employers actually liked it. They found that it was helpful because it eases government regulation, and workers liked it because it eliminated possible discrimination and it allowed quick and very easy hiring.

So this is a very, very responsible move, the committee's position. I hope that we can move ahead at least with this, and I urge opposition to the amendment that is before us.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to oppose the Chabot amendment. I would just like to make the observation to anybody who is paying attention to this debate, any of our colleagues, that if you oppose illegal immigration, you must oppose the Chabot amendment. There is no way to control illegal immigration unless we can cut the magnet of jobs and stop the incentive of people coming here, and that means making employer sanctions work; making the law we have and have had for 10 years on the books that says it is illegal to knowingly hire an illegal, make it work.

I can put every person in the United States military across our Southwest border, I can seal it with a wall, and I cannot stop the people who are going to come here illegally, because they are going to come for jobs one way or another. Over half who are here illegally today, and there are four million present and 300,000 to 500,000 a year coming here to stay here permanently, are here because they have come on legal visas and overstayed. And the incentive for all of this is to get a job.

Employer sanctions is not working. The only way it can be made to work is to get some of the fraud out of the business. I suggested enhancing the Social Security card earlier. On a very close vote, it lost.

The only other option left to us in this bill is the 1-800 number, which is no new data base, no new information. Just simply have a pilot program to let us test to see if it will not work to make it easier for employers and effective law enforcement to have, when somebody comes to seek a job, have the employer, when they see the Social Security number that they are going to see, they have that law right now, to call the telephone number that they have, for free, and find out if the number matches the name being given to them. It is as simple as that.

If it does not match, then why should they not reject the employment of that person? Because they have been presented obviously a fraudulent document, which is the way they are getting employed.

It is a very simple process. It is not complicated. It is not big brother. There are places and roles that government must play. This is a simple one, and it is one of them.

Immigration is a Federal responsibility. Nobody believes in reducing the size and scope of the Federal Government any more than I do. But I must tell Members, there are times and places, including national defense and immigration, where the Federal Government has a role. I urge a vote against the Chabot amendment so we can control illegal immigration. If we do not vote against it, we can never control illegal immigration.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is the same gentleman from Florida [Mr. McCOLLUM] who just told us on an earlier amendment that if we did not pass the photo ID amendment, that immigration would collapse and we would be overrun. That did not succeed, so now he is here on the telephone verification, and now once again the world will go down in smoke if we do not pass this amendment.

Please, let us fact the facts: If people come in on student visas and overstay, a telephone verification system is not going to stop them. If people come in here as visitors and do not go back, telephone verification will not do a thing in the world about it.

I love everyone advising our business friends how helpful this will be to them. They happen to oppose it through an organization. By the way, the American Bar Association, which is for strong immigration rules, is 100 percent for the Chabot-Conyers amendment.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what was designed as a coercive mandatory and permanent program now is being sold as voluntary and temporary. The principal argument in its favor apparently is it is not as bad as it could be. Well, we all know that government programs do not stay voluntary or temporary very long. This one is not voluntary to begin with, and as Grover Norquist of Americans for Tax Reform pointed out yesterday, income tax withholding was introduced as a temporary funding mechanism in World War II. The concept of American citizens having to obtain government working papers, or in the language of the bill, a confirmation code, in order to work, is antithetical to the principles I was sent here to support.

But I ask my colleagues to think ahead 5 or 10 or 15 years from now and decide whether you want to look back and say yeah, I did vote to put that system into place, or no, I did the right thing. I voted to stop it when it could have been stopped. Please join me and the gentleman from Michigan [Mr. CONYERS] in supporting this amendment, along with everyone from the Christian Coalition to the ACLU, to the ABA, and every business group that has taken a stand.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to remind my colleagues that the NFIB in fact supports this bill and in fact they do not oppose the very voluntary system that we have in the bill for a pilot program for verification. I urge my colleagues to vote no on this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. GOODLATTE].

The CHAIRMAN. The gentleman from Virginia, Mr. GOODLATTE, is recognized for 2 minutes and 15 seconds.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

Mr. Chairman, I rise in strong opposition to the Chabot amendment and in favor of the employer verification system. In fact, I support making the system mandatory and will be supporting the amendment of the gentleman from California [Mr. GALLEGLY] later on.

But it is important to make it very clear that this is simply a voluntary system that everybody can participate in if they choose to. Those who have chosen to participate in this system thus far in the pilot program in Los Angeles have found it to be an excellent system; 220 employers participated, and they found a 99.9 percent accuracy rate on the employment verification checks that were done under that system.

Why do we need this system? Because the current system, the bureaucratic I–9 system, which would hope this would be the first step toward evolving a system that would work very effectively and efficiently and get employers away from the intrusive bureaucratic ineffective I–9 system, does not work.

We have a magnet that draws people to this country, jobs. Who can blame anybody for wanting to come to this country for that opportunity? But we have already taken the step of making it illegal to employ people. Now we have got to give employers the means to effectively screen those people out.

Fraudulent documents are a massive problem: Just a few days ago in Los Angeles, a major raid on a factory manufacturing illegal green cards, Social Security cards, birth certificates, driver's licenses, all manner of fraudulent documents that cannot be properly screened out by employers. All we do here is say match the Social Security number that they bridge in with the Social Security number in the file. No new data base, no ID card. Simply give the opportunity for employers to get a real verification. Employees ought to love it, too. If you go in and you get a job and they have the wrong Social Security number for you and that money that your employer and you pay in in taxes to the Social Security System does not get credited to your account, you have lost out in your retirement days. So you are going to know right when you go in that your Social Security number is matched up with the one that is on file with the Social Security Administration.

This is a system that is simple, it is a simple system that is fair, it is a system that will work, it is a system that is voluntary, and I urge every Member of this body to support a voluntary employer verification system.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 1 minute and 15 seconds remaining.

Mr. CONYERS. Mr. Chairman, I yield 1 minute and 15 seconds to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member for his direction in this issue, and I thank my colleague, the gentleman from Texas [Mr. SMITH], for his continued persistence on a very important issue.

I think, Mr. Chairman, the question should be asked, who we are trying to help today? I rise in support of a perfectly legal system, the I–9 system, that required us in this Government to verify employment eligibility. It was a system that had a fingerprint, coded information, and a picture. The question is whether or not that system has fully worked or there are problems, and whether or not we can reform that system.

It seems that if we would add this big brother system, however, that there would be a number of industries in my community; for example, the Houston grocery store owners and the food industry, which have indicated this labor intensive industry would be severely burdened, employing some 3 million people cross the Nation and experiencing high turnover.

Some stores hire 50 to 150 new employees each week during the Christmas season. Telephoning the Government would amount to an impossible burden on store managers. Around 65 million hirings take place every year. The phone system and the bureaucracy would be totally unbearable and unnecessary.

Could you prevent fraud? I think not. To have someone provide you with a Social Security number and name, it could possibly be verified that they were that person. I believe I have the strong support of civil rights, Mr. Chairman. This is not the right direction. I support the Conyers-Chabot amendment and believe we should move toward helping our employers and helping our workers.

Mr. CLAY. Mr. Chairman, I rise to support the Chabot-Conyers amendment. While I commend the sponsors of the bill for removing the horrendous mandatory employment verification system included in the bill reported by the Judiciary Committee, this voluntary employment verification system has major flaws. The prospect that millions of people would lose or be denied jobs because of unreliable data or employment discrimination is too great a risk to take in a free society.

We already know from an INS telephone verification pilot project currently underway in southern California that there are major flaws in a system that tries to merge INS data with Social Security Administration data. And, who suffers most when a verification system makes errors or is too slow? The job seeker is the one most harmed.

It is unfortunate that proponents of this voluntary system chose to delete critical civil rights protections that were included in the Judiciary Committee text, particularly provisions that provided for testers to identify discriminatory employer behavior that would likely result from the verification system. This technique has been effective in identifying other types of discrimination, including housing discrimination. Such civil rights protections must be part of any fair employment verification system, voluntary of mandatory.

I share the concern that we begin to go down a very dangerous path by establishing an employment verification system that will require every employee in the United States to get permission to work from the Federal Government through a national computer registry. This response to legitimate concerns about illegal employment is way out of proportion to the actual problem. The INS estimates that undocumented persons represent less than 1 percent of the U.S. population; and yet under this voluntary system approximately 20 million employees could face the very real threat of being denied employment or victimized by employment discrimination.

Mr. Chairman, I urge my colleagues to support the Chabot-Conyers amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in strong support of the Chabot-Conyers amendment to strike the establishment of a new and additional employment eligibility confirmation process. I oppose the worker verification system, which is really a 1–800 big brother system, because it is an onerous imposition on businesses in my district and in my State of Texas.

I have spoken with Houston grocery store owners and those in the food industry in Houston, and they have voiced to me their concerns about the call-in verification system. A call-in system will not prevent fraud because verifying a new hire's name and Social Security number does not prevent the fraud of an illegal alien using the name and Social Security number of someone else who is eligible to work. The grocery industry is labor intensive, employing more than 3 million people, and experiences high turnover. Some stores hire 50 to 150 new employees each week during the Christmas season. Telephoning the Government would amount to an impossible burden on store managers. Around 65 million hirings take place every year. The phone system and the bureaucracy necessary to handle this volume efficiently and accurately would be staggering in size and cost.

Verification systems would rely on highly flawed Government data. The INS database slated for use has missing or incorrect information 28 percent of the time, while Social Security Administration data has faulty data 17 percent of the time. Even a low 3-percent error rate could cost nearly 2 million Americans to be wrongly denied or delayed in starting work each year.

Furthermore, I am a strong supporter of civil rights, and this system would represent a major assault on the privacy rights of all Americans. The verification would lead to an intrusive national ID card. Just as we have seen the uses for Social Security cards being expanded beyond its original purpose, there are already calls being raised to use a national verification system to give police broader access to personal information and to retrieve medical records.

In committee, I also voted for an amendment to strike the provisions for an employment verification system, and I urge my colleagues to join me today in voting "yes" on the Chabot-Conyers amendment and voting "no" on the Gallegly-Bilbray-Seastrand-Stenholm amendment.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment offered by the gentleman from Ohio [Mr. CHABOT], as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHABOT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Ohio [Mr. CHABOT], will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 8 offered by Mr. BRYANT of Tennessee; amendment No. 9 offered by Ms. VELÁZQUEZ of New York; amendment No. 10 offered by Mr. GALLEGLY of California; and amendment No. 12 offered by Mr. CHABOT of Ohio.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series, except the electronic vote, if ordered, of amendment No. 10, which will be a 15-minute vote.

AMENDMENT OFFERED BY MR. BRYANT OF TENNESSEE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee [Mr. BRYANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 250, not voting 11, as follows:

[Roll No. 73]

AYES—170

Andrews
Archer
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Boehner
Bono
Brown (OH)
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Clement
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dornan
Dreier
Duncan
Ehrlich
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (CT)
Franks (NJ)
Funderburk
Gallegly
Gillmor
Goodlatte
Goodling
Gordon
Graham
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Hilleary
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Istook
Jones
Kasich
Kim
Kingston
Knollenberg
Kolbe
LaHood
Largent
LaTourette
Laughlin
Lewis (KY)
Lincoln
Linder
Livingston
LoBiondo
Manzullo
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Packard
Parker
Paxon
Petri
Pombo
Portman
Pryce
Quillen
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Wamp
Watts (OK)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zimmer

NOES—250

Abercrombie
Ackerman
Allard
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TX)
Bunn
Campbell
Cardin
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clinger
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Frelinghuysen
Frisa
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Herger
Hilliard
Hinchey
Hobson
Holden
Hoyer
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
LaFalce
Lantos
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Spratt
Stenholm
Studds
Stupak
Talent
Tanner
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
White
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff

NOT VOTING—11

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1634

Messrs. HYDE, ZELIFF, FOX of Pennsylvania, EMERSON, LIGHTFOOT, DIXON, HOBSON, LONGLEY, and DOOLITTLE changed their vote from "aye" to "no."

Messrs. WELLER, PACKARD, LAUGHLIN, BATEMAN, HEFLEY, BOEHNER, PAXON, RAMSTAD, SOLOMON, and Mrs. MEYERS of Kansas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings, except the vote by electronic device, if ordered, on amendment No. 10, which will be a 15-minute vote.

AMENDMENT OFFERED BY MS. VELÁZQUEZ

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York [Ms. VELÁZQUEZ] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 269, not voting 11, as follows:

[Roll No. 74]

AYES—151

Abercrombie
Ackerman
Andrews
Baldacci
Ballenger
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Canady
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Davis
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dingell
Dixon
Dooley
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Jackson (IL)

Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mink
Mollohan
Morella
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pombo
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Schiff
Schroeder
Scott
Serrano
Skaggs
Slaughter
Souder
Studds
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Young (FL)

NOES—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Deutsch
Dickey
Dicks
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Portman
Poshard
Pryce
Quillen
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—11

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1644

Mr. SMITH of Michigan and Mr. SAWYER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GALLEGLY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. GALLEGLY] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 163, not voting 12, as follows:

[Roll No. 75]

AYES—257

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce
Quillen
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—163

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Campbell
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gunderson
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Kolbe
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez

Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mink
Molinari
Mollohan
Morella
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Studds
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Volkmer
Waldholtz
Ward
Watt (NC)
Waxman
Weller
White
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—12

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Peterson (FL)
Porter
Radanovich
Rush
Stark
Stokes
Waters

□ 1702

Mr. VOLKMER changed his vote from "aye" to "no."

Mrs. KELLY changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHABOT

The CHAIRMAN pro tempore. (Mr. RIGGS). The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Ohio [Mr. CHABOT] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 159, noes 260, not voting 12, as follows:

[Roll No. 76]

AYES—159

Abercrombie
Andrews
Baesler
Barcia
Bartlett
Becerra
Boehner
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bunn
Bunning
Buyer
Camp
Chabot
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (GA)
Collins (MI)
Conyers
Cooley
Crane
Crapo
Cubin
DeLay
Dellums
Diaz-Balart
Doolittle
Doyle
Durbin
Edwards
Ehlers
Engel
English
Ensign
Evans
Ewing
Fields (LA)
Filner
Flake
Flanagan
Fox
Funderburk
Gibbons
Gillmor
Green
Hall (OH)
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Hilleary
Hilliard
Hinchey
Hoekstra
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
King
Kingston
Klug
LaHood
Lewis (GA)
Lewis (KY)
Linder
Longley
Lucas
Manzullo
Martinez
Matsui
McDade
McDermott
McHugh
McIntosh
McNulty
Meek
Menendez
Mica
Miller (FL)
Mink
Mollohan
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pastor
Paxon
Payne (NJ)
Pelosi
Petri
Pombo
Portman
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Richardson
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Salmon
Sanders
Sanford
Scarborough
Schroeder
Sensenbrenner
Serrano
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stockman
Stupak
Tate
Taylor (NC)
Tejeda
Thompson
Tiahrt
Torkildsen
Torres
Towns
Upton
Velazquez
Vento
Waldholtz
Walsh
Ward
Watt (NC)
Weldon (PA)
White
Woolsey
Wynn
Yates
Young (AK)

NOES—260

Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bono
Borski
Brewster
Browder
Bryant (TN)
Bryant (TX)
Burr
Burton
Callahan
Calvert
Campbell
Canady
Cardin
Castle
Chambliss
Christensen
Clement
Clinger
Coble
Combest
Condit
Costello
Cox
Coyne
Cramer
Cremeans
Cunningham
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Fields (TX)
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Frisa
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Gilchrest
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Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
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Johnson (CT)
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Kennedy (MA)
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Skeen
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Smith (TX)
Spence
Spratt
Stearns
Stenholm
Studds
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Thomas
Thornberry
Thornton
Thurman
Torricelli
Traficant
Visclosky
Volkmer
Vucanovich
Walker
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Collins (IL)
Hostettler
Johnston
Moakley
Nadler
Porter
Radanovich
Rush
Solomon
Stark
Stokes
Waters

□ 1317

The Clerk announced the following pair:

On this vote:

Mr. Hostettler for, with Mr. Radanovich against.

Mr. GEKAS and Mr. LAUGHLIN changed their vote from "aye" to "no."

Mr. NORWOOD and Mr. PAXON changed their vote from "no" to "aye."

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

□ 1715

The CHAIRMAN. It is now in order to consider Amendment No. 13 printed in part 2 of House Report 104–483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. GALLEGLY:

Amend section 401 to read as follows (and conform the table of contents accordingly):

SEC. 401. EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.

Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting "(A)" after "DEFENSE.—", and by adding at the end the following:

"(B) FAILURE TO SEEK AND OBTAIN CONFIRMATION.—Subject to subsection (b)(7), in the case of a hiring of an individual for employment in the United States by a person or entity that employs more than 3 employees, the following rules apply:

"(i) FAILURE TO SEEK CONFIRMATION.—

"(I) IN GENERAL.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(6), seeking confirmation of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF CONFIRMATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses and qualify for the defense.

"(ii) FAILURE TO OBTAIN CONFIRMATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate confirmation of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(6)(D)(iii) after the time the confirmation inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND CONFIRMATION.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(A) if the person employs not more than 3 employees, retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

"(ii) in the case of the hiring of an individual—

"(I) three years after the date of such hiring, or

"(II) one year after the date the individual's employment is terminated, whichever is later; and

"(B) subject to paragraph (7), if the person employs more than 3 employees, seek to have (within 3 working days of the date of hiring) and have (within the time period specified under paragraph (6)(D)(iii)) the identity, social security number, and work eligibility of the individual confirmed in accordance with the procedures established under paragraph (6), except that if the person or entity in good faith attempts to make an inquiry in accordance with the procedures established under paragraph (6) during such 3 working days in order to fulfill the requirements under this subparagraph, and the confirmation mechanism has registered that not all inquiries were responded to during such time, the person or entity shall make an inquiry in the first subsequent working day in which the confirmation mechanism registers no nonresponses."; and

(3) by adding at the end of subsection (b) the following new paragraphs:

"(6) EMPLOYMENT ELIGIBILITY CONFIRMATION PROCESS.—

"(A) IN GENERAL.—Subject to paragraph (7), the Attorney General shall establish a confirmation mechanism through which the Attorney General (or a designee of the Attorney General which may include a nongovernmental entity)—

"(i) responds to inquiries by employers, made through a toll-free telephone line, other electronic media, or toll-free facsimile number in the form of an appropriate confirmation code or otherwise, on whether an individual is authorized to be employed by that employer, and

"(ii) maintains a record that such an inquiry was made and the confirmation provided (or not provided)

"(B) EXPEDITED PROCEDURE IN CASE OF NO CONFIRMATION.—In connection with subparagraph (A), the Attorney General shall establish, in consultation with the Commissioner of Social Security and the Commissioner of the Service, expedited procedures that shall be used under the confirmation mechanism in cases in which the confirmation is sought but is not provided through confirmation mechanism.

"(C) DESIGN AND OPERATION OF MECHANISM.—The confirmation mechanism shall be designed and operated—

"(i) to maximize the reliability of the confirmation process, and the ease of use by employers, recruiters, and referrers, consistent with insulating and protecting the privacy and security of the underlying information, and

"(ii) to respond to all inquiries made by employers on whether individuals are authorized to be employed by those employers, recruiters, or referrers registering all times when such response is not possible.

"(D) CONFIRMATION PROCESS.—(i) As part of the confirmation mechanism, the Commissioner of Social Security shall establish a reliable, secure method, which within the time period specified under clause (iii), compares the name and social security account number provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information.

"(ii) As part of the confirmation mechanism, the Commissioner of the Service shall establish a reliable, secure method, which, within the time period specified under clause (iii), compares the name and alien identification number (if any) provided against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided and whether the alien is authorized to be employed in the United States.

"(iii) For purposes of this section, the Attorney General (or a designee of the Attorney General) shall provide through the confirmation mechanism confirmation or a tentative nonconfirmation of an individual's employment eligibility within 3 working days of the initial inquiry. In cases of tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Service, an expedited time period not to exceed 10 working days within which final confirmation or denial must be provided through the confirmation mechanism in accordance with the procedures under subparagraph (B).

"(iv) The Commissioners shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information.

"(E) PROTECTIONS.—(i) In no case shall an individual be denied employment because of inaccurate or inaccessible data under the confirmation mechanism.

"(ii) The Attorney General shall assure that there is a timely and accessible process to challenge nonconfirmations made through the mechanism.

"(iii) If an individual would not have been dismissed from a job but for an error of the confirmation mechanism, the individual will be entitled to compensation through the mechanism of the Federal Tort Claims Act.

"(F) TESTER PROGRAM.—As part of the confirmation mechanism, the Attorney General shall implement a program of testers and investigative activities (similar to testing and other investigative activities assisted under the fair housing initiatives program under section 561 of the Housing and Community Development Act of 1987 to enforce rights under the Fair Housing Act) in order to monitor and prevent unlawful discrimination under the mechanism.

"(G) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION MECHANISM.—No person shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility confirmation mechanism established under this paragraph (including any pilot program established under paragraph (7)).

"(7) APPLICATION OF CONFIRMATION MECHANISM THROUGH PILOT PROJECTS.—

"(A) IN GENERAL.—Subsection (a)(3)(B) and paragraph (3) shall only apply to individuals hired if they are covered under a pilot project established under this paragraph.

"(B) UNDERTAKING PILOT PROJECTS.—For purposes of this paragraph, the Attorney General shall undertake pilot projects for all employers in at least 5 of the 7 States with the highest estimated population of unauthorized aliens, in order to test and assure that the confirmation mechanism described in paragraph (6) is reliable and easy to use. Such projects shall be initiated not later than 6 months after the date of the enactment of this paragraph. The Attorney General, however, shall not establish such mechanism in other States unless Congress so provides by law. The pilot projects shall terminate on such dates, not later than October 1, 1999, as the Attorney General determines. At least one such pilot project shall be carried out through a nongovernmental entity as the confirmation mechanism.

"(C) REPORT.—The Attorney General shall submit to the Congress annual reports in 1997, 1998, and 1999 on the development and implementation of the confirmation mechanism under this paragraph. Such reports may include an analysis of whether the mechanism implemented—

"(i) is reliable and easy to use;

"(ii) limits job losses due to inaccurate or unavailable data to less than 1 percent;

"(iii) increase or decreases discrimination;

"(iv) protects individual privacy with appropriate policy and technological mechanisms; and

"(v) burdens individual employers with costs or additional administrative requirements.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. GALLEGLY] and a Member opposed will each control 30 minutes.

Mr. GALLEGLY. Mr. Chairman, the modification of the amendment made in order by a previous order of the House is at the desk, and I ask unanimous consent that it be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONYERS. Mr. Chairman, I seek time in opposition to the amendment. I would also like permission to yield half of my time to the gentleman from Ohio [Mr. CHABOT] and ask unanimous consent that he be allowed to control said time.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment along with several of my colleagues from both sides of the aisle. We have been debating this bill for several hours now, and we have more to come. But I am here to tell you that this is the watershed moment in immigration reform. This is the litmus test for sincerity. This is where Members will decide to either get serious about ending illegal immigration, or to just keep talking about it.

The simple truth is we not fight illegal immigration without a reliable, reasonable way of determining who is here legally and who is not. We have to start right there. We need a system, a mandatory system, to ensure that illegal immigrants are separated from the jobs that motivate them to come here in the first place.

The voluntary verification system now in this bill will not cut it. I have often said that a voluntary system will have about as much effect as a voluntary speed limit, a very little, if any at all. Today the documents are supposed to provide definitive proof of who is here legally and illegally. We have got green cards, we have pink cards, Social Security cards, birth certificates, and a myriad of others.

Unfortunately, the range of documents has only widened the range of options to counterfeiters. In many areas of this country you can buy a fake Social Security card good enough to defraud any law abiding employer for about $30. Just think about it: A $30 investment buys a lifetime of illegal employment in America. It sounds like a pretty good deal to me.

That is the beauty of the telephone verification system. This amendment, which I call 1-800-end fraud, makes counterfeit documents obsolete because it renders them irrelevant.

Mr. Chairman, there has been an incredible amount of misleading information spread about this issue in recent weeks. Believe me when I tell you that Pinocchio has nothing on those who have opposed this critical effort. I know this because I have personally received calls from my constituents urging me to vote against my own amendment. When I asked them what they think we are talking about here, what exactly, well, first, they pause because responding to questions is not part of the script that they have been given, and then they say, "This is a national I.D. card. This is a dangerous tracking provision that is going to follow me into my own home and put all my personal private information into a government computer."

It is just absolutely incredible. I thought our discussions on Medicare had established a new low for this body in terms of misinformation and scare tactics. But that is nothing compared to what we have been dealing with on this issue.

In the name of truth and reason, I would like to take a second to review how this pilot program will work. Specifically, within 3 days of hiring someone an employer would make a simple toll-free telephone call to ensure that the Social Security number presented by the worker was valid; that that number matched the name and it was not being used by 40 other people working in 40 other places. That is all there is to it.

This program has been strongly endorsed by the California Chamber of Commerce, the largest State chamber in the Nation, because it provides safe harbor for employers and gives them a clear and easy way to comply with the law.

For too long we have tried to turn employers into junior INS agents. This amendment shifts the responsibility back where it belongs, to the Federal Government. Just a few of the facts: This system does not create any new data base, period. This system does not collect any information that can later be misused by the Government, period. This system does not do anything other than verify the people employed in this country are eligible to work in this country.

Nowhere in this system is there an ability for the Government to know whether you have got a gun, whether you home school your kids, or whether you prefer Cheerios or Wheaties at the breakfast table. The critics of this amendment know all this, but they have taken great lengths to make sure that the people they claim to represent do not.

A familiar refrain is that we would not need this system if we just focused more on the border. Well, this bill already does focus on the border. But it, frankly, is beyond me to know how the border enforcement can deal with those 4 to 6 million illegal immigrants already working in this country, or how any provision can provide determining who they are or who they are not.

I have consistently supported increased border enforcement, but increased border enforcement will not solve all our problems, and it certainly will not solve this one. This system puts the teeth into immigration reform. This system makes immigration reform work. Without it, we are left with a watered down bill that sounds great, but has only a limited effect.

Mr. Chairman, I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, well, forget that we just passed an amendment dealing with this very same subject, the employment verification system. As a matter of fact, the name of that amendment, I would say to the gentleman from California [Mr. GALLEGLY], was the voluntary worker verification system.

Fast forward. A year later we come to the floor and make it permanent. Well, why wait for a year? Let us vote a temporary system, and then come right back and vote a permanent system, the same system.

So, to quote my good friend from California, an imminently qualified member of the Committee on the Judiciary, who said in the name of truth and reason, [Mr. GALLEGLY] in the name of truth and reason, why are you offering this amendment, when we just passed the employment verification system minutes ago?

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, I appreciate the gentleman yielding.

I think it is very simple. If we have a voluntary system, there is no compliance.

Mr. CONYERS. No, Mr. Chairman, reclaiming my time, tell me why? No lectures.

Mr. GALLEGLY. Mr. Chairman, the reason why, the people that are violating the law today are not going to participate in the voluntary system. They are not the ones we are looking for. The ones we are looking for are the ones that intentionally violate the law.

Mr. CONYERS. I understand. Now, why did the gentleman not offer this amendment in the first place, instead of taking us through the voluntary charade?

Mr. GALLEGLY. Mr. Chairman, if the gentleman will continue to yield, I am sure the gentleman knows the answer to that: Because it was in the bill that passed out of the committee, the full committee that we both serve on, by a vote of 23 to 10, but was changed by leadership prior to coming to the floor.

Mr. CONYERS. Reclaiming my time, Mr. Chairman, just a moment. I am a senior Member of Congress, but the gentleman says, changed by the leadership just before it came to the floor.

Now, in the name of truth and reason, first of all, I want to congratulate my colleague for his candor and his truthfulness and his honesty. The gentleman can sit down now, because I am not going to yield anymore.

Let us analyze this legislation. We pass out millions of books about "How our laws are made" in Congress. Before this measure came to the floor, it was changed by the leadership.

Question. Is that leadership a person whose initials are N.G.? I did not ask the gentleman that question, Mr. Chairman. He can sit down. It is a rhetorical question.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I think it may have been someone whose initials are N.G.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I do not wish to pursue this matter, nor is it appropriate to belabor the processes, the internal processes by which legislation is created in the House of Representatives. Suffice it to say that if we had come back after a little while of fooling around with a temporary verification system, and somebody said it did not work, and there were a lot of people coming in, fine. But amendments back-to-back, do not be offended.

That is the way the system works around here these days in the 104th Congress. You vote verification; it does not come up in the committee of jurisdiction, but it takes a little detour through the Speaker's office on the way to Rules, and, whammo, here we are, strongly supporting the Gallegly amendment because the leadership said so.

Well, now, we follow the leadership too on our side. The only thing is we do not have to park our brains at the door. Our leadership does not operate like that. Relax, sir, please. Our leadership does not order all of us to be in lockstep, as you are routinely.

I notice it is getting to be a little stressful on the other side, but this takes the absolute cake. Let us now move from the voluntary to the permanent, one amendment back-to-back. Hey, this is what we really needed all the time.

Now, do not think this is 1-800-Big Brother. Please, do not think that. This is not about Big Brother. This is not about the camel's nose under the tent. I know that part. This is a perfectly wonderful system, at which the underground economy is laughing as we debate whether it is permanent or whether it is temporary. What difference does it make? They are not going to abide by any of it. Besides, you have not put any enforcement provisions in the existing I-9 law to begin with.

So I am sure this is going to impress some amount of someone's constituents somewhere, but, please, it is not a good day for those of us who would like to have a strong bill on immigration, without violating anyone's civil liberties.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield myself 15 seconds to respond to my good friend from Michigan, and he is my good friend, and I have great respect for him. In fact, I truly admire his wit. I found his presentation extremely entertaining.

Mr. Chairman, the only thing that I would say to the gentleman from Michigan [Mr. CONYERS] is the initials in opposition were not N.G. As a matter of fact, the initials N.G. has said they are very supportive of the mandatory 1-800 number.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment originally, as we know in the Committee on the Judiciary we offered an amendment to strike out what I called 1-800 Big Brother. We were unsuccessful there, but it was very close. It was 17 to 15. It had bipartisan support. We had 8 Democrat votes and 7 Republican votes. The fact of the matter is, there was so much opposition to making this mandatory that the proponent of this bill, I think, knew that were it mandatory, it would have lost.

□ 1730

Now, I had concerns myself, as did the gentleman from Michigan. We did not even want what was a so-called voluntary system because we knew where this was going to lead. We knew that within a few years then it would be mandatory, and we knew within a few years, rather than being in just five States, it would be all across the country. So it would be nationwide and it would be mandatory.

Mr. Chairman, the fact is that is exactly the way it was originally in the bill in Committee on the Judiciary. This was going to be not voluntary, not in just five States, but this was going to be mandatory for every single hiring decision anywhere in the entire country, all 50 States. That is where they wanted to go originally.

Now, we defeated that and this is what we got sort of as a compromise. But let us not be misled where the proponents of this want to go, in order to make it truly effective, is mandatory, nationwide. The gentleman from Florida [Mr. MCCOLLUM], has stated very clearly in committee that even that will not really work unless we have a national ID card, which is the ultimate step here. Every American citizen at the end of this road will have to carry a national ID card around with their picture, perhaps retina scans, and God knows what is going to be on this card. But that is where we are headed.

Mr. Chairman, to me that is big brother, and that is the reason I fought this in the committee. That is the reason, along with the gentleman from Michigan [Mr. CONYERS], we have been fighting this on the floor today. Voluntary, it, in my opinion, was an unprecedented assertion of Federal power. To make it mandatory, which is what this amendment would do, clearly is unprecedented. From now on in those five States, every employment decision is going to have to be confirmed, affirmed by the Federal Government. That goes too far.

I think it is just the opposite of why we were sent here. Many of us feel that we were sent here to reduce the scope and the power of the Federal Government. We do not all agree. Some people do not mind bigger government, some of us do. I happen to mind it very much.

Another thing that I have heard this sold as, I have had several folks from California mention, well, the business people in California want this, to have a 1-800 number so that they can protect themselves in case there has been some foulup on the I-9 forms or some of the other Federal requirements. Let us look at what that basically means.

Mr. Chairman, we have big government with the I-9 forms and all the rest. Since that did not work, then we are going to go to the next level, which is additional big government. The I-9's and that system did not work, so we are going to the next stage. This does not replace the I-9 forms. It does not replace that at all. It is an additional requirement that people will have.

The gentleman from California just said before, he said the voluntary system, which we just passed, the so-called voluntary system, the previous amendment that we just passed, he said it was not going to work. The bad guys, the people who are hiring illegal aliens off the books, paying them cash right now, they are not going to call this 1-800 number. They are going to continue to keep hiring these illegal aliens and paying them under the table.

Mr. Chairman, who is going to be affected? The law-abiding citizens, as usual. Those are going to be the people that would have the additional level of bureaucracy, the additional Federal requirements to call the Federal Government and get their OK before we can hire somebody. That is wrong. There are clearly going to be errors in this system.

There was an L.A. Times article, and this was previously mentioned, that estimated the Social Security department had estimated that there would be 20-percent error rates. Then they said that would be early on. Then it would likely back off to, say, 5 percent. The Social Security Administration has indicated they really do not know what the error rate would be at this point. Even if it is 1 percent, we are talking about hundreds of thousands of

American citizens that are going to get caught up in this system. They have to verify that, yes, indeed, they are employable, who could conceivably lose their jobs and have their lives put on hold if there are mistakes.

I know in our office we have dealt many times with people in my community that have problems with the IRS where they have made mistakes, with the Social Security that has made mistakes, with Veterans that has made mistakes. In this debate, the previous debate, I have heard my name pronounced Cabot, Chabot, Chaboy, just about every name one can think of. I am dead meat in this system, you know, if it were pronunciation and the spellings. We have got the gentlewoman from Florida [Ms. ROS-LEHTINEN], we have the gentleman from California [Mr. RADANOVICH]; there is the spellings. All you have to do is have one letter that is thrown off, and you are caught up in the system. It is going to be a nightmare for these people.

Mr. Chairman, I would like to read from something here that we got from the NFIB. This is what the NFIB sent out on this. It says:

> On behalf of the more than 600,000 members of the National Federation of Independent Business, the NFIB, I urge you to oppose the Gallegly amendment which would mandate that employers in at least five of the seven States with the highest illegal immigrant population call a 1–800 number to verify every new hire's work eligibility. This amendment will be offered, et cetera.

Small businesses across this country have sent a strong message time and time again that they do not want any more government one-size-fits-all mandates coming from Washington. In fact, a recent survey found that 62 percent of NFIB members oppose being required to call a 1–800 number for every new hire.

Please let small business owners know we hear their pleas for less government requirement and that it is not Washington as usual. Vote no on the Gallegly amendment.

Again, we lost on the so-called voluntary, but this is not voluntary anymore. This is clearly mandatory and it is clearly wrong, and for that reason, we strongly oppose this.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, as Members will see as the debate goes on, there is strong bipartisan support as evidenced by our next speaker.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of the Gallegly amendment. I want to answer the question why. The question we simply have to ask over and over is, do we have an illegal immigration problem or do we not? If Members answer as I do, we do, then this amendment makes sense.

Mr. Chairman, our amendment would create a pilot program in five of the seven States with the highest populations of illegal aliens to test a mandatory worker verification system. The system is simple: An employer makes an inquiry through a toll-free 1–800 number, a toll-free facsimile number, or other electronic media to confirm whether an individual is authorized to be employed in the United States.

This system will protect employers from civil and criminal liability for any action taken in good faith reliance on information provided through the worker verification system.

For those who believe this amendment is antibusiness, I could not disagree more. While much has been made about this being a mandate on employers, it will actually protect business men and women from harsh employer sanctions. Currently, hardworking, honest business people can do everything they are supposed to and still be held liable for unknowingly hiring an illegal alien. In addition, it will reduce the current burden on employers to be INS experts on fraudulent documents.

Currently, there are a list of 29 documents that can be used for employment verification. Fortunately, H.R. 2202 reduces this number to six. However, counterfeiters have proven quite adept at tampering with or reproducing most of our identification documents. We cannot expect the business men and women in this country to be INS investigators or experts on fraudulent documents. We must provide them with the manageable and affordable tools necessary to comply with the law. It would be irresponsible of us not to provide American employers with this type of support.

Under current law, an employer is required to see two forms of identification and fill out the I–9 form. An employer can comply with this and still unknowingly hire an illegal alien who presented fraudulent documentation. This employer can face thousands of dollars in fines from employer sanctions even though they followed the correct procedure for verifying eligibility. Their only mistake is not being able to detect counterfeit identification.

The unfortunate consequence of this uncertainty under our current system, is that an employer may not want to take a chance on hiring an individual with a foreign sounding name or appearance for fear of hiring an illegal alien. Because this amendment requires the employer to verify eligibility for every employee, it removes the incentive for employers to treat applicants differently because of their appearance or surname.

While I do not believe this is the perfect fix to our illegal immigration problem, I do believe that it takes a big step in the right direction. A pilot project, try it, test it, experiment with it, see what works, see what does not work. Junk that does not work, but try it before we mandate it nationwide, but a voluntary system, as has been said, will not work. I also believe that we are going to have to address the counterfeiting of breeder documents, such as birth certificates, to insure that an employee is eligible to work.

Without a worker verification system in place with adequate resources, we will not be able to put a dent in our illegal immigration problem. I urge my colleagues to support employers and oppose illegal immigration by voting for the Gallegly-Bilbray-Seastrand-Stenholm-Beilenson-Frank amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, it is interesting to find out how many Members of Congress understand what business wants and needs and what they know is best for business. Yet when we get the reports and the letters and the calls from business organizations, they are saying just the opposite. They say they do not want it.

They do not want it. They do not want it even if we think they want it. They do not want it if we think they need it. They do not want it if we think that it is good for them, even if they do not know that they would be better off for it. The do not want it.

Do my colleagues get it? The business community has spoken on this pretty clearly, and yet Member after Member, in support of the Gallegly amendment, explains to us how much better off business will be and how they will learn to love this as soon as they try it and let us give it a chance.

By the way, forget voluntary. Let us go to mandatory right now. The next amendment that might be up, if it could be made in order, is to make it nationwide. I mean, why wait for a few months? Let us do it tonight, tonight, tomorrow.

Mr. Chairman, we know what business needs. We know, whether they like it or not, it is going to be good for them. The problem has been revealed by the previous speaker, the gentleman from Texas. It is that they are forging all the documents on which we are going to base the phone call a mile a minute. That is why the phone call is going to be no more worth the document than it was based upon. That document may likely well be fraudulent.

Do we not see, mandatory programs like this are not going to work. Stepping on people's rights and trying to make class distinctions within our society is not a good way to go.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I want to compliment Members on both sides of this issue. We have remained on the issues and people have spoken, no matter how strongly they feel, and remained on the issues. Most of this debate has dwelt on those issues. Even though those feelings are strong in many cases, they have remained that, and I think that is where we want this floor to remain most of the time. I would say all the time.

That working environment was degraded when the gentleman from Texas [Mr. BRYANT] personally attacked the Speaker of the House. The Speaker, like the gentleman from Texas [Mr. STENHOLM], went point by point by point on his issues and spoke only to the issues of the Gallegly amendment. Then when the gentleman from Texas [Mr. BRYANT], attacked the Speaker, got into personal references, I think that was wrong. I would say to my friend that it is uncharacteristic of him and I know him as a friend, and I say this because myself, I have lost my temper on the House floor and I have done very similar things. But I think when we chastise the position of the Speaker, which this Gallegly amendment was overwhelmingly passed, we chastise the motive of the rest of us. When over 60 percent of my voters in California support that position, I think that was wrong.

Mr. Chairman, I say that with the intention that I have done the same thing, and I think in this particular case it does disservice to what we are trying to do, and I just think it was wrong.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wanted to quote from the Employers for Responsible Immigration Reform, and what they state in their correspondence to us is that fully one-third of the Nation would be required to participate in the creation of a huge new Federal bureaucracy. Furthermore, there is no evidence to suggest that this system will work. They oppose the Federal mandate under the Gallegly-Stenholm-Seastrand-Bilbray-Stenholm amendment.

I would just like to list a number of these business groups, because it has been stated in here that business wants this particular amendment.

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Those who oppose this amendment, among them are the American Association of Nurserymen, the American Hotel and Motel Association, the American Meat Institute, the Associated Landscape Contractors of America, Associated Builders and Contractors, Associated General Contractors, the College and University Personnel Association, the Food Marketing Institute, the International Association of Amusement Parks and Attractions, the International Foodservice Distributors Association, the National-American Wholesalers Grocers' Association, the National Association of Beverage Retailers, National Association of Convenience Stores, the National Federation of Independent Business, who in the last particular amendment took essentially a neutral position, not opposing nor endorsing the amendment that we took up before, but they oppose this amendment; the National Retail Federation, the Society for Human Resource Management, the National Retail Federation, the Christian Coalition, the Citizens for Sound Economy, Small Business Survival Committee, the American Civil Liberties Union, Concerned Women for America, National Center for Home Education, the American Bar Association, Eagle Forum, U.S. Catholic Conference, and on, and on, and on, and there are other groups that I did not have time to read.

But this is a bad amendment. For that reason we oppose it.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLEGLY. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I think really what I hear here is a different perception of the immigration issue, and to try to sensitize this institution to the fact of the level of concern we should have about this immigration issue, let me just show my colleagues the different perspective.

All over America, when people drive down a highway, this is what they see, and I am sure many of my colleagues, that is what they see in their neighborhoods. But let me show my colleagues what the people of California see and people around the border see, and this is 70–80 miles north of the border. This is the kind of thing that we are confronted with, with absurdity. CalTrans from California was kind enough to send this sign to try to sensitize my colleagues to the fact that Washington must wake up and address this absurd, immoral situation.

Mr. Chairman, people are being slaughtered on our freeways because Washington needs to address this issue and has been ignoring it. Mr. Chairman, this amendment makes it possible for us to try to address the reason why people are coming here: Jobs. Jobs are what are drawing them across our freeways and being killed and slaughtered. The fact is this amendment will finally address the issue in the least intrusive way of addressing the issue of trying to keep people from hiring people who are not qualified.

Mr. Chairman, there may be those who think that this is a bad idea, but ask those who know that are affected. The Chamber of Commerce of California supports this amendment because they know. They have the reality of today of illegal immigration. They are not sitting in some insulated place, way off away from the problem. They know the problem, and they want this amendment.

I would ask my colleagues to recognize that those who are against the national ID system should support this amendment. It is the least intrusive alternative to a national ID card.

And those of my colleagues who say that they support the concepts of business, small business, more than any other segment of our society, uses telephonic, and listen to this. Of any part of society, small business is using telephonic verification now and has developed a dependency on it for business more than anyone else.

All we are saying is let us learn from business, and Government should learn to use technology for the benefit of our society, just as the private sector is, and we should use technology for the benefit of protecting our citizens and noncitizens, and their freedoms and liberties.

So support this amendment. It is the best nonintrusive, efficient way to be able to get the job done.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT] for defensive remarks.

Mr. BRYANT of Texas. Mr. Chairman, I regret that the gentleman from California [Mr. CUNNINGHAM], made remarks which apparently the Speaker sent him in here to make, and then he left. I do not see him anywhere. I also regret that they would bother to take time in the debate to come and make remarks like that. That is patently absurd.

I will say this. I will just reiterate what I said before. This reminds me a little bit of the lobby bill in 1994. We worked for a 2-year period trying to put that bill together. It was a totally bipartisan effort until the last minute when the Speaker, now Speaker, sensed the possibility of political advantage and came in at the last minute, blind sided us, and opposed it and tried to kill it. Mr. Chairman, we overcame it.

Today, once again we worked for two, virtually a year and a half now, trying to put together an immigration bill everybody can be for. There are two dealbreakers in it; one is this on education, and one is the deal on hospitals. And then the Speaker of the House, unable to resist political opportunity, comes to the floor, the Speaker of the House comes to the floor and makes a speech about this one amendment and talks about liberals this and about how we have these evil illegal aliens that are taking away our children's education and so forth.

It was, in my view, a performance beneath the rank of the Speaker. It was, in my view, a performance designed to make this into a political opportunity instead of a bipartisan bill, and he may have succeeded. It is a shame.

Mr. Chairman, I think that passionate objection to his action was clearly warranted. I regret very much the mischaracterizations by the gentleman from California [Mr. CUNNINGHAM], no doubt probably calculated by some speech writer in the Speaker's office of anybody out here losing their temper. I have not seen anybody lose their temper today, but I have been willing to stand apart and say, "You know, Mr. SMITH and I worked a long time to put this bill together to make it work, and along comes the Speaker of the House and basically tries to bring us down to the lowest common denominator."

Do my colleagues know why what I am saying is true? Because these guys over here whipped that amendment, they whipped it hard to make sure that they would win, to make sure they would have a political issue, not a bill, not a new policy for the public, but an issue, and with that kind of leadership on their side and with that guy in charge of the House of Representatives, I submit to my colleagues I think the public is not long going to be on their side. I regret it.

Mr. GALLEGLY. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. GALLEGLY. Mr. Chairman, as the gentleman knows, I have great personal respect for our relationship. We have worked hand in hand on the issue of illegal immigration for many years.

But I think the gentleman would be the first to yield to the fact that this is an issue that I have worked very hard for a long, long time without any partisan involvement at all. It is a philosophical issue that I have a tremendous passion for, that I think affects all Americans. I think that is one of the reasons that we saw a fairly significant number of Democrats that voted for that as well.

Mr. BRYANT of Texas. Reclaiming my time, I agree with everything the gentleman said, except I want to make very clear to him that it was made clear in the very beginning there were a couple of issues along the way that would derail this bill and get it vetoed and cause a bunch of us to feel like we could not continue to support it. And those two were brought up today, and one failed and one passed. The gentleman's passed. The gentleman has been consistent from the very beginning.

The fact that the Speaker of the House came down here and made the kind of speech that he did, in my view, brought a bill that really was bipartisan down to a very partisan level and was not, in my view, fitting of the office of the Speaker of the House, and I——

Mr. GALLEGLY. If the gentleman would further yield, I would hope that he would still consider strongly supporting the bill, in the final analysis, that he has worked so hard on, like so many others of us have.

Mr. BRYANT of Texas. I would like to. I just hope my colleagues do not make it any worse.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Today we are offering this amendment that would call, and I want to underline this, for a 3-year mandatory pilot program in 5 of 7 States: California, Arizona, Texas, Florida, New York, Illinois, and New Jersey. And these States are most impacted by illegal immigration.

As is pointed out, this amendment simply is going to put back into the bill the original language that was passed by the House Committee on the Judiciary.

Now, I want to stress that the requirement that illegal aliens be verified for work eligibility is crucial to true immigration reform. I want to repeat that this does not establish a national ID card or even a system by which a worker can be tracked throughout their career.

This amendment does none of the following: It does not require any new data to be supplied by the employee. It does not require any new personal information on the employee. It does not create a new Government data base. It is a pilot program that cannot be expanded into a national program without a specific vote by this House.

I think anyone who has watched my voting record would agree that I am opposed to any Government intrusion, and this is a simple way to keep American jobs by people that come here legally.

Mr. CHABOT. Mr. Chairman, I yield myself such time as I might consume.

If a citizen is not approved to work, and that is really what this is all about here, is what the committee report says happens. And I would like to read from the committee's own report. If he or she wishes to contest this finding, secondary verification will be undertaken. Secondary verification is an expedited procedure set up to confirm the validity of information contained in the Government data bases. Under this process, the new hire will typically contact or visit the Social Security Administration and/or the INS. The employee has 10 days to reconcile the discrepancy. If the discrepancy is not reconciled by the end of this period, the employer must then dismiss the new hire as being ineligible to work in the United States. I find that to be very objectionable; in fact, outrageous.

It is the individual employee, the individual American, that is the person who is really going to be hurt in this. The individual innocent American employee gets caught up in the mess because perhaps they used a maiden name or perhaps there was a typo or one of the numbers was typed in wrong or whatever.

As I mentioned earlier today, we had a situation in my district where for 4 months they still have not been able to clear up the Social Security, the fact that they are married and ought to have a married name on there.

What we also heard earlier referred to today is that it took 8 months to prove to Social Security that one particular woman was not dead. That is the proof she was not dead 8 months, and they still have not cleared it up. So that is the type of problem we got with this, and this particular person could be an American citizen, perfectly legal, has 10 days to clear it up, or they are out of work. And that is not the way it should be in this country.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in opposition to this amendment. Mr. Chairman, there are a number of groups who oppose this amendment. Among them are Americans for Tax Reform, the ACLU, the Small Business Survival Committee, the National Retail Federation, Empower America, Citizens for a Sound Economy, NFIB, and the Food Marketing Institute.

Mr. Chairman, I wholeheartedly agree with Grover Norquist, who is the president of Americans for Tax Reform, when he said, whether voluntary or mandatory, employment verification represents an enormous intrusion by the Federal Government into the rights of individuals.

The debate should not be over what type of employment verification systems we have but whether we really have an employment verification system at all. I realize, living in Idaho, that we have problems with illegal immigration, but let us not reach so far that we violate our own civil rights.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BEILENSON], who is from the San Fernando Valley and parts of Ventura County.

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Mr. BEILENSON. Mr. Chairman, I am not a member of any of those fine groups that either the gentleman from Ohio [Mr. CHABOT], or the gentlewoman from Idaho [Mrs. CHENOWETH], mentioned, so I am free, apparently, to rise in strong support of this amendment.

If we are serious about stopping illegal immigration, then we must provide a sound method for employers to find out if prospective employees are legally authorized to work in the United States. Otherwise, it would be virtually impossible to enforce the existing law against hiring.

The telephone verification system included in the bill, provides a very promising way for employers to easily determine whether a prospective employee is legally authorized to work. It was, as Members know, one of the key recommendations of the Jordan Commission, which did an extremely thorough and creditable job of producing very reasonable recommendations for regaining control over our Nation's immigration system.

But for the telephone verification system to work, it has to be mandatory rather than voluntary in the States where it would be tried on an experimental basis. If it is not, those employers who intend to flout the law will obviously not participate in the system, and the INS will have no way of determining whether the system is actually working.

The Committee on the Judiciary, as Members again were reminded, recognizes the importance of making this system mandatory. Unfortunately, the Committee on Rules changed the system to a voluntary one, to some of us who serve on that committee in what was an egregious example of overreaching by our own committee, in disregard for the deliberative process of the committee of jurisdiction.

This portion of the bill should now be restored to the form it was in when it was approved by the Committee on the Judiciary. Employers should welcome this telephone verification system, since it would give them a simple, reliable way of determining who is legally authorized to work here and who is not. Right now they do not have a sound and dependable way to do that because we failed to provide any such method when Congress enacted employer sanctions as part of the Immigration Reform Control Act of 1986.

Mr. Chairman, much is being said about the potential for governmental intrusiveness in hiring practices that would result from this new system. Nothing could be further from the truth. All this verification system does is to provide a way for us to finally enforce the existing 10-year-old law against hiring illegal immigrants and for employers to be able to confirm that they are in fact obeying the law.

The only people who will experience any negative effects are the people who should feel those effects, employers who are breaking the law by deliberately hiring illegal immigrants, and immigrants who are breaking the law by trying to get a job here when it is illegal for them to do so.

Mr. Chairman, I urge our colleagues to support this very important amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, illegal immigrants are from all over the world. They are not just from South America, they are from Asia, they are from Europe, they are from Russia. One thing they all have in common, they mostly want a job.

As an employer, you have certain responsibilities in this country. One of those responsibilities is to fill out an I-9 form. That has given employers a cover, because once you have that I-9 form in the personnel jacket, along with two pieces of identification, along with that Social Security card, in every case, if the INS comes into your establishment and you have met that criteria, even though you have a great number of illegals working in that business, you are not held accountable for that, because there is no way for you to verify whether or not a Social Security card is a fraudulent document.

This is all that does. It gives an opportunity for an employer to call a number and check a name to a number. This is a system that we must have, and quite frankly, if it is a voluntary system, those people that are not very good employers and who are knowingly hiring illegals are going to continue to do so.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California, Mr. ESTEBAN TORRES, who has a great deal of experience in this matter.

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California. The amendment would take a Federal employer verification system to new Orwellian heights. For the past hour we have debated the merits of a voluntary employer verification system. The amendment before us would require every employer, in at least five States, to call a toll-free number to verify the name and Social Security number of every new hire.

You can be sure that these States won't be Rhode Island, Delaware, Montana, Alaska, and North Dakota.

No, the States will likely include New York, California, Texas, and Florida—or nearly half the population of this country.

From a small business standpoint, this amendment piles on more bureaucratic redtape and more costly reporting requirements. The INS estimates that the compliance cost per employer will be at least $5,000.

If this amendment is enacted there is no guarantee that the Federal Government could handle even a small percentage of those employers mandated to use the Big Brother system. Not only would we have problems with compliance, there is no guarantee that the system would approach any level of useful accuracy.

The current data base upon which the system would be based is grossly unreliable and would cause citizens and legal residents to be denied employment. Experts estimate that 20 out of every 100 legal job applicants would be denied jobs under this flawed system.

And the price tag for this gargantuan Big Brother computer verification system would sink us even deeper in red ink.

We can't even afford to pay the INS to keep up with its current workload, much less pay for a giant new system. And in the end, even if all these problems could be resolved, nothing, I repeat, nothing in this Big Brother verification system will prevent the black market from selling stolen Social Security numbers. Nor will it prevent a situation like the sweatshop owner in El Monte, CA, who deliberately broke the law and hired undocumented workers.

The Big Brother approach will serve only to impose new requirements on businesses that are already complying with the law and do nothing to punish those that are not.

Let us not forget the basic principle that makes this country great: Freedom. Let us not be tempted to rule our citizens through an identification card. This is a terrible amendment and I ask you to vote no.

Mr. GALLEGLY. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I will begin by stipulating that I do not purport to represent business here. I understand that a lot of businesses do not like this amendment. A lot of businesses, unfortunately, like to hire people who are here illegally. They find them easily exploitable. That is why there was, for many in the business community, opposition to what is really the central point here, whether or not we have employer sanctions.

In fact, during this debate people have been blaming a verification system, when in most cases they should have been complaining about sanctions. It is logical to say we should not have employer sanctions. Understand that that is a decision we made in 1986. We said, and by the way, people should understand, there is a universal recognition here in this debate that people come to this country, whether legally or illegally, to get jobs. We recognize that. That is the magnet. It is not illegal welfare, and so forth, it is jobs.

We have said that when people come here illegally and get jobs, they jeopardize our ability to maintain rules and laws that maintain occupational safety and health, minimum wages, et cetera. When you are here illegally, you cannot claim your rights.

In 1986, this is when business got the mandate. In 1986 Ronald Reagan signed the law that said, "You cannot hire people who are here illegally." It set up the verification system. That was set up in 1986. The difference now is that we believe we have a more rational verification system. The current system gives a whole bunch of documents that can be used. That is where you get counterfeiting. That is where you get inconsistency in who is asked and who is not.

What we are saying is that given we have sanctions, and nobody has moved to repeal them, given that the employer is responsible for verification, and nobody has moved to repeal that, then the only question is what is a more efficient way to do it. We are saying that the most efficient way, the fairest way, is to say, not that you single out anybody, that is just a nonsensical argument, but this in fact says everybody who comes in must be verified. We have a 10-day period to catch up.

No, I do not believe 20 percent of the American people are unfairly identified as illegal aliens. That is an exaggerated figure. We also have in here 10 days in which you can straighten it out. I believe my office can help people prove that they are here legally.

Then we are told, "But it is going to interfere with privacy." We have had a lot of inconsistencies here today. My favorite are the people who think that asking people to prove that they are here legally is an invasion of their privacy, but checking their urine is not, because we have people who have been for drug testing, mandatory drug testing, and they have imposed that on people, but no, we cannot ask people whether or not they are here legally.

Now we have the question, "Well, would the government abuse it?" I understand some of my friends on the left who, I think, are unduly suspicious here, because I think it is in the interests of working people to have a good verification system. On the right, I guess we are dealing in part with the Republican wing that we were told on the floor of the House trusts Hamas more than the American Government. Maybe we can pick up a couple of votes if we subcontracted this out to Hamas, but I do not think they are here legally, so they could not work for us, fortunately.

What we are talking about is efficiency. We have on the books the sanction system. If Members do not like it, they should be moving to repeal sanctions. We have on the books a requirement that we verify that you are here, but with a lot of documents in an inconsistent way. This is the most logical way to carry out the existing legal requirements.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], chairman of the subcommittee.

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from California [Mr. GALLEGLY], and appreciate his leadership on this issue.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I rise in strong support of this amendment, because it is a pro-small-business amendment. If we look at our State of California, California's Chamber of Commerce has come out in support of this. Many of the people who are opposing this amendment claim that they understand the small business sector of our economy. The author of the amendment, the gentleman from California [Mr. GALLEGLY], has been, throughout his entire lifetime, adult lifetime, a small-business man, up until he joined this distinguished body a decade ago.

Mr. Chairman, I have been involved in businesses myself before I came here, and I still am. Quite frankly, I believe if we look at the issue of employer sanctions, which my friend, the gentleman from Massachusetts was just discussing, there were many of us who opposed the employer sanctions provision, believing that we should not force those employers to be responsible for what clearly is a Federal issue. They should welcome the prospect of having this process of verification, which is easier than going and expending $10 at a K-Mart store.

Quite frankly, Mr. Chairman, we should join in a bipartisan way supporting the Gallegly amendment. I urge my colleagues to do that.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would only close our debate on this amendment in opposition to it by pointing out that we have gone from voluntary to mandatory. Maybe next month we will hit nationwide. We are up to 3 years and counting. But do not worry about it. The wonderful patronizing statements of my colleagues, who are my friends, that tell us that employees should welcome this telephone verification system, one Member went as far as to suggest that one reason they might not welcome it is because they themselves support illegal immigration. I do not think that is a fair canard. I do not think it is the thing we should be saying about these business associations.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we have heard some very interesting debates here today. I support this amendment because I think it is a common-sense amendment. I would like to tell the Members why I think it is good common sense. On the one hand, we have a system in which we as taxpayers spend millions of dollars, hire tens of thousands of employees, to maintain a Social Security system that is designed to have records that relate to employment and records that relate to your contributions as an employee into the system. We also have tens of thousands of people and spend millions of dollars trying to put in place a system that will verify those who are legally in our country, and we have purposes in doing so.

On the other hand, we have hundreds of thousands of people who are illegally in our country who are likewise spending, probably, millions of dollars trying to duplicate and reproduce the same kinds of documents that those that are employed by the taxpayers are also doing. Then we have the employer in the middle, and the employer, because of the way our system operates, is faced with an individual standing in front of him, presenting him with documents. He does not know whether they are produced by the legal system or by the illegal system.

Yet the employer says, "Well, if I am a taxpayer paying for the legal system to be in place, whey can I not just ask that system to tell me if these are true or forged documents?" And the system does not allow him to do so. That, to me, makes no common sense at all. If we are going to make the employer the enforcer, we ought not to put him in a position of simply saying, "We are going to send the INS into your office, and if you did not have the right documents there, then gotcha."

We all know, "Don't ask, don't tell." I say that this is a system of "Do ask, do tell." We ought to ask, as an employer, and as the Government, we ought to tell whether or not these are in the one category of legal documents, or in the other category of illegal documents. Mr. Chairman, I urge support of the amendment.

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Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first of all want to make very clear that those of us that oppose this amendment do very much want to crack down on illegal immigration.

There are many things which I support. I supported the Tate amendment which basically stated that if, for example, somebody does try to come into this country illegally, they will then not be able to come into this country legally at some later time, so do not even bother to try to come in again. One-strike-and-you're-out. I think that is good policy. Harsh, tough, but I think it is good.

I also very strongly support eliminating welfare as a magnet. We have got too many American citizens, I believe, on welfare in this country right now. I think we ought to completely overhaul the welfare system. We have got far too many people that ought to be supporting themselves and their own kids that are American citizens right now. But unfortunately we have got people coming into this country because welfare is too often a magnet. I do not think welfare ought to be given to illegal aliens.

There are many things. We ought to beef up the patrols on our borders to keep illegal aliens out. But to have one more requirement on American businesses to call the government before they hire somebody or right after they hire somebody and clear everything up within 10 days, I think that is the wrong way to go.

Malcolm Wallop, for example, a former Senator from Wyoming for whom I have a tremendous amount of respect said, "This is one of the most intrusive government programs that America has ever seen."

The Wall Street Journal called this system odious. The Washington Times asked, "Since when did Americans have to ask the government's permission to work?"

The National Retail Federation said, "It's yet another Federal Government mandate on business and we're trying to get rid of government mandates." This is a government mandate in essence that would require every American to get the government's OK to work in this country. It should not be that way.

Many of us believe very strongly that we were sent here to lessen the intrusiveness of the Federal Government in their lives. This goes in just the opposite direction. It runs against the grain of many of us who are trying to reduce Federal involvement in our life.

That is the reason I oppose this amendment. Also, it is not going to work. As I stated before, the bad guys that are hiring illegal aliens now, they are not going to call the number. So it is not going to work. It is just more government. We ought to oppose it.

Mr. GALLEGLY. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, the previous remarks highlight the disconnect between reality and what the opponents are saying. There is now on the books such a mandate. The gentleman acts as if this amendment would create it.

The law now says, and has for 10 years, that you must show to the employer that you are legally entitled to work in the United States. Employers are legally at risk. If they fail to ask and it turns out they have hired someone who is not legally entitled to work, they are at risk.

I do not understand this argument. If you want to abolish sanctions, okay, but you cannot argue that this amendment creates an obligation which we have had for 10 years. I would point out, by the way, that it is so onerous an obligation that most people apparently do not even realize we have it.

Mr. GALLEGLY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I support the Gallegly amendment, although in a conference committee I want to make sure, if this bill reaches a conference committee, that what he is proposing here is truly feasible. But I would like to just go construct my notions of why I think this is important.

No one in this House, as far as I know it, is in favor of illegal immigration. There are some people who believe in open borders, but I have not heard anyone in this House ever articulate that.

Now the issue is, are we going to stop with border enforcement, or are we going to have some interior enforcement? I am sorry to say that my friends in the majority do not seem to want to put a lot of resources into investigating industries that historically recruit undocumented workers, but now we have the question of the employment. As the gentleman from Massachusetts [Mr. FRANK] has just mentioned, employer sanctions were established to make it illegal to hire someone who is not here legally.

The voluntary program now in the bill has none of the privacy protections, none of the discrimination protections, none of the protections against mistakes that the Gallegly amendment has. The Gallegly amendment says if this system wrongfully terminates a person from a job, they have a remedy to recover their lost compensation. The Gallegly amendment provides for testers which can go out and make sure that any employer is doing this across the board as to all of his employees, not just the ones who might have a foreign accent.

It has the protections, it deals with the issue of making sanctions enforceable, and the only question now for me which I hope to learn about in the months ahead as we deal with this legislation is, is it feasible? I am not sure it is, but I think we should give this approach a boost because it is the right approach, at least in concept.

I urge an "aye" vote.

Mr. GALLEGLY. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I am rising here today to support the Gallegly amendment. If things are going to be made illegal, we have to provide the means of enforcing that decision. Otherwise we are just philosophizing. Our voters did not send us here to sit down and talk together about ideas. They wanted us to change the way things are in the United States.

It is not enough to say you are against illegal immigrants flooding into our country. You have got to be able to do something about it, or that is not what your public life is all about. We are not here to philosophize with one another. We are here to try to solve a problem.

In California and elsewhere, we have a mammoth tide, a wave of illegal immigration, sweeping across our country. We should give the people the tools to make sure that those illegal immigrants when they come here are not the recipients of workers' comp, unemployment insurance, Social Security, and all the other government benefits that go with being employed in this country.

The fact is that we have made it illegal for an employer to hire these people. Otherwise, let us just take off that ban. If you want to take off that ban, that is fine. Or, if you want to say it is legal for illegal immigrants to get government benefits, fine, make that your position.

But do not tell the American people you are against illegal immigration if you are trying to undercut every single attempt that is being made to try to enforce that decision. We are here not to just philosophize, we are here to solve problems and get things done. Please take your heads out of the clouds and make sure your feet are on the ground.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in support of the Gallegly amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this amendment. I would like to thank the three sponsors from California for their commitment to seeing that we put this mandatory pilot program back into the bill—a commitment which they know I strongly share.

I strongly believe that we cannot accurately claim that these are effective and efficient reforms without this amendment. And, above all, I urge that the business community recognize its responsibilities and that they become part of the solution and not part of the problem.

As we all know, the original bill, as passed by the Judiciary Committee, contained this mandatory pilot program. Its purpose is to make it easier for employers who continue to struggle understanding the enforcement and eligibility requirements of the Immigration Reform and Control Act of 1986 [IRCA].

Under IRCA, employer sanctions are imposed on any employer who knowingly hires an illegal alien unauthorized to work in the United States. Employers are required to verify worker eligibility and identity by examining up to 29 documents and completing an INS I-9 form. In enforcing these measures, employers are allowed a good faith defense and are not liable for verifying the validity of any documents, but instead are only responsible for determining if the documents appear to be genuine.

Unfortunately, between the proliferation of fraudulent documents, and the overconcern of INS with sanctioning employers for paperwork violations, such as incorrectly completing I–9 forms, little has been done to catch unauthorized/illegal workers.

Mr. Chairman, opponents of the pilot program claim that it will become a big brother program giving the Federal Government the sole power to decide who will work for an employer. This is just not true. It seems to me that this argument is being used more and more liberally every time it is perceived by some that the Federal Government is overstepping its powers when it clearly isn't.

Furthermore, opponents claim to fear that mistakes made by the computer data base could either be used against an employer as evidence of hiring an illegal alien or could be used against a prospective employee as evidence of discrimination. Well, come on my colleagues. This is a weak argument that no one would deny, and an easy one to use as justification for opposing the pilot program.

Even without computer verification, these same problems still persist because of paperwork/administrative mistakes. With increasing uses of computer technology in all public and private sectors, this is a real problem that we deal with every day and will continue to deal with every day in the future. The bottom line is that there are always going to be computer errors and data entry mistakes. Should we therefore pass a blanket prohibition on computers in the workplace? I think not.

In fact, Mr. Chairman, under this program an employer is provided with a good faith defense similar to that provided under IRCA, shielding him from liability based on the confirmation number he receives after verifying an employee's Social Security number. And, if an employee is not offered a position because of an informational error which cannot be resolved within a 10-day period, then he is entitled to compensation under existing Federal law.

The success of phone verification has been proven in southern California which has in place a similar pilot program that began with 220 employers. After 2,500 separate verifications and a 99.9-percent rate of effectiveness, it is now being used by almost 1,000 businesses.

Mr. Chairman, the purpose of the mandatory pilot program is to make it easier for employers to verify the work eligibility of prospective employees. It will help to prevent confusion over documents and alleviate concerns about hiring/not hiring someone who looks like he is illegal. It is in the direct benefit and interest of all employers because it will help to eradicate all of the fears, uncertainties, and arbitrary sanctions that employers have complained about for the past 10 years.

At the same time, just as we require legal and illegal aliens to comply with the law, so too must employers. This program will also hold employers accountable for their hiring decisions. By this I mean that unscrupulous employers could no longer get away with knowingly employing illegal aliens because they would have to verify their work eligibility.

And, my friends, this is the end to the means for the 400,000 illegal aliens who enter our country every year. As long as the jobs are there, and someone is willing to hire them to do the work, they will always keep coming.

Reducing the number of allowable documents from 29 to 6 and increasing by 500 the number of INS employment inspectors, which this bill does, is a strong step in the right direction. But, it is not enough.

This is another commonsense amendment, and one that should be supported by everyone, including the business community.

Therefore, I urge all of my colleagues to show their support for a simpler yet more complete employer verification system by voting for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, the claim that this amendment intrudes on our civil rights is a bogus argument. We see people in the grocery lines, at the cash register, and we never hear them complain about having to have calls made to verify their checks before they can take their groceries home. We cannot tighten up the enforcement of employer sanctions, which we are requiring and asking to be done, and then not give the employers a chance to be assured that they are hiring legally.

Most of my employers, which really employ a good deal of the alien labor pool, both legal and illegal, are begging for a chance to verify their legality. They want to be legal. It would be a shame not to allow them a system that would give them the verification that they are hiring appropriately and legally. I strongly urge a "yes" vote on the Gallegly amendment.

I rise in support of the Gallegly-Bilbray-Seastrand-Stenholm amendment which would make the employer verification pilot program mandatory.

Since I first became a Member of Congress, I have worked to put an end to the illegal immigration problem that has plagued my district, my State of California and now the Nation. Quite frankly, I have found that there are two compelling reasons that pull illegal immigrants to our country. One is the wide range of Federal benefits our country has to offer. This is being taken care of by this bill.

The second is the lure of jobs. Requiring all employers in a pilot project State to make a simple call to verify the eligibility of a new hire will put an end to the lure of jobs for illegals. A voluntary system is simply inadequate. A voluntary system allows likely illegal immigrants to believe that a job waits for them on the other side of the border. Perhaps their employer will not check. We send illegal immigrants a far stronger message if they know all employers will be checking their status. No job waits for you on the other side.

Our current system of determining whether a person applying for work is legal or illegal is lacking. In fact, it is so unbelievably easy to obtain false documentation in California, that employers are at a high risk of hiring illegals without even knowing it. A mandatory employer verification system will protect innocent employers from hiring illegals with false documentation.

Mr. Chairman, this amendment will protect employers and destroy the job magnet that brings illegal immigrants into our country. It is a pilot project that will be tested for only 3 years. If it does not work, Congress will have the ability to revamp it or cancel it completely. However, only by making it mandatory, will we be able to ensure that the employer verification pilot program will work as it is intended.

I urge my colleagues to vote for this amendment.

Mr. GALLEGLY. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, the American people need to support this amendment. We need to support it. It is shameful that we would bend to the special interests and not vote for the Gallegly amendment. I fully support it.

Mr. Chairman, the American people elected a Republican majority in 1994 to end politics as usual and accomplish real reform. Without the Gallegly mandatory verification amendment, this bill is another example of do-nothing, special-interest business as usual in Washington.

Illegal immigrants come here for jobs. If we are serious about stopping illegal immigration, we need to make it impossible for illegal aliens to get jobs. Only a mandatory system in States most affected by illegal immigration would achieve that. Not enough employers would verify their employees' eligibility without one.

Stand up to the special interests. Vote for the Gallegly mandatory verification amendment.

Mr. GALLEGLY. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I strongly support the Gallegly-Bilbray amendment to create a mandatory pilot program. We need a driver's license to board an airplane. We need identification with a credit card or a check.

This is not big brother. This is enforcing laws. Some of our own legal residents have found there are errors in their Social Security numbers. They have found payments being made to other people's accounts after 5 years.

This system will not only deter illegal immigration but will help perfect our own domestic work force. It is not onerous. It is not burdensome. Employers universally will call past employers to find out about backgrounds, past landlords to find out about the worthiness of the employee. We are asking a simple step.

How many people in this audience use the 1–800 number to find out about their check balances, the last five checks cashed, the last five deposits? It takes 15 to 20 seconds. It is not a difficult process. Anyone can do it. It is not complicated. It will ensure that we are not hiring illegal employees.

Mr. GALLEGLY. Mr. Chairman, I yield myself the balance of my time.

In closing, I would like to say that I have spent the overwhelming majority of my adult life as a small business person. This is the reason right here that we need a verification system. This is a counterfeit document that will meet the employer sanction requirements that a person can pick up on almost any street corner in any major city for about $30.

Let us bring some sanity to this debate. Let us stop the flow of illegal immigrants coming into this country for easy access to jobs, protect American workers, and protect this country from more illegal immigration. I would ask the strong support of the Gallegly amendment for mandatory verification.

Mr. RADANOVICH. Mr. Chairman, my vote for the Gallegly-Bilbray-Seastrand amendment will be cast for three reasons:

First, it should not be the employer's burden to decide whether work permission documents are real or phony.

Second, the guest worker program for agriculture, which I shall support when it is brought up later in this debate, will work better with 800 number verification.

Third, finally—and most importantly—I am committed to immigration reform, especially putting a stop to illegal immigration.

U.S. borders are breached by those looking for work here.

American employers should be able to pick up the phone and quickly and accurately determine whether an applicant is legally entitled to work. Those who aren't won't be hired. They'll have little reason to stay, and there'll be reduced incentive for others to follow the same wrong route.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from California [Mr. GALLEGLY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes, 331, not voting 14, as follows:

[Roll No. 77]

AYES—86

Baker (CA)
Barton
Bateman
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bono
Borski
Bryant (TX)
Burton
Calvert
Campbell
Canady
Cardin
Castle
Condit
Cunningham
Deal
DeFazio
DeLauro
Dreier
Duncan
Eshoo
Farr
Foglietta
Foley
Frank (MA)
Furse
Gallegly
Gejdenson
Geren
Gilchrest
Goodlatte
Goss
Holden
Horn
Hunter
Jacobs
Johnson (SD)
Kennedy (MA)
Kennedy (RI)
Kim
LaFalce
Leach
Levin
Lewis (CA)
Lowey
Manton
Markey
Martinez
McCollum
McKeon
McKinney
Meehan
Metcalf
Meyers
Miller (CA)
Moorhead
Neal
Obey
Packard
Pallone
Payne (VA)
Rohrabacher
Roth
Roukema
Royce
Sabo
Schumer
Seastrand
Shays
Smith (NJ)
Smith (TX)
Stenholm
Torricelli
Traficant
Vento
Visclosky
Vucanovich
Waxman
Wilson
Wynn
Young (AK)
Young (FL)

NOES—331

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Bevill
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Camp
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manzullo
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McNulty
Meek
Menendez
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Roybal-Allard
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Upton
Velazquez
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Yates
Zeliff
Zimmer

NOT VOTING—14

Collins (IL)
Hayes
Hostettler
Johnson (CT)
Johnston
Moakley
Nadler
Radanovich
Rose
Stark
Stokes
Studds
Tate
Waters

□ 1847

Messrs. BISHOP, PORTER, HOBSON, GRAHAM, SAXTON, McDERMOTT, EMERSON, and RIGGS changed their vote from "aye" to "no."

Mr. SABO and Ms. McKINNEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTIERREZ: Amend section 505 to read as follows (and conform the table of contents accordingly):

SEC. 505. REQUIRING CONGRESSIONAL REVIEW OF WORLDWIDE LEVELS EVERY 5 YEARS.

Section 201 (8 U.S.C. 1151) is further amended by adding at the end the following new subsection:

"(g) REQUIREMENT FOR PERIODIC REVIEW OF WORLDWIDE LEVELS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall undertake during fiscal year 2004 (and each fifth fiscal year thereafter) a thorough review of the appropriate worldwide levels of immigration to be provided under this section during the 5-fiscal-year period beginning with the second subsequent fiscal year.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. GUTIERREZ], and a Member opposed, each will control 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. GUTIERREZ].

Mr. SMITH of Texas. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] will control 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Brownback-Gutierrez amendment deletes the new Immigration and Nationality Act sections 201(g)(2) and 201(g)(3).

This is a rather simple amendment that would preserve a very simple idea. America's immigration policy should continue to allow families to be reunited with their loved ones.

At first glance, the section of the bill we seek to delete might appear to do nothing more than require a periodic congressional review of the numerical limits placed on immigration. Unfortunately, this is not the case. The bill actually requires specific legislation reauthorization as early as the year 2004 for our Nation to continue to allow any family-based and employment-based immigration.

Let me be clear. This Congress will have to pass a specific legislative reauthorization in the year 2004 if our Nation is to allow any family-based or employment-based immigration.

Reuniting with family members accounts for 60 percent of all legal immigration to the United States, and this bill puts that type of critical legal immigration in danger.

The bill says that without congressional action, brothers and sisters, parents and children, husbands and wives will be prevented from reuniting in the United States. In effect, this bill creates a sunset provision on the most important and positive reason people come to the United States. It creates a sunset provision on our basic and fundamental commitment to any immigration policy at all.

Well, I do not want this Congress to allow the Sun to set on our Nation's desire to offer opportunity to newcomers from throughout the world. I do not want the Sun to set on our Nation's commitment to serving as a source of hope and for those who desire to work and contribute to make America a better, stronger nation. I do not want the Sun to set on America's commitment to one of the most basic family values, allowing immigrants to reunite with the people they love.

Yet, this is precisely what the proponents of this bill are suggesting. Passage of this bill with this provision would be a huge victory for extremists whose only interest in immigration is ending it forever.

But do not take my word for it. The Wall Street Journal wrote on their editorial page last week that the sunset clause would "stop all job-based legal immigration and provide a powerful lever to immigration restrictionists after the turn of the century."

The bipartisan Brownback-Gutierrez amendment is our opportunity to take away that powerful lever from those who would like to completely abandon our Nation's commitment to legal immigration. I urge my colleagues not to be swayed by the argument that reauthorizing this bill is just a formality, that it is really no big deal. The history of the U.S. Congress clearly shows that immigration legislation is never a formality. It is always a big deal.

Mr. Chairman, the author of this legislation has said over and over again that this represents only the third time this century that Congress has dealt with an immigration bill of this magnitude. I believe the gentleman from Texas [Mr. SMITH] recognized the facts and he does not oppose this amendment, which I appreciate very much.

So we should all realize that reauthorization, which will decide whether mothers are reunited with sons, will not come easily unless we correct this potential problem today.

The sunset provision is a silver bullet that is aimed at every heart of our commitment to immigrants. By passing this amendment, we can unload that silver bullet.

To use the language that so many of my friends on the other side of the aisle are using, we can truly take a stand for family values. We send a clear signal that we value keeping family members united and together, that we value a policy of fairness for every person who wants to come to our country legally, to be with family they love and care about, that we value the history and character of our Nation and that the United States values inclusion and understanding and opportunity, rather than exclusion, blame, and fear.

If my colleagues value these ideas, I urge them to join us in supporting this amendment today.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding time to me. I want to commend the gentleman from Illinois, [Mr. GUTIERREZ] and the gentleman from Kansas [Mr. BROWNBACK] for being so diligent and looking at the specifics of this bill and determining that this egregious provision had been retained that would sunset the quotas and all of the priorities that were set for the family reunification principle.

The families that are being permitted to enter under these various privileges are extremely limited already. The siblings are not going to be permitted to come in, and adult children are not going to be able to come in. In many cases, parents are not going to be able to come in. But under the limitations which this bill provides, what has happened under the legislation is that, after a certain period of time, the provisions will sunset.

Now, if we have any questions as to the interpretation of this section, I would like to call our attention to the Congressional Research Service opinion dated February 28 in which it says under the sunset provisions of section 504, categories of aliens who are subject to worldwide levels of admission under section 201 of the Immigration Act could be admitted after fiscal year 2005 only to the extent set by future law.

That is the difficulty. What if the Congress did not pass a law? As the gentleman from Illinois [Mr. GUTIERREZ] said, what if there was a filibuster in the Senate that prevented this legislation from being authorized? What would happen is that our families that were waiting for these loved ones to come in would not be permitted. It would have the effect of a moratorium on immigration.

So I commend my colleague for offering this amendment and urge that this House adopt it. I understand that the majority will accept this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to the concerns of my colleagues that have been expressed about the provision of the bill that has the legal immigration provisions sunsetting in the year 2006 and explain to my colleagues the reason for having this provision in the bill. It was put in there at the recommendation of the Subcommittee on Immigration and Claims simply because we wanted to force Congress to address the very complex subject of immigration on a regular basis.

There was no nefarious plot here involved in trying to sunset the legal immigration numbers. In fact, I am on record numerous times as being opposed to a moratorium. So I hope my friend will realize that, although he suggested I was endorsing a moratorium, I have never done such, nor is that the purpose of this provision of the bill. Once again, the motive is very good, and I have agreed to this amendment to try to avoid any misinterpretation or misconstruction of the original provision.

Mr. Chairman, the motive again was to force Congress to do something that it has never really done before, and that is take a look at our immigration policy on a regular basis. We have found so often in the past that by not forcing Congress to address this subject, our immigration policies oftentimes have developed in ways unexpected. And we certainly hope that will not be the case here.

I might say also I hope we will not come to regret that this amendment passes and 7 or 10 years down the road want to address immigration but not have any mandate to do so.

Mr. Chairman, I yield to the gentleman from Florida [Mr. FOLEY].

□ 1900

Mr. FOLEY. Mr. Chairman, I appreciate the chairman of the subcommittee yielding me this time for a colloquy.

Mr. Chairman, this bill authorizes an increase in Border Patrol agents by

1,000 agents each year from 1996 through the year 2000. Yet, the report language requires the deployment of these new agents at sectors along the borders of the United States in proportion to the number of illegal border crossings. Therefore, I am concerned that some States which are not officially designated as border States, such as Florida, will be overlooked when the INS distributes the new agents.

Earlier this year, the INS temporarily deployed eight Border Patrol agents from Florida to the Southwest border. Border Patrol agents in Florida have gradually diminished from 85 agents a few years ago to just 41 agents today. In my home district, the Palm Beach Border Patrol office has just three agents and one supervisor who are responsible for covering eight counties and 120 miles of coastline. These are not enough resources to effectively protect our shores from illegal immigration. Florida experienced an estimated 52-percent increase in Border Patrol apprehensions from 1994 to 1995. One in nine of our Nation's illegal immigrants now reside in Florida and could be as high as 450,000.

These alarming statistics clearly demonstrate the critical need for a strong Border Patrol force in Florida. While I support a strong Border Patrol force for the entire Nation, it seems that the unique illegal immigration problems facing Florida has not been fairly recognized by the INS. Therefore, I would seek the support of the gentleman from Texas [Mr. SMITH] on this issue during conference and the appropriations process to ensure that in the distribution of the new agents, States such as Florida will receive their fair share.

Mr. SMITH of Texas. Mr. Chairman, if the gentleman will yield, I thank the gentleman from Florida for expressing these concerns. It is clearly not the intent of this bill to preclude new Border Patrol agents from serving in coastal States with a high incidence of illegal entry into the United States. I recognize the serious nature of the illegal immigration problems facing Florida and the importance of maintaining a strong Border Patrol presence in that State. I can assure the gentleman that I will be supportive of his efforts to prevent a further degradation of Florida's Border Patrol.

Mr. Chairman, I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR], chairman of the Hispanic Congressional Caucus.

Mr. PASTOR. Mr. Chairman, I also want to congratulate the gentleman from Illinois [Mr. GUTIERREZ] for giving us this amendment. Even though we heard that the motive is very simplistic and does not mean to cause any problems, the so-called sunset provision is still troubling. We heard the chairman, and the majority will contend that this provision merely amends section 201 of the Immigration and Nationality Act to require periodic congressional review of the numerical limits placed on immigration. In reality, according to the Congressional Research Service, this so-called sunset provision will end all family and business preference immigration, all diversity immigration and all humanitarian visas into the United States after the fiscal year 2004, the year the bill designates as the first period of review.

This provision is nothing more than a backdoor attempt to have a moratorium on immigration, and, therefore, I ask that my colleagues support the Gutierrez amendment.

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

I simply want to end by saying I want to thank the chairman, the gentleman from Texas, Mr. LAMAR SMITH, for his support of this amendment, and I want to apologize for any inference that I might have made with the probably bungling of the reading of my statement, because that is the only way I can come to that conclusion that I might have stated in any way, shape or form that it was his intent to have a moratorium. I do not believe that, and so I probably just misread something into the record.

But, fortunately, we sent a copy up there that I am sure will clarify what I really meant to say, and I apologize to the gentleman and thank him for his support on what I think is a very important amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I have to tell my colleagues how much I appreciate the gentleman from Illinois' generous comments, and I certainly understand what he was saying, and, as he just suggested, the intent here was never to end legal immigration. It was just to force Congress to do its job and regularly review our immigration numbers. And I do appreciate the gentleman from Illinois making his statement clear and appreciate his being so open and honest about the whole subject.

Mr. Chairman, let me also commend the gentleman for his amendment and for rectifying the situation that none of us anticipated, but at least we are doing the right thing.

Mr. Chairman, I yield back the balance of my time.

Mr. UNDERWOOD. Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback amendment to H.R. 2202.

In its current form, H.R. 2202 dramatically reduces family-related immigration. About three-fourths of the bill's reductions in the number of legal immigrants come in the family-related category. It eliminates the current preference category for brothers and sisters of U.S. citizens. The bill limits the number of adult children immigrants admitted to include only those who are financially dependent upon their parents, unmarried, and between the ages of 21 and 25. It also allows parents of citizens to be admitted only if the health insurance is prepaid by the sponsor.

What practical effect will these provisions have on law-abiding Americans who want to reunite with members of their immediate nuclear family? According to this legislation, virtually no American would be able to sponsor their parents, adult children, or brothers and sisters for immigration. If your only son or daughter turns 21 then he or she ceases to be a part of your "nuclear" family and would never be able to immigrate once he or she turns 26. If you have a brother or sister, they're not part of your nuclear family either. And if you cannot afford the type of health and nursing home care required in the bill then your mother and father are not part of your nuclear family either.

While the Chrysler-Berman-Brownback amendment would strike these provisions, I would point out that there is one area which it does not cover. Unfortunately, this amendment does not deal with the so-called 200-percent rule. Another title of the bill requires that an individual sponsoring an immigrant must earn more than 200 percent of the poverty line. This provision effectively means that about 46 percent of all Americans cannot sponsor a relative to enter the United States. The message this sends to all Americans is that in the future we will continue to be a nation of immigrants, but only rich immigrants.

On Guam, we put a high premium on the role of families, which includes mothers, fathers, sons, daughters, and brothers. In our community, supporting families means helping them stay together. That's what we consider family values.

If this bill becomes law, it will have a definite practical effect on many families, particularly those of Filipino descent, on Guam. It will prevent many of them from reuniting with their brothers or sisters, even though in some cases they have waited for upward of 10 to 15 years. Furthermore, it will shut out all future family reunification, even in categories that were not eliminated, for many immigrants on Guam because they do not earn over 200 percent of the poverty line or cannot afford to pay for their parents' health insurance.

In each of the cases of sponsoring families, you are talking about people who have played by the rules. They have worked through the system and petitioned to be reunited with their nuclear family. They have waited patiently. Now we will turn our backs on them.

These proposed restrictions and eliminations of entire categories is unwarranted and unnecessary. The Chrysler-Berman-Brownback amendment would strike the restrictions and restore the current system which supports family-based reunification.

I urge my colleagues to vote in favor of the Chrysler-Berman-Brownback amendment to restore the family categories and reject these arcane provisions. While I regret that it does not cover the 200-percent rule, I believe that its passage will make the bill better than what we have in the current bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. GUTIERREZ].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. KIM

Mr. KIM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KIM: In section 512(a), in the matter proposed to be inserted—

(1) in paragraph (1), strike "and (3)" and insert "through (4)",

(2) in paragraph (3), strike the closing quotation marks and period that follows at the end of subparagraph (D)(iv), and

(3) add at the end the following:

"(4) OTHER SONS AND DAUGHTERS OF CITIZENS.—Immigrants who are the sons or daughters (other than qualifying adult sons or daughters described in paragraph (3)(C)) of citizens of the United States, who had classification petitions filed on their behalf under section 203(a) as a son or daughter of a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (3), plus a number equal to the number by which the maximum number of visas that may be made available for the fiscal year under subsection (b) exceeds the number of visas that will be allotted under such subsection for such year.

"(5) BROTHERS AND SISTERS OF CITIZENS.—Immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, who had classification petitions filed on their behalf under section 203(a) as a brother or sister of such a citizen before March 13, 1996, and who at any time was not unlawfully present in the United States shall be allocated visas in a number not to exceed the number of visas not required for the classes specified in paragraphs (1) through (4), plus a number equal to—

"(A) the number by which the maximum number of visas that may be made available for the fiscal year under subsection (b) exceeds the number of visas that will be allotted under such subsection for such year, reduced by

"(B) any portion of such excess that was used for visas under paragraph (4) for the fiscal year.

Amend section 519(b)(1)(A) to read as follows:

(A) in subsection (a)(1)(A)(i), by striking "paragraph (1), (3), or (4)" and inserting "paragraph (2), (3), (4), or (5)";

Strike section 555 (and conform the table of contents accordingly).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. KIM] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. KIM].

Mr. KIM. Mr. Chairman, I yield myself such time as I may consume.

As a legal immigrant myself, I believe it is important to recognize the difference between legal and illegal immigration. My compliance with the law and subsequent naturalization has instilled in me a sense of pride and responsibility. I am sure that these same feelings are shared by all legal immigrants who come to the United States in search of American dreams and a better life for their families.

The close ties between family members provide a sense of family responsibility and unity, something many in this country appear to have forgotten. This is why I strongly support this bill's basic principle of family reunification. However, I believe it is unfortunate that, in the rush to reform our immigration system, we have overlooked a key part of that basic premise.

As currently written, the bill eliminates immigration by adult sons and daughters and brothers and sisters. I am concerned by the arbitrary determinations being made about which family member is more important than the other member. They are based on age alone.

According to the bill, someone's 20-year-old son is considered their son, but once he turn 21, he is no longer their son unless he is unmarried. Then he is their son, all right, but until, only until, he turns 26. Let me try this again. It is no longer their son when he is over 21. He is no longer their son if he is married and over 21, but under 26. Does it make sense to anyone? I do not think so.

Why are we punishing marriage? Is that not the core of family values? This really arbitrarily makes absolutely no sense, and I simply do not understand why the age or relationship between family members makes any differences as to their importance to the family. As far as I know, families last a lifetime.

My amendment is a compromise effort to fix this oversight. The amendment makes sons and daughters and siblings who have filed the petitions before March 13, 1996, qualified. It is a grandfather amendment giving those legal immigrants currently in the line a chance to be reunited with their families. How? They would be eligible to use any unused family- or employment-based visas on an annual basis.

It does not raise immigration numbers. It simply allows sons and daughters and siblings the chance to immigrate on the space-available basis using any leftover quotas.

Let me repeat again: It does not raise immigration numbers. It does not jeopardize the overall bill or any priorities. These individuals have followed our immigration laws impatiently waiting for many, many years.

These honest immigrants deserve a chance to be with their families. Some have already made financial and personal arrangements by putting their homes on the market and preparing for resettling in America. Otherwise, we slam the door in the face of this law-abiding immigrant. This retroactive denial is unfair, downright un-American.

My amendment is a responsible way to fix this injustice. Remember, it only applies on a space-available basis, using any leftover quotas.

Mr. Chairman, I reserve the balance of my time.

Mrs. MINK of Hawaii. Mr. Chairman, I claim the 5-minutes allocated under the rule.

The CHAIRMAN. Is the gentlewoman opposed to the amendment?

Mrs. MINK of Hawaii. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentlewoman from Hawaii [Mrs. MINK] for 5 minutes.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to make my comments at this point. I want to commend the gentleman from California [Mr. KIM] for his amendment, for being able to present it, and to have been accorded the opportunity to offer the amendment is a point of great distinction.

What his amendment does is to recognize that H.R. 2202 contains provisions which totally categorically eliminate family preferences for adult children and siblings, and that is a very, very unthinking, and cruel amendment repealing the opportunities of family reunification which have been part of the law for the last 30 years.

It is not enough to say children under the age of 21 may come in accompanied with parents or the spouses may come in or parents under certain circumstances. The family context is the wider family which includes all children. The fact that they are over 21 or married or have other kinds of circumstances does not indicate that they are no longer part of the family.

If we are going to preserve the idea of family reunification, which the bill attempts to do, the sacrifice of adult children and siblings, is a very, very cruel elimination from this bill.

So what our colleague from California, Mr. KIM, has done is to grandfather all applications which have been filed over the years, because as he indicated, there are some people that have been waiting over 10 years to fit into the categorical limitations for adult children, unmarried or married, or the sibling category. Some of them have waited in my district well over 15 years, and now they are panicking, and calling, and writing letters and saying they have read in the newspapers that we are about to eliminate this category, and they have been waiting patiently for their numbers to be called. Some of them probably will have their numbers called as early as next year, and yet, if this bill passes, they will have completely lost that opportunity to be reunited with their families in America. I think that that is a very, very cruel blow.

What the gentleman from California [Mr. KIM] has done is to indicate that we should grandfather these categories of people who have applied by March of 1996 and use space-available vacancies that may come along on an annual basis and allow these family members to come in.

The cruelty of this provision however, I need to point out, is that the likelihood of any vacancies and space becoming available are unlikely for maybe another decade or two. There will not be any excess numbers that can be allocated to this category.

So, while the concept and the compassion that is contained in the Kim amendment is worthwhile, I am taking the floor to say that it does not correct the basic exclusions that have been made to this legislation.

I do not believe that we can stand on the floor of the Congress and comment about family reunification, and now important the family is, and how allowing the people who become new Americans to bring their families into the United States is an important step integrating and moving them forward toward their full responsibilities as Americans. To deny them the opportunity to reunify their family puts us back to the period when many Asians were not even permitted to come into this country because of the 1924 Exclusion Act, which was only repealed in 1965. Until 1965 persons from the Asia Pacific perimeter were refused entry and again under this bill will not be able to bring their families. They have been waiting for so many years to bring their families in, and this Congress is going to exclude them again.

The rule did not permit us to offer specific amendments to this issue. This is the only opportunity to address these very, very important and egregious actions which have been taken in H.R. 2202. I cannot support H.R. 2202 because of what it does to families.

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Mr. KIM. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have always supported strengthening families and fair treatment for legal immigrants. Many people have waited for years to be reunited with their families,while others have blatantly disregarded U.S. policy and flooded our Nation with illegal immigrants.

We must not place more restrictions on those who await reunification with their families. We must not go back on our promise to reunite the families of these law-abiding U.S. citizens with their parents, their children, brothers, and sisters who have waited for this day.

Mr. Chairman, in support of the integrity of our Nation, of controlling illegal immigration, and encouraging the use of correct procedures for legal immigration, I strongly strongly support the Kim amendment, and hope that my colleagues will do so as well.

Mr. KIM. Mr. Chairman, I yield 15 seconds to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have a question. In his amendment, there is also a line at the very end of his amendment which strikes a provision that we have put in in committee and I have fought for to make sure people who can no longer sponsor an immigrant get reimbursed the fee they paid. If they cannot get the service, they should be reimbursed the fee they paid. That is now taken out of the bill in the amendment.

I was wondering if the gentleman knew that.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. KIM].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 16 printed in part 2 of the House Report 104-483.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CANADY of Florida: Amend subsection (c) of section 514 to read as follows:

(c) ESTABLISHING JOB OFFER AND ENGLISH LANGUAGE PROFICIENCY REQUIREMENTS.—Paragraph (2) of section 203(c) (8 U.S.C. 1153(c)) is amended to read as follows:

"(2) REQUIREMENTS OF JOB OFFER AND EDUCATION OR SKILLED WORKER AND ENGLISH LANGUAGE PROFICIENCY.—An alien is not eligible for a visa under this subsection unless the alien—

"(A) has a job offer in the United States which has been verified;

"(B) has at least a high school education or its equivalent;

"(C) has at least 2 years of work experience in an occupation which requires at least 2 years of training; and

"(D) demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

Redesignate section 519 as section 520 and insert after section 518 the following new section (and conform the table of contents, and cross-references to section 519, accordingly):

SEC. 519. STANDARDS FOR ENGLISH LANGUAGE PROFICIENCY FOR MOST IMMIGRANTS.

Section 203 (8 U.S.C. 1153), as amended by section 524(a), is amended by adding at the end the following new subsection:

"(i) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—(1) For purposes of this section, the levels of English language speaking and reading ability specified in this subsection are as follows:

"(A) The ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, such as current events, work, family, and personal history, and to have a basic understanding of most conversations on nontechnical subjects, as shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States.

"(B) The ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers, and, with a dictionary, the general sense of routine business letters, and articles in newspapers and magazines directed to the general reader.

"(2) The levels of ability described in paragraph (1) shall be shown by an appropriate score on the standardized test of English-speaking ability most commonly used by private firms doing business in the United States. Determinations of the tests required and the computing of the appropriate score on each such test are within the sole discretion of the Secretary of Education, and are not subject to further administrative or judicial review.

"(3) The level of English language speaking and reading ability specified under this subsection shall not apply to family members accompanying, or following to join, an immigrant under subsection (e).".

Amend paragraph (3) of section 513(a) to read as follows:

(3) by adding at the end the following new paragraphs:

"(8) NOT COUNTING WORK EXPERIENCE AS AN UNAUTHORIZED ALIEN.—For purposes of this subsection, work experience obtained in employment in the United States with respect to which the alien was an unauthorized alien (as defined in section 274A(h)(3)) shall not be taken into account.

"(9) ENGLISH LANGUAGE PROFICIENCY REQUIREMENT.—An alien is not eligible for an immigrant visa number under this subsection unless the alien demonstrates the ability to speak and to read the English language at an appropriate level specified under subsection (i).".

In section 553(b)—

(1) in paragraph (1), strike "paragraph (2)" and insert "paragraphs (2) and (3)", and

(2) redesignate paragraph (3) and paragraph (4), and

(3) insert after paragraph (2) the following new paragraph:

(3) In determining the order of issuance of visa numbers under this section, if an immigrant demonstrates the ability to speak and to read the English language at appropriate levels specified under section 203(i) of the Immigration and Nationality Act (as added by section 519), the immigrant's priority date shall be advanced to 180 days before the priority date otherwise established.

The CHAIRMAN. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would establish an English language proficiency requirement for immigrants arriving in the United States under the

Diversity Immigrant Program and the Employment-Based Classification. Under the amendment, proficiency in English would be determined by a standardized test established by the Secretary of Education.

The amendment would also establish a preference for backlogged spouses and children of lawful permanent resident aliens who demonstrate English language proficiency. Such immigrants would have their priority date advanced by 180 days.

This amendment would be an important addition to the underlying legislation. It is our common language that brings us together as a nation. As de Toqueville said, "The tie of language is perhaps the strongest and most durable that can unite mankind."

There is a substantial body of empirical evidence to support the proposition that there is a direct correlation between an individual's ability to speak English in America and that person's economic fortunes.

The 1990 census found that nearly 14 million Americans did not have a high level of proficiency in the English language, more than two-thirds of them immigrants.

A study conducted by Richard Vedder and Lowell Gallaway of Ohio University concludes that if immigrant knowledge of English were raised to that of the native born population, their income levels would have increased by over $63 billion a year.

In April of 1994, the Texas Office of Immigration and Refugee Affairs published a study of Southeast Asian refugees in Texas which demonstrated that among that population, individuals proficient in English earned over 20 times the annual income of those who did not speak English.

Another study which focused on Hispanic men concluded that those men who did not have English proficiency suffered up to a 20-percent loss of earnings compared with those who were English proficient.

In addition, Mr. Chairman, there are substantial costs incurred by government at all levels in providing services in languages other than English. For example, the Office of Legislative Research of the Connecticut General Assembly was able to identify over $3 million of State funds spent on providing services in a language other than English—and this amount does not include expenditures for bilingual instruction in schools.

My amendment is targeted at bringing in legal immigrants to our society who will arrive with the most important skill necessary to succeed in America—command of the English language. By focusing on the Diversity Immigrant Program and Employment-Based Classification visas, the amendment would require that immigrants fully capable of becoming proficient in English do so before coming to the United States.

The amendment also will provide an incentive to those backlogged spouses and children of lawful permanent resident aliens who demonstrate English language proficiency. We should encourage all immigrants who come to America to speak English. With my amendment, we will provide a tangible benefit to potential immigrants who can speak English—and who sometimes wait up to 10 years to enter this country—by modestly advancing them on the waiting list.

Support for an amendment of this kind cuts across the ideological spectrum of the immigration debate. Ben J. Wattenberg, a Democrat and a distinguished demographer and commentor, has written and spoke extensively in support of increasing the levels of legal immigration to the United States. In a February 1, 1993 article in National Review, Mr. Wattenberg wrote that, "We would do well to add English language proficiency * * *" to our immigration laws.

Similarly, Peter Brimelow, author of the well-known book on U.S. immigration policy Alien Nation and a strong proponent of decreasing legal immigration, makes the point that an English language requirement for potential immigrants would make Americanization easier.

I suggest that when Ben Wattenberg and Peter Brimelow agree on anything having to do with immigration policy, we should pay attention. My amendment takes the important contributions to the immigration debate of these two experts and incorporates them into a fair and workable provision that will enhance our immigration laws.

Critics of requiring English language proficiency for certain immigrants or giving any advantage for English language skills argue that we might pass over the best and the brightest the world has to offer simply because they lack English skills.

In my view, it does little good for a person to be the best and the brightest if it is impossible for that person to impart knowledge in our society because of inability to communicate in our society. It is virtually impossible to think of a situation where a highly skilled immigrant, for which the employment-based classification is designed, would not have English skills or be capable of acquiring them before coming to the United States.

Mr. Chairman, we all know intuitively that to succeed in the United States, one must have a command of the English language. Our immigration policy should support this goal. Unfortunately, current immigration laws do not take this into account.

By establishing an English language proficiency requirement for immigrants who are fully capable of learning the language and providing an incentive to learn English for people waiting to be admitted, we will help ensure that immigrants are better equipped to succeed in America.

Mr. Chairman, although this amendment does not address this problem across-the-board, I believe that the amendment makes a big step in moving us in the right direction.

Mr. Chairman, I know we all share the goal of speeding the success of immigrants in our society. My amendment is an important contribution to that goal, and I urge Members to support the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BECERRA. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 15 minutes.

Mr. BECERRA. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this is an important issue. It really is connected to a debate that we have been having in various other committees having to do with the establishment of English as the official language. I think this amendment probably is an attendant idea connected to that proposition.

The amendment to add an English-speaking requirement to the existing requirements for the diversity immigrant program and the employment-based program I believe is diametrically opposite to the original intent of these programs. It serves no real purpose except to pander to this wave of antiimmigrant foreigners coming to the United States, and one of the criteria that this amendment is seeking to attach to this kind of notion is if the person is not fluent in the English language.

Mr. Chairman, let me tell the Members that the specific intent of the diversity immigrant program is to expand the ability of people in underrepresented countries of origin to have the opportunity to come to the United States, not only English-speaking people but everyone throughout the world. Those that are not represented in sufficient categories coming to the United States have special opportunities through this lottery system to apply and to have the opportunity to qualify for admission.

Mr. Chairman, each year 55,000 of these persons are selected through the lottery system. They have to meet educational criteria in order to qualify. When they come in, they may also be accompanied by spouse and minor children. Mr. Chairman, the intent is to diversify the people that are coming into this country, both under the work employment classification category and also in the diversity category.

When we impose upon this idea of opening up opportunities to people of other countries than those that have applications and visas, to increase the diversity of our visa admittees to other places in Asia, other places in Latin America and Africa and so forth. When we impose this English-speaking requirement, we are eliminating wide sectors of individuals who would otherwise qualify, and render a nullity the basic concepts of diversity.

Diversity by definition means that you do not set exclusionary criteria. You want a diverse group of people coming to the United States that are sufficiently educated so they can come in, find jobs, and be well integrated, but no necessarily fluent in English as indicated in this amendment.

Mr. Chairman, to the same extent that the English-speaking requirement will impinge upon the diversity program, it also will have a very detrimental effect on the employment-based classification, extremely counterproductive to what was intended: to bring in people who are uniquely qualified in the medical, scientific, technological categories.

There are people that have come and testified and sent letters to us suggesting that this is a terrible amendment, because the kinds of people who have particular technological skills or have special competencies, may not meet the English-speaking requirement.

Mr. Chairman, I would hope that Members think seriously about the rationale of adding this kind of burdensome requirement to this special category of diversity and employment based admissions and I hope that we will defeat this amendment.

If the concern is the ability of these people to become readily integrated and become a major part of the communities, we have all sorts of ways in which this highly educated group of people can become competent once they get here, learn English, and participate as citizens in our society. Therefore, Mr. Chairman, I would hope that under all of these considerations, that this amendment will be defeated.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of this amendment that would establish an English-language proficiency requirement for immigrants arriving in the United States under the diversity immigrant program and under the employment-based classification.

These are people who are coming here with the stated purpose of working here, living here, being permanent residents here, and hopefully, eventually becoming citizens of the United States of America. There are a whole host of other immigration programs in which people come in on a different basis and which this amendment would not involve at all, but these are people who live here permanently.

Mr. Chairman, I believe that it is our common language, English, that unites us and brings us together as a nation. Proficiency in English is the civic responsibility of all U.S. citizens, as well as those individuals residing in this country while seeking citizenship. Being proficient in English is an indispensable part of educational, social, and professional assimilation into our society and into our culture.

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It is clear that we have an increasing number of immigrants entering our country, entering our society, who are not proficient in the English language. In my district in northwest Arkansas, in one school district, the Rogers school district, in the last 4 years the English as a second language program has increased from 80 students in the 1991–92 school year to 760 students this year. That is a ninefold increase in 4 years. That is just one evidence, and I think that story can be repeated over and over again across our country and throughout our society, that we have this great increase of those coming into our country not proficient in the English language.

The Canady amendment does not solve all of those problems, but it is a start. It is narrow, it is targeted, it is modest, but it is a step, and it addresses the issue of speeding the success of immigrants in our society, a goal, I believe, that we all share.

By requiring immigrants arriving in the United States under certain programs to demonstrate a firm command of the English language, we recognize English, our common language, as part of the glue, as a component of the bond that brings us together as a people, as a society, and as a culture.

I believe that anyone who truly desires that we have immigrants in our society who are better equipped to assimilate and thrive in America, those Members of this body who want to speed the success of those coming into our society, making contributions to it, will support the Canady amendment.

Mr. BECERRA. Mr. Chairman, I yield 3 minutes to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong opposition to the Canady amendment, which would give preference to those immigrants who have proficiency in English, in effect the English-only immigrant. There is no disguising the fact that this is connected to a number of issues relating to language and language policy in this country.

I was particularly struck in that context by the remarks of the previous speaker that this amendment is circumscribed in its application and that it is a start. That is the dangerous part. If we are going to start having this kind of a policy for a very limited group, but we frame it in the discussion of language policy for the country and we talk about it as just being the start, well, one wonders what is remaining.

This amendment is a prime example of all the contradictions in this immigration reform bill. Earlier we were told that this bill would make it easier for spouses and children to be reunited even though the number of visas are going to be slashed by 240,000. Then in the Kim amendment we are told that adult children and siblings of legal immigrants may be eligible for unused visas in other categories, such as employment-based visas, even though very few could qualify under the strict employment-based criteria. It was an amendment meant to go nowhere.

Now we are told that every child, or even if a child or sibling could do all that, we find in the Canady amendment a new hurdle, one that is weighted clearly in favor of European immigrants at the expense of Latin American countries, Asian countries, African countries, where there are other vibrant and equally intelligent languages at work. We all know what the practical effect of this amendment will be on the diversity program.

When the last major attempt at immigration reform in the 1920's moved away from ethnically and racially based immigration reform, we were all happy and we all endorsed that. However, this particular amendment is in effect a backdoor attempt that introduces an ethnic element into the discussion of immigration policy.

We all know what the underlying motive is for English requirement proposals, and it clearly is not economic. You want immigrants that sound like you because chances are they are going to look like you, too. If you want to separate families, let us have a straight-up vote on that. If you want to favor certain European countries, let us have a straight-up vote on that. But let us stop claiming to be pro-family and nondiscriminatory in these proposals.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding me the time.

Mr. Chairman, this issue of the English language has become more and more pronounced in our country in the last number of years, but basically it has always been an issue ever since the founding of this country. The wonderful blessing that we have had is that we Americans are people from every corner of the globe, every religious, every ethnic, every linguistic background, but we are one Nation and one people. Why? Because we have had a wonderful commonality, a common glue. What? It is called the English language.

We are losing that today to a large degree. One out of every seven Americans does not speak English. Basically, as I interpret this amendment, what this amendment is saying is this: That we are giving immigrants an incentive to learn the English language. That is not only helping our country keep it one Nation, one people, but it is also helping the immigrants that are coming to our shores.

How can a person climb the ladder of opportunity in America today, in the United States if they do not have a good foundation in the English language? All the want ads, the CONGRESSIONAL RECORD, newspapers, everything is in English.

I think by giving people an incentive to learn English when they come here, it is really helping the immigrant. It is not only helping our Nation as a whole but it is also helping the immigrant.

For 200 years when people came to these shores, they adopted English as the language. Even in our own household, in our own State, people may have spoken one language at home but when they worked with the government, when the youngsters went to schools, it was all done in English. It has been a historical tradition here in America.

Thanks be to God that it has been because we have been able to keep this Nation one country and one people. Take a look all over the world what has happened. Take a look, for example, at Quebec in our neighboring country of Canada.

Mr. Chairman, I have been involved in this because I am concerned about what is happening to America. I think that America is splitting up into groups. I do not want to see that happen. I want to keep this one Nation, one people. Woodrow Wilson in 1918 said that as long as you consider yourself a part of a group, you are not really American, because America is not a nation of groups. America is a nation of individuals.

So we want people, immigrants and others, of course, to assimilate, to become part of this country. The way we do that, one of the wonderful melting ingredients in the melting pot is the English language.

I think that this is a good amendment. It not only helps the individual but also helps our country.

I am sure that everyone in the Chamber has read "One Nation, One Language?" recently in U.S. News. It is becoming more and more of an issue. It talks about the people who have not assimilated, who have not adopted English, and the tough time they are having.

I think that the gentleman's amendment is a praiseworthy amendment and one that I hope the Chamber will vote for.

Mr. BECERRA. Mr. Chairman, I yield myself 1½ minutes.

It is unfortunate that more Members of this body were not able to attend or chose not to attend a recent citizenship swearing-in ceremony that was held here in the Capitol. I believe that was the first time in the history of this Nation that we had a citizenship swearing-in ceremony held here in the Capitol of this country. I am surprised to learn that, but I think that is in fact the case.

We had over 100 people from over 40 or 50 countries come to this Capitol and take the oath saying that they are committing themselves as U.S. citizens, they are relinquishing their previous citizenship, and they are binding themselves to this country. I must tell the Members that a number of those people probably still cannot communicate extremely well in English but, by God, I must tell you, you look at the faces of each and every one of those people and not a one of them would have said to you that there was a prouder American in this country at that time.

To believe that there are people in this country who are saying, "I wish to legally emigrate and become a lawful permanent resident of this country," in essence saying, "I want to permanently reside here," and believe that these are folks that are saying they do not wish to learn English I think is myopic. I do not believe that we can really claim that we are interested in what the Statue of Liberty has always stood for if we take that type of position.

Even more to the point, this amendment deals with those immigrants who are coming in based on employment offers from a firm in this country or those who are coming in from countries where we see smaller numbers of people emigrating, so we want to make sure that there is diversity in the pool of people that come into this country. To believe that someone who wishes to get employment and has an offer of employment is not interested in learning English, to me really seems very contradictory to what the initiative of that individual is. The diversity requirement, we want to make sure we get folks from everywhere. This amendment makes it almost impossible.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield myself 2 minutes.

Let me read some of the language from the bill which makes very clear that this requirement is not an onerous requirement. Here we are talking about demonstrating the ability to speak English at a level required, without a dictionary, to meet routine social demands and to engage in a generally effective manner in casual conversation about topics of general interest, and to have a basic understanding of most conversations on nontechnical subjects. Also, the ability to read English at a level required to understand simple prose in a form equivalent to typescript or printing on subjects familiar to most general readers.

This is not an onerous requirement. Also, I think it is important for us to understand that this applies only to those individuals coming in the employment-based classification and under the diversity program who will be permanent residents here. These are people who are coming to live in this country and to stay.

There are a variety of classifications under which nonimmigrant visas can be issued to people for business reasons. We have temporary visitors for business; registered nurses; alien in a special occupation; representatives of foreign information media; intracompany transferees of an international firm; aliens with extraordinary ability in sciences, art, education, business or athletics; artist or entertainer in a reciprocal exchange program; artist or entertainer in a culturally unique program; and a variety of other nonimmigrant visa categories that allow people to come in for a limited period of time for a particular purpose.

We are focusing here on people that are going to be coming to this country to stay. Furthermore, with respect to the employment-based classification, we are talking about people who start a process that in most cases is going to take a couple of years before they are ever going to get the visa to get in. I believe that from the outset of that process, if they are on notice that they need to be proficient in English, they have an opportunity before they come here to develop that skill so they can come here and become part of our society and make a contribution from the very start.

Mr. Chairman, I reserve the balance of my time.

Mr. BECERRA. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I want to pose a question to the gentleman from Florida.

Is there some report or some evidence or some indication that we have a problem with immigrants in these categories coming over here and refusing to learn to speak English? Because you describe them as people who are coming here to stay. If they are coming here to stay, they better become a citizen and they cannot become a citizen unless they learn to speak English.

So what is the origin of your concern?

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Florida.

Mr. CANADY of Florida. The evidence that we have is not broken down by specific categories, but we know that there are 14 million Americans who do not have a high level of proficiency in English.

Mr. BRYANT of Texas. Are these immigrants?

Mr. CANADY of Florida. Two-thirds of those are immigrants. That is based on the 1990 census.

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Two-thirds of those without the high level of proficiency in English are immigrants. Not all of them, but two-thirds.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, they presumably are on a track toward citizenship, and you cannot become a citizen unless you learn to speak English. My point is we have historically required of everyone who becomes a citizen English proficiency. This is the first time I have ever heard about a proposal that says you cannot come in the door unless you already speak English in these categories. There is no evidence, nobody has come forward and said this is a problem. We have had no hearings that indicated this is a problem. This is sort of out of the blue.

Mr. CANADY of Florida. If the gentleman will yield further, it is a demonstrated problem. We have 14 million people in the country, two-thirds of which are immigrants, who cannot speak the English language. We have heard evidence of school districts where the number is going up among children who need instruction in English as a second language. There is an increasing problem. Now, I do not suggest this is going to solve the whole problem, but I believe it is a step in the right direction.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I would just point out of these people, these figures you are using of these people, they are not going to be in this category that your amendment applies to anyway, No. 1.

No. 2, the fact is, we have got no evidence indicating that there is a problem with regard to this category of immigrant. They come into the country and they immediately start trying to learn how to speak English. You probably heard the figures a moment ago, but the Department of Education reports there are 1.8 million people in this country in English as a second language classes. In New York City, 35 community colleges, 14 CBO's, community based organizations, are offering English as a second language, and there is a waiting list of 18 months. It is the same with Los Angeles, and I know it is the same situation in my own city of Dallas. It is not like the people are refusing to learn to speak the language.

I just say to the gentleman that you are just continuing to invent these things, to bring them up, and really I think this is for this purpose of raising an issue everybody is concerned about, and that is English in the country, as opposed to addressing the practical concern, because there is just no evidence that people in these categories are coming here and refusing to speak English.

They are described by the gentleman from Florida [Mr. CANADY] as the category of immigrant that comes here and plans to stay. That is true. You cannot stay unless you learn to speak English. So what is the point in making them learn to speak English before they get here?

Mr. CANADY of Florida. Mr. Chairman, if the gentleman will yield further, obviously they can stay without learning to speak English. We have many people who do not become citizens. That is the problem.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, the gentleman described these people himself as people that are going to stay here if they come, because that is the nature of the immigration category. If that is the case, they have to learn to speak English.

Mr. CANADY of Florida. Mr. Chairman, if the gentleman will continue to yield, that is not true, because they do not have to become citizens. We have many people who are coming and staying, not learning English, and not becoming citizens. I do not think that is good for them or good for our country. We should be moving people into citizenship as quickly as possible.

Mr. BECERRA. If the gentleman will yield, we have to remember, we are talking about a category of immigrants, especially those under the employment-based category, that are coming here to secure jobs. These are jobs that have been offered to them by employers here in the United States. What are the chances that these are individuals who wish to never learn English, knowing that they are coming here because a job has been offered to them? My goodness.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, to address the question my friend from Texas raised, the question I think can be asked, what harm would this amendment cause? The amendment would cause no harm. I think that we do have a problem. We do have a problem today with English. We do have a problem that our country is breaking up into linguistic groups.

I was on a call-in show in Canada, and one of the people called in and said, "Don't you Americans realize how fortunate you are to have this one language, this commonality? Look what is happening here in Canada, where they are tearing the heart out of our country. Yet in America, you have hundreds of little Quebecs." I think that is clear.

Mr. BECERRA. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, the gentleman said what harm would the amendment cause? That is not the right standard. The question is, Do we have some reason to indicate we need this?

The harm is simply this. The diversity program, in my opinion, is a bad program anyway, because it is really a scheme to let a lot of white folks into the country, because some folks do not like it if there are a lot of people coming in from Asia and the Hispanic areas of the world.

Now, that is not your amendment, that is not your fault. That was put in the bill in 1991, and the law in this bill carries it forward. This amendment that the gentleman is putting in here is going to guarantee that nobody comes in under that category, except the very nondiverse group, and that is principally folks from Ireland, folks from England, and so forth like that. I suggest to you it does not solve the problem at all. These people are going to learn to speak English as soon as they get here.

Mr. CANADY of Florida. Mr. Chairman, I yield myself 30 seconds.

The points that the gentleman has been making I believe support the position we are taking. The people that are going to be affected by this in the business classification, the employment-based classification, are the very people that will have the easiest time complying with this requirement.

The fact of the matter is, most of these people wait for a couple of years before they enter the country, and all we are saying is they should take advantage of that opportunity during that period of time that they are waiting to become proficient in the English language, to prepare them better for becoming full participants in our society from the day they arrive in this country.

Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the distinguished Speaker of the House.

Mr. GINGRICH. Mr. Chairman, let me just say to my colleagues, I think the gentleman from Florida [Mr. CANADY] has offered the sort of perfect minimum amendment. Here is what it basically says: It says that there ought to be an incentive to learn English by moving up the priority for people who learn English. It says that English is a language American citizens should know.

Now, I would suggest to you that America is a unique country held together in part by its culture. This is not like France or Germany or Japan. You are not born American in some genetic sense. You are not born American in some racist sense. This is an acquired pattern. English is a key part of this.

I read recently you can now take the citizenship test in a foreign language administered by a private company, so you never actually have to acquire any of the abilities to function in American civilization, and as long as you can memorize just enough to get through the test in your native language, you can then arrive. It seems to me that is exactly wrong.

The fact is we have to begin the process. Look at Quebec. Look at Belgium. Look at the Balkans in Bosnia. We are held together by our common civilization and our common culture. English is a key part of that. This is the narrowest, smallest step of saying to be an American you should at least know enough English to be able to take the test in English to be a citizen.

I would simply say to all of my colleagues, this is the first step in what is going to be a very, very important debate over the next few months. I would urge every one of my colleagues to look at the Canady amendment with the greatest of favor, because it takes the right first step and says we want you to be legal citizens. We are eager for you to come to America. We are eager for you to have your citizenship. But learn English so you can get a job and you can function in American society, and you can truly be part of the American way of life.

Mr. Chairman, I just commend the gentleman for having the courage to take this and offer it. I urge all of my colleagues to vote "yes" on the Canady amendment.

Mr. BECERRA. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. BECERRA] is recognized for 1 minute.

Mr. BECERRA. Mr. Chairman, if I can just say to the Members who are here and to the Speaker, who just finished with his remarks, all you have to do is go to the community colleges, the night schools for adults, the community-based organizations that are doing this at their own cost, and you will see that every night the rooms are filled with people trying to learn English. They are turning people away. There are 18-month wait lists. There are 50,000 people being told you will have to come back at a later time, because they are trying to learn English.

It so happens that this Congress chose to cut funds for English as a second language for those who are trying to learn English. Make sense out of that.

What we see is that for the first time in this Nation since 1924, we have an amendment on immigration that would give a preference to a certain group of people, and what we are doing is we are limiting, we are crunching, we are narrowing those who can come into this country. With this amendment what we are saying is we really only want those who sound like us, who can speak like us, and it is unfortunate, because for the longest time and through this diversity program that is being attacked, we are trying to make sure that we give folks from every part of the world a chance.

Unfortunately, this amendment will make it difficult. This amendment will deny the employers an opportunity to hire somebody they definitely need because of the high skill level that person brings with them, and it is unfortunate. What we see is we are turning this all around. People are starving, yearning to learn English, and here we see a Congress saying "Yeah, you may be, but we don't believe you. We are going to stop you from ever coming into these doors to prove it."

That I think is the wrong message to send those yearning to come to this country to provide us with their skills, their benefits, and make this a better country. That is not the history of this country. We should reject this amendment for that reason.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to the Canady amendment to require English proficiency for immigrants arriving under the diversity immigrant program and under the employment-based classification. Never before has English proficiency been required of immigrants, and it is not necessary now. Immigrants who come to this country are strongly motivated to learn English, because they know that their economic livelihood depends upon it. Immigrant parents instill in their children a pride in their native culture but they also encourage their children to learn English because as parents they know too well that their children's educational and employment opportunities will hinge on their ability to master the English language.

We have seen that there is an enormous demand for English classes. Nationwide, English-as-a-second-language classes serve 1.8 million people each year. In fact, immigrants are very motivated to learn English as they even wait on waiting lists for ESL classes.

I worry that this amendment will have a discriminatory effect as a back-door way of excluding certain groups of immigrants such as those from Spanish-speaking countries, as well as from Africa and Asian countries where the native language is not English. In 1990, Congress rejected a similar proposal that would have given preference to English-speaking immigrants in the diversity lottery because of concerns that the amendment was designed to favor immigrants from certain parts of the world over others.

Furthermore, I believe that this amendment is not favorable to the interests of business in this country. Employment-based immigration is designed to allow businesses to bring in limited numbers of highly skilled workers. If the employer believes that a future employee has the skills to do the job, the Government should not impose additional requirements.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Canady amendment, which would require English proficiency for certain immigrants. Americans all share a common set of ideas and values. It is the common belief that common goals rather than a common language bond us together.

To insist that a common language be a prerequisite for entry into our country is unnecessary. Immigrants realize that learning English is imperative and are not reluctant to do so. In Los Angeles, the demand for English as a second language class is so great that some schools run 24 hours a day. Current generations of immigrants are learning English more quickly than those of previous generations.

This amendment sets up a system to exclude certain groups of immigrants. It contributes to an atmosphere of intolerance for diversity. I urge my colleagues to oppose the Canady amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Chairman announced that they ayes appeared to have it.

Mr. BECERRA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida [Mr. CANADY] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of New Jersey: In section 521 (relating to changes in refugee annual admissions), strike subsection (a), and in subsection (c) strike "subsections (a) and (b)" and insert "this section."

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] and a Member opposed will each control 15 minutes of debate time.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, many of us are supporting numerous sections of the bill before us because it is time to crack down on illegal immigration. It is therefore ironic and I believe very unfortunate that the very deepest cuts imposed by the bill as presently written is not on illegal immigrants, it is not even on legal immigrants, but it is on refugees.

Refugees would be cut from an authorized level of 110,000 last year to 50,000 in 1998 and succeeding years, a reduction of 55 percent, compared to less than 25 percent for other legal immigrants.

Mr. Chairman, the refugee cap would be a dramatic departure from U.S. human rights policy. As chairman of the Subcommittee on International Operations and Human Rights, the committee that has prime jurisdiction over our refugee policy, and also over the budget from the authorizing level perspective, and also over human rights in general around the world, I would submit that it would be a tragedy and just plain wrong to slash refugee admissions to the United States and to depart from what is now the current law adopted back in 1980 of an annual consultation between the Congress and the executive branch to prescribe the correct number of admissions for that year.

Our first refugee laws were enacted just after World War II, when it became clear that we had effectively sentenced hundreds of Jewish refugees to death by forcing them back to Europe. The most dramatic instance was the voyage of the St. Louis, many of whose 1,000 passengers died in concentration camps after being excluded from the United States in 1939.

Let us be very clear about what we are talking about. The four largest groups of refugees admitted to the United States are all people who are in deep trouble because they share our common values about human rights and freedom: First, Jews and evangelical Christians and Ukrainian Catholics from the former Soviet Union. There has been a lot of talk about how these people are not really refugees. But my subcommittee and also the Commission on Security and Cooperation in Europe, which I also chair, has held several hearings on the resurgence of repression aimed at people of faith and people who, just because they are Jews or Christians or evangelicals, find themselves at the wrong end of their government.

Mr. Chairman, those hearings made it crystal clear that it is not the time now to stop worrying about resurgent anti-Semitism and ultra-nationalism. The communists may be back in power. We heard from Mr. Kovalev, Yeltsin's human rights leader, but sacked because of his criticisms in Chechnya. Just a couple of weeks ago, he came to our commission, he is still a member of the Duma, and he said within 6 months democracy could be lost in Russia. Recently the President of Belarus stated that modern governments had a lot to learn from Adolf Hitler.

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Second, Mr. Chairman, are old soldiers and religious refugees from places like Vietnam. These are the people who served years in reeducation camps for their pro-American and pro-democracy activities. There are many thousands of them still in the pipeline, but the proposed refugee cap would effectively require that the Vietnamese refugee program be shut down.

I have been to the camps in Southeast Asia and looked into the eyes of these people who fought with us in Vietnam. Yet, they are on line to be forcibly repatriated, minimally the cap keeps open that possibility of bringing them here or to some other country of asylum. These people are our friends and they are our former allies. They risked their lives for freedom, and Americans do not abandon those who risk their lives for freedom.

Mr. Chairman, the next largest refugee groups are victims of ethnic cleansing, in Bosnia, in the few thousand refugees again, mostly political prisoners, and persecuted Christians who we managed to get out of Cuba every year. The refugee camp would almost certainly require cuts in these groups as well.

Opponents of this amendment complain that refugees cost money. Well, everything costs some money. But again we are talking about a humanitarian pro-human rights policy that helps those who are fleeing tyranny, who have a well-founded fear of persecution. We ought not remove the welcome mat to these very important people.

Mr. Chairman, finally, this amendment is backed by a whole large number of individuals and organizations, like the United States Catholic Conference, the Council of Jewish Federations, the Lutheran Immigration and Refugee Services, the Hebrew Immigrant Aid Society, Church World Services, the U.S. Committee for Refugees, Americans for Tax Reform, the Family Research Council, and the list goes on and on. I urge support for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 15 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say to my colleagues that I actually rise in reluctant opposition to this amendment, and my opposition is reluctant for two reasons. First of all, I know that the proponents of the amendment are well intentioned. Second, I know that we share the same goals, and that is a generous level of admission for refugees. But still, in my judgment, Congress should set the level of refugee admissions. The bill ensures that Congress, not the White House, sets refugee admission levels that are responsive to humanitarian needs and that serve the national interest.

To me this amendment in many ways is the equivalent of Congress saying that we do not trust ourselves with the responsibility of setting those refugee admission levels and that only an administration, regardless of whether it is a Republican or Democratic administration, could handle the responsibility.

The bill also gives the President acting in consultation with Congress, though, sufficient flexibility to meet emergency humanitarian situations by admitting additional refugees. The bill sets refugee admissions at a target level of 75,000 in fiscal year 1997 and 50,000 per year thereafter. Under current law, refugee admissions are set by the President with minimal impact from Congress.

Under the bill, the target level may be exceeded either if Congress approves a higher level or if the President declares a refugee emergency. Based on administration projections of future refugee resettlement needs, the bill will not result in a reduction of refugee admissions. The administration projects that refugee admissions will be 90,000 this year, 70,000 in fiscal year 1997, and 50,000 in fiscal year 1998, which is almost exactly in line with what the bill has as its targets.

In fact, in one of those years the bill actually has 5,000 refugees more than the administration recommends. The refugee provisions in H.R. 2202 also follow recommendations of the bipartisan commission on immigration reform chaired by the late Barbara Jordan. Given the positions of the State Department and the Jordan commission, the bill reflects a consensus on the need for permanent resettlement of refugees into the United States.

Mr. Chairman, current refugee admissions consist primarily of refugees admitted through special programs operating in the former Soviet Union and in Indochina. Of the 90,000 refugees who will be admitted this year, 70,000 will come from just those two resettlement programs. Since these programs are due to phase out soon in the next couple of years, the targets contained in the bill will ensure that refugee admissions do not drop below historically generous levels.

H.R. 2202 creates a new category in immigration law that allows 10,000 visas to be granted every year to those who do not qualify for refugee status but whose admission is of a humanitarian interest to the United States. Congress should get back into the business of setting refugee admission levels. We simply cannot afford to continue to give any President unfettered discretion in determining refugee policy.

Let me conclude, Mr. Chairman, by emphasizing two points. The first is that we are not really talking about any difference in numbers. Both the bill, the commission on immigration reform, and the administration through its State Department, have all recommended the exact same levels concluding 2 years from now in a level of about 50,000. So numbers are not the issue. We all know what the numbers are going to be.

The second point is that the real question is who gets to decide. Should it be the President alone? Or should Congress have a role in determining our refugee policy? Historically, Congress has always had a role in setting immigration policy. Quite frankly, under the Refugee Act of 1980, Congress is supposed to have an equal role with the President, with the administration, in establishing refugee policy. We know that is not the case, that consultation procedures that we now go through have in effect become a situation where the administration dictates to Congress what the refugee levels will be.

So the whole point of this amendment again is to guarantee that we have generous levels of refugee admissions. In fact the commission on immigration reform said in testimony before the Subcommittee on Immigration and Claims that the reason they recommended the target of 50,000 is because they were afraid that if we did not have a target of 50,000, the levels would drop below that 50,000. For example, as I have already explained, 70 of the 80,000 refugees expected this year are in two categories that are soon to expire.

So the motive behind the bill again was to continue a generous level of refugees in accordance with the projects by the State Department and the recommendations of the Commission on Immigration Reform.

Again, the second point is that I think that Congress does have a role to play when it comes to setting refugee policy, and that is why I have to say that I reluctantly oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF]. He is one of the cosponsors of this amendment.

Mr. SCHIFF. Mr. Chairman, I appreciate working with the gentleman from New Jersey in putting together this amendment.

Mr. Chairman, I want to say first that even though I am offering an amendment to this bill, I want to express my personal appreciation to the gentleman from Texas [Mr. SMITH] who is the sponsor of the bill. This is the first attempt to look at our immigration laws in 10 years, and I think that it is something that is obligated to be done by the Congress.

Mr. Chairman, it is obviously something that is not easy to do. All of the Members of the House and all of the public watching us know what difficult issues and questions we have to review and resolve here in this issue, and we are here because of the leadership of the gentleman from Texas [Mr. SMITH] on this bill. I want to add also that although there is always room for legislation, there is always room to consider new laws, I have become convinced that in the area of immigration, along with numerous other areas, the real solution ultimately is enforcing the laws that are already on our books.

Mr. Chairman, I am informed that a significant percentage of those people in the country illegally at this time entered legally. They entered on student visas or tourist visas or some other legal way of entering the United States and simply would not leave when their time expired. We have such a poor system of keeping track of these individuals that basically they stay with impunity and ignore our laws, just as much as people who enter illegally in the first place. A portion of this bill would try to improve our system in terms of keeping track of these individuals. But I think that if we simply are able to more efficiently enforce laws we have, we will go a long way toward solving the immigration problems that have been identified.

Mr. Chairman, I want to speak in favor of this amendment. This amendment would eliminate the new refugee process that is placed in the bill. Currently, the refugee limits every year are set in a consultation process between the President and the Congress. The bill would change that to making the figure whatever it is set in statute, so that it could only be changed by law. Congress must pass a bill, the President must sign the bill. Otherwise, there can be no change in the figure, upward or downward, for refugees regardless of the world situation. We would have a fixed figure virtually forever.

The reason the provision is in the bill to change the refugee system is that the bill argues that the consultation process could be abused. In other words, the administration, Republican, Democrat, or Independent, could say these are the figures and we will just pretend to have consultation about it, but we are not going to change. Therefore, that is the justification for changing the process to a statute.

Mr. Chairman, there is no serious allegation that the consultation process has been abused. There is no allegation that the refugee figures set over the last number of years and then distributed among various countries was not the proper setting of the refugee figures and the allocation among the different countries which have refugee problems at this time. In other words, we are changing the law because of a hypothetical problem that could exist in the future but no one has demonstrated it has existed yet.

Mr. Chairman, in my judgment, I hope we never reach such a problem. If we do, if the consultation process is ever abused, then I would have to say we should, at that time, consider the provision in the bill. At the present time, what we are doing is stratifying the system. We are taking the refugee number, we are setting it in granite. We cannot raise it. We cannot lower it unless we actually have literally an act of Congress, and signed by the President. I think that is too much rigidity that is unnecessary at this time and, therefore, that is why I am supporting this amendment to keep the consultation process, because I think it has worked as it is supposed to have worked in the years past.

Mr. SMITH of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in opposition to the Smith-Schiff amendment. Not too long ago, the Congress of the United States established a U.S. Commission On Immigration Reform, or CIR. It was a very distinguished panel. They have made their recommendations to the Congress. Among the more active members of that Commission was our late distinguished colleague from Texas, Ms. Barbara Jordan. I think that we should pay attention to what they recommended.

Mr. Chairman, here are the most important recommendations, and they are consistent with the legislation coming from the committee. The United States should allocate 75,000 refugee admission numbers in 1997 and 50,000 admission numbers each year thereafter to the entry of refugees from overseas not including asylum adjustments. Second, they said other than in an emergency situation, refugee admissions could exceed the 50,000 admissions level only with the direct and affirmative participation by Congress. That should occur instead of the current, and I think very ineffective, consultation process that actually works today, or does not work.

Third, in the case of the emergency, the President may authorize the admission of additional refugees upon certification on the emergency circumstances necessitating such action. The Congress may override the emergency admissions only with the two-House veto of the Presidential action. That is what the Commission has recommended. The legislation before us, if we do not amend it, implements those kind of recommendations.

Mr. Chairman, some time ago, there was a story about a very high official of the United States visiting with a very high official, the highest, of the People's Republic of China, and they were talking about Jackson-Vanik. Jackson-Vanik relates to immigration issues. The story goes that we were querying the Chinese about whether immigration was possible from their country, and they said, how many would you like? Would you like 5 million, 10 million, or 15 million Chinese a year? No problem.

Mr. Chairman, now we have a very interesting kind of process underway today where some people are trying to suggest that refugee status should follow what is alleged to be, by a person, coercive abortion practices. Now, if that happens, I want to ask my colleagues, how many refugees do you think we will have in this country from China alone or from any place else that allegedly has these kind of activities, or which has them in some parts of their society? Do we expect to have 2 million, 3 million, 4 million? What is going to be the limit of the refugees we have coming in under that kind of situation?

Mr. Chairman, I want to remind my colleagues about three very important points here. First, the provisions of this act that is before us today are consistent with the recommendations of the congressionally mandated U.S. Commission on Immigration Reform.

Second, they place Congress in control of determining U.S. refugee policy. Currently, the administration, I will say, unilaterally sets the numbers with very minimal congressional input.

Third, the legislation before us provides sufficient flexibility in the legislation to allow the administration to increase admission numbers in an emergency, which is defined, or for Congress to take action to increase the numbers in any single year.

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That is what is in the bill now. That is what the Smith-Schiff amendment eliminates.

My colleagues, I am urging that we stick with the Commission. It was a legitimate effort. It was conducted by very distinguished Americans. They made their best recommendations, and in this area I think the burden of proof should lie on those that want to reject the amendments of the Commission.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER], one of the cosponsors of the amendment.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time.

I think the arguments have been made quite well. Let us make no mistake about this. First of all, let us distinguish between refugees and asylees. There has been a good deal of abuse in the asylum process. We have tried to fix that in this bill. In fact, it has been fixed almost too far, from my judgment, and that is one of my regrets about this bill.

But refugees are the people not only who have been persecuted, but who have waited on line. They have not tried to come here illegally. They cannot claim refugee status here. They wait and wait and wait, oftentimes risking political persecution, torture and everything else until the time is for them to come here.

So these, if there was ever a meaning to the Statute of Liberty, it is in the refugee allotment. The refugees who come are those who have a well-founded fear of persecution, are those who have waited in line a long time and are those that make the fact that we accept them, makes America the beacon that it is to citizens who cannot point to us on map, who do not know English, but around the world it brings us an aura of goodness, an aura of doing the right thing, an aura of being the hope and the last great hope of the world, as a poet said, more than anything else.

The benefits to America are beyond the benefits that so many refugees have contributed in terms of science and the arts. The benefits are that around the world we are looked up to as the best country. That is a benefit we should not throw out lightly to reduce a number by 30,000 or 40,000.

I dare say, talk to business people, and diplomats and people like that. They will say the benefits come back economically because we are so well thought of for this small amount of people that we take in.

So, while I certainly agree that immigration must be reformed, cutting back on refugees beyond what is in the present law goes way too far, and I would urge respectfully that my colleagues support the amendment that Mr. SMITH, the gentleman from New Mexico, Mr. SCHIFF, myself, and the gentleman from New York, Mr. GILMAN, have sponsored.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I just want to respond briefly to my friend from New York and repeat what I said awhile ago, that the bill, as it stands right now, does not cut or is not expected to cut the levels of refugees. The State Department, the Commission on Immigration Reform, and the bill all have projected levels that have virtually the same; that is, 50,000 in 2 years.

So the intent was not to cut any refugees, and in fact the Commission on Immigration Reform recommended that we have a level of 50,000 in there so that we would not go below 50,000 when the two resettlement programs now in operation expire.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise today as a cosponsor of this worthy amendment to the Immigration in the National Interest Act. I am distressed by H.R. 2202's treatment of section 521, which would limit annual refugee admissions to 50,000 by the fiscal year 1998.

Most of my colleagues will recall that the gentleman from New Jersey [Mr. SMITH] recently held a hearing on the persecution of Jews worldwide. That testimony vividly demonstrated that anti-Semitism is still rampant in the former Soviet Union. It is expected to get much worse with the rise of reactionary forces throughout the republics. Attacks on synagogues and grave sites are on the rise again. Men and women have been beaten by gangs and skinheads.

In just as ominous a sign is the Russian Duma voting overwhelmingly to condemn the 1991 decision to break up the Soviet Union.

We all know the public policy cannot be altered quickly enough to meet the challenges in the suddenly changing world. What would opponents of this amendment suggest if a new regime in Moscow sanctions discrimination against its minorities, that we ask Russia's new leaders to wait until we repeal our refugee ceiling before they persecute Jews or evangelical Christians or other minorities.

Mr. Chairman, if we had a refugee policy that was engineered to meet the needs of persecuted peoples in 1939, there would not have been the tragic ending of the voyage of the *St. Louis*, where hundreds of Jewish passengers died in concentration camps after they were excluded from entering the United States.

Refugee policy is not any social or economic concern. It is a question of morality.

Accordingly, Mr. Chairman, I urge my colleagues to support the Smith-Schiff-Gilman-Schumer-Boucher-Fox amendment to H.R. 2202.

Mr. SMITH of Texas. Mr. Chairman, I yield 1¼ minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in support of the Smith amendment.

History has shown us what happens when the United States closes its doors to the refugees of the world.

In 1939, 930 Jews fled Nazi Germany for Cuba on the ship the *St. Louis*. Although the refugees had valid visas, the Cuban Government refused to let the *St. Louis* dock when it arrived in Havana. From Havana the *St. Louis* sailed to the United States. Sailing close to the Florida shore, the passengers could see the lights of Miami. But the United States Government refused to let the refugees land—because we had a refugee cap. U.S. Coast Guard ships even patrolled the waters to ensure that no one on the *St. Louis* swam to safety.

So the passengers of the *St. Louis* were forced to return to Europe—where they were sent to the Nazi death camps and murdered.

This incident is a blight on our Nation's history—and it must never happen again.

Mr. Chairman, innocent people die when the United States closes its doors to refugees. The United States must always be a safe haven for persecuted victims.

I urge you to strike the refugee cap that is contained in this bill. Support the Smith amendment. Lives depend on it.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, as one of the three Democrats who voted for H.R. 2202 in the Judiciary Committee, I rise in strong support of this bipartisan amendment which would eliminate the cap on refugee admissions to the United States. The United States has historically played an important role in addressing the needs of persons from other countries with a well-founded fear of persecution and I believe the United States should remain sensitive to levels of international refugee migration. This is not to say that this policy should be open-ended. The current process for setting refugee admissions, determined annually by the President in consultation with the Congress, is restrictive yet flexible. It allows for the President and Congress to adjust to international conditions that are continuously changing.

The United States has been a leader in humanitarian and foreign policy, and legislating a cap on refugee admissions would send the wrong message to nations that share the responsibility for the world's refugees. I believe the current process in which the Congress has an opportunity to participate is the most responsible and I urge my colleagues to vote in favor of this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield the balance of our time to the gentleman from Virginia [Mr. WOLF] a tenacious fighter for human rights who has been to the Sudan, People's Republic of China, Romania. He has been in prison camps. No one has fought harder on behalf of persecuted Christians, Jews, and others.

Mr. WOLF. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in very strong support of the Smith amendment. I want to thank the gentleman from Texas [Mr. SMITH], and his cosponors. The adoption of this amendment will help so many people who do not even know today that they are going to be in need of this amendment. So I take my hat off to the gentleman from Texas [Mr. SMITH].

There is tremendous presecution still going on. Anti-Semitism is alive and well all over the world, in the Middle East and in Russia. In fact, as it has been said, in Russia they are not privatizing anti-Semitism in Russia. The persecution of Christians in the Middle East, the persecution of Christians around the world, the persecution of Christians in China, the persecution of Christians in Vietnam, in fact, is the issue that this Congress will have to deal with in the next Congress. It is the persecution of Christians that is going on around the world; and this administration and this Congress, but for tonight, has been silent on this issue.

As the gentleman from New York [Mr. SCHUMER] said, this is what America is about, is a fundamental major moral issue, and quite frankly, in many respects the world is more dangerous today and more turbulent with more wars and more persecution going on than almost any other time, and perhaps this is needed more now than it was even back in the 1980's or any other time.

So I want to commend the sponsor of the amendment. I hope and pray that this thing passes overwhelmingly because the number of people unfortunately, unfortunately that will need this amendment, will be more than we will ever realize, and I strongly urge, hopefully, almost a unanimous vote for the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] has 3 minutes remaining.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Ms. PELOSI. Mr. Chairman, I rise in support of the Smith-Schiff amendment, striking the provision which cuts refugee admissions.

The 50,000 refugee cap is a drastic, arbitrary reduction that will cut annual refugee admissions in half. This extreme cap represents less than half of our country's current admissions.

This is an unfair and unnecessary provision. The cap would severely limit the flexibility of the U.S. refugee system to respond to unpredictable humanitarian crises. For example, the administration set aside 2,000 refugee admission slots for Bosnians, many of which were filled by women who had been systematically raped by Serb forces. There are atrocities occurring throughout our world that cannot be factored accurately into a fixed number of refugee admissions.

Women and children constitute 80 percent of the world's refugees. This cap would have a tremendous negative effect on these people fleeing from danger and persecution.

If this provision is passed, the United States will be sending a clear signal to the international community that it is backpedaling from its commitment to refugee protection.

I urge my colleagues to exercise their compassion for the world's refugee population and vote for the Smith-Schiff amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 18 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DREIER: After section 810, insert the following:

SEC. 811. COMPUTATION OF TARGETED ASSISTANCE.

Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) Except for the Targeted Assistance Ten Percent Discretionary Program, all grants made available under this paragraph for a fiscal year shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.".

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. DREIER] and a Member opposed, the gentlewoman from Florida [Mrs. MEEK], will each be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I yield myself such time as I may consume.

We are about to embark upon 10 minutes of action-packed debate on a very important issue. The amendment I offer today seeks to provide for fair distribution of targeted refugee assistance. The Targeted Refugee Assistance Program [TRAP] provides aid to counties with high concentrations of refugees that suffer from high welfare dependency rates. This Federal assistance is needed to help those refugees achieve economic independence.

Congress appropriates nearly $50 million annually for this program. However, currently over 40 percent of this aid goes to just one county with only about 7 percent of all those eligible refugees. This concentration of resources means that every other participating county nationwide must pick up the added cost of training refugees to get them into the work force or providing them social services.

Mr. Chairman, the existing earmark dates back over a decade and was intended to ease the resettlement of refugees who arrived in 1980. Advocates of the current distribution may argue that certain areas of the country are dealing with communities that remain especially difficult to make self sufficient. But the parameters of the TRAP program set this as a requirement for every county that participates.

The regulations governing the award of assistance state that the services funded are required to focus primarily on those refugees who, and I quote, "because of their protracted use of public assistance or difficulty in securing employment continue to need services beyond the initial years of resettlement."

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Mr. Chairman, no qualifying county, regardless of the community served, can claim to be more deserving of this aid than any other county in the Nation.

My amendment would maintain the existing 10 percent discretionary set-aside for counties that are heavily impacted by refugees but do not otherwise qualify for formula TRAP assistance. Apart for this, aid would have to be distributed on an equal per-refugee basis. Let me say that again. Under this amendment, aid would have to be distributed on a per-refugee basis.

This amendment requires the Federal Government to pay for its refugee policy. It recognizes that all counties with significant refugee populations deserved equal assistance in helping them become self-sufficient. Failure to enact a fair formula for distribution of TRAP aid is tantamount to another unfunded mandate on State and local governments. I am going to urge my colleagues to support this, Mr. Chairman. It is a very fair and balanced amendment. I believe it will address the concerns of the entire country.

Mr. Chairman, I included for the RECORD the following letter.

THE CITY OF NEW YORK,
WASHINGTON OFFICE,
Washington, DC, March 20, 1996.

Re refugee assistance amendment H.R. 2202, Immigration in the National Interest Act of 1995.

To: Members of the New York Delegation
From: Alice Tetelman, Director

I am contacting you to inform you of the City's support for an amendment on the Refugee Targeted Assistance Program that will be offered by Rep. David Dreier (R-CA) during consideration of H.R. 2202, the Immigration in the National Interest Act of 1995.

The Refugee Targeted Assistance Program, which is administered by the Office of Refugee Resettlement in the Department of Health and Human Services, provides grants (through states) to counties and local entities that are heavily impacted by high concentrations of refugees and high welfare dependency rates. This funding is intended to facilitate refugee self-employment and achievement of self-sufficiency. This includes training, job skills, language and acclimating to the American workplace.

Under the current Targeted Assistance Program, New York City's refugee population, which is the largest in the nation, does not receive their fair share of assistance because the House and Senate Appropriations Committees have traditionally earmarked a disproportionate share of these funds for Cuban and Haitian entrants. For example, of the $50 million allocated for targeted assistance nationally in FY 1995, the state of Florida received $18 million, with a per capita rate as high as $497 in some areas. In contrast, New York State received only $4.1 million of the FY 1995 funding, with only $30 available for each refugee residing in New York. The national average is $35 per refugee among non-Florida recipients.

The Dreier amendment would ensure that all qualifying counties would receive the same amount of targeted assistance per refugee. Thus, all refugees who have been in the U.S. under five years would receive the same level of assistance as others under this program. Enactment of the Dreier amendment will restore fairness and equity to a very worthy program and the City urges you to support its passage.

Please do not hesitate to contact Tom Cowan (624-5909) in the City's Washington office if you or your staff should have any questions or need additional information on this amendment. Thank you for your consideration of this request.

STATE CAPITOL,
Sacramento, CA, March 20, 1996.

Hon. DAVID DREIER,
House of Representatives,
Washington, DC.

DEAR DAVID: I am writing in support of your amendment to the pending immigration reform legislation regarding the equitable distribution of refugee targeted assistance funds.

As you know, roughly one-third of the refugees in the United States reside in California, yet California receives less than 23 percent of these funds. In FY95, Congress appropriated a little over $49 million for the Refugee Targeted Assistance Program to assist communities highly impacted by refugees. Of this amount, approximately $19 million, or nearly 40 percent was set aside for one state. This disproportionate allocation comes only at the expense of other participating counties in California and around the nation.

Your amendment will eliminate this set aside and give California its fair share by providing that qualified counties receive refugees targeted assistance per refugee, thereby ensuring an equitable allocation. Further, California counties, which are highly impacted by high concentrations of refugees and welfare dependency, would receive approximately $7.5 million in additional targeted assistance funds. These additional funds could be used to facilitate training in job skills and language, as well as assisting refugees in adapting to the American workplace.

Again, I endorse your amendment and commend you for your leadership in this area.

Sincerely,

PETE WILSON,
Governor.

Mr. Chairman, I reserve the balance of my time.

Mrs. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I stand in strong opposition to this amendment. First of all, Mr. Chairman, and my dear friend, the gentleman from California [Mr. DREIER], who is my hallmate, in this amendment I do not think there is anyone in this House that would oppose Cuban and Haitian children who are already in this country, and already here; they are not coming. There will be about 20,000 more of them coming because of the policies that this Federal Government has already agreed upon.

My good friend, the gentleman from California [Mr. DREIER], speaks about equality in distributing targeted assistance funds, but we are talking more about fairness in terms of the guidelines of targeted assistance.

No. 1, the money is targeted for counties that have a large number of Cuban and Haitian immigrants. What the gentleman from California wants to do, he wants to take away the target from the Cuban and Haitian immigrants and wants to waive it, so other people who are not Cubans and Haitians, he lets it remain. He lets it remain for the Hmongs, the Laotian, Cambodians, and the Soviet Pentacostals. I am saying that that is not fair in that we already have Cubans and Haitians in this country, but his amendment would take it away from us and distribute it to all the other counties.

I want to tell our colleagues why south Florida needs most of this money. Mr. Chairman, the amendment of the gentleman from California [Mr. DREIER] is well-intended, but it is not fair. It is the Federal Government's immigration policy, not ours. If Members hate Fidel Castro, and they have already demonstrated that, they supported the Libertad bill, just as I did, that we passed, and if they oppose dictatorships in Haiti and El Salvador and Nicaragua and Guatemala, they should vote against this amendment. They should be with me, against this amendment, because the people who are fleeing these dictatorships come to Miami and to Florida. The Dreier amendment would cut them out.

If Members think that this targeted assistance earmark is a gain to the United States taxpayers, they are wrong. I will mention, we chose this as a Federal Government. Now we want to come back and seek to take the funds away from Dade County and south Florida. The funds are already there, Mr. Chairman.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentlewoman for yielding me this minute.

Mr. Chairman, I want to compliment her for her statement. Mr. Chairman, this is money that has already been earmarked. South Florida has been pelted with the burden of caring for so many of these people that are coming onto our shores. Even as we speak tonight, more and more people are being awarded visas with the deal that the Clinton administration made with the Castro people in order to try to stop the flow of refugees into this country. They come into Florida and they stay in Florida. We all know well about the exodus that we have had from Haiti.

Regardless of where Members come down on this particular issue, we know that they remain in south Florida, and they become the burden of the taxpayers in south Florida. This money was earmarked. It should stay earmarked. I think we, in the Congress, are really starting a dangerous precedent if we start looking around the country and find out where certain moneys have been, and then start getting into raiding these particular funds.

Believe me, Florida is not coming out on this deal at all. It is costing us much more in health care, social services, than we are getting from the Federal Government. I urge a "no" vote on the Dreier amendment.

Mr. DREIER. Mr. Chairman, I am privileged to yield 1 minute to the gentleman from New York [Mr. GILMAN], distinguished chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this amendment is not aimed at Florida or any other State. The refugee targeted assistance program is designed specifically to provide assistance to counties that are heavily impacted by refugees and who have had a hard time moving them into the work force. No county, in Florida or elsewhere, has a greater claim to this assistance than any other.

The Dreier amendment maintains a 10-percent discretionary set-aside for counties that do not qualify for formula assistance but are nevertheless impacted by refugees. Counties that do participate in this program currently bear an unfunded mandate, either providing additional money to move refugees into the work force, or paying for social services where they cannot find work.

The city of New York's mayor's office sent us the following note: "Enactment of the Dreier amendment will restore fairness and equity to a very worthy program. New York City urges support for its passage."

Accordingly, Mr. Chairman, I urge my colleagues to support the Dreier amendment.

Mrs. MEEK of Florida. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Miami, FL [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, the Dreier amendment is dressed in a cloak of fairness, but it is not fair. The Dreier amendment talks about standardizing this targeted assistance for refugees, and yet it excepts, there is an exception for the aid that California gets for Laotian and Cambodian refugees, which by the way, I think should remain.

We are not trying, and I do not think we should try to except out that aid; so why, then, except out the aid that south Florida gets for the refugees from the Caribbean? It is not fair, and it is really an artificial cloak. Let us defeat it.

Mr. DREIER. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Washington [Mr. METCALF].

Mr. METCALF. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, Snohomish County in my district is a recipient of TRAP funding. This vital program provides essential training for refugees. However, currently Snohomish County receives less than 7 percent of the funding per refugee that some other counties receive. For example, Snohomish County gets $31 per refugee. Another county in this country gets $497 per refugee; $31, $497. This is not right. TRAP funding is intended to benefit all refugees in this Nation, no special population. I support the amendment of the gentleman from California, to bring fairness and equity to this program.

Mrs. MEEK of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Florida Mr. PORTER GOSS.

Mr. GOSS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, it is not often that I rise in opposition to the position taken by my colleague from California. But I am opposed to the Dreier amendment, which would alter the current allocation of targeted refugee assistance. The issues here are insufficient Federal funds and geography—and the proper response of the Federal Government to the disruption that has been caused by the failure of Federal immigration policies. Mr. DREIER proposed dividing up 90 percent of the funds for refugees assistance among all impacted counties.

On its face, that might seem reasonable. But the problem is that the Dreier amendment instead of seeking additional justified funding—robs areas that are already hurting badly from lack of funds.

The amendment ignores today's reality, as well as the recent past, attempting to treat all regions of the country as if they were starting at the same place when it comes to refugee policy. The fact is that certain regions of the country have suffered a systemic disproportionate and cataclysmic impact from Federal refugee programs. That's why we have in place currently the practice of targeting portions of the refugee assistance funds to deal with specific refugee crises, such as those in recent years that have substantially affected Florida.

Although the program as it stands was set up to deal with the massive refugee flows of the Mariel boatlift, the last few years of United States policy in Cuba and Haiti have meant that Florida's need for special refugee assistance has not subsided. Florida counties have done their part through the ups and downs of successive administrations' policies in the Caribbean by welcoming refugee influxes from places like Cuba and Haiti. We have willingly done so, and at a very great cost to our State. However, Floridians have consistently argued that the Federal Government must be made to facilitate the resettlement of those refugees in our State. We are, after all, talking about the direct result of Federal immigration and foreign policies. As such, we support the current program because it recognizes the importance of distributing funding to areas with the greatest need. The Dreier amendment would reverse this policy. Mr. DREIER has argued that this is a matter of principle—a question of equality on its face. If that is the case, I am somewhat surprised to find that my colleague's amendment leaves in place a 10 percent discretionary program for counties impacted by Laotian Hmong, Cambodians, and Soviet Pentecostal refugees entering the United States after 1979. If equality is the issue, I would think that Mr. DREIER would argue that all 100 percent of the available funds should be on the table. Otherwise, if we are going to have targeted assistance, doesn't it make sense to lay out a formula that truly addresses the need? I oppose this amendment and hope my colleagues will join me in doing the same. The idea is to put the money where the need really is—not rely on some Washington one-size-fits-all response.

Mr. DREIER. Mr. Chairman, do I have the right to close debate as the author of the amendment?

The CHAIRMAN. The gentleman from California [Mr. DREIER] does have the right to close debate.

Mrs. MEEK of Florida. Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, originally this impact aid or targeted assistance program was designed exclusively for the Cuban and the Haitian refugees in Florida. It was $19 million. It has been continued at that level ever since because that is what is needed there. It is great that we have added the pot up to $50 million, but there is absolutely no justification for reducing the $19 million that was originally there that we have each year allocated to south Florida to the Cuban-Haitian impact area. We need to keep it there. If we want to expand it more, fine, but what is going to happen is south Florida is going to get next to nothing when you start spreading this around.

In California, the gentleman's State is going to get almost all of the $50 million. Very little is going to go anywhere else. Let us leave the law alone as it is. If we need to add money for California, let us do it, but south Florida cannot survive the impact if we take the $19 million away.

Mr. Chairman, I rise today in strong opposition to the amendment offered by my colleague from California, Mr. DREIER. My colleague's amendment would alter the distribution of funds made available under the targeted assistance program, which offsets the costs associated with absorbing refugee populations. As you know, Florida has been adversely impacted by incoming refugees from Cuba and Haiti.

Florida's proximity to Cuba and Haiti has made it the natural destination for those fleeing these two countries. However, there is nothing in Florida that makes it naturally equipped to deal with sudden and large influxes of refugees.

Realizing this, Congress wisely established the targeted assistance fund—then called impact aid—to deal with the Mariel boatlift. This fund has subsequently subdivided. In subdividing these funds, appropriators have traditionally considered the original impact aid intent of service to Cuban- and Haitian-impacted counties. In fiscal year 1995, appropriators had three separate funds: First, the set aside reminiscent of impact aid totaling $19 million for communities affected by the massive influx of Cubans and Haitians; second, a 10 percent discretionary fund for grants to localities heavily impacted by the influx of refugees such as Loatian Hmong, Cambodians, and Soviet

Pentacostals; and third, the generic county impact pot that divided the remaining funds according to a formula regardless of specific refugee nationality.

My colleague's amendment would delete the impact aid set-aside, returning the funds to the general pot. If this were to become law, Dade County would face a larger financial crunch than they already do in trying to cope with the large numbers of Cuban and Haitian refugees.

I understand my colleague's call to be fair in distributing refugee assistance funds. However, at some point the sheer number of refugees requires special attention and additional funds. This is the case in Dade County. Furthermore, if the issue is one of fairness, I must wonder why my colleague preserves the 10 percent discretionary set-aside, which primarily benefits his State of California. If it is an issue of fairness, all set-asides should be deleted.

Mr. Chairman, in the end, neither of the set-asides should be deleted as both serve specific purposes. I would hope my colleagues take the situation in Dade County into account before supporting Mr. DREIER's amendment. A reasonable look at the situation would reveal the need for the status quo arrangement. I would urge my colleagues to oppose the Dreier amendment.

Mrs. MEEK of Florida. Mr. Chairman, I yield 15 seconds to my colleague, the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I join my colleagues in allowing that, among other things, if we had a fair formula in Florida and if we received the taxpayers' fair share, we would not need this exceptional refugee funding. One size does not fit all in this country.

We have a unique problem in Florida that demands a unique solution. This influx causes a severe impact on our social, economic, and health services.

Mrs. MEEK of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to say that the Dreier amendment is grossly unfair in that it wants to cut out monies that are already going to Florida. We need it. Our people are there. They need health services and they need educational services. If we take away that now, we are intervening in a process which has worked very well in the past. I would like to say, if we need more money, fund it, but please do not cut Florida out of its funding.

Mr. DREIER. Mr. Chairman, I am happy to yield such time as he may consume to the gentleman from Texas [Mr. SMITH], the distinguished chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary, to close debate on the fair, balanced, and equitable, even for Florida, Dreier amendment.

Mr. SMITH of Texas. Mr. Chairman, I thank my friend, the gentleman from California, for yielding time to me.

Mr. Chairman, I rise in support of the Dreier amendment, which brings equity back to the process of allocating refugee assistance funds. Each year for the last decade, one State has received more than 10 times the amount of Federal refugee assistance per refugee than the national average. The Dreier amendment will allow all qualifying countries to receive the same amount of targeted assistance per refugee. I urge my colleagues to support this amendment, which again, brings equity back to the process of allocating refugee assistance funds.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DREIER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from California [Mr. DREIER] will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 16 offered by the gentleman from Florida [Mr. CANADY], and amendment No. 18 offered by the gentleman from California [Mr. DREIER].

The Chair will reduce to 5 minutes the time for the second electronic vote.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA.

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. CANADY] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered

The vote was taken by electronic device, and there were—ayes 210, noes 207, not voting 15, as follows:

[Roll No 78]

AYES—210

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Boehner
Bono
Browder
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Gordon
Goss
Graham
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lucas
Luther
Manzullo
McCollum
McCrery
McHugh
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Pickett
Pombo
Porter
Quillen
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Saxton
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Walker
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—207

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Cardin
Castle
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Davis
de la Garza
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Goodling
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoke
Holden
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
Kolbe
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lipinski
LoBiondo

Lofgren
Longley
Lowey
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mink
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Pomeroy
Portman
Poshard
Pryce
Quinn
Ramstad
Rangel
Reed
Richardson
Rivers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Skaggs
Slaughter
Smith (MI)
Spratt
Stupak
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Waldholtz
Walsh
Ward
Watt (NC)
Watts (OK)
Waxman
White
Williams
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—15

Bliley
Brewster
Chrysler
Collins (IL)
Ford
Hostettler
Johnston
Moakley
Obey
Radanovich
Stark
Stokes
Studds
Waters
Wilson

□ 2102

Messrs. PORTMAN, DAVIS, McDADE, and JOHNSON of South Dakota, and Ms. DUNN of Washington changed their vote for "aye" to "no."

Mr. BASS and Mr. PORTER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Chairman, earlier today I was unavoidably away from the Chamber and missed a number of recorded votes. On rollcall No. 73, the Bryant of Tennessee amendment, I would have voted "no"; on rollcall No. 74, the Velázquez amendment, I would have voted "yes"; on rollcall No. 75, the Gallegly amendment, I would have voted "no"; on rollcall No. 76, the Chabot amendment, I would have voted "yes"; and on rollcall No. 77, the Gallegly amendment, I would have voted "no".

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the second amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 18 OFFERED BY MR. DREIER.

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. DREIER] on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 59, not voting 13, as follows:

[Roll No. 79]

AYES—359

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Woolsey
Yates
Young (AK)
Zeliff
Zimmer

NOES—59

Andrews
Beilenson
Bilirakis
Bonior
Brown (FL)
Canady
Clay
Clayton
Clyburn
Collins (MI)
Conyers
Dellums
Deutsch
Diaz-Balart
Fields (LA)
Foglietta
Foley
Fowler
Gephardt
Gibbons
Goss
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Jackson (IL)
Jefferson
Kennedy (RI)
Lewis (GA)
Martinez
McCollum
McDermott
Meek
Mica
Miller (FL)
Owens
Pastor
Payne (NJ)
Peterson (FL)
Peterson (MN)
Quillen
Rangel
Ros-Lehtinen
Rose
Rush
Scarborough
Shaw
Sisisky
Skelton
Spratt
Stearns
Thompson
Thurman
Torricelli
Watt (NC)
Williams
Wise
Wynn
Young (FL)

NOT VOTING—13

Bishop
Brewster
Collins (IL)
Hostettler
Johnston
Livingston
Moakley
Radanovich
Stark
Stokes
Studds
Waters
Wilson

□ 2111

Mr. RUSH changed his vote from "aye" to "no."

Mr. BROWN of California and Mr. ENGEL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. OWENS. Mr. Chairman, I rise in opposition to the Immigration in the National Interest Act, H.R. 2202. This bill is a misnomer, for it denounces a historical tradition of the United States—to welcome different cultures that add to the richness of this diverse land. On the contrary, H.R. 2202 is not in the national interest of the United States. It further reinforces the modern conservative tactic for solving the Nation's current economic and social woes:

Blame the poor, our children, African-Americans, women, and immigrants.

H.R. 2202 is an underhanded assault on the foreign-born, in general. This bill would punish those who illegally exploit America's generosity, along with those who legitimately seek an opportunity in America. By unifying the illegal and legal immigration problem, H.R. 2202 makes the mistake of lumping everyone together, whether they commit a crime or not. The bill reflects a number of misconceptions that have infiltrated the policy debate on immigration.

Unconscionably, H.R. 2202 would reduce the number of legal immigrants by 30 percent. This reduction unreasonably implies that the United States is plagued by an illegal and legal immigration invasion. The number of foreign-born that enters this country each year is 1 million. Of that number, 700,000 are legal immigrants. Currently, the foreign-born represent only 8 percent of the total population as opposed to the period between 1870 and 1920 when nearly 15 percent, or 1 out of every 7 individuals was foreign born.

H.R. 2202 would limit the immigration of people under the Immigration and Naturalization Service's [INS] family sponsored category. This bill would restrict entry for parents, adult children, and siblings. In effect, this new policy would impose America's definition of a family onto the culture of immigrants. Excluding more than 100,000 children, parents, and brothers and sisters from reuniting with family members in this country is not a pro-family policy.

It is distressing that the term immigrant has been smeared to connote a terrible meaning. My Republican colleagues have resorted to ignoring the contributions that immigrants have made to this country.

Immigrants do not come to America just to hop on the public dole. In fact, according to the Urban Institute, immigrants generate an estimated $25 billion in surplus revenues over what they receive in social services.

Furthermore, immigrants create more jobs than they fill by starting new businesses and buying U.S. goods and services. No conclusive data have proven that even illegal immigrants have an adverse effect on job opportunities for native workers. Ironically, the person most likely to be displaced in a job by an illegal immigrant is another illegal immigrant who has resided in this country for some time.

Clearly, the United States must address the dangers of illegal immigration; but, in the interim, legal immigrants should not have to defend their rights, integrity, and culture. In light of the imminent rollback on affirmative action, possible abolishment of the welfare and Medicaid entitlement, and this current unfair immigration reform proposal, I challenge my colleagues to stop this Congress from going down in history as the most vicious and regressive Congress since reconstruction.

We must not forget the 1987 Hudson Institute's pioneer study, Workforce 2000; in the next century, America's workforce will be more female and more ethnically diverse with native-born white males comprising only 15 percent of the new labor market. It is time to accept this fact and addresses the real problem. I urge a "no" vote on H.R. 2202.

Mrs. MINK of Hawaii. Mr. Chairman, the immigration bill, H.R. 2202, that we are debating this week in the U.S. House of Representatives exploits the deep hostilities felt across this land, that the problem of illegal immigrants has grown out of control needing drastic measures to curb, and seizes upon this issue to justify other changes in current law which drastically change the family reunification principle which has governed how we decide to grant visas for new entrants.

This merger of the issue of illegal immigration with changes in the family preference categories currently allowed is unwarranted. These two matters should be separated. H.R. 220 should be confined to a debate on how to deal effectively with the problems of illegal immigration. There is no disagreement that this is a matter of concern which must be dealt with on the national level.

But to be asked to vote for changes in family preference categories because you support proposals to curb illegal immigration is unfair to families who have waited for years for their numbers to be called up so that they could call for their adult children to join them in America.

H.R. 2202 repeals family preferences which currently allow reunification of family members including adult children, and siblings. For a Nation concerned about family, it is unjustifiably cruel to cut off this long-awaited hope that the family could be reunited. Legal immigrants deserve to be treated better.

Even more punitive is the provision in H.R. 2202 which although allowing parents to be included in the definition of family allowed entry, requires that before they are issued visas they must have prepaid health care insurance.

H.R. 2202 reduces the number of immigrants allowed in next year under the family preference category from the current 500,000 to 330,000. This number would be reduced each year until it reached only 110,000.

H.R. 2202 limits the number of adult children admitted to those who are financially dependent on their parents, are not married and are between the ages of 21 and 25 years. An exception is provided for adult children who are permanently physically or mentally impaired.

Employment-based visas will be issued each year to 135,000 immigrants. Refugee visas will be limited to 50,000 per year.

These measures dealing with changes to legal immigration should be separated out and dealt with under a separate bill. There is no justification for repealing the family categories and denying adult children and brothers and sisters from ever being reunited.

All sections of the bill that deal with legal immigrants should be eliminated from H.R. 2202.

The 1990 Immigration Act established a worldwide annual immigration limit of 675,000, not including refugees and other categories. Within this limit, 480,000 are family-related immigrants, with 226,000 set aside for: unmarried adult sons and daughters of U.S. citizens—23,400; spouses and children of permanent resident aliens—114,200; married sons and daughters of U.S. citizens—23,400; and brothers and sisters of adult U.S. citizens—65,000.

The 1986 amnesty provisions of the immigration law increased the number admitted to a high which occurred in 1991 of 1,827,167. But this was due to amnesty and not because of the family reunification policy.

There are currently 1.1 million spouses and minor children of lawful permanent legal residents on the waiting list.

The backlog should be cured by allowing all spouses and minor children to be admitted irrespective of country limits.

The committee bill argues that the need to allocate numbers to other family members prevents spouses and minor children from being admitted. This is the reason they state that they are repealing the other preference categories.

The family unit for most Asian families includes all children. It does not arbitrarily exclude adult children. It does not arbitrarily exclude siblings. Any family reunification policy must allow for these members of the family unit to be admitted. No matter how long the wait, these family members deserve the hope and expectation that U.S. immigration policy does not cut them off without any hope of reunification.

The Committee Report states that the State Department records indicate the following wait listings: First, unmarried adult sons and daughters of U.S. citizens: 63,409—annual admissions allowed is 23,400; second, unmarried adult sons and daughters of permanent resident aliens: 450,579—annual admissions allowed is 36,266; third, married adult sons and daughters of U.S. citizens: 257,110—23,400 annual allowed admissions; and fourth, brothers and sisters of U.S. citizens: 1,643,463—65,000 annual admissions allowed.

Because of this backlog of 2.4 million persons eligible for admission but denied due to category or country limits, the Committee report concludes that this large backlog undermines the integrity of the immigration policy and therefore repeals them.

To rescind these categories undermines our national integrity. These persons, heretofore found eligible for admission being forever barred is a cruelty beyond description. Destroying their hope they have clung to 10 or 15 years that someday they would be reunited with their families is without justification.

I urge the separation of all provisions dealing with immigration policy from this bill. Let's today deal with the issue of illegal immigrants, and leave to another time the matter of what changes are needed regarding the family preference system.

I urge this House to support the Chrysler-Berman-Brownback amendment which deletes title V from this bill.

Mr. RADANOVICH. Mr. Chairman, earlier in this debate I signaled my support for the guest worker program involving American agriculture.

This can be a potent solution to two pressing needs: assuring an adequate labor supply for the farm fields of our country and delivering a body blow to illegal immigration.

We of California's San Joaquin Valley recognize the critical requirement for farm labor during certain seasons. Allowing those from abroad to fill the gap from shortages of American workers makes good sense—economically, agriculturally, and socially.

Noteworthy, I believe, is the strong stance of the Nisei Farmers League. Its president, Manuel Cunha, has told me, "this is the ideal program to meet the seasonal employment needs of agriculture."

This amendment is good on all sides. It has safeguards that protect domestic employees, that provide payment of prevailing wages, and to see workers return when the work is over. I support it and urge my colleagues to join me.

Mr. CRANE. Mr. Chairman, I commend Chairman SMITH for his hard work on the illegal immigration provisions in H.R. 2202, the Immigration in the National Interest Act of 1995. I would like to draw attention to the role played by the U.S. Customs Service on our borders in the processing and interdiction of illegal passengers, conveyances, and cargo. While H.R. 2202 calls for additional Immigration and Naturalization Service [INS] inspectors and certain infrastructural improvements along borders, it should not be forgotten that primary responsibility for policing our borders falls on the Customs Service. Customs inspectors and agents protect American citizens from the entry or importation of illegal goods. In fact, the Customs Service seizes more illegal drugs than all other Federal agencies combined. A lesser known fact is that in addition to their own obligations along the southwest border, Customs has a cross-designated responsibility with the INS to identify and detain illegal immigrants. Customs holds the line on our borders, and INS plays it role, too.

In considering H.R. 2202, I ask my colleagues to remember these facts. First, unlike the INS, Customs deploys its personnel along the border according to changing threats, not the absolute numbers of passengers in any given period. Customs has targeted inspections based on intelligence from its agents, some of whom operate beyond our borders to protect vital national interests. Second, decisions by the INS to build commuter lanes, open new ports, or establish additional preinspection facilities must be made in consultation with the Secretary of Treasury and the Commissioner of Customs. Third, INS infrastructural needs at the border are much smaller than those of Customs, which must process people, vehicles, and cargo. Appropriations for the INS for changes in infrastructure or personnel at our borders must take into account any new demands placed on Customs by these changes. I am confident that the Attorney General and the Secretary of the Treasury will consult with each other to ensure the continued coordination of interdiction efforts along our borders.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act of 1995. This bill is badly flawed in numerous ways.

H.R. 2202, for the first time, would combine two entirely different issues in one bill. Combining efforts to secure our borders with reforms to our system of legal immigration serves only to confuse the debate. It plays on the public's understandable concern over illegal immigration but twists that concern into the misguided notion that all immigration is harmful and all immigrants are undocumented, sneaking into our country by night. Neither notion, of course, is true, but dealing with both illegal and legal immigration in one bill serve to fuel hostility and even prejudice toward all immigrants.

The sponsors of this legislation appear to hope that the always-popular issue of fighting illegal immigration will be a strong enough engine to pull unnecessary and unwise changes in our process of admitting legal immigrants to the United States through the legislative process.

I would not argue against reasonable improvements in enforcing our national borders; indeed, border enforcement is one of the principal obligations of a sovereign nation. But I cannot support such micromanagement as mandating a particular type of fence—and one that the Border Patrol considers dangerous for its officers.

Nor can I support that bill's system to enable employers to confirm that newly hired workers are eligible to work in the United States. Voluntary or mandatory, such a system ultimately can't work without databases that are far more accurate than those we have, as well as a national ID card to tie a person to the name and number he or she present to a potential employer.

Moreover, such a system is likely to lead to discrimination, especially now that the tester program has been taken out. After all, if I'm an employer, and I've gone through the entire hiring process—interviews, testing, reference checks, and all—and I've hired my top candidate only to learn that he or she is not authorized to work and that I must begin the process all over again, why should I include anyone who might turn out to be inelligle in my next candidate pool? Why should I risk wasting time considering anyone with an accent, or a foreign-sounding surname? No, I will support the chabot amendment to strike this system.

Another major national obligation is to screen would-be immigrants and admit those whose relationships to American citizens or legal permanent residents the Nation wants to foster or whose skills the Nation needs to prosper, as well as refugees fleeing their homelands for valid reasons. Immigrants, despite faulty statistics that have been used during this debate, are a net plus for this country, working, creating jobs, paying taxes, becoming Americans. H.R. 2202 turns its back on this tradition by sharply reducing the numbers—and even the kinds—of legal immigrants permitted to enter the United States each year.

Particularly with family-based immigration, when did children and siblings cease to be parts of the nuclear family? Why should we deny American citizens and legal permanent residents the opportunity to bring these close relatives together? H.R. 2202 would also increase the income a family must have to bring a family member into a level that would deny 40 percent of Americans the change to reunite with loved ones.

H.R. 2202 would also cut the number of refugees admitted each year by almost one-half from the 1995 level and change our system of determining eligibility for asylum that would make it impossible for most bona fide refugees to qualify. This is both in conflict with international law and immoral.

H.R. 2202 would also unfairly deny public assistance to legal immigrants—in some cases, legal immigrants would be denied assistance that undocumented immigrants would remain eligible for, because Congress has recognized the benefits to the public health and safety when everyone living here is served.

Mr. Chairman, in closing, I must assert that this bill is most definitely not in the national interest. The list of its defects goes on and on, and, worst of all, the Rules Committee and the Republican leadership have denied this House the opportunity even to debate changes in important areas of the bill—especially the public assistance provisions of title VI.

I urge my colleagues, at a minimum, to vote to remove the provisions reducing the number and categories of legal immigrants and to the employment eligibility verification system. But the better response is simply to reject this misguided bill. Vote no in the national interest.

Ms. PELOSI. Mr. Chairman, I rise today in strong opposition to this immigration reform bill, H.R. 2202.

I agree with my colleagues that we have a legitimate national interest in ensuring that people come to our country through legal means. There is ample need for a reasoned and balanced debate about reform of our immigration system. However, the provision in this legislation fall far short of achieving the goal of effective immigration reform in a responsible, fair, and humane manner.

I have many areas of concern in this bill. H.R. 2202 goes too far in placing extreme restrictions on legal immigration, decreasing by 30 percent total annual number of the legal immigrants admitted into this country.

Legal immigration has been of central importance to our development as a nation. We began as a nation of immigrants, and our country continues to reap untold benefits from the energy, ideas, talents, and contributions of those who arrive in this country seeking the opportunity to prove themselves and to contribute to the greatest Nation on Earth.

H.R. 2202 sanctions discrimination against the families of legal U.S. residents who have paid their taxes, served in the Armed Forces, and contributed to the growth of the Nation's economy and to the cultural diversity of our society.

In a Congress which heralds family values as its prevailing theme, this bill is extreme antifamily legislation. Restrictions to family reunification in this bill ensure that American families may be forever separated from their loved ones. Under this legislation, virtually no Americans would be able to sponsor their parents, adult children, or siblings for immigration. Not all Americans subscribe to the restrictive definition of family imposed in the bill—nor should they.

The bill will cut annual refugee admissions in half. Can we be so cold as to tell these victims of persecution to go away, our doors are shut, our country is full? This extreme cap would severely limit the flexibility of the U.S. refugee system to respond to unpredictable humanitarian crises.

The proposal for summary exclusion included in the bill would eliminate many of the procedural protections to ensure that legitimate asylum seekers receive full consideration of their asylum claims. Nervous, frightened, exhausted victims are charged with one chance to prove their claims of persecution. If an error is made, they face immediate deportation. A victim of rape, torture, or gender persecution may have difficulty effectively discussing his or her case under restrictive procedures.

The severe restriction of benefits to immigrants is yet another point of great concern in this legislation. Only 3.9 percent of immigrants who come to the United States to join their families or to work, rely on public assistance, compared to 4.2 percent of native-born citizens. Yet, the myth persists that welfare benefits are the primary purpose for immigration to the United States.

This bill does not achieve the goals of real and rational immigration reform. It hurts families, it hurts children, it hurts hard-working Americans. For the reasons just mentioned and for many more, this legislation is not good for our country. I urge my colleagues to oppose this harmful legislation.

Mr. PACKARD. Mr. Chairman, illegal immigration hits my district harder than just about any other in the country. It is estimated that more than 43 percent of all illegal immigrants reside in California—and there may be many more.

Today we face a major crisis. California public hospitals must deal with an overwhelming number of births to illegal aliens—almost 40 percent of their deliveries. Incredibly, illegal immigrants cross our borders at a rate which could populate a city the size of San Francisco in less than 3 years. Half of the 5 million illegal aliens in the United States use fraudulent documents to obtain jobs and welfare benefits.

We have finally found the resolve to make the much-needed overhaul of the Nation's immigration laws. Chairman SMITH and I have worked very hard to ensure the bill contains provisions crucial in securing our borders. The first of these provisions increases the border patrol to 10,000 agents. The second initiative cuts off all Federal benefits—except emergency medical care—to illegal aliens. By eliminating benefits to illegal aliens, we eliminate the incentive for them to cross our borders.

Mr. Chairman, my Republican colleagues and I have worked with unprecedented resolve to clamp down on illegal immigration. I urge all of my colleagues to do what is right for California and the Nation—support H.R. 2202.

Mr. FLANAGAN. Mr. Chairman, I rise in strong support of the Lipinski amendment to H.R. 2202, the Immigration in the National Interest Act, and commend Congressman LIPINSKI for his leadership on this issue. This amendment will rectify a problem that should have been resolved long ago. In late 1989, some 800 or so Polish and Hungarian citizens were paroled into the United States by our Attorney General. They have been stuck in this status, which gives them the right to reside here indefinitely, ever since.

As parolees this small group of people cannot obtain citizenship or even obtain permanent residency status. These people have lived in this country for over 6 years, established homes, and become productive members of American society. Yet without action by Congress these Polish and Hungarian parolees can never obtain legal immigration status.

These 800 or so parolees did not come here illegally. Our Attorney General saw fit to grant them parolee status and they have been here ever since.

Although these people have the right to live here for as long as they like, it is time for this group of people to have the ability to obtain residency status. The Lipinski amendment does that, it provides residency status for these Polish and Hungarian parolees.

There is precedent for such action. In 1990 Congress changed the status of Indochinese and Soviet parolees. This amendment will allow us do the same for these Polish and Hungarian parolees who have been in a state of limbo since their arrival in the United States. It is not fair to these individuals to have to continue living their lives in our country not knowing if they will ever have the opportunity to become legal permanent residents of a country they dearly love, the United States of America.

I urge my colleagues to support the Lipinski amendment to provide legal residency status for this small group of Polish and Hungarian parolees.

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 2202, the Immigration in the National Interest Act of 1996. This act is one of the most important pieces of legislation this Congress will consider this year.

Illegal immigration impacts my State of California more than any other State in the union. In fact, it is estimated that 1.7 million or 43 percent of all illegal immigrants reside in California. That is why the voters of California overwhelmingly supported proposition 187 which denies State-funded benefits to illegal immigrants.

I have been involved in combating the illegal immigration problem since I first became a Member of Congress. On the opening day of the 104th Congress, I introduced a legislative package aimed at solving the illegal immigration crisis. I am pleased that Chairman SMITH has chosen to incorporate some of my ideas into this legislation.

First, this bill before us will increase the size of the border patrol to 10,000 agents. I wholeheartedly support this effort to effectively control our borders. For too long, the Immigration and Naturalization Service has been unable to stop illegal immigration at our borders. By increasing the resources at the border, by increasing the number of border patrol agents who must patrol our borders every day, we can begin to stem the rising tide of illegal immigrants who cross our vast border unchecked.

Second, this bill will help put an end to one of the greatest lures our country provides to immigrants who would attempt to cross illegally—and this is our Federal social safety net. It is no secret that in California, illegal immigrants pose a serious burden on both State and Federal benefits programs. Immigrants as a whole account for over 20 percent of all households in California but they account for 40 percent of all benefit dollars distributed.

By ending this incentive and allowing Federal agencies to take reasonable steps to determine the alien status of those seeking benefits, we will be making great strides toward stopping illegal immigration. No longer will American taxpayers have to support people who are in this country illegally.

Again, I want to thank Chairman SMITH and his capable staff for their dedication and hard work in crafting such a fine bill. In addition, I want to mention ELTON GALLEGLY and the Immigration Task Force which provided another avenue for Members to present ideas to help solve the illegal immigration problem. Let there be no mistake, Illegal immigration is a national problem. This is landmark legislation will go a long way toward ending it. I urge my colleagues to support this bill.

Mr. HASTINGS of Washington. I rise in strong support of the Tate-Hastings-Roukema amendment—an amendment which will finally bring force to our Nation's immigration laws. The United States has always been a beacon of hope for millions of people worldwide. And although immigration laws may not be popular, they are nevertheless vital to America's efforts to control our Nation's borders and protect our national interest for all citizens. Unfortunately, every year, millions of illegal aliens intentionally break these laws.

According to the U.S. Border Patrol, the estimated number of illegal aliens in our State of Washington has jumped from 40,000 to 100,000 in the past decade, and many of these illegal immigrants have settled in my agricultural district. In addition, many aliens not only enter the United States illegally, they thumb their nose at the system by forging documents and falsifying Social Security numbers to obtain employment and social welfare benefits. Yet, even when these individuals are apprehended and returned to their native country, many return again and again without additional penalty.

As a result, additional burdens are placed on our local law enforcement officials, jails, and local and State governments. Illegal immigrants cost taxpayers more than $13.4 billion in 1992—draining the budgets of State and local governments. What's more, illegal immigrants make up more than 25 percent of the Federal prison population, and over 450,000 aliens are criminals on probation or parole. Breaking the law also undermines the incentive of all immigrants to enter the United States legally.

This amendment is fair, and is simply common sense. Our immigration policies were enacted for a reason, and must be enforced. If individuals want to risk breaking our immigration laws, then they ought to face the consequences if they are caught. It is no longer enough to give illegal aliens a free trip back to their homeland with the hope that they will not return. We must also send potential illegal aliens a clear warning: "one strike, and you're out." In other words, if you break the law, you forfeit the privilege that millions of Americans have struggled to achieve.

I strongly urge the passage of this important, commonsense amendment.

Mr. HOYER. Mr. Chairman, I rise today in support of the Smith amendment to the Immigration in the National Interest Act. I want to commend him for his commitment to this issue and for offering this important amendment. It is crucial to the safety and security of those trying to escape terrible regimes and to this Nation's international leadership role on asylum.

America must continue to shoulder its international responsibility to afford asylum to its fair share of those who are repressed and are at risk in their countries. As a Nation of immigrants, we must leave our door open and continue to admit those persons fleeing from places which do not practice the values and beliefs we hold so dear. At the same time, it is clear that the United States cannot admit all those who would want to come here for solely economic reasons. However, we have a duty to those who seek admittance for humanitarian reasons. The United States has traditionally accepted refugees not for the economic and social reasons but because refugees are usually in grave danger.

H.R. 2202 would limit annual refugee admissions to 75,000 in fiscal year 1997 and 50,000 every year thereafter. This represents a significant decrease from the 98,000 refugees and no legitimate rationale has been given as to why this level was achieved. This would require drastic reductions in the number of former Soviet Jews, Evangelical Christians, Ukrainian Catholics, Vietnamese, Bosnians, and Cubans, Chinese, and Africans.

The current refugee resettlement system works by allowing the executive and legislative branch to consult on an annual basis on what the appropriate levels should be. This provides greater flexibility and the ability to respond to changes which occur throughout the world with refugees. On the other hand, the cap in the bill is inflexible and will not provide us with appropriate mechanisms to respond to refugee developments. Congress already has control over the number of refugees through the budget process. If we believe the administration's estimated levels are inappropriate, the Congress can choose not to fund them.

The best solution to the world's refugee crisis is to work with other nations so that they can assume an appropriate share of the international refugee burden. We need the cooperation of our international neighbors. If we decrease our own refugee by half, we send the wrong message to those nations.

I again want to thank Mr. SMITH for offering this amendment and urge my colleagues to support it.

Mr. HEFLEY. Mr. Speaker, I rise in support of the manager's amendment offered by the chairman of the Subcommittee on Immigration and Claims, Mr. SMITH of Texas.

I want to commend the chairman for his consideration of a technical amendment I suggested to section 112(a) of the bill. The amendment clarifies that the Secretary of Defense and the Attorney General should consult with a local redevelopment authority when selecting real property at closed military bases for the pilot program concerning detention centers authorized by the section. As the chairman of the Subcommittee on Military Installations and Facilities, I can assure the House that we have placed great emphasis on empowering local communities in working with the Department of Defense to make the best use of military bases closed through the base closure and realignment process.

This technical change would not disturb the ability of the Secretary of Defense and the Attorney General to establish the pilot program, but it would ensure that an affected local redevelopment authority is consulted as the pilot program proceeds. This change is consistent with other areas of BRAC law.

Again, I want to thank Mr. SMITH for his consideration of the amendment and his willingness to work with me to bring it to the floor.

Mr. KOLBE. Mr. Chairman, I rise today in support of H.R. 2202, the Immigration in the National Interest Act of 1995. This is an extraordinary important bill that improves our Nation's immigration policy.

Clearly, Congress has a responsibility to formulate sound and comprehensive policies governing immigration—legal and illegal. The need to re-examine our immigration policy has been long overdue. Over the past few days this bill has been considered on the floor, a vigorous national debate has ensued on this complex and controversial issue. Frankly, there are still provisions in this bill that concern me—some remaining, some added by floor amendments—but in balance, H.R. 2202 makes needed reforms which I will speak about in a moment.

Like nearly every American, I am concerned about the problems of illegal immigration. Over 1.8 million undocumented aliens enter the United States each year. We must stem this flow, both for economic and security reasons. Terrorism is a growing and legitimate law enforcement concern, and illegal entry is frequently the way they get into our country. Similarly, the economic cost of illegal immigrants is undeniable.

Limiting the flow of illegal aliens through improved enforcement is part of the solution. As a member of the Commerce, Justice, State and Judiciary Appropriations Subcommittee, I have consistently supported giving the responsible Federal agencies sufficient resources to deal with the problem of illegal immigration. We still have work to do in this area, and I will continue to work with the Immigration and Naturalization Service, as well as with the members of the Appropriations Committee, to make sure that we have sufficient manpower along the border to deal with flow of undocumented aliens.

H.R. 2202 includes provisions to improve border crossing identification cards by making them less susceptible to counterfeiting. In addition, it includes provisions to deter document fraud and alien smuggling, and streamlines procedures for the inspection, apprehension, detention, adjudication, and removal of inadmissible and deportable aliens.

But there must also be a long-term solution that encourages democracy and economic growth in countries that send illegal immigrants to our borders—especially Central and South America. Job opportunities in those countries is the strongest incentive to keep potential immigrants there. Thus, in addition to strong enforcement of our immigration laws and imposing sanctions on those who hire illegal aliens, we must seek mutually beneficial trade relationships that can stimulate economies in Central and South America. This is one of the many reasons I support the North American Free-Trade Agreement [NAFTA]. It is in our own self-interest to help Mexico build an economy that can create the nearly one million new jobs required each year to keep ahead of population growth. Only in that way can we provide an incentive for Mexicans to stay at home—and a disincentive to come to the United States.

With respect to legal immigration reform, this bill addresses the abuse of claims for political asylum. These are currently 300,000 pending claims, and that number is growing by 12,000 each month. Of course, there can be legitimate claims of political asylum, but our current system allows for six opportunities of appeal when a claim is denied. This is excessive and unacceptable. H.R. 2202 makes much needed changes to this asylum process. The asylum reform provision in the bill would require aliens to file an application for asylum within 180 days of entering the United States. Those filing after the deadline would not be eligible for asylum. This is a reasonable and important reform because it encourages aliens to apply for asylum without delay and makes their presence known to immigration authorities.

The bill provides that an alien who qualifies as a political refugee will be granted asylum unless the person is discovered to have a prior history of persecuting other persons, has been convicted of a felony or other serious crime prior to his arrival, is regarded as a danger to national security, or is inadmissible on terrorist grounds. It provides that asylum protection for an alien may be terminated if the person is no longer a refugee, can be moved to another country where he will be granted asylum or other temporary protection, voluntarily returns to his native country with the intent to stay, or has changed his or her nationality to a country which will grant asylum.

Although I favor maintaining numbers of legal immigrants admitted to the United States annually at current levels, I did not support the Chrysler/Brownback amendment to strip legal immigration reforms from the bill. There is a tie between legal and illegal immigration reform that cannot be disputed and should not be separated. Changes in illegal immigration policy will have an effect on legal immigration and vice versa. Although these provisions should have been kept together, I support final passage of H.R. 2202. It is imperative that we move forward, send this bill to conference with the Senate, and send President Clinton a comprehensive and responsible immigration reform bill.

Mr. TORRES. Mr. Chairman, I include for the RECORD the following correspondence from the NCLR:

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, March 15, 1996.

DEAR REPRESENTATIVE: I am writing on behalf of the National Council of La Raza (NCLR), the nation's largest constituency-based national Hispanic organization, to express profound concern about H.R. 2202, which will be considered by the House next week. NCLR supports effective measures to control our borders. We believe that effective immigration reform must include professionally conducted border enforcement, visa control, and enforcement of labor laws against employers who knowingly hire and exploit undocumented workers. However, we believe that many of the provisions in this bill undermine the ultimate purpose of immigration control, often at the expense of major groups of Americans including Latinos and others who look or sound "foreign."

Several such provisions in this sweeping legislation have generated severe opposition from many sectors of society and leaders on both sides of the aisle because they undermine the basic principles of good immigration reform legislation. NCLR joins in that opposition on the grounds that such measures do not constitute effective immigration reform, and are likely to harm hardworking Americans, particularly Latinos. We urge, therefore, that you consider the following recommendations when this legislation reaches the floor:

Support the Chabot/Conyers amendment to strike the verification system—NCLR joins a broad range of organizations including small businesses, labor unions, and civil rights organizations, which oppose the establishment of a government computer system to verify workers. Because of the intense opposition to this provision, the bill's sponsor, Rep. Lamar Smith (R-TX) has modified this provision by making the system "voluntary" for employers and by deleting some civil rights protections which were added to the system by the Judiciary Committee. Such changes do not appease opponents of the verification system; even a voluntary system ensures the creation of the government database, and it is highly unlikely that it will be "voluntary" in practice in the short term. We believe that once Congress invests in the creation of a system, it will inevitably act to make the system mandatory. The establishment of a verification system will be costly, and will inappropriately inconvenience both employers and legally authorized workers who are playing by the rules, and simply want to do business and work without government interference.

Oppose the Gallegly/Bilbray/Seastrand/Stenholm amendment establishing a mandatory verification pilot program in 5 of the 7 states with the largest number of undocumented immigrants. This amendment would restore the original mandatory verification system, which was modified because of concern that it would prove costly to taxpayers, to businesses and to workers, and that its error rates would result in a one-in-five chance that a legitimate worker would be denied job opportunities because of mistakes in the government's computers. Employers who play by the rules would be forced to abide by new procedures, while those who intentionally hire undocumented workers with full knowledge that they are violating the law would simply continue to do business as usual.

Support the Brownback/Berman/Chrysler amendment to strike the legal immigration changes: H.R. 2202 represents the most extreme changes to the legal system in 70 years, and unfairly exploits public concern over illegal immigration to impose unwarranted restrictions on legal immigration. The provisions in this section of the bill would prevent U.S. citizens from reuniting with their spouses, minor children, adult children, and siblings. Such changes unnecessarily undermine the nation's family values, and punish U.S. citizens who play by the rules and wait in long lines to reunite with their loved ones.

Support the Velazquez/Roybal-Allard amendment to allow U.S.-born children to have access to services and protections regardless of the legal status of their parents. It is unreasonable and outrageous to use U.S. citizen children as a means of punishing their parents for their immigration status. This provision does nothing to control undocumented immigration, and severely punishes innocent Americans.

Oppose the Pombo/Chambliss, Goodlatte, and Condit amendments to create a massive new guestworker program. NCLR strongly opposes amendments to introduce or alter guestworker programs in order to bring hundreds of thousands of new, exploitable workers for the agricultural industry. These amendments are inimical to the purpose of the legislation; they are unnecessary, and would harm both the guestworkers themselves and Americans who work in agriculture.

Oppose the Gallegly amendment to deny public education to undocumented children—This amendment defies a Supreme Court decision by allowing states to deny public education to undocumented children. It is both ineffective and unreasonable to punish children for the immigration status of their parents; such a measure undermines the well being of the entire community.

Oppose the McCollum amendment to create a national I.D. card—This amendment would turn the Social Security card into a national identification card. The Social Security Administration has estimated that the cost of generating such a card for all Americans would be $6 billion. Such a card would lead to massive civil rights abuses as Americans who look and sound "foreign" would be asked to demonstrate that they really belong in this country over and over again.

Oppose the Tate amendment to bar admission to former undocumented immigrants—This amendment is excessively harsh, and would undermine several key tenets of immigration law. A U.S. citizen who marries someone who came illegally to the United States would be precluded from petitioning for his/her spouse to become a permanent resident. It is unnecessary to punish U.S. citizens in this manner; such a policy will do little to control immigration.

Oppose the Bryant (TN) amendment to require medical facilities to report their patients to the INS—If such an amendment is adopted, immigrants and their American family members will be frightened to seek medical care, to the detriment of the entire community. America can control undocumented immigration without bringing ugly enforcement efforts to the emergency room.

Oppose the Rohrabacher amendment to repeal the immigrant adjustment provision—This amendment would eliminate a procedure in existing law requiring persons adjusting their status to pay a higher fee rather than return to their home countries to process their papers. This procedure was advocated for by the State Department, to avoid having to process large numbers of immigrant petitions at foreign consulates. Overturning this procedure accomplishes nothing toward immigration enforcement, and would seriously inconvenience Americans reuniting with immigrant family members.

NCLR acknowledges the right and duty of any sovereign nation to control its borders, and we have consistently supported sound measures pursuant to that goal. We do not support the kind of unnecessary, extremist, and ineffective proposals embodied in—and being proposed as amendments to—the pending legislation. Such amendments do a great deal to undermine the nation's most sacred values and nothing substantive toward immigration control. We urge you to vote in keeping with American values and ideals and prevent unnecessarily divisive provisions from being enacted.

Thank you for your consideration of our views.

Sincerely,

RAUL YZAGUIRRE,
President.

Mr. TORRES. Mr. Chairman, I insert the following for the RECORD.

GALLEGLY AMENDMENT

This amendment will undermine the well-being of Americans, while doing nothing to advance the goal of immigration control.—By allowing states to throw undocumented children out of public schools, this amendment would push children from their classrooms out onto the streets. The result is unlikely to advance the well-being of the overall community, because children growing up in the United States would be denied an education, and would often be left without supervision.

This amendment will cost—not save—money for state and local governments and public schools.—In order to implement an immigration restriction, public schools would have to document the status of every student. This means that already overburdened school personnel, who are not immigration experts, would have to confront a confusing array of immigration laws and documents. U.S. citizens who are mistaken for immigrants are likely to be harassed or prevented from enrolling in school. This amendment would allow states to create a climate of fear in the schools at a moment when the nation's attention should be turned to making our schools a safe place to get a solid education for all students.

The Supreme Court has addressed this issue, and ruled that the U.S. should not punish children who are innocent of their immigration status.—In the Plyler vs. Doe Decision, the Supreme Court found that it is in the public interest for every child living within the United States to have access to a public education. The Gallegly amendment would violate the law and lead to long, costly court challenges, simply to make a point about undocumented immigration which is being made in many other provisions of H.R. 2202.

This amendment is not doing a favor to states or local governments.—Though it is disguised as a "states rights" issue, this amendment does little to advance the cause of allowing state and local governments to make decisions affecting their own communities. If, as Rep. Gallegly argues, it advances the cause of immigration control to throw children out of school, this cause is only served if every state chooses to deny education to undocumented students, which is unlikely. Immigration control is a national matter, and, as this legislation resoundingly suggests, should be dealt with at the federal level. This amendment is neither consistent with sensible immigration control policy, nor is it consistent with the values of most Americans.

This amendment will do nothing to advance the goal of immigration control.—H.R. 2202 has a variety of enforcement provisions aimed at preventing undocumented immigration. This mean-spirited amendment is unlikely to advance that cause, because the education of children is not driving the immigration process. Instead, it would allow the states to punish innocent children on the basis of their immigration status, though the decision to migrate was not theirs.

Mr. PASTOR. Mr. Speaker. I rise in strong opposition to H.R. 2202. Let me begin by applauding my colleagues for separating the issue of legal immigration from the rest of the bill. However, I remain very troubled with measures in the bill that hurt children and families.

By stripping the bill of cuts made to legal immigration, the House has reaffirmed the invaluable contributions legal immigrants have made and continue to make to our Nation, "stated chairman Pastor." This move has assured that our legal immigration system continues to support and prioritize family reunification.

I must remind my colleagues—immigrants are hard-working taxpayers, they go to war on our behalf, and they do not abuse the system. The truth of the matter is that the overwhelming majority of immigrants support themselves without assistance. Studies by The CATO and Urban Institutes indicate that immigrants are more likely than the native-born population to work and contribute $25 billion more in annual taxes than they receive in benefits.

First, I am extremely concerned with items in this bill that harm children and families. The Gallegly proposal added to the bill proposes to deny public education to undocumented children. This provision has a chilling effect by jeopardizing the education of children labeled as foreign. This requirement is seriously misguided since the role of our teachers is to teach, not serve as immigration enforcement agents. In addition, this requirement would deflect scarce educational funds to do the job of the INS.

Second, restrictions in benefits to legal immigrants in H.R. 2202 will hurt real people who work hard and contribute to this Nation. In addition, this bill adds great stress to State and local governments. The provisions that extend deeming requirements to all needs-based programs are too extreme. We are not looking at solving a problem here, but one created to divide our country and promote short-term political gain.

We are talking about stealing the American dream away from most immigrants. President Roosevelt once said, "We are a nation of many nationalities, many races, many religions—bound together by a single unity, the unity of freedom and equality." H.R. 2202 proposes to greatly alter these American values. On equality and freedom will be no longer.

Third, the immigrant restrictions would add great stress to State and local governments. We are talking about adding more Federal regulations and verification burdens to comply with the immigrant restrictions. Private and public entities will be required to redirect scarce resources from running programs to meeting Federal mandates.

Listen to the concerns of the National Governors' Association, the National Conference of Mayors, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities. In a letter to Speaker GINGRICH, they say that the immigrant provisions create mandates and cost shifts for States and localities. They describe the immigrant verification requirements as a very burdensome, top-heavy approach to welfare reform.

Fourth, this bill makes the Federal Government irresponsible by placing the burden of serving some people solely on State and local governments. If the Federal Government excludes noncitizens from social safety net programs, the need for this safety net will not go away. State and local governments will have to serve them under State programs, translating into a massive cost shift. That, my colleagues, is promoting irresponsibility.

Last, this bill will advance a climate of intolerance, suspicion, and division. It will result in increased discrimination against anyone suspected of being a noncitizen. The courts are now reviewing constitutional concerns over California's proposition 187. In the aftermath of proposition 187, reports document the increase in hate crimes against people for simply looking or sounding foreign.

Mr. Speaker, a responsible Congress cannot accept this immigration bill. We must protect our borders, but these provisions take us beyond that. We must remain vigilant against excessive government intervention and continue to protect our most basic individual freedoms and needs.

I urge my colleagues to reject H.R. 2202.

The following remarks note specific provisions and my concerns:

Deeming of all programs, including education and medical services: Legal immigrants' access to all programs would be restricted by extending deeming until citizenship for parents; for 7 years for spouses; until age 21 or until citizenship for minor children; or (in all cases) until the immigrant has worked 40 "qualifying" quarters (at least 10 years). There are few exceptions, but not for such programs as school lunches, student loans, or immunizations. In addition, there are very few exceptions for deeming to account for persons who become disabled after legally immigrating to the United States.

Denial of assistance to immigrants results in a cost shift to state and local governments. The loss of federal funds would need to be offset by state and local funds. This provision would also result in capital drain in high immigrant communities, since they would be required to pay taxes while being denied access to the safety-net they help support. In addition, these provisions would jeopardize public health. Public health programs cannot be successful if they exclude segments of the community.

Public charge provisions would make hard working persons deportable: Under this provision, most immigrants would be deportable if they used any needs-based assistance for an aggregate of 12 months during their first seven years of residency. Thereafter, the immigrant would remain a deportable as a "public charge" even after decades of taxpaying prosperity.

Immigrants who years later have a proven record of taxpaying prosperity would become deportable. It is absurd that an executive of a Fortune 500 company would be deportable as "public charge" because s/he needed some assistance years ago. At a minimum, a provision should be added that would allow a person who previously received public assistance to reimburse the government in lieu of deportation. This is in fact current practice, by case law and administrative interpretation.

Impedes naturalization: Applicants who obtained assistance can't naturalize until they can verify that their sponsor does not have outstanding payments due to the government for services rendered. This provision was added as part of making affidavits of support enforceable.

While there is no opposition to making affidavits of support enforceable, this provision places barriers on something as important as naturalization. Naturalization applicants should not be penalized for their sponsors' violation of the law. In addition, this provision does not discern between sponsors who fully intend to settle any outstanding obligation and "dead beat" sponsors.

U.S. citizen children of immigrants denied equal benefits: "Ineligible" immigrants would be precluded from collecting benefits on behalf of eligible family members. Thus, a U.S. citizen child or disabled person would be precluded from obtaining needed assistance unless that person's mother or father could prove eligible status, or unless the agency would undertake the administrative paperwork and expense of appointing a representative payee who could accept the benefit on behalf of the child.

Denying benefits to U.S. citizen kids because of the immigration status of their parents is a violation of the constitutional right to equal protection. This provision would force counties to find and monitor administrative payees to collect the benefits and distribute them to the children. This would be enormously costly and subject to abuse by unscrupulous payees.

Only affluent Americans allowed to sponsor family members: To sponsor a family member, an American would be required to earn more than 200 percent of the federal poverty level. Sponsors must demonstrate that they have an income above 200% of the poverty level for their family plus the immigrant(s) they seek to sponsor.

This is an anti-family provision that would affect one hundred million Americans. Family reunification would be unattainable for less affluent Americans who would be prevented from sponsoring their spouses and children.

Proposition 187 requirements and INS reporting: With few exceptions, schools, hospitals and others would have an added responsibility of verifying citizenship status of all program participants. *All public, non-profit, and charitable entities* who administer any government funded, means-tested programs would have this responsibility. In addition to needs-based programs, contracts, business loans, and commercial and professional licenses would be subject to the verification requirement. Public hospitals would also have to report the identity of any undocumented immigrant who receives emergency services, and have that status verified by the INS, to obtain reimbursement. In addition, provisions would allow federal, state, and local agencies to report to the INS the immigration status of individuals. Current law prohibits public agencies from exchanging immigration information with INS in order to ensure the integrity of such entities. For example, current law is in place to assure the protection of witnesses who are cooperating with a police or federal investigation.

This provision may discourage private-public partnerships at a time when these partnerships are growing. Charitable entities which feel these requirements are overburdensome may be discouraged from administering community-based programs.

Mandating localities to verify citizenship status and other requirements are federal, unfunded mandates, according to the National Governor's Association, National Conference of State Legislatures, National Association of Counties, U.S. Conference of Mayors, and the National League of Cities. Enforcing immigration laws is a federal responsibility. To comply with these federal regulations, state and local agencies would become *de facto* INS offices.

Primary education Gallegly amendment to Title VI: Rep. Gallegly plans to introduce an amendment on the House floor to allow states to deny primary education to undocumented children. This amendment would attempt to repeal the Supreme Court decision in *Plyler v. Doe* which ruled that undocumented children cannot be denied a public education. This amendment, if enacted, would be unconstitutional in our country's schools.

Mr. INGLIS of South Carolina. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SMITH of Michigan) having assumed the chair, Mr. BONILLA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, had come to no resolution thereon.

□ 2115

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 165, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996, AND WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–489) on the resolution (H. Res. 386) providing for consideration of the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes, and waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

NATIONAL AGRICULTURE WEEK

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, this Member rises to recognize the millions of men and women who comprise the agriculture community. I will remind my colleagues that this week we celebrate National Agriculture Week, and thus it is certainly appropriate to take some time to recognize the importance of U.S. agriculture and agribusiness. This year's theme of "Growing Better Everyday, Generation to Generation," truly captures the forward-looking spirit of agriculture today.

This Nation's farmers and food processors have continued to make tremendous strides in recent decades in producing and distributing food in an efficient manner. This efficiency is reflected by the fact that today 1 American farmer produces enough food for 129 people.

In addition to providing for the needs of today, farmers also have the responsibility of serving as stewards of our land and water resources for future generations and most are excellent stewards. Clearly, the American agriculture community is producing what the world needs to survive while preserving and enhancing our natural resources for the future. This Member commends the many individuals in the agricultural community for their hard work, perseverance, vision, and dedication.

The following is an excellent editorial from the Norfork (Nebraska) Daily News relevant to these remarks.

AGRICULTURAL LINKS PAST AND FUTURE

ENTREPRENEURIAL SPIRIT CONTINUES TO BE A GUIDING FORCE FOR FARMERS AND RANCHERS

As one drives through the countryside in Northeast and North Central Nebraska, the sight of those familiar farms may seem to be unchanged from years and decades past.

But appearances can be deceiving. Farming is anything but a static enterprise.

Changes in technology and mechanization have profoundly changed family farming operations. In 1900, for example, the average farm size was 147 acres. Today, the average farm has almost 500 acres. Technology is helping farmers to track weather conditions through satellites and gain access to information and research through the Internet computer network. Computers are also helping farmers to maintain detailed records, thereby boosting efficiency and profitability.

The Agriculture Council of America also points out that farming is also changing in response to consumer demands. Farmers and ranchers are producing meat lower in fat and cholesterol to fit with today's health-conscious consumers.

Today's hog, for example, is bred to be 50 percent leaner than those produced 20 years ago. That results in retail cuts at the grocery store that are 15 percent leaner. Leaner beef cuts are also being produced. Meat with 27 percent less fat reaches the retail case than in 1985. Farmers have also met consumer demand for ethnic foods, such as corn chips and tortillas, by increasing production of food-grade corn. And through biotechnology, consumers can now enjoy a fresh tomato that is tasty—even when out of season.

This week marks National Agriculture Week—a yearly occurrence that, for some, prompts memories of how it used to be in agriculture. We're all for that. The history of farming and ranching in this nation and elsewhere is an integral part of where we are today.

But National Agriculture Week is also an opportunity to realize just how much farming and ranching is changing—thanks to the foresight, flexibility and entrepreneurial spirit of those involved in production agriculture.

This year's theme for the week is "Growing Better Everyday, Generation to Generation." It's so appropriate because it links the past with the future, which is what agriculture is all about.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SMITH of Michigan). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following members will be recognized for 5 minutes each.

CUTS IN ENVIRONMENTAL PROGRAMS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, this evening I would like to talk about the environment and my concern over cuts that the Republican leadership has made in environmental programs and in the various agencies of the Federal Government that are involved in environmental protection.

I should point out that just a couple weeks ago, our environmental task force, within the Democratic Caucus, issued a report on the impact of Republican budget cuts on the environment. What this report points out very vividly is that the House Republican leadership so far in this Congress, with particular attention to 1995, basically from a budget point of view and in terms of authorization bills and various amendments that came to the floor, was involved in a systematic effort to turn back the clock on the last 25 years of environmental protection.

This is affecting every State and the various Government shutdowns and the level of funding cuts for continuing resolutions that fund the Environmental Protection Agency, the Interior Department, and other departments and agencies that are involved in environmental protection have had a cumulative effect on the environment so that in effect right now, even though we have many laws on the books that seemingly protect the environment, we do not have the investigators, the enforcers and the people that will go out and, if you will, nab the polluters so that our environmental laws are effectively enforced. Our report points out that this process continues.

As many of you know, just a week or two ago this House passed a continuing resolution that would take us in terms of our spending until the end of this fiscal year. And once again the funding levels that were in that continuing resolution for the environment are essentially 22 percent for the EPA below the President's fiscal 1996 request. The bill, the continuing resolution, also includes a number of antienvironment riders that affect both the Environmental Protection Agency and the Department of the Interior.

Mr. Speaker, we know that if this process continues, either through this long-term continuing resolution or through the stopgap measures that we are seeing now pass every week—last week we had a continuing resolution for 1 week. My understanding is that by the end of this week, this Friday when funding runs out again, we may pass or the Republican leadership may bring to the floor another continuing resolution for another week. The level of funds in those continuing resolutions, those stopgap measures, continue to provide the EPA, the Interior Department and other agencies that protect the environment with such woefully low amounts of funding that they simply cannot do their job.

I wanted to go through some of the points more specifically that our report on the environment, that our task force on the environment makes. We had a hearing a few weeks ago, and testimony at that hearing provided incontrovertible evidence of the impact of policies promoted by the Republican leadership and supported by an overwhelming majority of Republican legislators. We found first that Republicans have targeted environmental programs for particularly deep budget cuts.

Just as an example, the Republican-passed interior appropriations bill vetoed earlier this year by President Clinton funded overall operations of the Department of the Interior 12 percent below the President's fiscal 1996 request. Funding for the Endangered Species Act was set at 38 percent below the President's request. Land acquisition for parks and other public uses was funded at 42 percent below the President's request.

In the VA-HUD appropriations bill passed with a slim Republican majority and also vetoed by President Clinton, EPA's overall funding was cut by 21 percent but pollution enforcement functions received a 25 percent cut. Again, it is very nice to have environmental laws on the books, but if you do not have the people, the environmental cops on the beat, so to speak, to go out there and find the polluters, then you might as well not have the environmental protection laws.

In addition, what our report concludes is that antienvironment legislative riders have caused appropriations gridlock. Republicans have delayed the timely completion of the appropriations process by almost 6 months by including on funding bills a host of highly controversial legislative riders having little to do with cutting spending. The policy changes rendered by these riders are normally handled by the authorizing committees, not the appropriation committees. But the riders were included in the appropriations bill and typically are barred from amendment on the House floor in an effort to exhort the President to accept antienvironmental policies that could not survive in legislative debate on their merit.

For example, on the Department of the Interior appropriations, the Republican riders would accelerate logging of the old-growth rain forest by 40 percent in the Tongass National Forest in Alaska, remove funding for the National Park Service operation of the Mojave desert national preserve, terminate the Columbia basin ecosystem's management project and continue an irresponsible moratorium on the listing of endangered and threatened species under the Endangered Species Act.

Numerous legislative riders affecting EPA include provisions to bar oversight of wetlands policy and limit EPA's authority to list new hazardous waste sites for cleanup under the superfund law.

Now, one of the points that we have been trying to make in our report on the environment, our task force report, is that these Republican cuts in environmental enforcement do not save money, and I repeat, do not save money. The EPA Administrator, Carol Browner, stated at our hearing that the environmental cop is absolutely not on the beat. Because of funding cuts in the continuing resolutions and the two Government shutdowns in late 1995, EPA was unable to perform 40 percent of planned health and safety inspections of industrial facilities in the first quarter of fiscal year 1996.

In addition, the Department of Justice's environmental division had its budget cut down to $83 million, 12 percent less than requested by the President and nearly 10 percent less than the fiscal 1995 budget. Now, again, cutting funds for enforcement makes no fiscal sense. Assistant Attorney General Lois Schiffer stated or testified that since civil enforcement litigation in fiscal 1995 resulted in fines and costs recoveries totalling over $300 million. But in a sense what we are seeing here in that the amount of money coming back to the Treasury for fines because polluters are violating the law decreased because we can not go out and find the polluters.

I would like to continue to talk about our report, but I know that I have some other Members here tonight who wanted to join with me in talking about these environmental cuts and what they mean. If we would like to at this time, I yield to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, I want to congratulate the gentleman, and I think that the Members of this body know, and if they do not know, they should know, the tremendous work that you have done on this issue. I think you have certainly been our leader on this side of the aisle in talking about the short-sightedness approach that is being used by the Republicans in their attacks on the environment this session.

I rise tonight because I, as you do, oppose the Republican's Party's attack on our Nation's environmental laws. I find it somewhat ironic and sad when you think President Teddy Roosevelt as being the leader of the environmental movement basically in this century that his party now is ending the century by trying to undo a lot of the progress that he made when he first became a leader in this area.

Mr. Speaker, I think it is instructive for us to talk a little bit about how this has come about. We do not hear much on this floor anymore about the Contract with America, but I think the Contract With America is a good starting point to discuss why we have this attack on the environment. As we have heard over the last several months, the Contract With America was put together in large part on the basis of focus groups, of going out to the American people and trying to use sort of a slick procedure to find out what was on the American people's mind and what was their highest priority, what issues were their highest priorities.

It is no accident, I think, that the word environment does not even appear in the Contract With America. The environment is not a priority for those people who put together the Contract With America. The reason it is not a high priority is I think frankly, that they had some very flawed polling and flawed approach to their focus groups in deciding that the environment was not an issue that the American people care about. I think the American people care very much about the environment. But in putting together their focus groups and trying to decide whether this was an issue, they probably—and I do not know, I do not have access to their data—but they probably asked the American people to list what they thought were their highest priorities. I would imagine that there were a lot of people who said increased environmental protection was one of their higher priorities.

Now that might strike you as a surprise, but the reason I do not think most Americans prior to January of 1995 thought the environmental laws were a high priority is because the environmental laws were working. In the past 25 years, this Congress and the Presidents, under both parties, I think have done a pretty credible job in cleaning up our Nation's rivers, in cleaning up our Nation's lakes, in cleaning up our air.

☐ 2130

As a result of that, the American people think that this is an area that the Government actually was acting responsibly to make sure that you did not have polluters that were making it more difficult for people to have a clean environment.

So, just as if you asked any ordinary American whether the roof on their house was a high priority, nobody would say yes, unless, of course, the roof was leaking, and now you have a situation where the roof is leaking in terms of environmental policy because the American people recognize that all the progress that we have made in the last generation on cleaning up our lakes and rivers and air is under attack under the current leadership in Congress. It is almost as though the Speaker and his followers have said, "Yes, those environmental laws have worked for many, many years, so let's repeal them, let's move backward." And that is not the message that the American people want, and that is not the message that I have heard.

I will tell you that one of the interesting things for me and one of the surprises that I first started seeing early last year was the increased number of pieces of mail and calls that I got from people in my district who raised environmental concerns as an issue, and this was happening far before any of these polls that we now see many leaders on the other side talking about where they are saying, "Oh-oh, the American people think that the Republican Party has gone too far in dismantling the environmental laws." Now I think that the people in the Republican Party recognize that they have gone too far in trying to dismantle the environment laws.

Mr. Speaker, they have tried to do it in a number of ways. Obviously, they tried to do it in the Clean Water Act here in the House of Representatives, and that bill was so bad the U.S. Senate would not even take it up. They said, "We're not going to consider that; that's too extreme." So they said, "Well, let's try to dismantle these agencies piecemeal, and let's do it through the appropriations process."

And that is why you saw attempt after attempt after attempt to attach riders, to attach lower levels of funding, to go after a lot of these agencies to make sure that they could not get their job done.

The Republican budget has cut funding, as you indicated, for pollution enforcement by the EPA and the Department of Justice by 25 percent so it is going to make it easier for companies that want to go out and pollute to do it. It lowers the cost of polluting in our country. Is that the direction the American people want us to go? Absolutely not.

It funds the Endangered Species Act at a level 38 percent below what the President requested. Is that where the American people want us to go? Absolutely not; that is not where we should be going.

In my State of Wisconsin we also have seen some of the ramifications of this. The Wisconsin Department of Natural Resources relies on EPA funds authorized under the Clean Water Act for its surface water and groundwater protection programs. Any reduction in these funds will result in a proportional reduction in staff responsible for water quality monitoring, inspection, and enforcement. It will make it more difficult for my home State, which cherishes its fishing, which cherishes its clean lakes, to make sure that you have that for tourism, for people who want to fish, for the people who live in our State.

The EPA has also joined forces with the State in an effort to reduce the discharge of mercury into the surface waters of Wisconsin. Mercury contamination is a serious problem in Wisconsin, where 246 rivers and lakes are so contaminated that fishing is restricted. The EPA provides both the State and private sector with experience necessary to measure mercury levels, but reduced budgets again will threaten the agency's ability to help.

I think the sum product of what we are seeing here again is an attack on the progress that we have made over the last generation, and it is not an attack that I think the American people deserve, it is not an attack that the American people support.

So again I just wanted to stop by tonight to applaud you on the fine work that you have done because I truly think you have been a leader on this, and I want to encourage you to continue your fine work.

Mr. PALLONE. I appreciate that, and I particularly wanted to mention how you highlighted clean water, and I think that is a very good example of what the Republican leadership has done in this Congress.

My district in New Jersey, a large part of it is on the water, either on the Raritan River, the Raritan Bay or the Atlantic Ocean, and we were the part of the State that was most severely impacted in the late 1980's when the medical waste and other debris washed up on our shores and basically put an end to our tourism season in the summer. The beaches were closed. The people did not come down. It took about, I would say, 4 or 5 years before the Jersey shore recovered and people were back in full force and the water was clean. And basically that was because of the efforts in this Congress and on a bipartisan basis then, Democrats and Republicans, to try to pass some very strong laws that forbade ocean dumping that put medical waste tracking systems in place and essentially made it more difficult for polluters to drop; you know, to discharge items into the rivers, harbors and bays that would eventually come down to the Jersey shore.

I would hate to see, and I know that my constituents would hate to see, a situation where, because of the relaxation of these laws or the improper enforcement of these laws, that we went back to the beach closings that we had in some cases now 7, 8 years ago.

In addition, I would point out that you could take really any State in the country and see the impact of these budget cuts. I have some information just about my own State of New Jersey, for example, and what the Republican budget cuts have meant in New Jersey. Just as an example, to cite some of the areas that are impacted under the Superfund program, the Federal program to clean up hazardous waste sites, which is particularly important to New Jersey because we have more sites than any other State, 12 sites slated for significant new construction would be shut down by these budget cuts and 30 other sites in New Jersey with ongoing work will also experience shutdowns or slowdowns as a result of the Republican budget cuts with various impacts.

Projected impacts are severe also on leaking underground storage tanks. There is a program to basically fix those which is impacted.

The safe drinking water program, which is very important to New Jersey; the EPA estimates that more than 6 million residents of New Jersey are served by drinking water systems that have violated public health standards last year. But Republican budget cuts would reduce the funding available to these communities to improve their drinking water systems by about $5 million.

With regard to the Clean Water Act, which Mr. BARRETT mentioned, according to the EPA, about 85 percent of New Jersey's rivers and streams are too polluted for basic uses like swimming. And under the fiscal year 1996 conference report, again the Republican Conference report, New Jersey stands to lose $52 million in clean water funding that would help stop pollution from getting into the State's rivers, lakes and streams as well as the Atlantic Ocean. This is basically a 53 percent cut from the fiscal year 1995 enacted funding level.

Also huge cuts in New York's wastewater treatment loans and other clean water funding would threaten New Jersey's beaches through washups of untreated sewage and wastewater, again repeating the unfortunate situation that we had along the Jersey shore in the late 1980's.

As far as enforcement is concerned, in New Jersey the environmental cop will be off the beat as inspections and enforcement efforts will be severely curtailed under the Republican budget proposal, which represents a cut of 25 percent, as we mentioned, below the President's budget request.

Decreased inspections due to cuts create public health threats that would have to be addressed by a staff made smaller by the budget cuts. Essentially in Region II, which is the EPA region that New Jersey is part of, because of these ongoing Republican budget problems there is a growing backlog of permits which they have been unable to process.

So, as I said, I can cite New Jersey, which is my home State, but we could get into almost really every State in the Nation to highlight what these Republican budget cuts mean for environmental protection.

I was very happy that in order to highlight some of these concerns in my home State of New Jersey President Clinton came to the State, was in Bergen County just about a week or so ago, and he, of course, was there to highlight the problems with the Superfund program and the cuts in the Superfund program and what those would mean to the State of New Jersey if these Republican budget cuts in the Superfund program were allowed to continue.

Now again, I wanted to go back, if I could, to the report that our Democratic task force put together that shows the impact of Republican budget cuts on the environment and stress again that these cuts in enforcement do not save money. In a sense, what these cuts do for both the EPA and the Department of the Interior is they undercut the Department of Justice's ability to recover funds, prosecute criminal violations, and prevent the degradation of the environment.

It is, I guess, obvious, I would think, from anyone who thinks about it from a preventive point of view, that it is much less costly to the taxpayers to prevent problems from occurring than it is to fix environmental disasters after they occur. Slashing the budget and essentially preventing or making it impossible to do the preventive measures that the EPA and Department of Interior have been doing all along in the long run is only going to make it most costly when the Federal Government or the taxpayers have to pay the bill for the pollution that occurs.

The other thing that the Republican leaders have been trying to get across, and I think is again a false premise, is that somehow the States can do all this on their own; in other words, that statements were made on the floor that in the past 10 years or the past 20 years, "Yeah, we have passed some good environmental laws, but now each State has its own department of environmental protection, or something like that, and they do a good enough job, and so we don't need the Federal EPA to intervene and do a lot of the things that the Federal EPA has been doing."

In reality, the reality is just the opposite, and we had testimony at our hearing from Assistant Attorney General Schiffer who explained again that, without the minimum environmental standards set by Federal law and the Federal enforcement actions, the health of our communities, the environment and economy, would be compromised; in other words, that the States rely on the Federal Government both in terms of dollars and in terms of minimum enforcement standards that are set to essentially do a good job with environmental protection at the State level and at the local level. And she gave an example that before the creation of the EPA in Federal statutes, the 6 States in the Chesapeake Bay watershed allowed the waters to become very severely polluted. Without a strong environmental presence, citizens in States like Virginia, which has cut its environmental budget by 26 percent, would have little recourse against pollution originating from other States.

Pollution knows no boundaries. Although States, in many cases, do a good job, it makes sense to the Federal Government to have strong anti-pollution laws and strong enforcement because air, water, and many other things that we talk about when we talk about the environment basically cross State boundaries. So it makes sense to have Federal laws and good Federal enforcement.

The other myth, if you will, that is out there that our report, I think, successfully rebuffs is the notion that enough progress has been made on the environment; in other words, that somehow we have been at this now for 20, 25 years, we have made a lot of progress in terms of environmental protection, and we really do not need to do much more. And again, nothing could be further from the truth. Although there has been significant progress, there still obviously is a lot more to be done.

I could just use the example of the Superfund sites in my home State where progress has been made in cleaning up quite a few of them, but there is still a tremendous amount more that needs to be done, and certainly when we talk about clean water and the ultimate goal of the Clean Water Act of safe and swimmable waters, we still have a long way to go before all the waters, or a significant portion of the waters in the country, are safe and swimmable.

The other thing that we bring out in our report, and I think is very important, is, and again contradicting the notion that somehow protecting the environment or strong regulations against polluters hurts the economy, our report makes the case that a healthy environment contributes to a growing economy and that basically pollution control and proper management in natural resources ultimately results in the creation of more jobs, creates more income.

Obviously, the best example of that, again, if I could use it, is my own district, the Jersey shore. The tourism is now in New Jersey the No. 1 or No. 2 industry in the State in terms of job creations and income coming to the State of New Jersey. During the summer, the summers of 1988 and after that, when the beaches were actually closed in most of the shore area of New Jersey, billions of dollars were lost in tourism, people were laid off, businesses almost had to close.

□ 2145

I think that shows dramatically how there is a direct impact that a healthy environment contributes to a good economy.

Again, Mr. Speaker, we will continue to make the case as we proceed in this Congress how important it is, how important it is for the Democrats to continue to prioritize the environment in terms of the budget, because even though it is true that we have good laws on the books in terms of environmental protection, if we do not have the money to adequately do investigations and enforcement to protect the environment, enforce those laws, the laws might as well not be on the books.

Tomorrow again, I believe, or at the end of this week, we are going to face another one of these stop-gap continuing resolutions that the Republicans are going to bring forward. Again, if that continuing resolution is similar to the one we passed last week, that it means severe cuts, and constant effort on the part of the Republican leadership to cut back on the amount of money for environmental enforcement, we as Democrats will continue to oppose that and make the case that the Republican leadership is continuing this assault and this effort to turn back the clock on 20 or 25 years of progress on environmental enforcement in this Congress.

Mr. DELLUMS. Mr. Speaker, I rise today to urge support of strong environmental legislation and funding for those programs. Our progress to date has been immense in improvements in public health and restoration of clean air and water. Our people and our natural resources must be protected for future generations. Recently in a fervor to reduce the budget, some majority Members have lost sight of our responsibility for the health and welfare of the people of this country. This ill-advised and short-sighted approach hits hardest at the segments of our population which are minorities and poor. The Republican majority of the Congress has lost touch with the needs of the population as a whole. They are concerned only with the interests of the wealthy and large industry. This is reflected in the reductions in environmental programs; thereby, benefitting those who pollute our world the most.

Budget cuts of one-fourth in EPA enforcement programs will leave polluters at liberty to violate communities without the ability to defend themselves. Reductions have further caused the cessation of cleanup in 68 hazardous waste sites and slowed hundreds of others. The health of our children and elderly are endangered by the pollution and further compounded our inability to stop it. In my own state of California, 41 percent of rivers and streams and 52 percent of our lakes are too polluted for people to use for swimming. Who will be responsible for ensuring that the pollution does not continue? We, the Members of Congress, will be held accountable to the people who have entrusted us with their welfare.

Drinking water quality may not be an issue if you can afford to buy bottled water. However, many cannot afford this luxury; they are struggling just to feed their families. Safe drinking water is a right that the citizens of the United States deserve and demand. The cost of the human damage that may be incurred by drinking contaminated water is not worth near term savings from the EPA budget cuts. The most impacted groups are the most vulnerable segments: the young, elderly, and the poor. Moreover, there is evidence that living areas of the minority populations are subjected more to pollution than other segments of the populace. Unable to battle the air and water pollution or to afford alternatives, they succumb to the worst of the hazards. The cost of human illness and life is too high a stake in this gamble. We must use prevention to curtail any problems with our water sources, such as heavy metals, toxic chemicals, and dangerous microorganisms. The majority party must be able to understand the most cost-effective solution is pollution prevention. We have seen the cost of environmental cleanup and the health care expenses resulting from hazardous exposures and poor quality air and water.

Not only is health of people endangered, but so is the health and diversity of our wildlife and the stability of our forests. We now face a 38-percent cut in funding for the Endangered Species Act. The cuts and the moratorium on placing new species on the endangered species list will not cause the problem to subside. It will only cause a festering of the problem. We have a responsibility to ensure that the environment is examined in its totality. The decrease in species is a result of poor environmental management and will lead to subsequent compounded environmental imbalances.

Additionally, we must preserve our public lands for their environmental role, such as watershed capacity, as well as their scenic and recreational value. Tagging important legislation with amendments which, directly and indirectly, attack these treasured resources is not responsible. We must have comprehensive legislation to address the whole issue, not just a single Member's narrow interest. We must use a logical and scientifically sound approach. And as such, we must keep our research in ecological and environmental topics at a robust level. Recent efforts have stripped the EPA, and specifically Superfund, research by devastating amounts.

Overall, we cannot allow our environmental progress to fade and return to prior conditions. We should not take steps away from environmental improvement, but toward it. I urge support and passage of budgets which will allow Federal agencies to complete this important work without the impediment of restrictive language.

GREEK INDEPENDENCE DAY

The SPEAKER pro tempore. (Mr. SMITH of Michigan). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes as the designee of the majority leader.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I rise this evening, as I have year after year at this time, to honor the heritage of freedom and democracy which reintroduced itself in Greece 175 years ago.

Mr. Speaker, March 25 is Greek Independence Day. On that date in 1821, after more than 400 years of Ottoman Turk domination, Greek freedom fighters returned sovereignty to Greece, and in so doing, reconnected themselves and their Greek brothers and sisters to their heritage.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN], who is a wonderful friend and has always been very much interested in the affairs of the Hellenes.

Mr. GILMAN. Mr. Speaker, I'm pleased to rise to speak on this occasion which marks a day of tremendous historical significance for Americans and all who revere the blessings which a democratic way of life have afforded us. I thank the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order, and I want him to know how much we appreciate all his efforts in the House to keep Hellenic issues before us.

On March 25, Greece will celebrate the 175th anniversary of its declaration of independence from foreign domination. We revere and honor the contributions that Greek civilization has made to democratic traditions.

The cause of Greek independence and the adherence of the Greek nation to the path of democracy and true respect for the will of the people to determine their political course has always been dear to the hearts of democrats everywhere. We remember that the great Romantic poet, Lord Byron, gave his life for this cause during the tumultuous revolt of the Greeks against their Ottoman overlords, and the cause of democracy in Greece continues to be a matter of interest for us here today.

In particular, we in America are gratified by Greece's role as a close American ally, and by the contribution that the Greek-American community makes to this country—and we only have to look around this chamber to see our members of Greek heritage with whom I know we are all proud to serve.

Mr. Speaker, we look to Greece to continue to play the strong and responsible role it has played in assuring that the Aegean and eastern Mediterranean remain a region of peace and stability. I trust that our Government will also continue to support a free, prosperous and strong Greece. I urge my colleagues to join in wishing the people and Government of Greece our best wishes and heartfelt hopes for a bright future.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman so very, very much.

Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to begin by thanking Mr. BILIRAKIS for taking the lead in organizing what has now become an annual event: the celebration of Greek Independence Day here on the floor of the U.S. House of Representatives. I am honored to participate in this year's tribute, which will mark the 175th anniversary of Greek independence and the 10th consecutive year the Congress sends a resolution to the President's desk asking that March 25 be designated as a National day of celebration of Greek and American democracy. Looking around, I am pleased to see that many of the same faces who were here last year have returned to once again commemorate this historic event.

You do not have to be a student of history to know that the United States and Greece will forever be connected to each other. We are all well aware of the fact that throughout history, our countries have turned to each other for advice on how best to shape our respective democracies.

The roots of America's very existence, as Thomas Jefferson once observed, are grounded in the foundation of ancient Greece. "To the ancient Greeks" said Jefferson, "we are all indebted for the light which lead ourselves [American colonists] out of Gothic darkness."

Conversely, the Greeks have long drawn inspiration from the American commitment to freedom. "Having formed the resolution to live or die for freedom," noted a former Greek Commander in Chief—Petros Mavromichalis—in an 1821 appeal to the citizens of the United States, "we are drawn toward you by a just sympathy since it is in your land that liberty has fixed her abode, and by you that she is prized as by our fathers."

There is no doubt that the substance behind these words has held in full since they were spoken 175 years ago. Time and again Greece has sent its sons and daughters to fight alongside our children in defense of democracy. Over 600,000 Greeks—or a staggering 9 percent of the entire Greek population—died fighting with the allies in World War II. Greece, moreover, is one of only three nations not part of the former British Empire that has been allied with the United States in every major international conflict this century.

Today, through their high levels of education and steadfast commitment to hard work, Americans of Greek descent enrich our culture, better our lives, and strengthen the bond that connects our two countries. From George Stephanopolous in the White House, to my colleagues of Greek descent here in the Congress, to the world's No. 1 ranked tennis player Pete Sampras, to the millions of Americans of Greek descent who get up and go to work everyday, it is clear that the ties that connect our countries remain vibrant and unique.

And as we are here to pay tribute to Greek Independence Day, it would only be fitting for us in the Congress to reassure Greek-Americans, and Greek nationals, that we are committed to standing with them on those international disputes involving the sovereignty of Greek citizens and territories.

We will continue to insist on Turkish compliance with all U.N. resolutions pertaining to the Cyprus conflict. We will, moreover, stand with Greece against all Turkish attempts to ignore international law and infringe upon Greek sovereignty, such as the incident earlier this year when Turkey laid claim to the Greek islet of Imia—a territory that was ceded to Greece by Italy under the terms of the Paris Peace Accords of 1947.

Mr. Speaker, I am proud that the Congress has established an annual event to celebrate Greek Independence Day. Greek-Americans and citizens of Greece alike have made invaluable contributions to American life and I congratulate them on 175 years of independence.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman, and I particularly thank him for his declarations. I know he means those, and will stand behind them.

As long as I have interrupted my own comments, Mr. Speaker, I will just continue and leave them interrupted, and yield to the gentleman from Cleveland, OH [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the gentleman from Florida for yielding to me.

Mr. Speaker, I appreciate the gentleman doing this. I had the pleasure of being actually not in Greece, but in an island very close to Greece this summer with the gentleman from Florida, and we had some great adventures. We, I think, presented the Greek Cypriot position quite articulately and persuasively to some of the Turkish Cypriot representatives, and I felt like I learned a great deal by being there, and I also was certainly honored to be there in the presence of the gentleman from Florida and other really committed, passionately committed Greek-Americans.

Mr. Speaker, today is a day that we are celebrating with this special order this resolution where we have named March 25, 1996, as Greek Independence Day, a national day of celebration of Greek and American democracy.

I guess what is really, I think, particularly appropriate and important to talk about is that we took over 200 years ago the example that Greece had set over 2,000 years ago as an example of how, under the rule of law, a disparate people living in far-flung city states at that time could be brought together in a confederation. And James Madison and Alexander Hamilton themselves also wrote in the Federalist Papers:

> Among the confederacies of antiquity, the most considerable was that of the Grecian Republics. From the very best accounts transmitted of this celebrated institution, it bore a very instructive analogy to the present confederation of the American States.

That was written in 1787. That came full circle when in 1821 the Greek intellectuals translated our own Declaration of Independence and used it as their own declaration. What we found is that the freedom-loving people of this country who founded this country, who emulated the freedom-loving people of Greece, and particularly in Greece, their commitment to a form of government which—I live the way Plato describes it in the Republic, he says "Democracy is a delightful form of government. It is full of variety and disorder, and dispensing a kind of equality to equals and unequals alike."

If your spend any time at all on the floor of this House, you are immediately struck that we here are full of variety and disorder, and dispense a kind of equality to equals and unequals alike that Plato certainly would have been proud of, he would have recognized. Mr. Speaker, I think it is great that it came full circle, then, and the Greek intellectuals and the Greek freedom fighters of the 1820's used our declaration as their model.

I also want to just recognize some Greek-Americans of national and international note before I close. There are some whose names will be very familiar: George Papanicolaou, who invented the Pap smear for cancer; Dr. George Gotsius, who developed L-dopa, to combat Parkinson's disease; in music, Maria Callas, the fabulous soprano, whose recording of the Rachmaninoff Vocalese is one of my most prized records; Peter Sampras, the No. 1 tennis player in the entire world.

In government we have U.S. Senators PAUL SARBANES and our former colleague here, OLYMPIA SNOWE from Maine, and of course some very distinguished Members who just happen to be on the floor with me tonight; the gentleman from the great State of Pennsylvania, GEORGE GEKAS, and the gentleman from Florida, MICHAEL BILIRAKIS, and President Clinton's senior adviser, George Stephanopolous. I also particularly want to recognize a giant in the world of fashion, James Gallanos, who is a designer, and was the favorite designer of former First Lady Nancy Reagan.

Mr. Speaker, we know there have been many, many Greek-Americans that have added a great deal. We know that the contributions of Greek-Americans to this country have been extraordinary. There is one other thing that I came across as I prepared for this special order that I thought was particularly interesting. It really goes to show what it is that Greek-Americans value in their families.

Greek-Americans became extremely successful in the United States in commerce, in trade, in many different areas. They recognized what my own grandfather recognized, who was not a Greek-American but was a Romanian-American, and that is that education is absolutely critically important to succeed in the United States of America, and education is in fact the great leveler. It is education that allows anybody to get ahead, anybody to achieve, and with education and hard work and a strong back and a will and determination, you can get ahead.

What is remarkable to me, Mr. Speaker, is that according to the United States census data, the first Greeks who became United States citizens ranked only 18th out of 24 nationals in their median educational attainment, but by 1970, their children had leapt to number one among all American ethnic nationals regarding median educational attainment, which shows that, first, Greek-Americans clearly value education, they value the written word, they value the spoken word, they value learning; and second, that learning not only is a value in and of itself, but it propels people to the top, in spite of all obstacles, and certainly we have seen that in this Greek-American community.

□ 2200

I am proud to be here, and I really appreciate the gentleman from Florida [Mr. BILIRAKIS] doing this every single year on Greek Independence Day. I am just glad to be able to be a part of it.

Mr. BILIRAKIS. I thank the gentleman. He has joined us every single year. He mentioned our trip to the island of Cyprus. We were the first Members of Congress, as I understand it, to go into the Turkish-occupied territory, up into the enclave area. We led a number of Cypriot-Americans who were not Members of Congress, just regular grassroots people, on that trip and we learned so very, very much. It was an honor to have done it with the gentleman from Ohio [Mr. HOKE].

I yield to the gentleman from Pennsylvania [Mr. GEKAS] for his remarks.

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, I, too, want to make remarks about the theme upon which the gentleman from Ohio struck a note, musician that he is, a rhapsody of history of the American born of Greek descent.

In fourth grade in public schools, in Pennsylvania at least, perhaps throughout the Nation, there began to shine the light on the students of ancient history. We first began to learn about Egypt and Phoenicia, then Greek civilization, Rome, et cetera. We all had images thrust upon us, wonderful images of the Acropolis, the Parthenon, the Aegean Sea, as it were, and some of the ancient pillars and columns that were all over the Greek countryside in ancient Greece, and which were a part of tourism even then and our own beginnings of knowledge of Greek history.

Almost simultaneously, I must tell you, in the fourth grade, many of us who were born of Greek immigrants were also attending school sponsored by the church, our own Greek Orthodox Church, in which we had an embellishment of that which we learned in public school, almost on the same day. I would go from public school, which would finish at 3:30 or 4, and then go to what we called Greek school in the late afternoon. We were tired in the evening of learning.

At that moment we began to learn about the second phase of the grandeur that was Greece, which was alluded to by the gentleman from Ohio, in the 19th century. It seemed natural to us youngsters who had learned in public schools about ancient Greek democracy and Socrates and Demosthenes to make the transition to the glories of the revolution against the Ottoman Empire, and then to learn about Kolokotronis and Karaiskakis and Marcos Botsaris. So we had a second set of heroes and images and brilliance of achievement on the part of the Greek people inculcated into our young learning even at that time.

What was significant about that was not just the expansion of learning, which is important in the education quotient which the gentleman from Ohio read, as far as achievement on the part of the Greek-Americans concerned. What was significant to me then and what is significant to me now is and was that it is an American experience.

We young Americans of Greek descent became better Americans as a result of that double dose of learning. In the American public schools, in the Greek church schools we became better Americans. We had a better sense of history, of education, of models, of role models and heroes and patriots and the glories of democracy.

One could not think of being an American without glorifying democracy, and it came to us naturally, we Americans of Greek descent. So we were doubly pierced with the arrow of democracy and democratic action and civilized behavior and politics and the search for good government, all from the fourth grade on, all intermeshed with our going to church and learning about the religion and the background of our parents, those lovable immigrants who came here to become great Americans in their own right.

One other note. When I mentioned that this was under the auspices of the church, that, too, was a natural phenomenon, having to do with the revolution of 1821, because it was a cleric, a churchman, who first raised the flag of independence on March 25, 1821. He did it on one of the most sacred holidays of the Greek Orthodox church.

So what we have then is a panoply of events all molding into one, patriotism, revolution, raising the flag of independence, glorifying the sacred holiday that the church held so high on that day, and bringing it all back into the well of the House of Representatives in 1996 where Americans all, Members of Congress, re-reflect the glory that was Greece in those two eras.

Mr. BILIRAKIS. I thank the gentleman from Pennsylvania [Mr. GEKAS]. Very well said.

Mr. Speaker, just before I interrupted myself to have recognized the four gentlemen, I spoke about the Greek freedom fighters having returned sovereignty to Greece and in so doing reconnected themselves and their Greek brothers and sisters to their heritage.

Mr. Speaker, this heritage of which we speak has brought forth our American principles of freedom and democracy that even now continues to spread throughout the world. Indeed, people of Greek heritage, as well as freedom loving people everywhere—can join in celebrating this very special day.

Our American patriot Thomas Paine wrote in his famous pamphlet, "Common Sense:"

> 'Tis Dearness only that gives every thing its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as freedom should not be highly rated.

How dear freedom is to us all.

Socrates warned and Plato warned and Pericles warned, as did so many other great minds throughout history, that freedom and democracy are won and maintained only at great cost. And with that cost comes an unwavering acceptance of responsibility.

Donald Kagan argues this point in his book about Pericles titled, "Pericles of Athens and the Birth of Democracy."

Mr. Kagan writes:

> The story of the Athenians in the time of Pericles suggests that the creation and survival of democracy requires leadership of a high order. When tested, the Athenians behaved with the required devotion, wisdom, and moderation in large part because they had been inspired by the democratic vision and example that Pericles had so effectively communicated to them. It was a vision that exalted the individual within the political community; it limited the scope and power of the state, leaving enough space for individual freedom, privacy, and the human dignity of which they are a crucial part.
>
> It rejected the leveling principle pursued by both ancient Sparta and modern socialism, which requires the suppression of those rights. By rewarding merit, it encouraged the individual achievement and excellence that makes life sweet and raises the quality of life for everyone. Above all, Pericles convinced the Athenians that their private needs, both moral and material, required the kind of community Athens had become. Therefore,—

And I would like to point out, Mr. Speaker, that this is what I mean by responsibility:

> They were willing to run risks in its defense, make sacrifices on its behalf and restrain their passions and desires to preserve it.

Mr. Speaker, I believe that this is as true today as it was in ancient Greece—as much as during the American Revolution and certainly as it was in 1821 when Greece claimed its independence.

The Greek people sought the right to govern themselves and to determine their own destiny. There are few more precious rights than this and it is one highly treasured around the world.

If people are to live freely they must also live responsibly. If people are to govern themselves democratically, then they must also govern themselves responsibly. The same must be said for nations. For if not, it is either anarchy or tyranny that is sure to follow.

I believe that if we are to live in a world of peace, with freedom and democracy as our goal, then this is the message that must guide us.

Even as I speak, tensions still persist between Turkey and Greece over the sovereignty of the islet of Imia—in the Aegean Sea.

Turkey has violated international law by trying to claim territorial ownership of Imia and, in so doing, has failed to act responsibly. Indeed, the European Parliament approved a resolution stating that:

> The Islet of Imia belongs to the Dodecanese group of islands, on the basis of the Lausanne Treaty of 1923, the protocol between Italy and Turkey of 1932, and the Paris Peace Treaty of 1947.

Another issue that demonstrates irresponsible leadership and weighs heavily on the minds of Greek-Americans and Cypriots alike is the recent statement made by Mr. Denktash—the Turkish-Cypriot leader of the self-declared Turkish Republic of Northern Cyprus—that the five missing Americans and the 1,614 missing Greek-Cypriots captured in Cyprus during the illegal Turkish invasion of 1974, were turned over to the Turkish militia and then killed.

I have written a letter to President Clinton urging him to do everything possible to determine once and for all the fate of the missing in Cyprus.

I also question Mr. Denktash's statement that all the missing are dead—given the fact that there is much evidence to the contrary.

You don't have to be a Greek-American or a Cypriot-American to feel the pain and outrage felt by Cypriots who have had their land brutally and illegally occupied by Turkish forces for over 21 years.

I think this quote from the British newspaper the Guardian in an article written in 1979 called "Words Won't Shift Turkey," illustrates the impact of the continued occupation:

> They (Turkey) invaded in two separate waves. They camped along the Attila line, holding 36 percent of Cyprus. They have not budged since. Worse, they have relentlessly filled northern Cyprus with mainland immigrants, squeezing all but a handful of Greeks from their territory . . . who can wonder . . . that the Greeks fear not merely permanent division along the Attila line but, at some suitable future moment with some suitable future excuse, a further Turkish push to swallow all of Cyprus? Will world opinion be any more help then (—) than it is now? . . . "

Mr. Speaker, last August I traveled to Cyprus, and I have already mentioned this, met the gentleman from Ohio [Mr. HOKE] there, and heard firsthand the life experiences of the Cypriots. I will continue to do all that I can to ensure their freedom along with the help particularly of the gentlewoman from New York [Mrs. MALONEY]; the gentleman from Pennsylvania [Mr. GEKAS]; the gentleman from Ohio [Mr. HOKE]; the gentleman from New York [Mr. GILMAN]; and so many others. I am pleased to have cosponsored legislation to address the freedom and human rights for the enclaved people of Cyprus.

We must seek a peaceful world so that freedom and democracy may flourish. Let us never squander the precious gift of liberty that is known to all our citizens through democracy.

Mr. Speaker, I yield to the gentlewoman from New York City [Mrs. MALONEY], which includes Astoria with a very large Greek population.

Mrs. MALONEY. Mr. Speaker, I first of all want to thank very much the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order to celebrate Greek independence day.

I am very fortunate and very pleased and privileged to represent Astoria, NY, one of the largest and most vibrant communities of Greek and Cypriot Americans in this country. It is truly one of my greatest pleasures as a Member of Congress to be able to participate in the life of this community, and the wonderful and vital Greek American friends that I have come to know are one of its greatest rewards.

March 25, 1996, will mark the 175th anniversary of the beginning of the Greek War of Independence.

□ 2215

From the fall of Constantinople in 1453, until the Declaration of Independence in 1821, almost 400 years, Greece remained under the heel of the Ottoman Empire. During that time, the people were deprived of all civil rights. Schools and churches were closed down and many were forced to convert to the Moslem religion.

One hundred seventy-five years ago, the Greek people were able to resume their rightful place as an ideal of democracy for the rest of the western world. The Greek ideal inspired our Country's Founding Fathers. Thomas Jefferson called ancient Greece "The light which led ourselves out of Gothic darkness."

Yet half a century later, the American Revolution became one of the ideals of the Greeks as they fought for their own independence. Since their independence, Greece has become one of the most trusted partners allied with the United States in every major international conflict in this century.

In light of this special and long standing relationship, some recent actions taken by the administration are particularly troubling. The sale of high-powered missiles to Turkey is a case of point. These are medium-range antipersonnel missiles of great destructive power which have never been sold to another country, ever. Along with Mr. BILIRAKIS and others participating in this special order, we wrote to the President voicing our strong opposition to this sale. It is clearly contrary to the spirit of the 1996 Foreign Operations appropriations bill which cut aid to Turkey.

Likewise, the administration's proposed sale of 10 Super Cobra attack helicopters I believe sends the wrong signal to Turkey, particularly given the tense situation in the Eastern Mediterranean which Mr. BILIRAKIS just mentioned in his comments.

Last week Mr. BILIRAKIS joined me in a special order on that problem in Imia, an island in the Aegean over which there was recently a very heated conflict and confrontation between Greece and Turkey. In the Imia incident, Turkey challenged an established international boundary in an attempt to expand its Aegean border. This never would have happened if Turkey abided by international law.

As we approach the 21st century, the use of violence and the threat of the use of violence are totally unacceptable. This Imia incident is just one of a long list of Turkish violations, including human rights violations of the Kurds, the blockade of Armenia, and the continuing occupation of the northern part of the Republic of Cyprus.

Congress responded to these actions last June by cutting aid to Turkey. I believe that it is time for the administration to reach the same conclusion and end unfortunate weapons sales until certain actions are halted. We need a rational policy that does not encourage aggressive actions and attitudes. There can be no middle or neutral position between those who uphold the rules of law and those who violate it.

One final note to my colleagues that are participating in this special order. The gentleman from Florida and myself have recently established a congressional caucus on the Hellenic issues. For Members of the House who would like to work toward better United States-Greek and United States-Cypriot relations, I would like to personally invite any Member participating here tonight to join the caucus.

Once again, I thank the gentleman from Florida, my very dear friend, for organizing this special order.

Mr. BILIRAKIS. I thank the gentlewoman, and join her in that invitation, obviously. I just cannot tell you how proud I am, CAROLYN, to be working with you, particularly on these issues.

I would at this point yield to another gentleman from Pennsylvania, Mr. RONALD KLINK, who is a fellow Kalimnian, which means that our parents immigrated to this country from the island of Kalimnos in the Aegean Sea, which is actually the group of islands that sort of is the closest to this disputed rock, I say "disputed," it isn't disputed by anybody but Turkey, in the Aegean, this disputed rock called Imia.

I would yield to the gentleman at this time for his remarks.

Mr. KLINK. I thank my dear friend and Kalimnian for yielding to me. It was amazing, as the gentleman knows, I went back to Kalimnos last August and saw Imia, and, of course, it is uninhabited. A lot of people are making the comment, well, this is a pile of rocks in the middle of the Aegean sea, there are no people who live there, so who should care about this?

The fact of the matter is these are Greek rocks. This is a Greek island. There are parts of southern Texas I would remind people who some would say that are not inhabited. They happen to be on this side of the Rio Grande. But if Mexico came over and planted a flag, there would be a battle, there would be a big fight, because everything on this side of the Rio Grande is American property.

The Greeks feel the same about this. As the gentleman mentioned in the earlier part of his statement, there has been no question about this. We are here to talk about Greek Independence Day and the issues.

The Greek people were never the provocateurs, throughout the entire history. For 400 years they lived under the Ottoman Empire, and they suffered greatly. Now again Turkey is the provocateur, coming into the Aegean and making claims that are completely illegitimate. And at the time the world was focused on this tiny, rocky inlet, most of what live there are sheep and goats, while the world was focusing on this and there was all this maneuvering around by military vehicles, what much of the world missed is the fact that Turkey at that time took 80 American-made tanks into Cyprus in violation of United States law, in violation of international law.

I have spoken with Ambassador Jacovites, the Ambassador from Cyprus, who said yes, this has, in fact, happened. We are making inquiries to the State Department to try to find out what, in fact, is going to happen.

Again, it is one more sign that Turkey is again, as they have been for hundreds of years, the provocateurs in the Aegean. They are risking peace, they are risking harmony in the European union. In fact, the European Parliament has condemned Turkey's action in a resolution that passed 342 to 21, with 11 abstentions. They understand the seriousness of the action that has been taken by Turkey in this and in other actions.

The gentleman also, my friend from Florida, made mention of the 1,619 people who are missing after the 1974 invasion of Cyprus. All of a sudden we have these comments made they were turned over to Turkish Cypriot militia and they are dead and we should dismiss this after 21 years.

We are dismissing nothing, because it is time to have these questions answered and make sure what were the circumstances of these deaths. Where are these people buried? Five of these people are American citizens. One is a 17-year-old boy from Michigan. I would say to the Speaker pro tem, I know the State of Michigan is important to him. From Michigan, a 17-year-old boy with his American passport in his hand, and 21 years, almost 22 years later, is completely unaccounted for.

I understand the State Department talks about the fact that both Turkey and Greece are important to the United States. I will go back in closing, and then relinquishing the time back to my friend. I would like to just give a couple of quotes.

One quote says:

> Our Constitution is called a democracy because power is in the hands not of a minority, but of the whole people. When it is a question of settling private disputes, everyone is equal before the law. When it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which man possesses.

That statement could be made by anyone on the floor of the House, any President of the United States, but it was made by Pericles in an address made in Greece 2,000 years ago. Our Nation is founded on that democracy.

Likewise, the comment that "Democracy is a charming form of government. It is full of variety and disorder and dispensing a kind of equality to equals and unequals alike." It was not made on the floor of this House during our debates with one another and our differences among parties or regions. It was made by Plato in "The Republic" in the year 370 B.C.

From Thomas Jefferson, whom we all revere, he said "To the ancient Greeks we are all indebted for the light which led ourselves," speaking of the American colonists, "out of Gothic darkness."

Thomas Jefferson understood the importance of Greece in formulating this idea of democracy and equality and understood how important the Greek people were to the people of the United States. Thomas Jefferson likewise wrote to the leaders of Greece during their occupation by the Ottoman Empire and encouraged them in their revolution. It took many, many hundreds of years after that for his dream for the Greeks to come to fruition. But they are still not shed of the inequities and the provocation that Turkey has perpetrated on that part of the Aegean and that part of the world for many hundreds of years.

So I would say that those of us who love freedom, those of us who have a sense that the birthplace of democracy should itself be free and not have to live under the thumb of the Turks, have a lot of work cut out for us.

I thank the gentleman, my friend from Kalimnos, and now from Florida, for yielding to me, and I thank him for his leadership on these issues and many other issues in this U.S. Congress. It is my pleasure and my distinct honor to serve with him. I thank him for taking this time.

Mr. BILIRAKIS. I thank the gentleman. Certainly the same applies from my side of the aisle.

So you can see, Mr. Speaker, as we celebrate this Greek Independence Day, we, all of us, must remember the price that has been paid to attain freedom here in the United States and everywhere, as the gentleman from Pennsylvania just reminded us. We owe a great debt of gratitude to the ancient Greeks, who forged the very notion of democracy. The American philosopher Will Durant said it best, "Greece is the bright morning star of that western civilization which is our nourishment and life."

We must remember our responsibility to those who sacrificed their lives to secure our freedom by preserving it for generations to come. So let us never forget or ignore that liberty demands responsibility, for on this Greek Independence Day, let us reflect on how dear freedom is to us all, and let us remember those Greek patriots who, as they valiantly fought off foreign oppression 175 years ago, shouted for all of us to hear "Eleftheria i thanatos," "Liberty or death."

Mr. Speaker, I thank you, and I particularly thank the staffs of the Cloakroom and the staffs of the people here for their indulgence at this very late hour. I know we are very tired, but we very much appreciate your allowing us to do this special order.

Ms. PELOSI. Mr. Speaker, I join today with my colleagues in commemorating Greek Independence Day. I thank my colleague from Florida, Mr. BILIRAKIS, for his leadership on issues of importance to the Greek-American community and for organizing this special order tonight.

On March 25, we will celebrate the 175th anniversary of the revolution which released Greece from the tyranny of the Ottoman Empire. This date is a very important one, yet it represents only one facet of Greece's longstanding inspiration to the world as the home of democracy.

The people of Greece and the people of the United States share a special and strong bond which goes back to the founding of our great Nation and which echoes through the ages. Greece's philosophical tradition inspired our Founding Fathers in their struggle for freedom and democracy. Their struggle, in turn, inspired the Greek patriots whose courageous fight for independence in the 1820's we acknowledge and commemorate today.

Greece's intellectual, philosophical, cultural, and artistic contributions to the history of Western civilization are an important underpinning of the world in which we live. Today, here in the House of Representatives, we pause to acknowledge those contributions, Without Greek democratic thought, we might not have the democracy we practice here on a daily basis, one which is too often taken for granted.

Greece's contributions to life in the United States are not just those based on lofty ideals. In communities across the country, Greek-Americans contribute in untold ways. The contribution of the Greek-American community to my district of San Francisco is a great one. This special community is a vital, historic, and vibrant component of San Francisco's world-renowned diversity.

I am proud to join my colleagues in the House of Representatives and my friends in the Greek-American community in celebrating Greek Independence Day.

Mr. FROST. Mr. Speaker, democracy and democratic governing is a style that is quickly being embraced by governments all over the world and it is an amazing spectacle. While the United States can take much credit for being the model of modern democracy, America is not its birthplace. Athens is the home of democracy.

Greek sages like Aristotle were the architects of those democratic principles which set the foundations of our government and for many others around the world. It was the Greeks who began the battles to preserve the concept of ruling by the people, a concept for which we also fight.

On March 25, 1996, Greece will celebrate its 175th anniversary, its dodrasquicentenial, of independence from the Ottoman Empire. It is in this celebration that those democratic principles will be reaffirmed. Because our nations are so ideologically intertwined, we also have reason to celebrate.

Mr. MANTON. Mr. Speaker, I am proud to rise today to join my colleague, Mr. BILIRAKIS, in celebrating Greek Independence Day. Today we celebrate the lasting tradition of Greek and American friendship and democracy.

Mr. Speaker, March 25, 1996, will mark the 175th Anniversary of the revolution which freed the people of Greece from nearly 400 years of the oppressive and suffocating rule of the Ottoman Empire. We as Americans, as well as each of the new and older democracies of the world, owe much to the country of Greece because of their important role in fostering the freedom and democracy we know today. Edith Hamilton said it best, "The Greeks were the first Westerners; the spirit of the West, the modern spirit, is a Greek discovery and the place of the Greeks is in the modern world."

The relationship between Greece and the United States is one based on mutual respect and admiration. The democratic principles used by our Founding Fathers to frame our Constitution were born in ancient Greece. In turn, our Founding Fathers and the American Revolution served as ideals for the Greek people when they began their modern fight for independence in the 1820's. The Greeks translated the United States Declaration of Independence into their own language so they, too, could share the same freedoms of the United States.

Mr. Speaker, in modern times, the relationship between the Greeks and the United States has only grown stronger. Greece is one of only three nations in the world that has allied with the United States in every major international conflict this century. More than 600,000 Greek soldiers died fighting against the Axis Powers in World War II. After World War II, the Greek soldiers returned to their homefront to again defend their democratic foundation from the threat of Communist rebels. Fortunately, democracy prevailed and Greece emerged the strong and victorious nation it is today.

Mr. Speaker, on this occasion commemorating the strong relationship between the United States and Greece, I would like to urge my colleagues to join me as a member the Congressional Caucus on Hellenic Issues. Becoming a member of this caucus will enable Members of Congress to work together on issues that affect the Greek and Greek-American community.

I look forward to working with my colleagues and with the Clinton administration to unravel the Cyprus problem, and promote a solid, cooperative relationship between Greece and Macedonia. In addition, I will continue to see that the countries of Turkey and Albania no longer infringe on human rights or violate international law.

Mr. Speaker, in honor of Greek Independence Day, I celebrate the strong and lasting bond between the people of the United States and Greece. I urge my colleagues to join me on this special day in paying tribute to the wisdom of the Ancient Greeks, the friendship of modern Greece, and the important contributions Greek-Americans have made in the United States and throughout the world.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to thank my colleague from Florida for once again taking the leadership to organize this special order which provides us the opportunity to celebrate a great day in the history of Greece, our close ally.

I also want to commend the gentleman from Florida and the gentlewoman from New York for organizing the Congressional Caucus on Hellenic Issues. Those of us who are concerned about our friends in Greece and Cyprus have worked together informally over the years, and I am pleased to now be part of a more organized and concerted effort to speak out on those issues which are important to Greece, Cyprus, and to our constituents of Hellenic descent.

It is very fitting for us to take time here to celebrate the beginning of Greece's struggle for independence from the cruel oppression of the Ottoman Empire. With our own war for independence as an example, the people of Greece began their struggle for freedom on March 25, 1821. How fitting that we could offer an example to Greece in the struggle against oppression, for the example of Athenian democracy was an inspiration to our revolutionary heroes.

The bonds between our two nations are deep and long-standing. On this occasion, we set aside time to honor those ties, but in fact each day that we meet is a celebration of the debt America owes to Greece. Greece was the birthplace of democracy, and we pay homage to this every day when we meet and debate and vote and freely share ideas.

When we begin each day affirming our commitment to liberty and justice for all we are, in fact, honoring the gifts of Greece to America. When citizens meet in a town hall, or attend a town meeting, or go to the polls on election day—they continue traditions begun in Greece.

This building in which we meet every day, and the Supreme Court across the street, are physical reminders that the roots of democracy were planted in Athens. It is no accident that the laboratory of democracy looks back to Greece for guidance on building the halls of democracy.

Ideas are not the only contribution made by Greece to America. As my own State of Rhode Island can attest, the sons and daughters of Greece who have come to the United States have made a tremendous impact on their communities.

Starting in the 1890's, Greek immigrants moved into Providence, Pawtucket, and Newport, RI. There they built business, neighborhoods, churches, schools, and raised families. Today, the grandchildren of those immigrants are leaders in our State, and Rhode Island is richer because of all they have given.

Tonight we do so much more than just salute the valiant bravery of Greece in 1821—for the brave acts of that revolution were just one more firing of the torch of liberty that was lit with the birth of democracy in Athens.

I join my colleagues in honoring Greece for all it has given the United States and share their optimism for all we will do together in the years ahead. I thank my colleagues for all of their hard work in making this special order possible and for their leadership on Hellenic issues.

Mr. DOYLE. Mr. Speaker, I rise today in recognition of the 175th anniversary of the independence of the nation of Greece.

The significance of the Greek War of Independence goes well beyond the scope of Greece and its history, and beyond even the history of the entire region encompassing the Balkan peninsula and the eastern Mediterranean. The struggle of the Greek people was the first major war of liberation following the American Revolution; it was the first successful war for independence from the Ottoman Empire; and it was the first explicitly nationalist revolution.

It is generally recognized that the Greek War of Independence began in earnest on March 25, 1821, when Bishop Germanos of Patra raised the standard of rebellion at the monastery of Aghia Lavra in the northern Peloponnese. This incident represented the joining together of lay and secular forces in outright rebellion to Ottoman domination.

As evidence of the commitment to democracy as an underpinning of this struggle, the first National Assembly was convened at Epidaurus by the end of 1821. By taking action to develop a representative legislature at the earliest stages of revolution, well before victory was achieved in 1832, the broad coalition of forces striving for Greek independence recognized that a modern political state must be based on a framework which seeks to include those from all walks of life.

In looking at Greece today, one can see how the character of the Greek War of Independence has added to the success of the modern state of Greece. Throughout the twentieth century, Greece has stood strong, first in the face of imperialism during World War I, then against the fascist incursion of the Axis powers during World War II, and finally in facing down the Communist threat during the cold war.

Today, Greece stands firm as a bulwark of stability in an otherwise volatile region. The shared victory of western democracies in defeating communism would not have been possible without the dedicated participation of Greece. Also, as Americans, we must continue to recognize the pivotal role played by Greece in meeting our goal of maintaining and enhancing the economic and politically stability of Europe and the Mediterranean.

Again, I congratulate the people of Greece on 175 years of independence and salute their ongoing positive contribution to peace and democracy throughout the world.

Mr. ACKERMAN. Mr. Speaker, I rise with my colleagues today to commemorate the 175th anniversary of the declaration of Greek independence from the Ottoman Empire, on March 25, 1821. I would also like to very much associate myself with the remarks of the distinguished gentleman from Florida, Mr. BILIRAKIS, and commend him for arranging this special order. His leadership on issues of concern to Greek-Americans has been unmatched in Congress, and I'm proud to work with him on this and other important matters.

Mr. Speaker, the world has changed greatly since 1821, but at least one common theme seems to link these two eras—the fight for democracy and freedom as a precious way of life for all people. It was a long and hard-fought battle in 1821 for Greece, and it continues to be one in 1996, in countries all over the world, from Asia, to Africa to Latin America. Greece, as the founder of democracy as we know it, however, has a special place in the hearts of all those who cherish democracy and freedom. In that respect, Greece and the United States have always shared a close relationship, which continues up to the present time, in the form of NATO, and other such alliances and ties. And it doesn't stop there. The contribution of Greece and Greek society to American society is immeasurable. Aside from the neo-classical architectural gems that grace our Capital City, Greek immigrants have been providing contributions to all facets of our society, from medicine to law to education and sports, just to name a few. In fact, one of the greatest contributions that Greece has made to the international community will be commemorated and celebrated this summer in Atlanta: the 100th anniversary of the modern Olympics.

This of course is only a small token of expression of support for Greece and Greek-Americans, but it is something upon which I, and many Americans across this country and across all political spectrums, fervently hold forth. Simply put, without the democratic ideals that originated in ancient Greece, we would not have had an American Revolution. And without the contributions of Greek immigrants over the last 200 plus years, we simply would not have the America that we have today.

Mr. COYNE. Mr. Speaker, I rise today to join in this special order commemorating Greek Independence Day.

One hundred and seventy five years ago, most of Greece was part of the Ottoman Empire. At that time, Greece had been under Ottoman rule for over 400 years. Greeks held high positions in the Ottoman Government and Greek merchants dominated trade within the empire, but the Greek people were unwilling subjects of the Ottomans. Taxes and restrictions on landholding were onerous, Greek Orthodox Christians were a religious minority, and Ottoman Government was becoming increasingly characterized by corruption and violence.

In the late 1700's and early 1800's, the Greek people developed a strong national consciousness. Many Greeks began to come into greater contact with West Europeans, and through these contacts they gained exposure to the ideas of liberty and self-government that had been developed in ancient Greece and revived in modern times by the French and American Revolutions. The development of a vision of an independent Greek nation at that time was due in no small part to the interaction of these radical ideas with the increasing depredations of the Ottomans and their minions.

In March 1821, Greek patriots rose up against their Ottoman overlords in a revolution that lasted for nearly 10 years. They enjoyed initial success, but met with several subsequent reversals. Nevertheless, the Greek people persevered through 8 bloody years of conflict. They experienced adversity and setbacks frequently, but their revolution continued. In 1825, the Ottoman Government, unable to defeat the rebels, brought in foreign mercenaries—much like the Hessian soldiers in the American Revolution—to crush the Greeks. The Greeks fought on.

The Greeks' heroic struggle inspired support from people in Western Europe and the United States. Many people in these countries developed an interest in Greek culture, architecture, and history. Europeans and Americans felt especially sympathetic to the plight of the Greek people given the role of ancient Greece as the cradle of democracy. The writings of early Greek philosophers like Plato and Polybius had helped inspire many of the patriots of the American Revolution, who had been schooled in the classics. A number of private citizens like Lord Byron were so caught up with the Greeks' fight for freedom that they actually traveled to Greece to take part in the revolution. Many of the people of Europe pressured their governments to intervene on the side of the Greeks, and as a result, in 1826 Great Britain and Russia agreed to work to secure Greek independence. France allied itself with these states the following year. Foreign assistance helped turn the tide, and in 1829 the Ottoman Empire signed a treaty recognizing Greece as an autonomous state.

Mr. Speaker, it is only appropriate that we recognize the courage and heroism of these early Greek patriots, who fought and died for the same principles of freedom and self-government that inspired our forefathers to rebel against Great Britain. Greece and the United States can both lay legitimate claim to the title of cradle of democracy. The democracies of ancient Greece inspired our Founding Fathers. Democracy in the United States and the principles laid out in the Declaration of Independence and the Constitution have inspired countless people around the world over the last 220 years.

Greece and the United States share much in common, including the 1.1 million American citizens who are of Greek ancestry. I am pleased to join our country's Greek-American citizens in celebrating this very special day.

Mr. LoBIONDO. Mr. Speaker, I rise as a member of the recently formed Congressional Caucus on Hellenic Issues to recognize Greek Independence Day. This is a day to honor the sacrifices made by the Greek people over hundreds of years in their struggle against the oppressive rule of the Ottoman Empire.

The victory of the Greek revolutionaries is particularly important for Members of this body which is one of the greatest institutions of democracy ever created on Earth. The foundation of our country stems directly from the advances in philosophy and law established by the ancient Greeks. Aristotle taught us that:

> [c]learly then a state is not a mere society, having a common place, established for the prevention of crime and for the sake of trade. These are conditions without which a state cannot exist; but all of them together do not constitute a state, which is a community of families and aggregations of families in well-being for the sake of a perfect and self-sufficing life * * *. And the state is a union of families and villages in a perfect and self-sufficing life, by which we mean a happy and honorable life.

This is the tradition that has been given to the people of the United States of America by the people of Greece to whom we shall be forever grateful.

The ties that bind America to Greece are not only historical, but also modern. Americans have fought side by side with Greeks in two World Wars as well as in the Persian Gulf war. Today, Greece is our invaluable ally in the North Atlantic Treaty Organization. We must continue to nurture the relationship between our two nations. We must lend our support to our Greek allies in their continuing conflicts with Turkey. A resolution to this long standing problem must be a focus of American foreign policy and I would urge President Clinton and others in the administration to work to ensure the protection of Greeks in Turkey and Cyprus.

Mr. Speaker, in closing I would ask all Members of the House to join with me in honoring the historical ties between the United States and Greece and in continuing to foster the close relationship between our two countries that has proved so successful.

Mr. FRELINGHUYSEN. Mr. Speaker, for Greek-Americans and those who practice the Greek Orthodox faith, I rise in their honor to join in the commemoration of the very special 175th anniversary of Greek Independence Day. Our mutual respect for freedom and liberty for all mankind dates back to the late 18th century when our Founding Fathers looked to ancient Greece for direction on writing our own Constitution. Benjamin Franklin and Thomas Jefferson persuaded a noted Greek scholar, John Paradise, to come to the United States for consultation on the policital philosophy of democracy. Later, the Greeks adopted the American Declaration of Independence as their own, sealing a bond which has endured between our two nations ever since.

March 25, marks the date when in 1821, the Greek people rose against four centuries of Ottoman rule. Under the leadership of Alexander Ypsilanti, the Greek people fought valiantly in pursuit of freedom and self-rule for 8 years. Finally, in 1827, the Allied powers lent support to the greek effort. In 1829, not only did the united forces defeat the Turks, but the Greek people also gained recognition of their independence by the very power that had oppressed them since the fifteenth century.

The Greek people continued their struggle against the threat of undemocratic regimes into the 20th century. At the height of World War II, when it appeared that Nazi forces would soon overrun Europe, the Greek people fought courageously on behalf of the rest of the world—at a cost of a half a million lives. The Greek people dealt a severe blow to the ability of the Axis forces to control the Mediterranean and seal off the Black Sea which helped to turn the tide of the war. British Prime Minister Winston Churchill declared: "in ancient days it was said that Greeks fight like heroes, now we must say that heroes fight like Greeks."

During the Truman administration, the United States finally realized Greece's unwavering commitment to democracy. President Truman recognized this commitment by including Greece in his economic and military assistance program—The Truman doctrine. And, in 1952, Greece joined the North Atlantic Treaty Organization, which was later tested when Russia threatened to crush the Acropolis unless Greece abandon the alliance. Greece stood firm and proved its commitment once again.

Mr. Speaker, March 25 marks Greece's accomplishment as an independent nation. However, more importantly, this day symbolizes the Greek people's continued defense of democracy, an idea given birth by the great philosophers in Athens more than 2,500 years ago.

Unfortunatly, this year's independence celebration is tempered by the loss of one of Greece's greatest poets, Odysseus Elytis, who died 3 days ago. Elytis is most famed for "Axion Esti" ("Worthy It Be"), an epic poem described as a "Bible for the Greek people" by renowned composer Mikis Theodorakis, who, admiring it so much, set it to music. In 1979, Elytis became the second Greek to win the Nobel Prize for poetry. In his own words he said, "I am personifying Greece in my poems * * *. All the beautiful and bitter moments beneath the sky of Attica." Odysseus Elytis personifies the Greek spirit of love and respect for culture and freedom. Although he will be missed, Elythis left a wonderful legacy for his people.

I am grateful for the opportunity to join in observing this very important celebration. This week I will remember where our own democratic principles were derived, and I will honor the countless, invaluable contributions Greek-Americans have brought to this country. The more than 700,000 Greeks who have come here, benefited us with a stronger, civilized and more cultured heritage. Mr. Speaker, I salute Greek-Americans for their outstanding achievements and their commitment to the ideals of freedom.

Mr. SCHUMER. Mr. Speaker, I rise today to join my colleagues in recognizing Greece on its 175th anniversary of independence. I am glad to participate in this special order and I thank my colleague Mr. BILIRAKIS for his commitment to commemorating Greek independence each March.

The United States has a strong and special relationship with Greece. Our great experiment in democracy drew its primary lessons from the ancient Greeks, and not too many years after our Revolutionary War, the people of Greece succeeded in throwing off the Ottoman Empire. We have in common the struggle to be free, belief in justice and in equality, and a faith in the people's judgment. We often speak today about the rights of the majority and minority in a democracy, about the rule of law and the ideal role of government. When we do that, we are really recalling the Greeks who wrote and argued with vigor and dignity about these fundamental issues. The vision of the Founders is drawn from the work of the ancient Greeks.

Today that creative essence can still be found within our vibrant community of Greek-Americans. My constituents of Greek descent are dynamic, hardworking, and active in the community. I am proud to represent them and I believe all Americans can learn a lesson from the strength of Greek-American families and their generosity of spirit.

We in the United States owe Greece a debt of gratitude, for being our steady partners and friends over many years, for inspiring our thoughts about democracy, and for sending us so many sons and daughters who have made and continue to make a contribution to the work of our Nation. I wish the people of Greece and all Greek-Americans a very happy Greek Independence Day, and I look forward to sharing the celebration in years to come.

Mr. REED. Mr. Speaker, I rise today to commemorate the 175th anniversary of Greek Independence Day, which falls on March 25. On this historic day, the Greek people broke from the Ottoman Empire after more than 400 years of foreign domination, clearly demonstrating their long-standing and continuing love of freedom.

Greece's democratic ideals and institutions continue to inspire people and nations around the world, and they have enabled the United States and Greece to enjoy a strong relationship. The contributions that Greek-Americans have made in our society are especially evident in my home State of Rhode Island, where the oldest Greek settlement dates back to the late 1890's. Many of the early Greek immigrants to the State worked as mill workers, foundrymen, fishermen, or merchant seamen. Today, the descendants of these hard-working people form a proud and prosperous Greek-American community, which continues to enrich Rhode Island and our Nation.

While we are here today to celebrate Greek history and its contributions, it is also important to recognize the continuing struggles of the Greek people. For more than 20 years, military occupation and human rights abuses by Turkey continue to hamper efforts to bring about a resolution to the situation in Cyprus. The time has come to end the strife and violence that have racked Cyprus since the Turkish invasion. I am a cosponsor of House Concurrent Resolution 42 which calls for the demilitarization of Cyprus and I urge my colleagues to join as cosponsors. The United States can and must play a role to help the people of Cyprus and stabilize relations between Greece and Turkey.

The Ecumenical Patriarchate, the spiritual leader for over 250 million Greek Orthodox Christians, is located in Turkey and continues to be the victim of harassment and terrorist attacks. I am also a cosponsor of House Concurrent Resolution 50, which calls for the United States to insist that Turkey protect the Ecumenical Patriarchate and all Orthodox Christians residing in Turkey and I would urge my colleagues to sign onto this important legislation.

The relationship between the United States and Greece continues to be of political, economical, and social importance. It is my hope we will continue to strengthen the bond between the United States and Greece, and to promote peace and stability in this region of the world. I would like to commend my colleagues, Representatives BILIRAKIS and MALONEY, for forming the Congressional Caucus on Hellenic Issue. As a member of this caucus, I look forward to working with them and my other colleagues to heighten awareness of issues of concern to the Greek-American community and to further our mutually beneficial relationship with Greece.

In closing, I am proud to participate in the celebration of Greek Independence Day. I wish to extend my congratulations and best wishes on this day to the millions of Greek-Americans and all the citizens of Greece.

Ms. ROS-LEHTINEN. Mr. Speaker, on Monday the 25th the people of Greece and friends of Greece around the world will celebrate the 175th anniversary of Greece's independence from the Ottoman Empire.

When Greece regained its independence in 1821, the people of the United States were delighted to learn of the new Greek freedom and restoration of Green independence.

Our President at the time, James Monroe, issued a declaration expressing America's great friendship and sympathies for the cause of Greek freedom.

President Monroe's expression of our sympathies for Greek freedom and democracy was not just an empty promise and it was not just the expression of one person's views.

Over a century later, President Truman came to this House on March 12, 1947, to ask the Congress for its support for what became known as the Truman Doctrine.

Truman described the desperate situation in Greece and how Greek democracy was threatened, and he asked Congress for its support for an unprecedented American program of economic and military aid to Greece.

By overwhelming and bipartisan votes, the Congress responded quickly to President Truman's request for aid to the Greeks.

By May 15, President Truman was able to sign a bill into law providing for aid to preserve and protect Greek freedom and independence.

One participant in the Truman administration's effort to save Greek democracy later told an historian, "I think it's one of the proudest moments in American history."

And indeed it was.

This long history of friendship and cooperation between the Americans and the Greeks has weathered many a crisis in which the two nations were allies in protecting the cause of democracy and freedom.

During the Second World War, Greeks and Americans fought in the great crusade to rid the world of the evils of the Nazis.

We were allies in that effort, and the alliance continued for the next half century as allies in the struggle against communism and Soviet domination.

It was from his own experiences in the Greek struggle during Second World War that Greece's most famous modern poet, Odysseus Elytis, wrote his poem "To Axiom Esti," in which he described his experiences in the Greek resistance to fascism in World War II.

That poem won Elytis the Nobel Prize in 1979.

Odysseus Elytis died this week, and was buried with high honors as Greece's most beloved poet of this century.

In his poetry, Elytis carried on the long tradition of Greek literature and its contribution to the world's cultural heritage.

This contribution is as significant as their contribution of the concept of democracy has been to the world of politics.

We are all the inheritors of the Greek contribution to our cultural and our political life, and today I join my colleague MIKE BILIRAKIS in wishing the Greek people our very best of wishes as they celebrate 175 years of independence on Monday.

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Greek-American community and the people of Greece who are celebrating Greek Independence Day. The Hudson Chapter #108 of the Order of A.H.E.P.A.—American Hellenic Education Progressive Association—and the Hudson County Department of Cultural and Heritage Affairs have the distinct honor of hosting a celebration commemorating Greek Independence Day on March 21 at the William Brennan Courthouse in Jersey City.

Greece's rich history can be traced back well over 2,500 years to the thriving city-states of Athens, Sparta, and Thebes. When the Western world looks to the birth of democracy, the first thing that comes to mind is Pericles and the Great Democracy at Athens. In more recent times, Greece was under Turkish rule for nearly 400 years, until the 1820's, when a war of independence began. This struggle, which commenced under the leadership of Alexander Ypsilanti grew out of Greece's yearning for independence and freedom. Even though Greece's Independence Day is marked on March 25, 1821, Turkey did not officially recognize the independence of Greece until 1829, when the Treaty of Andreanople was signed.

The Independence Day festivities celebrate Greece's enormous contributions to the arts, literature, and legal institutions of the Western World. For Greek-Americans, it is a celebration of their commitment to hard work and their success and recognition within this country. The achievements of Greek-Americans exemplify the greatness of our Nation's immigrant heritage. Their diligence and commitment has fostered their success in a wide variety of businesses, which have contributed to our Nation's prosperity.

The Hudson Chapter #108 of the Order of A.H.E.P.A. has helped unite the Greek-American community throughout Hudson County and the State of New Jersey. Since its inception, A.H.E.P.A. has actively combated discrimination and championed the cause of human rights, speaking out against human rights violations by any nation or group. They have fought for the rights of the Greek Orthodox Church whenever Turkey has challenged the Patriarchate, and they continue their endless fight for the freedom of Cyprus following the Turkish invasion and occupation.

Please join me in honoring the Greek-American community and the people of Greece on this joyous occasion. It is my pleasure to salute Greece and all Greek-Americans on this day.

Mr. ZIMMER. Mr. Speaker, on March 25, 1821, the Greek people began a long and courageous struggle to free themselves from nearly 400 years of Ottoman rule and return Greece to its democratic heritage. Today, I join the almost 3 million Greek-Americans living in the United States in celebrating the 175th anniversary of Greek Independence Day.

On this anniversary it is appropriate to reflect on the strong historical bond between our two countries. More than 2,500 years ago the idea of democracy was born in Athens. The intellectual and political climate of that time provided the impetus for a sea-change in philosophy, the arts, and science. In the preface to his poem Hellas, Shelley wrote: "Our laws, our literature, our religion, our arts have their roots in Greece."

Our Founding Fathers drew heavily upon the political and philosophical experience of the ancient Greeks in forming our representative democracy. Since that time, the contributions of Greek-Americans to the development of our Nation can be found in all areas of American life—from great scientists like Nicholas Christofilos to our Greek-American colleagues in Congress to the souvlakis we eat.

On this 175th anniversary it is appropriate that we take pride in celebrating the enduring relationship between our two countries.

Mr. TORRICELLI. Mr. Speaker, I rise today to commemorate Greek Independence Day, which falls on March 25, 1996. I have had the opportunity to visit Greece on several occasions, and I treasure the time I was able to spend in this great nation. Not only has Greece been a loyal ally and NATO member, but Greek-Americans have also made great efforts to enrich the United States. In celebrating Greek independence, I would like to take this opportunity to reflect upon efforts that have been made in the 104th Congress.

We have spoken out for and voted for the Porter amendment which cut aid to Turkey from $42 million to $21 million. This gesture shows that the United States will no longer tolerate countries who block U.S. humanitarian assistance and who consistently violate human rights standards.

I am also pleased that Congress has finally made an effort to end the Cypriot struggle for freedom from Turkish dominance. As one of the original cosponsors of the Cyprus Demilitarization Act, I am proud that the United States has finally called for the withdrawal of all foreign troops from Cyprus. This measure shows that we are committed to resolving this 20-year-old dispute based on the relevant U.N. resolutions.

When I learned about the approved sale of U.S. Army Tactical Missile Systems to Turkey, there was a need to organize and fight this transaction. I am proud of the initiative I took by introducing H. Con. Res. 124 which expresses Congress' disapproval of the proposed sale due to Turkey's human rights record. I have asked the Speaker to attach this bill to the final budget proposal.

The Greek-American community has a lot to celebrate on March 25—these efforts have been monumental. The newly formed Congressional Caucus on Hellenic Issues, of which I am a founding member, will help us continue our efforts on these issues. I am proud to have been an instrumental part of this progress. I look forward to continued bipartisan support.

I would like to express my sincere congratulations to Greek-Americans and the people of Greece on this day of independence.

Mr. KENNEDY of Massachusetts. Mr. Speaker, freedom-loving people all over the world join in the celebration of the 175th anniversary of the beginning of the Greek War of Independence.

On March 25, 1821, a group of heroic Greeks proved that the ancient fire of freedom and democracy—which inspired the founders of our country—had not been extinguished by over 400 years of brutal Ottoman rule.

More than 2,000 years ago, democracy was born in Greece. Political power in the hands of the people governed had never been seen before. That system of governance provided the inspiration for nations around the world.

The country that emerged from the Ottoman yoke has been a staunch ally and friend. Greece has stood by the United States in every major international conflict this century.

Our country has benefited from an active and successful Greek-American community. The immigrants who came to our shores from Greece worked hard. Their children went on to become scholars, doctors, scientists—many individuals from that community have served our country with distinction in the Armed Forces and Government.

Soon the Olympic flame will reach the United States, where it will preside over the Olympic Games as a reminder of the Hellenic ideals that inspire athletes, philosophers, and democratic movements throughout the world.

Mr. Speaker, I am proud to recognize this important date in the long struggle for freedom and democracy. Greece's victory over tyranny is a victory for democracy and freedom all over the globe.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. WATERS (at the request of Mr. GEPHARDT) for today and the balance of the week on account of official business.

Mr. OLVER (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NADLER) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PALLONE, for 60 minutes, today.

Mr. LIPINSKI, for 60 minutes, today.

Mr. FIELDS of Louisiana, for 60 minutes, today.

Mr. SANDERS, for 60 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, on March 21.

Mr. CHRISTENSEN, for 5 minutes, on March 21.

Mrs. SEASTRAND, for 5 minutes, on March 21.

Mrs. JOHNSON of Connecticut, for 5 minutes, on March 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DREIER, and to include extraneous matter, on the Dreier amendment to H.R. 2202, in the Committee of the Whole today.

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. BECERRA.
Mr. NEAL OF MASSACHUSETTS.
Mr. VISCLOSKY.
Mrs. MALONEY in two instances.
Mr. HAMILTON.
Mr. FRANK of Massachusetts.
Mr. ACKERMAN in two instances.
Mr. LANTOS.
Mr. REED.
Mr. GORDON.
Mr. JACOBS.
Mr. BARRETT of Wisconsin.
Mr. CONDIT.
Ms. HARMAN.
Mr. POSHARD in two instances.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. SAXTON.
Mr. WALKER.
Mr. KING.
Mr. FLANAGAN.
Mr. DAVIS.
Mr. CRANE.
Mr. WELDON of Pennsylvania.
Mr. BILIRAKIS.
Mr. GOODLING.
Mr. BURTON of Indiana.
Mr. GILMAN in two instances.

(The following Members (at the request of Mr. KLINK) and to include extraneous matter:)

Mr. ROHRABACHER.
Mr. PORTER.

ADJOURNMENT

Mr. BILIRAKIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Thursday, March 21, 1996, at 10 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1994 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, Mar. 14, 1996.
Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, enclosed is the calendar year 1995 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 35 contractual actions were approved and that two were disapproved. Those approved include actions for which the Government's liability is contingent and can not be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Defense Logistics Agency, Ballistic Missile Defense Organization, Defense Information Systems Agency, Defense Mapping Agency, and the Defense Nuclear Agency reported no actions, while the Departments of the Army, Navy, and Air Force provided data regarding actions that were either approved or denied.

Sincerely,

L.W. FREEMAN
(For D.O. Cooke, Director).

Enclosure: As stated.

DEPARTMENT OF DEFENSE

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (PUBLIC LAW 85–804) CALENDAR YEAR 1995

FOREWARD

On October 7, 1992, the Deputy Secretary of Defense (DepSecDef) determined that the national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of nonrecurring costs in connection with the sales of military equipment. In accordance with that decision and pursuant to the authority of Public Law 85–804, the DepSecDef directed that DoD contracts heretofore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DepSecDef's decision, on October 9, 1992, the Under Secretary of Defense for Acquisition and Technology directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and to pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 21(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no cost with respect to the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, as none have been identified for calendar year 1995.

EXTRAORDINARY CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1995

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE—JANUARY–DECEMBER 1995

Department and type of action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense, total	35	[1]0.00	0.00	2	111,753,769.00
Amendments without consideration	0	0.00	0.00	2	111,753,769.00
Contingent liabilities	35	0.00	0.00	0	0.00
Army total	0	0.00	0.00	1	110,700,000.00
Amendments without consideration	0	0.00	0.00	1	110,700,000.00
Navy, total	33	[1]0.00	0.00	1	1,053,769.00
Amendments without consideration	0	0.00	0.00	1	1,053,769.00
Contingent liabilities	33	0.00	0.00	0	0.00
Air Force, total	2	[1]0.00	0.00	0	0.00
Contingent liabilities	[2]2	0.00	0.00	0	0.00
Defense Logistics Agency, total	0	0.00	0.00	0	0.00
Ballistic Missile Defense Organization, total	0	0.00	0.00	0	0.00
Defense Information Systems Agency, total	0	0.00	0.00	0	0.00
Defense Mapping Agency, total	0	0.00	0.00	0	0.00
Defense Nuclear Agency, total	0	0.00	0.00	0	0.00

[1] The actual or estimated potential cost of the contingent liabilities can not be predicted, but could entail millions of dollars.

[2] One of the indemnifications is for FY 1996 annual airlift contracts and is included in this report. The Air Force has deemed the second indemnification to be "classified," not subject to this report's purview.

SECTION B—DEPARTMENT SUMMARY

DEPARTMENT OF THE ARMY

Contractor: Martin Marietta Corporation.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $110,700,000.

Service and activity: U.S. Army Missile Command.

Description of product or service: The request was made for payment of certain nonrecurring investment costs incurred that were not fully recovered upon the 1992 cancellation of the Forward Area Air Defense Line-of-Site Forward Heavy System (LOS-F-H).

Background: The Martin Marietta Team, consisting of Martin Marietta Technologies Inc., Electronics & Missiles; and two of its subcontractors, Oerlikon Aerospace, Inc., and Williams International, submitted a request for extraordinary contract relief under Public Law 85–804, requesting an amendment without consideration pursuant to Federal Acquisition Regulation (FAR) 50.302–1(b), "Government action."

The Team requested a total of $110.7 million for losses sustained when the Army canceled the Forward Area Air Defense Line-of-Site Forward Heavy System (LOS–F–H) in 1992. The request was for payment of certain nonrecurring investment costs incurred by the Team which could not be fully recovered when the program was canceled. The $110.7 million request for relief was further broken down as follows: Martin Marietta Technologies Inc.—$54.9 million; Oerlikon Aerospace, Inc.—$41.1 million; and Williams International—$14.7 million.

Martin Marietta Corporation (MMC) was the prime contractor on the LOS-F-H System,[1] with Oerlikon performing as the principal subcontractor for the fire units and missiles, and Williams serving as the subcontractor integrating two environmental control units into the systems primary power unit.

Statement of facts

In 1986 the Army had a need to provide air defense protection for heavy maneuvering forces deployed forward on the battlefield. Consequently, on January 24, 1986, the U.S. Army Missile Command (MICOM) issued a Request for Information (RFI) for a proposed LOS-F-H Program. Following analysis of several responses to the RFI, MICOM issued a Draft Request for Proposals (RFP) on January 3, 1986. The Draft RFP contained deployment requirements and target quantities and deliveries.

On January 12, 1987, Martin Marietta Corporation (MMC) responded to the draft RFP, advising that significant up-front MMC nonrecurring investment and capital outlay would be required to comply with the RFP requirements. MMC requested that the definitive RFP address indemnification for the expenses identified. MMC was the only contractor that raised indemnification as an issue. On March 16, 1987, MICOM issued a definitive RFP. The RFP contained a six year funding profile for the proposed program along with a statement that if the funding profile was insufficient, offerors should offer an alternative profile which matched their proposed delivery schedule. The funding profile provided was as follows:

Fiscal year:	*Millions*
1988	$43
1989	243
1990	410
1991	404
1992	407
1993	416

On April 3, 1987, the LOS-F-H Project Office completed Acquisition Plan number 2 for the LOS-F-H Program. This plan called for the acquisition of a Non Developmental Item (NDI) as a component of the Forward Area Air Defense System (FAADS) to operate with and provide protection for forward heavy maneuvering Army units. The plan stated that the responses to the RFI had demonstrated that several systems met the criteria for an NDI, but that none of them met the full system requirements defined in the Required Operational Capability (ROC) for the FAADS. The plan called for the immediate procurement of the NDI system that came nearest to meeting the full system requirements, with the capability to grow to meet the requirements of the ROC. This approach was adopted in part based on a determination that several firms had responded to the RFI, offering systems that could ultimately satisfy the Army's full system requirements. The plan also called for fielding of the system to begin in FY 1990 and full deployment to four forward divisions in Europe by the end of the calendar year 1992. It called for award of up to four $2.0 million firm fixed-price contracts for candidate evaluation.

On May 29, 1987, MMC responded to the definitive RFP. In its response, MMC proposed clauses (identified as H-12a and H-12b) which called for indemnification of the funds it had previously identified as necessary for nonrecurring up-front investment and capital outlay. These two clauses were rejected by MICOM. No other competing offeror requested similar indemnification.

On June 12, 1987, MMC was awarded Contract DAAH0187-C-A049, one of four candidate evaluation contracts. This contract contained follow-on production options which were unpriced.

On August 14, 1987, the Army changed the funding profile for fiscal years (FYs) 1988, 1989, and 1990, as follows:

FY 1988—$95 million.
FY 1989—$255 million.
FY 1990—$397 million.

At that time, MMC was advised by the Contracting Officer (CO) that its proposal had to be both affordable and executable in FY 1988–FY 1990.

On November 12, 1987, following extensive negotiations, MMC submitted its Best and Final Offer for the unpriced options. This offer stated that MMC was delaying recovery of its major investments until the production phases of the program (FY 1990 through FY 1993). On November 30, 1987, MMC was announced as the winner of the competition.

On February 10, 1988, modification P00004 to the MMC candidate evaluation contract was executed. This modification priced the unpriced production and interim contractor support options. Option 1 was exercised. This modification did not provide for indemnification for the up-front and capital outlay expenses requested earlier by MMC.

At the time modification P00004 was executed, certain Army officials, including but not limited to the LOS-F-H Project Manager, were aware that, as a result of the budgeting process, the funding profile contained in the definitive RFP had been sharply reduced for FY 1989 and forward. The MICOM contracting organization and others did not know of any finite reductions at that time the modification was executed. Modification P00004 contained a provision that production Special Tooling/Special Test Equipment (ST/STE) costs would be deferred to succeeding production efforts and that if the contract was terminated for any reason other than default, any unamortized cost would be subject to termination settlement in accordance with the Terminiation provision of the contract. It also stated that in the event of nonexercise of an option or program cancellation for any reason other than default, the contract would be subject to an equitable adjustment to provide for recoupment by the contractor of any unamortized production ST/STE acquisition cost, or adjustment of the amortization schedule, as appropriate.

On February 11, 1988, bilateral modification P00006 to the contract was executed by the CO. This modification exercised Option 2 on an incremental funding basis.

Then on February 25, 1988, just 15 days after contract award, the CO notified MMC by letter that a reduction in the FY 1989 funds allocated to the LOS-F-H Project in the President's FY 1988 Budget necessitated a not-to-exceed (NTE) proposal from MMC for substantially less hardware quantities than set forth in Option 3 of the contract. It was requested that such a proposal be received before March 4, 1988. Prior to the CO's letter of February 25, 1988, there was no indication that any Government official notified MMC of the reduction. MMC contended that while it was aware of budget cut speculation from reading several periodicals in the November and December 1987 time frame, it was not aware of any specific reduction decisions prior to the CO's letter of February 25, 1988.

On March 16, 1988, MMC provided the NTE proposal requested. The proposal contained the long lead time items necessary to support 5 fire units and 60 missiles as opposed to the quantities necessary to support the 15 fire units and 178 missiles called for in the contract at that time for Option 3. While MMC did not mention its up-front and capital investment in its March 16, 1988, proposal, it did make reference to its investment and its intent to recover it as originally planned. This letter accompanied the signed copy of contract modification P00022 MMC sent to the CO. Modification P00022 incorporated the reduced quantity for Option 3 into the contract. It also exercised Option 3 for the reduced quantities at NTE prices to be definitized within 180 days.

On December 9, 1988, MMC provided its proposal for final pricing of the new quantities for Option 3. This proposal was conditioned on MICOM acceptance of a contractor proposed provision (H-28) wherein MICOM would recognize: 1) that MMC had and would continue to make a significant investment in the LOS-F-H program; 2) that recovery of that investment was planned commencing with the FY 1990 program requirement; and 3) the allowability of an reimbursement for the investment in subsequent year production options. However, the parties failed to reach any agreement on provision H-28, and it was not incorporated into the contract. MMC Provision H-28 is attached.

On March 10, 1989, the CO concurred in an MMC suggestion that its December 1988 proposal was outdated and that the new pricing be combined with a planned repricing exercise for Option 4. On April 14, 1989, the CO provided MMC with RFP package D9-109-89, which called for a restructure of the contract. With regard to Option 4, the package called for prices for 5 fire units and 60 missiles, and 4 fire units and 48 missiles. No funding profile was provided. Funding constraints, additional and extensive testing requirements, and other programmatic and administrative delays were identified as contributing factors to the need for the restructure.

On June 27, 1989, MMC provided its response. With regard to Option 4, MMC proposed the following:

Option	Quantities	NTE price
Option IV	5 Fire Units and 60 missiles	$151,292,880
Option IV(a)	4 Fire Units and 48 missiles	131,289,560
Option IV(b)	4 Fire Units and 10 missiles	88,772,880

MMC's proposal stated that its unsolicited Option IV(b) was an alternate that contained suggested hardware and support services which MMC believed would fulfill the Army's near term requirements and meet the Army's perceived budget restraints. The proposal further stated that the proposed prices included additional MMC supplemental funds in the amount of $29 million. At this time MMC again requested indemnification of allocable and allowable advance expenditures. On July 17, 1989, the CO rejected this proposal because it did not contain firm NTE prices. A new proposal was requested.

Several meetings between various representatives of MMC and MICOM followed. One such meeting was held on July 21, 1989, in the office of the Director of the Acquisition Center at MICOM. Following these meetings, amendment 4 to the restructure solicitation was issued. At this time two clauses proposed by MMC (identified as H–36 and H–37) were incorporated into the solicitation. These clauses, which deal with indemnification of and recovery of MMC upfront nonrecurring and capital outlay costs, are also found in contract modification P00063. Clauses H–36 and H–37 are attached.

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[1] The Program/Contract was also commonly known as the Air Defense Anti-Tank System (ADATS).

On October 24, 1989, MMC submitted its combined proposal for definitization of the new Option III and IV quantities. At that time, citing H–36, MMC submitted a proposal for the recovery of capital and nonrecurring investment costs. The proposal was further revised by MMC in November 1989, and completed on March 29, 1990.

On May 7, 1990, MMC wrote the CO, raising the possibility of early transition of the missile production line from Switzerland to the United States. A change in the contract provision dealing with ST/STE was requested. On May 31, 1990, the CO responded that since the program was experiencing perturbations and system technical performance uncertainties, the Government was not willing, at that time, to increase its exposure relative to such requirements.

On June 15, 1990, an independent reliability, availability, and maintainability (RAM) review of the MMC LOS–F–H System was completed by a team appointed by the Deputy Under Secretary of the Army (Operations Research), and the Commanding General of the Operational Test Evaluation Agency. This review established that while the system met or exceeded technical requirements, its long term RAM performance left much to be desired. On July 8, 1990, the CO advised the MMC Contract Manager that no further action would be taken at that time on the earlier indemnification request pursuant to an agreement between the Army's Air Defense Program Executive Office and MMC officials.

On September 13, 1990, the CO wrote to MMC advising that an updated proposal was needed for audit by The Defense Contract Audit Agency (DCAA). On November 16, 1990, MMC forwarded the updated request for information to the CO. On January 24, 1991, a DCAA Audit Report for the request for indemnification was completed.

In the interim, on November 5, 1990, the U.S. Congress enacted Public Law 101–510, which stated that the Secretary of the Army may not obligate any funds after November 5, 1990, for a payment under the ADATS (the MMC LOS–F–H candidate) air defense program for contractor corrections of system reliability deficiencies to meet original program specifications.

On February 15, 1991, the parties finalized contract modification P00116, wherein a Test Program Extension Phase was added to the contract. Negotiation of this agreement began before any action was taken by the U.S. Congress. The parties agreed that MMC would fund a reliability growth program and MICOM would fund a test program extension to verify actual system reliability.

On June 18, 1991, a MICOM Price Analysis Report concerning indemnification was completed. On August 16, 1991, the MICOM Commanding General forwarded the MMC request to the Army Contract Adjustment Board (ACAB) through the Army materiel Command (AMC). The referral stated that MMC's Public Law indemnification request was being forwarded pursuant to a contract requirement that MICOM would make a "best effort" to ensure that the special provision was proceeded in a timely fashion. No recommendation was made. The letter requested action by the ACAB on the request and asked that if indemnification was granted, MICOM be provided appropriate guidelines for and an opportunity to negotiate the implementing provision. On December 6, 1991, AMC forwarded the MMC indemnification request to the ACAB. AMC recommended denial of the request as premature.

On January 22, 1992, the Secretary of Defense announced that the Army's LOS–F–H program was canceled. On February 27, 1992, the ACAB notified MMC that since the program had been canceled, indemnification was no longer a suitable form of relief for MMC. MMC was advised to submit a revision of its request if it desired to maintain its request under Public Law 85–804.

MMC has been paid a total of $363,513,948.04. This represents amounts paid under the basic contract, its options, and under the termination for convenience clause to include $25.8 million under Clause H–37. The team's present request for $110.7 million is in addition to amounts already received.

Applicants contentions

For the following reasons the Team believed that it should be granted relief for losses it sustained as a result of the supplemental funding it provided to the Government and for which it has not been reimbursed:

First, the Government identified the LOS–F–H program as a high-priority program, answering a critical need for air defense for the Army's heavy maneuvering forces, and the Team made a firm commitment to the Program.

Second, the Government defined a program plan that, by any objective assessment, could not be accomplished without contractor concurrent supplemental funding which the Team provided.

Third, throughout the contract, statements, representations, and other actions by the Government encouraged the Team to continue supplemental funding of the program, even as Government funding decreased and technical requirements increased. The Team lists the following ten Government actions in support of this assertion:

1. The Government accepted MMC's original proposal, which clearly identified its plan to provide supplemental funding for the early program phases and then recover that funding during priced production options;

2. By indemnifying ST/STE, the Government clearly demonstrated an intent to carry the program through to production;

3. The Government continued to acknowledge and accept MMC's supplemental funding;

4. The Army, in December 1987, after selecting the Martin Marietta Team, and prior to contract award, reduced FY 1989 funding for the LOS–F–H program. On February 10, 1988, the Army awarded the contract that it knew could not be executed as contracted for by the parties. As a result, MMC became contractually obligated to spend the initial increment of supplemental funding required to perform the contract ($65 million). MMC was notified by the CO 15 days after contract award that significant hardware reductions would be made due to FY 1989 funding reductions. At this time, MMC's contractual method of recovery (priced production options) was effectively eliminated because of the Army's intent to reduce production quantities and funding;

5. The Government accepted additional nonrecurring funding ($29 million) by MMC when Government funding was insufficient to execute contract Option IV (FY 1990);

6. Special Provision H–36 was incorporated in to the contract, committing to a "best effort" to secure indemnification of MMC's nonrecurring expenditures;

7. Special Provision H–37 was incorporated into the contract, providing for recovery of nonrecurring expenses within the obligated contract funds in the event of termination through no fault of MMC;

8. The Government insisted that MMC fund and perform a reliability growth program (an additional $17.3 million) to achieve performance over and above current contract reliability requirements;

9. MICOM program officials encouraged MMC to expend funds to relocate the ADATS missile production line from Switzerland to the United States in anticipation of Government production requirements; and

10. The Government failed to process MMC's original request for indemnification under Public Law 85–804 in a timely manner.

Decision

The Team requested an amendment without consideration for $110.7 million, asserting that it lost this amount providing contractor supplemental funding to the LOS–F–H program. Suffering a loss is not enough to justify an amendment without consideration under Public Law 85–804 and FAR 50.302–1. To justify relief under this provision, a contractor must established that the loss: (a) will impair the future productive ability of a contractor whose continued operation is essential to the national defense (FAR 50.302–1(a)); or (b) is the result of Government action, which in the interests of fairness deserves to be compensated (FAR 50.302–1(b)).

In this case, the Team did not assert that the provisions of FAR 50.302–1(a) apply, but instead framed their request for relief in terms of Government action (FAR 50.302–1(b)). It is generally recognized that the Government action theory of recovery is composed of three elements:

1. The contractor has suffered an actual loss;

2. The loss resulted from some Government action (either a contractual or sovereign act); and

3. The Government action action has resulted in unfairness to the contractor.

As discussed below, while the ACAB agreed that the Team suffered a loss of at least $110.7 million, the weight of the evidence did not support the claim that the loss was the result of Government action(s), or that it would be unfair to maintain the status quo with regard to the parties' position involving the canceled LOS–F–H Program. The ACAB found that the losses suffered by the Team were the result of calculated business decisions made under the pressure of competition, and not the result of Government action. It was decided that the risk of loss in this situation must therefore be born by the Team.

First, there was no question that the Army identified to MMC and the other competitors that the LOS–F–H was a high-priority program answering a critical need for air defense of the Army's heavy maneuvering forces. However, this statement of need hardly qualified as the type of Government action that warrants granting relief under FAR 50.302–(b) when a program is subsequently canceled. When this statement of need was made it was truthful and supported with adequate funding. These kinds of statements are frequently made by the Government. In fact, if the Government can not make these definitive statements, it is prohibited from acquiring the goods or services requested. Using the Teams' analysis, anytime the Government cancels a program a contractor would be entitled to relief under Public Law

85–804. Adoption of this analysis would make unnecessary and meaningless other protection found in Government contracts which provide for the effect of a canceled contract (e.g. termination for convenience clause), and would eliminate from contractor's consideration any risk of loss on the contract.

Second, the Team asserted that any objective assessment of the Army's requirements reveals a program that could not be accomplished without contractor concurrent supplemental funding. The ACAB was unable to verify the Team's implied position that all four competitors considered supplemental funding to be essential to this acquisition because the proposals of those offerors not selected for award had been destroyed. However, the consensus of the Government personnel involved in this action indicated that of the four offerors, only MMC affirmatively notified the Army that its proposal involved the use of contractor funds to accomplish early Government objectives. Furthermore, the ACAB had been advised that whether an offeror proposed the use of their funds to support the initial efforts under the contract with recovery in follow on production options was not a factor in the Army's cost/price deliberations. What was unique about the LOS–L–H contract was that the RPF informed offerors of the Army's six year funding profile for the program (total funding line of $1.984 billion). Offerors were told that award would be made to the contractor that closest achieved the Army's desired objectives.

MMC's response to this situation was informative. Even though MMC identified the Army's funding profile to be insufficient in the early years to pay for all of its costs, and even though it proposed indemnification clauses to cover its nonrecurring up-front investment and capital outlay (clauses specifically rejected by the Army, i.e., H–12a and H–12b), MMC elected to remain in the competition. Apparently, MMC viewed the Army's overall funding profile to be sufficient, and made a business decision to shift a substantial proportion of its cost to the follow on production options. MMC could have chosen not to submit an offer, but it did not elect that course of action. These facts suggested that MMC considered the risks involved and made a business decision that it could present an acceptable offer that met the Army's funding line. By analogy, it is noted that the Government may accept a contractor's "buy-in" to a contract, and if this is permissible, certainly the Government may accept advanced funding by the contractor on the contract. Consequently, the ACAB was not persuaded that the acceptance of a contractor's proposal[2] especially one from a major experienced DoD contractor like MMC, constituted the kind of Government action which justified providing relief under Public Law 85–804.

MMC had identified some ten Government actions which occurred throughout the contract which encouraged it to continue supplemental funding. The first (acceptance of MMC's original proposal) is discussed above. Others of significance are discussed below.

MMC contended that by indemnifying production ST/STE, the Army clearly demonstrated an intent to carry the program through to production. While the contract contained such a provision, it was unreasonable to conclude that it constituted some form of a guarantee that the LOS–F–H program would enter production. The Army clearly had an expectation that this program would enter full scale production; however, there were no guarantees. Indeed, it can be argued that the presence of this limited indemnification provision in the contract was a warning that production was not a foregone conclusion, i.e., there were risks involved and contractors must plan accordingly.

MMC complained that the exercise of Option 2 on February 10, 1988, was unfair because the Army knew that would cause MMC to expend its supplemental funds and at the time the Army knew the program would have to be restructured because of funding shortfalls in FY 1989. There was some appeal to this argument, however, shortly thereafter on February 25, 1988, immediately after becoming aware of the reduced funding, the CO notified MMC of the problem. During the 15 days between February 10–25, 1988, MMC did not obligate all of its supplemental funding ($65 million). In fact, MMC did not definitize its $1.00[3] contracts with its subcontractors, Oerlikon and Williams, until March and April of 1988, respectively. On February 25, 1988, MMC could have objected to the changed circumstances, but it did not. It was not unreasonable to conclude that MMC failed to object because it believed that an objection would cancel the program and lead to the termination of the contract. At that point, still believing the program could be saved, MMC concluded it was worth the risk and continued performance.

The same analysis applied to the execution of Option IV, which MMC asserted amounted to $29 million in supplemental funding by the Team. The restructuring of the option began in August 1988. MMC had the opportunity of repricing any remaining options in the contract so it could recover all of its supplemental funding. However, MMC, which was in a sole source position at that time, elected not to seek such a repricing, probably out of a concern that the program may have been canceled. Consequently, MMC made the decision to continue to accept the risks it had undertaken from the beginning of the competition.

MMC asserted that the insertion of Special Provision H–36 in its contract, committed the Army to a "best effort" to secure indemnification of MMC's nonrecurring investment costs. The parties had different opinions on the meaning of H–36. MMC believed that the clause represented a Government commitment to use its best effort to secure indemnification for MMC for what the Government considered to be legal and of value to the Government. On the other hand, MICOM officials stated that the clause merely required MICOM to make its best effort to insure that special provisions, deemed to be of value to the Government, and in accord with applicable statutes and regulations, would be processed in a timely manner for consideration at a higher level and, if approved, incorporated into the contract. A review of H–36 supported MICOM's reading of the clause. In any event, the ACAB did not believe that agreeing to the incorporation of such clause in a contract constituted the type of Government action which triggers the applicability of Public Law 85–804.

MMC also cited the inclusion of Special Provision H–37 as a Government action which encouraged its expenditure of nonrecurring investment costs. This clause was negotiated in July 1989 after MMC made its decision to accept the risk of loss associated with the contract. The ACAB found it difficult to ascertain how the interpretation of this clause harmed MMC, since the TCO paid MMC $25.8 million under its terms and conditions.

MMC's argument that the Army insisted that it spend $17.3 million on a reliability growth program was not supported by the record.[4] During the period April 1, 1990, to May 18, 1990, the Government conducted an independent Reliability, Availability, and Maintainability (RAM) review of the LOS–F–H system. This report, dated June 15, 1990, found that while the LOS–F–H met or exceeded program requirements in the area of technical performance, it had not demonstrated the capability of meeting RAM criteria essential for deployment. A reliability growth program was recommended before the system entered production. MMC and the Government reached an agreement whereby MMC would fund a RAM growth program and the Government would fund an extended test program. This occurred before Congress directed in November 1990 that the Army not fund improvement of system reliability deficiencies. All things considered, the ACAB believed that this arrangement was not properly characterized as a situation where the Army insisted that MMC do anything. Rather, the ACAB believed the proper characterization was that the parties reached an agreement on a solution for correcting a mutually recognized problem with the system.

MMC asserted that LOS–F–H program officials encouraged it to relocate Oerlikon's missile production line from Switzerland to the United States. The circumstances surrounding this issue were in dispute.

Colonel Gamino, the Project Manager, stated that the idea of moving the missile production line to the United States came from MMC. He pointed out that moving the line had the obvious advantages of lower cost, reduced risk and increased political support. He advised that MMC approached him on several occasions indicating it was considering the move. He stated that while he neither objected to the proposal, nor encouraged further consideration of the move, he made it clear to MMC that the decision to move the line was a business decision that would have to be made by MMC.

General Drolet, the Program Executive Officer at the time, indicated that his first knowledge that such a move was under consideration came in a discussion with Colonel Gamino, during which he was advised that Colonel Gamino had learned that MMC had been involved in undisclosed discussions with the Swiss on moving the line. The General confirms that the Army had earlier expressed serious concern to MMC over the cost of the missile, and that when he discussed the matter with MMC officials after his discussion with Colonel Gamino he encouraged MMC to explore the concept because he felt that such a move would reduce the cost of the missile.

Dr. Arnold Maynard, an employee in the LOS–F–H Project Office at the time, advised that he remembered the concept coming up during discussions between Project Office officials; all of whom felt it was a good idea primarily because of the political consequences of production in the United States. However, Dr. Maynard did not recall any discussions with MMC officials on the subject.

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[2] Acceptance of MMC's original proposal was listed as the first of ten Government actions that encouraged it to provide supplemental funding to the LOS–F–H program. Government actions 3 and 5 are similar in their charge.

[3] In a letter to Williams dated July 17, 1987, MMC stated: "To win this program we must develop a strong team that is not only willing to share the rewards, but also to shoulder their share of the risk." Similar letters were sent to all major MMC subcontractors. In accordance with this business decision, Williams and Oerlikon embarked on their Option 2 efforts for $1.00.

[4] While MMC cited this as one of the Government actions which encouraged it to expend investment costs, MMC was not asking for reimbursement of any of the expenditures associated with the effort. The $17.3 million figure was not included in the $110.7 million request for relief.

MMC, on the other hand, maintained that the idea to move the line came from unidentified senior Army officials and that those officials provided strong encouragement for the move. MMC cited first quarter of calendar year 1989 program cost reviews as the point in time when the move was conceived and encouragement begun.

The ACAB had carefully reviewed this evidence and concluded that the decision to move Oerlikon's missile production line was a business decision of MMC's and was not the product of any Government action. It appeared from the record that the funds associated with the move had been invested by the time the issue of moving the line came to the attention of Army officials.

The final Government action MMC complained of was the Army's failure to timely process its original request for indemnification. MMC asserted that it should not have taken 31 months to process its request from the CO to the senior procurement official at the Department of the Army (October 1989–February 1992). MMC acknowledged that some delays were caused by a misunderstanding of the documents requested to support the proposal and the fact that the action was put "on hold" (for less than two months) in mid-1990 while reliability growth was being worked. MICOM described the situation as follows: MMC and the CO were unable to agree that the request was complete and ready to be sent forward until MMC provided further input on March 29, 1990. The RAM issue became prominent shortly thereafter. This caused the parties to agree that the request should not be sent forward and the Army should put the indemnification request "on the back burner" until further notice. Following receipt of briefings from both MICOM and MMC in the third quarter of 1990, Department of the Army officials requested that MICOM take action to send the request forward for action. This called for an update of MMC's request, which was received in November 1990, and an audit was completed by the Defense Contract Audit Agency in the latter part of January 1991. A MICOM price analysis was completed in June 1991. In August 1991, the request was forwarded by MICOM through AMC to Headquarters Department of the Army for action. AMC sent the request forward on December 6, 1991. The ACAB took action at the end of February 1992.

It was the ACAB's judgment that while there was delay in processing the request, the record did not support MMC assertion that the Army was responsible for the majority of the delay. Furthermore, since MMC's original request for indemnification was based on essentially the same facts that were now before the ACAB, MMC had suffered no prejudice since there was no reason to believe that an earlier decision by the Army on this request would be different than the one reached by ACAB today.

Conclusion

The ACAB considered all materials submitted by the Martin Marietta Team, all information submitted by the MICOM Contract Adjustment Board, and all testimony presented to the ACAB on October 6, 1994. Based on that review, it was the unanimous decision of the ACAB that relief under the authority of Public Law 85–804 was not appropriate in this case and the request was denied.

ATTACHMENT—PRIME CONTRACT SPECIAL PROVISIONS

Special provision submitted to MICOM, but not incorporated into the LOS-F-H contract.

H–28 contractor recovery of nonrecurring investment

"The Government recognizes that the contractor has and will continue to make a significant financial investment in the LOS-F-H program substantially as was proposed in the FAAD LOS-F-H BAFO Cost Volume IV, OR19,200P, pages 2–53 to 2–60, dated November 12, 1987. The Government also recognizes that the recovery of this investment by the contractor is planned, commencing with the FY 1990 program and for each program year, in accordance with the schedule as provided in the same BAFO Cost Volume IV, OR19,200, page 0–18. To this end, it is the intention of the Government, as stated herein, to recognize the allowability of and reimbursement for this nonrecurring contractor investment in subsequent program year production options and to assure the recovery of that contractor investment as specified above should these options be exercised by the Government."

Special Provisions incorporated into Option IV

H–36 indemnification procedures

"The contractor has provided, for consideration by the Government with his NTE submittal, the following contract special provisions that he has requested the Government include in the resultant definitized contract: (1) Capital Indemnification; and (2) Indemnification of Non-recurring Investment. Approval for inclusion of these provisions is at a higher headquarters. It is the intent of MICOM to review in detail the content of these provisions. After review, MICOM will make a "best effort" to ensure that the special provisions deemed to be of value to the Government and IAW applicable statutes and regulations, are processed in a timely manner and, upon receipt of approval, to incorporate the special provisions into the contract by contract modification.

Approval or disapproval of the above provisions shall not result in a change to the NTE or the definitized price of Option IV."

H–37 contractor recovery of nonrecurring investment

"The Government recognizes that the contractor has and will continue to make a significant financial investment in the LOS-F-H program. The Government also recognizes that the recovery of this investment by the contractor is planned, commencing with the FY 1990 program and for each program year. To this end, it is the intention of the Government to recognize all reasonable, allowable and allocable nonrecurring contractor investment in subsequent program year production options should these options be exercised by the Government. Nothing contained herein in any way shall be construed to diminish the Government's right to review and audit these costs at any time IAW provisions in the contract. In the event no options are exercised, there will be no liability on the part of the Government not covered elsewhere in the contract. The amount claimed to be invested through Option IV by the contractor is not-to-exceed amount of $98,000,000, which is subject to downward negotiation only.

In the event the Government terminates this contract for convenience, the contractor may include in its termination claim and the Government will recognize any previously incurred reasonable, allocable, and allowable unrecovered investment costs to the extent such costs do not cause the termination settlement to exceed the funding obligated to the contract."

Contingent Liabilities: None.

Contractor: None.

DEPARTMENT OF THE NAVY

Contractor: EMS Development Corporation (EMS).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $1,053,769.

Service and activity: Department of the Navy, Naval Sea Systems Command.

Description of product or service: Supply of degaussing systems on LHD 5 and LHD 6.

Background: EMS Development Corporation (EMS) submitted a Request for Extraordinary Contractual Relief under Public Law 85–804 (hereinafter referred to as the "Act") on May 15, 1995, in the amount of $1,053,769, not including profit. The request arose out of contract N00024–92–C–2204, between NAVSEA and Ingalls Shipbuilding, Inc. (ISI), for construction of LHD 5 and 6. EMS was a subcontractor chosen by ISI to supply degaussing systems on LHD 5 and LHD 6.

The Secretary of the Navy has authority under the Act to approve or deny requests for extraordinary contractual relief. Section 5250.201–70(a) of the Navy Acquisition Procedures Supplement (January 1992) delegates authority to deny requests for extraordinary contractual relief to the Head of the Contracting Activity, which authority may be and has been further delegated to the Naval Sea Systems Command (NAVSEA) Deputy Commander for Contracts. Based on this delegation of authority, it was determined that there was no basis to grant EMS's request for extraordinary contractual relief. Therefore, EMS's request for relief pursuant to Public Law 85–804 was denied in its entirety.

Through a full and open competition, NAVSEA awarded contract N00024–92–C–4045 to EMS in July 1992 for 11 degaussing systems. The contract called for a first article testing of the system, Level III drawings, provisional documentation and technical manuals, plus ten production degaussing units. The degaussing systems consisted of four power supplies (sizes 5KW, 8KW, 12KW and 26KW), one switchboard, and one remote control unit. The period of performance for the contract was July 1992 to November 1994.

Subsequent to this contract award, ISI solicited EMS to participate in a competitive procurement for degaussing systems to be installed on LHD 5 and LHD 6. The degaussing systems under the ISI procurement were identical to the systems being procured under the NAVSEA contract, with the exception of two 40KW power supplies. EMS acknowledged in the request for relief that it submitted a proposal to ISI with a price predicated on the assumption that the costs of engineering design, Level III drawings, first article testing, provisional documentation and technical manual preparation on all but the two 40KW power supplies would be absorbed under the NAVSEA contract. In addition, because of the simultaneous production of degaussing systems, EMS was able to offer ISI significant material cost savings. The period of performance stipulated in the ISI Request for Proposal (RFP) coincided with the NAVSEA period of performance. Because of the larger number of systems being produced within the same period of performance, EMS was able to propose aggressive burden rates. These facts and assumptions resulted in a highly competitive unit price for the degaussing systems to be supplied for LHD 5 and LHD 6.

In December 1992, NAVSEA exercised one of the existing contract options which increased the number of production units from 10 to 16. In January 1993, ISI awarded EMS a contract in the amount of $906,380 to provide degaussing systems for LHD 5 and LHD 6. On June 23, 1993, EMS was notified that the NAVSEA contract was to be terminated in its entirety for the convenience of the Government. The termination for convenience resulted from the identification of surplus degaussing systems from ships scheduled for decommissioning. At that time, the NAVSEA contract was 11 months into completion, but still eight months from the completion of first article testing. The termination of the NAVSEA contract caused serious impacts on EMS's cash flow and financial posture. In addition, the termination jeopardized EMS's ability to provide the degaussing systems to ISI at the contract cost and schedule.

EMS continued performance under the ISI contract while negotiating the terms of the NAVSEA termination beginning in February 1995. During negotiations, the Termination Contracting Officer (TCO) informed EMS that production costs would not be allowed because EMS had not completed first article testing prior to the termination. Further, the TCO warned that inclusion of unabsorbed overhead in EMS's termination settlement proposal could be cause for rejection.

Because of their tenuous cash flow situation, EMS did not have the financial resources to prolong termination settlement negotiations and settled for $100,000 less than initially requested. EMS then filed a request for relief under Public Law 85–804 with ISI. On May 3, 1995, ISI terminated its subcontract with EMS for default, citing EMS's failure to make progress as the basis for the termination. Additionally, ISI refused to consider EMS's request for a subcontract price adjustment. The actions taken by ISI, coupled with the NAVSEA terminated contract, left EMS in financial extremis. On May 15, 1995, EMS requested extraordinary contractual relief under Public Law 85–804 directly with the Navy, asserting "essentiality" to the national defense and "Government Action" as the basis for granting relief. EMS requested relief in the amount of $1,053,769, plus profit, on increased costs caused by Government action, which represented the alleged loss sustained due to the termination of the NAVSEA prime contract and the ISI subcontract, as well as attendant increases incurred on all other contracts.

A. EMS did not establish a basis for contract adjustment

The Federal Acquisition Regulation (FAR), Part 50.302, lists the following three types of contract adjustment under the Act: (1) amendments without consideration (FAR 50.302–1); (2) correcting mistakes (FAR 50.302–2); and (3) formalizing informal commitments (FAR 50.302–3). EMS requested a contract adjustment pursuant to FAR 50.302–1.

FAR 50.302–1(a) stipulates an adjustment may be granted without consideration if the "actual or threatened loss under a defense contract would impair the productive ability of a contractor whose continued performance on any defense contract or whose continued operation as a source of supply is found to be essential to the national defense." In addition, FAR 50.302–1(b) provides that if ". . . a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action . . . when the Government action, while not creating any liability on the Government's part, increases performance cost and results in a loss to the contractor," an adjustment without consideration may be made to the contract. EMS alleged it was entitled to an adjustment pursuant to both 50.302–1(a) and 50.302–1(b).

1. Amendments Without Consideration—Essentiality:

In its submission, EMS stated it was the sole supplier for the EMS–10, MCD–1, SSM–2, SSM–4 and SSM–5 degaussing units. The FFG, AOE, TAO, LSD, and CVN class ships are equipped with these systems. In addition, EMS was awarded a sole source contract for a computer controlled power supply for SSN–21. Accordingly, EMS argued it comprised the U.S. industrial base for this technology.

At the time of this request, EMS was a subcontractor to Avondale Industries, Inc. (AII), and National Steel and Shipbuilding Company (NASSCO) to supply the degaussing systems for the LSD 52 and AOE 10, respectively. Avondale's subcontract with EMS was found to be approximately 13 percent complete as of June 18, 1995. The subcontract value is $367,000, of which $60,000 had been paid to EMS through progress payments. NASSCO's subcontract with EMS was 37 percent complete as of June 18, 1995, and $155,486 of a total contract value of $375,028 had been paid to EMS through progress payments. Discussions were conducted with the cognizant program offices to validate EMS's assertion that it was the only source available for the needed equipment and, if not, to ascertain whether any other company would supply the needed systems in a timely fashion. Similar discussions were entered into with representatives from both Avondale and NASSCO.

Several facts were disclosed during the aforementioned discussions. First, both the program offices and the shipyards confirmed that other sources existed which could produce the required systems with slight modification to their production lines. Secondly, the Program Managers stated the degaussing systems are not essential to acceptance of the ship(s) on which they are to be installed and should their delivery be delayed, they could be installed during a post delivery availability period.

FAR 50.302–1(a) requires the contractor's continued performance or operation to be essential to the national defense to merit a contract amendment without consideration. EMS's continued performance or operation was not required to support delivery of the AOE or LSD ships. In addition, EMS was not considered to be essential to the national defense because other sources existed which could satisfy the needs of the Government.

EMS did not, therefore, demonstrate a sufficient basis for an amendment without consideration based on "essentiality" to the national defense.

2. Amendments Without Consideration—Government Action:

EMS asserted the termination for convenience of the NAVSEA contract was the cause for the deterioration of its financial condition. Specifically, EMS stated the termination action taken and the denial by the Navy to allow completion of the first article testing and level III drawings reduced its overhead base, which resulted in increased burden rates. The increased rates caused cost overruns on other existing contracts. NAVSEA was of the opinion that EMS's assertions were without merit for two reasons: (1) EMS suffered significant financial loses on contracts to supply degaussing systems prior to NAVSEA's termination of its contract with EMS; and (2) EMS knowingly and voluntarily chose to sign a full and final release waiving its rights to further termination costs because the company had a tenuous cash flow situation as a result of the losses on its other contracts.

In the backup data submitted as attachments to its Public Law 85–804 submission, EMS acknowledged a substantial loss, equating to approximately $1M on a contract with Electric Boat Division of General Dynamics (EB). A review of EMS's cash flow statements showed this loss had a significant negative impact on EMS's financial status. In fact, the supporting data showed an overall projected loss of $1.2M from EMS's existing contracts, including the $970,108 projected loss on the Electric Boat contract. This loss is unrelated to EMS's claimed losses associated with the increased overhead rates. Therefore, the Navy's decision to terminate the NAVSEA contract could not be considered the sole cause for the deterioration of EMS's financial condition.

As stated above, EMS was informed by the TCO that no production costs or costs associated with unabsorbed overhead would be included in the termination settlement. The TCO further stated that EMS could dispute both issues, but that such an action would increase the time required to reach a settlement. EMS chose to not delay the termination negotiation and, instead, to pursue extraordinary contractual relief because, as cited in its request for relief, "they needed a quick cash settlement." The company further stated that it realized the negotiated settlement represented a loss to EMS.

Pursuant to FAR 49.201, when a fixed price contract is terminated for convenience, a settlement should compensate the contractor for the work done and the preparations made for the terminated portion of the contract, including a reasonable allowance for profit. Fair compensation is a matter of judgment and is subject to negotiations and, preferably, a bilateral agreement. Such an agreement was executed by administrative modification A00001 on February 1, 1995. The termination settlement, as agreed to by EMS, expressly stated "(t)he contractor has received –0– for work and services performed, or items delivered, under the complete portion of the contract." In addition, the termination modification contained a release specifying the net settlement constituted payment in full and "complete settlement of the amount due the Contractor for the complete termination of the contract and all other demands and liability of the Contractor and the Government under the contract. . . ." EMS elected not to continue settlement negotiations and endorsed the agreement on January 31, 1995, with the full knowledge it has relinquished its right for future recourse. Further, the termination settlement contained several reserved items protecting the rights and liabilities of the parties. EMS elected not to reserve its right for recovery of costs associated with the first article production units and increased overhead costs on other contract(s) resulting from the termination. EMS was responsible for protecting its rights and liabilities, and identifying areas to be reserved for possible future action. EMS did not include costs in the termination settlement associated with the issues which it claimed to be the catalyst for its extreme financial position. EMS had the right to protect its interest in recovery of the subject costs and knowingly forfeited that right with the signing of the settlement modification. The forfeiture of the reservation for recovery of the subject costs was not and could not be considered to be the result of Government action.

FAR 50.302–1(b) requires an applicant for relief to show that it has suffered a loss, not merely diminished profits, under a defense contract because of government action. With full knowledge of a loss resultant from the termination of the NAVSEA contracts, EMS endorsed the modification releasing its right to assert any claim arising out of events regarding the termination. Accordingly, it could not be concluded that EMS's loss was solely the result of Government action. It was, therefore, considered inappropriate to grant relief under Public Law 85–804 for those same events.

CONCLUSION

After considering all relevant information, it was determined that EMS's Public Law 85–804 request should be denied.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts. The potential cost of the liabilities could not be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause. Items procured were generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractors:

	Number
Westinghouse Election Corporation	9
General Dynamics Corporation, Electric Boat Division	6
Lockheed Missiles & Space, Co., Inc.	3
Martin Marietta Defense Systems	4
Newport News Shipbuilding	3
Hughes Aircraft Company	1
Hughes Missile Systems Company	1
Charles Stark Draper Laboratory	1
Alliant Techsystem, Inc./Thiokol Corporation	1
Loral Defense Systems—East	1
Kearfott Guidance & Navigation Corporation	1
Raytheon Company, Electric Systems Division	1
Rockwell International Corporation, Autonetics Strategic Systems Division	1
Total	33

CONTINGENT LIABILITIES SUMMARY TABLE

Contractor	Service and activity	Description of product service
Westinghouse Electric Corporation	Department of the Navy, Naval Sea Systems Command	Replacement nuclear reactor plant components.
	Department of the Navy, Naval Sea Systems Command	New Attack Submarine nuclear reactor plant components.
	Department of the Navy, Naval Sea Systems Command	Replacement nuclear reactor plant components.
	Department of the Navy, Naval Sea Systems Command	New Attack Submarine nuclear reactor plant components.
	Department of the Navy, Strategic Systems Program	FY 1996 Launcher Training Services.
	Department of the Navy, Strategic Systems Program	Launcher Expendables for U.S. and U.K. Trident II Weapon Systems.
	Department of the Navy, Strategic Systems Program	D5 Backfit Program.
	Department of the Navy, Strategic Systems Program	Strategic Systems Programs Alterations (SPALTS) and Navy Change Requests.
	Department of the Navy, Strategic Systems Program	U.S. Operation and Maintenance.
General Dynamics Corporation	Department of the Navy, Naval Sea Systems Command	Engineering technical services and program support for design, manufacture, test and delivery of New Attack Submarine prototype Main Propulsion Unit and prototype Ship Service Turbine Generator.
	Department of the Navy, Naval Undersea Warfare Center Division	Engineering and Analysis Services for SSN–688 & SSN–21 Hull Programs.
	Department of the Navy, Naval Sea Systems Command	Engineering, technical and logistic services in support of R&D Submarine (SSN 691) Baseline Modifications.
	Department of the Navy, Naval Sea Systems Command	Basic Ordering Agreement for supplies and services in support of operational and unique SSN and SSBN Submarines.
	Department of the Navy, Naval Sea Systems Command	Engineering effort and design studies in support of the New Attack Submarine Program.
	Department of the Navy, Naval Sea Systems Command	Engineering effort and design studies in support of the Seawolf Submarine and Advance Submarine RDT&E Programs.
Lockheed Missiles & Space Co., Inc.	Department of the Navy, Strategic Systems Program	FY 1996 Trident II (D5) Missile Production, related hardware, and services.
	Department of the Navy, Strategic Systems Program	Trident Reentry Body Long Term Supportability.
	Department of the Navy, Strategic Systems Program	Propellant Hazard Test and Analysis Program.
Martin Marietta Defense Systems	Department of the Navy, Strategic Systems Program	Basic Ordering Agreement for Support of Trident and Trident II Fire Control Systems, Guidance Support Equipment and Related Support Equipment.
	Department of the Navy, Strategic Systems Program	Trident I and II Fire Control System.
	Department of the Navy, Strategic Systems Program	U.S. effort, SPALTs, Logistics Support, and Fault Insertions.
	Department of the Navy, Strategic Systems Program	Verification of failures on MK–5 Inertial Measurement Units.
Newport News Shipbuilding	Department of the Navy, Naval Sea Systems Command	Basic Ordering Agreement for supplies and services in support of operational SSN 594, 637, and 688 Class submarines.
	Department of the Navy, Naval Sea Systems Command	Engineering effort and design studies in support of the Seawolf Submarine Program.
	Department of the Navy, Naval Sea Systems Command	Engineering, technical, and logistic services in support of Aircraft Carrier programs.
Hughes Aircraft Company	Department of the Navy, Strategic Systems Program	Electronic Assembly, Inertial Measurement Unit Electronics, and other Electronic Components.
Hughes Missile Systems Company	Department of the Navy, Naval Air Systems Command	Procurement of Tomahawk All-Up-Round Production, Depot Maintenance, and Operational Test Launch.
Charles Stark Draper Laboratory	Department of the Navy, Strategic Systems Program	U.S. Systems Support and PIGA Screening.
Alliant Techsystem, Inc./Thiokol Corp.	Department of the Navy, Strategic Systems Program	C3 Second Stage Motor Disposal and Support.
Loral Defense Systems-East	Department of the Navy, Strategic Systems Program	U.S. Technical Services and Support Program.
Kearfott Guidance & Navigation Corp.	Department of the Navy, Strategic Systems Program	Procurement of Inertial Measurement Units (IMU), IMU Repair and Recertification, IMU Recalibration and Long Lead Material.
Raytheon Company	Department of the Navy, Strategic Systems Program	Captive Line Parts Program.
Rockwell International Corp	Department of the Navy, Strategic Systems Program	SINS, ESGM, and ESGN House System Evaluation and Engineering Support Program.

DEPARTMENT OF THE AIR FORCE

Contractor: Various.

Type of action: Contingent Liability.

Actual or estimated potential cost: The amount the Contractors will be indemnified by the Government cannot be predicted, but could entail millions of dollars.

Service and activity: Civil Reserve Air Fleet (CRAF).

Description of product or service: FY 1996 Annual Airlift Contracts.

Reference: "Definitions of Unusually Hazardous Risks Applicable to CRAF FY 1996."

Background: Twenty-nine contractors requested indemnification under Public Law 85–804, as implemented by Executive Order 10789, for the unusually hazardous risks (as defined) involved in providing airlift service for CRAF missions (as defined). In addition, Headquarters, Air Mobility Command (AMC), requested indemnification for subsequently identified contractors and subcontractors who conducted or supported the conduct of CRAF missions. The contractors for which indemnification was requested were those to be awarded as a result of Solicitation F1 1626-95-R0002, and future contracts to support CRAF missions which are awarded prior to September 30, 1996. The 29 contractors who requested indemnification are listed below:

CONTRACTORS TO BE INDEMNIFIED AND PROPOSED CONTRACT NUMBER

Air Transport International (ATN), F11626–95–D0015.

Airborne Express (ABX), F11626–95–D0024.

American Airlines (AAL), F11626–95–D0022.

American Int'l Airways (CKS), F11626–95–D0038.

American Trans Air (ATA), F11626–95–D0019.

Atlas Air (GTI), F11626–95–D0023.

Burlington Air Express (BAX), F11626–95–D0020.

Carnival Airlines (CAA), F11626–95–D0020.

Continental Airlines (COA), F11626–95–D0018.

Delta Air Lines (DAL), F11626–95–D0026.

DHL Airways (DHL), F11626–95–D0027.

Emery Worldwide (EWW), F11626–95–D0018.

Evergreen International (EIA), F11626–95–D0018.

Federal Express (FDX), F11626–95–D0019.

Miami Air (MYW), F11626–95–D0018.

North American Airlines (NAO), F11626–95–D0029.

Northwest Airlines (NWA), F11626–95–D0018.

OMNI Air (OAE), F11626–95–D0037.

Rich International (RIA), F11626–95–D0018.

Southern Air Transport (SAT), F11626–95–D0019.

Sun Country Airlines (SCX), F11626–95–D0030.

Tower Air (TWR), F11626–95–D0020.

Trans World Airlines (TWA), F11626–95–D0031.

United Airlines (UAL), F11626–95–D0032.

United Parcel Service (UPS), F11626–95–D0033.

US Air (USA), F11626–95–D0035.

US Air Shuttle (USS), F11626–95–D0034.

World Airways (WOA), F11626–95–D0018.

Zantop International (ZIA), F11626–95–D0036.

Note: The same contract number may appear for more than one company because in some cases the companies provided services under a joint venture arrangement.

Desert Shield/Storm and Restore Hope showed that air carriers providing airlift services during contingencies and war require indemnification. Insurance policy war risk exclusions, or exclusions due to activation of CRAF, left many carriers uninsured—

exposing them to unacceptable levels of risk. Waiting until a contingency occurs to process an indemnification request could result in delaying critical airlift missions. Contractors need to understand up front that risks will be covered by indemnification and how the coverage will be put in place once a contingency is declared.

Justification: The specific risks to be indemnified are identified in the applicable definitions. No actual cost to the Government was anticipated as a result of the actions that were to be accomplished under this approval. However, if the air carriers were to suffer losses or incur damages as a result of the occurrence of a defined risk, and if those losses or damages, exclusive of losses or damages that were within the air carriers' insurance deductible limits, were not compensated by the contractors' insurance, the contractors would be indemnified by the Government. The amount of indemnification could not be predicted, but could entail millions of dollars.

All of the 29 contractors were approved DoD carriers and, therefore, considered to have adequate, existing, and ongoing safety programs. Moreover, HQ AMC has specific procedures for determining that a contractor is complying with government safety requirements. Also, the contracting officer had determined that the contractors maintain liability insurance in amounts considered to be prudent in the ordinary course of business within the industry. Specifically, each contractor had certified that its coverage satisfied the minimum level of liability insurance required by the Government. Finally, all contractors were required to obtain war hazard insurance available under 49 U.S.C. Chapter 443 for hull and liability war risk. All but one of the contractors maintained said insurance. The remaining contractor had applied for the insurance with the Federal Aviation Administration, as required by the contract. Additional contractors and subcontractors that conduct or support the conduct of CRAF missions may be indemnified only if they request indemnification, accept the same definition of unusually hazardous risks as identified, and meet the same safety and insurance requirements as the 29 contractors who sought indemnification in this action.

Without indemnification, airlift operations to support contingencies or wars might be jeopardized to the detriment of the national defense, due to the non-availability to the air carriers of adequate commercial insurance covering risks of an unusually hazardous nature arising out of airlift services for CRAF missions. Aviation insurance is available under 49 U.S.C. Chapter 443 for air carriers, but this aviation insurance, together with available commercial insurance, does not cover all risks which might arise during CRAF missions. Accordingly, it was found that incorporating the indemnification clause in current and future contracts for airlift services for CRAF missions would facilitate the national defense.

Decision: Under authority of Public Law 85-804 and Executive Order 10789, as amended, the request was approved on October 11, 1995, to indemnify the 29 air carriers listed above and other yet to be identified air carriers providing airlift services in support of CRAF missions for the unusually hazardous risks as defined. Indemnification under this authorization shall be effected by including the clause in FAR 52.250-1, entitled "Indemnification Under Public Law 85-804 (APR 1984)," in the contracts for these services. This approval is contingent upon the air carriers complying with all applicable government safety requirements and maintaining insurance coverage as detailed above. The HQ AMC Commander will inform the Secretary of the Air Force immediately upon each implementation of the indemnification clause.

Approval was also granted to contracting officers to indemnify subcontractors that request indemnification, with respect to those risks as defined.

DEFINITION OF USUALLY HAZARDOUS RISKS APPLICABLE TO CRAF FY 1995 ANNUAL AIRLIFT CONTRACTS

1. Definitions:

a. "Civil Reserve Air Fleet (CRAF) Mission" means the provision of airlift services under this contract (1) ordered pursuant to authority available because of the activation of CRAF, or (2) directed by Commander, Air Mobility Command (AMC/CC), or his successor for mission substantially similar to, or in lieu of, those ordered pursuant to formal CRAF activation.

b. "Airlift Services" means all services (passenger, cargo, or medical evacuation), and anything the contractor is required to do in order to conduct or position the aircraft, personnel, supplies, and equipment for a flight and return. Airlift Services include Senior Lodger and other ground related services supporting CRAF missions. Airlift Services do not include any services involving any persons or things which, at the time of the event, act, or omission giving rise to a claim, are directly supporting commercial business operations unrelated to a CRAF mission objective.

c. "War risks" means risk of:

(1) War (including war between the Great Powers), invasion, acts of foreign enemies, hostilities (whether declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power, or attempt at usurpation of power.

(2) Any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion, or other like reaction or radioactive force or matter,

(3) Strikes, riots, civil commotions, or labor disturbances related to occurrences under subparagraph (1) above;

(4) Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes, and whether the loss or damage resulting therefrom is accidental or intentional, except for ransom or extortion demands;

(5) Any malicious act or act of sabotage, vandalism, or other act intended to cause loss or damage;

(6) Confiscation, nationalization, seizure, restraint, detention, appropriation, requisition for title or use by, or under the order of, any government (whether civil or military or de facto), or local authority;

(7) Hijacking or any unlawful seizure or wrongful exercise of control of the aircraft or crew (including any attempt at such seizure or control) made by any person or persons on board the aircraft or otherwise, acting without the consent of the insured; or

(8) The discharge or detonation of a weapon or hazardous material while on the aircraft as cargo or in the personal baggage of any passenger.

2. For the purpose of the contact clause entitled "Indemnification Under Public Law 85-804 (APR 1984)," it is agreed that all war risks resulting from the provision of airlift services for a CRAF mission, in accordance with the contract, are unusually hazardous risks, and shall be indemnified to the extent that such risks are not covered by insurance procured under Chapter 443 of Title 49. United States Code, as amended or other insurance, because such insurance has been canceled, has applicable exclusions, or has been determined by the government to be prohibitive in cost. The Government's liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance.

3. Indemnification is provided for personal injury and death claims resulting from the transportation of medical evacuation patients, whether or not the claim is related to war risks.

4. Indemnification of risks involving the operation of aircraft, as discussed above, is limited to claims or losses arising out of events, acts, or omissions involving the operation of an aircraft for airlift services for a CRAF mission, from the time that aircraft is withdrawn from the contractors regular operations (commercial, DoD, or other activity unrelated to airlift services for a CRAF mission), until it is returned for regular operations. Indemnification with regard to other contractor personnel or property utilized or services rendered in support of CRAF missions is limited to claims or losses arising out of events, acts, or omissions occurring during the time the first propositioning of personnel, supplies, and equipment to support the first aircraft of the contractor used for airlift services for a CRAF mission is commenced, until the timely removal of such personnel, supplies, and equipment after the last such aircraft is returned for regular operations.

5. Indemnification is contingent upon the contractor maintaining, if available, non-premium insurance under Chapter 443 of Title 49, United States Code, as amended, and normal commercial insurance, as required, by this contract or other competent authority. Indemnification for losses covered by a contractor self-insurance program shall only be on such terms as incorporated in this contract by the contracting officer in advance of such a loss.

Contingent Liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

Contractor	*Number*
Civil Reserve Air Fleet (CRAF) FY 1996 Annual Airlift Contracts	1
Total	[1]1

[1] One additional indemnification was approved; however, the Air Force has deemed it to be "CLASSIFIED," not subject to this report's purview.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2267. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the annual report on conditional registration of pesticides during fiscal year 1995, pursuant to 7 U.S.C. 136w-4; to the Committee on Agriculture.

2268. A letter from the Director, Administration and Management, Department of Defense, transmitting the calendar year 1995 report on "Extraordinary Contractual Actions to Facilitate the National Defense," pursuant to 50 U.S.C. 1434; to the Committee on National Security.

2269. A letter from the Chairman of the Board, National Credit Union Administration, transmitting notification that the Administration is establishing and adjusting schedules of compensation; to the Committee on Banking and Financial Services.

2270. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting the final inventory of real property assets under the jurisdiction of the RTC immediately prior to its termination; to the Committee on Banking and Financial Services.

2271. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2002 resulting from passage of H.R. 927, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on the Budget.

2272. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fiscal year 1995 report on implementation of the support for East European Democracy Act [SEED] Program pursuant to 22 U.S.C. 5474; to the Committee on International Relations.

2273. A communication from the President of the United States, transmitting the annual report on Science, Technology and American Diplomacy for fiscal year 1995, pursuant to 22 U.S.C. 2656c(b); to the Committee on International Relations.

2274. A letter from the Secretary of Commerce, transmitting the Bureau of Export Administration's annual report for fiscal year 1995, pursuant to 50 U.S.C. app. 2413; to the Committee on International Relations.

2275. A letter from the Director, Congressional Budget Office, transmitting CBO's sequestration preview report for fiscal year 1997, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-587); jointly, to the Committee on Appropriations and the Budget.

2276. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's certification and justifications that the Republic of Belarus, the Republic of Kazakstan, the Russian Federation, and Ukraine are committed to the courses of action described in section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102-484), and section 502 of the Freedom Support Act (Public Law 102-511); jointly, to the Committees on National Security and International Relations.

2277. A letter from the Secretary of Health and Human Services, transmitting a report on the fiscal year 1994 Low Income Home Energy Assistance Program, pursuant to 42 U.S.C. 8629(b); jointly, to the Committees on Commerce and Economic and Educational Opportunities.

2278. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled "Federal Aviation Authorization Act of 1996," pursuant to 31 U.S.C. 1110; jointly, to the Committees on Transportation and Infrastructure, Science, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 146. Resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds (Rept. 104-487). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 147. Resolution authorizing the use of the Capitol Grounds for the 15th annual National Peace Officers' Memorial Service (Rept. 104-488). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 386. Resolution providing for consideration of the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes, and waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 104-489). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (for himself, Mr. STUMP, Mr. EDWARDS, and Mr. HUTCHINSON):

H.R. 3117. A bill to amend title 38, United States Code, to enable the Secretary of Veterans Affairs to improve service-delivery of health care to veterans, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself, Mr. MONTGOMERY, Mr. HUTCHINSON, and Mr. EDWARDS):

H.R. 3118. A bill to amend title 38, United States Code, to reform eligibility for health care provided by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (by request):

H.R. 3119. A bill to amend title 38, United States Code, to revise and improve eligibility for medical care and services under that title, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committees on Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX:

H.R. 3120. A bill to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering; to the Committee on the Judiciary.

By Mr. GILMAN (for himself and Mr. HAMILTON):

H.R. 3121. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of Ohio:

H.R. 3122. A bill to amend the Federal Election Campaign Act of 1971 to provide for separate limitations on contributions to qualifying and nonqualifying House of Representatives candidates; to the Committee on House Oversight.

By Mr. CAMP:

H.R. 3123. A bill to amend title XVIII and title XIX of the Social Security Act to prohibit expenditures under the Medicare Program and Federal financial participation under the Medicaid Program for assisted suicide, euthanasia, or mercy killing, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. HERGER, Mr. FOX, Mr. BREWSTER, Mr. STOCKMAN, Mr. HOUGHTON, Mr. CANADY, and Mr. BARR):

H.R. 3124. A bill to amend the Internal Revenue Code of 1986 to increase the amount of depreciable business assets which may be expensed, and for other purposes; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. HASTERT, Mr. FOX, Mr. CHRISTENSEN, Mr. STOCKMAN, and Mr. HOSTETTLER):

H.R. 3125. A bill to provide for improvements in financial security for senior citizens; to the Committee on Ways and Means, and in addition to the Committees on Commerce, the Judiciary, Rules, Government Reform and Oversight, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGLISH of Pennsylvania:

H.R. 3126. A bill to amend the Internal Revenue Code of 1986 to place the burden of proof on the Secretary to prove that the cash method of accounting does not clearly reflect income; to the Committee on Ways and Means.

By Mr. ENSIGN:

H.R. 3127. A bill to provide for the orderly disposal of Federal lands in southern Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; to the Committee on Resources.

By Mr. FLANAGAN (for himself and Mr. DINGELL):

H.R. 3128. A bill to make it unlawful to send lobbying communications to Congress which are fraudulent; to the Committee on the Judiciary.

By Mr. MORAN:

H.R. 3129. A bill to amend title 5, United States Code, to allow loans under the thrift savings plan to be made for expenses associated with the adoption of a child; to the Committee on Government Reform and Oversight.

By Mr. PETERSON of Florida (for himself, Mr. MORAN, Mr. DOOLEY, Mr. BAESLER, Mr. BERMAN, Ms. BROWN of Florida, Mr. CLEMENT, Mr. COLEMAN, Mr. DELLUMS, Mr. DIXON, Mr. FATTAH, Mr. FAZIO of California, Mr. FRAZER, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HILLIARD, Mr. HINCHEY, Ms. KAPTUR, Mr. LAFALCE, Mrs. LINCOLN, Mr. LEWIS of Georgia, Ms. LOFGREN, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MINGE, Mr. NADLER, Ms. NORTON, Mr. OBERSTAR, Ms. PELOSI, Mr. POSHARD, Ms. ROYBAL-ALLARD, Mr. SABO, Mr. SANDERS, Mrs. SCHROEDER, Mr. STENHOLM, Mr. STUPAK, Mr. TORRES, Ms. VELÁZQUEZ, Mr. YATES, Mr. CLYBURN, Mr. JEFFERSON, Mr. PASTOR, Mr. CRAMER, Mr. ROSE, Mrs. THURMAN, Mr. PAYNE of Virginia, Ms. JACKSON-LEE, and Mr. PALLONE):

H.R. 3130. A bill to assure availability and continuity of health insurance and to simplify the administration of health coverage; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS:

H.R. 3131. A bill to amend title 49, United States Code, to permit a State located within 5 miles of an airport in another State to participate in the process for approval of airport development projects at the airport; to the Committee on Transportation and Infrastructure.

By Mr. TOWNS:

H.R. 3132. A bill to amend title XVIII of the Social Security Act to provide for Medicare contracting reforms, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SCARBOROUGH introduced a bill (H.R. 3133) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Karma;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 598: Mr. BRYANT of Texas.

H.R. 777: Mrs. KELLY, Mr. STUPAK, Mr. QUINN, and Mr. BERMAN.

H.R. 778: Mrs. KELLY, Mr. STUPAK, Mr. QUINN, Mr. BERMAN, and Mr. TATE.

H.R. 779: Mr. THORNBERRY, Mr. TAYLOR of North Carolina, and Ms. JACKSON-LEE.

H.R. 780: Mr. TAYLOR of North Carolina and Ms. JACKSON-LEE.

H.R. 1046: Mr. STEARNS and Ms. HARMAN.

H.R. 1073: Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. ORTON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1074: Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. ORTON, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1202: Mr. KENNEDY of Massachusetts and Mr. DELLUMS.

H.R. 1341: Mr. BARRETT of Wisconsin, Mr. BERMAN, Mr. BONIOR, Mr. COLEMAN, Mr. DEUTSCH, Mr. DURBIN, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. JACOBS, Mr. MARTINEZ, Mr. MATSUI, Mr. MENENDEZ, Mr. MILLER of California, Mr. MOAKLEY, Mr. OBERSTAR, Ms. RIVERS, Mr. SANDERS, Mr. STARK, Mr. STUDDS, Mr. TORRES, and Mr. YATES.

H.R. 1386: Mr. GORDON.

H.R. 1406: Mr. KLECZKA, Mr. ROEMER, Mr. DICKS, Ms. DELAURO, Mr. WISE, and Mr. GEPHARDT.

H.R. 1464: Mr. BARTLETT of Maryland.

H.R. 1484: Ms. NORTON, Mr. BROWN of California, Mr. LANTOS, Mr. OBERSTAR, Mr. BENTSEN, and Mrs. CLAYTON.

H.R. 1618: Mr. MINGE.

H.R. 1619: Mr. WELDON of Pennsylvania.

H.R. 1733: Mr. LEWIS of Georgia.

H.R. 1802: Mr. HOKE.

H.R. 2086: Mr. CALVERT and Mr. CUNNINGHAM.

H.R. 2167: Mr. YATES.

H.R. 2200: Mr. LIVINGSTON and Mrs. VUCANOVICH.

H.R. 2214: Mr. WISE.

H.R. 2237: Mr. VENTO.

H.R. 2292: Mr. NETHERCUTT.

H.R. 2320: Mr. SMITH of Michigan, Mr. SAM JOHNSON, Mr. GUNDERSON, Mr. MCCOLLUM, Mr. WELDON of Florida, Mr. ISTOOK, Mr. BONILLA, Mr. HOUGHTON, Mr. BUNNING of Kentucky, and Mr. MANZULLO.

H.R. 2338: Mr. HILLIARD.

H.R. 2428: Mr. EMERSON.

H.R. 2508: Mr. GREENWOOD, Mr. TOWNS, Ms. PRYCE, Mr. KENNEDY of Massachusetts, and Mr. CHRYSLER.

H.R. 2579: Mr. TAYLOR of North Carolina, Mr. JACKSON, and Ms. MCKINNEY.

H.R. 2582: Mrs. MINK of Hawaii.

H.R. 2693: Mrs. CHENOWETH.

H.R. 2745: Ms. NORTON, Ms. JACKSON-LEE, Mr. GENE GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SHAW, and Mr. GONZALEZ.

H.R. 2746: Ms. PELOSI, Mr. DEFAZIO, Mr. ANDREWS, and Mr. TORRICELLI.

H.R. 2893: Mr. SHAYS, Mr. GILMAN, Mrs. MORELLA, Mr. GUNDERSON, Mr. CALVERT, Mr. BROWNBACK, Mr. BOEHLERT, Mr. FRANKS of New Jersey, Mr. TORKILDSEN, Mr. QUINN, Mr. FRELINGHUYSEN, Mr. MARTINI, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. BEILENSON, Mr. BENTSEN, Mr. BERMAN, Mr. BEVILL, Mr. BISHOP, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Ms. BROWN of Florida, Mr. BROWN of Ohio, Mr. BRYANT of Texas, Mr. CARDIN, Mr. CLAY, Mrs. CLAYTON, Mr. CLEMENT, Mr. CLYBURN, Mr. COLEMAN, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. COSTELLO, Mr. COYNE, Ms. DANNER, Mr. DE LA GARZA, Mr. DEFAZIO, Ms. DELAURO, Mr. DELLUMS, Mr. DICKS, Mr. DINGELL, Mr. DIXON, Mr. DOOLEY, Mr. DOYLE, Mr. DURBIN, Mr. EDWARDS, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FAZIO of California, Mr. FIELDS of Louisiana, Mr. FILNER, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Ms. FURSE, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GIBBONS, Mr. GONZALEZ, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Ohio, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HEFNER, Mr. HILLIARD, Mr. HINCHEY, Mr. HOLDEN, Mr. HOYER, Mr. JACKSON, Mr. JACOBS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mrs. KENNELLY, Mr. KILDEE, Mr. KLECZKA, Mr. KLINK, Mr. LAFALCE, Mr. LANTOS, Ms. JACKSON-LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LINCOLN, Mr. LIPINSKI, Ms. LOFGREN, Mrs. LOWEY, Mr. LUTHER, Mrs. MALONEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MASCARA, Mr. MATSUI, Ms. MCCARTHY, Mr. MCDERMOTT, Mr. MCHALE, Ms. MCKINNEY, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MENENDEZ, Mr. MILLER of California, Mr. MINGE, Mrs. MINK of Hawaii, Mr. MOAKLEY, Mr. MORAN, Mr. NADLER, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. ORTIZ, Mr. ORTON, Mr. OWENS, Mr. PALLONE, Mr. PASTOR, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PETERSON of Florida, Mr. PICKETT, Mr. POSHARD, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Ms. RIVERS, Mr. ROEMER, Mr. ROMERO-BARCELO, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SAWYER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SCOTT, Mr. SERRANO, Mr. SKAGGS, Mr. SKELTON, Ms. SLAUGHTER, Mr. SPRATT, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STUDDS, Mr. STUPAK, Mr. TEJEDA, Mr. THOMPSON, Mrs. THURMAN, Mr. TORRES, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAFICANT, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Mr. VENTO, Mr. VOLKMER, Mr. WARD, Ms. WATERS, Mr. WATT of North Carolina, Mr. WAXMAN, Mr. WILLIAMS, Mr. WISE, Ms. WOOLSEY, Mr. WYNN, Mr. YATES, and Mr. SMITH of New Jersey.

H.R. 2914: Mr. JEFFERSON, Mr. BISHOP, Mr. OWENS, Mrs. COLLINS of Illinois, and Mr. KENNEDY of Rhode Island.

H.R. 2925: Mr. WHITFIELD, Mrs. VUCANOVICH, Mr. WICKER, Mr. SHAYS, and Mr. FOLEY.

H.R. 2959: Mr. HOBSON.

H.R. 2978: Mr. DAVIS.

H.R. 3002: Mr. CALVERT.

H.R. 3004: Mr. SOUDER, Mr. BOUCHER, Mr. STUPAK, Mr. GUNDERSON, Mr. CALVERT, and Mr. HASTERT.

H.R. 3012: Mr. WATTS of Oklahoma, Mr. PARKER, Mr. TEJEDA, and Mr. JEFFERSON.

H.R. 3048: Ms. MEYERS of Kansas, Mrs. LINCOLN, Mr. BOEHLERT, Mr. ZELIFF, Mr. EMERSON, Mr. CALVERT.

H.R. 3050: Mr. LUCAS and Mr. FOGLIETTA.

H.R. 3067: Mr. UNDERWOOD, Mr. PACKARD, Mr. HUTCHINSON, and Mr. KENNEDY of Massachusetts.

H.R. 3103: Mr. ZIMMER.

H. Con. Res. 26: Mr. MANTON, Mr. DURBIN, Mr. MATSUI, Mr. STOCKMAN, Mr. KLECZKA, and Mr. FRANKS of New Jersey.

H. Con. Res. 47: Mr. CUNNINGHAM and Mr. DORNAN.

H. Con Res. 151: Mr. FILNER.

H. Res. 30: Mr. HAMILTON, Mr. NORWOOD, Mr. MARKEY, and Mr. MYERS of Indiana.

H. Res. 49: Mr. LEWIS of Georgia.

H. Res. 385: Mr. SMITH of New Jersey.

EXTENSIONS OF REMARKS

LEGISLATION TO REVISE ELIGIBILITY FOR VA MEDICAL CARE

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing today by request legislation which would very substantially revise provisions of law governing eligibility for VA health care services. This measure would require VA to provide any core veteran—that is, any veteran to whom VA now has an obligation to furnish hospital care—whatever care or services are clinically needed.

This measure would also provide VA new funding streams to support the improved service delivery promised by this legislation.

Most of the major veterans organizations strongly support this legislation and have urged its introduction.

ARMS TRANSFERS TO PAKISTAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. ACKERMAN. Mr. Speaker, the Government of Pakistan continues to assure our Government that it is a staunch ally of the United States. Last year, Pakistan illegally purchased M–11 missiles and 5,000 ring magnets from China. The M–11 missiles are capable of delivering a nuclear warhead and the ring magnets are used to enrich uranium, a key component for making nuclear bombs. Both transfers violate several U.S. nuclear nonproliferation laws.

The latest destabilizing act by Pakistan appears to have occurred earlier this month when authorities in Taiwan seized the cargo of a ship loaded with 34.8 tons of chemicals traveling from North Korea to Pakistan. According to an article appearing in the March 10 edition of the United Daily News, a leading newspaper in Taiwan, the materials "could be used for massively destructive purposes." The cargo, which Taiwanese authorities are holding, is being treated as top secret.

The actions of Pakistani Prime Minister Benazir Bhutto are deeply troubling. Last year, Mrs. Bhutto travelled to North Korea. In addition, last year, Pakistan illegally purchased M–11 missiles from the People's Republic of China [PRC]. Earlier this year, news reports disclosed that Pakistan had 5,000 ring magnets from the PRC.

Mr. Speaker, the administration is currently considering transferring $368 million worth of seized military hardware to Pakistan. The Congress granted that authority to the administration last year before it was aware of the seized cargo, the ring magnets, or the M–11 missiles. In light of these developments, it is imperative that the administration not proceed with the transfer. Tensions in South Asia are already very high. The United States needs to step back and reassess its position regarding Pakistan rather than continue on its present course.

HAPPY RETIREMENT TO JIM CAMPBELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. POSHARD. Mr. Speaker, I rise today to honor a good friend on the occasion of his retirement. James E. "Jim" Campbell has spent the last 50 years of his life working for the cause of rural electrification. He has spent the last 13 years as manager of the Clay Electric Cooperative in Flora, IL, and will retire at the end of this month. I would like to thank Jim for his contributions to the quality of life in southern Illinois and wish him health and happiness for many years to come.

The work that Jim has dedicated his professional life to is especially meaningful to me, because for the last 8 years I have also worked hard to improve the infrastructure for the citizens in my congressional districts. Improving electrical service to rural areas is an important part of this process. I vividly remember when my family had our house in White County wired for electricity and the changes that brought to our lives. Jim has worked tirelessly to improve the living conditions and quality of service for consumers of electricity. His career has taken him from Kentucky to Colorado, and he has shared his expertise with professionals in Uruguay, Turkey, the Philippines, Nigeria, and Bangladesh. Jim has also served on numerous boards and associations, including the board of directors of the National Rural Electric Cooperative Association [NRECA] Management Committee and their Parity of Rates Committee.

Mr. Speaker, what makes Jim's accomplishments all the more remarkable is he has also been a devoted family man. He and his wife Patty have been married 49 years and have raised three children and have five grandchildren. Jim will be able to turn even more attention to this facet of his life, including his yardwork and woodworking. It has been an honor to represent Jim in the U.S. Congress, and I wish him Godspeed.

HONORING CATHEDRAL HIGH SCHOOL BOYS HOCKEY DIVISION 2 STATE OF MASSACHUSETTS CHAMPIONSHIP

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to congratulate the Cathedral High School Boys Hockey Team for their record setting year which earned them the 1996 Massachusetts Division 2 State Hockey Championship.

For many years, hockey teams from western Massachusetts have not fared well against their eastern counterparts. Hampered by the lack of hockey rinks and the stiff competition that exists in Eastern Massachusetts, hockey teams from western Massachusetts have struggled. In the midst of period, Edgar Alejandro, the Cathedral hockey coach and a former standout hockey player at American International College, decided to challenge the eastern Massachusetts domination of high school hockey. Coach Alejandro recognized, however, that it would take some time before his teams could compete with the highly skilled units from the Greater Boston area.

This past week, however, the Cathedral High School Panthers answered Coach Alejandro's challenge and shocked the State hockey establishment by rising from a seventh-seeded position to defeat Hingham High School 2 to 0 in the Massachusetts State Championship finals.

I salute the Cathedral High School Hockey Team not only for their magnificent achievement, but also for their willingness to set a goal for themselves which many people thought unreachable. Their victory announces to the State that junior and high school hockey programs in western Massachusetts are fully capable of competing with the toughest competition in New England. In addition to Coach Alejandro, I want to also commend his assistant coaches David Fenton and Bill Christofori, team managers Jason and Justin Alejandro as well as the following members of the Cathedral High School Hockey Team who have earned this championship and the accolades which they so richly deserve: Jon Peczka, Bill La Palm, Kevin Labrie, Paul Demaria, Chris Orszulak, Mike Dias, Chris Bousquet, Brennan St. Germain, Dan Kenney, Mike Ryan, Peter Ollari, Chris Donovan, Brian Donovan, Mike Moriarty, Robbie Martin, John Miarecki, Marty Downey, James Burr, Tony Douillard, Tom Fugiel, and Mike Edgett.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

COMMENDING JUDGE DOUGLAS H. MOORE ON HIS RETIREMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mrs. MORELLA. Mr. Speaker, I rise to speak today in honor of Judge Douglas H. Moore, on the occasion of his retirement from the Montgomery County, District Six, District Court of Maryland. Over his nearly 29 years in public service, Judge Douglas H. Moore has left a legacy of evenhanded justice and shown a special dedictation to legal issues within the juvenile system.

When the Honorable Douglas H. Moore first took office on July 27, 1967, he left behind a distinguished career as deputy county attorney for Montgomery County. Born in Washington, DC, Judge Moore practiced law before both the DC and Maryland court systems before accepting his post at what was then the People's Court for Juvenile Causes. In 1970, he was named administrative judge of that court; in 1975, Chief Judge Robert F. Sweeney appointed him judge-in-charge of the Juvenile Division of District Six.

Judge Douglas H. Moore's legacy, however, goes far beyond the call of duty which his position entailed. He served for 12 years on the Juvenile Justice Advisory Council. He recently has served his community as a member of the Cabinet Council on Criminal and Juvenile Justice, where he cochairs the Task Force on Juvenile Justice Reform with Secretary Stuart O. Sims. His work has earned him a Washingtonian of the Year Award from Washingtonian magazine and a President's Award for Service to the Youth of Montgomery County from the Bethesda-Chevy Chase Chamber of Commerce.

Judge Moore's honors and public service record, while impressive, are merely the external expression of the compassion for which he is known. In his years on the bench, Judge Moore never lost his concern for the welfare of the children who came before him. The crimes that came before him grew from traditionally juvenile crimes to more adult ones, but in Judge Moore's courtroom the chance for a brighter, more healthy future was always held forth. His understanding of the troubling experiences from which these youth came informed his decisions, enabling him to ensure the future welfare of abused, neglected, and otherwise unwanted children. His ability to see to the needs of these at-risk children helped many otherwise lost juvenile find their way back into the mainstream of society.

Douglas H. Moore leaves behind a lifetime of experience and a vast wealth of knowledge. As much as I will miss having the honor of seeing him work, the people of Montgomery County will most feel the loss of Judge Moore's ability. Mr. Speaker, I ask my colleagues to join me in congratulating Judge Douglas H. Moore on almost 29 years of valuable service, and to wish him well as he begins his retirement.

TRIBUTE TO JOHN E. BIERMAN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. VISCLOSKY. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a celebrated community servant, Mr. John E. Bierman. On Friday, March 22, 1996, John, along with his friends and family, will celebrate his retirement from the Knights of Columbus Ballroom in East Chicago, IN.

We are fortunate to have dedicated people, like John, involved in the labor movement in Indiana's First Congressional District. Indeed, John personifies true selfless dedication. John was raised in Albany, GA, as one of seven boys. In 1950, after serving in the U.S. Army during World War II, John migrated to the Calumet Region. At this time, John was hired at Inland Steel and became a member of the United Steelworkers of America Local Union 1010. In 1969, John assumed the position of staff representative, and it is this position from which he is retiring.

Outside of his professional career, John has devoted a large portion of his life to the betterment of northwest Indiana. John is a member of American Legion Post 66 and has acquired a lifetime membership to the National Association for the Advancement of Colored People. Moreover, he has organized the Sub-2 food pantry, and for 7 years John coached and managed the Griffith Babe Ruth Baseball League.

Politically, John has been a Democratic precinct committeeman for 25 years and has been the chairman of the Democratic Precinct Organization for the Griffith-Calumet Township for 35 years.

Mr. Speaker, I ask you and my other distinguished colleagues to remember all who have worked hard to fulfill the American dream. I offer my heartfelt congratulations to John, who has worked arduously to make this dream possible for others. John has proven himself to be a distinguished advocate for the labor movement, and he has made northwest Indiana a better place in which to live and work. I sincerely wish John a long, happy, and productive retirement.

TRIBUTE TO MR. ANDY M. CAMACHO AND DR. MARY LOUISE OZOHAN

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BECERRA. Mr. Speaker, it is with much pleasure and pride that I rise today to recognize Mr. Andy M. Camacho and Dr. Mary Louise Ozohan for their personal and professional achievements. These exemplary individuals are not only an inspiration to their three children but to others as hard-working professionals, model citizens, and dedicated volunteers.

Andy Camacho was born and raised in Los Angeles, CA. He is a graduate of East Los Angeles College, obtained a bachelor of arts degree in political science from California State University at Los Angeles and holds a law degree from Southwestern University.

He has held numerous positions including director of operations for the East Los Angeles Health System, Special Ambassador to South America, board member of the Los Angeles Convention and Visitors Bureau, and partner of the law office of Camacho & Kunkel. In addition to establishing his law firm, Mr. Camacho is the proprietor of four successful Mexican restaurants in the Los Angeles area. He is known to be very generous and offers his restaurants to community organizations and nonprofit agencies to hold their various functions.

One would assume that someone like Andy would be too busy for community involvement; but quite the contrary, he is a board member of the Latino Museum of Art, History and Culture, an advisory board member for the Los Angeles Boys & Girls Club, and an advisory board member for the East Los Angeles Chapter of Life Is Feeding Everyone [LIFE]. Time and time again he has demonstrated that whenever he is asked to serve, he serves.

Dr. Mary Louise Ozohan is a successful and respected medical doctor specializing in radiation oncology. Born and raised in Canada, Dr. Ozohan attended the University of Manitoba, College of Medicine, and completed her residency at Los Angeles County-USC Medical Center. She currently practices radiation oncology at the Medical Center of Tarzana in the San Fernando Valley.

Dr. Ozohan's contributions to the field of medicine are outstanding. The community is fortunate that she has utilized her talents to improve the lives of so many people. Her commitment to win the battle against cancer is commendable. She is especially dedicated to executing proactive community education and prevention measures to combat cancer.

In addition to Mary Louise's role as wife, mother, and doctor, she should be commended for her voluntarism in such organizations as the University of Southern California Mexican-American Alumni Association, the American Cancer Society, the Harvard Parents Association, and the Juniors of Social Service Auxiliary.

Mr. Speaker, on March 20, 1996, colleagues and friends will gather at a special dinner to pay tribute to both Andy and Mary Louise for their contributions to the community. They will both receive the American Cancer Society's Hermanos en la Lucha Contra el Cancer League Life Achievement Award. It is with great pride that I ask my colleagues to join me in saluting Mr. Andy Camacho and Dr. Mary Louise Ozohan for their outstanding service to the Los Angeles community.

TRIBUTE TO NATIONAL DANCE WEEK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to bring National Dance Week, which is being celebrated April 28 to May 4, to the attention of my colleagues.

National Dance Week is an annual celebration sponsored by the United Dance Merchants of America to increase public awareness and appreciation of dance. National Dance Week encourages all forms of dance including not only classical dance, but also lyrical, hip hop, ethnic, jazz, and modern. The goal of National Dance Week is to encourage growth and development of dance in America by raising the level of public consciousness and focus on the value and importance of the contributions of dance to our daily lives and culture.

Established 15 years ago, this celebration of dance has grown out of a grass roots campaign. Everyone who works on National Dance Week is a volunteer working to spread their love of dance to others. Today, a national steering committee enlists the talents of many prominent figures in dance manufacturing, publishing, worldwide dancing competitions, teachers, and choreographers. Regional managers are working with the local communities in order to coordinate events occurring during National Dance Week.

Local events are the core of National Dance Week because they bring the most recognition to the art of dance. Some dance schools are sending cards of congratulations as well as gift certificates for dance classes to the parents of new born babies in their communities. Other dance communities are holding demonstration classes in schools and community centers to showcase the different types of dance as well as show how much fun dancing can be. Other events include dance festivals and parades. There is also a nationwide poster contest for National Dance Week. In all, dance instructors across the country are working diligently to create an awareness of dance and to bring a new vision of dance to the American public.

In today's society it is important to give our children outlets to express their energy and creativity. Dance is just such an outlet. As Marianne Prinkey, the National Dance Week Chair, put it, "[Dance] enriches the body with discipline, activity and feelings."

Mr. Speaker, I ask that my colleagues join me in recognizing the hard work that dancers, not only in New York City, but across the country have put into National Dance Week. Let us help them celebrate dance and the contributions that this wonderful art gives to society. Congratulations and best wishes to all for a most successful week and a most successful year of dance.

NAOMI FRANK

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. WALKER. Mr. Speaker, I take this opportunity to bring to your attention a special constituent of mine, Naomi Frank, of West Chester, PA. Born in Sharpsville, PA, on April 29, 1915, Naomi Frank moved to Farrell, PA, when she was 3½ years old. From an early age, Naomi had learning impediments that would prevent her from keeping up with her classmates. After many starts in the public schools, her parents realized the problems and had Naomi enrolled in the Woods School in Langhorne, PA. Naomi then worked with Dr. Frederick Martin and participated in a speech seminar at Ithaca College in New York. While on her way home to Farrell, in August 1934, she was involved in a serious car accident.

After much rehabilitation, Naomi enrolled in 1938 to attend the Devereaux School where she would learn to be independent. As part of her education, Naomi learned to play the baritone D-flat horn and participated in the school band. The Devereaux School had a camp for its students on Emden Lake in the State of Maine. In 1942, 1943, 1944, and 1946, Naomi was selected as one of the young women to spend her summer in Maine. Naomi stayed at the Devereaux School working and learning until 1983, when she was forced to leave school because she could not earn enough to pay the tuition herself.

Upon leaving the Deveraux School, Naomi moved to Coatesville, then Brandamore, PA, and in 1990 she moved to the Wentworth Home in West Chester, PA—located in my congressional district. She took a job at the West Chester library, while also volunteering her time at the Chester County Hospital. In 1993, Naomi received her 500-hour volunteer pin and in 1995 her 1,000-hour volunteer pin.

In October 1987, Naomi Frank began to prepare for her bat mitzvah. She was encouraged to do that by Rabbi Charny, and on October 27, 1988 was bat mitzvahed. Currently, she has just completed her autobiography entitled "Book of My Life".

Naomi Frank, throughout her life, has shown that a strong will and hard work can improve not only one's own life, but the lives of others. Naomi Frank has overcome many obstacles in her life and in doing so has touched the lives of countless others. I rise today to salute Naomi Frank for her perseverance and determination for I believe she has been an example of self-reliance to many people.

TUNISIA AT 40

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAMILTON. Mr. Speaker, March 20, 1996 marks the 40th anniversary of the independence of the Republic of Tunisia. I urge my colleagues to join me in saluting the people of this important North African country on this significant milestone.

Tunisia, first, under President Bourguiba, and since 1987, under President Ben Ali, has played a key role in preserving peace and stability in often turbulent North Africa and in providing leadership for the entire Arab world.

This country of 9 million people is located between Libya and Algeria on the coast of the Mediterranean Sea. It has a tradition of playing an important regional role. For 11 years until 1990, Tunisia hosted the Arab League, and for 12 years from 1982 to 1994, Tunisia was the home of Yasir Arafat and the Palestine Liberation Organization. In that time, the Tunisians worked hard to moderate policies of the PLO and to promote the peace process.

More recently, Tunisia has been a leader in promoting the peace process. Tunisia was the first Arab state to host a U.N. multilateral meeting of the peace process and to welcome an official Israeli delegation. And on January 22 of this year, Israel and Tunisia agreed to establish diplomatic relations, and I understand that interests sections will open in Tunis and Tel Aviv by mid-April, 1996.

At home, Tunisia has been a leader in its region. Tunisia has taken steps toward democracy. It has opened up both its economy and its political system, despite the pressures of extremism with which Tunisia and its neighbors must contend. Tunisia's budget has the right priorities. Defense spending is reduced. Education is a top priority, and it is reflected in Tunisia's 60 percent literacy rate.

Tunisia still has some distance to go in achieving a full democracy and full protection of human rights. This year's Department of State human rights report notes that some serious problems remain. The government continued to stifle freedoms of speech, press, and association. Some improvement on human rights has occurred, and I hope that Tunisia will take note of these concerns and address them in a positive way in the months ahead.

Mr. Speaker, I am pleased to join in saluting Tunisia for its moderation, its leadership, and its continued strong partnership with the United States. I hope that United States-Tunisian relations continue to expand and deepen and that Tunisia continues to grow as a leader in promoting peace, stability, and economic and political openness.

COMMEMORATING THE 70TH BIRTHDAY OF JAMES J. MANCINI

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. SAXTON. Mr. Speaker, it is an honor and a privilege to pay tribute to my good friend, Ocean County Freeholder and longtime mayor of Long Beach Township, James J. Mancini.

Freeholder Jim Mancini, as chairman of the Ocean County Office on Aging, serves the largest senior population in the State of New Jersey. Ocean County's nutrition sites, transportation programs for the elderly and senior outreach programs are considered among the finest in our State. Freeholder Mancini has worked closely with me through the years in our effort to preserve and protect such programs as Social Security, Medicare, and Medicaid. His support has been invaluable.

As liaison to the Ocean County Library Commission, Freeholder Mancini has worked tirelessly to expand the system to 17 branches throughout the county.

A former member of New Jersey's General Assembly, he continues to serve as mayor of Long Beach Township, a position he has held for 28 years. This dedicated public servant also serves as chairman of the board of Southern Ocean County Hospital and as vice president of the Long Beach Island St. Francis Community Center. The civic associations to which he has devoted many hours are too numerous to mention.

All these associations and activities were carried out while always putting his wife, Madeline, and their nine children first.

The residents of Long Beach Township pay him a great tribute by dedicating their municipal facility in his honor and name.

Jim Mancini represents what is so very good about our country—he is an honorable man, a family man, a man who is willing to go the extra mile for what is right. He has proven the point of the old saying, "If you want something done, give the job to a busy person."

I offer him my personal thanks and the gratitude of all those he has so faithfully served throughout the years.

As he celebrates his 70th birthday among family and friends, I wish him all the best that life can offer.

GREECE AND THE OTTOMAN EMPIRE

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BATEMAN. Mr. Speaker, on March 25, we will once again be celebrating the anniversary of the beginning of the effort by the Greek people to liberate themselves from oppression. Every year, I join with some of my colleagues here in the House of Representatives to make special note of this occasion. We do this because we recognize that it is absolutely vital that citizens of democratic nations the world over do not take the freedom we enjoy for granted.

On March 25, 1829, Greek patriots began their struggle for freedom and independence from the Ottoman Empire. Though the intervening years have been filled with trials and tribulations, the ultimate success of democracy in Greece is a testament to the courage and fortitude of her people.

Throughout world history, freedom of expression, of assembly, of government elected by the people, have been the exception rather than the rule. The concept of democratic government established by Greece laid the foundation for the most promising alternative to the autocratic forms of government that have predominated for much of history. From the Homeric tradition to Alexander, through the birth of the Socratic method, Aristotelian logic and countless artistic and architectural endeavors, the Greek people have left an indelible impression on civilization.

I am proud, once again, to congratulate the Greek people on their monumental achievement. Democracy has persevered against many threats to its continued existence. That is why it is important that we recognize this date every year. In national cemeteries across the Nation as well as those in foreign lands lie thousands of Americans who gave their lives so that the shining light of freedom would not be extinguished. That light was lit in Greece. It is proper that we recognize the occasion of Greek Independence Day. From it was the ideal of America borne.

CONGRATULATIONS TO THE FALLS CHURCH NEWS-PRESS ON ITS FIFTH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. MORAN. Mr. Speaker, the local newspaper of any town is a very important link in the community, from praising the town athlete to reporting the events of the big city, it allows the neighborhood to keep an open communication. It is that communication that maintains the character of the community and loyalty of the residents.

Today I rise to applaud one such paper that provides the communication lines of a city in my district, the Falls Church News-Press. The News-Press is celebrating 5 years of service as a definitive link in the community.

This paper's commitment to the city of Falls Church is underscored by its many awards and accomplishments. In 1991, it was honored by the Falls Church City Council and named recipient of the Council's Business of the Year.

The News-Press helped initiate, and testified on behalf of, legislation passed in the Virginia General Assembly in 1992 that set out criteria for nonpaid distribution newspapers to carry official legal notices. Subsequently, the News-Press became the first newspaper in the history of the Commonwealth of Virginia to receive court authorization to publish official legal notices as a nonpaid distribution newspaper. As a result, the News-Press was the first nonpaid distribution newspaper in the history of the Commonwealth to be accepted as a full, voting member of the Virginia Press Association.

The News-Press' owner/editor-in-chief, Nicholas Benton, served 2 years as president of the Greater Falls Church Chamber of Commerce and was the recipient of the Chamber's Pillar of the Community Award in 1992.

Please join me in wishing the Falls Church News-Press best wishes on their future endeavors.

AMNESTY INTERNATIONAL AND INDIA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. KING. Mr. Speaker, Amnesty International recently issued a report called Amnesty International and India detailing India's violations of fundamental human rights.

On the very first page of this report, Amnesty International states that "violations such as torture, including rape, and deaths in custody remain endemic, and * * * political prisoners continue to face unfair trials." The report goes on to tell us that "human rights violations affect most segments of Indian society, with people from some groups, particularly the socially or economically disadvantaged, being particularly disadvantaged." The record bears this out. More than 150,000 Sikhs have been killed since 1984, over 200,000 Christians in Nagaland since 1947 and in excess of 43,000 Moslems in Kashmir since 1988. Tens of thousands of Assamese, Manipuris, and others have been killed, as have thousands of Dalits or black untouchables.

The amnesty report cites the extensive use of disappearances as a way to circumvent the rights of detainees. Records of detentions are not maintained, allowing the regime to claim that the detainee died in an encounter, a form of extrajudicial execution. "Thousands of people remain detained under the provisions of the now lapsed Terrorist and Disruptive Activities (Prevention) Act," the report says. Many of us have spoken about the brutality of TADA. Amnesty reports that "torture of detainees in police and military custody remains endemic." According to the report, "the most common method of torture is beating with lathis (canes). Other methods included suspension by the wrist and electric shocks. Reports of rapes indicate that it is used as a method of torture." According to the report, "in 1995 at least 100 people died in the custody of police or security forces throughout India, as a result of torture and medical neglect."

In the face of this kind of repression, no Sikh ever signed India's constitution. Instead, the Sikh Nation reasserted its claim to freedom on October 7, 1987 by declaring the independent, sovereign nation of Khalistan. Many Sikhs who are working peacefully to free Khalistan are denied their human rights by India. Human rights groups estimate that more than 100,000 Sikhs have been tortured, raped, killed, or made to disappear. Another 70,000 languish in India prisons without charge or trial, according to human rights groups. According to Amnesty International, "lawyers and relatives are routinely denied access by police to people held in custody." The report tells us that "most torture and ill-treatment in India occurs during the first stage of detention in police custody, when access to outsiders is routinely denied."

Amnesty International sharply criticizes India for these repressive practices. "Whatever imperatives the Indian state has to maintain internal peace and security, the violation of rights protected by the Constitution of India as well as by human rights standards is avoidable," the report says. Strong action by free countries of the world is called for. There are two bills in the House that address these concerns. H.R. 1425, the Human Rights in India Act, would cut off United States development aid to India until basic human rights are respected, and House Concurrent Resolution 32 calls for a plebiscite in India under international supervision to let the Sikh nation have a free and fair vote on its political future. The sooner we pass these bills, the sooner the people of South Asia can live in freedom, security, and dignity. I call upon my colleagues to pass these bills as soon as possible.

AMNESTY INTERNATIONAL AND INDIA

This report is an introduction to Amnesty International and its concerns in India. It answers basic questions about Amnesty International: its role as a non-governmental international human rights organization; its worldwide membership, its mandate for action, its campaigning methods; and its work and membership in India.

The bulk of the report deals with human rights violations that Amnesty International has documented in India over several decades. It shows that violations such as torture, including rape, and deaths in custody remain endemic, and that political prisoners continue to face unfair trials. It highlights a legal and judicial system that facilitates these and many other abuses, often allowing the perpetrators to act with impunity. Even the safeguards that do exist are regularly disregarded. The report also summarizes human rights abuses committed by armed opposition groups.

Human rights violations affect most sections of Indian society, with people from some groups, particularly the socially or economically disadvantaged, being especially vulnerable. In a complex society of approximately 920 million people, speaking dozens of languages and dialects, living in 25 states and seven union territories, not everyone has equal access to justice or an equal chance to be allowed to live in safety and with dignity.

TRIBUTE TO KIM PUTENS

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAYES. Mr. Speaker, I want to express my appreciation publicly for the excellent job that Kim Putens has done the last 3 years as executive director of the National Wetlands Coalition. Kim departed her position on March 15 to move to the next exciting professional chapter in her life.

The National Wetlands Coalition was formed in September 1989 by a broad cross-section of trade associations, companies, public entities, and individuals that are directly affected by the Federal Wetlands Regulatory Program, either because they own or live on land that is considered Federal jurisdictional wetlands or because they undertake economic activities that encounter wetlands. The group was formed to participate in the anticipated debate over how to achieve President Bush's goal of no overall net loss of wetlands. Longstanding concerns about the program, coupled with issuance of the 1989 manual that greatly broadened the description of lands that are Federal jurisdictional wetlands, expanded the debate to one over the entire wetlands permitting program under section 404 of the Clean Water Act.

Mr. Speaker, this House, on May 16, 1995, by a vote of 240 to 185, adopted a number of reforms that are very similar to those that have been advocated by the National Wetlands Coalition since 1990. In fact, this was the first time since 1977 that either the House of Congress has adopted a comprehensive set of reforms of the section 404 program.

Kim Putens made a major contribution to the wetlands regulatory reform victory in the House. We all know that no victory on a major issue in the House of Representatives is achieved easily and without an enormous amount of work. There are 435 of us and our staffs to educate on the issues; there are innumerable inquiries to which to respond; there are press inquiries and the need to keep private sector coalition participants informed and coordinated in their activities. Obviously, Kim did all of these tasks successfully and for the first time in 18 years, a House of Congress took action on this controversial regulatory program.

Mr. Speaker, again I thank Kim for her efforts and wish her the best in her future endeavors.

LEGISLATION TO IMPROVE SERVICE DELIVERY TO VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing legislation to enable VA to provide health care to Medicare-eligible veterans who cannot now gain access to VA care.

The VA's health care system serves a veteran population made up almost exclusively of veterans whose eligibility for care is based either on their income or on their service-incurred disability. Under tight budgets that for years have not fully kept pace with rising health-care delivery costs, most VA facilities have shut their doors to veterans with income exceeding VA's means test—approximately $21,000 in the case of a veteran without dependents. While eligible for VA care, these veterans have neither an entitlement to care nor sufficient priority to assure them access. Many, however, are former VA patients, locked out of a system on which they once depended. VA now provides care to only a small number of these individuals. In all, only 2 percent of VA's patients are higher income veterans.

While large numbers of veterans who routinely receive VA care are also Medicare-eligible, VA is barred under existing law from receiving Medicare reimbursement for their care. Veterans' advocates have, understandably, long bristled at what appears to be VA subsidization of the Medicare trust fund. This has prompted calls for legislation to reimburse VA for care provided Medicare-eligible non-service-connected veterans.

This bill provides for Medicare payments to VA only for higher income, Medicare-eligible veterans who are largely shut out of the VA system today. The bill would further limit the circumstances under which VA could receive Medicare payments—to covered veterans who enroll in a VA managed-care plan. My legislation would provide a long-sought avenue for former VA patients to regain access to VA care. At the same time, it could actually lower Medicare costs, as proposed in pending Medicare reforms, by encouraging numbers of Medicare beneficiaries to abandon the traditional fee-for-service Medicare Program in favor of enrollment in a lower cost managed-care plan administered by VA.

REMEMBERING THE TRAGEDY OF THE "LEOPOLDVILLE"

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. ACKERMAN. Mr. Speaker, today I would like to pay tribute to 802 brave American soldiers who lost their lives while defending freedom during World War II. Until recently, the tragic story of the 66th Infantry Division remained untold in U.S. history. These men made the ultimate sacrifice for their country and are worthy of a much greater tribute than the statistics or the footnotes in history books that have already been granted to them. As the worst troopship loss in World War II, and the third worst naval disaster in U.S. history, the story of the sinking of the *Leopoldville* deserves full recognition.

On Christmas Eve, 1944, 2,235 American soldiers were crossing the English Channel as reinforcements to fight in the Battle of the Bulge, when their Belgian troopship, the *Leopoldville*, was torpedoed and sunk 5½ miles from Cherbourg, France. The result was a tremendous loss of lives—almost one-third of the division was killed. There were 493 bodies that were never recovered from the English Channel. Most of the soldiers who lost their lives were young boys, from 18 to 20 years old, barely out of high school. They represented 46 out of the 48 States that were part of the Union at the time.

However, the most tragic and troubling part of this story is the American public's general ignorance of the facts. All of us, and particularly the family members of the lost soldiers, should be told the full story of their loved ones' valiant efforts in their fight to preserve democracy.

Therefore, I ask my colleagues to join me in remembering and honoring those that gave their lives in protecting the ideals that all Americans cherish. I would also like to remind my colleagues that this story should hold a special place in ever State's history. Simply put, the 802 soldiers that lost their lives deserve the proper respect and remembrance for their sacrifice, and those that survived need to be recognized for their valor.

COMMEMORATING THE LIFE OF FREDERICK McKINNEY

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. POSHARD. Mr. Speaker, I rise today to celebrate the life of Mr. Frederick McKinney, who died on March 2 in Decatur, IL, at the age of 66. Frederick lived a full life, giving not only to his family and friends, but to his country and community. I would like to send my condolences to his wife, Louise, as well as to his children, grandchildren, and great-grandchild, and let them know that the city of Decatur has lost a dear friend.

Originally from Chicago, Frederick served in numerous capacities, beginning with the Army during the Korean conflict from 1951 to 1952. He worked for A.E. Staley Manufacturing Co. as a draftsman for 25 years, retiring in 1992. His dedication to Decatur society was vigorous, including over 3 years as president of the Decatur Chapter of the National Association for the Advancement of Colored People [NAACP], in which time he pushed hard for increased minority hiring by the Decatur School Board and was a tireless proponent of affirmative action. Frederick was an integral part of

St. Peter's African Methodist/Episcopal Church, where he sang in the senior and male choirs, served as secretary of the trustees department, was in charge of black history, and participated in the official board of the church.

Mr. Speaker, Frederick touched lives in his various roles, and it is obvious that he cared a great deal not only for his immediate circle of acquaintances, but tried to spread good works to all he could. This kind of love and commitment to community is not as prevalent as it should be, and I am grateful that Decatur had such a role model as Frederick for so many years. Frederick has been described as "'effective and forceful' without being loud and antagonistic." I would ask that we all try to emulate his example. I am proud to have represented Frederick in the U.S. Congress, and I will remember the way he represented the city of Decatur.

TRIBUTE TO TRINITY ASSEMBLY CHURCH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GORDON. Mr. Speaker, I would like to take this opportunity to congratulate the Trinity Assembly Church in Algood, TN, on recent completion of their new Sanctuary Complex. In the life of a church and a community, this is a monumental event. It is a testament to the years of hard work and dedication of this congregation.

The completion of the new sanctuary complex is not only of great benefit to the congregation at Trinity Assembly, but to the entire community of Algood. This new facility greatly enhances the ability of Trinity to conduct community outreach. This complex will allow Trinity to provide greater counseling and help to those in need.

Trinity Assembly was established in 1966 by Rev. W.F. Carlile. In 1983 there were 40 parishoners. Now, only 13 years later, there are over 1,200 parishoners at Trinity Assembly. The current pastor of Trinity, Eddie Turner, has displayed an expertise in leadership that is to be commended. His hard work and devotion has been instrumental in the growth and prosperity of this church. It is a credit to the entire community that this church has experienced such phenomenal success.

I offer my best wishes for many more years of growth to the congregation of Trinity Assembly.

AMERICAN RED CROSS: MEETING THE TEST OF A TOUGH WINTER IN RHODE ISLAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. REED. Mr. Speaker, I want to take this opportunity to let my colleagues know about the outstanding work of the Rhode Island Chapter of the American Red Cross during the terrible winter of 1995–96.

Even though spring is now officially here, it will be a long time before Rhode Islanders forget this past winter.

The harsh weather shattered all previous records for Rhode Island winters. We had the heaviest cumulative snowfall in recorded Rhode Island history, 93.2 inches; 75.6 inches was the previous record. Starting with last November 13, Rhode Island had 37 days of snowfall, with 11 major snowstorms rolling through our State.

In addition to the harsh weather, this past winter has also brought terrible environmental and human tragedy to Rhode Island.

On January 19, the oil barge *North Cape* ran aground on a southern Rhode Island beach, spilling over 800,000 gallons of home heating oil into our State's pristine coastal environment. Once this disaster began, it set into motion an emergency response and cleanup process that lasted days and involved over 1,000 Federal, State and local officials, private contractors, and U.S. Coast Guard personnel.

In terms of human tragedy, this past winter has been a season of terrible home fires in Rhode Island. According to the office of Rhode Island's Fire Marshal, the winter of 1995–96 was a time when the loss of life and destruction of property in Rhode Island due to fire showed a marked increase over previous years.

The one constant throughout all of Rhode Island's winter hardship was the hard work of the staff and volunteers of the Rhode Island Chapter of the American Red Cross.

The Red Cross was there during all the winter storms. When a snow plow hit an electrical transformer, knocking out power to a Bristol nursing home, the Red Cross helped evacuate the nursing home residents. When Pawtucket snow removal crews working round-the-clock needed cots to rest on before going back out on the road, the Rhode Island Chapter of the American Red Cross got it done.

The Red Cross was also there during the *North Cape* oilspill. Throughout the cleanup, 110 Rhode Island Red Cross Chapter volunteers were on the scene providing over 8,500 meals, enabling work crews to stay at their jobs from sunup to sundown.

And the Red Cross was there for all of Rhode Island's tragic winter fires. From last November until the end of winter, the Rhode Island Chapter of the American Red Cross helped an estimated 400 Rhode Islanders get back on their feet after a total of 125 fires.

It is in the aftermath of a fire that Rhode Island's Red Cross Chapter provides perhaps its most valuable ongoing service to our State. Last year, 26 Rhode Islanders died as a result of fire. When this tragedy does occur, the Red Cross is there with counseling for survivors and for emergency response crews. The volunteers and staff of the Rhode Island Chapter of the American Red Cross also provide food, shelter, and clothing—often in the middle of the night—for Rhode Islanders whose homes have been destroyed by fire.

The Rhode Island Chapter of American Red Cross performs all these tasks, with a small staff, a very limited budget and an army of dedicated volunteers. I commend the chairman of the board of the Rhode Island Chapter of the American Red Cross, Richard Moore, its executive director, Barbara G. DeCesare, and the entire staff of the Rhode Island Chapter of the American Red Cross, for all their hard work. Most of all, I would like to thank all of Rhode Island's Red Cross volunteers, for helping our State make it through a difficult winter.

HONORING FRANK MOORE ON HIS 100TH BIRTHDAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GOODLING. Mr. Speaker, I would like to congratulate Mr. Frank Moore, a longtime resident of the 19th Congressional District of Pennsylvania, on his 100th birthday. Mr. Moore celebrated this momentous occasion surrounded by his loving family and many friends on March 4, 1996.

Mr. Moore was born in 1896 in Waynesboro, PA, and has lived in York since he was 6 years old. He proudly served his country in the U.S. Army during the First World War. A graduate of York High School, he married Emma Goodling. Their children blessed them with three grandchildren and five great-grandchildren.

Mr. Moore's life has borne witness to world-changing events of the twentieth century. His life has been guided by important values: strong religious belief and work ethic, dedication and service to his country, respect for himself and others, and love of his family. He most certainly is a role model for all Americans.

Mr. Speaker, I am very pleased to honor Mr. Moore today. I pray God will grant him many more happy and healthy years. Happy birthday, Frank.

HONORING ALVARADO MIDDLE SCHOOL

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. KIM. Mr. Speaker, I am honored to rise today and salute Principal Hunt and the teachers and students of Alvarado Intermediate School in Rowland Heights for having been awarded the Blue Ribbon School Award by the U.S. Secretary of Education.

Blue ribbon awards honor 266 secondary, middle, and junior high schools around the country for showing exceptional dedication to providing a top notch education to its students. Alvarado Middle School was the only school in the 41st district to achieve this special honor. Blue ribbon schools must show strong leadership, a clear vision and sense of mission that is shared by all connected with the school, high quality teaching, a challenging up-to-date curriculum, policies and practices that ensure a safe environment conducive to learning, a solid commitment to parental involvement, and evidence that the school helps all students achieve high standards.

Alvarado Intermediate School was selected through a highly competitive process in which

State education departments, the Department of Defense Dependent Schools, the Bureau of Indian Affairs, and the Council for American Private Education nominate schools which best meet the superior standards of the award. The selected schools are then visited and reviewed by a panel of 100 outstanding members of the education community. This panel then makes final recommendations to the U.S. Secretary of Education. Alvarado intermediate will be honored this spring at a national ceremony in Washington, DC where the school will be given a plaque and a special flag to fly.

Mr. Speaker, I ask my colleagues to join me in commending Alvarado Intermediate School for its uncommon dedication to preparing its students for the challenges they will face growing up in and around Los Angeles County. Behind this Blue Ribbon Award is a dedicated group of faculty, students, and staff whose commitment to education is an example for schools around the country to follow.

TRIBUTE TO MILWAUKEE'S COMMUNITY BRAINSTORMING CONFERENCE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, it is with pride today that I celebrate an important event that will take place in the city of Milwaukee. On Friday, March 22, the Community Brainstorming Conference [CBC] of Milwaukee will gather to celebrate its 10th anniversary. I ask my colleagues to join me in saluting the outstanding achievements of this remarkable coalition of leaders from a great community.

In February 1986, Samuel L. Johnson and Reuben K. Harpole, Jr., invited 13 people to a meeting at Saint Matthew's CME Church to discuss a series of vital issues facing Milwaukee's African-American community. The meeting was highly productive, and it was decided that a public forum of community activists should convene on the fourth Saturday of each month. The rest is history, and the CBC continues to fulfill its mission to this very day.

From day one, the CBC has represented the essence of grassroots political participation, and has made a significant impact at the local, State, and national level. Beyond the political arena, the CBC is actively engaged in a wide array of activities. In 1994, the CBC is actively engaged in a wide array of activities. In 1994, the CBC created its foundation to tap the creative talents of African-Americans, especially the young people in our community. To build on this progress, the CBC is moving aggressively to create new scholarship and fellowship opportunities.

Having personally taken part in CBC meetings and projects on many occasions, I can personally attest to its unfailing and dedicated membership. The men and women of the CBC consistently rise above and beyond the call of duty to make our community a better place to live. I am proud to have worked with the CBC and have come to rely on the policy expertise and good counsel of its membership. As we rapidly approach the 21st century, we need the CBC's voice today more than ever before.

Mr. Speaker I ask my colleagues to join me in paying tribute to Milwaukee's Community Brainstorming Conference. I join with the city of Milwaukee in wishing this outstanding organization a happy 10th anniversary, and wish the CBC continued success in our community.

TRIBUTE TO THE LATE MAX WRIGHT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. JACOBS. Mr. Speaker, as can be seen by the following, Max Wright was a superlative human being. He was a minister of the gospel, a labor leader, an auctioneer and a delightful musician. The loss of Max Wright is a loss to us all.

MAX WRIGHT HAD WORKED WITH AFL–CIO

Max F. Wright, 80, Beech Grove, a retired labor leader, Church of Christ minister, singer and auctioneer, died March 15.

He was secretary-treasurer of the Indiana State AFL–CIO from 1958 until his retirement in 1985.

"The death of Max Wright is a loss for all citizens of Indiana." Gov. Evan Bayh said in a statement. "Max was a pillar of the union movement in our state . . . He was a constant advocate of worker causes for his entire career."

Chuck Deppert, president of the Indiana State AFL–CIO, said Mr. Wright dedicated his life to helping others.

"He did everything he could to help you with your problem," Deppert said, "That's the way I'll remember him."

A sheet metal worker by trade, Mr. Wright was elected business agent of Sheet Metal Workers Local 7 in Terre Haute in 1943. He served in that capacity until being elected to the state labor position 15 years later.

After he retired, he was given the title secretary-treasurer emeritus, and the AFL–CIO state headquarters's in Indianapolis was named after him.

As a minister, Mr. Wright preached to Church of Christ congregations throughout Indiana. He was a member and elder of Fountain Square Church of Christ, and he was a former elder at Farmersburg Church of Christ. As a gospel music singer, he performed with the Melody Boys Quartet.

Mr. Wright also was a licensed auctioneer. He was active in the sale of livestock at 4–H exhibitions, including the Sullivan and Vigo county fairs.

He served on numerous civic and public boards and commissions, including the Indiana Employment Security Board, Indiana Vocational Education Board, Ivy Tech State College board, Goodwill industries, the Blue Cross-Blue Shield of Indiana board and executive committee, the Maryvale Senior Citizens Retirement Home, Indiana Council on Economic Education, Indiana Emergency Training Committee, Governor's Youth Unemployment Committee, Indiana Private Industry Council and Indiana Council on Aging.

He also was Indiana's delegate to the White House Conference on Aging in 1961, 1971 and 1981.

Mr. Wright received the City of Hope's "Spirit of Life" award in 1974. He was named Sagamore of the Wabash by Govs. Matthew Welsh, Edgar Whitcomb, Otis Bowen, Robert Orr and Bayh.

Memorial contributions may be made to the Max F. Wright Memorial Education Fund, c/o Citizens Bank of Central Indiana, Greenwood.

Services: 1 p.m. March 18 in Fountain Square Church of Christ. Calling: 2 to 9 p.m. March 17 in Little & Sons Funeral Home, Stop 11 Road, and from noon to 1 p.m. March 18 in the church.

Survivors: wife Lanore Elwood Wright; children Diane Hauser, Marcia Payne, John M., David J., Lloyd Wright; brother Leo Paul Wright, sister Marietta Riggs Schumann, 15 grandchildren; 17 great-grandchildren.

FISCAL YEAR 1996 OMNIBUS APPROPRIATIONS BILL

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to applaud my colleagues in the Senate for adding by voice vote an amendment to the fiscal year 1996 omnibus appropriations bill that repeals the requirement that all HIV-positive members of the military be dismissed. In a show of bipartisanship, the appropriations bill was passed by the Senate 79–21, and was supported by Senators CONNIE MACK, JOHN MCCAIN, and SAM NUNN among others.

The HIV provision, which was included in the fiscal year 1996 Defense authorization bill that was signed by the President on February 10, discharges within 6 months the 1,049 dedicated HIV-positive men and women who have been serving their country without fail for years. Half of these servicemembers are married and, on average, have served in the military for more than a decade.

This provision immediately cuts off health care benefits to the servicemembers' dependents. Therefore, this new policy will not only deprive many men and women of their livelihood, but will leave their families—their spouses and children—without health care.

All of the individuals who will be impacted by this provision are able to perform their jobs. They are senior officers, lawyers, computer specialists, intelligence officers, missile specialists, doctors, mechanics and others. Replacing them and retraining new servicemembers is not only unjust, it is inefficient.

This unnecessary measure was neither sought nor supported by the Department of Defense. Both the Assistant Secretary for Force Management Policy and the Army's Deputy Chief of Staff for Personnel have stated that the provision would do nothing to improve military readiness while depriving the Armed Forces of experienced individuals who are ready and able to perform their assigned duties.

Furthermore, the number of servicemembers infected with HIV is small, comprising less than one-tenth of 1 percent of the active force. Current law already requires that such individuals be separated or retired when their condition makes them unfit to perform their duties.

This provision is unwise and unjust—it hurts not only those men and women who are serving our country with distinction but also their families. This provision kicks HIV-infected servicemembers when they are down and I hope that this body will follow the Senate's lead and repeal it.

TRIBUTE TO NEW YORK CITY MAYOR ABE BEAME ON HIS 90TH BIRTHDAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mrs. MALONEY. Mr. Speaker, today I rise to pay tribute to the Honorable Abe Beame, Mayor of New York City and dedicated public servant. Today, March 20, 1996, we are happy to celebrate the 90th birthday of Mayor Beame and we remain forever grateful for his many years of service to New York City.

Abraham David Beame became New York City's first Jewish Mayor in a landslide election in 1973. At the time he entered office, the City had a $12 billion budget and $1.5 billion deficit. At the end of his administration, in 1977, New York City had a cash surplus of $250 million. Under his guidance, New York City also regained its reputation as a national center—it was the host to the Democratic National Convention and the Bicentennial's Operation Sail. During his tenure, he convinced the United States Open to remain in Flushing Meadows.

These successes are largely attributable to his many years of experience as the City's Budget Director and Comptroller. Because of the dire fiscal situation and Washington's refusal of support, Mayor Beame was forced to take drastic economic measures. Mayor Beame cut the City's spending by $100 million, reduced the work force by 65,000, and he convinced the trustees of the five pensions funds to buy nearly $4 million in New York City bonds. Such drastic measures, born of fiscal experience and skill and sound management procedures, returned New York City to the road to fiscal health.

Mayor Beame had begun his public service in 1946 with a position in the budget office of Mayor William O'Dwyer. He eventually rose to Budget Director and was later elected to the position of City Comptroller. Describing himself as a New Deal Liberal, Mayor Beame won the Democratic party nomination for Mayor in 1965, but was defeated by John Lindsay. It was not until 8 years later, in 1973, that Mayor Beame would declare victory and become the 104th Mayor of New York City.

Ninety years ago today, on March 20, 1906, Abraham David Beame was born in the East End of London. His parents were fleeing from Warsaw, Poland where his father had participated in an underground movement against the Russian Czar. They were en route to New York City, and the cold water tenement on Stanton Street in the Lower East Side, where Mayor Beame would spend his childhood.

While in the seventh grade at P.S. 160, Abe Beame began working after school in the paper factory where his father was foreman. He would continue working at the factory and contributing part of his paycheck to his parents throughout high school and while attending Baruch College at night. In February of 1928, the same month he graduated from college, Abe Beame married Mary Ingerman, whom he had met over a game of checkers at a gathering of the University Settlement, a community organization. The Beame's moved to Brooklyn, where they had two sons and where they began a life heavily involved in City politics. Before joining Mayor O'Dwyer's budget office in 1946, Abe Beame was an accountant and public school teacher in Brooklyn, and a member of the Madison Democratic Club. Mary Beame was to remain devotedly at his side for 67 years. Since leaving office, Mayor Beame's commitment to public service has continued through his participation in dozens of philanthropic organizations that benefit the city and nation.

Today, on his 90th birthday, I am very pleased to recognize Mayor Abraham David Beame's contribution to the great City of New York and thereby to the Nation. I ask that my colleagues join with me in this celebration by paying tribute to his nearly 70 years of accomplishments and dedication to public service.

WAGES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 20, 1996, into the CONGRESSIONAL RECORD.

WAGES

The issue of stagnant wages for American workers has moved to the top of the political agenda. It has become a leading issue in the 1996 presidential campaign, the focus of speeches by congressional leaders, and a prime topic for magazine covers and news features. Some believe that it will be the dominant national political issue in the U.S. for years to come.

The concern is understandable. Adjusted for inflation, the wages of middle-class Americans have basically not increased for years. People are working hard, being responsible, and trying to make things better for their families, yet they face rising prices and mounting bills and few increases in pay. They are holding second or third jobs, and both parents often must work, and that means less time for community involvement, reading to their kids, or Little League games.

On top of this, workers have been shaken by AT&T's layoff of 40,000 employees, and most Americans have a family member or friend who has lost a job to corporate downsizing. People expect to see layoffs and frozen wages during tough economic times, but they can't understand why all this is happening when the U.S. economy is growing, unemployment is low, companies are seeing record profits, the stock market is soaring to record levels, and compensation for CEOs is skyrocketing.

All of this has led to acute job insecurity and concern about the future. Far too many Americans believe that hard work and company loyalty are no longer being rewarded, and that the American promise of opportunity and a better future is slipping away. They are not proponents of big government, but they wonder if they will get any help out of Washington.

EXTENT OF THE PROBLEM

The problem of stagnant wages is getting a lot of attention now, but it is not new. The wages of American workers basically doubled between 1947 and 1973, with some of the strongest gains among moderate-income workers. But since 1973, hourly wages for the average American have lagged some 10–15% behind inflation. The situation is slightly better now than a few years ago, but wage growth is still weak. Moreover, since 1979, 98% of the growth in income in the U.S. has gone to the top 20% of U.S. households. Some people have been doing very well in today's economy, but not the average American worker. This is not just a personal problem for those families affected; it will ripple across the economy if our workers cannot afford to buy the products we make.

While some economists are fairly optimistic about future wage increases—citing rising productivity, falling prices, tighter labor markets—others are worried. The greatest concern is over the impact of global competition and technology on less skilled, less educated workers.

NO EASY ANSWERS

The national attention to stagnant wages is healthy and long overdue, but we must address the problem carefully rather than jump at the first solution offered. The problem has been with us for twenty years and the causes are complex; it will not be solved overnight. Indeed, some of the proposals could make things worse. For example, given the importance of exports to states like Indiana, the proposal for a stiff tariff on imported goods could boomerang and devastate many of our industries, particularly agriculture.

ADDRESSING THE PROBLEM

Several steps can be taken to help workers. Among the most important is to create opportunity for them by providing them the tools to succeed in the new economy. Education and job skills are essential. We simply have to put into place effective low-cost college loans, school-to-work apprenticeships, training vouchers for laidoff workers, and effective vocational and adult education.

We also need to make work pay for people at the bottom of the income scale. Work is better than welfare or unemployment. We need to raise the minimum wage and keep the earned income tax credit for working families. We also need to ease the transition from job to job. Health insurers should not be able to cut someone off who loses a job, pensions should be portable, unemployment insurance, job search assistance, and job training should be available at one-stop career centers.

But of course most of the effort has to be by individuals and private companies. Each person must make the most of the opportunities offered, and private companies must do everything they can to help workers make a transition. We certainly need more business investments that make even low-skilled workers productive, and investments in people like the GI Bill that upgrade the workforce. We should end the myriad of subsidies and tax breaks for particular companies and industries that provide no public benefit. Corporate welfare in the United States totals billions of dollars each year.

I am skeptical of sweeping measures to prevent job loss or protect laid-off workers. If we go too far we will deter firms from hiring and discourage the unemployed from finding new work.

Nothing is more important than raising the economic growth rate. The solution to economic anxiety in the country is to expand jobs and opportunities. There is no substitute for sound macroeconomic policies. In the present context that means cutting the deficit, expanding markets, cutting government spending, reducing regulation, increasing productivity by investing in people, plant and equipment, infrastructure, and technology, and running a monetary policy to allow for faster economic growth.

CONCLUSION

One of the toughest challenges today is how to make sense of what's happening in the American economy, with the new and often alarming economic reality. This economy has produced record profits for some corporations, but it has produced pink slips and falling wages for many workers. On many broad measurers, it's one of the healthiest economies we've had for several decades with many Americans living better, but there are too many Americans working harder just to keep up and they have many concerns about the financial security of their families. Our nation is struggling today to find the right way to deal with the discontent of the American worker. Few challenges have higher priority.

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. PORTER. Mr. Speaker, on Tuesday, March 19 and Wednesday, March 20, I was at home in Illinois for the Illinois primary election and I was not present for votes on rollcall Nos. 68 through 76.

Had I been able to be present and voting, I would have voted "yea" on rollcall vote 68, "yea" on rollcall vote 69, "yea" on rollcall vote 70, "no" on rollcall vote 71, "no" on rollcall vote 72, "yea" on rollcall vote 73, "no" on rollcall vote 74, "yea" on rollcall vote 75, and "no" on rollcall vote 76.

FORTIETH ANNIVERSARY OF TUNISIAN INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GILMAN. Mr. Speaker, today is the 40th anniversary of independence of the Republic of Tunisia. With increasingly strong ties between our two governments, the American people congratulate today the people of Tunisia on this historic anniversary. For the last 40 years, Tunisia has been a model of economic growth and the advancement of women in society.

It may be difficult for many Americans to appreciate Tunisia's situation. Its only two neighbors are Algeria, which has been racked by civil war for several years, and Libya, whose dictator has supported the most nefarious and subversive kinds of terrorism. Mr. Speaker, this is not a good neighborhood.

Nevertheless, Tunisia has maintained internal stability—not without its own controversies—in the face of external chaos. At the same time, years of hard work have produced one of the highest standards of living in the region. Tunisia is one of the few countries to graduate successfully from development assistance and join the developed world. For these accomplishments, Tunisia should be applauded and supported.

In addition, Tunisia has taken positive, cautious steps in the diplomatic realm, particularly in the Arab-Israel peace process. In January of this year, Tunisia and Israel announced the planned opening of interest sections in each country, to be completed by April 15. This development will be a welcome realization of forward progress in Israel-Tunisia relations. We were also extremely pleased to learn from the Tunisian Foreign Minister that Tunisia plans to establish full diplomatic relations with Israel by the end of 1996.

The United States and Tunisia have also moved closer over the years. Yesterday, officials from our Department of Defense concluded a meeting of the Joint Military Commission with Tunisian officials, evidence of our ongoing visible support of strong United States-Tunisian relations.

Mr. Speaker, on this special day for Tunisia, I urge my colleagues to reflect on our strong commitment to our friend in North Africa.

VIDEO EXPOSES INDIA'S TORTURE, RAPE, AND MURDER OF SIKH NATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recommend to my colleagues the outstanding new video "Disappearances in Punjab." This video was produced by Ram Narayan Kumar, a Hindu human rights activist, and Lorenz Skerjanz, an ethnologist from Austria. It paints a graphic picture of India's state terrorism against the Sikh Nation in Punjab, Khalistan. I thank Dr. Gurmit Singh Aulakh, president of the Council of Khalistan, for sending it to me.

This video highlights the abduction of Jaswant Singh Khalra, the general secretary of the Human Rights Wing (Shiromani Akali Dal), by the Indian regime. Mr. Khalra reported that more than 25,000 young Sikh men had been abducted, tortured, and killed by the regime. Then the regime tried to hide this fact by listing the bodies as unidentified and cremating them. For this he was silenced. According to several other human rights activists, including Inderjit Singh Jaijee, Colonel Partap Singh, Justice Ajit Singh Bains, and General Narinder Singh, over 100,000 Sikhs have disappeared at the hands of the Indian regime.

But the Khalra case is only part of a pattern of repression of the Sikh nation by an Indian regime the New York Times described on February 25 as "a rotten, corrupt, repressive, and anti-people system." This documentary video also exposes other cases of Indian repression. It shows witnesses to the repression talking about what they have seen. This is important new evidence of India's brutal record. After watching the video, the viewer will conclude that India is the kind of police state that America spent many years and billions of dollars fighting.

It is time for the U.S. Government to speak out against this tyrannical regime. Only our pressure will cause India to begin acting like the democracy it proclaims itself to be. The time has come for the United States to cut off its aid to India until human rights are respected, as the Human Rights in India Act provides.

This video shows the bloody, violent repression which fuels the drive of Sikhs, Kashmiris, and other minority groups to be independent. I recommend it to all my colleagues and anyone else who is interested in promoting and expanding freedom.

Mr. Speaker, I would like to introduce the transcript of this video into the RECORD.

DISAPPEARANCES IN PUNJAB

On 31 August 1995, Punjab's Chief Minister Beant Singh was assassinated in a suicide mission of bombing carried out by a Sikh militant organization at the State government's Secretariat in Chandigarh. Beant Singh of the Congress party has taken office in early 1992 after winning the elections to the State Legislative Assembly, which the main Sikh political groups had boycotted to pursue their decade long agitation for a radical measure of autonomy for Punjab. As the Sikh electorate, constituting the majority of Punjab's population stayed away from the polling, the Congress party won the elections, without a real contest. But the government formed by the Congress party under Beant Singh's leadership projected the election results as the democratic mandate to stamp out the Sikh agitation, promising to implement the mandate by all possible means. Reports of human rights violations became widespread.

The leaders of Hindu public opinion in Punjab argued that the due process of law was a luxury, which Indian could not afford while fighting the secessionist terrorism:

[Interview with Vijay Chopra, publisher and editor of Hind Samachar group of newspapers, who brings out the three most popular language dailies in northern India.]

Only the human rights groups and the individuals, with little influence on the working of the government, expressed indignation against the reports of police atrocities.

[Interview with Satish Jain, Professor of Economics at Jawarharlal Nehru University, New Delhi.]

Many inside observers of Indian politics, including the former President of India Zail Singh, admitted that the highhanded methods of the security forces, instigated the separatist terrorism.

[Interview with Zail Singh.]

HISTORICAL BACKGROUND OF THE SIKH SEPARATIST UNREST

Approximately twenty million Sikhs of India form less than 2 per cent of the country's population, but constitute majority in the agriculturally prosperous Northwestern province of Punjab, which had been divided between India and Pakistan in 1947. Prosperous Jat Sikh farmers dominate the Akali Dal, the main political party of the orthodox Sikhs, that launched the agitation of the radical measure of autonomy for the State in early 1982. Jarnail Singh Bhindranwale, a charismatic religious preacher, who had already emerged on the scene as the messiah of "true Sikhs", rallied the discontented sections of the Sikhs, particularly the unemployed youth, to the Akali agitation. The

Union government projected the agitation as a secessionist movement, and refused to negotiate decentralization of political power. The next two years of virulent violence, which also witnessed the rise of Sikh terrorism in the real sense, came to a head in June of 1984 when Prime Minister Indira Gandhi ordered the military to flush out Bhindranwale and his armed followers from the Golden Temple of Amritsar in which they had taken shelter. When the operation was over, hundreds of Sikh militants, including Bhindranwale, and a larger number of Sikh pilgrims, were dead. The Akal Takht, an important shrine inside the temple complex regarded as the seat of political authority within the Sikh historical tradition, was rubble. For devout Sikhs, Bhindranwale and his followers, who had died fighting the Indian military, became the martyrs of the faith. A section of Bhindranwale's followers now began to talk of an independent Sikh state.

The Parliamentary elections held at the end of 1989, returned many extremist candidates under the leadership of Simranjit Singh Mann, former police officer turned separatist politician. The results showed that the separatist cause now possessed a measure of popular support. Alienation of the Sikhs of Punjab from India's political system again became manifest when the overwhelming majority of them stayed away from the polling in early 1992, keeping with the call given by the main Akali groups to boycott the elections. The boycott helped the Congress party, under Beant Singh, to form its government in the State, and to embark on a highhanded policy to suppress the Sikh agitation without caring for the limits of the law. Many officials involved in the security operations privately admit that excesses, including custodial killings, do take place. But they argue that they have no other way to demoralize a secessionist movement, which enjoys a measure of sympathy in Punjab's countryside.

EVIDENCE OF STATE ATROCITIES

Interviews with Inderjit Singh Jaijee, Chairman, Movement Against State Repression, and Jaspal Singh Dhillon, Chairman, Shiromani Akali Dal's Human Rights Wing. [Photographic evidence of custodial torture and killings.]

[Interview with Ranjan Lakhanpal, a lawyer who fights generally losing legal battles to enforce the rule of law, against the working of the Punjab police. Lakhanpal introduces two women victims of custodial rape.]

Our own investigations in the Amritsar region reveal that the dealings of the security forces with the relatives of separatist militants, themselves unconnected with crime, are not only routinely illegal but also brutal. Apparently, the idea is to set an example of harshness that would discourage the rural folk from sympathizing with the extremist cause.

[Interview with Arjun Singh, grandfather of a known militant Paramjit Singh Panjwad, tortured in the police custody. Panjwad's mother was killed in custody.]

Many Sikh officers of the Punjab police privately corroborate these reports of police atrocities.

[Interview with one woman police officer, on the condition of anonymity: She told us about her experience of custodial torture, rape and murders at an interrogation center she was attached to. Photographic evidence of custodial torture and murders.]

Champions of human rights in Punjab are themselves vulnerable to persecution. Many have suffered long periods of illegal detention, torture in custody and even elimination. Sometimes their relatives become victims of police wrath. On 29 March 1995, lawyer Ranjan Lakhanpal's ten year old son Ashish was run over by a police vehicle. The vehicle belonged to an officer whom Ranjan has accused of murdering a detainee in custody.

THE CASE OF JASWANT SINGH KHALRA

The more recent example comes from the case of Jaswant Singh Khalra, General Secretary of the Shiromani Akali Dal's Human Rights Wing, who got picked up by uniformed commandos of Punjab police from the porch of his house in Amritsar on 6 September 1995, six days after Beant Singh's assassination. Human Rights Wing has been focussing attention on unravelling the mystery of what happens to the large number of people the security forces illegally pick-up for interrogation. Jaswant Singh Khalra was associated with the investigations that led to the discovery that Punjab police have been cremating thousands of dead Sikhs illegally, by mentioning them in the registers at the cremation grounds as "unclaimed" and "unidentified." The investigations also established that these "cremated" Sikhs were largely those who had earlier been picked up for interrogation.

[Interview with the attendant of the cremation ground at Patti, a subdivisional town in Amritsar district.]

Equally incriminating evidence against the police comes from the hospitals where the police sent some bodies so cremated for postmortem.

[Interview with the Chief Medical Officer of the hospital at Patti: This doctor told us that Sarabjit Singh was still alive when the police first brought him for the postmortem. On being discovered alive, Sarabjit Singh was taken away by the police and brought back to the hospital the second time when he was actually dead. The hospital gave the postmortem report the police wanted. The Chief Medical Officer of the hospital at Patti also offered us some astonishing information on how he helped the police to get the postmortem reports they legally needed in all circumstances before cremating the dead bodies.]

Investigation carried out by the Human Rights Wing forms the basis of a petition that the Committee for information and Initiative on Punjab has filed before the Supreme Court of India. The issue of illegal cremations by the Punjab police is not being investigated by the Central Bureau of Investigation, on the orders from the Supreme Court. However, the order of the probe did not come before Jaswant Singh Khalra himself "disappeared."

[Interview with Jaspal Singh Dhillon: "Khalra was quite clearly told that he can also become an unidentified body. And today Khalra is not there."]

The guilty officials of Punjab police knew that, without Khalra's investigative resourcefulness in the Amritsar district, the Human Rights Wing could not have so conclusively exposed their ways of handling the Sikh unrest in Punjab. Khalra had also been providing legal counselling to victims of police atrocities, particularly the relatives of the "disappeared", which encouraged them to approach the courts to redress their grievances.

Khalra's whereabouts remain unknown. The chief of the Punjab police has categorically denied Khalra's abduction by the officers of his force. The Supreme Court of India has ordered the Central Bureau of Investigation to probe the "disappearance" along with the issue of illegal cremations by the Punjab police. In ordering the probe, the court has neither extended protection to witness who might lead evidence to establish the truth, nor has asked the CBI to associate the human rights groups, directly involved in exposing the police atrocities, with the inquiry. It is evident that the Central Bureau of Investigation, as an investigating agency under the Union Home Ministry, lacks the necessary power and independence to determine the truth of allegations of serious human rights crimes, made against India's security forces.

Human right groups worldwide are seriously concerned about the disappearance of Jaswant Singh Khalra, which is seen as a warning to all those who are engaged in exposing police atrocities in the State. The Sikh groups in Punjab are agitating for Khalra's release. Many leaders of the Western countries, including the President of the United States of America have conveyed their concern about the case to the government of India. However, the information percolating from the police sources suggests that Khalra might already have been eliminated. Despair dominants the mood of the Sikh leaders in Punjab.

INDIA THREATENS WITNESS TO KHALRA ABDUCTION

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. CONDIT. Mr. Speaker, I rise today to condemn a blatant abuse of power by the Indian Government. I join many other Members of the House who have spoken previously about the kidnapping of human rights activist Jaswant Singh Khalra, who languishes in illegal detention more than 6 months after being taken from his home in Amritsar on September 6. Last year, 65 Members of the House wrote to Indian Prime Minister Rao demanding Mr. Khalra's release. So far, we have been ignored. Mr. Khalra must be released immediately.

The March 6–12, 1996, issue of World Sikh News reports that a key witness to the Khalra kidnapping, Kirpal Singh Randhawa, secretary of the Punjab Human Rights Organization, filed a complaint in India's Supreme Court stating that "police had threatened to eliminate him and his family." It seems that the authorities will go to any length to keep Mr. Randhawa from testifying about Mr. Khalra's abduction. Mr. Randhawa also said that he feared that the Indian Government will file a false legal case against him to prevent him from testifying. I will be placing this article in the RECORD.

Such actions by the Indian Government are not unprecedented. In the State Department's 1996 country report on human rights in India, it is reported that "the brother of Surinder Singh Fauji was held for a week in incommunicado detention, apparently to persuade Fauji not to testify on extrajudicial executions he witnessed in 1993." How can India call itself a democracy when the police are so out of control?

Recently I received a chilling video documentary called "Disappearances in Punjab." It details murder, torture, and rapes of Sikhs in Punjab, Khalistan. I am introducing into the RECORD, a press release from the Council of Khalistan regarding this video.

In "Disappearance in Punjab," a female officer from the Punjab police is interviewed. Her testimony is frightening to anyone who cares about basic human freedom. This police officer says that she saw "atrocities—including those against women—that I cannot bear. Women suffer much. Male officers torture them. They also rape detainees. Some who had been picked up were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention." The policewoman is asked, "What was their condition in custody?" "Their legs had been broken," she replies. "Could they have run away?," asks the interviewer. "They could not even have walked" is her chilling reply.

This video, and the threat against Mr. Randhawa, prove that India's claim to be a democracy is a complete fraud. Democracies respect human rights. Democracies do not threaten to kill witnesses or falsely detain their relatives. Democracies neither kidnap people nor arrest them for publishing reports that embarrass the government, as in Mr. Khalra's case. In short, democracies respect and practice freedom. India does not. It is against this background that the Sikh Nation declared itself independent on October 7, 1987. With that declaration, the independent country of Khalistan was formed. The Council of Khalistan, which brought these gruesome cases to my attention, was formed at that time to serve as Khalistan's government in exile. India's response to the Skh Nation's exercise of its sovereignty has been to step up the repression, as these cases show. This repressive campaign of terror and genocide by the Indian regime has caused the deaths of over 150,000 Sikhs since 1984. Thousands of other non-Hindus have also been killed in Kshmier, Nagaland, and other areas struggling for human rights and self-determination.

The United States Government does not have to sit idly by and let India continue this brutal repression. There are two bills pending which address this situation. They are H.R. 1425, the Human Rights in India Act, which will seek to cut off United States development aid to India until India observes basic human rights; and House Concurrent Resolution 32, which seeks a plebiscite on independence in Khalistan under international supervision so that the Sikh Nation can freely choose its own future in free and fair vote, the way democracies make decisions. I urge my colleagues to support both of these bills. It is imperative that we assist the oppressed urge my colleagues to support both of these bills. It is imperative that we assist the oppressed Sikhs of Khalistan so that they too, can enjoy the glow of freedom, as we do here in America.

[From the World Sikh News, Mar. 6,-12, 1996]

KHALRA CASE THREATENED

AMRITSAR.—The secretary of Punjab Human Rights Organization, Mr. Kirpal Singh Randhawa, who is a key witness in the case pertaining to the alleged kidnapping of the human rights activist Mr. Jaswant Singh Khalra, last week alleged that police had threatened to eliminate him and his family.

In a complaint sent to Mr. Justice Kuldeep Singh of the Supreme Court who is hearing the case, Mr. Randhawa alleged that he had gone to Lopoke (Majitha) police station in connection with another case of police high-handedness where he was threatened of dire consequences by Mr. Jagdip Singh, SHO, and ASI Mr. Gurpal Singh Bajwa. The police also threatened Mr. Randhawa to withdraw security cover given to him by orders of the Supreme Court.

Mr. Randhawa told the Supreme Court that he apprehended danger to his life and his family or implication in a false case.

[Press Release From the Council of Khalistan, Mar. 14, 1996]

"DISAPPEARANCES IN PUNJAB"

VIDEO DOCUMENTARY EXPOSES MURDER, TORTURE AND RAPE OF SIKHS BY INDIAN POLICE

WASHINGTON, DC, MARCH 13.—A new video documentary entitled "Disappearances in Punjab" uncovers the truth about India's decade of brutal oppression against the Sikhs of Punjab, Khalistan. Produced by Ram Narayan Kumar, a Hindu human rights activist and Lorenz Skerjanz of the University of Vienna, the documentary shows "disappearances" and death in police custody as common occurrences in the Sikh homeland. Indian state terrorism against the Sikhs, the video shows, is part of its policy to violently crush the demand for Sikh independence—a policy widely supported by the government and Indian society at large. According to Dr. Satish Jain, Professor of Economics at Jawarharlal Nehru University, "There is a large section of [India] which approves of State atrocities. And, I think, the weakness of the Indian nation, the weakness of Indian society, really lies in this attitude."

According to "Disappearances in Punjab," the deceased Chief Minister Beant Singh spearheaded a government-backed campaign to crush all voices of dissent in Punjab regarding the demand for an independent Khalistan. Under Beant Singh and police chief K.P.S. Gill, tens of thousands of Sikhs were murdered. Reports of human rights violations became widespread. According to the Amnesty International report, *Determining the Fate of the Disappeared in Punjab*, ". . . the Punjab police have been allowed to commit human rights violations with impunity in the state." Indian journalist Iqbal Masud, called India's claims of having restored normalcy to Punjab a "bogus peace." "The Beant-Gill duo," writes Masud, "committed mass incarceration and disappearances and called it 'normalcy'" (*The Pioneer*, Nov. 4, 1995).

Through a series of interviews with respected human rights activists, intellectuals, Punjab police officers, and eye witnesses, "Disappearances in Punjab" reveals the extent to which the so-called "world's largest democracy" has used brutal oppression to silence the voice of dissent in Khalistan. For over a decade, Sikhs have claimed that the Indian police have followed a *modus operandi* in which they abduct Sikhs, torture them and then kill them claiming that the victim was killed in an "armed encounter" with the police. In the following excerpt, a female police officer confirms these allegations.

Woman: "I work for the Punjab police. I joined out of patriotic sentiments, but what I saw, atrocities—including those against women—that I cannot bear. Woman suffer much. Male officers torture them. They also rape detainees. Some, who have been picked up, were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention."

Interviewer: What was their condition in custody?

Woman: Their legs had been broken.

Interviewer: Could they have run away?

Woman: They could not even have walked.

Interviewer: Are you afraid disclosing this?

Woman: No. I do not fear telling the truth.

The Chief Medical Officer at Patti Hospital sheds similar light on the tactics of police in Punjab. He recalled the time when police officers brought the body of Sarabjit Singh into his hospital to acquire a postmortem report. However, there was a problem: Sarabjit Singh was still alive. Upon learning of this, the police officers took Sarabjit away and returned his body later when he was actually dead! During his interview, the Chief Medical Officer offered some startling information on how he assisted police in giving them the postmortem reports they legally needed to cremate the bodies of their victims:

I ordered that the [postmortem] lists be prepared. The lists must say where the deaths have taken place. Also, mention the time of death and say "death due to firearms." My boss said that postmortems should take time. I told him to do whatever he wanted. My example set the precedent in Punjab. Five minutes a portmortem, five minutes a postmortem.

After obtaining their postmortem reports, police cremate their Sikhs victims as "unidentified bodies" at municipal cremation grounds. An attendant at the cremation ground in Patti commented on the alarming rise of such cremations:

Unclaimed bodies have continuously been burnt here. Previously, it used to happen once in awhile. In the last four-five years, it has been common. They only cremate. . . . No one cares to take away the remains.

"Disappearances in Punjab" also explores the case of Sikh human rights activist, Jaswant Singh Khalra. According to the findings of Mr. Khalra, police have killed and cremated over 25,000 Sikhs in the manner described above. Mr. Khalra arrived at this number by visiting municipal cremation grounds and tallying up the number "unidentified bodies" recorded on their registers. During a press conference announcing these findings, the Amritsar district police chief publicly threatened Mr. Khalra saying "We have made 25,000 disappear. It would be easy to make one more disappear." The police chief followed through on his threat. Mr. Khalra was abducted by Indian police in front of his home in the presence of witnesses at 9:15 am on September 6, 1995. Amnesty International and other human rights organizations have taken up his case. On October 19, 1995, sixty-five Members of the U.S. Congress sent a letter to Indian Prime Minister P.V. Narasimha Rao demanding Khalra's release. India has yet to respond. Mr. Khalra's whereabouts remains unknown.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, praises "Disappearances in Punjab" as a milestone in the movement for Sikh freedom. "This is a rare case in which the truth about Indian atrocities against the Sikhs has managed to find its way out of India. It shows that India is not the democracy it claims to be, but rather a repressive tyranny where the right of minorities are brutally violated. Now the world can see what the Sikhs have been enduring for over ten years. India has killed over 150,000 Sikhs and the time for an independent Khalistan is long overdue. After word of this video gets out to the international community, India will no longer be able to deny its policy of genocide against the Sikhs. Khalistan will be liberated."

AMBASSADOR BENJAMIN LU ON A FREE TAIWAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. LANTOS. Mr. Speaker, a few days before the first free and democratic elections in Taiwan, Ambassador Benjamin Lu, the official representative of the Government of Taiwan here in the United States, made the following remarks to Members of Congress and others interested in a secure, free and prosperous Taiwan. I commend my colleagues' attention to his excellent remarks.

ADDRESS BY AMBASSADOR BENJAMIN LU

Distinguished guests, and Ladies and Gentlemen:

Thank you all for joining us today. I am delighted that so many good friends and associates could be here to share in this exciting event.

The ROC has embarked on a path of political reform which is transforming Taiwan into a full democracy. Adding to the many institutions of personal freedom, human rights, popular elections, and a full-scale market economy which my country already enjoys, this week, on the 23rd of March, the people of Taiwan will conduct their first direct popular election for president of the Republic of China, an historic milestone in our democratization movement. At this very moment, there is a spirited campaign underway among four presidential candidates, including the incumbent President Lee Teng-Hui; a DPP candidate; and two others running as independents.

By any standard, the Republic of China is functioning today as a genuine pluralistic democracy, with ample political choices and fully representational government. This is an amazing transformation in just one decade. The stark contrast with deteriorating political and human rights conditions on China's mainland today could not be more obvious.

The Republic of China and the United States today share the same political ideology, principles and objectives. As fellow democracies with a closely intertwined history of friendship, cooperation and trade in this century, we have much in common. Moreover, there is much we can accomplish together for the sake of regional and international peace, freedom, and prosperity in the 21st century.

The 21 million people on Taiwan are grateful that the United States has responded to mainland China's military exercises and missile tests in the Taiwan Strait, and reassured that Americans share our concern for the region's stability. A continued American presence in the area will discourage unnecessary escalation of tension and will help advance those principles and goals which are championed by your country and mine, as prospering democracies. The success of Taiwan's democratic reforms hopefully can influence mainland attitudes toward political reform in a positive way by encouraging the establishment of democratic process and institutions. Only within the framework of democracy can reunification be eventually achieved.

Mainland China's coercive and hostile actions should cease immediately, allowing the process of democratic elections and free market commerce in the region to continue unimpeded. Let us work together to support the causes of peace and democracy throughout the Asia-Pacific region, and indeed throughout the world.

SUPPORTING THE KARENNI FREEDOM FIGHTERS

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. ROHRABACHER. Mr. Speaker, Karenni freedom fighters are in battle today against the hired thugs of the Burma Army. Heavily outnumbered and outgunned, the Karenni are fighting to defend their homes along the Thai-Burma border from the inhuman onslaught of the SLORC regime. The SLORC regime is using air attacks and heavy artillery against the Karenni, a peace-loving Christian nation, who defend themselves with a few rifles.

Last year, thousands of SLORC troops attacked the Karen in neighboring territory. Then, the SLORC used brutal methods to systematically terrorize thousands of innocent hilltribe families. That tragic scene is now being replayed in the Karenni State.

Over 6,000 SLORC troops are relentlessly attacking less than 1,000 Karenni farmers, fisherman, and schoolteachers. These men and women are desperately fighting an honorable battle to defend their families, heritage, and identity. Although they may think that they are in the jungle alone, our spirit is with them. The heroes in the wilderness should know that we condemn the SLORC regime for its brutal aggression, and that we support their noble struggle for freedom and democracy.

In the past, the SLORC regime has justified aggression against the Karenni as a necessary first step before it could control the activities of Khun Sa, the infamous drug thug. Now, the SLORC regime has allowed Khun Sa to retire in luxury, while the aggression continues. It shouldn't surprise anyone that the SLORC regime was lying. Their entire system is based on lies.

I intend to visit the Karenni during the upcoming Easter break. Until then, I wish them success against their evil oppressors. Freedom loving people in the United States are on their side, and we will remember them in our prayers. Because they are striving for democracy and justice, they should know, that their victory is our victory.

HONORING BRIG. GEN. LEONARD F. KWIATKOWSKI

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Ms. HARMAN. Mr. Speaker, I rise to commend Air Force Brig. Gen. Leonard F. Kwiatkowski, who is retiring after 29 years of distinguished service to his country. General Kwiatkowski is the program director for the Military Satellite Communications [MILSATCOM] Joint Program Office, Space and Missile Systems Center, at Los Angeles Air Force Base, CA.

General Kwiatkowski began his service to the Nation at a time when the space program was beginning to mature. He managed technology development programs that fielded some of the weapons systems we saw perform so well in the gulf war. In his first Air Force assignment, he was involved in the Manned Orbiting Laboratory Program, at the Los Angeles Air Force Base, which is in my district. This began his highly successful and distinguished career, which has been primarily devoted to the development, acquisition, and fielding of our country's most advanced weapon systems. He has been directly associated with the development of the F–15 air superiority fighter and the delivery of the first F–100 engines for the F–15 and F–16 fighter aircraft. He has also been responsible for the development and fielding of our country's most technologically advanced command, control, communications computer, and intelligence systems supporting all of our Nation's services. Additionally, he served with distinction with our NATO allies while assigned to the Supreme Headquarters Allied Powers Europe [SHAPE], Belgium. In these assignments he directly contributed to our deterrent posture during the cold war era and also was responsible for delivering key C4I systems to our forces during the gulf war. The systems General Kwiatkowski developed, enabled us to rapidly communicate reconnaissance information, vastly improving the combat effectiveness of our warfighters.

In this, his last, Air Force assignment General Kwiatkowski returned to Los Angeles AFB and the Space and Missile Systems Center to direct our Military Satellite Communications Systems. He managed the congressionally directed restructure of the MILSTAR communications system and has guided the program from its restructure through the Defense Department's acquisition decision process, through the launch of the first two satellites and the design and manufacturing of the restructured block II satellite.

General Kwiatkowski has been a leader in acquisition reform issues, as well. His efforts have been praised by TRW, the first level subcontractor building the MILSTAR communications satellites for the DOD. The first two satellites are in orbit now. They were launched on time, on budget, and are 100 percent effective. His efforts to reduce the number of military-unique specifications and requirements have encouraged TRW to find lower cost, less complex manufacturing requirements, and saved the taxpayers significant amounts of scarce Defense resources.

High-level TRW officials said they will miss General Kwiatkowski's innovations and close working relationship, but they will miss his leadership skills most of all. He was one of the first Defense Department acquisition personnel to use integrated contractor/government development teams to assess areas of potential risk and work to reduce the risk as the system was designed. Knowing where to devote such risk reduction efforts is already paying dividends as the next-generation advanced military communications satellites are being designed.

The general has also served as mission director of the first MILSTAR launch and the Defense Satellite Communications System [DSCS] III launches. In the latter case, under his leadership, the Defense Department completed the full operational capability milestone of the DSCS III constellation. He has also been a vigorous, enthusiastic, catalyst in reforming and streaming the acquisition process. Under his extraordinary leadership, the MILSTAR Program has underrun its budget projections by $1.5 billion and is meeting all of the warfighters' requirements of our country's most complex, secure communications satellite system.

General Kwiatkowski has served his country in a truly outstanding manner. Combat aviators, sailors, and soldiers will be more informed, capable, and most important, more likely to survive any future conflicts because of him. That's legacy we can all admire. We all wish General Kwiatkowski, his wife, Carol, and his children, Karen, Michael, and David, the best as this career closes and a new one begins.

TRIBUTE TO CONGRESSMAN SAM GIBBONS OF FLORIDA

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. PICKETT. Mr. Speaker, I join my colleagues in the House of Representatives, today, to pay tribute to one of the House's most distinguished Members, Congressman SAM GIBBONS of Tampa, FL, who will retire at the end of this Congress.

He served in the United States Army for 5 years during World War II with the 501st Parachute Infantry, 101st Airbone Division. He was in the initial assault force landing at Normandy and was awarded the Bronze Star.

SAM was among those honored during celebrations of the 50th anniversary of World War II last year and is a great example of heroism for us all.

During his service in the Congress, he has been a collegial friend and a hard worker. While he made a reputation for himself on the Ways and Means Committee as an expert on trade, he also showed his leadership abilities when he took the helm of the Committee in the spring of 1993, in the midst of intense debate over reforming our Nation's health care system.

This year, too, SAM GIBBONS, provided himself to be a tireless advocate to protect the interests of Medicare beneficiaries. He has been a persistent defender of the rights of senior citizens, a true representative of his constituents, and a credit to the United States Congress.

We will miss him very much.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 21, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 22

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD–342

10:00 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program.
SR–232A

Judiciary
Business meeting, to continue markup of S. 269 and S. 1394, bills to reform the immigration system.
SH–216

Joint Economic
To hold hearings to examine the state of the economy, focusing on whether it is the healthiest economy in three decades.
SD–106

MARCH 25

10:00 a.m.
Finance
Social Security and Family Policy Subcommittee
To hold hearings to review the Social Security Advisory Council report on solving problems in the Social Security program.
SD–215

2:00 p.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Ballistic Missile Defense programs and issues.
SR–222

2:30 p.m.
Governmental Affairs
To hold hearings on the nomination of Robert E. Morin, to be an Associate Judge of the Superior Court of the District of Columbia.
SD–342

MARCH 26

9:30 a.m.
Governmental Affairs
To hold oversight hearings on the Internal Revenue Service.
SD–342

10:00 a.m.
Judiciary
To hold hearings on S. 1284, to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.
SD–106

2:00 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the proposed budget request for fiscal year 1997 for the National Aeronautics and Space Administration (NASA), and to examine recent developments in the Space Station program.
SR–253

2:30 p.m.
Armed Services
SeaPower Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy's Marine Corps programs.
SR–232A

MARCH 27

9:00 a.m.
Environment and Public Works
To hold hearings on proposals to improve prevention of, and response to, oil spills in light of the recent North Cape spill.
SD–406

Labor and Human Resources
Business meeting, to mark up S. 1477, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, S. 969, to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and proposed legislation authorizing funds for the Older Americans Act.
SD–106

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine Spectrum's use and management.
SR–253

Energy and Natural Resources
To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively.
SD–366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine global proliferation of weapons of mass destruction.
SD–342

Rules and Administration
To hold hearings to review certain issues with regard to the Government Printing Office.
SR–301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.
345 Cannon Building

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Navy and Marine Corps programs.
SD–192

1:30 p.m.
Armed Services
SeaPower Subcommittee
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy's Submarine Development and Procurement programs.
SR–232A

MARCH 28

9:00 a.m.
Indian Affairs
To hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute.
SR–485

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

Energy and Natural Resources
To resume oversight hearings on issues relating to competitive change in the electric power industry.
SR–325

APRIL 15

10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD–226

APRIL 17

9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR–301

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.
SD–192

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

APRIL 18

9:30 a.m.
Commerce, Science, and Transportation
To resume hearings to examine Spectrum's use and management.
SR–253

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

APRIL 19

1:30 p.m.
Indian Affairs
To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.
SR–485

APRIL 24

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.
SD–192

MAY 1

9:30 a.m.
Rules and Administration
To resume hearings on issues with regard to the Government Printing Office.
SR–301

SEPTEMBER 17

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building

CANCELLATIONS

MARCH 21

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively.
SD–366